



Appeal Decision

Inquiry opened on 21 July 2009
Site visits made on 23 July 2009

by **Richard Clegg BA(Hons) DMS MRTPI**

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

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Decision date:
10 December 2009

Appeal Ref: APP/Y3425/A/09/2099291

Woodfield, Hilderstone Road, Spot Acre, Stone, Staffordshire, ST15 8RP

- 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 W Varey, Mr G Clee, Mr J Varey, Mr J Smith Senior & Mr J Smith Junior against the decision of Stafford Borough Council.
- The application Ref 08/10281/COU, dated 24 April 2008, was refused by notice dated 28 January 2009.
- The development proposed is the change of use for the stationing of caravans for five gypsy pitches, with utility/ day rooms, access road and areas of hardstanding ancillary to that use.
- The inquiry sat for three days, on 21-23 July 2009.

Decision

1. I allow the appeal, and grant planning permission for the change of use for the stationing of caravans for five gypsy pitches, with utility/ day rooms, access road and areas of hardstanding ancillary to that use, at Woodfield, Hilderstone Road, Spot Acre, Stone, Staffordshire, ST15 8RP, in accordance with the terms of the application, Ref 08/10281/COU, dated 24 April 2008, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural matters

2. The application form records the applicants as Mr W Varey and Others. At the inquiry, I heard that the appellants are Mr W Varey, Mr G Clee, Mr J Varey, Mr J Smith Senior and Mr J Smith Junior, and I have included their names in the case details above. Each of the appellants occupies a pitch on the appeal site with his family.

Inappropriate development in the Green Belt

3. The appeal site is situated within the Green Belt, where, in accordance with Planning Policy Guidance Note 2 (PPG2), Policy D5B of the Staffordshire and Stoke-on-Trent Structure Plan 1996-2011 and Policy E&D10 of the Stafford Borough Local Plan 2001 indicate that there is a general presumption against inappropriate development. The limited categories of development which may be acceptable in the Green Belt, set out in Policy E&D10, include other uses of land which preserve the openness of the Green Belt, and which do not conflict with the purposes of including land in it. Woodfield is in the open countryside, and is occupied by the appellants. The land has been sub-divided into five pitches, each of which contained two touring caravans at the date of my visit. Their presence, together with that of the five utility/ day rooms which are proposed to be erected, would reduce the openness of the Green Belt in this
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part of the Borough. The development also represents encroachment into the countryside, which is contrary to one of the purposes of including land in the Green Belt, listed in PPG2. Accordingly, I agree with the view expressed in the statement of common ground that the proposal represents inappropriate development in the Green Belt.

Main issues

4. I consider that the main issues in this appeal are:

(i) The effect of the proposal on the openness and visual amenities of this part of the Green Belt.

(ii) Whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Background

5. In 1990, planning permission was granted for the use of the appeal site for a landscaping company, including the erection of an office and a store. Condition No 3 limited the permission for the two buildings to a period of about two years. Two further temporary planning permissions were granted for the buildings, the latest of which expired in 2003. The following year, planning permission was refused for the temporary buildings and the external storage of landscaping materials, the reason for refusal referring to the excessive size and scale of the external storage area on the openness of the Green Belt.
6. The site, together with the adjoining land to the north-west was sold, and at the end of 2004 it was occupied by the families of three of the appellants and two other families. Planning permission for a five pitch gypsy site on the whole of this area was refused in March 2005 for Green Belt reasons. The Council initiated enforcement action, and in November 2005 an enforcement notice was issued requiring the use of the land and buildings as a residential caravan site to cease, and the removal of the caravans, portable stores and hardstandings. An appeal against the enforcement notice was dismissed in May 2006¹, the Inspector concluding that the harm to the green belt was not outweighed by other considerations. The enforcement notice was upheld, subject to a variation in the period for compliance to three months. The appeal decision was challenged, and this appeal was dismissed in a judgement of January 2008. The Council subsequently resolved to pursue injunctive action to secure an end to the occupation of the site.
7. Following the inquiry which led to the 2006 appeal decision, there has been a change in the occupation of two of the pitches on the site. I heard that Mr W Varey and Mr J Varey and their families had both moved onto the site about three years ago.

