Planning Inspectorate

Appeal Decisions

Inquiry held on 4 - 6 and 10 March 2025

Site visit made on 6 March 2025

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st May 2025

Appeal A Ref: APP/R0660/C/24/3354264
Land south of Dragons Lane, Moston, Cheshire CW11 3QB (Pitch 6)

- 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 Crimea Price against an enforcement notice issued by Cheshire East Council.
- The notice was issued on 12 September 2024.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from agricultural land to a residential caravan site together with hardstanding, erection of fences and gates, siting of caravans and construction of a utility building and a detached building.
- The requirements of the notice are: a) cease the use of the land as a residential caravan site; b) remove all caravans from the land; c) remove from the land all vehicles, plant, machinery, toilets, sheds, structures, buildings, and any other paraphernalia un-associated with an agricultural use of the land; d) remove all brick pillars, fences and gates shown in the approximate position edged in blue and marked A-B-C-D on the attached plan marked Plan B from the land; e) remove the hardstanding from the land; f) remove all resulting debris arising from compliance with steps (c), (d) and (e) from the land; and g) restore the land to its condition prior to unauthorised material change of use.
- The period for compliance with requirement a) is 12 months, requirements b), c) and d) is 13 months, and requirements e), f) and g) is 14 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). 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.

Appeal B Ref: APP/R0660/C/24/3354267
Land south of Dragons Lane, Moston, Cheshire CW11 3QB (Pitch 8)

- The appeal is made under section 174 of the Act. The appeal is made by Mr John Collins against an enforcement notice issued by Cheshire East Council.
- The notice was issued on 12 September 2024.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from agricultural land to a residential caravan site together with the creation of hardstanding, erection of fences and gates, stationing of caravans and construction of a stables building and a detached building.
- The requirements of the notice are: a) cease the use of the land as a residential caravan site; b) remove all caravans from the land; c) remove from the land all vehicles, plant, machinery, toilets, sheds, structures, buildings, and any other paraphernalia un-associated with an agricultural use of the land; d) remove all brick pillars, fences and gates shown in the approximate position edged in blue and marked A-B-C-D on the attached plan marked Plan B from the land; e) remove the hardstanding from the land; f) remove all resulting debris arising from compliance with steps (c), (d) and (e) from the land; and g) restore the land to its condition prior to unauthorised material change of use.
- The period for compliance with requirement a) is 12 months, requirements b), c) and d) is 13 months, and requirements e), f) and g) is 14 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). 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.

Appeal C Ref: APP/R0660/C/24/3354270
Land south of Dragons Lane, Moston, Cheshire CW11 3QB (Pitch 11)

- The appeal is made under section 174 of the Act. The appeal is made by Mr Tom Price against an enforcement notice issued by Cheshire East Council.

- The notice was issued on 12 September 2024.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from agricultural land to a residential caravan site together with hardstanding, erection of fences and gates, siting of caravans and construction of a utility building and a detached building.
- The requirements of the notice are: a) cease the use of the land as a residential caravan site; b) remove all caravans from the land; c) remove from the land all vehicles, plant, machinery, toilets, sheds, structures, buildings, and any other paraphernalia un-associated with an agricultural use of the land; d) remove all brick pillars, fences and gates shown in the approximate position edged in blue and marked A-B-C-D-E on the attached plan marked Plan B from the land; e) remove the hardstanding from the land; f) remove all resulting debris arising from compliance with steps (c), (d) and (e) from the land; and g) restore the land to its condition prior to unauthorised material change of use.
- The period for compliance with requirement a) is 12 months, requirements b), c) and d) is 13 months, and requirements e), f) and g) is 14 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). 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.

Appeal D Ref: APP/R0660/C/24/3354258
Land south of Dragons Lane, Moston, Cheshire CW11 3QB (Pitch 12)

- The appeal is made under section 174 of the Act. The appeal is made by Mr Darren McGinley against an enforcement notice issued by Cheshire East Council.
- The notice was issued on 12 September 2024.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from agricultural land to a residential caravan site together with the creation of hardstanding, erection of fences and gates, siting of caravans and construction of a utility building and a detached building and the erection of children's play equipment and other domestic paraphernalia.
- The requirements of the notice are: a) cease the use of the land as a residential caravan site; b) remove all caravans from the land; c) remove from the land all vehicles, plant, machinery, sheds, structures, buildings, and any other paraphernalia un-associated with an agricultural use of the land; d) remove all brick pillars, fences and gates shown in the approximate position edged in blue and marked A-B-C-D-A on the attached plan marked Plan B from the land; e) remove from the land all domestic paraphernalia including children's play equipment; f) remove the hardstanding from the land; g) remove all resulting debris arising from compliance with steps (c), (d), (e) and (f) from the land; and h) restore the land to its condition prior to unauthorised material change of use.
- The periods for compliance with requirement a) is 12 months, requirements b), c) and d) is 13 months, and requirements e), f) and g) is 14 months.
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended).

Appeal E Ref: APP/R0660/W/24/3354285
Pitch 12, Land at Dragons Lane, Sandbach CW11 3QB

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
- The appeal is made by Mrs E Doran against the decision of Cheshire East Council.
- The application Ref is 24/0191C.
- The development proposed is the material change of use of land from an agricultural use to a use as a residential caravan site with one pitch of no more than two caravans (one static and one touring), together with the creation of hardstanding, erection of fences and gates, siting of caravans, and a container, and the erection of a day room and a bin store.

Decisions

1. It is directed that the enforcement notice ("EN") subject of Appeal A is corrected by:

    - the deletion of the words "un-associated" and their substitution with the words "not associated" in requirement c);

    - the deletion of the words in requirement g) and their substitution with the

words “restore the land to its previous condition”;

Subject to the corrections, Appeal A is allowed, the EN is quashed and temporary planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the change of use of the land from agricultural land to a residential caravan site together with hardstanding, erection of fences and gates, siting of caravans and construction of a utility building and a detached building at land south of Dragons Lane, Moston, Cheshire CW11 3QB as shown on the plan attached to the EN, and subject to the conditions in the attached schedule.

2. It is directed that the EN subject of Appeal B is corrected by:

- the deletion of the words “stables building” and their substitution with the words “stable type building used as a day room” in the allegation;
- the deletion of the words “detached building” and their substitution with the words “detached dayroom building” in the allegation;
- the deletion of the words “un-associated” and their substitution with the words "not associated" in requirement c);
- the deletion of the words “A-B-C-D” and their substitution with “A-B-C-D-E” in requirement d);
- the deletion of the words in requirement g) and their substitution with the words “restore the land to its previous condition”;

Subject to the corrections, Appeal B is allowed, the EN is quashed and temporary planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the land from agricultural land to a residential caravan site together with the creation of hardstanding, erection of fences and gates, stationing of caravans and construction of a stables building and a detached building at land south of Dragons Lane, Moston, Cheshire CW11 3QB as shown on the plan attached to the EN, and subject to the conditions in the attached schedule.

3. It is directed that the EN subject of Appeal C is corrected and varied by:

- the deletion of the words “un-associated” and their substitution with the words "not associated" in requirement c);
- the deletion of the words in requirement g) and their substitution with the words “restore the land to its previous condition”;
- the deletion of “12 months” and its substitution with “15 months” as the time period for compliance for requirement a) in paragraph 6;
- the deletion of “13 months” and its substitution with “16 months” as the time period for compliance for requirements b), c), and d) in paragraph 6; and
- the deletion of “14 months” and its substation with “17 months” as the time period for compliance for requirements e), f) and g) in paragraph 6.

Subject to the corrections and variations, Appeal C is dismissed, the EN 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.

