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## Appeal Decisions

Inquiry opened on 2 April 2019

Site visit made on 2 September 2019

**by Paul Dignan MSc PhD**

an Inspector appointed by the Secretary of State

Decision date: 22 October 2019

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**Appeal A: APP/H1705/C/18/3203089**

**Appeal B: APP/H1705/C/18/3203087**

**Appeal C: APP/H1705/C/18/3203090**

**Land at Plots 3 (Appeal A), 4 (Appeal B) and 6/7 (Appeal C), Cufaude Lane, Bramley, Tadley, Hampshire, RG26 5DL.**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeals are made by Mr John Eastwood (A), Mr Willie Stokes (B) and Mr William Stokes (C) against enforcement notices issued by Basingstoke & Deane Borough Council.
  - The enforcement notices, numbered EC/16/00376/UMCU2 (Appeal A), EC/18/00003/UMCU1 (Appeal B) and EC/17/00435/BOC1 (Appeal C) were issued on 19 April 2018.
  - The breaches of planning control as alleged in the notices are:
    - Appeal A:** The material change of use of the Land from agricultural to a gypsy and traveller pitch, the siting of two mobile homes/caravans for residential occupation, the erection of three utility buildings and the laying of hardstanding.
    - Appeal B:** The erection of utility buildings, the laying of hardstanding, and the formation of a vehicular access onto a classified road, Cufaude Lane, including the laying of hardstanding, sub base and pipe at the crossover from Cufaude Lane.
    - Appeal C:** The material change of use of the Land from agricultural to a gypsy and traveller pitch, the siting of three mobile homes/caravans for residential occupation, the erection of two utility buildings, the laying of hardstanding, and the formation of a vehicular access onto a classified road, Cufaude Lane, including the laying of a hardstanding, sub base and pipe at the crossover from Cufaude Lane
  - The requirements of the notices and the periods for compliance are set out at Annex 1 attached to this decision.
  - The appeals are proceeding on the grounds set out in section 174(2)(a), (d) and (g) of the Town and Country Planning Act 1990 as amended. The applications for planning permission deemed to have been made under section 177(5) of the Act as amended also fall to be considered.
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**Appeal D: APP/H1705/W/17/3183258**

**Land at Plot 3, Cufaude Lane, Bramley, Tadley, Hampshire, RG26 5DL.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr John Eastwood against the decision of Basingstoke & Deane Borough Council.
  - The application Ref. 17/00942/FUL, is dated 10 March 2017.
  - The development proposed is: Use of site as a private gypsy site for one family comprising a mobile home, utility room and touring caravan.
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**Appeal E: APP/H1705/W/18/3199357**

**Cufaude Lane, Bramley, Tadley, Hampshire, RG26 5DL.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Willie Stokes against Basingstoke & Deane Borough Council.
  - The application Ref. 18/00006/RET, dated 2 January 2018, was refused by notice dated 13 March 2018.
  - The development proposed is: Use of land for gypsy/traveller family comprising stationing of 3 no. touring caravans, the erection of a utility room, installation of a cesspit and new vehicular access.
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**Appeal F: APP/H1705/W/18/3199331**

**Cufaude Lane, Bramley, Tadley, Hampshire, RG26 5DL.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr William Stokes against the decision of Basingstoke & Deane Borough Council.
  - The application Ref. 17/04276/FUL, dated 18 December 2017, was refused by notice dated 22 March 2018.
  - The development proposed is: Change of use of the site to use as a private gypsy site for one family comprising two mobile homes and touring caravans including installation of cesspit.
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**Summary of Decisions**

1. The formal decisions are set out in Annex 2 attached to this decision.

Appeals A to C

2. The enforcement notices are corrected and/or varied, the appeals are dismissed, the enforcement notices are upheld and planning permission is refused.

Appeal D

3. The appeal is dismissed and planning permission is refused.

Appeals E and F

4. The appeals are dismissed.

**Background and preliminary matters**

5. The appeal sites are situated to the west of Cufaude Lane which runs south from the village of Bramley towards Chineham. They are located within a wider agricultural parcel of land, extending to approximately 4.55 hectares, which has been subdivided into a total of 48 plots. The original field access onto Cufaude Lane appears to have been at the north-eastern corner. A metalled track from this access serving plots on the eastern side of the field is the subject of an enforcement notice which came into effect on 20 August 2014. The notice required the removal of the hardstanding and the restoration of the land, though it has not been complied with. The plots the subject of these appeals are along the Cufaude Lane frontage to the south of the field access. The metalled track above runs along the western side of these plots.

