
Appeal Decisions

Public Inquiry held on 10 June, 3-5 November and 16 December 2015

Site visits made on 9 and 10 June 2015 and on 16 December 2015

by Mr Keri Williams BA MA MRTPI

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

Decision date: 24 February 2016

Appeal A: APP/W1525/A/14/2226970

May Farm, East Hanningfield, Chelmsford, Essex, CM2 7TF

- 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 made by Mr John Lowe against the decision of Chelmsford City Council.
- The application, Ref.14/01041/FUL, was refused by notice dated 14 August 2014.
- The development proposed is the use of land for the stationing of caravans for residential purposes for 2 no. gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use.

Summary of Decision: The appeal succeeds in part. Planning permission is granted on part of the site.

Appeal B: APP/W1525/C/14/2227120

Land at field North of Mill Hill Farmhouse, East Hanningfield Road, Chelmsford, Essex, CM2 7TF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made Mr John Lowe against an enforcement notice issued by Chelmsford City Council.
- The Council's reference is 14/00053/ENF.
- The notice was issued on 10 September 2014.
- The breach of planning control as alleged is set out in the notice as follows: On the 18 August 2011 planning permission ref.11/00847/FUL was granted for the siting of a residential caravan and associated works to provide a temporary agricultural dwelling for a period of three years. A condition (1) attached to this permission required the following action to be taken:
The mobile home hereby permitted shall be removed and the land restored to its former condition on or before 31 August 2014 in accordance with a scheme of work submitted to and approved in writing by the local planning authority.
The mobile home remains on the land and the Council considers that its removal remains necessary in accordance with established rural planning policies.
- The requirements of the notice are to:
 - i) Remove from the land the mobile home shown marked in blue on the plan attached to the notice.
 - ii) Demolish the associated wall, steps and brickwork surrounding the base of the mobile home and remove resulting debris from the land.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (b) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal succeeds in part. The notice is corrected and upheld.

Preliminary Matters

1. The applications for costs made by the main parties are the subject of separate decisions. I made unaccompanied site visits on 9 June and 16 December 2015 and an accompanied site visit on 10 June 2015.

Appeal A – The Planning Appeal

The Appeal Site

2. The site is shown on drawing 14_610_001. It is to the south of East Hanningfield Road and comprises two blocks of land and a related access road. It is outside the village of Howe Green and about 2 km to the north-west of East Hanningfield.

The Proposed Development

3. Drawing 14_610_003 provides a site layout. Plot 1 would be near East Hanningfield Road and Plot 2 would be to the rear of a range of existing buildings. There would be one static caravan, one touring caravan and a utility/day room on each plot. There would be an area of permeable hardstanding on Plot 1. Plot 2 would use existing hardstanding, part of which would be removed and replaced with grass. Foul drainage would be to an existing septic tank close to Plot 1 and to a soakaway for Plot 2. The existing vehicular access to East Hanningfield Road would be used and additional tree and hedge planting is proposed. Drawing 14_610_004 provides details of the utility/day rooms.
4. Planning application 14/01041/FUL was made on the basis of two gypsy pitches rather than for specific persons. The prospective occupiers for one pitch are the appellant's daughters, Ms Charlene Lowe and Ms Liza Lowe. For the other pitch they are the appellant's daughter, Ms Sherie Lowe and Mr Bob Stanley, who are to be married. It is not disputed that the prospective occupiers fall within the definition of gypsies and travellers as set out in Annex 1 of Planning Policy for Traveller Sites, August 2015 (PPTS). I share that view having regard to evidence of their nomadic habit of life and travelling for work purposes.

Main issues

5. These are as follows:
 - i) The effect on the character and appearance of the surrounding area;
 - ii) The sustainability of the development with regard to accessibility and other relevant matters;
 - iii) The need for sites for gypsies and travellers, the provision of sites and the availability of alternative sites;
 - iv) Personal circumstances;
 - v) The overall balance with regard to permanent or temporary planning permission.

Relevant Planning Policies

6. The Council's Core Strategy and Development Control Policies Development Plan Document (DPD) was adopted in 2008. Following publication in 2012 of

the National Planning Policy Framework (the Framework) the Council undertook a Focused Review of the DPD. The Report on Examination into Chelmsford City Council Core Strategy and Development Control Policies Focused Review Development Plan Document (Local Plan) was published in 2013.