4. It is directed that the EN subject of Appeal D is corrected and varied by:

- the deletion of the words “construction of a utility building and a detached building” and their substitution with the word "container" in the allegation;
- the deletion of the words “un-associated” and their substitution with the words "not associated" in requirement c);
- the deletion of the words in requirement g) and their substitution with the words “restore the land to its previous condition”;
- the deletion of paragraph 6 a) to g) and its substitution with 2 years as the time for compliance.

Subject to the corrections and variations, the EN subject of Appeal D is upheld.

5. Appeal E is allowed and temporary planning permission is granted for the material change of use of land from an agricultural use to a use as a residential caravan site with one pitch of no more than two caravans (one static and one touring), together with the creation of hardstanding, erection of fences and gates, siting of caravans, and a container, and the erection of a day room and a bin store at Pitch 12, Land at Dragons Lane, Sandbach CW11 3QB in accordance with the terms of the application, Ref 24/0191C, subject to the conditions in the attached schedule.

Applications for costs

6. Applications for costs were made by the appellants in Appeals A to E against Cheshire East Council. These applications are the subject of separate decisions.

Preliminary Matters

7. The appellant for Appeal E and the Council agree that an amended description of development better reflects the development subject of this appeal. I agree, and I have set this description of development out in the banner heading for this appeal.

8. An appeal on ground (a) was initially made in respect of Appeal D, but where an EN has been issued after 25 April 2024, ground (a) is barred if the requirements of s174(2A) and (2AA) of the Act are met. Namely, the EN was issued during the time when the planning application now subject of Appeal E had been submitted for consideration and was yet to be determined. Appeal D has therefore proceeded on ground (g) only.

Background

9. The appeal sites lie to the south of Dragons Lane on the fringes of Moston Green, a dispersed settlement. The sites fall within a large, triangular-shaped field amounting to 4.5 hectares of land which is bound by Dragons Lane to the north, Plant Lane to the west and a public footpath to the south-east.

10. The field contains several lawful caravan sites: Thimswarra Farm occupying the north-western corner of the field (comprising two pitches accommodating four caravans); Meadow View fronting Dragons Lane to the east of Thimswarra Farm (four pitches/eight caravans); a single pitch site to the east of Meadow View (“Lazarus Farm”); and two single-pitch sites on land to the south of Meadow View.

11. The site subject of Appeal A lies directly to the south of Lazarus Farm, with the site subject of Appeal B directly to the south of that. The land relating to Appeal C is to

the west of a single permanent pitch in the south-eastern corner of the site, and the land relating to Appeals D and E is directly adjacent and to the west of Appeal C. Each of the sites subject of the appeals before me are accessed off an internal access road that joins Dragons Lane between Meadow View and Lazarus Farm. Agreed Plan 3 shows the location of each of the appeal sites and other nearby plots of land that have been the subject of planning applications, appeals, or ENs in recent years. In this regard, I note that there is a proposal relating to land to the west of Appeals D and E that the Council are currently considering.

12. Plan 3 confirms the location of a pitch that was the subject of an appeal decision of 6 October 2023 ("the 2023 decision") that I determined. This pitch lies to the west of the land subject of Appeals A and B and to the north of the land subject of Appeals C, D, and E. The 2023 decision related to an EN concerning the material change of use of land to a residential caravan site. Hence, I have prior knowledge and understanding of the wider site context and the issues raised in Appeals A to E, but I have determined each appeal before me now on its own merits, but also being mindful of their mutual effect.

The context of the sites

13. Each of the appeal sites ("pitches") lie in the open countryside, either on or close to two high-pressure natural gas pipelines (Feeder 21 Elworth to Mickle Trafford and Warburton to Audley). Both are Major Accident Hazard Pipeline ("MAHP"). Each pipeline is buried to a depth of around 1.2 metres below ground level and operate at a pressure of up to 70 bar. Broadly, the pipelines traverse from the gas station adjacent and to the east of Appeal A in a southwesterly direction. Agreed Plan 2 illustrates this and reflects the best available evidence of the precise location and alignment of each pipeline.

14. The Health and Safety Executive ("HSE") has Inner, Middle and Outer Zones around the pipelines to manage the risk should they fail and flammable natural gas be released, which could, if ignited, burn as a large fireball and a jet fire. All four of the pitches lie within the Inner Zone, even though a small part of the pitch subject of Appeals D and E lies in the Middle Zone. Where most of a pitch lies in the Inner Zone, the whole pitch is treated as being within the Inner Zone.

15. MAHP are constructed, installed and routed in accordance with industry standards and are required to avoid occupied buildings and large centres of population when they are first built. This is achieved through the application of a building proximity distance. National Gas Transmission ("NGT") must comply with the Pipeline Safety Regulation (1996) ("PSR") and to do so, are required to ensure the pipelines are maintained in an efficient state, efficient working order and in good repair. NGT therefore needs to routinely inspect and maintain the pipelines and repair them in the event of an emergency. To achieve compliance with PSR, NGT has two deeds of easement that extend to widths of 12 and 24 metres, respectively. The easement widths are defined to provide sufficient supporting land around the pipes and space to facilitate excavations when direct access to the pipes is required. Land within the easements needs to be kept clear to allow full and free access. The extent of the easements associated with each pipeline has been laid on a composite plan (ID3) which also shows the location of each pitch.

The Enforcement Notices

16. I have a duty to ensure that the ENs are in order. Under s176(1) of the Act, as

amended, it is open to me to correct any defect, error or misdescription in the ENs or to vary their terms, provided I am satisfied that the correction or variation will not cause any injustice.

17. In response to matters raised by the appellants and I at the Case Management Conference ("CMC") I sought the parties' comments in writing about the allegation and requirements stated on each EN, and in respect of points made by the appellants about nullity and invalidity. I have had regard to those responses. I have also considered the parties submissions at the Inquiry.

18. Each EN was properly authorised before it was issued. Regulation 4(a) of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002/2682 ("the Regulations"), requires each EN to set out the reasons why the Council considered it expedient to issue the EN. The appellants for Appeals A, B, C and D say that the ENs do not state the true reasons why it has been considered expedient to issue the EN.

19. Setting aside the other reasons for each EN being issued, the dispute here relates to whether each of the pitches "sits atop National Grid's High-Pressure Gas Pipeline – Feeder 21 Elworth/Warmingham" and whether "the unauthorised development does not allow access to the pipelines for maintenance." The appellants contend that on reading the ENs, there is a direct relationship between the location of the development on each pitch and the access for maintenance issue, a safety concern. They add that it is far from clear whether the ENs would have been issued in respect of the development that does not sit atop the pipeline, as the risk would be substantially lower if it were solely a maintenance issue. Further, they say that this has caused a greater degree of concern for anyone notified of the appeals.

20. The phrase 'atop' can be found in the reasons for issuing each EN. It is not found in the parts describing the land to which the EN relates, the allegation or the requirements. There is then a comma before the next passage, which relates to the HSE consultation zones. The reasoning for each EN then goes on in a separate sentence to outline the reason relating to the NGT maintenance issue.

21. The best available evidence for Appeal A shows that the gas pipeline passes beneath part of this pitch. The appellant accepted this point at the Inquiry. The easement for one of the pipelines also extends across part of the pitch. Therefore, the reasons stated in this EN relate to the land and the situation on the ground.

22. The pitch subject of Appeal B does not sit atop a gas pipeline, but a corner of the land does lie within the easement required by NGT to inspect and maintain the pipeline. Hence, the reasoning relating to access for repair and maintenance is correct. However, reference to the land sitting atop of the pipeline is factually incorrect. Nevertheless, the Council have stated other reasons why they consider it was expedient to issue the EN. Furthermore, the safety risk reason relating to the HSE consultation zones remains accurate.