6. There have been previous unauthorised residential developments on the land<sup>1</sup> which led the Council to seek an injunction, granted in July 2014, preventing the use of the land for residential purposes, and the siting of caravans or laying of hardstanding other than for agricultural purposes. A strip of land adjoining Cufaude Lane was not covered by the 2014 injunction. The Plot 3 part of this strip was occupied in March 2017 and that of Plots 6/7 in early December 2017. The injunction was varied on 21 December 2017, initially on an interim basis, to include the strip and a piece of land to the west of the field, preventing further residential use of the land, related works, the laying of hardstanding, entry onto the land of further caravans and the construction and use of dayrooms. The Plot 4 strip was occupied shortly afterwards and an application to vary the injunction to allow its use was dismissed in February 2018. The residential use of Plot 4 then ceased. An application to vary the injunction to allow materials brought onto Plots 6/7 in breach of the injunction to remain was dismissed in February 2019.

*The Planning applications, the notices and the deemed planning applications*

7. The planning applications for all 3 plots were made before the enforcement notices were issued. The red lines for all three applications encompass the full plots, but for Plot 4 and Plots 6/7 residential development is shown as confined to the strip not covered by the 2014 injunction. On Plot 3 the plans show caravans and a utility building on about half of the plot, the remainder to be grassed. On all three planning applications the site access is directly from Cufaude Lane, in effect as existing. Alternative accesses were put forward by the appellants, and I deal with these below.
8. Notwithstanding that the planning applications confine the proposed residential uses to certain parts of the plots, I consider that the planning application proposals and those to be considered under the deemed planning applications and ground (a) appeals should be treated as being the same, that is as applications to change the use of the plots to use for the stationing of caravans for residential use by gypsy/travellers. Neither the appellants nor the Council has sought to distinguish between them in practice, and some of the ideas and arguments put forward in the course of the appeals require that flexibility of consideration.
9. In each case the land the subject of the enforcement notice comprises the full plot/s. However, the Plot 4 enforcement notice is aimed solely at the operational development but the Council now considers that it should be amended to describe the breach of planning control similarly to the other two notices, that is a change of use to use as a gypsy/traveller site. There are also some errors that the Council would like to see corrected, including reference to the relevant time period for immunity, being 10 years for material changes of use and associated operational development rather than 4 years for the operational development components.
10. It is rarely appropriate to amend a notice aimed at operational development to one aimed at material change of use, and the extent of the amendments required to get the notice in order as a change of use notice are substantial. Nonetheless, in this case, while I note the appellant's reservations, I consider

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<sup>1</sup> Appeals concerning residential use of plots were dismissed in 2010 (APP/H1705/A/10/2132111) and 2014 (APP/H1705/C/13/2208684)

that it does not cause prejudice because it allows consideration, under the deemed planning application, of the use of the plot as a whole as a gypsy/traveller pitch to meet the needs of the appellant's family. Unamended, success on grounds (a) and (g) would be of little value to the appellant. I will also amend the reasons for issuing the notice for consistency, they should reflect the reasons for refusing planning permission. The other option is simply to deal with the notice as issued, which would be pointless given the appeal on ground (a). Similarly, the steps required should reflect the purpose of the notice which is clearly to remedy the breach of planning control. I consider that the amendments sought by the Council, to all 3 notices, though extensive, are within my powers to make and do not cause prejudice.

### **Appeals A, B and C - ground (d)**

11. All 3 enforcement notices refer to the laying of hardstanding, on Plot 3 over all of the plot, and on Plot 4 and Plots 6/7 at the front. An appeal on ground (d) is that it is too late to take enforcement action, and in all 3 cases it relates to the laying of the hardstanding, which the appellants say was in place before they moved on.
12. The relevant periods for immunity from enforcement are 4 years for operational development and 10 for most changes of use, including those at issue here. However, where operational development is undertaken that is integral to, and part and parcel of, the change of use then it can be required to be removed within the 10 year period even if it would, viewed on its own, have gained lawfulness by virtue of section 171B(1), that is under the 4-year rule.
13. On ground (d) appeals, the burden of proof rests with the appellants and the test of the evidence is the balance of probabilities. For the ground (d) appeals to succeed the onus is on the appellants to demonstrate, on the balance of probabilities, that the relevant works were substantially completed more than 4 years before the relevant notice was issued and were not part and parcel of, and integral to, the change of use enforced against.