7. Amongst other things, DPD policy CP5 says that in the rural areas beyond the Metropolitan Green Belt, the intrinsic character of the countryside will be protected whilst supporting rural communities and economies. Policy DC2 deals with the countryside beyond the Green Belt. It limits the circumstances in which planning permission will be granted for any new buildings. With regard to the change of use of land, it requires that there should be no material effect on the appearance and character of the countryside. Policy DC34 deals with gypsy and traveller accommodation. The first part of the policy provides criteria for two sites to be allocated in a Site Allocations DPD or in the North Chelmsford Action Area Plan. The second part of the policy provides that, exceptionally, planning permission will be granted for other sites subject to a range of criteria. Unlike policies CP5 and DC2, policy DC34 was not subject to the Focused Review. The Council is progressing towards a new Local Plan and anticipates adoption in 2018. It does not suggest any relevant emerging policies or allocations for consideration in this appeal.
8. The Framework and the PPTS are material considerations. PPTS provides a range of policies concerning sites for gypsies and travellers. Amongst its aims are increasing sites in appropriate locations from which education, health, welfare and employment infrastructure can be accessed, promoting more private traveller site provision, reducing unauthorised developments and encampments and having due regard to the protection of local amenity and environment. PPTS is to be read in conjunction with the Framework, which also contains a range of policies relevant to the main issues in this appeal.

The Effect of the Wenman¹ Judgement and of the Written Ministerial Statement of 22 July 2015 (WMS)

9. The *Wenman* judgement and the WMS are both material considerations in my decision. They have some relevance to the application of Framework and PPTS policies. I therefore address their effect prior to considering the main issues. In *Wenman* Lang J quashed the decision of an Inspector to dismiss an appeal against refusal of planning permission for one gypsy pitch and related development. She found that part 6 of the Framework, which deals with housing, applies to caravans as well as "bricks and mortar" housing. Paragraph 44 of the judgement refers to Framework paragraph 49, which sets out that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Paragraph 46 of *Wenman* says that "*Applicants for planning permission for mobile homes or caravans, whether they be gypsies, travellers or others, may wish to rely on the failure of the local planning authority to demonstrate a 5-year supply of deliverable housing sites in support of their application for planning permission. In principle paragraph 49 allows them to do so.*"
10. The need for a decision maker to take into account a failure to demonstrate a 5-year supply of deliverable traveller sites is addressed in paragraph 48 of

¹ The High Court judgement in *Wenman v SSCLG [2015] EWHC 925 Admin*

- Wenman*, which also observes that Local Plan policies for the supply of traveller sites are not to be treated as “not up-to-date” under Framework paragraph 49.
11. In response to *Wenman*, the WMS made a technical adjustment to Framework paragraphs 49 and 159. With regard to paragraph 49 it says that “*From today those persons who fall within the definition of “traveller” under the Planning Policy for Traveller Sites, cannot rely on the lack of a five year supply of deliverable housing sites under the National Planning Policy Framework to show that relevant policies for the supply of housing are not up-to-date. Such persons should have the lack of a five year supply of deliverable traveller sites considered in accordance with Planning Policy for Traveller Sites.*”
 12. The appellant observes that the appeal decision which led to *Wenman* was concerned with an absence of a 5-year supply of traveller sites rather than the supply of housing sites in general, which he says was not discussed in that appeal. Nevertheless, as I set out above, the judgement addresses both matters. It is consistent with *Wenman* that the absence of a 5-year supply of traveller sites does not lead to relevant policies being considered not up-to-date. I adopt that approach and it follows from it that the second bullet point of Framework paragraph 14 in respect of out-of-date policies is not engaged by the lack of a 5 year supply of sites.
 13. The finding of *Wenman* with regard to a 5-year supply of deliverable housing sites is a matter of interpretation and application of policy. In that context the effect of WMS, which post-dates *Wenman* and is a current and relevant material consideration, is to override that aspect of the judgement. I do not concur with the appellant’s view that the WMS technical adjustment applies only if the personal circumstances of site residents are to be considered, at which point the status of the potential residents falls to be considered. It seems to me that WMS wording applies to all those who, as in this case in respect of the appellant and the prospective occupiers, fall within the planning definition of a gypsy or traveller and seek planning permission for a traveller site. Planning application 14/01041/FUL was also for the stationing of caravans for residential purposes for 2 no. gypsy pitches.
 14. Notwithstanding *Wenman*, having regard to the WMS I conclude that the appellant cannot rely on an absence of a 5-year supply of deliverable housing sites to show that relevant policies for the supply of housing are out of date even if the Council was unable to demonstrate such a supply. I therefore give no further consideration to the housing land supply evidence which was submitted and discussed at the Inquiry.