¹ An appeal had also been lodged against an earlier enforcement notice. The Council has explained that this notice was defective, and it was withdrawn at the inquiry at which the second notice was considered.

Reasons

The effect on the openness and visual amenities of the Green Belt

8. The appeal site is within an extensive area of open countryside. There is sporadic development along Hilderstone Road, but no existing buildings are situated adjacent to the appellants' land. An access drive runs into the site, with the five pitches positioned on both sides. In addition to the touring caravans, there were sheds, trailers and vehicles on the pitches at the time of my visit. Some sheds serve as utility and day rooms, and I anticipate, therefore, that they would be removed if the utility/ day rooms included in the appeal proposal were built. However, these would be much more substantial structures, each comprising a kitchen and dayroom area and a bathroom. The brick buildings would have pitched roofs, with ridge heights of about 4.5m for those serving two pitches and about 4m for the single utility/ day room. Moreover, the site plan indicates that a mobile home could replace one of the touring caravans on each pitch. I consider that the extent of development envisaged by the proposal would have a significantly adverse effect on the openness of this part of the Green Belt.
9. The proposal considered in the 2006 appeal included the adjacent land to the north-west, which is used as a paddock by the appellants and is outside the appeal site. The indicative layout submitted in respect of that scheme shows the five pitches extending across the whole of the larger site², although the appeal decision referred to the development having taken place to the south of the access, on what is essentially the current appeal site. The Council's committee report on the present scheme explained that, at the previous inquiry, the Inspector had advised all parties that, if planning permission were to be granted, this would only be in respect of part of the site, and it was understood that this referred to the occupied area. This is not recorded in the appeal decision, but it is not disputed by the appellants. Having regard to the way in which the previous appeal appears to have been considered, the proposal before me involves a similar spread of development, and, given the inclusion of utility/ day rooms in the form of brick buildings, its effect on openness would be somewhat greater.
10. I have also take into account the former use of the site in connection with a landscaping company. A condition on the initial planning permission limited the siting of the two buildings to a temporary period. Further temporary permissions were granted for the buildings, but the latest expired in 2003. The scope of the time-limiting condition on the initial planning permission is specifically restricted to the two buildings and does not apply to the use of the land. The information before me indicates that planning permission for the use of the appeal site for a landscaping company remains extant. It is likely that such use would involve elements of outside storage in connection with plants and materials and that there would be parking of vehicles, although there are few details in the submitted documentation as to how the site was operated. The appellants described their removal of a considerable amount of waste material from the site, but it is not clear that this material was deposited in

² Document 3.

accordance with the lawful use of the land. In this regard I note that planning permission was sought (and refused) to cover external storage in 2004. In these circumstances, it does not seem to me that, were the site to be re-used in accordance with the 1990 planning permission, there would be as great an impact on openness as would result from the appeal proposal.