#### *Plot 3*

14. The appellant maintains that this plot was surfaced with hardcore when he purchased it, and that all he did was to clean it up and lay some more hardcore over what was there already. It seems that this plot was the one that was the subject of the 2010 appeal, and so had been lived on previously, the appeal decision recording that the appellant in that case had moved onto the site in summer 2009 but subsequently moved off following the issuing of an injunction. It emerged in cross-examination that the Council's enforcement officer, Mr Fletcher, had not been aware of this, and it was argued that I should therefore set his evidence aside as being unreliable. However, most of his evidence was from personal experience, given under oath and subject to cross-examination. I found it to be credible.
15. The Council has photographs of the plot taken in April 2010 which shows the site as being grassed, with deep wheel ruts clearly evident towards the Cufaude Road end. Photographs taken in September 2011 and June 2105 also show the plot grassed. Photographs taken in and August 2015 show most of the site grassed, but with some hardstanding laid just inside the entrance from Cufaude Lane. On receipt of a complaint alleging the importation of materials, Mr

Fletcher visited the site in September 2016. A photograph taken on that visit shows a min-digger, much of the grass stripped off and a pile of what looks like topsoil at the end of the plot. Some stones can be seen in the grass at the front of the plot, and scattered on the ground to about one third of the way in, but there is nothing resembling a hard surface. Mr Eastwood explained that he had removed material from the site and had it cleaned, hence why material had been seen entering the site. At a subsequent site visit just over a week later following further reports of materials being delivered to the site, Mr Fletcher noted an increase in the extent of hardcore, and a photograph taken on the day shows much of the site covered in rough hardcore, the remainder being grass near the entrance and bare soil towards the rear. A photograph taken in March 2017 shows caravans stationed on the land, which is covered by fine grain hardstanding, different in colour and texture from what was spread on the land in September 2016.

16. The appeal decision concerning the previous residential use notes the presence of the close-boarded fencing, but makes no mention of hard surfacing, and the condition of the land, including deep wheel ruts, in 2010 when residential use had ceased suggests, on the balance of probability, that there was no substantial hardstanding on the site at that time. It is possible that there was some hardstanding there, but certainly by June 2015 if there had been any there the photographic evidence suggests that it had been subsumed into the landscape.
17. Mr Eastwood's evidence, that the plot was hard-surfaced but covered by a thin layer of grass, does not stand up to scrutiny. In my view the series of photographs between September 2016 and March 2017, along with Mr Fletcher's account of his visits, provide compelling evidence of the laying of the hardstanding on the site to support the change of use, including ground preparation, the laying of a sub-base and then a finish course of fine grained materials. Mr Eastwood's account is simply not credible, and falls well short of demonstrating, on the balance of probabilities, that the plot was laid to hardstanding before he began work there. I find, on the balance of probabilities, that the hardstanding on Plot 3 was laid between September 2016 and March 2017 as part and parcel of the material change of use of the land. It follows that immunity from enforcement cannot have been gained by the passage of time and the appeal on ground (d) cannot succeed.

#### *Plot 4*

18. This site was visited early in January 2018 following reports from the public of the creation of an access from Cufaude Lane, the importation of hardstanding and the stationing of caravans and other structures towards the front of the plot. Earlier photographs of the site are oblique, focussing on other matters on the wider parcel, but show no indication of hardstanding or an access, the plot being just grassland with thick hedgerow vegetation along the frontage. Mr Fletcher had made regular visits to the adjoining plot by then and had seen no evidence of an access or hardstanding. The works to create an access to Cufaude Lane would have been substantial due to the presence of a deep ditch between the highway and the plot, and substantial vegetation would have had to have been removed, so I have no doubt that had the access and hardstanding been there on the pre-December 2017 site visits Mr Fletcher would have seen them.

19. The contrary evidence is that of Mrs Stokes, but she did not appear to have had first hand knowledge of the works that took place, having arrived at the site after others. She came onto the site from the rear of the plot and not through any pre-existing access onto Cufaude Lane. She claimed that there was an old gate in the briars and they replaced that with a new gate, but that would not have given access onto Cufaude Lane given the wide ditch. Her explanation for the new appearance of the strip of hardstanding on which the caravans were stationed was that they had spent a few days cleaning it with bleach. I didn't find any of this convincing, and it runs entirely counter to the credible evidence of Mr Fletcher, the public reports of activity at the site and the limited photographic evidence. Under this ground the burden of proof is on the appellant, but the evidence in support falls well short of displacing the Council's evidence and demonstrating, on the balance of probability, that the works to create the hardstanding and access were not part and parcel of the residential use initiated in late December 2017. The appeal on this ground fails accordingly.

#### *Plots 6/7*

20. Mr Stokes does not dispute that he put down hardcore, but he claims that some 60% of what is there was pre-existing. However, there is photographic evidence taken on various Council visits showing: a new gap in the hedge and the construction of a culverted access in February 2016, when there was no hardstanding evident within the site; new hardcore piled over the new entrance in March 2016, but not within the plot; a double gate with a small amount of hardstanding just behind the gates, but not elsewhere, in February 2017 and in April 2017. There is nothing even vaguely resembling the area of hardstanding now present on the site, and there were reports from the public in early December 2017 of hardstanding being brought onto the site along with the stationing of caravans. In view of the strong evidence to the contrary, including the photographic evidence, I consider that the appellant's evidence falls well short of discharging the burden of proof in this case, and the appeal on this ground fails accordingly.