23. The pitches subject of Appeals C and D do not sit atop of the gas pipelines, and they do not lie within the easements associated with them. Therefore, citing both issues as part of the reasons for issuing each EN was factually incorrect. However, both of the ENs contain other reasons why the Council considered it expedient to issue them. Those included a safety risk reason (HSE consultation zones) that

remains accurate. The appellants also acknowledged that they knew where the pipelines were when they purchased the respective parcels of land.

24. As such, even though reference to 'atop' was not accurate for Appeals B, C, and D, nor was citing the pitches as being within the easement for Appeals C and D, each EN sets out the reasons why the Council considered it expedient to issue them. Those are not limited to whether each pitch is atop or not and whether there is a maintenance issue relating to NGT. Therefore, the expediency issue was not narrow, and I therefore disagree with the appellants about whether each EN would have been issued because of certain pitches not sitting atop the pipelines. Hence, each EN accords with Regulation 4(a) and thus, s712(1)(b) of the Act.

25. In respect of Regulation 4(c), each EN has a plan appended to it which identifies the precise boundaries of the land to which that EN relates. The text in section 2 states "land south of Dragons Lane" which could be viewed as being unspecific. However, this text goes on to say "shown edged red on the attached plan", which is the plan appended to each EN. There can be no confusion about the land that each EN relates to. Nor is that link affected by the word 'atop' being in the reasons for issuing each EN. Furthermore, there is no plan showing the location of the gas pipelines in relation to each pitch, so there can be no uncertainty here when the plan appended to each EN is considered, despite the accuracy of referring to the pitches (Appeals B, C and D) sitting atop the pipelines. I am therefore satisfied that each EN complies with Regulation 4(c).

26. The appellants contend that people have been consulted on the appeals based on the developments being atop of the pipelines and that this would have resulted in greater concern than if people were told that the pitches were not atop of the pipelines. Firstly, that position would not apply to Appeal A for the reasons set out. Secondly, in respect of Appeals B, C, and D, the concern of whether those pitches sit atop the pipelines or not is likely to be the same in effect if the pipelines were to fail and the natural gas ignite, given each pitch's proximity to the pipelines.

27. Having regard to Regulation 5, the Council included an explanatory note when it issued each EN with the list of the names and addresses of the persons on whom the EN was served. Hence, each EN accords with this regulation.

28. For the reasons set out, each EN is not a nullity and accords with the statutory requirements of s173 of the Act. The ENs are drafted so that the recipients know fairly what they have done wrong and what they must do to remedy it. Notably, no fundamental issues are taken with the alleged breach of planning control or the requirements of each EN. They are not hopelessly ambiguous or uncertain.

29. There are, however, a series of corrections. For Appeals A to D, no injustice would arise by changing the word 'un-associated' to 'not associated'. This change would help requirement c) on each EN read better. Also, for Appeals A to D, no injustice would be caused by changing requirement g) so that it reads 'restore the land to its previous condition', as the appellants are best placed to know what the condition of the land was like before development took place.

30. The allegation in Appeal B cites 'stables building', but this should be described as 'stable-type building used as a dayroom'. The allegation also refers to a 'detached building', and this building's purpose should be identified so that it is described as a 'detached dayroom building'. These corrections would not cause injustice. No

injustice would also be caused if requirement d) was corrected to read 'A-B-C-D-A' as this would reflect plan B.

31. Insofar as Appeal D, the allegation refers to a 'utility building' and a 'detached building'. There are, however, no buildings on this pitch. Instead, there is a container which is used for storage. This is ancillary to the use of the land. The EN's allegation does not need to refer to ancillary development but ensuring that it is correctly described would not cause injustice given that it is ancillary, and the appellant would know, based on reading the EN and the appended plan, that the EN related to their pitch.

32. The allegation and requirements for Appeal D refer to domestic paraphernalia and children's play equipment. That is unique to Appeal D compared to the other EN appeals and is based on the Council's site observations before the EN was issued. That said, both are part and parcel of the residential use of the land. They are ancillary to that use and help facilitate it. Further, the allegation and requirement e) reflect the situation on the ground. For these reasons, it is not necessary to correct the allegation or requirement e), and thus no injustice would be caused.

33. Collectively there are several corrections to the ENs, but each EN appeal is to be considered on its own merits. I have explained why the ENs are not a nullity, and the other corrections can be made without causing injustice. Even when the corrections on each EN are considered together, they do not amount to redrafting the EN or cause injustice to the appellants. Hence, they are not invalid, and I shall correct the ENs in the manner that I have set out.

Appeal E and Appeals A, B, and C on ground (a)

34. The main issues in each of these appeals are:

    a) whether the proposal is in a suitable location in the countryside and occupants would have reasonable access to facilities and services, having regard to the development plan, the National Planning Policy Framework (the Framework), and the Planning Policy for Traveller Sites (PPTS);

    b) the effect of the proposal on the high-pressure gas lines;

    c) the effect of the proposal on the character and appearance of the area;

    d) the need for, and provision of, sites for gypsies and travellers in the area; and

    e) any other material considerations in support, including alternatives and personal circumstances.

Reasons

Suitable location

35. Policy PG 6 of the Cheshire East Local Plan Strategy 2010-2030 ("CELPS") allows for the approval of development in the open countryside for certain categories of development including, "*other uses appropriate to a rural area*". This policy carries the caveat that the acceptability of such development will be subject to compliance with all other relevant policies in the Local Plan and that, in this regard, particular attention should be paid to design and landscape character so that the appearance and distinctiveness of the Cheshire East countryside is preserved and enhanced.

36. The second limb of CELPS Policy SC 7 sets out the factors relevant to the consideration of proposals for new Gypsy sites. These include the proximity of the

site to local services and facilities.

37. The Council confirmed at the Inquiry that there have been no material changes to the range or location of facilities and services to those that I considered as part of the 2023 decision. As such, Elworth offers the nearest shops, community services and facilities to the occupiers of each pitch. They are roughly 2.3 km away. Around 1.6km away is Sandbach railway station. However, the roads between the sites and Elworth are, for the most part, unlit and do not have a pedestrian footway. Hence, occupiers of the site are either not be able to safely access these services and facilities by foot or choose not to do so based on distance, safety, and convenience. The same applies for journeys by bicycle. Hence, occupiers of the development rely on the private vehicle, and this is the most likely mode of transport for the reasons explained.

38. Framework paragraph 110 explains that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. There is also no in principle issue with Gypsy site's being in rural or semi-rural settings; a point borne out by Policy C of the PPTS and SADPD Policy HOU5(3), though PPTS paragraph 26 which says new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan should be very strictly limited.

39. Therefore, while occupiers of each pitch are reliant on the use of the private vehicles to access facilities and services that include the school that some of the children in these cases attend regularly, the distances travelled by the occupiers are reasonably short and journeys could be grouped, making best use of the available facilities and services on offer. My analysis here remains unchanged from the 2023 decision.

40. The Council correctly points out that there are at least 30 people (four family units) collectively living on the pitches subject of these appeals, compared to the single family in the 2023 decision. However, while people living on the site will likely travel by private vehicle, the greater number of people involved in these cases does not automatically translate to an equal rise in journeys by private vehicle. This is because around half of the occupiers are children, with most of those of primary school age. Therefore, journeys by private vehicle could only be a proportion of the total number of occupiers now and in the medium term, with just over a third of the total number potentially driving a vehicle.

41. This would still be a numerical increase compared to the 2023 decision, but the children in Appeal B are home schooled unlike the children in the previous case, so the twice daily school run does not occur. Some of the children on the other pitches are not at school either due to age or choice, and the primary school aged children living on the pitches subject of Appeal A, C, and E attend the same school. Hence, households would, at the least, take multiple children in a single journey, and there could be cross household journeys given the way the occupiers live and interact.

