

Town and County Planning Act 1990 (As Amended) - Section 78

Town and Country Planning (Hearing Procedure) (England) Rules 2000

**APPEAL BY LARRY CONNORS AGAINST THE REFUSAL OF
NORTH HERTFORDSHIRE DISTRICT COUNCIL, AS LOCAL
PLANNING AUTHORITY, TO GRANT PLANNING PERMISSION
FOR USE OF LAND FOR RESIDENTIAL CARAVAN SITE FOR 8
GYPSY FAMILIES INCLUDING HARDSTANDING AND EXISTING
LIGHTS (DEVELOPMENT ALREADY CARRIED OUT)**

AT

LAND WEST OF ST ALBANS ROAD CODICOTE, HERTFORDSHIRE

**STATEMENT OF CASE OF PHILLIP E HUGHES MRTPI
ON BEHALF OF NORTH HERTFORDSHIRE DISTRICT COUNCIL**

DECEMBER 2025

PLANNING INSPECTORATE REF: 6000934

LOCAL PLANNING AUTHORITY REF: 25/00979/FP

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Phillip Eric Hughes will say:

I am the principal of PHD Chartered Town Planners, a town planning consultancy that I established in 1995. I had also worked at a senior level in local government for 10 years in both Planning Policy and Development Control.

I have a Bachelor of Arts Honours Degree (BA [Hons]) in Town and Country Planning and have been a corporate member of the Royal Town Planning Institute (MRTPI) since 1990 and I am a Fellow of the Royal Geographical Society (FRGS) as well as being a Fellow of the Royal Society for Arts (FRSA). I also have a Diploma in Management Science (Dip Man), and I am a Member of the Institute of Management (MCMI). I am also a member of the Town and Country Planning Association and an affiliate member of the RIBA.

I have represented a wide variety of clients at appeals ranging from Local Planning Authorities (including LB Camden, RB Kingston, Spelthorne, Hertsmere, Watford and Walsall Boroughs and Central Bedfordshire, Uttlesford, Epping Forest and Bassetlaw Districts), to Parish Councils (including Bovingdon, Hartlip and Tetsworth) to housebuilders (including New Homes Estates Limited, MASMA Limited, Whittleworth Homes, Henry Homes plc.), to developers (Lanz Group, Mitre Property Management Limited, Mark Stephen Limited etc.), to property companies (Orb Estates, Property Matters LLP, Property Matters LLC, Albermarle Property Investments plc.), to businesses (Super Toughened Glass Limited, Williams Tenders Limited, JIRWL, Hollywell Spring Limited), and amenity groups (Anglefield Residents Association, Stopit Action Group, Paynes Lane Association, Hemley Hill Action Group, Birch Green Residents Group, Bury Gate Residents Association) and individual householders.

I have visited the appeal site and general locality on a number of occasions, and I am familiar with the policies applicable to the site. I am familiar with the local, national and regional planning policies relevant to this appeal.

The evidence that I have prepared and provide for this appeal has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute and I confirm that the opinions expressed are my true and professional opinions.

Phillip E Hughes BA(Hons) MRTPI FRGS FRSA Dip Man MCIM

1 Introduction

- 1.1 This statement is provided on behalf of North Hertfordshire District Council (**‘the Council’**) in respect of an appeal submitted by Mr Larry Connors (**‘the Appellant’**) regarding the decision of the Council to refuse to grant planning permission for:

*“Use of land for residential caravan site for 8 gypsy families including hardstanding and existing lights (development already carried out)” (**‘the Application’**)*

- 1.2 The area of the appeal site is defined on the application plan and comprises land west of St Albans Road outside the settlement of Codicote in the Green Belt countryside:
- 1.3 The appeal site comprises open countryside land lawfully devoid of development and open.
- 1.4 The application was determined under the Officers’ delegated powers, and a copy of the Officer Report is included at **Appendix 1**. The Local Planning Authority refused permission for the following reasons as outlined in the Decision Notice included at **Appendix 2**:

1. *The application site is within an area designated in the North Hertfordshire Local Plan as Green Belt, within which there is a presumption against inappropriate development, unless very special circumstances can be demonstrated. In the view of the Local Planning Authority, the development does not fully comply with the exemption criteria set out under paragraphs 154 and 155 of the NPPF. Furthermore, the development results in a materially greater impact on openness and would conflict with one of the five purposes of the Green Belt. As such, in the opinion of the Local Planning Authority, the harm to the Green Belt by reason of inappropriateness, as well as to openness and the purposes of the Green Belt, is not clearly outweighed by other material considerations and as a result, very special circumstances have not been demonstrated. As such, the development does not accord with the provisions of Policy SP5 of the North Hertfordshire Local Plan 2011 - 2031 or with the provisions of Section 13 of the NPPF*
2. *By reason of its location with in the Green Belt , remoteness from local services and the lack of need for this type of residential accommodation as evidenced by the Council's Gypsy and Traveller Accommodation Assessment (2024) the development is considered to be contrary to the provisions of Policy HS7 of the North Herts Local Plan 2011 - 2031.*

- 1.5 In my evidence I refer to and rely upon the evidence of colleague Steve Jarman of ORS who provides evidence on need and five year supply. I provide planning evidence addressing Green Belt and locational impacts and the planning balance as well as addressing the policy position.
- 1.6 In assessing harm and benefits I have adopted a scale where substantial is the top of the scale and none, i.e. no harm, is the bottom as set out below:

Substantial
Significant
Moderate
Limited
Negligible
None

Photography and Images

- 1.7 I have used a variety of photographs in my proof and appendices. I have recognised where images are taken from Google Earth or Google Streetview and identified Google as the source © Google.
- 1.8 Where I have also included photographs that I took, they are not taken to professional standard and are intended to assist the Inspector in appreciating the impacts I refer to overall in this statement and to provide a useful guide that may assist when undertaking their site visit.
- 1.9 All Ordnance Survey imagery is reproduced under licence from His Majesty's Stationary Office and Ordnance Survey (100062343).

Abbreviations

- 1.10 I have used a number of abbreviations throughout this Statement which may include:

NPPF – National Planning Policy Framework
PPG – Planning Policy Guidance
PPTS – Planning Policy for Traveller Sites
NHLP – North Hertfordshire Local Plan 2015 – 2035
GTAA – Gypsy and Traveller accommodation Assessment
SoCG – Statement of Common Ground
SoC – Statement of Case
PRoW – Public Right(s) of Way
BNG – Biodiversity Net Gain
Ha. - Hectare(s)
SoS – Secretary of State
DL – Decision Letter
IR – Inspector's Report

2 Appeal Site and Surroundings

- 2.1 The site is located at the western edge of the Pulmer Water caravan park accessed off St. Albans Road, to the south of Codicote.
- 2.2 The site area is stated on the application form to be 0.22 hectares¹. I do not think that includes all the appeal site and I suspect it relates to only the area of the site occupied by proposed caravans and excludes the access drive which is identified as part of the appeal site. Indeed, the Appellant's Statement of Case corrects this to a site area of 3.5 hectares².
- 2.3 To the north of the site is a restored former quarry and to the south east are two detached residential properties.
- 2.4 The site is located within the Green Belt and countryside.



The Appeal Site in Red (Excluding Access Route) © Google

- 2.5 The application site is accessed through Pulmore Water caravan park the main access to which is served off St. Albans Road. St Albans Road is a narrow country lane where two cars cannot pass one another other than by using informal passing points. The road is narrow, winding, unlit, bounded by tall vegetation and does not have pavements.
- 2.6 On the site (as of July 2025) there were twelve static caravans and one touring caravan.

¹ I calculate the main site area to be occupied by caravans – i.e. the land excluding the access driveway – to be 0.24 hectares

² See Appellant's SoC at 2.1

3 The Application the Subject of this Appeal and Planning History

- 3.1 The application is located on land the subject of a previous enforcement appeal and application for an extension of time.
- 3.2 On 20th September 2011 NHDC issued an enforcement notice in respect of a material change of use of land at Pulmer Water relating to a mixed use as a residential mobile home and caravan site and the storage of vehicles, machinery and equipment including associated works such as hardsurfacing, enclosures, containers, external lighting and other services. A copy is included at **Appendix 3**.
- 3.3 An appeal against the enforcement notice was submitted. On 8th March 2012 an appeal decision was issued granting a temporary planning permission for 5 years. The five- year temporary permission expired on 8 March 2017. A copy of that appeal decision is included at **Appendix 4**.
- 3.4 I note that at the time of that decision the Inspector notes that a number of the caravans at Pulmore Water were vacant and others were occupied by persons who were not Gypsies or travellers³.
- 3.5 That appeal was allowed on the basis that at the time the Council could not demonstrate sufficient sites to meet the needs of Gypsy and travellers or demonstrate a five-year supply of such sites. In granting a temporary permission it was anticipated that the Council would resolve this matter through its plan making powers and allocate the necessary sites.
- 3.6 Condition 2 of that decision required that the occupiers of the pitches must meet the then definition of gypsy and travellers in order to contribute to meeting the housing needs of this community. The appeal allowed for six pitches consisting of a maximum of one static caravan and one touring caravan per pitch.
- 3.7 In 2018 an application was submitted seeking temporary planning permission (ref. 18/00794/FP) for a change of use of land to use as a residential caravan site for 8 gypsy families including retention of hardstanding and existing lights. Temporary permission was granted on 25.02.21. Condition 1 of this permission stated:

The use of the land for up to 8 pitches (maximum 2 caravans per pitch) for caravans/mobile homes for residential purposes is hereby permitted for the period up until 31 October 2022. At the end of this period and by the expiry date of this permission the use shall cease, all caravans and associated facilities and infrastructure shall be removed from the site and the land reinstated to a satisfactory condition. For the avoidance of doubt the current hard standing on the site shall also be removed by the expiry date of this permission.

³ See DL5

Reason: The need for the site for gypsy and traveller accommodation has not been demonstrated and the use of land is inappropriate and therefore must cease within an 18 month period in the long term interest of preserving the openness of the Green Belt within which the site is located.

- 3.8 The temporary planning permission granted under ref: 18/00794/FP expired on 31st October 2022. A copy of this permission is included at **Appendix 5**.
- 3.9 In respect of the ongoing occupation of the site contrary to condition 1 of planning permission 18/00794/FP a Breach of Condition Notice was served in August 2025, and a copy is attached at **Appendix 6**.

4 The Policy Context

4.1 The relevant development plan document for the determination of the appeal is the North Hertfordshire Local Plan 2011 – 2031 adopted in November 2022 ('**NHLP**').

4.2 The development plan policies relevant to determination of this appeal comprise:

Policy SP1: Presumption in favour of sustainable development
Policy SP5: Countryside and Green Belt
Policy SP12: Green infrastructure, landscape and biodiversity
Policy T1: Assessment of transport matters
Policy HS7: Gypsies, Traveller and Travelling Showpeople
Policy NE2: Landscape
Policy NE8: Sustainable drainage systems

4.3 In particular, conflict has been identified in the reasons for refusal with Policies SP5 and HS7. Other policies and the full text of the development plan policies and their supporting text were included with the questionnaire.

4.4 The Council has adopted its Local Plan in November 2022 after a thorough and protracted Local Plan examination where it was found to have a sound basis for its Gypsy and Traveller accommodation strategy which included removing the site as an allocated gypsy and traveller site following an evidence-based approach to need over the Plan period.

4.5 Policy SP5 states inter alia:

*We support the **principles of the Green Belt and recognise the intrinsic value of the countryside**. Green Belt and Rural Areas Beyond the Green Belt are shown on the Policies Map. We:*

- a) Have conducted a comprehensive review of the Green Belt. Land has been removed from the Green Belt to: [...]*
- b) Have provided new Green Belt to cover, in general terms, the area bounded by the Metropolitan Green Belt to the east, the Luton Green Belt to the west and the A505 Offley bypass to the north;*
- c) **Will only permit development proposals in the Green Belt where they would not result in inappropriate development or where very special circumstances have been demonstrated; and***
- d) [...].*

4.6 Policy HS7 relates to Gypsies, Travellers and travelling Showpeople and states inter alia:

The Council will protect existing and allocated lawful pitches for Gypsies and Travellers.

The following site, as shown inset into the Green Belt on the Policies Map, is allocated for the provision of permanent Gypsy and Traveller pitches to meet the District's needs up to 2031:

- Policy CD6 - Land at Woodside Place, Danesbury Park Road is allocated for the provision of 4 permanent Gypsy and Traveller pitches.

This site is allocated solely for the accommodation of Gypsy and Travellers that meet the planning definition. Planning Permission will only be granted for development and occupation that meets the planning definition of Gypsy and Travellers. Other uses will not be permitted.

There is no identified need to allocate any transit or travelling showpeoples' sites.

a) Planning permission for accommodation for Gypsies and Travellers or Travelling Showpeople will be granted where:

- b) it satisfies a demonstrated local need for accommodation;*
- c) the intended occupants meet the planning definition of Gypsies and Travellers, or Travelling Showpeople, as set out in government guidance or case law;*
- d) residents of the proposed site can access local services such as shops, schools, public transport and medical facilities within a reasonable distance from the site and where those facilities have capacity to meet the needs of the site's residents;*
- e) the proposed site:*

- i. does not conflict with any other development plan policy or national policy including flood risk, agricultural land classification, contamination and hazardous development, and has no significant adverse impact on the character and appearance of the countryside, or on features of significant biodiversity or heritage importance;*
- ii. has no significant adverse impact on the amenity of nearby residents or adjoining land users and can be successfully screened and contained within a specified boundary;*
- iii. has adequate and safe access from a suitable road, and adequate parking, storage, turning and servicing on site;*
- iv. is capable of being serviced with water, electricity, sewerage and rubbish disposal; and*
- v. will provide a safe, inclusive and secure environment for the residents in an appropriate location to meet their needs.*

Where all the above criteria are met, proposals for sites for Gypsies, Travellers and Travelling Showpeople may be appropriate in the countryside as rural exception sites (in line with Policy CGB2b) but Green Belt policies would still apply.

