



ENFORCEMENT SERVICES

Specialists in Remedial Action

TEL: 01296 715508 Mobile 07912940489

planning@enforcementservices.net

www.enforcementservices.net

Proof of Evidence

Tom Wicks BA(hons), PgDip, LL.M MRTPI

On behalf of



Winchester
City Council

Land at Carousel Park, Basingstoke Road, Micheldever, Winchester, Hampshire, SO21
3BW ("the Appeal Site")



RTPI

mediation of space · making of place



Alcumus
SafeContractor



ARMED FORCES
COVENANT

Enforcement Services Ltd: Registered in England 4596940
Registered office: 27 Station Road, Winslow, Bucks, MK18 3DZ VAT Registration No. 786 8019 82

QUALIFICATIONS AND EXPERIENCE

I am a director of Enforcement Services Ltd, a planning consultancy specialising in the enforcement of planning control, instructed by Winchester City Council (“the LPA”) to investigate breaches of planning control. The LPA asked Enforcement Services to investigate these matters in June 2021.

I hold a BA(hons) in City and Regional Planning, a post-graduate Diploma in Planning, have completed the Legal Practice Course, and hold a Master’s Degree in Law. I am a chartered member of the Royal Town Planning Institute. I have been a planning enforcement officer for 13 years and have worked for many different Local Planning Authorities on a variety of tasks.

In this proof I set out the history of the Appeal Site and the case for the Council, and respond to each of the Appellants grounds of appeal including the principle of development and the planning balance of the proposal. I refer to the evidence of Mr Opacic, where appropriate, in respect of matters relating to housing land supply (including affordable housing) and gypsy/traveller accommodation need and supply. My colleague, Mr Nigel Wicks, also gives evidence in relation to the current use of the site and the service of the enforcement notices.

I refer to facts and matters that I believe to be true, unless I have stated otherwise, and I have expressed my true opinions. I understand my duty in giving evidence is to help the Inquiry and that duty overrides any obligation to the LPA. I confirm that I will continue to act, in accordance with the Code of Conduct of the Royal Town Planning Institute.

APPENDICIES

LPA 1	Planning Permission 02/01022/FUL
LPA 2	EN 1
LPA 3	EN 2
LPA 4	EN 3
LPA 5	EN 4
LPA 6	Land Registry
LPA 7	05/01605/FUL
LPA 8	06/00441/FUL
LPA 9	Enforcement Notices 06 September 2010
LPA 10	10/02598/FUL
LPA 11	2011 Appeal Decision
LPA 12	2013 High Court
LPA 13	2015 Court of Appeal
LPA 14	Breach of Condition Notice 18 04 19
LPA 15	2019 Appeal Decision
LPA 16	Gum Tree Advert
LPA 17	Visit 21 September 2021
LPA 18	Aerials
LPA 19	Private Sector Housing Notes
LPA 20	EN 4 Interest
LPA 21	Housing Visit
LPA 22	PCN 12 October 2021
LPA 23	Decision 09 April 2021 Lower Paddock

Additions to Reproduced Appeal Statement Appendices

LPA 24	GPS email 26 October 2021
LPA 25	Certificate of Service
LPA 26	Photographs 01 March 2022

LPA 27	Aerial February 2020
LPA 28	Comparison 2020 to 2021
LPA 29	Comparison 2017 to 2021
LPA 30	Aerial 26 April 2022
LPA 31	Stokes Interest Correspondence
LPA 32	Aerial 04 06 2013
LPA 33	2013 to 2021 Comparison
LPA 34	Needs Summary Report Oct 2016
LPA 35	Advert

INTRODUCTION

1. The Appeal Site is a gated parcel of land within the countryside approximately 150 meters west of the A33 and is outside of any settlement boundary. It is neighbored to the west by Woodland known as the Black Wood Site of Importance for Nature Conservation (SINC). There are agricultural buildings and a dwellinghouse to the North, agricultural land to the south, and a demolition contractors depot to the east.
2. This proof of evidence is produced in response to appeals against Enforcement Notices (EN1, EN2, EN4 “the Enforcement Notices”) issued by Winchester City Council (“the LPA”) on 01 March 2022 at LPA 2, LPA 3, and LPA 5 at Land known as Carousel Park, Basingstoke Road, Micheldever, Winchester, Hampshire, SO21 3BW (“the Appeal Site”) as set out below:

EN1 (appealed under grounds a, b, d, e, f and g).

APP/L1765/C/22/3296767; 3296771; 3296773; 3296776; 3296778; 3296781; 3296783

Appeal by: Mr Freddie Loveridge, Mr Anthony O’Donnell, Mr Patrick Flynn, Mr Hughie Stokes, Mr Danny Carter, Mr Patrick Stokes, Mr Oliver Crumlish.

EN2 (a, b, c, d, e, f, g).

APP/L1765/C/22/3296768; 3296772; 3296774; 3296777; 3296779; 3296782;
3296784

Appeal by: Mr Freddie Loveridge, Mr Anthony O'Donnell, Mr Patrick Flynn, Mr Hughie Stokes, Mr Danny Carter, Mr Patrick Stokes, Mr Oliver Crumlish.

EN4 (a, c, f, g).

APP/L1765/C/22/3296503; 3296504

Appeal by: Mr Patrick Stokes, Mr Bernie Stokes.

3. The appeals are made by Mr Freddie Loveridge, Mr Anthony O'Donnell, Mr Patrick Flynn, Mr Hughie Stokes, Mr Danny Carter, Mr Patrick Stokes, Mr Oliver Crumlish, Mr Patrick Stokes, and Mr Bernie Stokes ("the Appellants").
4. EN1 (LPA 2 pg45) identifies the material change of use of the Land to a residential caravan site excluding the area occupied by Travelling Showpeople ("TSP").
5. EN2 (LPA 3 pg50) identifies breaches of conditions 10 (no. of caravans), 11 (no. of pitches), and 15 (no. of people) attached to the planning permission granted 02 October 2003 (02/01022/FUL) (LPA 1 pg32) for the change of use of the Appeal Site to a travelling showpeoples' site. It addressed the breach of those conditions and would secure compliance with those conditions in the event that the Appeal Site returns to the use permitted by 02/01022/FUL.
6. It is likely that both breaches of planning control identified by EN1 and EN2 have occurred and it would be expedient to bring both notices into effect in the event that compliance with EN1 creates a s57(4) reversionary right through the 2003 permission.
7. Another enforcement notice (EN3 LPA 4 pg57) was issued 01 March 2022 and came into effect on 12 April 2022.