42. So, while common journeys to facilities and services would remain, they are typically less frequent than daily movements for school or work. The extent of the latter is unknown, but the evidence points to not every adult working due to health or caring responsibilities. Nevertheless, objectively, for the reasons explained, the increase in journeys by private car is not likely in practice to be materially different than the 2023 decision individually or collectively. There may be a perceived

increase in the number of people equating to a rise in journeys, but this is not borne out of the circumstances of each case.

43. However, windfall Gypsy and Traveller sites are envisaged within the open countryside outside of the Green Belt through SADPD Policy HOU 5(3). There are large parts of the Borough that are designated as open countryside outside of Green Belt. The acceptability of such proposals depends on two factors. There is no dispute that the occupiers accord with the PPTS definition found in annex 1. Much has been made by the Council about whether they have a genuine need to live here. But the appellants have not just moved onto the pitches. They have lived here for between two and five years.

44. The evidence relating to medical services reflects periods when the occupiers have travelled or lived elsewhere in the country. There are more recent examples of the occupiers interacting with medical or education services in the area that would broadly tally with their various periods of occupation of each pitch. They have also expressed their wish for a settled base and multiple children attend school locally. I therefore consider that there is a genuine need for culturally appropriate accommodation in Cheshire East in each case. I will return to whether there are alternatives available to them to meet their accommodation needs later and reach a finding against SADPD Policy HOU 5(3).

45. As such, I conclude on this issue that the proposal is in a suitable location in the countryside and the occupants would have reasonable access to facilities and services. There is no conflict with CELPS Policies SC 7, SD 1 and SD 2 in this regard as they seek to guide development to accessible locations. I shall come to CELPS Policy PG 6 in due course.

High pressure gas lines

46. The pressure and design of the pipelines, along with the nature of natural gas, means that if either pipeline fails, it could lead to a catastrophic release of gas. If ignited, HSE confirm that it would burn as a large fire ball and a subsequent jet fire. The former would likely cover 300 metres from the point of failure, the latter 100 to 150 metres from the point of failure. The risk of failure is low, and thus the risk to people is low but not negligible.

47. The HSE does not advise against one or two dwelling units in the Inner Zone. The term ‘dwelling units’ is applied by the HSE to any residential accommodation. The limitation placed on the Inner Zone is to manage the risk of potential pipeline failure to the population and to avoid a significant population close to a major hazard pipeline.

48. There are two neighbouring pitches with planning permission[1] already within the Inner Zone. These together with the proposals before me would increase the number of dwelling units within the Inner Zone close to one another, and near to the pipelines, to six. Hence each proposal should not be looked at in isolation as while an extra dwelling unit on its own may be a modest increase above an arbitrary threshold, if this approach was repeated time and again, the number of people living near to a MAHP would incrementally grow, and so would the safety risk, even though the risk of failure may be low, and so would the potential consequences if a failure were to happen. Collectively, the proposals, if all allowed

[1] Appeal Decisions APP/R0660/W/19/3240007 and APP/R0660/W/19/3232925

to remain, would treble the number of dwelling units in the Inner Zone.

49. The gas pipelines are of an age, susceptible to corrosion and need maintaining. As explained, the pitches subject of Appeals C and E do not affect the easements associated with the gas pipelines. Hence, these developments do not prevent NGT from accessing the pipelines to inspect, maintain and repair them. In respect of Appeals A and B, an easement covers part of each pitch. Both pitches are enclosed by tall fencing. The land subject of Appeal A is grassed to the rear where the easement lies. Hardstanding covers the area where the easement is for Appeal B. However, a planning condition for a site development scheme could secure a suitable internal layout of each site, including the location of any structures and details of proposed boundary treatment. This could ensure that these pitches do not conflict with the easement, and thus, affect NGT's ability to inspect, maintain or repair.

50. Although subject to a planning condition there is no NGT maintenance issue, and while each appellant may accept the risk and consequences if a failure were to occur, that does not lessen or overcome the unsafe location of each development or the safety of each occupier on the pitches concerned, which include, vulnerable people. If a failure did occur, there could be fatal consequences for the occupiers of each pitch. I have carefully considered HSE's advice in reaching this view.

51. As a result, given their proximity and number, I conclude in respect of this issue, that the location of each proposal gives rise to an unacceptable safety risk to the occupiers in conflict with SADPD Policy INF 7(2) notwithstanding that the schemes do not give rise to a maintenance issue.

Character and appearance

52. Each site is set back from Dragons Lane, with the pitches subject of Appeals C and E sited further away, and to the rear of Meadow View. The sites subject of Appeals A and B are positioned close to the gas station. Thus, there are some limited locational differences, but nevertheless the pitches remain part of a wider site comprising other residential caravan sites set within a predominately rural landscape that is not heavily visually influenced by the gas station owing to the mature vegetation that surrounds it.

53. There is commonality in each pitch being enclosed by boundary treatment with caravans and outbuildings sited on hardstanding. The layout of each pitch varies, but even with their set back position from Dragons Lane and Plant Lane, and the mature vegetation that lines these roads, there are glimpsed views of each development, particular of the tops of caravans, outbuildings and site boundaries. Further glimpsed views are available from the footpath to the southeast.

54. The effect of this individually is the urbanisation of an undeveloped parcel of land in the open countryside. Collectively, the pitches have added further development to the wider parcel of land to the south of Dragons Lane. They detract from the openness of a rural part of the countryside. As there are now four pitches before me instead of the one pitch in the 2023 decision and the developments are collectively of a greater scale and massing, I consider that the harm caused by the proposals would be moderate despite the location of each pitch and the presence of neighbouring Gypsy sites with planning permission.

55. Landscaping, secured by a planning condition, could be added to each pitch to

help soften the developments, but there are no details of any planting before me, and given the site locations and layout, it would not overcome the identified harm or positively enhance the environment and increase its openness as required by PPTS paragraph 27b). Therefore, I conclude, on this issue, that the proposals cause limited harm to the character and appearance of the area, and as such, they conflict with CELPS Policies PG 6 and SC 7.

Need and provision of sites

56. The Council's most recent assessment of need is found in the Traveller and Travelling Showpeople Accommodation Assessment 2018 (GTAA). The GTAA formed part of the evidence before the Examining Inspector for the SADPD in which the GTAA was found to be "*a sufficiently robust and up to date assessment of need in Cheshire East for the period 2017-2030".*

57. The SADPD is now adopted, and Policy HOU 5 identifies a need in the Borough (2017 to 2030) for 32 additional permanent pitches for Gypsies and Travellers and a transit site of between 5 and 10 pitches for Gypsies and Travellers. These pitches are to be delivered on six allocated sites listed within the policy and from sites in the *'open countryside, outside the Green Belt'* which accord with criterion 3(i) of CELPS Policy PG 6 and SADPD Policy PG 10 and have a genuine need for culturally appropriate accommodation in Cheshire East. That was to recognise the GTAA identifying a need beyond that limited to the former definition of Gypsy and Traveller in Annex 1 of the PPTS. Once this need is accounted for, a total of 39 permanent pitches were identified in the GTAA.

58. However, the examination and adoption of the SADPD was before the Court of Appeal judgment of Smith v SSLUHC & Ors (2022) EWCA which confirmed that the PPTS definition of Gypsies and Travellers was discriminatory, as it makes it harder for elderly and disabled ethnic Gypsies and Travellers to obtain planning permission. Further, it does not include persons of nomadic habitat of life who on grounds of their own, or family's dependants' educational or health needs or old age, have ceased to travel permanently.