4.7 Policy NE2 relates to landscaping and states:

Planning permission will be granted for development proposals that:

- a) Respect the sensitivities of the relevant landscape character area and have regard to the guidelines identified for built development and landscape management;*
- b) Do not cause unacceptable harm to the character and appearance of the surrounding area or the landscape character area in which the site is located, taking account of any suitable mitigation measures necessary to achieve this;*
- c) Are designed and located to ensure the health and future retention of important landscape features; and*

d) Have considered the long-term management and maintenance of any existing and proposed landscaping

- 4.8 The NPPF incorporates the presumption in favour of sustainable development at paragraph 11 which is referred to in the NHLP. The following sections of the NPPF are relevant to determination of this appeal:

Section 5 – Delivering a sufficient supply of homes
Section 8 – Promoting healthy and safe communities
Section 9 - Promoting sustainable transport
Section 11 - Making effective use of land
Section 12 - Achieving well-designed places
Section 13 - Protecting Green Belt land
Section 15 - Conserving and enhancing the natural environment

- 4.9 In terms of five year supply and calculating five year supply the NPPF at paragraph 78 states inter alia:

Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.

- 4.10 The Local Plan is less than five years old and therefore the requirement of the plan is the appropriate measurement for assessing five year supply.

- 4.11 In respect of inappropriate development in the Green Belt, the NPPF⁴ advises:

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations

- 4.12 The Green Belt chapter of the NPPF has been revised to introduce the concept of grey belt and the possibility that development on such land could, in certain circumstances pursuant to paragraph 155, be considered development that was not inappropriate in the Green Belt. The glossary defines grey belt as:

“For the purposes of plan-making and decision-making, ‘grey belt’ is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. ‘Grey belt’ excludes land where the application of the policies

4

See NPPF paragraph 153

relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.”

4.13 Paragraph 155 NPPF states (so far as relevant):

“The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all the following apply:

- a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;*
- b. There is a demonstrable unmet need for the type of development proposed;*
- c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; [...]*”

4.14 The PPG advises in respect of openness⁵:

“Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgement based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume*
- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness*
- the degree of activity likely to be generated, such as traffic generation”*

4.15 The PPG was revised in respect of grey belt in February 2025 and now provides guidance in respect of assessing whether land makes a strong contribution to purposes (a), (b) or (d).

4.16 The PPG specifically requires the document to be read in conjunction with the Framework (see paragraphs 1 and 23) and that in conjunction with §38(1) and (6) of the PCP Act 2004 decisions should be taken in accordance with the development plan unless material considerations indicate otherwise.

4.3 The overarching aim of Government is set out at paragraph 3 and paragraph 4 sets out the ways Government aims to achieve this aim including:

- that local planning authorities should make their own assessment of need for the purposes of planning*

⁵

Reference ID: 64-013-20250225

- *that plan making and decision-taking should protect the Green Belt from inappropriate development*
- *to enable the provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure*
- *for local planning authorities to have due regard to the protection of local amenity and local environment*

- 4.17 Paragraph 13 PPTS relates to plan making and states that Local Planning Authorities should ensure that their policies meet eight criteria.
- 4.18 The PPTS at Paragraph 16 reiterates that inappropriate development is harmful to the Green Belt and that Gypsy and traveller sites (temporary or permanent) in the Green Belt are inappropriate development unless the exceptions set out in Chapter 13 of the NPPF apply.
- 4.19 Paragraph 18 makes clear that the “Golden Rules”, set out in Chapter 13 of the NPPF, do not apply to traveller sites. Paragraph 28 PPTS requires that should a local planning authority not be able to demonstrate an up to date 5 year supply of deliverable sites, then the provisions in paragraph 11(d) of the NPPF apply.

5 The Council's Case

- 5.1 In this section I will explain that in my view the proposed development comprises inappropriate development regardless of its Green Belt or grey belt status.
- 5.2 I will then explain my view that in addition to definitional harm where a proposal is inappropriate, the proposal will lead to harm to openness in both the spatial and visual aspects. I will then move on to explain my view as to the proposal's conflict with purposes of land in the Green Belt.
- 5.3 Having described and weighted the Green Belt harm I will then consider other harm.

Does the Proposed Development Comprise Inappropriate Development?

- 5.4 North Hertfordshire has two areas of Green Belt, the London Metropolitan Green Belt covering Hitchin, Letchworth Garden City, Baldock, Stevenage and nearby settlements, and the Luton Green Belt covering parts of the west of the District.
- 5.5 The appeal site lies outside any existing settlement and is within the countryside and designated Green Belt as defined on the Policies Map of the NHLP. Consistent with the Framework 2024 Policy SP5 NHLP does not include Gypsy and traveller caravan sites as a form of development comprising an exception to the definition of inappropriate development. This is consistent with the PPTS which notes:
- Traveller sites (temporary or permanent) in the Green Belt are inappropriate development unless the exceptions set out in Chapter 13 of the National Planning Policy Framework apply.*
- 5.6 Irrespective of whether the land comprises grey belt land, I do not consider the proposed development to be not inappropriate.
- 5.7 NPPF 154 states unequivocally that development in the Green Belt is inappropriate unless one of the exceptions apply.
- 5.8 None of the eight exceptions apply to the appeal site or the form of development proposed. Therefore, Gypsy and Traveller sites do not comprise a category of development identified in the NPPF as an exception.
- 5.9 In the circumstances that the land can be considered to be grey belt land then in order for development not to be inappropriate then it will need to meet both the following tests set out in paragraph 155 NPPF:

b) that there is a demonstrable unmet need for the type of development proposed and footnote 56 clarifies that this means a lack of a five year supply of deliverable traveller sites; and

c) that the development would be in a sustainable location with particular reference to paragraphs 110 and 115 NPPF as well as paragraph 13 PPTS.

- 5.10 With respect of 155(b) the adopted Local Plan and 2024 GTTA define the level of need in North Herts. NPPF 78 makes clear that a development plan that is less than five years old provides the requirement against which five year supply is to be measured. As demonstrated by Mr Jarman the plan meets that need through the allocation of land pursuant to Policy HS7 and Policy CD6 which allocates Land at Woodside Place, Danesbury Park Road for the provision of 4 permanent Gypsy and Traveller pitches to meet the need arising over the plan period. Therefore, the Council has demonstrated a five year supply and there is not a demonstrable unmet need for the type of development proposed. NPPF 155(b) is not satisfied and as such the proposed development remains inappropriate.
- 5.11 In addition to NPPF 155(b) the proposed development would also fail to be considered not inappropriate pursuant to NPPF 155(c). In that context the requirement of 155(c) relates to the **location** of the development and it is that location that has to be sustainable in order to satisfy 155(c).
- 5.12 The appeal site is located remote from any settlement the closest settlement is Codicote and the town centre and facilities in Codicote are located 1.7 kilometres from the centre of the appeal site.
- 5.13 In addition to the distance from the appeal site is the nature of the journey. Once you leave Pulmer Caravan site you enter onto St Albans Road. In the area of the appeal site the road is a narrow single carriageway road with limited passing points, tall enclosing hedgerow and no street lighting or separation for pedestrians or cyclists. The road also climbs up toward Codicote is undulating and winds between tall vegetation with limited forward visibility.
- 5.14 I note that my characterisation of the road serving the appeal site is largely agreed between the parties⁶.
- 5.15 The road is subject to the national Speed Limit (60 mph) and my observations at site are also that traffic passes along it at high speeds (albeit probably not 60 mph).

⁶ See Appellant's SoC at 2.3



St Albans Road travelling south from Codicote toward the Appeal Site

- 5.16 I do not consider St Albans Road to be viable or safe environment for pedestrians or indeed for inexperienced cyclists especially children.
- 5.17 Accordingly, by reason of its remoteness from facilities including by distance and countryside location as well as by reason of the nature of any journey from the appeal site I do not consider it to comprise a sustainable location for new residential development including a Gypsy and traveller site.
- 5.18 I recognise that the NPPF distinguishes between urban and rural locations in terms of sustainability, and I accept that some countryside locations located away from facilities can be considered to be sustainable when serviced by less accessible facilities than in urban areas. However, no bus services pass the appeal site, no footpaths are available to walk safely to any facilities, no streetlighting is available and vehicles travelling along St Albans Road are a major disincentive to any form of transport other than the private vehicle.
- 5.19 I acknowledge that paragraph 13 of the PPTS (which relates to plan making not decision taking) and addresses the dimensions of sustainable development whereas 155(c) is clearly related to, a focussed on, the location of development. It cannot be the intention of Government in assessing Gypsy and traveller sites to consider all settled bases to be sustainable. Given the characteristics of this site for the reasons I have set out previously and the Council identified in the Officer Report at **Appendix 1** and Decision Notice at **Appendix 2** I do not consider this to be a sustainable location for new development.

- 5.20 Therefore, the proposed development comprises inappropriate development in the Green Belt. The broad approach of policy in respect of the Green Belt is to designate areas of Green Belt land and then to consider development within the Green Belt to be inappropriate unless it is specifically identified as an exception⁷.
- 5.21 The NPPF confirms that harm by way of inappropriateness and any other Green Belt harm is harm that should be attributed substantial weight⁸. The NPPF then goes on to state that inappropriate development is by definition harmful and should not be approved except in very special circumstances.
- 5.22 NPPF 153 confirms that “*very special circumstances*” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. It is important to note that the test is to be “*clearly outweighed*” and not to merely “outweigh”.
- 5.23 The application of NPPF paragraph 153 provides a clear reason to refuse planning permission under NPPF 11(d)(i), and it would only ever be through the exercise of the Green Belt planning balance in NPPF paragraph 153 wherein other considerations are demonstrated to clearly outweigh the harm by way of inappropriateness and any other harm that permission could be granted.
- 5.24 Therefore, the correct approach to decision making necessitates identifying both Green Belt and any other harm and providing weight for each harm and then identifying the “other considerations” relied on in support of the application by the Appellant and weighing them. Then only if those other considerations “clearly outweigh” the harm by way of inappropriateness and all other harm do very special circumstances exist.
- 5.25 The development comprises inappropriate development and substantial weight applies to such harm as recognised by the NPPF. The proposal conflicts with the NPPF and Policy SP5 NHLP and inappropriate development is of itself harmful to the Green Belt.
- 5.26 As such, the burden to justify the grant of planning permission passes to the Appellant in this case as in order to grant planning permission other considerations of sufficient force to clearly outweigh all the harm to the Green Belt and any other harm must be demonstrated before very special circumstances exist.
- 5.27 In conclusion the proposals comprise inappropriate development, such development is by definition harmful and carries substantial weight in the planning balance⁹.

⁷ Timmins and Anr and Gedling Borough Council [2014] EWHC 654 (Admin)

⁸ NPPF 153

⁹ Substantial weight is required by the NPPF as opposed to significant weight as referred to in the Officer Report at paragraph 4.3.23

Green Belt - Openness

- 5.28 The Framework identifies openness and permanence as the essential characteristics of the Green Belt with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open¹⁰. Green Belt policy is a spatial policy.
- 5.29 The concept of openness means the state of being free from built development; the absence of built form as distinct from the absence of visual impact¹¹. Land completely free of development, such as the appeal site, is open. However, the word “openness” is open-textured, and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the relevant part of the Green Belt is now and how built up it would be if the proposed development occurs and factors relevant to the visual impact on the aspect of openness which the Green Belt presents¹².
- 5.30 Following the Court of Appeal Judgement in **Turner**¹², the Government updated the PPG in July 2019 in respect of openness and this has been carried forward without any material change into the updated PPG¹³ and it now states:

Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume*
- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness*
- the degree of activity likely to be generated, such as traffic generation.*

- 5.31 I am advised that the Supreme Court in **Samuel Smith**¹⁴ found that on a proper reading of the NPPF the visual quality of landscape is not in itself an essential part of openness for which the Green Belt is protected. Therefore, the visual component of openness is capable of being a material consideration, but it is not necessarily a consideration in every case. In my view that reflects the fact that Green Belt policy is a spatial and not visual policy. However, in this case I consider that the impact on openness would have both a spatial and visual dimension.

¹⁰ NPPF paragraph 142

¹¹ **R (Lee Valley RPA) v Epping Forest DC** [2016] EWCA Civ 404, as quoted at 23 and discussed at 40 of the Samuel Smith Judgement (fn 15)

¹² **Turner v SSCLG** [2016] EWCA Civ 466, Arden, Floyd and Sales LJ

¹³ Reference ID: 64-013-20250225

¹⁴ **R (Samuel Smith Old Brewery (Tadcaster) & Ors v N. Yorks CC** [2020] UKSC3 on appeal from EWCA Civ 489

Baseline

- 5.32 The lawful position of the existing site is one devoid of any development, there is no building or structures on the appeal site¹⁵.
- 5.33 Therefore, the site is devoid of development and thus open spatially. The site is perceived and experienced as open by a limited range of receptors on the caravans site land adjacent to the appeal site.

Impact on Openness: Spatial Aspect

- 5.34 The main area of the appeal site comprising the exclusive area to be used for the stationing of the caravans comprises an area of c2400m² (i.e. the site area minus the access road which passes through the existing caravan site).
- 5.35 The contrast between the lawful site and the proposal is marked with the development proposed (i.e. the combination of the caravans and hardsurfacing) accounting for a development footprint of c2,400m² (i.e. 100% of the caravan site area).
- 5.36 Therefore, the proposal is to develop a site with no existing lawful development with a footprint of 2,400m² of development resulting in a substantial loss of spatial openness.