11. Although I note that the appellants are involved in landscaping work, their planning witness acknowledged that he had no evidence to suggest that the site would be used for this purpose if the appeal were dismissed and the residential use ceased. Moreover, the absence of storage and office buildings would undoubtedly reduce the attractiveness of the site for use by another landscaping company. The information before me does not indicate that there is a realistic prospect of re-use for landscaping purposes, and accordingly the impact arising from such activity is a matter which carries little weight.
12. An area of woodland extends to the south and east of the appeal site. There are also trees and relatively tall hedges along both sides of Hilderstone Road in this locality. A screen fence has been erected around the site. In his decision in 2006, the Inspector found that this appeared out of character with other means of enclosure in this area of open countryside. The fence, however, is set back behind a wide verge along the road. This contains a number of trees, and the branches of other trees overhang from within the site. There is denser tree cover between the fence and the public footpath which runs through the woodland to the south of the site, and it does not appear as unduly harsh or prominent. Moreover, the Council's witness agreed with the appellants that the fence itself would now be immune from enforcement action. The upper parts of caravans on the site are apparent above the fence from Hilderstone Road and in heavily filtered views from the footpath, although the extent of tree and hedgerow cover around the site restricts any long-distance views. Nevertheless their presence detracts to a degree from the surrounding rural landscape, and the erection of the utility/ day rooms and the siting of mobile homes would increase the impact of the proposal.
13. A series of photographs were submitted of the appeal site in 2004³. They show waste material in low mounds, which I do not anticipate would have been unduly prominent given the extent of tree and hedgerow cover around Woodfield. Accordingly the removal of this material does not materially lessen my concern about the effect of the proposal on the openness and visual amenities of the Green Belt.
14. I conclude that the appeal proposal would have a significantly adverse effect on openness, and that it would also detract from the visual amenities of this part of the Green Belt. It would thereby conflict with Policy D5B of the Structure Plan and national planning policy as expressed in PPG2.

Other considerations

The general need for gypsy accommodation

15. A gypsy and traveller accommodation needs assessment (GTANA) covering Stafford and four other districts was published in 2007. The GTANA identifies a need arising in Stafford for 70 additional pitches from 2007-2026. Of these,

³ Document 7.

there is a need for 22 in the period 2007-2012⁴ and a further 12 from 2012-2016. The Options Consultation for the Phase Three Revision of the West Midlands Regional Spatial Strategy (RSS) was scheduled to be published earlier this year. The consultation document (extracts of which were submitted by the Council) refers to the sub-regional accommodation assessments, and includes three options for the distribution of pitches. Option 1 is essentially concerned with meeting need where it arises, whilst options 2 and 3 involve differing elements of redistribution between districts. Over the period 2007-2017, the number of additional residential pitches for Stafford varies between 34 and 42. At this stage in its preparation, the weight attributable to the emerging RSS Revision is limited, but the possible levels of provision are consistent with the need identified in the GTANA.

16. In the 2006 appeal decision, the Inspector reached the view that there was a demonstrable need for additional gypsy accommodation in Stafford, but that this did not amount to a high level of need. The decision took into account information from several sources, but the only specific figures given for the Borough were the number of unauthorised caravans from the bi-annual count of gypsy caravans. The Council referred to the level of unauthorised camping as low: I have read that there are currently no other unauthorised sites and that only six complaints about unauthorised encampments have been recorded since 2007; and the five counts from January 2007 – January 2009 show the number of unauthorised caravans ranging between 7 and 16. Unauthorised sites and encampments, however, represent just one component of need, and the count is, moreover, a snapshot of the situation on two occasions during the year. The decision pre-dates publication of the GTANA, and the need identified therein takes into account the end of temporary permissions, new household formation, movement between sites and housing, and the closure of sites, in addition to unauthorised developments and encampments. The GTANA quantifies need for Stafford based on a range of indicators, and is an important consideration in the assessment of need in respect of the current appeal. The Council accepted that there is a need for gypsy sites in the District, but it suggested that it was not unusually large for districts in the region. The emerging RSS Revision gives higher pitch requirements in option 1 for nine of the thirty local authorities. In the more immediate area of the sub-region, however, the GTANA district summaries show that over the period 2007-2026 the highest level of need is identified in Stafford, and only Stoke-on-Trent has a higher figure for 2007-2012. I find that there is a high level of need for additional gypsy accommodation in Stafford. This is a factor which carries significant weight in support of the appeal proposal.