59. The definition in Annex 1 of the PPTS is now broader, and as a result, I agree with the Council that it is unclear what the extent of the need is in Cheshire East for permanent pitches over the remaining plan period. This situation will remain until a new GTAA is published. The Council is currently in the process of commissioning this work. However, the minimum need is that found in the GTAA.

60. Based on the GTAA, 21 permanent pitches have been completed, which means that 18 permanent pitches are required over the remaining six years of the plan period. The Council says that it has 23 permanent pitches in its supply. That includes the Council-owned site (G&T2) land at Coppenhall Moss, one of the allocated sites in SADPD Policy HOU 5. This site is currently being sold by the Council. Planning permission will need to be sought once the site has sold before it can be developed ready for occupation. It is reasonable to consider that this site will become available in the next year or so.

61. While SADPD Policy HOU 5(3) may see further Gypsy and Traveller pitches added to the supply, the Council accepts, due to the unknown need position, that it cannot currently demonstrate a deliverable five-year supply of Gypsy and Traveller sites. This was not the case in the 2023 decision, albeit I carried out a planning balance as if there was not a five-year supply.

Other considerations

Personal circumstances and best interests of the children

62. Each appellant submitted details of their family and their personal circumstances. They also gave oral evidence at the Inquiry on oath about the personal circumstances of the occupiers on each pitch. I give this evidence considerable weight, as they were cross-examined and they answered my questions.

63. Comparisons were drawn by the parties to the personal circumstances in the 2023 decision. However, I have considered the circumstances of each pitch on their own merits, even though there are some similarities in terms of education, as the occupiers and circumstances of those occupiers vary from pitch to pitch.

64. To protect the identities of the children and so that my analysis can be followed, each child on each pitch is known as Child A, Child B, etc. I have followed the same labels as those cited in the evidence for each pitch.

Pitch 6 (Appeal A)

65. The appellant and his wife live on the pitch with their three children (Child A, B, and C) and the appellant's stepson and his daughter, who has a child (Child D). Child A, B, and D are said to attend a school in Middlewich, but there are no details of the school. Child C is too young to attend school. Child D has a rare medical condition and several other medical conditions. They receive treatment at a Greater Manchester hospital.

66. The appellant's stepson has several diagnosed medical conditions that have given cause for medical assessment and treatment for their own health or safety. He has also received community support from secondary health services. This support is ongoing, and he has a trusted care package. He is cared for by the appellant's wife and the wider family and benefits from a settled and stable environment to support his health and wellbeing. The future prognosis is unknown, but his recovery could take several years to enable him to work or return to education.

67. The pitch offers a settled base for the family unit to live, and a stable environment for the children and the appellant's stepson in particular. This is vital for the appellants' stepson, at least for the next few years while they recover. If the children attend school, the appeal site offers them the best opportunity to attend school regularly. The pitch also enables the family to access a GP and other medical services in general to support their health and wellbeing. But this is particularly important for Child D, and the hospital is not a significant distance away. This pitch or an alternative pitch would avoid a roadside existence, which would mean that the children could attend school and enable adults to work.

Pitch 8 (Appeal B)

68. The appellant and his wife have five children. There are no specific circumstances applicable to the appellant or his wife. Child A to D are all homeschooled and a tutor attends the site to teach them. A carer comes to the site to look after Child E, akin to a nursery. There are no health issues linked to Child A, Child B or Child E. Child C requires regular routine treatment for a medical condition at a hospital in London, though there are no specific details of what this entails, its bearing on their quality of life, and their future prognosis. A possible health condition is being explored with Child D. Their future prognosis is unclear. The appellant's mother also lives on the pitch. She is registered disabled. Surgery was undertaken in

2023, but there are ongoing effects of this. They have several medical conditions, including one that is yet to be diagnosed.

69. The appeal site offers a settled base for the extended family to live together, and it provides a stable environment for the children to live and be home-schooled or cared for. The pitch also provides a base from which the family can access a GP or medical services to support their health and wellbeing and to travel to and from the hospital in London for Child C's regular treatment.

Pitch 11 (Appeal C)

70. The appellant and his wife have three children. There are no health issues associated with them. The children attend either secondary school or primary school, and they do not have any specific educational needs. The appellant's mother and father also live on the pitch. No specific circumstances were raised in respect of the former. The latter has various health conditions for which they access treatment. On the patient records, the address stated is not the appeal site. The appellant could not explain why this was the case.

71. The pitch provides a settled base for the family, though it is unclear if that includes the appellant's parents or not. But the same would apply even if they do live on the site, as it would enable the entire family to access a GP and other medical services to assist with their health and wellbeing. In respect of the children, the site offers them a stable environment from which to attend school regularly, which enables the adults to work.

Pitch 12 (Appeal E)

72. The appellant and her husband have seven children of various ages. There are no circumstances relating to the appellant's husband. The appellant has a long-term medical condition and is registered disabled. She requires daily access to toilet and washing facilities and requires clean water. Without those facilities, there is a strong likelihood significant issues would occur that would require medical treatment. As those facilities are not available, she does not travel.

73. Child A is homeschooled and helps his father. He is being assessed for a medical condition and attends appointments when required. Child B is not at school but wishes to go to college. She helps her mother. There are no health issues associated with Child B. Child C attends a nearby primary school, and there are no specific educational or health issues. They have expressed a wish to go to college. Child D attends the same primary school and has a Special Educational Needs (SEND) Support Plan to help them. They may be diagnosed with a medical condition, and they enjoy playing football. Child E is at the same primary school and is receiving treatment that may continue for a while, but precisely how long is unknown. Child F attends a nearby nursery. They require surgery for a known issue, and although they are awaiting a date for the procedure, the prognosis is positive once that takes place. Child G is an infant, though they may require surgery, but there are no long-term health issues. It is the parents' intention for Child F and Child G to go to primary school in due course. They are also supportive of the other children going onto secondary school or further education.

74. A settled base would enable the family unit to all reside on the same site, and it would provide a stable environment for all the children, particularly those in or expected to go into education, so that they can regularly attend those settings. A settled base would also enable the family to access a GP and other medical

services to support their health and wellbeing. This is particularly important for Child A, Child D, Child E, Child F, and Child G for their health, wellbeing and development. This equally applies to the appellant in the event that she requires help. But of critical importance is her ability to have suitable facilities at a settled base to avoid the need for help. A roadside existence would not provide those facilities, and there are serious health consequences as a result.

Alternatives

75. None of the parties could point to any suitable available alternative sites in Cheshire East to accommodate the appellants and their families. The pitch provision at Coppenhall Moss (Site G&T 2) has slipped, as that site was likely to be available later this year at the time of the 2023 decision. This site will not become available until next year at the earliest now. As such, at the current time, the accommodation needs of each family cannot be met by occupying an existing pitch in an established, authorised Gypsy and Traveller site or on a new pitch on an allocated site. The proposal therefore accords with SADPD Policy HOU 5(3).

76. However, setting this finding aside, it is conceivable that the appeals on ground (a) and Appeal E are dismissed for other reasons. In this context, it is necessary to consider the principle of whether it would be possible to find an alternative site in the countryside but without a constraint such as the gas pipelines.

77. In each case, needing to move away from the appeal site to another site within Cheshire East would be a change. There would also be some inconvenience to the family, especially the children, particularly if they were to move further away from their schools, as it may take longer to travel to and from there. There would also be an effect on their current stable environment that allows them to attend school. Added to this, there would likely be a considerable effect on the appellant's stepson (Appeal A) because of a potential move and the distress that this is likely to cause. Although there are ongoing medical conditions associated with Child D (Appeal A) and Child C (Appeal B), there is no indication of what effect there would be, providing they could continue to access medical services due to having a settled base. The same applies to the other children, either with diagnosed or undiagnosed medical conditions or who are awaiting treatment, though there would be uncertainty and potential for disruption.