The Appeal Site March 2025 © Google

¹⁵ Save some fencing and the access drive through the existing caravan site

- 5.37 I have had regard to the proposed layout plan; however, I consider it to be unrealistic as I do not consider it possible to retain grass areas between the caravans as you would have to walk over the grass to access the entrance doors to each caravan.
- 5.38 I am also concerned that there is inadequate space to park or manoeuvre cars or vehicles within the site and thus that provides even greater pressure for hardstanding.
- 5.39 In coming to my view on the extent of the hardstanding I am mindful of the layout of the site previously developed by the Appellant and the lack of any grassed areas between caravans as shown in the aerial photograph above.
- 5.40 I consider my approach to footprint or site coverage is reasonable.
- 5.41 Therefore, the loss of spatial openness is across the appeal site, and its duration would be permanent.
- 5.42 This substantial loss of spatial openness that results in my view constitutes substantial harm to openness in the spatial element and attracts substantial weight in the Green Belt planning balance.

Impact on Openness: Visual Aspect

- 5.43 I now turn to consider visual openness (I accept that the views of the appeal site are limited to views from within the existing Pulmore Caravan Site.
- 5.44 From within the caravan site the loss of openness would be easily perceived and its loss fully experienced.
- 5.45 Whilst I consider that the proposals will have a substantial adverse effect on openness from a visual perspective viewed within the caravan site views are limited to that extent. As such, the harm to openness is not inflated by the loss of visual openness and the harm by way of openness in both the visual and spatial aspect should carry substantial weight in the planning balance

Duration

- 5.46 The application proposes permanent development.
- 5.47 The proposed development proposes a permanent loss of openness. The NPPF advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.
- 5.48 The land will not be kept permanently open and will be developed permanently.
- 5.49 Therefore, the duration of the proposed development will not mitigate the impact of openness in this appeal and is a harmful contributory factor in the loss of openness in this appeal.

Activity

- 5.50 The existing lawful open nature of the land leads to little activity. As such traffic generation or noise or light or other impacts do not diminish the existing openness of the site.
- 5.51 The Appellant proposes eight families will occupy the appeal site. Activity will be generated at site including residents travelling to and from site, deliveries, children playing, dogs barking, lighting, car lights etc.
- 5.52 The level of activity associated with the appeal scheme will add to the loss of openness experienced.
- 5.53 In the circumstances of this case, I consider that activity at site will add materially to the harm to openness.

Conclusion on the Loss of Openness

- 5.54 The proposed development would substantially erode openness in the spatial aspect having regard to the baseline and the loss in visual terms is limited to within the caravan site overall the loss of openness should carry substantial weight in the planning balance.
- 5.55 The proposals conflict with Policy SP5 NHLP and section 13 of the NPPF.
- 5.56 The harm by way of a loss of openness is harm that should carry substantial weight.

Green Belt - Purposes

- 5.57 I address harm in respect of Purpose (c) *safeguarding countryside from encroachment*¹⁶.
- 5.58 The proposals are for an area of development that stretches the length and width of the appeal site. The simple position is that the proposals would not assist in safeguarding the countryside from encroachment.
- 5.59 The appeal site undoubtedly comprises countryside, it is within open and attractive countryside close to the settlement of Codicote. It is part of the Green Belt.
- 5.60 The Council's GB Review used criteria to assess the contribution of land to the individual purposes. In the context of purpose (c) it uses the criteria to assess encroachment, whether there are existing urbanising features and whether a strong boundary exists to contain development¹⁷. In that context it assesses Parcel 5 the land around Codicote) to make a moderate contribution to Purpose (c).
- 5.61 The same criteria are used to assess the sub area 5b wherein the sub parcel is assessed to make a moderate contribution to Purpose (c) with the assessment noting that it prevents encroachment into the accessible countryside.
- 5.62 Overall, I consider that the level of encroachment is significant, and I note the land makes a moderate contribution toward safeguarding the countryside from encroachment. The proposed development will lead to encroachment. As such; I consider that the harm is significant and conflicts with purpose (c) and carries substantial weight in the planning balance.
- 5.63 I consider that the proposals conflict with Policy SP5 NHLP as well as Chapter 13 and paragraph 143 in particular of the NPPF.

Green Belt Harm - Conclusion

- 5.64 I therefore consider that the proposed development would comprise inappropriate development and substantial weight must apply to such harm. I also consider the proposals would lead to substantial harm to the spatial aspect of the openness of the Green Belt as well as some harm to the visual aspect of the openness of the Green Belt, therefore substantial weight applies to the loss of openness. In terms of the purposes, I consider that harm arises to purpose (c) assisting in safeguarding the countryside from encroachment. Overall harm arises to the purposes of the Green Belt, and such harm attracts substantial weight.
- 5.65 I therefore conclude that substantial harm is caused to the Green Belt, and such harm carries substantial weight.

¹⁶ Per NPPF paragraph 143

¹⁷ See Table 2.2 GB Review

Other Harm – Location

- 5.66 I have considered the location of the site in assessing it against NPPF Policy 155(c).
- 5.67 Policy HS7 is the Local Plan Policy that relates to Gypsy and traveller sites, and it brings forward a site to meet the needs of the district over the plan period. Policy HS7(d) relates to the consideration of windfall applications, and it relates to locational factors. It states that permission will be granted where:

d) residents of the proposed site can access local services such as shops, schools, public transport and medical facilities within a reasonable distance from the site and where those facilities have capacity to meet the needs of the site's residents;

- 5.68 The limited facilities of Codicote including local shops and a primary school are located 1.7 kilometres away from the appeal site well in excess of walking neighbourhoods and recommended walking distances advocated by IHT (maximum walking distances 1 kilometre) and in Manual for Streets (400 metres). However, the distance is compounded by the lack of any facilities to encourage walking or cycling and the road conditions that actively militate against such modes of transport.



View from the Appeal Site Entrance Looking North

- 5.69 Moreover, the lack of public transport and alternatives to the private motor vehicle increase the remoteness of the site and the lack of alternatives to the private motor vehicle.

5.70 I do not consider that Public Footpaths provide a viable alternative to access the facilities of Codicote given they are not made up, have uneven surfaces, require agility to navigate barriers and are unlit. There are two public footpaths:

- Footpath 38 is located approximately 300 metres north of the entrance onto St Albans Road (which is 150 metres from the centre of the appeal site) and provides an 850 metre footpath that connects to Codicote Road south of Codicote. A further walk of 550 metres brings you into the centre of Codicote¹⁸. Therefore, the total distance along unlit roads and footpath to access the centre of Codicote is 1.85 kilometres via Footpath 38 and the school is a further 500 metres distance via this route.
- Footpath 23 is located 500 metres north of the entrance off St Albans Road to the appeal site (which is 150 metres from the centre of the appeal site) and provides a 430 metre footpath that connects to Cowards Lane south of Codicote. It is a further 420 metre walk to the centre of Codicote. Therefore, the total distance along unlit roads and footpath to access the centre of Codicote is 1.5 kilometres via Footpath 38.

5.71 Both these routes rely on walking north along St Albans Road and then along unmade and unlit public footpaths.

5.72 I therefore consider that access local services such as shops, schools, public transport and medical facilities is poor and that the site is not within a sustainable location.

¹⁸ I have taken the centre to be the location of the pharmacy, bakers and The Globe Public House

Policy HS7

- 5.73 I have identified and rely on Mr Jarman's evidence to show conflict with Policy HS7 in terms of the development not meeting demonstrable local need for accommodation pursuant to Policy HS7(b).
- 5.74 No evidence has been provided on the status of potential occupants and therefore the appellant has not demonstrated that the intended occupants meet the definition of Gypsies and traveller. I am mindful of the history of the site with occupants that do not meet the definition occupying the site. Therefore, the Appellant has failed to show that the proposals comply with Policy HS7(c).
- 5.75 I have shown that the site by reason of both the distance and nature of any trips does not occupy a sustainable location for new residential development. Thus, it does not comply with Policy HS7(d).
- 5.76 The proposals leads to conflict with Green Belt policy of the development plan (SP5) as identified earlier and as a consequence also conflicts with Policy HS7(e)(i).
- 5.77 Given the layout of the proposed site and the provision of eight separate family units and therefore eight separate sets of family paraphernalia as well as cars and other aspects of day to day living (especially at a site remote from facilities where residents are reliant on the motor car for access) I do consider that the site has a lack of space to provide car parking for the cars that are necessary to meet future residents' needs of eight households in this location. I therefore consider that the proposals would conflict with Policy HS7(e)(iii) insofar as it would not provide adequate parking, turning and servicing on site.
- 5.78 Therefore, the proposals conflict with Policy HS7.

6 Other Considerations /Planning Benefits

- 6.1 I have already concluded that the proposal would comprise inappropriate development.
- 6.2 In this section I assess the other considerations relied on by the Appellant as outlined in their Statement of Case. I then consider whether they are capable of clearly outweighing the harm I have identified.
- 6.3 I do not set out any dispute between the parties on the impact of the proposal on the Green Belt in terms of openness and purposes. I do not consider such arguments comprise “*other considerations*” that weigh in favour of the grant of permission. Instead, they would go to the degree of weight attributed to harm. Likewise, the fact that the site is screened from public views is not a benefit of the scheme rather it is a neutral factor that ensures that no objection is raised in respect of character and appearance matters.
- 6.4 The proposed development comprises inappropriate development in the Green Belt. It is well established that it is for the Appellant to demonstrate that very special circumstances exist to warrant overriding normal Green Belt presumptions. Such circumstances will not exist unless the harm by reason of inappropriateness and any other harm¹⁹ is clearly outweighed by other considerations. In addition, substantial weight must be given to any Green Belt harm.
- 6.5 In these circumstances, I have already established that the development is inappropriate and will lead to an erosion of openness as well as leading to encroachment into the Green Belt. It also leads to harm due to its remote location and the lack of alternatives to the motor vehicle.
- 6.6 I also note that the “exceptional circumstances” test for releasing land through a local plan²⁰ is a lower threshold than the test of “very special circumstances” for planning application decision taking. In the *Central Bedfordshire* judgment, the court made clear that very special circumstances was a stricter test and the point was summarised subsequently by Ouseley J in the *Compton* case²¹ at paragraph 70:

"Exceptional circumstances" is a less demanding test than the development control test for permitting inappropriate development in the Green Belt, which requires "very special circumstances." That difference is clear enough from the language itself and the different contexts in which they appear, but if authority were necessary, it can be found in R(Luton BC) v Central Bedfordshire Council [2015] EWCA Civ 537 at [56], Sales LJ.."

¹⁹ SoS CLG, Reigate and Banstead BC, Tandridge DC and Redhill Aerodrome Ltd [2014] EWCA Civ 1386
²⁰ *R v on the application of Luton BC v Central Bedfordshire Council & Houghton Regis Development Consortium and Others* [2015] EWCA Civ 537
²¹ *Compton Parish Council and Others v Guildford Borough Council and Others* [2019] 3242 (Admin)

6.7 Therefore, the circumstances relied on by the Appellant will need to be of sufficient calibre to **clearly** outweigh these components of harm that cumulatively amount to greater harm than just that of inappropriateness.

6.8 In this regard, I am mindful of the stringent test articulated by Sullivan, J (as he then was) in **Draper**²², which concerned national Green Belt policy in Planning Policy Guidance Note 2 ("PPG2"). Although PPG2 was replaced by the Framework, for present purposes, current national Green Belt planning policy has not changed. In paragraph 58 of his judgment, Sullivan, J states:

"The combined effect of paragraphs 3.1 and 3.2 [of PPG2] is that, in order to justify inappropriate development in the Green Belt, (a) there must be circumstances which can reasonably be described not merely as special but as very special, and (b) the harm to the Green Belt by reason of inappropriateness and any other harm must be clearly outweighed by other considerations. Those other considerations must be capable of being reasonably described as very special circumstances. If they are capable of being so described, whether they are very special in the context of the particular case will be a matter for the decision maker's judgment."

6.9 In **Temple**²³, Sullivan, J (as he then was) clarified the test for demonstrating very special circumstances by confirming that it was not necessary for each factor, of itself, to be 'very special' and that factors which individually were otherwise quite ordinary could cumulatively become very special circumstances. This supports my view that very special circumstances are the outcome of the balancing exercise (and not the inputs to such an exercise) and only exist at the point when the other considerations clearly outweigh the harm by reason of inappropriateness and any other harm.

6.10 Further guidance was provided by the Court of Appeal²⁴, in which the Carnwath, LJ (as he then was) stated inter alia that:

"21. [...] The word "special" in PPG2 connotes not a quantitative test, but a qualitative judgment as to the weight to be given to the particular factor for planning purposes. [...]"

and

"26 [...] I see no reason, in terms of policy or common sense, why the factors which make a case "very special" should not be the same as, or at least overlap with, those which justify holding that Green Belt considerations are "clearly outweighed". To my mind, the wording of para 3.2 ("will not exist unless") reinforces that view. I prefer the formulation used by Sullivan J himself in a judgment the previous year on somewhat similar facts, Doncaster Metropolitan Borough Council v Secretary of State for the Environment, Transport and the Regions [2002] JPL 1509, para 70, where (also in the context of para 3.2 of PPG2) he said:

²² **R (Chelmsford) v First Secretary of State and Draper** [2003] EWHC 2978

²³ **R (Basildon District Council) v First Secretary of State and Temple** [2004] EWHC 2759 (Admin)

²⁴ **Wychavon District Council v Secretary of State and Butler** [2008] EWCA Civ 692

"Given that inappropriate development is by definition harmful, the proper approach was whether the harm by reason of inappropriateness and the further harm, albeit limited, caused to the openness and purpose of the Green Belt was clearly outweighed by the benefit to the appellant's family and particularly to the children so as to amount to very special circumstances justifying an exception to Green Belt policy." (Original emphasis.)"