Gypsy and traveller policies

17. The 2006 appeal decision refers to Policy H12 of the Structure Plan and Policy HOU21 of the Local Plan concerning the provision of gypsy sites. Neither of these policies has been saved, and the only policy in the Development Plan concerning accommodation for gypsies and travellers is Policy CF5 of the RSS. This policy is concerned with delivering affordable housing and mixed

⁴ The statement of common ground refers to the need for this period including that for travelling showpeople, and this reflects table i in the Executive Summary of the GTANA which gives overall figures for each district. In the district summaries, however, future requirements are disaggregated, and separate figures for transit sites and travelling showpeople are given. The figure of 22 for Stafford relates solely to additional residential pitches for gypsies and travellers.

communities, and, amongst other things, it specifies that development plans should ensure that adequate provision is made for suitable sites to accommodate gypsies and travellers. In 2007, the West Midlands Regional Assembly (WMRA) issued an Interim Regional Statement on Gypsy & Traveller Policy (IRS). The IRS made it clear that local authorities should not wait for Phase Three of the RSS to allocate pitches, explaining that action was required then to address needs based on the document and the emerging accommodation assessments.

18. The Council intends to identify sites through the local development framework (LDF) process. It expects to prepare an Allocations Development Plan Document (DPD), which would include gypsy site provision, by 2011-12. It would be some time after that before pitches became available, and the Council estimated that this would occur by 2013-14. A criteria-based policy is intended to be included in the Core Strategy, but this is not expected to be adopted before 2010. Consequently, whilst an area of search is included in the LDF Issues and Options Paper published earlier this year, there is at present no local policy to respond to the acknowledged need for gypsy accommodation in Stafford. This reinforces the weight attributable to the general need for accommodation.
19. The appellants and their families are Romany Gypsies. The courts have recognised Romany Gypsies as a distinct ethnic group covered by the Race Relations Act 1976. Under the Act, public authorities are required to have due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good race relations. Whilst there is currently no local policy concerning gypsy site provision, the Council has acknowledged the need for accommodation, and intends to make provision through its LDF, with adoption of the Allocations DPD expected in 2011-12. The provisional date for publication of the final version of the Phase Three Revision to the RSS, which will include pitch numbers for Stafford, is autumn 2011, and the information before me indicated that the Council is seeking to progress gypsy site provision alongside preparation of the RSS Revision, reflecting the transitional arrangements set out in Circular 01/2006. It seems to me that the Council has had due regard to its duties under the 1976 Act, and I do not consider that that there has been a failing in this regard which would add weight to that arising from the current lack of policy.

Personal need

20. The appellants undertake roofing, garden maintenance and landscaping work, and have travelled in connection with these activities across central England. I heard that during the past year Mr W Varey and Mr J Varey have sought work locally. Mr W Varey explained that he had stayed nearby because of concerns about the existing situation concerning the site, and that he intended to travel away again in the future. The evidence before me does not indicate that they or their families have abandoned a nomadic habit of life. Mr Smith Senior no longer travels to seek work: he was injured in a shooting incident several years ago, and as a result he has problems in walking and suffers from depression. However the definition of gypsies and travellers in Circular 01/2006 includes persons of nomadic habit who have ceased to travel on the grounds of health needs. There is no dispute between the main parties that the occupants of the

appeal site have gypsy status, and, having regard to the definition in the Circular, I am satisfied that they are gypsies for the purpose of planning policy.

21. The appellants and their families moved onto Woodfield from different places. Mr W Varey had 'doubled-up' on other sites, most recently at Front Widdens in Hopton. He had to leave when the space was needed for someone else. His nephew, Mr J Varey, had had a pitch on a site near Gloucester. However, the site became a base for Irish Travellers, and he felt forced to move. Subsequently his family was able to stay for a while on a friend's pitch at Bulkington, but on the return of people from that site they had to leave. Mr Smith Senior and his son had previously occupied a pitch on a relative's site at Within Lane in Hopton. When it was needed for his relative's son he and his family moved, and a second pitch was needed as his own son was now married. Mr Clee and his family had similarly been making use of someone else's site at Hopton, prior to moving to Spot Acre.
22. Mr Clee, Mr Smith Senior and Mr Smith Junior were part of the original group who occupied the site in 2004. I heard that they looked round the area for possible sites and Mr Smith Senior explained that he had made enquiries with estate agents in Stafford. The Vareys moved on to the site after the 2006 appeal decision. Mr J Varey had tried unsuccessfully to obtain a place on a site in Nottinghamshire, and had then heard about the appeal site from his uncle who had moved on before him. There is no clear evidence to indicate that a systematic search for a site was undertaken. Nevertheless, the occupants of Woodfield have a need for a settled base. This is a significant consideration in favour of the proposal, although in the case of Mr W Varey and Mr J Varey the weight is somewhat less as they moved onto the site in the knowledge that the previous appeal concerning the enforcement notice had been dismissed.