78. Nevertheless, there are large parts of Cheshire East designated as countryside outside of the Green Belt, and it may be possible to find and secure planning permission for an alternative site in the nearby area in compliance with SADPD Policy HOU5(3). The Council has also stipulated compliance periods of 12, 13 and 14 months relating to the different requirements of each EN to enable each appellant to find a site, obtain planning permission and carry out necessary works.

79. Although there may be no identified alternatives, the decision-making process in response to a planning application would not be a significant time obstacle to occupying an alternative and policy compliant site outside of the Green Belt. The Council had this in mind with the compliance periods stated on each EN. However, for Appeal C, I consider that it would be reasonable and necessary to provide more time for the requirements of the EN to be complied with. For reasons that I outline below in respect of two of the appeals, the compliance periods need to provide the appellants a reasonable period of time to find an alternative and policy compliant site whilst striking a proportionate and reasonable balance with the best interests of the children in mind so that they have a settled educational

environment for the remainder of this academic year and the next.

Other Matters

80. While it is not a policy in the Framework or the PPTS, the Written Ministerial Statement (WMS)[2] explains that Intentional Unauthorised Development ("IUD") is a material consideration that is to be weighed in the determination of planning appeals. The key point from the WMS is the lack of opportunity to appropriately limit or mitigate the harm that has been caused where the development of land has been undertaken in advance of obtaining planning permission.

81. Land Registry searches carried out prior to each EN being issued showed that the freehold owners own much of the wider site, including Meadow View. Planning permission was sought for the development at Meadow View in 2012, so the owners knew that planning permission was required for this form of development. Since then, there have been planning applications and appeals on the wider site, including on some of the land that is now subject of these appeals.

82. Development on each pitch has taken place without the benefit of planning permission, and the planning application subject of Appeal E was submitted roughly three years after the occupiers moved onto the land. Evidently, even if each appellant did not know that planning permission was required, the land owner for each pitch did or ought to have given their prior experience.

83. The IUD, while not unlawful, has caused harm in respect of the character and appearance of the area, and the location of each pitch gives rise to an unacceptable safety risk. Those matters remain, cannot be mitigated, and go to the heart of the concern about undertaking development before planning permission is obtained, especially bearing in mind the consistency of HSE's advice. The appeals have brought about the use of public resources and expense, though I am mindful that the appeals would have been necessary given the Council's decision to refuse planning permission for Appeal E.

84. The IUD was a conscious choice, though the safety and wellbeing of each family is understandable. However, the IUD weighs against the proposals even though retrospective applications are possible and there is a need for pitches.

Drainage – Appeal E

85. In refusing planning permission for Appeal E, the Council considered that insufficient information had been submitted in terms of foul and surface water drainage given the non-mains drainage system proposed. However, as the Council agreed that this could be resolved through the imposition of a planning condition, there would be no conflict with CELPS Policy SE 13 or SADPD Policy ENV 17.

Planning Balance and Conclusion on Appeal E and Appeals A, B, and C on ground (a)

The Development Plan

86. I have found that each proposal is in a suitable location in the countryside, and the occupants would have reasonable access to facilities and services. There would also be no drainage issue in respect of Appeal E. However, there is an unacceptable safety risk from each site's location within the Inner Zone of the high-pressure gas pipelines. I afford very substantial weight in each case to this. Nor can this harm be addressed by a suitably worded planning condition, and it is not

[2] Green Belt protection and intentional unauthorised development, 17 December 2015

alleviated because the easements to the gas pipelines are either maintained already or could be through the imposition of a planning condition. That unacceptable safety risk would exist for however long the pitches are occupied. Moderate harm is also caused by each proposal to the character and appearance of the area. As a result, the proposals conflict with CELPS Policy SC 7 and SADPD Policy INF 7. Consequently, there is also conflict with CELPS Policy PG 6. I therefore conclude that each of the ground (a) appeals, and Appeal E do not accord with the development plan.

Other considerations and conclusions

87. As the Council cannot demonstrate a deliverable five-year supply of Gypsy and Traveller pitches, in accordance with PPTS paragraph 28, Framework paragraph 11(d) is engaged.

88. Each appellant and their family's have a genuine need for a pitch, and there are no alternatives presently available to them in Cheshire East. For Appeals B and C, the personal circumstances of the family and the best interests of the children, along with the lack of a five-year supply of deliverable Gypsy and Traveller sites, carry significant weight in favour of the proposal. For Appeals A and E, the personal circumstances of the family and the best interests of the children, along with the lack of a five-year supply of deliverable Gypsy and Traveller sites, carry very significant weight in favour of the proposal. That said, in each case, those objectives could be realised at a site in a different location that complies with planning policies. The development plan would enable that, subject to the site-specific considerations, and the Council contends that the EN's compliance periods would facilitate consideration of an alternative site.

89. Each site's location carries neutral weight, as does the effective use of land given the size of the pitch and its location in the Inner Zone. The character and appearance harm means that there is conflict with Framework paragraphs 135 a), b), c) and d) and 139. Hence, none of the pitches are well-designed places. The proposal conflicts with Framework paragraph 102 for the reasons set out relating to the gas pipelines. Furthermore, the IUD carries moderate negative weight.

Appeal A conclusions

90. The proposal results in benefits and causes harm, but the adverse impact of granting permanent planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Hence, the material considerations collectively (even setting aside the IUD not caused by the children) do not indicate that I should take a decision on Appeal A other than in accordance with the development plan. Thus, I will not grant permanent planning permission.

91. The identified harms would remain in respect of a three-to-four year temporary permission, especially if one or both gas pipelines were to fail given the likely grave consequences, albeit they would be time-limited. The compliance period stipulated on the EN is already tantamount to a temporary planning permission and would avoid an immediate roadside existence. However, in this case, I consider the specific circumstances of the appellant's stepson justify a longer time period of two years, despite the continued safety consequences, to enable the appellant and his family to find an alternative policy compliant site whilst at the same time providing the individual, and thus, his family, a stable and settled base. In this time, the Council owned site should become available, and a longer period

would prolong the safety consequences of remaining on this pitch, which would not be in anyone's interests, but especially not the children's.

92. I therefore conclude that the adverse impacts of granting a temporary personal planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Thus, the material considerations collectively (even setting aside the IUD not caused by the children) indicate that I should take a decision on Appeal A other than in accordance with the development plan. I will therefore grant temporary personal planning permission for a two-year period which would strike a proportionate balance. Therefore, I conclude that Appeal A is allowed, and temporary personal planning permission is granted.

Appeal B conclusions

93. The adverse impact of granting a permanent planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Hence, jointly the material considerations (even setting aside the IUD not caused by the children) do not indicate that I should take a decision on Appeal B other than in accordance with the development plan. Thus, I will not grant permanent planning permission.

94. The identified harms would remain in respect of the three-to-four year temporary permission suggested, particularly if the gas pipelines were to fail given the likely grave consequences, albeit those harms would be time-limited. Weighing the proposal's benefits and harms is not a mathematical outcome; it is an overall judgement. The personal circumstances of Child C, despite the continued safety consequences, warrant a longer time period to enable the family to find a policy compliant alternate site. That could be achieved through longer compliance periods under the ground (g) case, but this period is already similar to a temporary planning permission. This leads me to conclude that the adverse impact of granting temporary planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Thus, the case specific material considerations collectively (even setting aside the IUD not caused by the children) indicates that I should take a decision on Appeal B other than in accordance with the development plan.