- 6.11 The weight of factors against the grant of permission presents a high hurdle for the Appellant to demonstrate that these harms, taken together, are "clearly outweighed" by other considerations such that "very special circumstances" exist. This high bar is illustrated in an appeal decision in St Albans²⁵ wherein the Inspector noted:

*"The determination of whether very special circumstances exist is a matter of planning judgement based on a consideration of all relevant matters. However, very special circumstances cannot exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. Consequently, for the appeal to succeed, the overall balance would have to favour the appellants case, not just marginally, but **decisively**."* Emphasis added.

- 6.12 It is further illustrated in a decision at Maidenhead Office Park²⁶ wherein the Inspector noted:

*"The Framework makes it clear that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. **It is not sufficient for harm to merely be outweighed, but benefits must clearly outweigh the harm.** In this case, when taken together, the overall benefits would not be sufficient to clearly outweigh the harm identified."* Emphasis added.

- 6.13 The Appellant does not explicitly set out specific other considerations as they do not appear to consider the case in the context of having to demonstrate very special circumstances. However, extrapolating from their Statement of Case they rely on the following factors²⁷ (or "other considerations") which can be summarised as:

- Need for traveller sites
- Personal needs of named occupants

²⁵ APP/ B1930/W/19/3235642 at Burstons Garden Centre

²⁶ APP/T0355/W/24/3336224 at Maidenhead Office Park

²⁷ See the Appellant's Statement of Case

Need for traveller sites

- 6.14 Mr Jarman addresses need and the Council's position is that the adopted Local Plan, which is less than 5 years old, identifies the need within North Hertfordshire. The NPPF advises that development plans that are less than five years old should be used for the calculation of five year supply as they set the up to date housing/ pitch requirement for an area.
- 6.15 Mr Jarman explains that the allocated site for four pitches will meet the needs of North Hertfordshire for the period to 2029 and that a further two pitches required to meet needs arising from new household formations are not required to be provided for at least six years.



The Site at Danebury Park Road

- 6.16 Mr Jarman concludes inter alia²⁸:

I am of the opinion that the Council can currently demonstrate a deliverable 5-year supply against a current 5-year need target of 4 pitches for the period to 2029/30

- 6.17 Therefore, the Council consider that they have met needs arising in North Hertfordshire over the plan period in an up to date Local Plan adopted three years ago (and thus less than five years old).
- 6.18 Therefore, need can only attract limited weight in the assessment of this case.

28

See paragraph 13

Personal Needs

- 6.19 Personal needs were not identified by the Applicant (as he was then) at application stage and no persons were identified as potential occupants of the site.
- 6.20 A list of individuals is provided as part of the Appellant's Statement of Case²⁹. No information is provided to substantiate any of the case on personal needs save the purported familial connection to the Appellant.
- 6.21 Substantive information needs to be provided by any appellant to substantiate their case. In the circumstances of this case, it is the Appellant's duty to provide evidence to substantiate any case relating to personal circumstances.
- 6.22 In respect of personal circumstances this is evince that is uniquely within the knowledge of the Appellant and thus it is his duty to provide such evidence³⁰.
- 6.23 As matters stand no more than limited weight can be given to personal circumstances.

²⁹ See SoC at paragraph 5.29

³⁰ See **Chapman v The United Kingdom 27238/95**

7 Planning Balance and Summary

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 By reason of the local plan policy conflict identified above, the proposed development does not accord with the development plan taken as a whole given it introduces inappropriate development into the Green Belt that erodes openness and conflicts with the purposes of the Green Belt, conflict with the spatial strategy of the plan, and is not located sustainability such that future residents will be reliant on the motor car for all journeys.
- 7.3 Inappropriate development is, by definition, harmful, and should not be approved except in “very special circumstances”. Substantial weight must be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is “clearly outweighed” by other considerations.
- 7.4 As explained above in section 5, the other Green Belt harm by loss of openness leads to harm to both openness in the spatial and to a lesser extent visual aspects and must carry substantial weight. The appeal site and area assist in safeguarding the countryside from encroachment in its current and permitted state. The proposals would conflict with this purpose and lead to encroachment into the Green Belt countryside and such conflict carries substantial weight.
- 7.5 Other harm raises due to the unsustainable location of the site that leads to increased reliance on private motor vehicle for travel which carries moderate weight, and harm to the spatial strategy which I accord moderate weight.
- 7.6 I have also outlined a number of other considerations relied on by the Appellant in section 6.
- 7.7 Overall, notwithstanding the other considerations/ benefits of the scheme taken together, I do not consider these to “clearly outweigh” the harms such that they amount to “very special circumstances” to justify inappropriate development in the Green Belt for the purposes of paragraph 153 of the Framework.
- 7.8 I therefore consider that in this case; the application of the Green Belt policy provides a “strong reason for refusing” the development proposal.
- 7.9 The proposed development conflicts with important development plan policies (SP5 and HS7), and as such conflicts with the development plan taken as a whole. In addition, the policies of the Framework provide clear reasons to refuse permission, and material or other considerations would not amount to very special circumstances or otherwise justify the grant of permission. As such, I invite the Inspector to dismiss the appeal.

- 7.10 Given my conclusion on need it is not necessary to undertake the decision-making process in the context of the tilted balance. Even if the Inspector was to conclude that the tilted balance was engaged then the application of Green Belt policy (a policy pursuant to footnote 7 that protects areas of particular importance) provides a strong reason for refusing the development proposed and thus disengages the tilted balance.
- 7.11 However, for the purpose of completeness and robustness (and not because it is necessary) if the decision was to be taken in the tilted balance, I consider the adverse impacts of the development (i.e. the harms summarised above) would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. In coming that conclusion I am particularly mindful of the text in 11d(ii) which requires the balance to be undertaken:

“having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination”

- 7.12 I do not repeat my evidence in respect of these matters.
- 7.13 I therefore invite the Inspector to dismiss this appeal.

1

DELEGATED FILE NOTE

CASE OFFICER: ...Tom Rea.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
25/00979/FP	Use of land for residential caravan site for 8 gypsy families including hardstanding and existing lights (development already carried out).	Land To The West Of St Albans Road Codicote Hertfordshire

Submitted Plan Nos

Site Location Plan Site Layout

1.0 Policies

1.0 Relevant History

- 1.1 On 20th September 2011 NHDC issued an enforcement notice in respect of a material change of use of land at Pulmer Water relating to a mixed use as a residential mobile home and caravan site and the storage of vehicles, machinery and equipment including associated works such as hardsurfacing, enclosures, containers, external lighting and other services.
- 1.2 An appeal against the enforcement notice was submitted. On 8th March 2012 an appeal decision was issued granting a temporary planning permission for 5 years. The five-year temporary permission expired on 8 March 2017.
- 1.3 It should be noted that the Inspector allowed the appeal on the basis that at the time the Council could not demonstrate sufficient sites to meet the needs of Gypsy and travellers or demonstrate a five-year supply of such sites. In granting a temporary permission it was anticipated that the Council would resolve this matter through its plan making powers and allocate the necessary sites. It is also worth noting a condition of the appeal decision (condition 2) required that the occupiers of the pitches must meet the then definition of gypsy and travellers in order to contribute to meeting the housing needs of this community. The appeal allowed for six pitches (a pitch consists of one static caravan and one touring caravan per pitch).
- 1.4 18/00794/FP - Change of Use of land to use as a residential caravan site for 8 gypsy families including retention of hardstanding and existing lights. Temporary permission granted on 25.02.21. Condition 1 of this permission stated:

The use of the land for up to 8 pitches (maximum 2 caravans per pitch) for caravans / mobile homes for residential purposes is hereby permitted for the period up until 31 October 2022. At the end of this period and by the expiry date of this permission the use shall cease, all caravans and associated facilities and infrastructure shall be removed from the site and the land reinstated to a satisfactory condition. For the avoidance of doubt the current hard standing on the site shall also be removed by the expiry date of this permission.

Reason: The need for the site for gypsy and traveller accommodation has not been demonstrated and the use of land is inappropriate and therefore must cease within an 18 month period in the long term interest of preserving the openness of the Green Belt within which the site is located.

The temporary planning permission granted under ref: 18/00794/FP has now expired (on 31st October 2022).

2.0 Policies and other relevant planning documents

2.1 **North Herts District Local Plan 2011 – 2031**

Policy SP2: Sustainable Development in North Hertfordshire
Policy SP5 :Countryside and Green Belt
Policy SP6: Sustainable transport
Policy SP8: Housing
Policy HS7 'Gypsies, Travellers and Travelling Showpeople'
Policy D3 'Protecting Living Conditions'
Policy NE9 'Contaminated Land'

Policy CD6: Land at Woodside Place, Danesbury Park Road.
This policy allocates the site for up to 4 traveller pitches.

2.2 **National Planning Policy Framework (2024)**

Generally relevant throughout although the following section is particularly relevant:

- Section 5 'Delivering a sufficient supply of homes'
- Section 13 'Protecting green belt land'

2.3 **Ministry of Housing, Communities and Local Government (MHCLG) - Planning Policy for Traveller Sites (December 2024)**

Relevant throughout and in particular Policy E: Traveller sites in the Green belt

2.4 **Codicote Neighbourhood Plan 2024 - 2031**

The Examination Inspectors report on the Codicote Neighbourhood Plan was published on 14 May 2025. The Inspector has concluded that subject to the policy modifications set out in the report that the Plan meets the Basic Conditions and that once modified the Plan should proceed to referendum on the basis that it has met all the relevant legal requirements.

The Plan, having reached the Referendum stage of preparation, carries significant material weight in the determination of any planning application.

The Referendum will take place on Thursday 14th August 2025.

2.5 **North Hertfordshire Gypsy and Traveller Accommodation Assessment (GTAA) Final Report June 2024**

3.0 Representations

The following representations have been received:

3.1 **Codicote Parish Council:**

Request called in for the following reason:

- Planning permission should have been sought via the usual channel for residential caravans

3.3 Hertfordshire Highways

Advises that Highway Authority considers that the proposal would not have significant impact to the adjacent highway network, hence no objection is offered.

3.3 NHDC Environmental Health

Advises no objections

3.4 NHDC Planning Policy team:

Advises that a GTAA that was commissioned recently does not identify any additional need in the District. The document is publicly available on the webpage and is the most up to date evidence that the Council has at the moment.

4.0 Planning Considerations

4.1 Site & Surroundings

- 4.1.1 The site is located at the western edge of the Pulmer Water caravan park off St. Albans Road, Codicote. The site area is approximately 0.35 hectares. To the north of the site is a former quarry and to the south east residential property. The site is within the Green Belt.

The application site is accessed through Pulmore Water caravan park the main access to which is served off St. Albans Road.

Presently on the site (as of July 2025) there are 12 static caravans and one touring caravan.

4.2 Proposal

- 4.2.1 This planning application seeks planning permission for the use of the land as a residential caravan site for 8 gypsy and traveller families each with one caravan or static home.

- 4.2.2 In support of the application the applicant's agent has made the following points within a Planning Statement :-

- The Council is unable to demonstrate a 5 year supply of housing land therefore the 'tilted balance' should be applied whereby planning permission should be granted for proposed traveller sites unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- The development of traveller sites is not to be regarded as inappropriate development in the Green Belt, where the Local Planning Authority does not have a five-year supply and, the development will take place on previously developed land or "Grey Belt", i.e. land that does not contribute towards checking the unrestricted sprawl of large built-up areas; preventing neighbouring towns merging into one another; and, preserving the setting and special character of historic towns.
- Traveller sites (temporary or permanent) in the Green Belt are inappropriate development unless [my emphasis] the exceptions set out in Chapter 13 of the National Planning Policy Framework apply.

- Paragraph 18 makes clear that the “Golden Rules”, set out in chapter 13 of the National Planning Policy Framework, do not apply to traveller sites. Paragraph 28 states that: if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply.
- The Council’s Gypsy and Traveller Accommodation Assessment (GTAA) was published in January 2018 and, is based on information which is now almost 8 years old. It was also prepared at a time when the definition of Gypsy/Traveller was far more restrictive and, found to be unlawful.
- There is an identifiable need for traveller pitches and the Council is unable to demonstrate \ five year supply of deliverable land for travellers
- The development plan policies are out of date and planning permission should be granted.
- The site constitutes ‘Grey Belt’ , fully complies with paragraph 155 of the NPPF and is not inappropriate development.
- Policy HS7 criteria are satisfied
- The site is well screened from public vantage points and is not prominently located or obtrusive in the landscape.

4.3 Key issues

4.3.1 The key issues in the consideration of this application are considered as follows:

- Planning Policy
- The impact of the development on the green belt
- The impact of the development on the character and appearance of the area
- Living conditions
- Highway issues
- Sustainability
- The Planning Balance

4.3.2 Planning Policy

4.3.3 Planning Policy

The Government’s Planning Policy for Travellers sites (PPTS) (December 2024) is a key national planning policy document applicable in this case. In addition, paragraphs 153 - 155 of the NPPF are relevant in that they set the test and general criteria for considering development within the Green Belt. Paragraph 63 of the NPPF also advises that the size, type and tenure of housing needed for different groups (including travellers) should be assessed and reflected in planning policies.