Alternative accommodation

23. There is one public site in the Borough, at Glover Street in Stafford⁵. The returns for the bi-annual count refer to transit pitches at Glover Street. The GTANA, though, identifies it as a socially rented site, and the Policy and Procedure Manual for the site includes no limitation on length of stay. On the evidence before me I agree with the Council that it functions as a permanent residential site. However it was full at the date of the inquiry, and, although there was no waiting list, the Council explained that the turnover of pitches was infrequent. There are two other socially rented sites in the GTANA study area – at Newcastle-under-Lyme and Stoke-on-Trent. The appellants' planning witness understood that both were full and had waiting lists, and this evidence was not disputed by the Council.
24. The Local Plan Proposals Map shows that the greater part of the Borough is outside the Green Belt, and Circular 01/2006 makes it clear that alternatives should be explored before Green Belt locations are considered for gypsy sites. I heard from Councillor Harp that, following the 2006 appeal decision, the occupants of the site had made enquiries with the Council about an alternative location, and that he had arranged a meeting with officers to discuss this. There is little evidence, however, of any other attempt to seek an alternative

⁵ The 2006 appeal decision refers to two public sites in the Borough, that at Glover Street and another at Cemetery Road, Silverdale. The GTANA identifies the Silverdale site as being in Newcastle-under-Lyme.

location. Maps produced by the WMRA show that, taking account of other constraints in addition to Green Belt, including areas of outstanding natural beauty, flood risk and nature conservation designations, there are large areas of Stafford where gypsy sites may be acceptable. The area of search for sites included in the LDF Issues and Options Paper includes a substantial area to the west, north and east of the town of Stafford which is outside the Green Belt. However, no possible alternative site within the Borough was identified.

25. The Council drew attention to a public site at Foston in South Derbyshire where there were vacancies. I had the opportunity to visit this site, and there were eight vacant pitches at that time. The appellants said that in recent years there had been problems of anti-social behaviour on the site, but this was largely anecdotal and they had little direct knowledge of the site. Of greater relevance is the location of Foston in the East Midlands region. Whilst it can be appropriate to take account of possible alternative sites beyond the boundary of a local authority, it would also be necessary to consider the need in that other area. In this case, the East Midlands Regional Plan specifies a requirement for 19 additional pitches in South Derbyshire in the period 2007-2012. Moreover the Derbyshire Gypsy & Traveller Accommodation Assessment of 2008 (GTAA) identifies 11 applicants on the waiting list for the Foston site. In these circumstances, I do not consider it appropriate to take this site into account as being realistically available to meet need in another region.
26. Since the previous appeal, two of the families who originally occupied the site have left and gone elsewhere. Opportunities to relocate clearly do occur, but, nevertheless, no alternative sites other than that in South Derbyshire have been put forward. It was suggested that the Council had a history of granting planning permission for gypsy sites outside the Green Belt, but the information referred to in the GTANA identifies only two planning permissions for caravans since 2001. If the families have to leave the site at the present time, it is likely that they will resort to the roadside, and the lack of a realistically available alternative site adds further weight to the personal need of the occupants of Woodfield for a permanent base.