8. EN3 and EN4 (LPA 4/5 pg57) identify smaller parts of the Appeal Site to the south and were issued in the alternative to EN1.
9. In the event that the appeals against EN1 are dismissed and the Enforcement Notice upheld, EN3 and EN4 would be withdrawn.
10. There is an effective enforcement notice requiring cessation of the use of Plot 7 for the siting of residential caravans/mobile homes for occupation by persons who are not travelling showpeople (as defined within Paragraph 15 of Circular 04/2007: Planning for Travelling Showpeople) (LPA 9 pg114 and LPA 15 pg205).

PLANNING HISTORY

11. The planning history of the Appeal Site is set out at paragraphs 32 to 50 of the Councils Appeal Statement.
12. 02 October 2003 planning permission was granted (02/01022/FUL), subject to conditions, for the Change of use of the Appeal Site from agricultural land to a travelling showpeoples' ("TSP") site (LPA 1 pg32). The conditions restricted the number of family pitches to 9 (c.11), the number of caravans used for residential purposes to 3 per pitch (c.10), and occupation to no more than 50 people (c.15).
13. 10 October 2005 planning permission was granted (05/01605/FUL) for the erection of fences to protect equipment from children and animals (LPA 7 pg98).
14. 10 April 2006 planning permission was granted (06/00441/FUL) for the construction of a garage workshop for the servicing and repair of TSP vehicles and equipment (LPA 8 pg105).
15. 06 September 2010 the Council issued enforcement notices in relation to former Plots 1, 2, 3, 7, 8, and 9 alleging without planning permission, the material change of use of the Land from use as a travelling showpersons site to use for siting of caravans/residential mobile homes for occupation by persons who are

not TSP and the storage of vehicles, equipment and materials in association with the operation of businesses unrelated to that of TSP (LPA 9 pg114).

16. 24 September 2010 a planning application was made for the use of land as a TSP site (LPA 10pg 147). It was not determined. The application form (LPA 10 pg147) dated 24 September 2010 describes the existing use of the land as a TSP site.
17. The 06 September 2010 notices at LPA 9 pg114 were appealed and an appeal decision issued 09 December 2011 (LPA 11 pg156). On 11 and 14 October 2011 the Inspector visited the Appeal Site and recorded the condition of the Appeal Site in plans attached to the appeal decision (LPA 11 pg165):
 - a) Plot 1 contained 1 mobile home / static caravan.
 - b) Plot 2 contained 2 mobile homes / static caravans.
 - c) Plot 3 contained 2 mobile homes / static caravans.
 - d) Plot 7 contained 2 mobile homes / static caravans.
 - e) Plot 8 contained no mobile homes / static caravans.
 - f) Plot 9 contained 3 mobile homes / static caravans.
18. The enforcement notices were quashed on the basis that the 2003 permission was for a residential caravan site not restricted to TSP. No further action was taken in relation to the appeal against the non-determination of that planning application because permission was not required.
19. 01 February 2013 the High Court allowed a s289 challenge (LPA 12 pg179) and the decision of 09 December 2011 was returned to SSCLG for redetermination.
20. 17 March 2015, an appeal by Mr Wall, Mr Black, Mrs Wall, Mr Birch, Mr Carter, and Mr James against the High Court's decision to the Court of Appeal was dismissed (LPA 13 pg190).

21. 19 April 2019 a breach of condition notice was issued (LPA 14 pg201) in relation to plot 9.
22. 22 November 2019 the remitted appeal decision was issued (LPA 15 pg205) following an inquiry held on days between 1 May and 5 September 2019 and site visit 1 May 2019. The Appellants Patrick Stokes, Freddie Loveridge, Danny Carter, and Anthony O'Donnell gave evidence to that inquiry.
23. The Inspector found that at the time the enforcement notices were issued (06 September 2010):
 - a) Plot 1 was not in use for the siting of caravans/residential mobile homes for occupation by persons who were not TSP (para 52 pg218).
 - b) Plot 2 was not in use for the siting of caravans/residential mobile homes for occupation by persons who were not TSP (para 66 pg221).
 - c) Plot 3 was not in use for the siting of caravans/residential mobile homes for occupation by persons who were not TSP (para 72 pg22).
 - d) Plot 7 was occupied by persons who were not TSP and used to store equipment and materials in association with a landscape gardening and compost sales business (para 83 pg224) and that use was materially different use to a TSP site (para121 pg232).
 - e) Plot 8 was not in use for the siting of caravans/residential mobile homes for occupation by persons who were not TSP (para 103 pg228).
 - f) Plot 9 was not in use for the siting of caravans/residential mobile homes for occupation by persons who were not TSP (para 108 pg229).

24. The Inspector quashed the enforcement notices relating to Plot 1, 2, 3, 8, and 9, through ground b) because those plots were occupied by TSP.
25. The Inspector upheld the enforcement notice (with variation para 2 pg207) relating to Plot 7 because there had been a material change in use (LPA 15 para121 pg232) to *use for siting of caravans/residential mobile homes for occupation by persons who are not Travelling Showpersons and the storage of equipment and materials in association with the operation of businesses unrelated to that of travelling showpeople.*
26. On 12 October 2021 the Council issued Planning Contravention Notices to all owners and occupiers of the Appeal Site. (LPA 22 pg311). No completed responses were received.
27. On 01 March 2022 the Enforcement Notices were issued (LPA 2, 3, 4, 5).
28. At the time the Enforcement Notice were issued, the registered proprietors of the appeal site were (LPA 6 pg67):

HP722336 Plot 1. Darren Loveridge of [REDACTED]
[REDACTED]. Paid £10,000 05 November 2009

HP655638 Land South West of Plot 1. Beverley Black of Plot 2. Paid £1,500 on 29
March 2011

HP648953 Plot 2. Linda Black of [REDACTED]
[REDACTED] Paid £56,000 on 21 May 2004

HP648947 Plot 3. Suzanne Wall of [REDACTED]
[REDACTED] Paid £45,000 on 21 May 2004

- HP648948 4. Michael Stokes and Francis Anthony Casey of 4. Paid £10,000 on 21 October 2015.
- HP648956 Plot 5. Maurice Cole of [REDACTED].
Paid £45,000 on 21 May 2004.
- HP665606 Plot 6. Anna Lee of Plot 6. Paid £40,000 on 30 March 2005.
- HP655142 Plot 7. Derek George Birch, Derek William Birch, and Valerie Ann Birch care of [REDACTED].
Paid £40,000 on 28 January 2005.
- HP654472 Plot 8. Danny Carter, Joe Ripley and Jimmy Ripley of Plot 8. Paid £42,000 on 13 August 2007.
- HP681655 Plot 9. Valerie Carter, Shannon Marie McDonagh and Caroline Stevens of Plot 9. Paid £40,000 on 18 May 2016.