4.3.4 Paragraph 16 of the PPTS 2024 states that:

‘Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances’

4.3.5 The supporting statement states that there is an unmet need for travellers' sites in the district and that the Council does not have a 5-year supply of housing land (5YHLS).

4.3.6 Paragraph 153 of the NPPF states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The North Hertfordshire District Council Local Plan 2011 - 2031 contains one relevant policy– Policy SP5 'Countryside and Green Belt' which reflects the general thrust of paragraphs 153 - 155 of the NPPF in terms of very special circumstances being required to justify inappropriate development.

4.3.7 The existing development does not meet any of the exceptions to inappropriate development as set out in paragraphs 154 of the NPPF including 'g) limited infilling or the partial or complete redevelopment of previously developed land'. The existing structures are mobile homes that can be brought on or off the site as and when required and cannot be considered permanent structures. There is a large area of hardstanding but these are not lawful. Planning permission reference 18/00794/FP required the removal of operational development associated with the use of the land for the siting of caravans including hardstanding by 31 October 2022. The site does not therefore meet the definition of PDL as set out in the Glossary (Annex 2) of the Framework.

4.3.8 The applicant's agent makes the case that the development is not inappropriate development because the Council does not have a 5YHLS. That is not a correct interpretation. The use remains inappropriate development unless it meets the exceptions set out at NPPF paragraphs 154 & 155. Therefore very special circumstances must exist which clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. The applicant sets out material considerations to justify the development in Green Belt terms. Taking these in turn I comment as follows:

a) Five-year housing land supply (5YHLS)

Whilst the Council does not have a 5-year supply of deliverable housing land, the Council has demonstrated through its GTAA (2024) that it has an up-to-date supply of traveller sites.

b) Previously development land (PDL)

The development does not meet the definition of PDL as explained above.

c) Grey Belt

Paragraph 155 requires Grey Belt land to meet three criteria so as not to be regarded as inappropriate development in the Green Belt. Whilst the development may not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan (criterion a), there is no demonstrable need for the traveller accommodation as evidenced by the Council's GTAA therefore criterion b) is not met. It is doubtful whether the development can be considered in a sustainable location as

there are no bus services that run past or near to the site and it is more than a 900 metre walk along an unlit and rising in level rural lane with no footpaths to reach the edge of Codicote village. Such a route would not be suitable for disabled people or children and would discourage most other people from walking. Public footpath Codicote 023 provides an off-road option for part of the route into the village but this is across open fields with no made surface or lighting and therefore not a viable or practical alternative. Criterion c) is also not met. Criterion d) is not relevant as the development is not a 'Major' development. In conclusion the development fails to meet b) and c) of the criteria set out in paragraph 155 of the NPPF and therefore it is inappropriate within the Green Belt, even if it was considered to utilise grey belt.

d) The needs of children

The best interests of children, as a possible factor to outweigh harm to the Green Belt, is not put forward by the applicant as counting towards very special circumstances.

e) The requirements of Policy HS7 'Gypsies, Travellers and Travelling Showpeople'

The development does not satisfy several of the criteria of this policy as follows:

- a) It does not satisfy a demonstrated local need;
- b) It has not been proven that the occupants meet the planning definition; and
- c) Local services cannot be accessed easily.

- 4.3.9 There are no compelling material considerations that together constitute very special circumstances that clearly outweigh the harm to the Green Belt arising from the inappropriateness of the development.

The impact of the development on the Green Belt purposes and openness

- 4.3.10 Paragraph 142 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.

- 4.3.11 Apart from harm by way of inappropriateness the development is contrary to one of the five purposes of Green Belts i.e. it would fail to assist in safeguarding the countryside from encroachment – as referred to in paragraph 143 c) of the NPPF.

The retention of 8 caravans and associated hardsurfacing and ancillary structures significantly changes the open character of the site from a spatial perspective. As the site is screened from public vantage points (St Albans Road) by vegetation and existing buildings/caravans there is limited impact upon openness from a visual perspective.

- 4.3.12 There is no doubt that the continued the use of the site for gypsy and traveller

accommodation including the associated structures constitutes inappropriate development in the Green Belt and that it is harmful to openness. It is also contrary to one of the five purposes of the Green Belt in that it leads to encroachment into the countryside. The development fails to comply with the fundamental characteristic of Green Belts which is their openness and their permanence.

4.3.13 The impact on the character and appearance of the area

I am satisfied as was the Inspector who examined the appeal in 2017 that there are no additional harms to the character and appearance of the area other than harm to Green Belt and openness.

4.3.14 The development is not inconsistent with the general density of the surrounding residential property. However, features of the site such as the high boundary fencing and gates are not consistent with the prevailing pattern and form of development and as such do detract from the character and appearance of the locality.

Living conditions

4.3.15 I consider that living conditions on site to be satisfactory and no unacceptable harms to surrounding properties are identified beyond impact on openness which clearly effects the enjoyment of surrounding countryside.

4.3.16 The living conditions of both the applicants living on the site and the surrounding residents are considered to be acceptable

Highway issues

4.3.17 In terms of parking provision, the submitted site layout plan indicates a turning area within the site so that cars can leave in forward gear and there would be two parking spaces for each dwelling within the site. Refuse collection is via a kerbside collection and the required amount of refuse and waste recycling bins can easily be accommodated on the site.

4.3.18 The Highway Authority considers that the use would not have an unreasonable impact on the safety and operation of the adjoining highway. Given this advice it is concluded that there are no highway grounds on which to object to the development or use.

Sustainability

4.3.19 For the nature of the use I do not consider that an argument can be justified to refuse planning permission on the grounds of sustainability.

4.3.20 The economic, social and environmental objectives necessary to achieve sustainable development as required by paragraph 11 of the NPPF can be delivered as part of this development.

BNG / Climate change

4.3.21 As a retrospective application this development is exempt from the need to achieve a 10% biodiversity net gain under the Environmental Act 2020. The development has no major impact on local climate change.

4.3.22 No impact on the natural environment or climate change

The Planning Balance

4.3.23 The use of the land as a residential caravan site, together with associated structures is inappropriate development in the Green Belt and there would be a loss of openness and encroachment into the countryside. Significant weight must be attached to this harm. Consideration should therefore be given as to whether this harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

4.3.24 The Council has allocated a site at Danesbury Park Road, Pottersheath for four additional Gypsy and Traveller pitches to meet its identified needs in the Local Plan period (2011 – 2031) . This is site CD6.

4.3.41 As the recent Council GTAA assessment by ORS (June 2024) confirms, the Council no longer identifies any need for 8 gypsy and traveller pitches on this site at Pulmore Water.

4.3.42 I am satisfied that there is no demonstrable housing need for the retention of the existing accommodation therefore this weighs substantially against the development

4.3.43 It is acknowledged that the site is reasonably well screened from public vantage points and is not obtrusive in the landscape. It is also the case that the development provides reasonable living conditions for the current occupiers and the highway authority do not raise any objections on highway safety grounds. However, I can only attribute limited weight to these benefits.

4.3.44 The Council has adopted its Local Plan in November 2022 after a thorough and protracted Local Plan examination where it was found to have a sound basis for its Gypsy and Traveller accommodation strategy which included removing the site as an allocated gypsy and traveller site following an evidence-based approach to need over the Plan period. More recently the Council has updated its Gypsy and Traveller Accommodation Assessment in 2024 to confirm its strategy and accommodation need for the remainder of the Plan period.

4.3.45 In the absence of housing need for the development and given the great importance that the Government attaches to Green Belts in the NPPF I conclude that the development conflicts with LP Policies SP5 and HS7. However, if these local plan policies are considered out of date relating to this development, it is considered that the adverse impact of the development by reason of inappropriateness and loss of openness demonstrably outweighs the benefits when assessed against the policies in the Framework as a whole and these policies provide a strong reason for refusal of planning permission. Accordingly, the development should be refused planning permission.

4.3.46 Enforcement action and the Equality Act 2010

4.3.47 The LPA has suspended any enforcement action with respect to the unauthorised occupation of this site until the outcome of this planning application is known. If this application is refused planning permission the applicant will have the right of appeal. The LPA will need to consider whether it is expedient to commence enforcement action and if so when taking into account the right of appeal and the protected characteristics of the Gypsy and traveller community. Public authorities have a legal duty under the Equality Act 2010 to consider how their actions might impact people with protected characteristics including Gypsies and Travellers.

5.0 Alternative Options Considered

5.1 There are no realistic alternatives in my view to the refusal of planning permission. The site has benefitted from two periods of temporary planning permissions for this type of use and the Council has an adopted Local Plan and an up to date Gypsy and Traveller Accommodation Assessment.

6.0 Conclusion

6.1 That planning permission be refused for the reasons set out.

7.0 Recommendation

7.1 That planning permission be **REFUSED** for the following reasons:

1. The application site is within an area designated in the North Hertfordshire Local Plan as Green Belt, within which there is a presumption against inappropriate development, unless very special circumstances can be demonstrated. In the view of the Local Planning Authority, the development does not fully comply with the exemption criteria set out under paragraphs 154 and 155 of the NPPF. Furthermore, the development results in a materially greater impact on openness and would conflict with one of the five purposes of the Green Belt. As such, in the opinion of the Local Planning Authority, the harm to the Green Belt by reason of inappropriateness, as well as to openness and the purposes of the Green Belt, is not clearly outweighed by other material considerations and as a result, very special circumstances have not been demonstrated. As such, the development does not accord with the provisions of Policy SP5 of the North Hertfordshire Local Plan 2011 - 2031 or with the provisions of Section 13 of the NPPF

2. By reason of its location within the Green Belt, remoteness from local services and the lack of need for this type of residential accommodation as evidenced by the Council's Gypsy and Traveller Accommodation Assessment (2024) the development is considered to be contrary to the provisions of Policy HS7 of the North Herts Local Plan 2011 - 2031.

Proactive Statement:

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council has not acted proactively through positive engagement with the applicant as in the Council's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. Since no solutions can be found the Council has complied with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed  Shaun Greaves Determining Officer	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Date: 10 July 2025	

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NORTH HERTFORDSHIRE DISTRICT COUNCIL

Town and Country Planning Act 1990

DECISION NOTICE

Correspondence Address:

Philip Brown Associates Limited
74 Park Road
Rugby,
CV21 2QX
Rugby
Warwickshire
CV21 2QX
United Kingdom

Applicant:

Mr Larry Connors

PARTICULARS OF DEVELOPMENT

Application: 25/00979/FP

Proposal: Use of land for residential caravan site for 8 gypsy families including hardstanding and existing lights (development already carried out).

Location: Land To The West Of, St Albans Road, Codicote, Hertfordshire,

Refused Plan Nos: Site Location Plan Site Layout

PARTICULARS OF DECISION

In pursuance of its powers under the above Act and the associated Orders and Regulations, the Council hereby **REFUSE** the development proposed by you in your application received with sufficient particulars on 28 April 2025.

1. The application site is within an area designated in the North Hertfordshire Local

Plan as Green Belt, within which there is a presumption against inappropriate development, unless very special circumstances can be demonstrated. In the view of the Local Planning Authority, the development does not fully comply with the exemption criteria set out under paragraphs 154 and 155 of the NPPF. Furthermore, the development results in a materially greater impact on openness and would conflict with one of the five purposes of the Green Belt. As such, in the opinion of the Local Planning Authority, the harm to the Green Belt by reason of inappropriateness, as well as to openness and the purposes of the Green Belt, is not clearly outweighed by other material considerations and as a result, very special circumstances have not been demonstrated. As such, the development does not accord with the provisions of Policy SP5 of the North Hertfordshire Local Plan 2011 - 2031 or with the provisions of Section 13 of the NPPF

2. By reason of its location within the Green Belt, remoteness from local services and the lack of need for this type of residential accommodation as evidenced by the Council's Gypsy and Traveller Accommodation Assessment (2024) the development is considered to be contrary to the provisions of Policy HS7 of the North Herts Local Plan 2011 - 2031.

Proactive Statement:

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council has not acted proactively through positive engagement with the applicant as in the Council's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. Since no solutions can be found the Council has complied with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed:



Shaun Greaves
Development and Conservation Manager

Development Management
North Hertfordshire District Council
Council Offices
Gernon Road
Letchworth
Herts
SG6 3JF

Date: 10 July 2025

The Council's Privacy Notice is available on our website: <https://www.north-herts.gov.uk/home/council-data-and-performance/data-protection/information-management-gdpr>.

NOTES

- 1 If you are aggrieved by the decision of your local planning authority (LPA) to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

However, if an enforcement notice has been served for the same or very similar development the time limit is 28 days from the date of the LPA decision or 28 days from the date the enforcement notice was served.

Appeals can be made online at: <https://www.gov.uk/appeal-planning-decision>
If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

Purchase Notices

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

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ENF
REGISTER (25)

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE

ISSUED BY THE NORTH HERTFORDSHIRE DISTRICT COUNCIL

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control, under section 171A(1)(a) - carrying out development without the required planning permission of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991, at the land described below. The Council consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land lying to the west of St Albans Road, Codicote, Hitchin edged in red on the attached plan.

("the land")

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

- (a) Without planning permission the material change of use of the land to a mixed use as a residential mobile home (including static and park homes) and caravan site and the storage of vehicles, machinery and equipment including associated works such as hard surfacing, enclosures, containers, external lighting and other services.

("the unauthorised development")

4. **REASONS FOR ISSUING THIS NOTICE**

- (i) It appears to the Council that the unauthorised development has occurred within the last 10 years.
- (ii) The unauthorised development is contrary to:
1. North Hertfordshire District Local Plan No.2 with Alterations
Policy 2 - Green Belt
 2. North Hertfordshire District Local Plan No.2 with Alterations
Policy 34 – Caravans and Mobile Homes

5. WHAT YOU ARE REQUIRED TO DO

- (i) Cease the mixed use of the land edged in red for residential and business purposes, and cease the use of the land edged in red for the stationing of mobile homes and caravans (including static and park homes), and cease the use of the land edged in red for the storage of vehicles, machinery and equipment.