Personal circumstances

27. Several of the occupants of the appeal site have significant health conditions. The father of Mr J Varey lives with his son on pitch No 3. He underwent a triple heart bypass about two years ago. Mr & Mrs Clee share pitch No 2 with the family of their adult daughter. Their granddaughter, who is two years old, suffers from cystic fibrosis, and a letter from the North-West Midlands Cystic Fibrosis Centre⁶ explains that she requires regular two-monthly visits to the hospital and admission from time to time. On pitch No 4 are Mr & Mrs Smith Senior and their daughter aged 20. I have already referred to the depression and mobility problems experienced by Mr Smith, and his daughter has mental health issues. The health problems of Mr Smith and his daughter were taken into account in the 2006 appeal decision, and although I heard that Mr Smith's mental health condition was now more severe, there is no documentary evidence to substantiate this. A son of Mr Clee, who, I have read, requires medication for the rest of his life, is no longer resident on the site. The Council also pointed out that the family who were formerly on pitch No 3 had a son

⁶ Appendix 27 to Mr M Green's proof of evidence.

who was deaf and required regular medical appointments, although he was not identified in the previous appeal decision as one of three occupants of the site with health problems requiring long-term treatment. However, Mr Varey's father has moved onto the site since the previous appeal, and Mr Clee's granddaughter was not born then, and they both have significant health conditions. On the information before me, I consider that, overall, health concerns are greater now than in 2006.

28. In 2006, Mr & Mrs Clee's younger daughter, Chantelle, had home tuition, but there were no children attending school. Chantelle was due to finish home tuition this year, but in addition the two sons of Mr & Mrs J Varey had been attending Fulford Primary School for about two years. I heard from the headteacher that both boys had made good progress since their arrival at Fulford. She emphasised the importance of continuity, particularly for the elder son who was due to transfer to secondary school this year with other children from Fulford.
29. I have taken into account that the Vareys moved onto the site following dismissal of the enforcement notice appeal. Nevertheless, a settled base facilitates access to education and healthcare services, and, in the absence of an alternative site, this factor provides important support, particularly in relation to the three families where there are significant health concerns.
30. The five families are all related, and the appellants argued that they wished to live as an extended family unit. They have, however, only lived together since the arrival of the Vareys. Due to Mr Smith Senior's health problems, he is dependent on his son, and I appreciate the importance of these two families occupying the same site. Otherwise, whilst the appellants undoubtedly prefer to live in this group, the evidence before me does not indicate that it is important having regard to both past and present living arrangements. With the exception of the Smiths, it is not a matter which adds greatly to the argument on personal circumstances.

Previously-developed land

31. It is argued on behalf of the appellants that the site comprises previously-developed land, and I note that the Council's witness agreed with this in cross-examination. Previously-developed land is defined in Annex B of Planning Policy Statement 3 - Housing, and is land which is or was occupied by a permanent structure. As reference is then made separately to associated fixed surface infrastructure, I do not consider that the hardstanding and fencing related to the former use by a landscaping company are structures for the purpose of the definition. The office and store buildings are described as temporary buildings in a 1997 appeal decision and in planning applications for their retention, and the elevations show portacabin type structures. From the information available I do not consider that they were permanent structures, and consequently I am not persuaded that the site is previously-developed land. This matter does not, therefore, provide additional weight in support of the appeal proposal.

Conclusions

32. PPG2 establishes that very special circumstances to justify inappropriate development in the Green Belt will not exist unless the harm by reason of

inappropriateness, and any other harm, is clearly outweighed by other considerations. There is a clear general need for additional gypsy and traveller accommodation in the Borough. This carries significant weight, which is reinforced by the current absence of policy to address that need. I have taken into account that the Varey families moved onto the appeal site in the knowledge that the enforcement notice appeal had been dismissed, and the weight attributable to their personal situation is somewhat less than in the case of the other three families. Nevertheless, I regard the overall personal need of the occupants of the appeal site for a settled base as significant, emphasised by the importance of access to education and healthcare facilities, and also by the lack of any realistically available alternative site. It is also important that Mr Smith Senior is able to occupy a site with his son.