29. During the course of these appeals the LPA sought to confirm Mr Patrick and Bernie Stokes's (APP/L1765/C/22/3296503 and 329650) interest in Plot 4 and 5 (LPA 31 pg357).

CASE FOR THE COUNCIL

30. On 21 September 2021 I visited the Appeal Site. I walked around the site, took photographs, and spoke to occupiers.
31. The Appeal Site has a single vehicular entrance marked “Carousel Park – Private Property – Caravan Site” containing 16 post boxes (LPA 26 pg351).
32. The perimeter of the Appeal Site consists of bunding, fencing, planting. It is mostly hard surfaced in various forms of tarmac, gravel, concrete, or block paving.
33. A mixture of approximately 100 touring caravans, static caravans, campervans, park homes occupied the Appeal Site in varying arrangements and densities.
34. There were a number of buildings including stables, sheds, brick buildings, and a steel frame barn, in ancillary uses to the residential use of caravans.
35. Most occupiers told me that they were not Gypsy / Traveller or TSP, and had found their accommodation advertised on Gumtree or other similar websites, and paid a landlord £500 per month in addition to other payments for gas and diesel. Some said they paid their rent to a man who lived on the Appeal Site.
36. Susan Wall identified herself to me and showed me into a building she occupied. She told me she was a TSP and was concerned that the occupation of the Appeal Site had recently changed.
37. Derek Birch identified himself to me and showed me a building he occupied within Plot 7. Mr Birch told me that his son had recently moved elsewhere and that he was a retired TSP.
38. The areas occupied by Susan Wall and Derek Birch were excluded from EN1 (LPA 2 pg48) because they were TSP occupying it for that purpose and that use is acceptable and consistent with the planning permission.
39. During my visit a man driving a pick-up style lorry told me to leave. I explained the purpose of my visit but he said he did not want to talk to me and drove off.

40. Photographs taken during my visit are at LPA 17 pg243.
41. The only authorised use of the Land is for that granted by the 2003 planning permission at LPA 1 pg32 for use as a TSP site.
42. LPA 18 pg265 and 266 show aerial photographs taken 2005 and 2008. They show the Appeal Site is laid out broadly consistent with the 2003 planning permission.
43. The planning application at LPA 10 pg147 and the appeal decision at LPA 11 pg156 record occupation broadly consistent with the 2003 planning permission.
44. Prior to the material change of use the subject of EN1:
 - a. more than 3 caravans or mobile homes were occupied for residential purposes on the 9 pitches the subject of the permission;
 - b. more than 9 pitches were created and those pitches were subdivided;
 - c. more than 50 people occupied the site
45. This happened in breach of conditions 10, 11 and 15 of planning permission 02/01022/FUL.
46. In 2016 the Council received complaints resulting from the subletting of accommodation on the Appeal Site to people who were not TSP. Notes taken by the Councils Private Sector Housing department are at LPA 19 pg269.
47. The 2017 aerial photograph at LPA 18 page 267 shows the condition of the Appeal Site inconsistent with the 2003 planning permission. Since then the number of caravans and occupation by non-TSP has increased.
48. On my 21 September 2021 visit (LPA17 pg243) the Appeal Site was in use as a residential caravan site including other activities ancillary to that use. None of the occupiers I spoke to, except Ms Wall and Mr Birch, identified themselves as TSP, and most did not identify themselves as Gypsy / Travellers.

49. Several occupants living in mobile homes told me they'd found the accommodation on Gumtree and it was all they could afford. They said they'd would prefer to live elsewhere when they could afford it.
50. Some complained of an intermittent electricity supply to their accommodation.
51. On 01 March 2022 I served the Enforcement Notices the subject of these appeals and posted copies of the Enforcement Notices to those listed in the Certificate of Service (LPA 25 pg336).
52. I affixed the notices conspicuously to objects on the Appeal Site, posted them in the post boxes on the Appeal Site, and left them on the doorsteps of caravans and mobile homes.
53. I handed the Enforcement Notices to anyone who would speak to me and explained what they were. I sent copies of the Enforcement Notices by recorded delivery to the addresses on the land register.
54. The use of the Appeal Site on 01 March 2022 was consistent with my visit 21 September 2021. Photographs taken during my visit are at LPA 26 pg341.
55. On 20 April 2022 Council Housing Officers visited the Appeal Site (LPA 21 pg310).
56. The aerial photograph at LPA 30 pg356 shows the condition of the Land on 26 April 2022. The layout and occupation are consistent with what I saw on my site visits.
57. The use of the Appeal Site is materially different to the use permitted by the 2003 permission as a TSP site.
58. The Appeal Site contains about 100 caravans / mobile homes and is occupied by TSP, gypsy / travellers, and non-gypsy / travellers. It is a materially different use with materially different planning consequences (LPA 15 para 121 pg232).

59. The use of the Appeal Site as a TSP site fulfilled a planning purpose and that purpose is safeguarded by Development Plan policies. The material change of use results in the loss of TSP pitches having material planning consequences.
60. No planning permission has been granted for the material change of use to a residential caravan site and the Development Plan does not support that use.
61. For the reasons set out below, the appeals should be dismissed and the Enforcement Notices upheld.

RESPONSE TO GROUNDS OF APPEAL

62. WS Planning and Architecture and Green Planning Studio Ltd submitted a Statement of Case, and Green Planning Studio also submitted Final comments.
63. Green Planning Studio no longer act for the Appellants.

Ground e) – copies of the Notice were not served as required by s172

In relation to EN1 and EN2 only (APP/L1765/C/22/3296767; 3296771; 3296773; 3296776; 3296778; 3296781; 3296783; and APP/L1765/C/22/3296768; 3296772; 3296774; 3296777; 3296779; 3296782; 3296784).

64. The Appellants state that because there are over 100 caravans on site it is unlikely that the Council have served all individuals with an interest in the Appeal Site.
65. I delivered the Enforcement Notices with my colleague Nigel Wicks to all caravans that I could access and affixed the Enforcement Notices conspicuously to the entrances to caravans that I could not.

66. The Appellants have not identified anyone who was not served with copies of the Enforcement Notices but should have been, and have not identified anyone that has been prejudiced by any such failure.
67. I sent the Enforcement Notices to all registered proprietors of the Appeal Site by recorded delivery to their registered address.
68. Appellants who were not registered proprietors nor occupiers have received and appealed the Enforcement Notices (LPA 31 page357).
69. There is no evidence that anyone with a relevant interest in the Appeal Site did not receive the Enforcement Notices.