Time for Compliance: **28 Days** after this notice takes effect.

- (ii) Remove all the mobile homes and caravans (including static and park homes) located on the land edged in red, remove all hard standing on the land edged in red, remove all containers, external lighting, other services, other materials and equipment located on the land edged in red associated with the unauthorised development.

Time for Compliance: **3 Months** after this notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on Wednesday 19th October 2011 unless an appeal is made against it beforehand.

Signed... David J. Schor

Dated: 20/9/2011

On behalf of: North Hertfordshire District Council, Legal Department
Council Offices, Gernon Road
Letchworth
Herts SG6 3JF

ANNEX

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before the date specified in paragraph 6 of the notice. Guidance on the Enforcement Appeals procedure and how to make an Enforcement Appeal can be found from the following web address:
<http://www.planningportal.gov.uk/planning/appeals/enforcementappeals>

Appeal forms can be downloaded from the following web address :
www.planningportal.gov.uk/uploads/pins/eninfosheet.pdf

If You Appeal

If you lodge an appeal then you must submit to the Secretary of State, a statement in writing specifying the grounds on which you are appealing against the enforcement notice and stating briefly the facts that you propose to rely on, in support of each of those grounds. Either when giving notice of appeal, or within 14 days from the date that the Secretary of State sends you notice that requires you to send a statement.

If your wish to have your appeal also considered as a deemed application for planning permission or you intend to make an appeal under Ground (a), you may be required to pay a fee. A fee may be payable under Regulation 10 of the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 for the deemed application for planning permission for the development alleged to be in breach of planning control in the enforcement notice. The Fee for this case is £335.00. This amount is payable both to the Council and to the Secretary of State.

What happens if you do not appeal

If you do not appeal against this enforcement notice, it will take effect on 13 July 2011 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the periods specified in the notice. Failure to comply with an enforcement notice, which has taken effect, can result in prosecution and/or remedial action by the Council.

Who this Enforcement Notice is Served On: John Connors 1 Pulmore Water, St Albans Road, Codicote, Hitchin, Hertfordshire, SG4 8UT, and / or the Owner / Occupier or anyone with an interest in the land lying to the west of St Albans Road, Codicote, Hitchin, SG4 8UT.

If you believe that there is someone else who should be served or any of those listed above has not received a copy of the notice or any other document please let that person and the Council know as soon as possible.

Enclosures:
Enforcement Notice (3 Copies)

NORTH HERTFORDSHIRE DISTRICT COUNCIL



Title :- Land lying to the west of St Albans Road, Codicote, Hitchin



Scale: 1:1250
Date: 20:09:11

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Appeal Decision

Hearing held on 1 February 2012

Site visit made on 1 February 2012

by James Ellis LLB (Hons) Solicitor

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

Decision date: 8 March 2012

Appeal Ref: APP/X1925/C/11/2162956

Land at 1 Pulmore Water, St Alban's Road, Codicote, Hitchen, Hertfordshire SG4 8SP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act").
- The appeal is made by Mr John Connors against an enforcement notice issued by North Hertfordshire District Council.
- The Council's reference is 11/00091/ENF.
- The notice was issued on 20 September 2011.
- The breach of planning control as alleged in the notice is without planning permission the material change in the use of the land to a mixed use as a residential mobile home (including static and park homes) and caravan site and the storage of vehicles, machinery and equipment including associated works such as hard surfacing, enclosures, containers, external lighting and other services.
- The requirements of the notice are:
 - (i) Cease the mixed use of the land edged in red for residential and business purposes, and cease the use of the land edged in red for the storage of vehicles, machinery and equipment.
 - (ii) Remove all the mobile homes and caravans (including static and park homes) located on the land edged in red, remove all hard standing on the land edged in red, remove all containers, external lighting, other services, other materials and equipment located on the land edged in red associated with the unauthorised development.
- The periods for compliance with the requirements are 28 days in respect of step (i), and 3 months in respect of step (ii).
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Act.

Summary of decision: the appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice as corrected and varied is upheld as set out below in the Formal Decision

The enforcement notice

1. To my mind, the alleged breach of control set out in paragraph 3 (a) of the enforcement notice lacks clarity. I therefore consider it appropriate that the paragraph should be reworded for the avoidance of doubt, as follows: 'Without planning permission the material change of the use of the land to mixed use as a residential caravan site, and for the storage of vehicles, containers, machinery and equipment (including associated works such as hard surfacing, enclosures, external lighting and other services).' Such a change would also have a knock on effect on the requirements of the notice, as set out in paragraph 5 of the notice, leading to consequential amendments. After discussing this point with the parties at the hearing, I believe that the required

correction and variations can be made without causing injustice to the parties. I shall therefore use my powers under section 176(1) of the Act to correct and vary the notice accordingly.

Procedural matter

2. In his Enforcement Notice Appeal Form, the appellant appealed under grounds (a) and (g) of section 174(2) of the Act. However, at the hearing I was asked if I would also consider an appeal on ground (f). The appellant considered that the requirements of the enforcement notice were excessive in that they required the removal of hard standing which he contended has been in place for more than four years before the enforcement notice was issued. The Council raised no objection to me considering an appeal on ground (f). I shall therefore do so.

Background

3. The appeal site lies on the western side of St Albans Road beyond a caravan park (No 1 Pulmore Water) owned by the appellant, and two residential properties. To the north of the site is Codicote Quarry and to its west and south is open agricultural land. The site is outside a settlement boundary for the purposes of planning policies and is within the Hertfordshire Green Belt. The site is accessed through the appellant's caravan park. It has high hedges along its western and southern boundaries, and also that part of its eastern boundary where it abuts the neighbouring residential properties. There is a high earth embankment along its northern boundary with the quarry. The site cannot be seen from public vantage points, and it is effectively screened by planting in terms of views from the neighbouring residential properties.
4. To the north of No 1 Pulmore Water are No 3 Pulmore Water (owned by the appellant's son, John junior) and Wexford Park, formerly No 2 Pulmore Water, owned by the appellant's mother and sister. Part of No 1 Pulmore Water, together with No 3 Pulmore Water and part of Wexford Park, is the only authorised gypsy/traveller site in North Hertfordshire with six permitted pitches. However, both Wexford Park and No 1 Pulmore Water have been extended westwards. At Wexford Park, there are six unauthorised pitches. A planning application to regularise the situation is due to be determined by the Council. I was advised that the application is likely to receive an officer recommendation for approval.
5. The extended site at No 1 Pulmore Water (but not including the appeal site) now contains the appellant's bungalow, a day room, and 19 mobile homes. I was advised that the mobile homes are generally occupied by persons other than gypsies/travellers as defined in paragraph 15 of Circular 01/2006: Planning for Gypsy and Traveller Sites. At the time of my site visit, a number of the mobile homes were vacant.
6. The appeal site was formerly part of the adjacent quarry but has, apparently, never been used for the extraction of minerals. On my site visit, I saw that the northern half of the site has largely been hard surfaced, whereas the southern half of the site, which is separated from the northern half by a conifer hedge, is part hard surfaced and part laid to grass. The northern half of the site had one large twin-unit mobile home and four other static caravans stationed upon it. There was also a stand available for an additional static caravan. No touring caravans were on the site at the time of my visit, although there is evidence

before me that there had been on previous occasions. Various vehicles, a container, items of machinery and equipment, and materials used in connection with the appellant's business were stored on the southern half of the site.

7. The appellant has 'given' the appeal site to his son Larry who occupies the twin-unit mobile home on the site with his wife, Kathleen, and their children Bridget (aged 7 years), John (5) and Kathleen (2). Larry has lived at Pulmore Water all his life, although in recent years the family has travelled extensively so that Larry can find work as a ground worker. The family have returned to Pulmore Water in winter months. The Council accept that Larry and Kathleen fall within the definition of 'gypsies and travellers' for the purposes of paragraph 15 of Circular 01/2006: Planning for Gypsy and Traveller Sites. I concur with that view. It is intended that the appeal site will be a settled base where Larry and Kathleen can bring up their children. Another mobile home would be occupied by the Appellant's son Patrick and his family. I understand that Patrick and his wife also have school age children. Patrick was also brought up at Pulmore Water and has subsequently travelled. Two further mobile homes would be occupied by nephews of the appellant who are due to get married this year and currently live on a site in Harlow where there are no vacancies.
8. The Council and the appellant are agreed that the proposal is inappropriate development within the Green Belt for the purposes of Planning Policy Guidance Note 2: Green Belts ("PPG2"), which is followed by Environmental Policy 2 of the North Hertfordshire District Local Plan No 2 with Alterations, adopted in 1996. By definition, such development is harmful to the Green Belt. In view of the presumption against inappropriate development (referred to in paragraph 3.2 of PPG2), I must give substantial weight to the harm to the Green Belt arising from the inappropriateness of the development.
9. At the hearing, I sought the view of the parties on the draft National Planning Policy Framework ("the NPPF"). After noting those views, I give little weight to the NPPF because it is in draft form, and its policies may be subject to change.

The ground (a) appeal

Main issues

10. This ground of appeal is that planning permission should be granted for those matters referred to in the enforcement notice. The main issues are: the effect of the development on the openness of the Green Belt; and whether the harm by reason of the development being inappropriate development in the Green Belt, and any other harm, if found, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt - openness

11. Openness of the Green Belt is referred to in paragraph 1.4 of PPG2 as its most important attribute. The appellant explained that he had placed hard surfacing on the appeal site prior to 2006 in order to store vehicles and machinery etc. used in connection with his business. Reference was made to an aerial photograph said to be taken on 1 January 2006. To my eyes, the photograph does suggest that some of the appeal site was covered with hard surfacing at

the time the photograph was taken. However, the Council questioned the date of the photograph because of the greenness of vegetation shown on it. Given the nature of the vegetation, I think that it is at least arguable that the photograph was taken at a different time. Given a lack of detailed evidence, such as statutory declarations, to support the appellant's claim, I am not satisfied from the information before me that hard surfacing of the appeal site had taken place prior to four years before the enforcement notice was served.

12. I note that some topsoil has been placed over hard surfacing at the southern end of the appeal site and that this has, in part, been grassed over. However, the laying of the hard surfacing and the stationing of some five/six static caravans on the appeal site, together with associated touring caravans, and the storage of vehicles, a container, machinery and equipment has led to a reduction in the openness of the Green Belt. In my opinion, the reduction of openness has resulted in material harm to the Green Belt, in addition to the substantial weight which I must give to the harm arising from inappropriateness.
13. I must now give consideration as to whether the harm that has been identified would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. Here, the appellant has sought reliance on a number of considerations in support of the use of the appeal site as a residential caravan site, but these do not extend to the storage element of the mixed use identified in the alleged breach of control.

Other considerations- the need for, and provision of, gypsy and traveller sites

14. Circular 01/2006 refers to the national need for further provision of sites for gypsies and travellers and seeks to address under-provision. Following an earlier announcement that he intends to revoke the Circular, the Secretary of State has published a consultation document in which he explains that the current planning policy for traveller sites does not work and that a new approach is needed. Whilst the current Circular is yet to be revoked, the consultation document gives a clear indication as to the Government's intended direction and is thus a material consideration. That said, because the consultation document may prompt amendment to the draft guidance and because the Circular remains in place, the Circular is an important consideration in my determination of this appeal.
15. A Gypsy and Traveller Accommodation Assessment for North Hertfordshire together with the neighbouring districts of Broxbourne, East Hertfordshire, Stevenage and Welwyn Hatfield ("the GTAA") was published in 2006. The Council suggested that the GTAA benchmarked 3 additional pitches for the North Hertfordshire District based on growth of the existing site at Pulmore Waters. However, the GTAA concluded that 35 additional residential pitches, as well as 10 transit pitches, would be required to be provided across the various districts in the 5 year period 2006 -2011, without stating where the sites should be provided.
16. Policy H3 of the East of England Plan ("the RSS") states that the Council should make a provision for an additional 15 pitches by 2011. The Secretary of State revoked the provisions for Regional Spatial Strategies in 2010. However, the revocation has been quashed by the High Court in the case of *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government and*

Winchester City Council [2010] EWHC 2866. The Secretary of State intends to abolish the Regional Spatial Strategies through the Localism Act. I give some weight to this. Nevertheless, for the time being, the RSS is still part of the Development Plan and I accord due weight to it.