Policy Weight

15. It is consistent with Framework paragraph 215 that due weight should be given to relevant policies according to their degree of consistency with the Framework. The approach of policy CP5 to development in rural areas beyond the Green Belt is broadly consistent with the Framework. Nor is the protection of the intrinsic character and beauty required by policy DC2 out of step with a core planning principle of the Framework. Policy DC2 has been found by others to accord broadly with national policy, for example in an appeal concerning a site at East Hanningfield (APP/W1525/W/15/3003200). Nevertheless, it seems to me that its requirement that a material change of use should have no material effect on the character and appearance of the countryside is not

consistent with planning balance inherent in the Framework's approach to sustainability. It reduces the weight I attribute to that element of the policy.

16. Policy DC 34 is a criteria based policy. For the most part its terms would not prevent an overall planning balance being addressed in a manner consistent with the Framework's approach to sustainability. It does not preclude sites in rural areas and its reference to need and the availability of existing or allocated sites reflects matters which are addressed in PPTS. The preclusion of sites in the Green Belt in criterion (vi) is not consistent with the Framework's approach but is not relevant in this appeal. For the purposes of this appeal I consider the policy to be broadly consistent with the Framework.

The Effect on the Character and Appearance of the surrounding area

17. The site is in the countryside and within the "East Hanningfield Wooded Farmland" area in the Landscape Character Assessment (LCA) prepared for the Council in 2006. The characteristics of that area include predominantly large arable fields, mature treed field boundaries or ditches, pockets of pasture and paddocks, quiet narrow lanes, a dispersed settlement pattern, a sense of tranquillity and a relatively high sensitivity to change. The site is part of a wider landholding. The existing buildings have the character of large, modern agricultural barns. They are prominent features but are set well back from the road. There are two fields divided by a mature hedgerow and there is also a mature hedge along the road frontage. Appendix CCC11 provides an aerial photograph of the area. I share the view of the Council and expressed by some local residents and Sandon Parish Council that the appeal site is in an area of attractive countryside. The evidence of the parish council and some local residents suggests that its character is highly valued by the local community.
18. The PPTS does not rule out sites in a rural setting and the scale of this proposal is not such that it would dominate the nearest settled community. Nor would the extent and character of landscaping proposed result in the occupiers being isolated from the community. It is consistent with PPTS paragraph 25 that sites in open countryside that is away from existing settlements should be very strictly controlled. I have had regard to the Inspector's view on this matter in another appeal decision². In that case he found that a similar restriction did not apply having regard to trees and woodland around the site. The appellant also refers to other appeal decisions where consideration was given to existing development in the locality of an appeal site. In this case, there are the existing buildings of an agricultural character. There is sporadic development along this part of East Hanningfield Road and some development along part of Butts Green Road but the predominant wider character is one of open countryside. The site is well separated from Howe Green and "away from" existing settlements so that it is consistent with PPTS to apply very strict control. The PPTS does not elaborate on the meaning of that term.
19. The Council does not contend that Plot 2 would be harmful to the area's character and appearance. I take the same view. Due to its siting to the rear of the existing buildings it would not be prominent from public vantage points. The plot would use an area close to the existing buildings, which is already characterised by hardstanding related to them. There would be some views from private properties and a degree of harm to outlook from them.

² APP/P1940/C/11/2164949 and APP/P1940/A/11/2160486

20. Plot 1 is occupied by a mobile home but it is unauthorised and the enforcement notice in Appeal B requires its removal. Without it the site would have an open character, as is shown in photographs in the Council's appendix CCC10. Plot 1 is close to the road. The development would be prominent when seen from public viewpoints near the access and, to a lesser extent, through the roadside hedge. The slope of the land would accentuate the visual impact. Views towards the open fields beyond Plot 1 would be obstructed and there would be a loss of openness. I give limited weight to the impact on outlook from some private properties. Nor does designation of a strip of land immediately outside the site access as part of a village green add much to my assessment of this issue. Nevertheless, the development on Plot 1 would be incongruous given the character set out in the LCA and that of other development nearby. Native hedge and tree planting is proposed around much of the boundary of Plot 1 and near the site entrance. However, it is likely to take some years to have any significant effect and would be less effective when not in leaf.
21. The site is not covered by any national landscape designation, such as an Area of Outstanding Natural Beauty. While the Framework gives great weight to conserving landscape and scenic beauty in such areas it does not exclude consideration of the effect of development elsewhere. Indeed, one of the core principles of the Framework is to recognise the intrinsic character and beauty of the countryside. I find that Plot 1 would result in substantial material harm to the character and appearance of the area. It would conflict with policies CP5, DC2 and DC34 in that respect. Nor would it be consistent with PPTS paragraph 10 which encourages site provision in a manner which protects local amenity and the local environment. It would also conflict with Framework paragraph 109, which refers to protecting and conserving valued landscapes, and with the Framework's requirement for a high standard of design, which I take to encompass site layout in broad terms. Nothing is submitted to suggest that the appellant has adequately assessed the optimum siting for two pitches within his wider landholding, although brief reference was made to the option of siting both pitches to the rear of the buildings.