95. I will therefore grant a temporary personal planning permission, but not for the period suggested by the appellant. This is because the Council owned site should be available next year and given the safety consequences of remaining on site for longer than necessary, which would not be in the children's best interests. I consider a two-year period would strike a proportionate balance. As such, I conclude that Appeal B is allowed, and temporary planning permission is granted.

Appeal C conclusions

96. The adverse impact of granting permanent planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Hence, the material considerations collectively (even setting aside the IUD not caused by the children) do not indicate that I should take a decision on Appeal C other than in accordance with the development plan. Thus, I will not grant permanent planning permission.

97. In the three-to-four year temporary period suggested by the appellant the identified harms would remain, especially if the gas pipelines were to fail given the likely

grave consequences, albeit they would be time limited. Therefore, taking the case specific circumstances into account, the adverse impact of granting temporary planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. Thus, the material considerations (setting aside the IUD not caused by the children) do not indicate that I should take a decision on Appeal C other than in accordance with the development plan, and I will not grant temporary planning permission.

98. Notwithstanding this, there is the possibility of an alternative policy compliant site being secured within a shorter time period. The EN, before my consideration of the appeal on ground (g) provides the appellant time to do so without needing to impose a temporary planning permission. The stated time period would also avoid an immediate roadside existence for the family, though there is merit in a slightly longer compliance period to enable Child B to complete primary school.

99. Hence, the appeal on ground (a) for Appeal C fails, and planning permission is refused. I will uphold the EN with corrections and a variation. My decision will result in the loss of a home for the appellant and his family and cause an infringement of rights under Article 8 of the HRA. But the identified harm in this case is of such weight that upholding the corrected and varied EN and refusing planning permission is a proportionate, legitimate and necessary response that would not violate those persons' rights under Article 8. The protection of the public interest cannot be achieved by means that are less interfering of their rights.

Appeal E conclusions

100. In respect of a permanent planning permission, I conclude that the adverse impact of granting permanent planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the material considerations collectively (even setting aside the IUD not caused by the children) do not indicate that I should take a decision on Appeal E other than in accordance with the development plan. Thus, I will not grant permanent planning permission.

101. A three-to-four year temporary planning permission would mean that the identified harms would continue in this time, specifically if either of the gas pipelines were to fail and the serious consequences came to bear, albeit they would be time limited harms. This proposal would result in benefits but also harms. This requires an overall judgement rather than the application of a mathematical equation. Given the personal circumstances of the appellant and his family, a longer period of time is necessary to enable the family to find a policy compliant alternate site. That could be achieved through longer compliance periods under the ground (g) case, but the compliance periods are already in effect a temporary planning permission and avoid an immediate roadside existence. Therefore, I conclude the adverse impact of granting temporary planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

102. Hence, the case specific material considerations (even setting aside the IUD not caused by the children) indicate that I should take a decision on Appeal E other than in accordance with the development plan. I will therefore grant a temporary personal planning permission, but not for the period suggested by the appellant. This is because the Council owned site should be available next year, and that period is too long, bearing in mind the safety consequences of remaining on site

which would not be in the children's best interests. I consider a two-year period would strike a proportionate balance. Accordingly, Appeal E is allowed, and temporary personal planning permission is granted. I will return to the ground (g) appeal relating to this pitch (Appeal D).

Conditions

103. For Appeals A, B, and E, a condition is necessary for to secure a restoration scheme prior to the use ceasing, and for that scheme to be carried out in the interests of the character and appearance of the area and public safety. I have imposed a condition so that the dayrooms are used for the intended purpose. In the interests of the character and appearance of the area, I have imposed a restriction relating to boundary treatment. To ensure the pitches are solely used for residential purposes, I have imposed conditions preventing commercial activities and the size of vehicle that can be stationed, parked or stored on the land. A condition for a site development scheme is necessary in the interests of the character and appearance of the area and so that it is safe for residential use and appropriate drained.

104. For Appeal A, a condition is necessary in the interests of certainty and the character and appearance of the area to control the number of caravans on the pitch. Further, I have imposed a condition to control who can occupy the pitch to reflect the evidence and the justification for granting temporary planning permissions. For Appeal B, a condition is necessary in the interests of certainty and the character and appearance of the area to control the number of caravans on the pitch. I have imposed a condition to control who can occupy the pitch to reflect the evidence and the justification for granting temporary planning permissions. For Appeal E only conditions an approved plan condition is necessary in the interests of certainty. For this reason, and in interests of the character and appearance of the area, a condition is necessary to control the number of caravans on the pitch. I have also imposed a condition to control who can occupy the pitch to reflect the evidence and the justification for granting temporary planning permissions.

Appeals C and D on ground (g)

105. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. The Council has stipulated the same compliance periods as those in the 2023 decision, which I varied based on the evidence that I heard. I have considered the remaining ground (g) appeals based on the evidence before me on those pitches on their own merits. The appellants both seek 24 months to comply with the requirements of the ENs'.

106. The harms that I have identified in respect of Appeal C would exist up until the end of whatever the compliance period is and the EN's requirements are fulfilled. It is a legitimate public aim to protect the environment, public safety, and the rights and wellbeing of others through the regulation of land use. The ENs are the means to remedy those harms. A 24-month period would be akin to a temporary planning permission, and I did not reach that conclusion in respect of Appeal C, so it would not be reasonable to vary the compliance period to that suggested length.

107. But the compliance period stipulated on this EN is too short because Child B would be in the final term of their last academic year at primary school and just before Child B would take their SATs when the use of the pitch would need to cease with the stated compliance periods. Moving then would cause disruption to them and potentially to their education and would not be in their best interests. Therefore, it is reasonable to extend the compliance period so that they complete the school year

and to provide the family with a settled base for as long as possible, but at the same time consolidate the staggered compliance periods to a single time period to bring the use to an end as soon as possible given the safety issue arising from the pitch's location to the gas pipelines. This would also provide the appellant with longer to look for an alternative and policy compliant site, albeit without certainty, to apply for planning permission and implement any permission, given that the development plan enables windfall sites to be considered.

108. I have considered the planning merits of pitch 12 as part of my consideration of Appeal E and determined that a temporary personal planning permission is suitable in that case. Given this, the absence of a ground (a) appeal on Appeal D, and the fact that the family subject of Appeal D and E are clearly living together on pitch 12, there is currently an inconsistency between the compliance period on Appeal D and the length of the temporary planning permission. This is despite the same personal circumstances in both cases. It is highly unusual to vary a compliance period to 24 months (2 years) as this is akin to a temporary planning permission. However, in this specific case, I shall take the unusual step, based on the precise circumstances raised, to extend the compliance period on Appeal D to 2 years. This will be a single compliance period rather than a staggered one, as that would be consistent with the temporary planning permission. The reasons for extending the compliance period on this pitch relate to the personal circumstances of the appellant's wife and Child A, Child D, Child E, Child F, and Child G.

109. Longer compliance periods of on Appeals C and D are reasonable, necessary, and proportionate responses for the reasons explained. The children's best interests are to continue with a settled life. Although these could be secured at another site, there would still be inconvenience and an unsettled period for them. I will therefore uphold the ENs with corrections and a variation on each. While in due course my decisions will result in the loss of each family's homes and that would cause an infringement of rights under Article 8 of the HRA, my decisions would strike a fair and proportionate balance between the need to remedy the breach of planning control and the public interest and the interference with the Article 8 rights of the family. The protection of the public interest cannot be achieved by means that are less interfering of their rights. As such, ground (g) succeeds on Appeals C and D, and I shall vary the ENs by deleting the stated compliance periods and substituting them for 15 months and 2 years. This would not cause injustice.