17. To my mind, an estimation of need based solely on growth of the existing site at Pulmore Waters is not particularly robust and I am not persuaded that it should outweigh Policy H3 of the RSS which, after all, is part of the Development Plan. I appreciate that the RSS figure of 15 pitches took into account regional as well as local need, but it nevertheless forms the most reliable evidence before me on need.
18. Since 2006, the Council has not approved any gypsy/traveller sites, although permission for 6 pitches on the unauthorised site at Wexford Park would reduce the RSS requirement down to 9.
19. At the hearing, the Council submitted its Local Development Scheme Timetable for producing policy documents. This indicates that the Council's Core Strategy will be formally submitted to the Secretary of State in July 2013, with a view to adoption in July 2014. In terms of land allocations, including gypsy/traveller sites, it is intended that a Development Plan Document will be submitted to the Secretary of State in February 2015, leading to adoption in December 2015. In my experience the provision of sites, following adoption of an allocations DPD, is likely to take some 12 to 18 months. I therefore consider it unlikely that sites will come on stream until the end of 2016 or some time in 2017. The Council accepted that sites were likely to be in the Green Belt and reference was made to the possibility of sites being allocated, along with other new development, in that part of the Green Belt adjoining the built up area of Stevenage, with the boundary of the Green Belt being redrawn to exclude allocated land.
20. In terms of alternative sites, there are no authorised gypsy/traveller sites in North Hertfordshire apart from Pulmore Water. The Council suggested that the appellant's existing caravan site at 1 Pulmore Water could be used to provide for the needs of Larry and Patrick Connors and their families, and other gypsies/travellers. Here, the appellant contends that westward extension of the existing caravan site has been in existence for more than 10 years and has a lawful use, with occupation of the caravans open to persons other than gypsies and travellers. This is disputed by the Council. I find the limited evidence before me concerning a possible lawful use to be inconclusive. However, if the use of the existing site was to be rationalised leading to the creation of further gypsy/ traveller pitches, this would necessarily involve redevelopment to allow for the possible stationing of larger static caravans, touring caravans and vehicles etc. There would also inevitably have to be the displacement of at least some of the occupiers of the existing caravans.
21. Against this background, I believe that there is no guarantee that the existing site could be used for the provision of further pitches and, even if it could, I consider it unlikely that pitches would come forward in the immediate future. I therefore give limited weight to the provision of further pitches on the existing caravan site as a means of meeting need, at least in the short term. It will be some time before sites come on stream following adoption by the Council of its DPD. From all the evidence before me, I can only conclude that there remains a need at the present time for gypsy and traveller sites in the

district which is not likely to be met in the near future. This weighs heavily in favour of the proposed use of the appeal site as a residential caravan site.

Other considerations – failure of policy

22. At the present time, the Council does not have an adopted policy concerning the provision of gypsy/traveller sites. It has failed to address need in the district within the 3-5 year time frame set down by Circular 01/2006 and has not complied with the requirement to maintain a 5 year supply of sites as required by Planning Policy Statement 3: Housing. Whilst the Council is making some progress on the likely provision of sites through an allocations DPD, it is likely to be some time before the DPD is adopted. This failure of policy carries considerable weight in favour of the proposed residential caravan site.

Other considerations - accommodation needs and personal circumstances

23. Members of the appellant's family need a settled base where their accommodation needs can be met in order that they can have a traditional gypsy/traveller lifestyle and culture. The appeal proposal would provide them with this. Also, the proposal would enable children from the family to benefit from regular education when they were not travelling. In my view, it is unlikely that a decision to dismiss the appeal would result in persons becoming homeless. This is because there are vacant units on the appellant's existing caravan site, albeit that they are not ideal in terms of family accommodation. Nevertheless, I conclude that there are personal circumstances which weigh in favour of the proposed caravan site.

Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

The storage use

24. As I have indicated, I must attach substantial weight to the harm to the Green Belt by reason of the development's inappropriateness. I have also found that the development has resulted in material harm to the openness of the Green Belt. No other considerations have been submitted in support of the storage element of the proposed mixed use so very special circumstances to justify that element do not exist, and I find that it is contrary to saved Environmental Policy 2 of the Local Plan and guidance contained in PPG2.

Residential caravan site - permanent planning permission

25. Here, there are a number of considerations in favour of this element of the proposal to be weighed against harm to the Green Belt. These are: the need for gypsy/traveller sites in the district and wider area; the failure of policy relating to gypsy/traveller sites; and the personal circumstances of members of the appellant's family.
26. In my judgement, however, the material considerations in favour of the development, even when added together, would not clearly outweigh the substantial harm caused by the proposal to the Green Belt. Very special circumstances to justify the development do not therefore exist. The proposal is therefore contrary to Environmental Policy 2 of the Local Plan and guidance contained in PPG2.

Residential caravan site - temporary planning permission

27. Circular 11/95: The Use of Conditions in Planning Permissions states that a temporary permission may be justified when it is expected that the planning circumstances will change in a particular way at the end of the temporary period. Circular 01/2006 indicates that, where there is an unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, decision makers should give consideration to granting temporary permission. Paragraph 46 of the Circular states that such circumstances may arise in a case where a local planning authority is preparing its sites allocation DPD, and that in such circumstances, authorities are expected to give substantial weight to the unmet need in considering whether a temporary planning permission is justified.
28. On the basis of the information available to me, I am satisfied that the planning circumstances are likely to change within the Council's area within the next four to five years as work on the Council's allocations DPD progresses and sites are subsequently brought forward following its adoption. I am also mindful that there are no alternative sites available. I therefore give substantial weight to unmet need in the context of a temporary permission. Personal circumstances also carry weight.
29. Even so, the harm caused by the residential caravan site to the Green Belt in the short to medium term must be taken into account. Although this element of the development is inappropriate within the Green Belt and has resulted in material harm to the Green Belt, the appeal site is 'contained'. It lies next to an existing caravan site and a quarry. I am mindful that the caravan site does not result in harm to the character and appearance of the area. In my judgement, the harm in this particular case would be clearly outweighed by the considerations weighing in favour of allowing the caravan site for a temporary period, pending the provision of sites following adoption of the allocations DPD. I am particularly mindful of outstanding need in this context.
30. After taking all matters into account, I consider that, in this particular case, it would be appropriate to grant temporary planning permission for the residential caravan site for five years. I have chosen the period of five years to reflect the time that it will take for sites to come forward following the adoption of the allocations DPD.

Human Rights

31. I appreciate that my decision results in an interference with the rights of members of the appellant's family in respect of private and family life and their home, and that Article 8 of the European Convention on Human Rights is engaged. However, I consider that my response is proportionate after taking into account the conflicting matters of public and private interests so that there is no violation of those rights.

Third party issues

32. Other issues raised by third parties include highway safety, the effect of the development on local services, possible pollution, and future restoration of the quarry. The local highway authority has not objected to the development. As I saw on my site visit, St Alban's Road is a busy road and carries heavy goods vehicles associated with Codicote Quarry. However, traffic was travelling at

speeds commensurate with road conditions and drivers were proceeding with appropriate caution. The visibility splays at the entrance to 1 Pulmore Water are acceptable. Having regard to this and the likely number of vehicle movements which would be generated by the development, I therefore find that the development should not have a material adverse impact on highway safety.

33. In the past, children from families at Pulmore Water have had an effect on allocations at the local primary school. However, evidence was given that it was likely that many of the children of occupiers of the appeal site would attend Catholic schools. I therefore find that the use of the site as a caravan site should not have a material impact on the allocation of places at the primary school. There was no detailed information before me concerning the effect of the proposal on health facilities. The site is in an elevated position but there was no detailed evidence before me to demonstrate that the likelihood of drainage from the site leading to pollution. In any event, drainage can be dealt with by way of planning condition. In my experience, it is likely that the quarry will be the subject of a restoration scheme once its operations have ceased. However, I was not provided with any material about a restoration scheme and I am unable to ascertain how the development might affect this. I can, therefore, only give limited weight to the points raised by third parties.

Conditions

34. I have already referred to the issue of temporary permission and will impose an appropriate condition to deal with this and the restoration of the site at the end of the permission. The evidence before me is that at least some of the hard surfacing may have taken place in order to facilitate the storage use before the use as a caravan site commenced. However, as I have previously indicated, I am not satisfied that the hard surfacing took place more than four years before the enforcement notice was issued. Nevertheless, I think it reasonable for all the hard surfacing to remain whilst the appeal site is being used as a caravan site but that it should be removed once the caravan site use has ceased. I have worded the restoration condition to reflect this.
35. The Council suggested a number of other conditions and I have given due consideration to these. The appellant's case in connection with the caravan site use has been predicated upon occupation of the site by gypsies/travellers as defined in paragraph 15 of Circular 01/2006. I shall therefore impose a condition restricting occupancy of the site to such persons.
36. Other suggested conditions seek to prohibit commercial activities on the site, restrict the numbers of caravans on the site, and restrict the size of vehicles which may be brought onto the site. I consider all these conditions to be reasonable and necessary in order to minimise the impact of the proposal on the openness of the Green Belt. Further conditions would require the submission and implementation of a site development scheme (including reference to landscaping) and the submission of a maintenance schedule. I consider these conditions to be reasonable and necessary in the interests of good planning and to protect the residential amenity of the occupiers of the site. I consider the reference to landscaping in the site development condition and the maintenance condition to be appropriate even though the permission is temporary. This is because of the length of the temporary permission.

37. Lastly, the Council suggested a condition to bring external lighting under its control. I consider the condition to be reasonable and necessary in order to prevent light pollution. However, I believe it appropriate to include reference to lighting in the site development condition, rather than it being the subject of a separate condition.

Conclusion

38. For the reasons given above, I conclude that the appeal on ground (a) should be allowed in part, insofar as it relates to the use of the appeal site as a caravan site, and dismissed in part, insofar as it relates to the use of the site for storage purposes.

The ground (f) appeal

39. This ground of appeal is that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections. The appellant's argument here was that the requirement to remove the hard surfacing is excessive. I have already dealt with this when considering the ground (a) appeal, which succeeds in part. I have found it reasonable for the hard surfacing to remain in place whilst the appeal site is used as a residential caravan site for a temporary period, but have imposed a condition requiring the removal of the hard surfacing at the end of the period. Accordingly, it is not necessary for me to give further consideration to the ground (f) appeal.

The ground (g) appeal

40. The ground of appeal under section 174 (2) (g) of the Act is that the time period given to comply with the notice is too short. Although I have concluded that the ground (a) appeal should succeed insofar as it relates to the residential caravan site use, I need to consider this ground of appeal in relation to the storage use. The periods for compliance set out in the notice are 28 days and 3 months for steps (i) and (ii) respectively. The appellant suggested a compliance period of two years but this was in respect of the use of the site as a residential caravan site. In my view, the compliance periods set out in the notice are reasonable for the steps (insofar as they relate to the storage use) to be carried out. The appeal on ground (g) therefore fails.

Formal Decision

41. Following on from paragraph 1 above, I direct that the enforcement notice be corrected by the deletion of all the words after the word "residential" in the second sentence of paragraph 3 (a) of the notice (which refers to the alleged breach of control) and their substitution with the words "caravan site, and for the storage of vehicles, containers, machinery and equipment (including associated works such as hard surfacing, enclosures, lighting and other services)".
42. The appeal is allowed insofar as it relates to the use of the appeal site as a residential caravan site and planning permission is granted on the application deemed to have been made under section 177(5) of Act for the use of land at 1 Pulmore Water St Alban's Road, Codicote, Hitchin, Hertfordshire SG4 8SP, as shown on the plan attached to the notice, as a residential caravan site (including associated works such as hard surfacing, enclosures, lighting and services), subject to the following conditions:

- 1) The use hereby permitted shall be for a limited period being the period of five years from the date of this decision. At the end of this period the use hereby permitted shall cease; all caravans, buildings, structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed; and the land restored to its condition before the development took place. For the avoidance of doubt, the existing hard surfacing on the land shall be removed at the end of the five year period.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 3) There shall be no more than 6 pitches on the site and on each of the 6 pitches hereby approved no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 as amended and the Caravan Sites Act 1968 as amended, shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 4) No commercial activities shall take place on the land, including the storage of materials.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use (including, for the avoidance of doubt, the existing hard surfacing on the land) shall be removed within 28 days of the date of failure to meet any one the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for: (1) the internal layout of the site, including the siting of caravans, pitches, hardstandings, means of pitch division, parking and amenity areas together with details of the proposed occupants for the 6 pitches hereby permitted; (2) the landscaping of the site providing details of any additional hedge and shrub planting including numbers and densities; (3) the means of disposal of foul and surface water and the provision of any amenity blocks or similar facilities; and (4) the provision of external lighting to include the position, height and type of lights (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) within 11 months of the date of this decision the site development scheme shall have 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 site development scheme shall have been carried out and completed in accordance with the approved timetable.

- 7) At the same time as the site development scheme required by condition 6 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of 2 years of the proposed planting commencing at the final phase of implementation as required by that condition; the schedule to make provision for the replacement of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or becomes seriously damaged or defective with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.
43. Given that I have corrected the wording of the breach of control set out in paragraph 3 (a) of the notice, I now need to vary the requirements of the notice, as set out in paragraph 5 to reflect this. I therefore direct that that the notice be varied as follows:
- (a) that all the words after the word "red" in the first line of the first requirement as set out in paragraph 5 (i) of the notice be deleted and substituted with the words "as a residential caravan site, and for the storage of vehicles, containers, machinery and equipment"; and
- (b) that all the wording of the second requirement as set out in paragraph 5 (ii) of the notice be deleted and substituted with the following words: "Remove from the land edged in red all residential caravans (including static and park homes) and all other caravans associated with the residential use of the land; all vehicles, containers, equipment and machinery stored on the land; and all hard surfacing, enclosures, lighting and other services associated with the unauthorised development.
44. The appeal is dismissed and the enforcement notice is upheld as corrected and varied insofar as it relates to the use of the appeal site for the storage of vehicles, containers, machinery and equipment, and planning permission is refused in respect of the use of land at 1 Pulmore Water St Alban's Road, Codicote, Hitchin, Hertfordshire SG4 8SP for the storage of vehicles, containers, machinery and equipment on the application deemed to have been made under section 177(5) of the Act.
45. I have not sought to vary the requirements of the notice to exclude that part of the development, namely use a residential caravan site, in respect of which a conditional permission is being granted as this could give rise to two inconsistent permissions, the conditional one being granted, and an unconditional one deemed to have been granted under section 173 (11) of the Act as a result of the variation cutting down the requirements. Reliance can be placed on section 180 of the Act to mitigate the effect of the notice so far as it is inconsistent with the permission.