Ground b) – the matters have not occurred

In relation to EN1 and EN2 only (APP/L1765/C/22/3296767; 3296771; 3296773; 3296776; 3296778; 3296781; 3296783; and APP/L1765/C/22/3296768; 3296772; 3296774; 3296777; 3296779; 3296782; 3296784).

70. The Appellants state that the Appeal Site is not one large planning unit but each yard is owned and used individually, and that the site comprises a series of smaller planning units. The Appellants state that the “yards” identified in EN3 and EN4 are no different to others on the Appeal Site which have not been categorized as planning units.
71. The Appellants state that the enforcement notices at LPA 9 identified smaller areas and that the SoS Inspectors did not find that approach to be incorrect.
72. The purpose of the ‘planning unit’ is to establish if a material change of use has occurred using the tests set out in *Burdle*¹.

8. ¹ *Burdle v Secretary of State for the Environment* [1972] 3 All ER 240.

73. The area shown on the plan attached to EN1 is occupied for the main purpose as a residential caravan site and there are no other significant activities in separate and distinct areas, occupied for substantially different and related purposes, associated with any other use. It can be identified as a separate and distinct area from its surroundings.
74. Identifying the materiality of the change in use would not be assisted by carving the Appeal Site into smaller parcels.
75. The areas shown by the plans attached to EN3 and EN4 can also be identified as separate and distinct areas occupied for the main purpose as a residential caravan site. EN3 and EN4 are issued in the alternative to EN1 in the event that the Inspector considers that injustice is caused by the approach taken to EN1. No such injustice has been identified.
76. It does not follow that plans attached to enforcement notices should identify a planning unit.
77. The Appellants accept that the Appeal Site is used as a residential caravan site (GPS Statement of Case para 24) and their arguments about the planning unit are moot because the material change of use is the same however identified by the Enforcement Notices.
78. The existence of earlier enforcement notices relating to part of the Land does not prevent the issue of a further enforcement notice in respect of the whole of the land. They can coexist.²
79. On that basis the appeals on ground b) should fail because *the matters stated in the notice have occurred* (s174(b)). The Appeal Site is in use as a residential caravan site.

² *Biddle* [1999] 4 P.L.R 31 (QBD)

80. The appellants' case under ground d) that the material change of use *did* occur contradicts their case under ground b) (GPS Statement of Case para 20).
81. The appellants Statement of Case para 73 that EN2 "alleges there is one large mixed-use planning unit" is incorrect, it alleges a breach of conditions.

Ground c) – the matters do not constitute a breach of planning control

In relation to EN2 only (APP/L1765/C/22/3296768; 3296772; 3296774; 3296777; 3296779; 3296782; 3296784).

82. The Appellants state they will demonstrate that there has not been a breach of planning control and that permitted development rights have not been removed (GPS Statement of Case para 80).
83. This is at odds with the Appellants ground d) case, that the Appellants will demonstrate that there is evidence of breaches of conditions in excess of 10 years prior the issue of the Enforcement Notice.
84. Fences and walls have been erected to facilitate the breach of planning control.

In relation to EN4 only (APP/L1765/C/22/3296503; 3296504)

85. The Appellants ground c) case was embedded in their ground f) case at WSPA Statement of Case para 5.6.
86. The decision the Appellants refer to at LPA 11 page 156 was quashed (LPA 13 page 190) and remitted to the SoS for redetermination (LPA 15 page 205).
87. There is no planning permission for the use of the Appeal Site as a residential caravan site.

Ground d) – at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters

In relation to EN1 only (APP/L1765/C/22/3296767; 3296771; 3296773; 3296776; 3296778; 3296781; 3296783)

88. The burden of proof falls upon the Appellants to demonstrate with sufficiently precise and unambiguous evidence that the breach of planning control alleged in the Notice occurred by 01 March 2012 and has been active and continuous since, such that the LPA could have taken enforcement action at any point during that period.
89. The Appellants state (GPS Statement of Case para 20) that the material change in use occurred between 11 December 2011 and 01 March 2012, being the weeks following the issue of the appeal decision at LPA 11 pg156 on 09 December 2011.
90. The Appellants' case is the Appeal Site was occupied by TSP only in 11 caravans until 11 December 2011, but by some point in the 11 weeks to 01 March 2012 it had undergone a material change in use to that described by EN1 to include 100 caravans / mobile homes occupied by non-gypsy / travellers and gypsy / travellers.
91. No evidence has been provided to support that case.
92. Four of the Appellants gave evidence to the Public Inquiry held in May, June and September 2019 that led to the decision at LPA 15 pg205 on 22 November 2019.
93. Freddie Loveridge told the inquiry that he bought 1A from Darren Loveridge in 2012, when it was empty and had never been used by Darren (LPA 15 pg218 footnote 16).

94. Danny Carter told the inquiry that he occupied Plot 8 when the notice was issued (06 September 2010) having moved onto site in 2008. He told the 2019 Inquiry that he lived with his wife and 5 children on what was subsequently known as plot 8B, Plot 8 having been divided into 3 (LPA 15 page 224).
95. The Appellants confirm “different parts of the site were developed at different times” and that multiple material changes in use have occurred (appeal form ground f)).

In relation to EN2 only (APP/L1765/C/22/3296768; 3296772; 3296774; 3296777; 3296779; 3296782; 3296784)

96. The Appellants state that the correct time period is 4 years where the use of a dwelling house amounts to a breach of condition.
97. In the alternative, if the correct period is 10 years, the Appellants state the breach of conditions occurred more than 10 years before the issue of the Enforcement Notice.
98. The Appellant states (GPS Statement of Case para 87) *“it will be shown that some subdivision occurred prior to the issue of the Councils enforcement notice dated 2010...further subdivision occurred following the issue of that notice, prior to the issue of the appeal decisions on this site dated 11 December 2011.*
99. This supports the LPA’s case that prior to the material change of use the subject of these appeals there was a breach of the conditions attached to the 2003 permission and that both breaches of planning control have occurred.
100. The breach of planning control alleged in the Enforcement Notices does not consist of the change of use of any building to use as a single dwellinghouse. The correct time period is 10 years.

101. The 2010 Enforcement Notices do not allege “some subdivision of the site”.
102. The erection of fencing or walls in itself does not in itself constitute subdivision. It is a matter of fact and degree based on the nature and purpose of any physical barrier and the actual use on occupation of the enclosures created.
103. The burden of proof falls upon the Appellants to demonstrate with sufficiently precise and unambiguous evidence that the breach of planning control alleged in the Notice occurred by 01 March 2012 and has been active and continuous since, such that the Council could have taken enforcement action at any point during that period.
104. There is no suggestion in the appeal decision 09 December 2011 (LPA 11 pg156) that any pitch was occupied by more than 3 caravans or mobile homes occupied for residential purposes, that there were more than 9 family pitches on the Appeal Site and subdivision had occurred, or that it was occupied by more than 50 people.
105. A breach of condition notice was issued 18 April 2019 (LPA 14 pg201) in relation to plot 9.