### **Appeals D, E and F and appeals A, B and C on ground (a)**

#### *Main Issues*

21. The Council has indicated that had it determined the Appeal D planning application it would have refused it for the same reasons given in respect of the applications the subject of Appeals E and F, that is on the grounds of flood risk, highway safety, unsustainable location and harm to the character and appearance of the area.
22. Having heard the oral evidence of the appellants I am in no doubt that they all meet the definition of "gypsies and travellers" to whom the Government's Planning Policy for Travellers Sites, 2015 (PPTS) applies.
23. Accordingly I consider the main issues to be whether the developments are at risk from flooding; the effect of the development on the character and appearance of the area; the effect on highway safety; whether the site can be considered as acceptable in policy terms, having regard to access to services and facilities, and the location of the site in the countryside; and whether there are any material considerations to outweigh any harm identified, including The need for sites for gypsies and travellers, the provision of sites and the

availability of alternative sites, and personal circumstances including the best interests of children. The unauthorised nature of the developments must also be considered.

### *Policy background*

24. National policy is contained within the PPTS and National Planning Policy Framework (NPPF) and these are material considerations. The NPPF has been revised since the enforcement notices were issued. It is the latest document that now applies. PPTS, which must be read in conjunction with the NPPF, aims to ensure fair and equal treatment for travellers in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community. Amongst other things, it expects local planning authorities to increase the number of traveller sites in appropriate locations to address under provision and maintain an appropriate level of supply. In locational terms, it advises that 'authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or areas allocated for development'. This policy guidance does not present an absolute restriction on the location of new gypsy and traveller sites in the countryside, but the general thrust of the policy goes against such development in remote or spatially isolated locations.
25. The development plan for the Borough includes the Basingstoke and Deane Borough Local Plan 2011-2029 (LP) and the Bramley Neighbourhood Plan (NP). LP Policy EM1 expects developments to demonstrate that they are sympathetic to the character and visual quality of the area, LP Policy EM10 aims for high quality development that respects the local environment and contributes positively to local distinctiveness. LP Policy CN5 concerns traveller sites and sets out the Council's approach to meeting identified need. It also provides criteria for assessing proposals. LP Policy CN9 is a transport policy that expects safe, suitable and convenient access for new developments. NP Policy D2 aims for high quality design that is well integrated with its surroundings, and NP Policy T2 seeks to ensure that development does not adversely affect road safety.

### *Flood Risk*

26. The appeal sites lies within the functional floodplain (Flood Zone 3b) of Bow Brook, a designated main river which flows along the western and southern boundaries of the larger parcel of land. This zone comprises land where water has to flow or be stored in times of flood. The plots themselves range from 45m to 100m from the river. The land has a high probability of flooding and is known to flood relatively frequently. The 2010 and 2014 appeal decisions both refer to recent flood events, one in 2010 and another in 2013. The land is also known to have flooded in 2007, 2014 and in early 2019. In the 2013 flood event photographs taken at the time showed the water level just below the floor level of a mobile home on a site just to the north of Plot 3. The maximum height of that flood event is not known, but the appellants' consultant estimated that it was a 1 in 5 year event.
27. Caravans and mobile homes intended for permanent residential use are considered to be *Highly Vulnerable* development for planning policy purposes, and the PPG states that such development should not be permitted in Flood Zone 3. PPTS advises that local planning authorities should ensure that their policies do not locate traveller sites in areas at high risk of flooding, including