Accessibility and Other Aspects of Sustainability

22. Howe Green, has very limited services and facilities. There is a doctor's surgery about 4 km away from the site and shops about 3 km away, at Great Baddow. There is a primary school at East Hanningfield, about 2 km away. There is a bus stop near the site and services to and from Chelmsford. Nevertheless, in this location it is likely that most journeys to and from the site would be by car. The Framework recognises that opportunities for sustainable transport modes in rural areas are likely to be more limited. The proposal is small in scale and, while it would not fully meet criterion (i) of policy DC34, it would be acceptable with regard to accessibility. There are also other sustainability benefits weighing in the appellant's favour. The provision of settled sites for gypsies and travellers encourages a peaceful and integrated existence while facilitating traditional lifestyles. It allows better access to health and other services, reduces the need for long distance travelling and reduces the risk of unauthorised sites or encampments with the related risk of environmental damage. Although the appellant refers briefly to economic benefits, they appear to be related to his horse breeding business rather than the proposed residential use and little evidence is given to support such benefits. I give them very limited weight.

The Need for Gypsy and Traveller Sites, the Supply of Sites and Availability of Alternative Sites

23. Policy A of PPTS requires a robust evidence base to establish accommodation needs. The Essex Gypsy and Traveller and Travelling Showpeople Accommodation Assessment, 2014 (GTAA) extends to all of Essex other than Basildon. It covers the period 2013 to 2033 and identifies a need for the provision of 786 new pitches in the study area. This includes a need for 55 pitches in Chelmsford, of which 22 should be provided in the 2013-18 period. In September 2014 the Council decided that it would not adopt the findings of the 2014 GTAA in light of the Government's consultation on planning policies for gypsies and travellers, which was then ongoing. Instead, it would continue to rely on figures from the 2006 GTAA which provided the evidence base for its development plan policies.
24. With regard to the supply of pitches, the Council explains that 10 pitches are identified in the North Chelmsford Area Action Plan. Legal agreements are in place to secure land and funding. The pitches are expected to be available in 2017 but no planning application has yet been made. One further pitch was granted planning permission in 2012 and another in 2013. The Council has called for sites but acknowledges that a five year supply of deliverable pitches cannot be demonstrated.
25. The appellant disputes the Council's approach, particularly with regard to its assessment of need. He considers that there are errors in the GTAA with regard to concealed households, doubling up, hidden need, household formation rates and unauthorised sites. He contends that these errors combine to result in need being considerably underestimated. More realistic figures would, in his view, be 33 pitches to 2018, a further 18 from 2018 to 2023 and another 44 from 2023 to 2033. Mr Jarman, of Opinion Research Services (ORS), explains that the methodology used by ORS takes into account relevant legislation and guidance and has been evolved over a lengthy period of preparing GTAA for over 100 authorities. It includes interviews with gypsy and traveller families and gathering of evidence from other sources including through advertisements and dialogue with a wide range of stakeholders.
26. The terms "doubling-up" and "concealed households" both refer to actual or potential households which are currently living on other gypsy and traveller sites. The GTAA does not count a household as needing another pitch if it is found during interviewing that there is not a wish for another pitch. I find this approach to be reasonable and consistent with that of engagement with the traveller community in assessing need. The term "hidden need" refers to families in "bricks and mortar" housing which need a pitch. Whereas an estimated 75% of traveller households live in such housing, only 19 interviews were undertaken of households which might be in hidden need, all of which wanted to move to a pitch. On that basis, the GTAA assessment of hidden need is open to some doubt. On the other hand, the appellant's approach of applying a multiplier of 2 or 3 to estimate need arising from this source is equally or more questionable. The appellant also says that an unauthorised pitch, at Leedanton Farm, existed at the time of the 2012 GTAA survey. Information then available to the Council was that the occupier of this site was not a gypsy. That is contradicted by Mr Green's evidence and it now seems likely that this was an unauthorised site which should have counted towards overall need.