Ground a) - permission ought to be granted

Whether the development complies with relevant policies of the Development Plan

106. The LPA has an up-to-date Development Plan consisting of the Winchester District Local Plan Part 1 – Joint Core Strategy (2013) (“LPP1”), the Winchester District Local Plan Part 2 (“LPP 2”) – Development Management and Site Allocations (2017), and the Gypsy and Traveller Development Plan Document (“Traveller DPD”) 2019.

The Principle of Development

107. LPP1 policy DS1 sets the planning strategy for the District and identifies the 3 spatial planning areas within the District. The ‘Market Towns and Rural Area’ (MTRA) is one of the spatial areas and Carousel Park falls within this area. Policy DS1 is a key Local Plan policy which reflects the positive approach of the NPPF, including promoting the use of previously developed land and protection of the environment.

108. The planning strategy for the MTRA area is expanded upon in policies MTRA1 – MTRA4. Policy MTRA1 sets out a series of points through which the spatial planning vision for the area will be achieved.

109. Policies MTRA2 and MTRA3 apply to the settlements identified within. Local Plan Part 2 (LPP2) defines the extent of larger settlements by means of settlement boundaries (LPP2, policy DM1), which were reviewed as necessary through LPP2 and are up to date.

110. Carousel Park falls outside any identified settlement so is within the defined countryside (outside any settlement boundary) and subject to LPP1 policy MTRA4. Policy MTRA4 only permits certain development types that are not relevant to these appeals.

111. Policy CP4 of LLP1 allows for affordable housing 'exception sites' on land where housing development would not normally be permitted and in addition to general housing provision in CP1, in specific circumstances.

112. Policy CP5 of LPP1 allows for Gypsy / Traveller, and TSP sites to meet objectively assessed accommodation needs, subject to the following criteria:

Sites should be well related to existing communities to encourage social inclusion and sustainable patterns of living, while being located so as to minimise tension with the settled community and:

- *avoid sites being over-concentrated in any one location or disproportionate in size to nearby communities;*
- *be accessible to local services such as schools, health and community services but avoid placing an unreasonable burden on local facilities and services;*
- *avoid harmful impacts on nearby residential properties by noise and light, vehicle movements and other activities.*

Sites should be clearly defined by physical features, where possible, and not unduly intrusive. Additional landscaping may be necessary to maintain visual amenity and provide privacy for occupiers. This and any security measures should respect local landscape character;

Sites should be capable of accommodating the proposed uses to acceptable standards and provide facilities appropriate to the type and size of the site, including:

- *water supply, foul water drainage and recycling/waste management;*
- *provision of play space for children;*
sites for travelling showpeople should include space for storing and
- *maintaining equipment;*

- *safe vehicular access from the public highway and adequate provision for parking, turning and safe manoeuvring of vehicles within the site (taking account of site size and impact);*
- *in rural locations, any permanent built structures should be restricted to essential facilities such as a small amenity block.*

Proposals should be consistent with other policies such as on design, flood risk, contamination, protection of the natural and built environment or agricultural land quality and protect areas designated for their local, national or international importance, such as Gaps and the South Downs National Park.

Existing permanent authorised gypsy, traveller and travelling showpeople sites within the District which are needed to meet the identified needs of particular groups will be retained for the use of these groups unless it has been established that they are no longer required.

113. LPP1 and LPP2 are clear that settlement boundaries are key tools in defining where development is acceptable (policies MTRA2 – MTRA4). Settlement boundaries are a key element of planning policy in Winchester District and provide clarity and certainty for residents, landowners and developers. Local Plan policies are based on the distinction between land within settlement boundaries, where development is in principle permissible, and the areas outside which are defined as ‘countryside’ where housing is not generally allowed. Carousel Park is a considerable distance from any defined settlement, being approximately 2km from the nearest part of Micheldever Station’s settlement boundary and a similar distance from Woodmancote, a very small settlement with no defined boundary.

114. While policies CP5 of LPP1, DM4 of LPP2 and the policies of the Traveller DPD may allow for Gypsy / Traveller / TSP accommodation outside defined

settlements, subject to the various criteria and requirements, there is no basis for general residential development on the Appeal Site.

115. The Development Plan (LPP1 and LPP2) policies do not provide for general residential development in the countryside, other than in specific circumstances which do not apply to Carousel Park.
116. In addition, the site is safeguarded for travelling showpersons' use by policy TR1 of the Traveller DPD, and has been specifically allocated for TSP use by policy TR3.
117. The Enforcement Notices EN1 and EN4 allege residential use. Therefore, the deemed planning applications are for general residential accommodation and the subsequent permission would not be limited to either Gypsy / Traveller / TSP accommodation or affordable housing.
118. Even if the development were categorised as an affordable housing 'exception site', it would not satisfy the requirements of policy CP4, which aims to meet the specific local needs of particular settlements on sites of suitable location, size and tenure.
119. Residential development in this location would be inappropriate and unsustainable.
120. Accordingly, development plan policies resist the principle of development for general housing / residential caravan use, as well as changes from the lawful permitted use as a TSP site.

Traveller DPD

121. Policy TR1 of the Traveller DPD requires existing Gypsy / Traveller and TSP sites to be safeguarded from alternative development, unless the site is no longer required for that need.

122. There is an identified need for TSP sites (GTAA).
123. The Appeal Site (ref: W020) is included in the sites listed under policy TR1 and should be safeguarded as a TSP site. The Unlawful Use is contrary to policy TR1 of the Traveller DPD.
124. Policy TR3 of the Traveller DPD applies to the Appeal Site specifically. It requires the site to be occupied by people meeting the definition of TSP and to comply with the following requirements:
- i. Protect the biodiversity of Black Wood SINC, and reinforce the sites visual containment by providing and retaining a bund and landscaping around the whole site boundary;
 - ii. Avoid further expansion or intensification beyond the currently defined extent of the site;
 - iii. Satisfy the requirements of TR7.
125. The Unlawful Use is therefore contrary to policy TR3 of the Traveller DPD in that it is not occupied by people meeting the definition of TSP.
126. In addition, the increase in the number of occupiers and caravans has caused an intensification of the use of the Appeal Site compared to the use approved by 02/01022/FUL (LPA 1), contrary to policy TR3.
127. Policy TR7 sets out requirements for sites to be considered through the Development Plan or planning applications.
128. The Unlawful Use does not satisfy the requirements of policy TR7 of the Traveller DPD and is contrary to that Policy for reasons including;