33. In accordance with PPG2, the harm by reason of inappropriateness carries substantial weight. The proposal would also cause significant actual harm to openness, which is the most important attribute of the Green Belt, and it would also detract to an extent from its visual amenities. I acknowledge that there have been a number of important changes in circumstance since the 2006 appeal decision. The introduction of brick buildings would have a greater effect on openness, the general need for gypsy accommodation has been quantified and is at a level which I regard as high, there are no local policies to address this need, and healthcare and educational needs are greater. Apart from the effect on openness, these changes favour the appeal proposal, but the various aspects of harm to the Green Belt are strong reasons against the granting of a permanent planning permission. I conclude that the harm arising from the appeal proposal would not be clearly outweighed by other considerations. Consequently very special circumstances to justify inappropriate development in the Green Belt do not exist in the case of the proposal for a permanent gypsy site.
34. Circular 01/2006 makes it clear that consideration should be given to granting a temporary permission where there is no alternative provision, but a realistic expectation exists that sites are likely to come forward at the end of the period to fulfil unmet need. The Council intends to make provision through the LDF, and anticipates that its Allocations DPD will be adopted by 2012. Allowing time thereafter for sites to be actually provided, there is a reasonable expectation that they could become available within five years. In these circumstances, the unmet need carries substantial weight. The direct harm to the openness and the visual amenities of the Green Belt would be expected to cease at the end of the period of a temporary permission, and this could be secured by a condition requiring reinstatement of the site. In consequence, the harm arising would be less than that from a permanent change of use of the land, and I have already found that several changes in circumstance since 2006 support the proposal. Taking all these factors into account, I conclude that the harm arising from the change of use of Woodfield to a gypsy site for a temporary period of five years would be clearly outweighed by other considerations, and that on this basis very special circumstances exist to justify inappropriate development in the Green Belt. The scheme includes brick utility/ day rooms, but a condition could provide for temporary buildings as an alternative, and use of the land for a limited period need not involve the erection of the brick structures.

35. In considering this proposal, I have taken into account the human rights of the occupants of the appeal site. Following dismissal of the previous appeal, the enforcement notice has effect and the Council has resolved to take injunctive action to secure compliance. Consequently, I anticipate that it would seek to ensure that the use of the land as a gypsy site ceased following the expiry of a temporary planning permission. The eventual loss of their home would represent an interference with the rights of the occupants under Article 8 of the European Convention on Human Rights. However this interference must be weighed against the wider public interest. For the reasons given above, I consider that the legitimate aims of protecting the Green Belt can only be adequately safeguarded by restricting the use of the land at Hilderstone Road to a temporary period. The protection of the public interest cannot be achieved by means which are less interfering of the rights of the occupants of the site. Restriction of planning permission to a temporary period is necessary and proportionate, and it would not result in a violation of their human rights.
36. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed in respect of a temporary period only.

Conditions

37. I have already referred to conditions concerning a temporary planning permission, reinstatement of the site and alternative utility buildings, all of which I intend to impose. It is important that occupancy is restricted to prevent general residential use in this Green Belt location, and as the balance in favour of a temporary permission is dependent to a significant degree upon the personal need and circumstances of the appellants and their families, a condition limiting occupancy accordingly is necessary. To ensure that the development would be in keeping with its surroundings, conditions are necessary concerning the layout (which is not entirely consistent with the submitted site plan), the number and type of caravans, external lighting and the materials to be used for the utility/ day rooms. For the same reason, no large commercial vehicles should be kept at the site. It is important that the site has a satisfactory system of foul drainage, and a scheme should be submitted for approval.
38. I do not intend to impose conditions concerning landscaping, the site access, and the generators. Given the extent of tree and hedgerow cover around the site, I do not consider that it is necessary to require further planting for the duration of a temporary permission. The gates at the access are already well set back, and I do not consider that any further works are required to the configuration of the access to safeguard highway safety. There are two generators in the paddock adjacent to the appeal site. There have been a few expressions of concern about noise from local residents, but this has not been raised as a principal concern in this case, and other powers are available to the Council to address problems of noise nuisance which may arise.