- functional floodplains, given the particular vulnerability of caravans, and LP Policy CN5 states that traveller sites will not be permitted in Flood Zone 3. Similarly, LP Policy EM7 provides that development in areas of flood risk will only be acceptable if it is clearly demonstrated that it is appropriate at that location. There is no dispute that the proposed developments are contrary to national policy and in conflict with the development plan.
28. The appellants argue nonetheless that the appeal developments can be made safe for their lifetime, taking into account the vulnerability of the occupiers, without increasing flood risk elsewhere. This would require the imposition of, and compliance with, planning conditions that would see any mobile homes on the site tethered and have floor levels set above predicted flood levels, any buildings or other structures to be of permeable construction, and the site occupants to evacuate the sites as a principal means of managing flood risk whenever a Flood Alert is issued for the local Flood Alert Area. The design flood depth is about 620mm, and it is proposed that the mobile home on Plot 3, the lowest of the sites, should have a minimum floor level of 1120mm above ground level.
29. Examples of appeals where such measures were imposed were referred to, but these were not directly comparable. On one site, predicted flood levels were very low by comparison with these appeal sites, flooding had not occurred for over 40 years, and the Inspector concluded that the risk of flooding was not so severe as to result in a strong conflict with the relevant local plan policy. In two other cases the sites benefitted from existing flood defences, and in another the site had not flooded since 1974 and the application was for a temporary period of 4 years. Another was in a location where there were a number of other traveller pitches and for which there was an existing Flooding Action Plan specifying direct contact with site owners at specific trigger levels and involving the EA, the local planning authority and, at evacuation, the police for assistance.
30. It is also notable that the estimated design flood levels at the sites do not take account of the hydraulic characteristics of the Bow Brook channel, which includes a road bridge just to the south, as well as, apparently, privately operated sluice gates a short distance upstream. Surcharging of the bridge, or other channel obstruction, could result in flood levels above the design level. Reliance on the Flood Warning Service is also problematic. The sites fall within the *Upper River Loddon including Basingstoke, Old Basing, Sherfield-on-Loddon, Chineham and Meadow Park* Flood Alert Area. Flood Alerts typically cover wide areas and are used to warn that low lying land and roads are likely to experience flooding. They are issued during sociable hours and can last for weeks. Flood Warnings are issued when flooding is expected to occur and aim to provide a minimum 2 hour warning of an impending flood. They can be issued at any time, but while there are 3 Flood Warning Areas within the Flood Alert Area, none are in the vicinity of the appeal sites, and there is no gauge on Bow Brook to trigger a Flood Warning. The nearest gauged channel is some 3km downstream and in a different catchment. Since April 2012 Flood Alerts in the Flood Alert Area have been issued 30 times, but none has escalated into a Flood Warning, notwithstanding that the site has flooded. For the flood event on the site of 4<sup>th</sup> and 5<sup>th</sup> February 2014, a Flood Alert was issued on 25 January and remained in force until 23 February. Clearly the Flood Warning system cannot be relied upon to give timely warning of site flooding, and evacuation for the



duration of Flood Alerts could mean long absences from the site even when not flooded, which may be unrealistic to expect compliance with, particularly in the long term. The appellants' consultant conceded that a flood event could occur without warning. He also acknowledged that the consequences of having to evacuate the site or find safe refuge with no warning in an extreme flood event could be extremely severe.

31. The appellants have also asserted that the proposals would pass the sequential/exception testing process, but in the case of highly vulnerable development in the functional floodplain these tests have no application.
32. The appeal developments are clearly contrary to local and national policy on flood risk and the management of flood waters in the landscape. This weighs heavily against the developments. The success of the proposed evacuation plan relies on Flood Alerts, which may not be timely or even occur in the event of the site flooding, on adults being present with sufficient towing vehicles to evacuate touring caravans, on occupants being aware of and able to respond promptly to an alert, on mobile homes being elevated sufficiently to retain stability and provide a place of refuge if the occupiers are unable to evacuate, and on the occupiers remaining off-site for the duration of Flood Alerts, which can be lengthy. Each of these carries with it an element of uncertainty, so that it is not possible to have a high enough degree of confidence that a site which regularly floods will remain safe for its lifetime, or for any extended period. This adds significant adverse weight.

#### *Character and appearance and highway safety*

33. I have grouped these issues because the outstanding highway safety matter overlaps with character and appearance concerns. Cufaude Lane to the north and south of the appeal sites is a narrow hedgerow-lined road with a strong rural and tranquil character. Although described in the 2010 appeal decision as having other sporadic development along the lane, what little development there is in the vicinity of the sites is dispersed and barely noticeable. Evidently in 2010 there was substantial hedgerows along the site boundaries, and the character of the lane is likely to have been similar to that of the lane to the north and south now. A Landscape and Visual Impact Assessment (LVIA) prepared for the Council has identified "*Winding Rural lane with hedged boundaries*" as a baseline landscape receptor, and that has not been challenged. Much of the roadside vegetation on the appeal sites side of Cufaude Lane has now been removed to form the highway accesses to the appeal sites and to the plots to the north which have also been subject to unauthorised development<sup>2</sup>. In the 2010 appeal the Inspector noted that Plot 3 was screened to a large extent from views from the lane, but it is now highly visible, as is Plot 4 just beyond. Hedgerow removal has been far less in the vicinity of Plots 6/7 and it remains reasonably well screened from Cufaude Lane by deciduous hedgerow and a large oak tree on highway land just beside the access, views from the lane being largely confined to the width of the access itself, though no doubt it would be more visible in winter.
34. Overall however the current and previous developments along the Cufaude Lane frontage have, cumulatively, had a significant adverse impact on the rural