27. Whereas the GTAA uses a net annual household formation rate of 2% the appellant contends that it is safer to use 3%, a figure he asserts is commonly used. Mr Jarman's Technical Note of March 2015 "*Gypsy and Traveller Household Formation and Growth Rates*" addresses this matter. It reasons that a 3% rate has been used without reliable statistical evidence and takes into account unreliable caravan count data. The Technical Note considers that the growth in gypsy and traveller population may be as low as 1.25% and that the best available evidence supports a 1.5% figure for net annual household formation. The ORS approach takes into account a range of evidence, including census data on age structure, modelling of population growth, ORS survey data on fertility rates, evidence of death rates and rates of household dissolution. The ORS paper was peer reviewed. I appreciate the appellant's concerns but consider 2% to be a reasonable assumption.
28. The Council addresses the effect on future GTAA of the definition of gypsies and travellers as now contained in Annex 1 of PPTS. That definition includes "*Persons of a nomadic habit of life whatever their race of origin, including such persons who on grounds of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily..*" Unlike the previous definition, it excludes those who have ceased to travel permanently. Based on the findings of the 2014 GTAA, including those who said they had never travelled or had not travelled in the last 12 months, the Council suggests that the effect is likely to be a significant reduction in the need to allocate pitches arising from a new GTAA. I give this matter little weight. The 2014 GTAA is the most up-to-date assessment of need available. Until the results of a new GTAA are available, the extent of any effect is uncertain. The Council acknowledges that even if some gypsies and travellers were to fall outside the new definition their accommodation needs would have to be met. Understandably, the Council has not yet made any decision on how that would be addressed. As the appellant observes, preparation of a GTAA is driven in part by the requirements of s255 of the Housing Act. It is based on a wider definition of gypsies and travellers than in PPTS and requires the preparation of a strategy to meet accommodation needs.
29. The appellant's 3 daughters currently live with him on his pitch on an authorised site in Ingatestone. Conditions attached to the planning permission for that site do not preclude the appellant's children from residing on that site. However, another condition limits the number caravans to no more than 2 on a pitch, of which only 1 can be a static caravan, with the exception of 2 pitches where 3 caravans are allowed. Mr Lowe explains that there is insufficient room on the pitch for his family, leading to overcrowding. Mr Bob Stanley lives with his family on a site in Maldon. There is said to be insufficient room there for raising a family once he is married. It is consistent with case law that any alternative sites should be suitable, acceptable, available, and affordable. No other sites are suggested by the Council and the available evidence is that there is no such site.
30. I conclude on these matters as follows. There is a significant extent of unmet need for sites for gypsies and travellers in the area and there is not a 5 year supply of deliverable pitches. This conclusion is similar to those reached by Inspectors in other appeals in Chelmsford³. Any GTAA assessment is sensitive to a range of assumptions but the available evidence suggests that the 2014

³ APP/W1525/W/15/3003200, APP/W1525/C/11/2166877 and APP/W1525/A/11/2165619.

GTAA is unlikely to have substantially underestimated need. The effect of the PPTS definition of gypsies and travellers does not lead me to a finding of much lower need. There is no suitable alternative site for the prospective occupiers. In a 2012 appeal decision concerning land at Meadow Lane, Runwell⁴ the Inspector found that there had also been a failure in the delivery of policy aims which was worthy of some weight. I share that view having regard to the Council's failure to put in place sufficient provision for pitches over a lengthy period.

Personal Circumstances and Human Rights

31. Three of the four prospective occupiers live on the appellant's site in Ingatestone, which is said to be overcrowded. Mr Stanley also occupies his parents plot where there is said to be insufficient room to raise a family. Although not uncommon, these matters carry some weight in the appellant's favour. While they do not currently occupy the site, refusal of planning permission would also result in an infringement of the human rights of the prospective occupiers with regard to Article 8 of the European Convention on Human Rights with regard to respect for family life and the home.