Richard Clegg

INSPECTOR

Schedule of Conditions

- 1) The occupation of the site hereby permitted shall be carried on only by: William & Violet Varey and their resident dependants and William Varey Junior; George & Kathleen Clee and Sam & Melissa Finney and their resident dependants; John & Charmaine Varey and their resident dependants and Tom Varey; Jim Smith Senior & Julie Ann Smith and Jodie Smith; and Jim Smith Junior & Marnie Smith and their resident dependants.
- 2) At the end of five years, or when the land ceases to be occupied by those named in condition No 1 above should this occur earlier, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use, including the utility/ day rooms hereby permitted, shall be removed. Within 3 months of that time the land shall be restored in accordance with a scheme previously submitted to and approved in writing by the local planning authority.
- 3) There shall be no more than five pitches on the site and on each of the five pitches hereby approved no more than two caravans shall be stationed at any time, of which only one caravan shall be a static caravan or mobile home.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for: the internal layout of the site, including the siting of caravans and internal boundary treatment; the means of foul drainage of the site; and proposed and existing external lighting on the boundary of and within the site; (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
 - ii) if within 11 months of the date of this decision the site development scheme has not been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 5) None of the utility/day rooms hereby permitted shall be erected until samples of the materials to be used in the construction of the external surfaces have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 6) No sheds or utility/ day buildings, other than those hereby permitted, shall be erected on the site unless details of their size, materials and location have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Green of Counsel	Instructed by the Borough Solicitor.
He called	
Miss S Empsall BSc	Planning Officer.
DipTP MRTPI	

FOR THE APPELLANTS:

Mr A Masters of Counsel	Instructed by Green Planning Solutions LLP.
He called	
Mr W Varey	Joint appellant.
Mr J Varey	Joint appellant.
Mr G Clee	Joint appellant.
Mrs J E Tarr	Headteacher, Fulford Primary School.
Mr J Smith Senior	Joint appellant.
Mr J Smith Junior	Joint appellant.
Mr M Green	Partner, Green Planning Solutions LLP.

INTERESTED PERSONS:

Councillor A Harp	Member of the Borough Council for Fulford Ward.
Mrs J Barnard	Local resident.
Miss R B Dilmitis	Provider of machinery for work on the appeal site.
Mrs J Dodd	Local resident.
Mrs P Redfern	Local resident.
Mr P Roycroft	Local resident.

DOCUMENTS

- 1 Letters of notification of the appeal and inquiry.
- 2 Statement of common ground.
- 3 Illustrative site layout referred to in the 2006 appeal decision concerning the appeal site. Submitted by Miss Empsall.
- 4 Letter dated 24 June 2009 from Mrs Tarr to School Admissions concerning John Varey. Submitted by Mr M Green.
- 5 School reports for John and Sam Varey. Submitted by Mr M Green.
- 6 Local Plan Proposals Map. Submitted by Miss Empsall.
- 7 Bundle of photographs of the appeal site in 2004. Submitted by Mr M Green.
- 8 Undated aerial photograph of the appeal site. Submitted by Miss Dilmitis.
- 9 Consultation response on the planning application from Staffordshire Wildlife Trust. Submitted by Miss Empsall.
- 10 Policy E&D12 and Inset Map 35 from the Local Plan. Submitted by Miss Empsall.
- 11 Outline planning permission and location plan, and approval of reserved matters for residential development at Stallington Hospital, Stallington. Submitted by Miss Empsall.

- 12 Undated photograph of the land to the north-west of the appeal site. Submitted by Mr Roycroft.
- 13 Extract from Appendix 2 of the East Midlands Regional Plan. Submitted by Mr M Green.
- 14 Extract from Derbyshire GTAA Final Report. Submitted by Mr M Green.
- 15 Appeal decision concerning a gypsy site at Catworth, Cambridgeshire. Submitted by Mr M Green.