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<sup>2</sup> The enforcement notice upheld at appeal in 2014 required the reinstatement of the roadside hedge, though this has not yet occurred.

character of the lane in the vicinity of the sites, which now has a much more urban character due largely to the presence and visual impact of discordant features such as the gateways and close boarded fencing in the place of the former hedgerows. The caravans and buildings currently on Plot 3, notwithstanding that there appears to be more than applied for, also have a strong visual impact, particularly on the downhill approach from Bramley, and contribute to the change in character of this part of Cufaude Lane. Although caravans and mobile homes are not necessarily a discordant feature in the countryside, the raising of mobile homes to accord with the proposed flood mitigation strategy would increase their visual prominence, which would have a somewhat adverse impact in terms of visual amenity, reinforcing the change in character of this section of the lane.

35. Absent the appeal developments, the low-lying pastoral character of the wider landscape is clearly evident in more distant views from Vyne Road to the west of the land. From the roadside as it rises on the approach to the Grade II listed Beaurepaire Mill Bridge there are clear views across the wider land parcel to the appeal sites. From here the appeal developments are clearly visible and occupy a significant proportion of the field of view, which is otherwise constrained by riparian vegetation along Bow Brook and the field hedgerows to the north of the parcel. The wider parcel of land has a permitted equestrian use on a couple of the plots near the south-west corner, with associated stables and structures, but these are in keeping with the rural character of the area and not discordant. The development of the appeal sites however has altered the character of the landscape, which now has a relatively cluttered and developed semi-rural character. The LVIA prepared for the Council has described the relevant landscape receptor as "*Pastoral Land Use as part of a wider land parcel*" and found the Overall Impact Significance to be Major/Moderate adverse. In making this assessment the landscape consultant considered the baseline condition to be, amongst other things, an "*Open field without delineated internal boundaries*", but he was unaware that the close boarded fencing around Plot 3 and the adjoining plots to the north pre-dated the appeal developments, having remained after previous unauthorised uses had ceased. He accepted that this would neutralise that landscape receptor. However, this fencing on its own has little visual impact in views from Vyne Road and would not in my view significantly alter the baseline pastoral character.
36. The issue with highway safety concerns the access to Plots 6/7, the sightlines from the other accesses having been demonstrated to be satisfactory. Based on a traffic speed survey, visibility splays of 2.4m by 55m to the north and 2.4m by 50m to the south are considered to be acceptable, the requirement of Hampshire County Council's Technical Guidance Note (TG3) on stopping sight distances and visibility splays being 2.4m by 58m. The Plot 6/7 access can, at present, only achieve sightlines of 2.4m by 8m to the south and 2.4m by 44m to the north. The short sightline to the south is due to the presence of a mature oak tree growing on highway land just beside the access, and it is argued that acceptable visibility to the south could be achieved if this tree was removed, which it could be if planning permission was granted. However, an acceptable sightline to the south in the absence of the tree has not been demonstrated and the road alignment is not straightforward and includes a blind bend. The possibility of reducing the x distance to 2m was raised, but it is not appropriate in my view given the sometime busy nature of this narrow road and the poor alignment to

- the south. In short, I consider that the use of the access to Plots 6/7 would result in an unacceptable risk to highway safety.
37. Removal of the oak tree, which is a good specimen and makes an important contribution to the character of the lane and surrounding area, would add to the harm to the character and visual amenity of the area, particularly so in view of the amount of roadside vegetation already removed.
38. Two additional matters concerning access to the sites require consideration. First, there is a proposal to form a joint access for Plots 3 and 4. Obviously this would reduce the number of accesses and allow restoration of some of the hedgerow, which would reduce the harm to the character and appearance of the lane. This can be made the subject of a condition would not prejudice anyone's interests or unreasonably deprive any interested person or party of an opportunity to make representations.
39. The second matter is a proposal to access the plots from the rear using an existing metalled track over which the appellants apparently have a right of way. Use of this track would be of benefit by allowing the Cufaude Lane accesses to be closed up and the hedgerow re-instated. The track access onto Cufaude Lane is the pre-existing field access and it has satisfactory sightlines. First I have had to consider whether the use of this track as an alternative access to the 3 appeal sites could, in effect, be incorporated into the applications. My view is that it can not, and I have dealt with the appeals on that basis. The track is not in the ownership of any of the appellants, and while I have had a letter purportedly from the owner saying that he is content for the track to be used as the appeal sites' access, it is outside of the appeal sites and was not considered by any party consulted on the applications, hence there is a danger that those who should have been consulted on the changed development might be deprived of that opportunity. Furthermore, the track is the subject of an enforcement notice<sup>3</sup> issued in 2014 that remains in effect. It requires the removal of the hardcore and its restoration by the replacement of topsoil and reseeded. It was argued that the notice is unenforceable, in part due to purported mapping discrepancies, but I am satisfied that it would have been clear to the recipient of the notice what had been done in breach of planning control and what needed to be done to remedy it. I consider that a reasonable person would have no difficulty understanding it and I can see no good reason why full compliance with it could not be enforced.
40. An application<sup>4</sup> was made while this Inquiry was adjourned, seeking planning permission for "Formation of access track and associated works", essentially for the existing track, but this was refused and is now the subject of an appeal. However, even if that appeal succeeds, the suitability of the field access to replace the road accesses must remain in considerable doubt because it has not been demonstrated that it could provide safe access/egress in the event of flooding. Design flood depths along the access are likely to be similar to that for Plot 3, which would equate to a danger classification<sup>5</sup> of "Danger for most". EA guidance is that a safe access/egress route should have a 'very low' hazard rating. Without a hard surface the track would not be suitable at all for a residential use. I have considered the possibility of imposing a Grampian