Other Matters

32. Harm to highway safety was not a reason for refusal and there was no objection from the highway authority. I appreciate the concerns of Sandon Parish Council and some local residents. The national speed limit applies to this part of East Hanningfield Road and reference is made to the proximity of the site access to a sharp bend in the road, to slow moving vehicles, use of the road by horse riders and localised flooding. Nevertheless, the development proposed is of a small scale and would use an existing access. A small area of additional permeable hardstanding is proposed and it is unlikely that localised flooding would be exacerbated by the proposed development.
33. I take into account the recent East Hanningfield appeal decision, to which I refer above, where the Inspector dismissed the appeal. However, it differed from this appeal in a number of respects, including the number of pitches proposed, the closer relationship of that site with the village and the range of main issues, which in that case included the effect on living conditions. While Plot 1 would reduce land available for agriculture to a small extent, the effect would not be sufficient to result in material harm. A strip of land adjacent to the site forms part of a village green. The development would not impinge on it and, having regard to the scale of development, its effect on users of the village green would not be sufficient to result in material harm. Rights of access across the village green are not a matter for determination in this appeal.
34. Sandon Parish Council and some local residents are concerned about ecological impact in respect of great crested newts. An ecological survey was submitted in connection with development on a nearby site. A related letter, of 23 September 2015, opined that the presence in a pond on that site of breeding great crested newts made it more likely that they would be found in other ponds in the local landscape. No ecological survey is submitted in this appeal. However, there are no ponds on the appeals site, no evidence is submitted of ponds on the appellant's land, one of the proposed plots would be on existing hardstanding and much of the appellant's landholding would be unaffected. The

⁴ APP/W1525/C/11/2166877 and APP/W1525/A/11/2165619.

Council raises no objection on ecological grounds and the balance of evidence does not suggest that material harm to a protected species would arise. A condition requiring a precautionary method statement for great crested newts would address this matter in a proportionate manner.

The Overall Balance

35. I address first the overall balance with regard to Plot 2. The development of this plot with one pitch would not harm the character and appearance of the area. It would be acceptable with regard to accessibility while also facilitating the benefits arising from the provision of a settled site. It would help in addressing an unmet need for gypsy sites and the absence of a 5-year supply of such sites. There are no suitable alternative sites available and there has been a failure of policy. The personal need of the prospective occupiers for a settled site would be met and infringement of their Human Rights avoided. I give very limited weight to any economic benefit, which would at best be marginal, and personal circumstances are also worthy of only limited weight. I take into account that the site is in a location where it is consistent with PPTS to exercise "very strict control". Nevertheless, when considered in the round, the development of Plot 2 would amount to sustainable development for which planning permission should be granted without limitation to a temporary period or to named individuals.
36. I reach a different conclusion with regard to Plot 1. As with Plot 2 it would be acceptable with regard to accessibility. It would facilitate the benefits of provision of a settled site and help address the unmet need for sites, albeit in a location where very strict control should be exercised. There are no alternative sites available and the failure of policy weighs in the appellant's favour. The personal need of the prospective occupiers for a site would be met and infringement of Human Rights avoided. As with Plot 2, personal circumstances are worthy of some limited weight but any economic benefit would be marginal. However, as I set out above, the development of Plot 1 would result in substantial material harm to the character and appearance of the area, in conflict with relevant development plan policies and with the approach in PPTS and the Framework. As a result of this environmental harm the development of Plot 1 as proposed would not amount to sustainable development. The overall balance does not weigh in favour a permanent permission for Plot 1.
37. I have also considered a temporary permission for Plot 1 having regard to the matters set out above. Paragraph 27 of PPTS explains that a lack of an up-to-date 5-year supply of deliverable sites is a significant material consideration when considering a temporary permission. The adoption of a new Local Plan by the Council is likely in 2018. Allowing time also for sites to come forward, consideration of a temporary permission for 4 years is appropriate. On that basis the nature of the harm resulting from the development would be the same but is worthy of less weight because of its limited duration. Nevertheless the harm would persist for a lengthy period and in my judgement the overall balance does not favour of a temporary permission. In reaching that conclusion I am mindful of the Public Sector Equality Duty under the Equality Act 2010. Refusal of planning permission on Plot 1 would result in an infringement of the human rights of the prospective occupiers with regard to Article 8 of the European Convention on Human Rights. However, the harm to the character and appearance of the area which would result from the development would be substantial. I am satisfied that the legitimate aim of protecting the

environment cannot be achieved by means which are less interfering with human rights than dismissing that part of the appeal. It would be proportionate and necessary in the circumstances and would not result in a violation of rights under Article 8.