- a) There is insufficient turning space within the Appeal Site to allow for safe vehicular movement and conflict between pedestrians and vehicles on the Appeal Site is not minimise due to the number of caravans and other built form associated with the Unauthorised Use contrary to policy TR7.
- b) The Appeal Site lacks an area of open space within the site for safe children's play, located to avoid conflict with vehicles on site contrary to policy TR7.
- c) Commercial activities take place on the Appeal Site, including the storage and sorting of building materials and equipment in and around the steel barn, other than is necessary for the use as a TSP site contrary to policy TR7.
- d) TR7 requires plots for TSP to include adequate space for the storage and maintenance of equipment laid out to avoid conflict between vehicles and residents. Through the number of caravans and enclosures the Unlawful Use does not include adequate space for the storage and maintenance of equipment laid out to avoid conflict between vehicles and resident's contrary to policy TR7.

129. Policy TR7 also requires sites to comply with policy CP5 of the LLP1.

- a) Policy CP5 of the LPP1 requires existing permanent authorised sites which are needed to meet the identified needs of a particular group to be retained unless it has been established that they are no longer required. There is an identified need for TSP sites and the Appeal Site is an existing permanent authorised site. The Unlawful use is contrary to that policy.
- b) Policy CP5 requires sites for TSP to include space for storing and maintained equipment. The Unlawful Use includes no space for storing or maintaining equipment on the Appeal Site contrary to policy CP5.

LPP1

130. Policy MTRA 4 – Development in the Countryside – requires that only certain types of development will be permitted on land outside the built-up areas identified by the plan. The Appeal Site falls outside of those areas and is not a type of development listed by policy MTRA 4. The Unlawful Use is therefore contrary to policy MTRA4.
131. Policy CP10 seeks to reduce demands on the transport network by reducing the need to travel and encouraging walking or cycling. The Appeal Site is in an isolated countryside location. Occupants would be heavily reliant on private transport contrary to policy CP10.

LPP2

132. The Appeal Site falls outside of the defined boundaries. As such Policy DM1 of the LPP2 states that countryside polices will and apply and only development appropriate to a countryside location will be permitted, as specified by policies MTRA4 (above), MTRA5, and DM10 – DM13.
133. The Unauthorised Use does not fall within the MTRA4 exceptions to development in the countryside and is contrary to policy DM1 of LPP2.
134. Policy DM6 requires that residential development above 15 dwellings should provide usable open space on site, in accordance with CP7. The Unlawful Use can be categorized as residential development above 15 dwellings but does not provide usable open space on site in accordance with CP7, and is therefore contrary to policy DM6.
135. DM16 sets out site design criteria for new development. The Unauthorised Use fails to meet that criteria for reasons including:

- a) The boundary treatments, consisting of unkept soil bunds and domestic and commercial fencing do not respond positively to the local context around the site, being the Blackwood SINC woodland to the west and countryside to the north and south, in that they appear incongruous and out of place in that location.
136. DM17 requires a high-speed broadband connection, or provision for its future connection, to be sought for all new residential developments. There is no such provision contrary to policy DM17.
137. Policy DM18 requires that appropriate provision is made for parking and access to new development. The Unauthorised Use includes the occupation of approximately 100 caravans in a countryside location. It is likely occupiers are heavily dependent on private transport and as such significant parking provision would be required to satisfy DM18.
138. The Unlawful Use provides no dedicated parking provision and the density and layout of the Unlawful Use is such that there is limited space for such provision in any event.
139. The grant of planning permission would not meet the accommodation needs identified for the area in that it is not limited to occupation by Gypsy / Travellers, or TSP (DM4).

EN2 Deemed Application

140. The deemed planning application in respect of EN2 is for the discharge of conditions 10 (caravans), 11 (pitches), 15 (people) attached to 02/01022/FUL.
141. Those conditions are necessary to safeguard the living conditions of occupiers of the Appeal Site and local amenity by controlling the occupation, density and layout of the Appeal Site.

142. The conditions are consistent with policies TR3 and TR7 of the Traveller DPD, DM6, DM17, DM18 of the LPP2, and Policy F para 19 of the PPTS.

143. It would be contrary to the Development Plan to discharge those conditions.

Whether the proposed development complies with the Development Plan taken as a whole

144. Paragraph 12 of the NPPF provides that the Development Plan is the starting point for decision making and that development that conflicts with the Development Plan should be refused only if material considerations indicate otherwise.

145. The Unlawful Use is contrary to the Development Plan for the following reasons:

- i. The Unlawful Use of the Land as a residential caravan site is contrary to policies TR1 and TR3 of the Winchester Gypsy and Traveller DPD 2019 (“the DPD”) in that the Land is allocated for TSP use and should be occupied by people meeting the definition of travelling showpeople in order to meet an identified need. The Unlawful Use includes occupation by people who do not meet that definition;
- ii. The Appeal Site is outside of any defined settlement and subject to policy MTRA4 of the LPP1 which resists residential development in the countryside except in certain circumstances that do not apply to these appeals;
- iii. The visual impact of the Appeal Site on the adjacent Black Wood SINC and its locality is not contained through the provision and retention of a suitable bund and landscaping around the whole site boundary contrary to policies TR3 and TR7 of the DPD and policies DM1, DM16, and DM23 of the Local Plan Part 2;

- iv. Due to its layout and density the site does not provide sufficient, parking, vehicle turning space and does not minimise conflict between pedestrians and vehicles contrary to policies TR7 of the DPD and DM18 of the Local Plan Part 2;
- v. The density of the site does not allow for mixed-use yards that would accommodate space for the storage of equipment associated with the needs of travelling showpeople contrary to policy TR7 of the DPD and Policy F paragraph 19 of DCLG Planning Policy for Traveller sites 2015;
- vi. The site lacks an adequate area of open space for safe children's play contrary to policies TR7 of the DPD and DM17 of the Local Plan Part 2;
- vii. Details of wastewater infrastructure, including a foul drainage assessment and surface water drainage have not been provided contrary to policy TR7 of the DPD;
- viii. Adequate and appropriate provision for the safe storage of waste and recycling is not provided contrary to policies TR7 of the DPD and DM17 of the Local Plan Part 2; and
- ix. Commercial activities take place on the land contrary to policy TR7 of the DPD.

Other Material Considerations

146. The NPPF is an important material consideration in the determination of any planning application. Paragraph 80 states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the certain circumstances listed apply. The Unlawful Use includes isolated homes in the countryside and none of the circumstances listed by

paragraph 80 apply. The development would be contrary to paragraph 80 of the NPPF.