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<sup>3</sup> Council Ref. J003279

<sup>4</sup> Council Ref. 19/01467/FUL

<sup>5</sup> Table 13.1 of FD2320/TR2

condition based on the use of this access in the event that the appeal against the refusal of the application succeeds, but in view of the lack of information regarding flood risk and that it would have implications for the character and appearance of the area that have not been fully considered, I consider that the use of such a condition would not be appropriate in the circumstances.

41. I have identified harm to the character and appearance of the area, but it is suggested that this harm could be overcome by the use of landscaping schemes which could be required by conditions. No such schemes have been provided, but no doubt some of the harm, including some of the landscape harm, could be mitigated to an extent by landscaping. In reality, however, there is limited scope for effective landscaping on Plots 3 and 4, and while hedging to replace the existing close boarded fencing would be of benefit in terms of softening the current harsh appearance, their shape means that planting in depth could only be achieved at the front and rear, which would appear incongruous. I have considerable doubt that a scheme of landscaping could be devised and implemented that would adequately integrate the developments in the landscape and preserve the landscape character.
42. There is more scope for planting on Plots 6/7, and its position close to the corner of the wider parcel where there is a streamside hedgerow means that the depth of development would be less obvious in views from Vyne Road, but the harm to the character of Cufaude Lane would remain.
43. Overall on these matters, whether the developments are considered individually or cumulatively, I consider that there would be a substantial adverse effect on the character and visual amenity of the landscape, contrary to LP Policies EM1 and CN5, and with NP Policy D2. The continued use of the highway access to Plots 6/7 would have an unacceptable effect on highway safety, and while the removal of the tree on highway land would improve matters, though at a further cost to local character, the access would still be unsafe and thus the development would conflict with LP Policies CN5 and CN9 and with NP Policy T2.

#### *Location*

44. The site is about 0.5km from Bramley, a small settlement which has a primary school and some limited facilities. This is where two of the children now go to school, and it is accessible on foot or cycle. Bramley has a good bus service, with a stop about 0.5km from the sites, and a railway station, so has reasonable access to a wide range of services and employment opportunities in the wider area. Cufaude Lane between the site and Bramley is really not suitable for walking, being narrow, unlit and lacking footpaths or wide verges, so it is likely that most journeys would involve private cars, but many would be short, and good public transport options are available for onward travel for those who need it. In the context of a development to support the nomadic way of life where travel and work are inextricably linked, I consider that the location would not result in unsustainable patterns of travel.
45. In PPTS terms the site can be considered as one of those which is physically away from existing settlements, but it is not remote and has good access to the major road network for those who need to travel widely to look for work. Nor would the location cause significant difficulties in accessing services or promoting social integration.

46. On balance I consider that the site's location would not be contrary to the guidance in PPTS paragraph 25 and it would comply with LP Policy CN5(c) in that it is a reasonable distance from Bramley, which has basic local services and good public transport options to Basingstoke, which has a wide range of services and opportunities. LP Policy CN5(g) expects the potential for successful integration between travelling and settled communities to be demonstrated. Surprisingly, little emphasis was placed on this matter by either party. However, that the younger children from the site would attend the local primary school provides some reassurance in this respect, and I can see no good reason why that CN5 criterion should not be met.