Conditions

38. Conditions limiting occupancy to gypsies and travellers, controlling numbers of caravans and addressing the submitted plans will ensure compliance with what is proposed. The appellant advocates using a wider definition of gypsies and travellers, reflecting that in the Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (England) Regulations 2006. However, the relevant definition in the context of determining a planning application is that in the PPTS. The appellant disputes the need for a condition controlling commercial vehicles. However, I consider it necessary in order to protect living conditions for the occupiers and the character and appearance of the area, as is a condition preventing commercial activities on the site. Nor do I consider the term "commercial" to be vague, as the appellant contends. Having regard to my conclusions with regard to Plot 2, it is not necessary to limit planning permission to a temporary period. To protect the character and appearance of the area conditions should also address landscaping, including the retention of existing trees and hedgerows, external lighting and waste storage facilities. To safeguard ecology a great crested newt method statement should also be required.

Appeal B – The Enforcement Appeal.

Ground (b)

39. The appellant's case on ground (b) is that the alleged breach has not occurred in the terms set out in the notice. Although the alleged breach refers to a condition in planning permission 11/00847/FUL, the enforcement notice plan shows a wider area, encompassing the appellant's landholding. This matter can be addressed without injustice by a correction replacing the enforcement notice plan with that from planning permission 11/00847/FUL. Minor related textual changes are also required. The appeal succeeds to that extent on ground (b).

Ground (g)

40. The appellant contends that, if the planning appeal is successful, the compliance period should be extended to six months to allow discharge of any pre-development conditions. I have concluded above that planning permission should be granted for Plot 2 but not for Plot 1, where the mobile home which is the subject to the notice is sited. An extension of the period for compliance would prolong the harm caused by the mobile home to the character and appearance, which I have found to be substantial. That consideration outweighs the benefit of extending the period as the appellant suggests. The appeal does not succeed on ground (g).

Overall Conclusions

41. Having regard to the above and to all other matters raised Appeal A should succeed in respect of Plot 2 but should fail in respect of Plot 1. Appeal B should succeed only to the extent that the enforcement plan should be corrected. The notice should be upheld as corrected.

Formal Decisions

Appeal A: W1525/A/14/2226970

42. I dismiss the appeal insofar as it concerns Plot 1 as shown on drawing 14_610_003. I allow the appeal insofar as it concerns Plot 2 as shown on drawing 14_610_003 and the related use of the hardstanding providing access to East Hanningfield Road. I grant planning permission for 1 no. gypsy pitch and a utility/dayroom ancillary to that use on Plot 2 at May Farm, East Hanningfield, Chelmsford, Essex, CM2 7TF in accordance with the terms of the application Ref.14/01041/FUL and the plans submitted with it and subject to the following conditions:
- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 - 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 1 of Annex 1 of Planning Policy for Traveller Sites, August 2015.
 - 3) There shall be no more than one pitch and no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the pitch at any time, of which only one caravan shall be a static caravan.
 - 4) The development hereby approved shall not be carried out other than in complete accordance with drawings 14_610_001, 14_610_002, 14_610_003 and 14_610_004.
 - 5) No commercial activities shall take place on the site, including the storage of materials.
 - 6) No more than one commercial vehicle shall be stationed, parked or stored on the pitch and it shall be for use by the occupiers of the pitch and shall not exceed a weight of 3.5 tonnes.
 - 7) No external lighting shall be installed without the submission of details and their approval in writing by the local planning authority. Any external lighting installed shall comply with the approved details.
 - 8) Prior to the occupation of the caravans details of provision for the storage of waste and recyclable waste shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 9) Prior to commencement of the construction of the utility/dayroom hereby permitted a precautionary method statement for great crested newts shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved method statement.
 - 10) During the first planting season following the occupation of the caravans hereby approved the areas annotated at Plot 2 on drawing 14_610_003 for "proposed tree planting" and "additional native hedge and tree planting" shall be landscaped in accordance with a scheme to be submitted to and agreed in writing by the local planning authority.

- 11) If within a period of 5 years from the date of planting of any tree or hedge, or of any tree or hedge planted in replacement, the tree or hedge is removed, uprooted, destroyed or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or hedge of the same size and species as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.
- 12) No tree or hedge within the area edged blue on drawing 14_610_001 shall be felled, uprooted, damaged, disturbed or removed prior to the commencement of the development or within a 5 year period following commencement of the development.