Planning Policy for Traveller Sites 2015 (“PPTS”)

147. The PPTS sets out the Government’s planning policy for traveller sites. It is another material consideration in the determination of any deemed application, and should be read in conjunction with the NPPF.
148. Policy H states that applications should be assessed and determined in accordance with the Development Plan unless material consideration indicate otherwise.
149. Paragraph 26 states that when considering applications, LPA’s should attach weight to the following matters:
 - a) effective use of previously developed (brownfield), untidy or derelict land
 - b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
 - c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
 - d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community
150. Paragraph 27 of the PPTS considers states that where an adequate 5-year supply of sites cannot be demonstrated, it ‘*should be a significant material consideration*’ when considering applications for temporary planning permission. The accompanying footnote 9 states that there is no presumption that a temporary permission should be granted permanently. The advice is different to that for housing generally, as set out in the NPPF, whereby relevant

policies may be rendered out-of-date if an adequate land supply is not demonstrated. The NPPF confirms the different approach: '*a five-year supply of deliverable sites for travellers – as defined in Annex 1 to Planning Policy for Traveller Sites – should be assessed separately, in line with the policy in that document*' (NPPF, paragraph 74 / footnote 38).

151. As Mr Opacic has explained in his proof of evidence, determining whether there is an adequate supply of sites for the purpose of the PPTS should be assessed against the current Development Plan targets (LPP2 and the Traveller DPD) and the Council's AMR shows that a 5-year supply of gypsy and traveller sites can be demonstrated, but not of TSP sites.
152. Therefore, the lack of an adequate 5-year supply of sites for TSP is a '*significant material consideration*' in the case of these appeals but does not render policies for the supply of Gypsy / Traveller sites or general housing out of date under NPPF paragraph 11(d).
153. Given the adequacy of supply of gypsy and traveller sites, the need for these sites is not, according to the PPTS, '*a significant material consideration*' in this appeal. Accordingly, while the PPTS refers to applications for temporary consent, the lack of available sites for TSP, whether temporary or permanent, is a '*significant material consideration*' which should be considered in these appeals, in contrast to the adequate supply of Gypsy and Traveller pitches. This is especially so in view of the lack of TSP sites available to meet overall needs, not just those within the immediate 5-year period.
154. The Unlawful Use provides accommodation for non-gypsy / travellers or TSP. There is no evidence of a lack of alternative accommodation available for those people nor would the Appeal Site be suitable.
155. PPTS Policy H paragraph 25 requires LPAs to very strictly limit new traveller site development that is away from existing settlements or outside areas allocated

in the Development Plan. The Appeal Site is away from existing settlements and outside areas allocated by the Development Plan.

156. The latest Gypsy and Traveller Accommodation Assessment (GTAA) was published October 2022 and is attached to the proof of evidence of Steve Opacic at SO3. Its findings are set out in the proof of evidence of Steve Opacic.
157. It should not be used to determine the 5-year pitch requirements but is a material consideration.
158. It records that 27 TSP plots will be needed for those meeting the planning definition, 3 for those not meeting the definition, and 3 for those that are undetermined.
159. It records 115 Gypsy / Traveller pitches will be needed over the new Local Plan period meeting the planning definition, 45 for those not meeting the definition, and 40 for undetermined needs.
160. The Unauthorised Use could provide accommodation for Gypsy / Travellers for which the new GTAA identifies a need. That is a material consideration that weighs in favour of the development
161. The Unauthorised Use also provides accommodation for non-gypsy / travellers in an inappropriate location in conflict with the Development Plan for which there is no identified need.
162. The occupation of the Appeal Site by Gypsy / Travellers and non – gypsy travellers displaces occupation by TSP for which there is an identified need which is protected by the Development Plan.
163. The occupation of the Appeal Site by non – gypsy travellers prevents the occupation of the Appeal Site by gypsy / travellers and TSP, for which there is an identified need.

164. The new GTAA identifies an additional need for TSP sites, on top of the need identified by the previous GTAA.

165. The benefits of occupation of the Appeal Site by gypsy / travellers for which the new GTAA identifies a need, does not outweigh the conflict with the Development Plan or the displacement of another identified need.

In relation to issues raised by the Appellants against EN1 and EN2 regarding land supply only:

(APP/L1765/C/22/3296767; 3296771; 3296773; 3296776; 3296778; 3296781; 3296783; and APP/L1765/C/22/3296768; 3296772; 3296774; 3296777; 3296779; 3296782; 3296784):

166. The Appellants state that the most relevant local plan policies are out of date and therefore paragraph 11 of the NPPF is engaged and that the LPA is unable to demonstrate:

- a) A five-year housing land supply
- b) A five-year supply of gypsy and traveller pitches
- c) A five-year supply of travelling showpersons sites

Housing Land Supply

167. The LPA's current 5-year housing land supply position is set out in the proof of evidence of Steve Opacic.

168. The LPA is satisfied that it can demonstrate an adequate supply of housing land, in accordance with NPPF paragraph 74, and that NPPF paragraph 11(d) / footnote 8 does not therefore apply. It monitors housing land supply in detail and on a regular basis through the Authorities Monitoring Report and can show over 5 years' supply with an appropriate 'buffer'.

169. For the period 2023 – 2028 the LPA can show 5.6 years supply including a 5% buffer.
170. Notwithstanding the LPA's adequate housing land supply, even if there were a shortfall, the Appeal Site would not be a suitable location for general housing provision due to its isolated location and existing allocation (LPP1 MTRA4 and TR3).
171. The LLP1 identifies no housing requirement or target for the Appeal Site.
172. There is no justification to allow the appeals for housing land supply reasons, especially given the limited contribution to general housing supply that the site could make and the nature of that accommodation.
173. There remains a shortfall of TSP accommodation and the Development Plan allocates the Appeal Site for that use. Therefore, significant weight should be given to the Development Plan policies, even if NPPF paragraph 11d were engaged.

Affordable Housing

174. The LPA's Affordable Housing supply position is set out in the proof of evidence of Steve Opacic.
175. The Appeal Site would not be a suitable location for general housing provision. It is not well related to any settlement and separate from facilities and services, which makes it even less well suited to affordable housing provision than it is for general housing. In any event, the existing accommodation does not fall within any of the categories of 'affordable housing' (as defined by NPPF Annexe 2) as it is not provided at least 20% below market rents/prices, or controlled to secure ongoing affordability.

176. There is no evidence that the accommodation provided on the Appeal Site is affordable.

177. There is no justification to engage paragraph 11(d) / footnote 8 or to grant planning permission for affordable housing land supply reasons.