Overall Conclusions

110. As explained, subject to corrections, Appeals A and B are allowed, the ENs are quashed, and temporary planning permissions are granted on the applications deemed to have been made under section 177(5) of the Act for the development already carried out, subject to the relevant conditions in the attached schedule.

111. I also conclude that I shall uphold the EN subject of Appeal C with corrections and variations and refuse to grant planning permission on the deemed application subject of this appeal. Further, for the reasons stated, I shall uphold the EN subject of Appeal D with corrections and variations. I also conclude that Appeal E should be allowed.

Andrew McGlone

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Arevik Jackson of Counsel, instructed by the appellants

She called:

Michael Carr MSc, MRTPI	Planning Consultant, MAT Design Limited
Crimea Price	Appellant, Appeal A
Gillian Rothwell BSc (Hons), Dip	Lead Practitioner, Gillian Rothwell Associates
John Collins	Appellant, Appeal B
Tom Price	Appellant, Appeal C
Eileen Doran	Appellant, Appeal E (also spoke to Appeal D)

FOR THE LOCAL PLANNING AUTHORITY:

Daniel Henderson of Counsel, instructed by solicitor, Cheshire East Council

He called:

Zafer Iqbal BSc (Hons), MSc	Senior Planning Officer (Enforcement)
Darren Thomas CEng	National Gas Transmission
Chris Brookes-Mann BEng, IEng, MIIRSM	HM Principal Specialist Inspector, HSE
Gemma Horton+	Senior Planning Officer

+ planning condition session only

INQUIRY DOCUMENTS

ID1	Darren Thomas Proof of Evidence, Updated Appendix 1
ID2	Letter from Cleford Primary School regarding Child D (Appeal E)
ID3	Michael Carr Proof of Evidence, Appendix 4C Revision A 2
ID4	Appellants opening submissions
ID5	Council opening submissions
ID6	R (Ardagh Glass Ltd) v Chester CC [2009]
ID7	Council closing submission and authority
ID8	Appellant closing submissions and authorities

SCHEDULE OF CONDITIONS

Appeals A, B and E:

1. The site shall not be occupied by any persons other than gypsies and travellers as defined by the Planning Policy for Traveller Sites (or its equivalent in replacement national policy).

2. The dayroom/amenity building(s) hereby permitted, shall not at any time be used as overnight accomodation.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, or walls other than those expressly authorised by this permission shall be constructed.

4. No commercial activities shall take place on the land, including the storage of materials.

5. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

6. The use hereby permitted shall cease and all caravans, equipment and materials brought onto the land for the purposes of the use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to v) below:
i)Within 3 months of the date of this decision a Site Development Scheme for the site (the SDS) shall have been submitted for the written approval of the Local Planning Authority and the scheme shall include a timetable for its implementation. The scheme shall include the following details:

   (a) the internal layout of the site, including the siting of mobile home, sheds or other structures and the proposed boundary fencing;

   (b) the external materials of the proposed utility/day room (Pitch 12 only)

   (c) any external lighting of the site and its luminance (existing and proposed);

   (d) landscaping scheme to include tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities. The planting shall take place in the first available planting season after the approval of the SDS in accordance with the approved details. Any trees, shrubs, plants or hedges planted in accordance with the scheme which are removed, die or become diseased or seriously damaged within 5 years of completion of the approved scheme shall be replaced by trees, shrubs or hedges of a similar size and species to that originally approved;

   (e) full details of the surface water and foul water drainage scheme. This shall include;
   - A foul drainage assessment justifying why connection to a public sewer is not possible.
   - A foul drainage assessment that demonstrates that the disposal of foul effluent to ground from the proposed package treatment plant would be effective at this location.
   - Surface water run-off rates, including greenfield qBar and post-development runoff estimates, ensuring greenfield rate run-off is matched, unless proven

unfeasible, or 50% betterment for brownfield sites, with a restricted discharge rate not exceeding 5l/s per hectare and not lower than 2l/s per hectare
- Details of hydraulic design up to 1in100+CC% Storm Event in accordance with Gov.uk Climate Change Allowances
- Details of any boundary drainage to ensure any flooding stays within the site. If calculations show flooding on site, that developments/properties will be safe
- Designed in accordance with the drainage hierarchy (Non-Statutory SuDS Technical Standards Guidance (2016) Paragraph 3.7)
- Provision of pipe diameters, slope angles, cover levels and invert levels
- Demonstrates that foul and surface water drain via separate systems
- Provision of hydraulic modelling for all storm durations, detailing the critical storm duration, from 15 minutes to 10 day, with the 1in100+CC% Storm Event also utilised
- Implementation of SuDS as the primary method of the management of surface water that provide multifunctional benefits where possible. Cheshire East SuDS SPD mandates that SuDS features are maximised. Considerations and evidenced descriptions for each of the 'Four Pillars of SuDS' shall be included
- Provision of full management and maintenance schedule for the drainage strategy to cover the lifetime of the development, including contact details of the responsible party and any inspection and test plans.
- To be built in accordance with all approved drainage design documents

(f) an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced). If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development. The site shall be remediated in accordance with the approved measures and timescale and a verification report within 6 months of the decision.

(g) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use in line with the current version of 'Developing Land within Cheshire East Council – A Guide to Submitting Planning Applications, Land Contamination' (in the absence of any other agreement for the development), which can be found on the Development and Contaminated Land page of Cheshire East Council's website. Evidence and verification information (for example: quantity/source of material, laboratory certificates, depth measurements, photographs).

ii) If within 6 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
iii) If an appeal is made in pursuance of ii), that appeal shall be finally determined and the submitted scheme shall have been approved by the Secretary of State.
iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved SDS specified in this condition, that scheme shall thereafter be retained. No structures, buildings or hardstanding other than those shown in the approved scheme are permitted.
v) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

In addition, Appeal A only (numbering follows on from 1 to 6 above):

7. The use hereby permitted shall be carried on only by the following: Mr Crimea Price, Ms Italia Price, Mr Morgan Heritage, and Ms Mary Price, and their resident dependents and shall be for a limited period being the period of 2 years from the date of this decision, or the period during which the pitch is occupied by them, whichever is the shorter.

   Prior to the cessation of the use, a scheme to restore the land to its condition before the development took place and a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved timetable.

8. There shall be no more than 1 pitch, with no more than 3 caravans on on the pitch, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended, shall be stationed at any time, of which only 1 caravan shall be a static caravan.

In addition, Appeal B only (numbering follows on from 1 to 6 above):

7. The use hereby permitted shall be carried on only by the following: Mr John Collins, Mrs Kathleen Collins, and Mrs Bridget Collins, and their resident dependents and shall be for a limited period being the period of 2 years from the date of this decision, or the period during which the pitch is occupied by them, whichever is the shorter.

   Prior to the cessation of the use, a scheme to restore the land to its condition before the development took place and a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved timetable.

8. There shall be no more than 1 pitch, with no more than 2 caravans on on the pitch, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended, shall be stationed at any time, of which only 1 caravan shall be a static caravan.

In addition, Appeal E only (numbering follows on from 1 to 6 above):

7. The use hereby permitted shall be carried on only by the following: Mr Darren McGinley and Mrs Eileen McGinley/Doran, and their resident dependents and shall be for a limited period being the period of 2 years from the date of this decision, or the period during which the pitch is occupied by them, whichever is the shorter.

   Prior to the cessation of the use, a scheme to restore the land to its condition before the development took place and a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved timetable.

8. The development hereby permitted shall be carried out in accordance with the approved plans, 1, 2, and 3.

9. There shall be no more than 1 pitch, with no more than 2 caravans on on the pitch, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended, shall be stationed at any time, of which only 1 caravan shall be a static caravan.

END OF SCHEDULE