James Ellis

Inspector

APPEARANCES

FOR THE APPELLANT:

Philip Brown BA (Hons), MRTPI	Managing Director, Philip Brown Associates
John Connors	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mary Caldwell	Planning and Conservation Manager, North Hertfordshire District Council
Chris Braybrooke	Senior Planning Compliance Officer, North Hertfordshire District Council
David Hill	Planning Policy and Projects Officer, North Hertfordshire District Council
Geraldine Goodwin	Revenues Section, North Hertfordshire District Council

INTERESTED PERSONS:

Cllr Tom Brindley	Ward Member, North Hertfordshire District Council
Cllr Jacque Grant	Codicote Parish Council
Lorraine Ellis	Clerk to Codicote Parish Council

DOCUMENTS

- 1 North Hertfordshire District Council Local Development Scheme Timetable – published February 2012
- 2 Caravan Count Information for North Hertfordshire

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NORTH HERTFORDSHIRE DISTRICT COUNCIL

Town and Country Planning Act 1990
Town and Country Planning (General Development Procedure) Order
2015

DECISION NOTICE

Correspondence Address:

Philip Brown Associates
74 Park Road
Rugby
Warwickshire
CV21 2QX

Applicant:

Mr J Connors

PARTICULARS OF DEVELOPMENT

Application: 18/00794/FP

Proposal: Change of Use of land to use as a residential caravan site for 8 gypsy families including retention of hardstanding and existing lights.

Location: Land to The West Of, St Albans Road, Codicote, Hertfordshire,

Plan Nos: Location Plan, Site plan

PARTICULARS OF DECISION

In pursuance of its powers under the above Act and the associated Orders and Regulations, the Council hereby **GRANT PERMISSION** for the development proposed by you in your application received with sufficient particulars on 9 April 2018, subject to the following condition(s):

1. The use of the land for up to 8 pitches (maximum 2 caravans per pitch) for caravans / mobile homes for residential purposes is hereby permitted for the period up until 31 October 2022. At the end of this period and by the expiry date of this permission the use shall cease, all caravans and associated facilities and infrastructure shall be removed from the site and the land reinstated to a satisfactory condition. For the avoidance of doubt the current hard standing on the site shall also be removed by the expiry date of this permission.

Reason: The need for the site for gypsy and traveller accommodation has not been demonstrated and the use of land is inappropriate and therefore must cease within an 18 month period in the long term interest of preserving the openness of the Green Belt within which the site is located.

Proactive Statement:

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed:



Development Management
North Hertfordshire District Council
Council Offices
Gernon Road
Letchworth
Herts
SG6 3JF

Development & Conservation Manager

Date: 25 February 2021

The Council's Privacy Notice is available on our website: <https://www.north-herts.gov.uk/home/council-data-and-performance/data-protection/information-management-gdpr>

NOTES

- 1 **Failure to satisfy conditions may invalidate this permission and/or result in enforcement action. Particular attention should be paid to the requirements of any condition in bold.**
- 2 Applicants will need to pay a compliance fee where they request confirmation in writing of any planning consent, agreement or approval (commonly known as discharge of conditions) required by one or more conditions or limitations attached to a grant of planning permission.
- 3 The fee is £116 per request or £34 where the permission relates to an extension or alteration to a dwellinghouse or other development in the curtilage of the dwellinghouse.

The request can be informal through the submission of a letter or plans, or formal through the completion of an application form and the submission of plans. Any number of conditions may be included on a single request. The form is available via the Council's website:

www.north-herts.gov.uk/home/planning/planning-applications/submit-planning-application

- 4 If the development hereby permitted is one that will require a new postal address/es then please contact the Council's **street naming and numbering service** on 01462 474431 or email SNN@north-herts.gov.uk who will advise you on how to apply for the new address/es.

Any proposed sales and/or marketing name to be adopted by the developer should be forwarded to the **street naming and numbering service**, prior to any publication of the site details and sales information.

- 5 If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

6 **Purchase Notices**

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

- 7 The District Council and County Highway Authority wish to ensure that, in the implementation of the development, hereby approved, the highway verge adjacent to the property is not damaged or does not become unsightly due to the stationing of skips, parking of vehicles, storing of building materials etc thereon. Your attention is, therefore, drawn to the provisions of Section 131 of the Highways Act 1980 and to the Hertfordshire County Council Bylaws 1955 (specifically relating to grass margins and verges in Letchworth Garden City) by virtue of which such actions, unless authorised by the prior grant of a licence, constitute a prosecutable offence. Persons responsible for undertaking the development and any associated works are, therefore, strongly encouraged to take appropriate steps to ensure that no breach of the said legislation occurs during the course of such activities. In the event of any damage being caused it will be expected that suitable reinstatement is undertaken upon completion of the development. Failure to do so could also result in legal action being pursued. To obtain information regarding the issue of licences, contact Hertfordshire Highways, Hertfordshire County Council, County Hall, Pegs Lane, Hertford, SG138DQ or telephone 0300 1234 047.

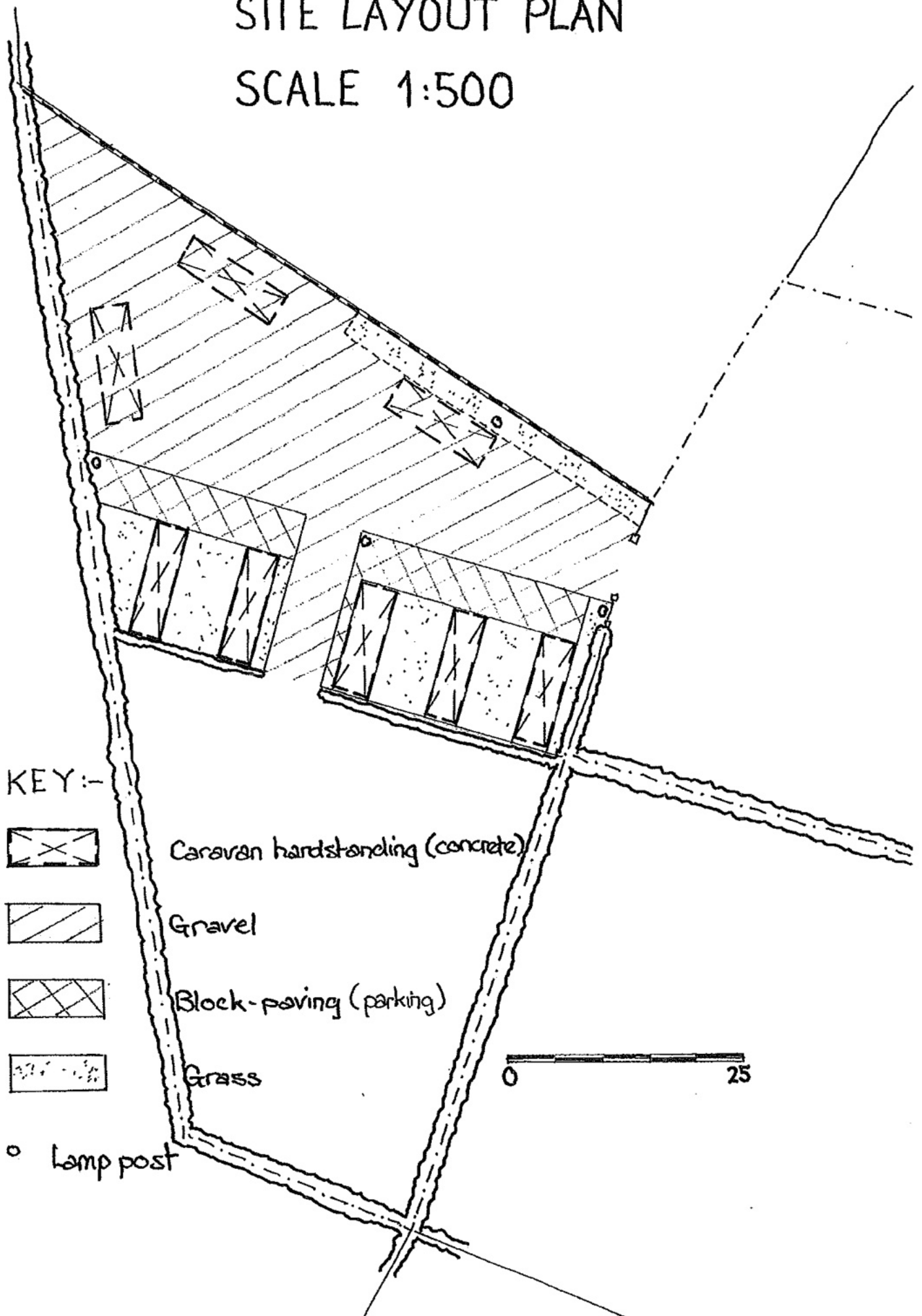
8 **Cadent Gas Informative:**

Cadent Gas own and operate the gas infrastructure within the area of your development. Contact our Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to. Email plantprotection@cadentgas.com Alternatively you can register on www.beforeyoudig.cadentgas.com This service is free of charge.

THIS PLANNING PERMISSION DOES NOT CONSTITUTE APPROVAL UNDER BUILDING REGULATIONS AND IS NOT A LISTED BUILDING CONSENT OR CONSERVATION AREA CONSENT. IT DOES NOT CONVEY ANY APPROVAL OR CONSENT WHICH MAY BE REQUIRED UNDER ANY ENACTMENT, BYE-LAW, ORDER OR REGULATION OTHER THAN SECTION 57 OF THE TOWN AND COUNTRY PLANNING ACT 1990.

SITE LAYOUT PLAN

SCALE 1:500



6

TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)

BREACH OF CONDITION NOTICE

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

REF: 24/00121/1BOC

SERVED BY: The Council of the North Hertfordshire District Council (“the Council”)

TO:

1. Larry Connors, 1 Pulmer Water Cottage, St Albans Road, Codicote, Hitchin, SG4 8SP
2. Lawrence Joseph Connors, Long Lake Meadow, High Road, Seddington, Sandy SG19 1NU

1. **This Notice** is served by the Council under section 187A of the above Act, because they consider that a condition imposed on a grant of planning permission, relating to the land described in paragraph 2 below, has not been complied with. The Council consider that you should be required to comply with the condition specified in this notice. The Annex at the end of this notice contains important additional information.

2. THE LAND TO WHICH THE NOTICE RELATES

Land at Codicote Quarry, St Albans Road, Codicote, Hitchin, Hertfordshire, SG4 8SP, also known as Land to the West of St Albans Road, Codicote, Hitchin, Hertfordshire, SG4 8SP cross hatched in ORANGE on the site plan attached.

3. THE RELEVANT PLANNING PERMISSION

The relevant planning permission to which this notice relates is the permission granted by the Council on 25th February 2021 for ‘Application for planning permission for Change of Use of land to use as residential caravan site for 8 gypsy families, including retention of hardstanding and existing lights’ reference 18/00794/FP.

4. THE BREACH OF CONDITION

The following condition has not been complied with:

Condition Number 1:

The use of the land for up to 8 pitches (maximum 2 caravans per pitch) for caravans / mobile homes for residential purposes is hereby permitted for the period up until 31 October 2022.

At the end of this period and by the expiry date of this permission the use shall cease, all caravans and associated facilities and infrastructure shall be removed from the site and the land reinstated to a satisfactory condition. For the avoidance of doubt the current hard standing on the site shall also be removed by the expiry date of this permission.

Reason:

The need for the site for gypsy and traveller accommodation has not been demonstrated and the use of land is inappropriate and therefore must cease within an 18-month period in the long term interest of preserving the openness of the Green Belt within which the site is located.

5. WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of condition specified in paragraph 4 of this notice, you are required to comply with the stated condition by taking the following steps on the land cross hatched in ORANGE on the site plan attached:

- (1) Remove ALL caravans and associated facilities and infrastructure from the land
- (2) Remove the hardstanding from the land
- (3) Remove the lights from the land
- (4) Re-instate the land to green belt condition following compliance with points (1-3) above

And ceasing the following activities:

- (1) The use of the land for caravans / mobile homes for residential purposes

Period for compliance: Three (3) calendar months beginning with the day on which this notice is served on you.

Dated: 19th August 2024



Signed:

Christella Menson
The Council's Authorised Officer

On behalf of:
NORTH HERTS DISTRICT COUNCIL
Council Offices
Gernon Road
Letchworth Garden City
SG6 3JF

ANNEX

WARNING

Re: Land at Codicote Quarry, St Albans Road, Codicote, Hitchin, Herts, SG4 8SP, also known as Land to the West of St Albans Road, Codicote, Hitchin, Herts, SG4 8SP

THIS NOTICE TAKES EFFECT IMMEDIATELY IT IS SERVED ON YOU IN PERSON OR ON THE DAY YOU RECEIVED IT BY POST.

THERE IS NO RIGHT OF APPEAL TO THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT AGAINST THIS NOTICE.

It is an offence to contravene the requirements in paragraphs 6-9 of this notice after the end of the compliance period. You will then be at risk of immediate prosecution in the Magistrates' Court, for which the maximum penalty is £2,500 for a first offence and for any subsequent offence.

If you are in any doubt about what this notice requires you to do, you should get in touch immediately with **NORTH HERTS DISTRICT COUNCIL on 01462 474000, ask for Planning Enforcement and quote reference number 24/00121/1BOC.**

If you do need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the High Court for judicial review.



**North
Herts**
Council

NORTH HERTFORDSHIRE DISTRICT COUNCIL - 24/00121/1B OC

Land at Codicote Quarry, St Albans Road, Codicote, Hitchin SG4 8SP, also known as Land to the West of St Albans Road, Codicote, Hitchin, Hertfordshire, SG4 8SP.



Scale 1:1,250

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