5 Year Gypsy / Traveller Supply

178. The LPA's 5-year Gypsy / Traveller supply position is set out in the proof of evidence of Steve Opacic.

179. For the period 2023 – 2028 there is requirement for (-17) Gypsy / Traveller pitch/plots, and 20 - 23 TSP pitch/plots.

180. The GTAA identified 8 vacant gypsy / Traveller pitches and no vacant TSP pitches.

181. The Traveller DPD estimates that that 3 additional TSP plots would result from enforcement action at the Appeal Site (SO 5.7).

182. For the period 2023 – 2028 there is a 5-year supply of Gypsy / Traveller pitches of 11.

183. For the period 2023 – 2028 there is a supply 11 of TSP pitches.

184. The LPA is unable to demonstrate an adequate supply of TSP sites notwithstanding the outcome of these appeals.

In relation to issues raised by the Appellants against EN4 only (APP/L1765/C/22/3296503; 3296504):

185. The Appellants state that the site will meet the needs of the Gypsy / Traveller community.

186. The appeal site is not occupied by members of the Gypsy and Traveller community and does not meet that need.

Planning Balance

187. The deemed planning applications are for the material change of use of the Appeal Site to a residential caravan site for approximately 10/100 caravans and for the discharge of conditions 10 (caravans), 11 (pitches), and 15 (people) attached to 02/01022/FUL.

188. The deemed planning applications should be determined in accordance with the Development Plan, which is relevant and up-to-date, having been found to be 'sound' and NPPF/PPTS-compliant. Other material considerations consist of Government policies and guidance, particularly the NPPF, PPTS and PPG, and may include the updated GTAA and the personal circumstances of the site occupiers.

189. The updated GTAA shows a continued need for TSP accommodation, for which the Appeal Site is allocated, as well as needs for Gypsy / Traveller pitches.

190. The Appellants have not provided any details of personal circumstances so these cannot currently be assessed.

191. The availability of an adequate supply of housing and traveller sites can be a material consideration, but the only evidence of any shortfall against Development Plan targets is in relation to sites for TSP. The grant of planning permission for deemed applications would grant consent for general residential use, reducing the supply of plots dedicated for TSP use.

192. The Appeal Site is in a rural location away from a defined settlement. The principle of residential uses in such a location is resisted by Development Plan and Government policies, other than for specific identified needs. There is no

basis for general residential development on an isolated countryside site such as the Appeal Site. Regardless of the housing land availability position, residential development in this location would be inappropriate and unsustainable.

193. The LPA is able demonstrate that the 5-year supply of available housing sites remains in excess of the requirement, with deliverable sites available to provide 5.6 years' supply for the 5-year period 2023-2028. The LPA can also demonstrate an adequate 5-year supply of sites for gypsies and travellers (GT) but not for TSP when measured against Development Plan targets. The lack of an adequate 5-year supply of TSP sites '*should be a significant material consideration*' (PPTS).
194. The updated Gypsy and Traveller Accommodation Assessment (GTAA) should not be used to determine 5-year traveller pitch requirements, as made clear by the PPTS. The updated GTAA is a material consideration and demonstrates an ongoing need for TSP plots.
195. No needs for further caravan or houseboat accommodation have been identified and the NPPF is clear that these should be considered as part of general housing needs through the Local Plan. There is no requirement for the Council to demonstrate separately a 5-year supply of such accommodation.
196. In conclusion, allowing the deemed planning applications would result in an uncontrolled general residential use, of substantial scale, in an isolated countryside location. This would be in conflict with the Development Plan and national planning policies. In addition, the Appeal Site is specifically allocated for TSP use, for which an ongoing need remains, which is a '*significant material consideration*', given the lack of an adequate supply of such sites. There are no material considerations such as land / site availability that would justify the deemed application being permitted and no personal circumstances have been provided.

197. The replacement of the existing authorised use as TSP accommodation by a general residential permission, for which a 5-year supply exists, will worsen the supply of TSP accommodation.
198. The deemed planning application proposals would conflict with Development Plan policies, fail to meet or be justified by other identified needs, and lack evidence of other material considerations that may provide support. Therefore, the planning balance is in favour of maintaining the Development Plan and rejecting the deemed planning application.

Conclusion

199. The Development Plan is the starting point for decision making and development that conflicts with the development plan should be refused unless material consideration indicate otherwise.
200. The proposals do not comply with the Development Plan to which significant weight should be attached. The Appeal Site contributes to an identified TSP need and is safeguarded for that use by the Development Plan.
201. The Unlawful Use displaces TSP and frustrates the LPA's attempt to meet an identified need.
202. The need for Gypsy / Traveller sites identified by the new GTAA is a material consideration weighing in favour of the proposal that could contribute to that need.
203. The proposals also provide accommodation for non-gypsy / travellers / TSP for which there is no identified need.
204. Given the conflict the proposal has with the Development Plan, the poor-quality accommodation provided, and the displacement of identified need, the harms

caused by the proposals are not outweighed by the benefits and planning permission should be refused.

Ground f) – that the requirements of the notice exceed what is necessary to remedy the breach of planning control

In relation to EN1 and EN2 only (APP/L1765/C/22/3296767; 3296771; 3296773; 3296776; 3296778; 3296781; 3296783; and APP/L1765/C/22/3296768; 3296772; 3296774; 3296777; 3296779; 3296782; 3296784).

205. The Appellant states the restoration of the land to its condition before the breach took place is excessive because different parts of the appeal site were developed at different times and that the breach could only have occurred at one point in time.

206. The Council accept that the breach of planning control the subject of these appeals occurred at one point in time. It is a matter of fact and degree when that material change in use occurred but there is no dispute that it has occurred.

207. The last lawful use was that permitted by the permission at LPA 1 page 32. If there has only been one material change in use of the appeal site to the use the subject of this appeal, the appellants can revert to the last lawful use (s57(4)).

208. If there have been multiple material changes in use as the evidence suggests, there is no lawful use to revert to and planning permission would be required for any new use.

In relation to EN4 only (APP/L1765/C/22/3296503; 3296504)

209. The Appellants ground f) case is based on the mistaken assumption that the appeal site benefits from planning permission through the quashed appeal decision at LPA 11.

Ground g) – that the time given falls short of what should reasonably be allowed

In relation to all appeals.

210. The Appellant in EN1 and EN2 ask for 2 years and for EN4 12 months to comply with the enforcement notice respectively.
211. The LPA have attempted to engage with occupiers of the Appeal Site without success (LPA 21).
212. If circumstances arise that justify an extension to the compliance period the LPA would exercise its powers to extend that period.