Appeal B: APP/W1525/C/14/2227120

43. I allow the appeal on ground (b). I direct that the enforcement notice be corrected at paragraph 2 by the replacement of the words "edged red" with the words "cross hatched in black", at paragraph 5(i) by the replacement of the words "Remove from the land the mobile home shown marked in blue on the attached plan." with the words "Remove the mobile home from the land shown cross hatched in black on the attached plan." and by the deletion of the plan attached to it and its replacement with the plan attached to this decision. I uphold the notice subject to the above corrections.

K Williams

INSPECTOR

APPEARANCES

FOR THE APPELLANT: Mr M Green of Green Planning Studio Ltd acted as advocate and witness.

He also called:
Mr J Lowe. The appellant.

FOR THE LOCAL PLANNING AUTHORITY: Mr J Cannon, of Counsel.

He called:
Mr S Jarman, BSc, Dip TP, Cert Sustainable Leadership. Senior Research Executive, Opinion Research Services.
Ms S Rogers, Masters, Planning Policy and Practice, MRTPI. Senior Planning Officer, Chelmsford City Council.
Ms C Howick, MA(Phil), PPE, MSc Urban and Regional Planning. Peter Brett Associates LLP.
Ms L Percy. Planning Policy Officer, Chelmsford City Council.

FOR SANDON PARISH COUNCIL: Mr Hopton, Holmes and Hills Solicitors.

He called:
Mrs D Hyatt. Chairman, Sandon Parish Council.

OTHER INTERESTED PERSONS:

Dr D Platt. Local resident.
Mr N Khattar. Local resident.
Mr D Williamson. Local resident.

DOCUMENTS SUBMITTED AT THE INQUIRY:

1. Council's Opening Submissions.
2. Note prepared by Mr Cannon on Wenman v SSCLG and Waverley BC, [2015], EWHC 925 and the Ministerial Statement of 22 July 2015.
3. Signed witness statement of Mr J Lowe.
4. Signed witness statement of Charlene Lowe.
5. Signed witness statement of Sherie Lowe.
6. Table of projected and actual housing completions 2009-10 to 2014-15 and related Council Annual Monitoring Reports.
7. Land Registry document, 11 June 2015.
8. SI 2006 no.3190: Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (England) Regulations 2006 and extracts from Housing Act.
9. Summary of evidence of Sandon Parish Council.
10. Extract from Braintree, Brentwood, Chelmsford, Maldon and Uttlesford

- Landscape Character Assessment for East Hanningfield Wooded Farmland.
11. Census 2011, Key Statistics, Chelmsford.
 12. Report on Examination into Chelmsford City Council Core Strategy and Development Control Policies Focused Review Development Plan Document (Local Plan), 2013.
 13. Letter of 13 July 2015 from Green Planning Studio Ltd to the Council.
 14. Council's case notes for 12/00575/ENFB.
 15. Appeal decision APP/W1525/A/14/2212108, Molrams Lane, Great Baddow.
 16. Appeal decision APP/H1515/A/07/2054581, Plots 1-6, Stock Lane, Ingatestone.
 17. Planning Permission 11/00096/FUL.
 18. Planning Permission 13/00423/FUL.
 19. ORS Technical Note, Gypsy and Traveller Household Formation and Growth Rates, September 2015.
 20. St Albans and Hunston Properties and SSCLG, [2013], EWCA Civ 1610.
 21. Gallagher Homes Ltd and Lioncourt Homes Ltd and Solihull MBC, [2014], EWHC 1283 (Admin).
 22. Policy CP2 and supporting text.
 23. Council's suggested condition on Great Crested Newts.
 24. Location plan for site at Old Church Road, East Hanningfield (APP/W1525/W/15/3003200).
 25. Aerial photograph.
 26. Council's closing submissions.
 27. Appellant's closing submissions.
 28. Closing submissions of Sandon Parish Council.
 29. Council's application for an award of costs.
 30. Appellant's application for an award of costs.
 31. Council's response to the appellant's application for an award of costs.
 32. Dartford Borough Council and SSCLG and Landhold Capital Ltd, [2014], EWHC, 2636 (Admin).

Plan

This is the plan referred to in the appeal decision dated: 24.02.2016

by Mr Keri Williams BA MA MRTPI

Land at field North of Mill Hill Farmhouse, East Hanningfield Road, Chelmsford,
Essex, CM2 &TF

Reference: APP/W1525/C/14/2227120