*Other considerations*

The need for, and provision of, traveller sites and the availability of alternative sites

47. PPTS requires local planning authorities to make their own assessment of need for the purposes of planning, to set pitch targets for travellers which address the likely needs, and to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. LP Policy CN5 aims to meet the identified need, but it was prepared in the light of the Gypsy and Traveller Needs Assessment (GTNA) published in 2015. This found a need for 16 additional pitches over the plan period, and it stated that it would meet that need through the provision of pitches as part of Greenfield allocations set out in listed policies, referring to the four largest housing allocations which were expected to include traveller pitches. As it happens, PPTS was revised in the course of the public examination of the LP, revising the definition of travellers covered by the policy to exclude those had had ceased travelling permanently. The change is referred to in the text accompanying the policy, and it goes on to state "The study (the GTNA) was produced before the publication of the amended PPTS, and therefore these pitch requirements may need to be reappraised during the course of the Plan period."
48. Subsequently the Council commissioned the most recent Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA), finalised in April 2017 and using the more recent definition of travellers. The GTAA found that 8 pitches were needed up to 2029, including 5 up to 2022. The GTAA was prepared by Opinion Research Services (ORS) using their own methodology. The need arising from travellers ORS interviewed and considered to meet the new PPTS definition was 7 pitches, and they applied their own factor, 10% at that time, to derive the need likely to arise from those they knew about but were unable to interview (unknowns). That amounted to 1 additional pitch. Subsequently ORS has revised its "unknowns" factor to 25%, bringing the total required over the plan period to 9. For the 5-year period 2019 - 2024 that is considered to equate to a need for 5 pitches, with a permission granted on appeal<sup>6</sup> for 2 pitches in October 2017 reducing the GTAA identified unmet need to 3.
49. The Council's strategy is to meet identified need through the provision of traveller sites within housing applications coming forward on the main LP allocated sites. To date 2 outline applications have been made that include traveller sites. One, at Hounsome Fields, was approved in 2017 and a detailed<sup>7</sup>

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<sup>6</sup> Appeal Ref. APP/H1705/C/17/3166670

<sup>7</sup> Council Ref. 18/00873/FUL

- application for 2 traveller pitches is at an advanced stage. It is recommended for approval by planning officers, but there is a particular sticking point concerning the proximity of a high pressure pipeline which means that the development can only go ahead with specific consent from the operators. Apparently there is ongoing dialogue with the pipeline operator with the hope that minor changes to the position of the pitches will address the concerns.
50. The second outline application<sup>8</sup>, at Manydown, includes the provision of 5 traveller pitches. The application is expected to be considered by the planning committee in November 2019 with a recommendation to approve, and the applicants have indicated that the traveller pitches are likely to be provided within the 5-year period.
51. The 7 pitches to be provided on these allocated sites are considered by the Council to meet the PPTS requirement to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets, by reference to the GTAA need rather than that specified in LP Policy CN5. PPTS states that to be considered deliverable, sites should be available now, offer a suitable location for development, and be achievable with a realistic prospect that development will be delivered on the site within five years. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 years. PPTS does not distinguish between sites with outline and those with full planning permission.
52. It has become common practice for local planning authorities to seek the provision of traveller pitches on allocated sites, and the development approval of these sites usually starts with outline applications, a procedure that does not apply directly to development primarily comprising material changes of use. Since PPTS is concerned with development by way of material change of use it seems logical to me that the reference to "Sites with planning permission ..." should sensibly be interpreted as sites with full or detailed planning permission. Otherwise it would be out of step with how the term "deliverable" is defined for non-PPTS purposes. That does not mean that the 2 sites relied upon by the Council cannot count towards the 5-year supply, but the relevant test is the broader question of whether there is a realistic prospect that development will be delivered on the site within five years. I consider that it is likely that the "pipeline" objection can be resolved as suggested, that is by minor changes to the proposed site layout, and notwithstanding the high number of local objections I consider that there is a realistic prospect that the 2 pitches will be provided within the 5-year period. On the Manydown site, however, I have been provided with very little, and certainly not enough upon which I could reasonably base a conclusion that there is a realistic prospect of pitches being delivered within 5 years. On that basis I consider that the Council cannot demonstrate a 5-year supply of deliverable sites.
53. The shortfall against the GTAA identified would be just 1 pitch, but it is argued by the appellants that the GTAA considerably underestimates need. I have mentioned the change in the 'unknown' factor, but I note that 11 of the 12 households interviewed were found to meet the updated PPTS traveller definition, yet under the currently applied ORS factor only the needs arising

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<sup>8</sup> Council Ref. 17/00818/OUT

from 2 of the 8 'unknown' households would fall to be considered. Only 1 'unknown' household was on an unauthorised non-tolerated site so the short-term need arising may not be great, but the needs of a group of travellers who had occupied a site at Silchester that they were subsequently required to vacate, along with the needs of the appellants, have not been considered to be need that the Council has undertaken to meet through Policy CN5. ORS were aware of the Silchester site occupants and advised that when further information was known regarding the circumstances at that site then an addendum to the GTAA might need to be prepared. The unauthorised development at that site is now apparently the subject of an appeal, and I was told at the Inquiry that most of the occupants, who comprised 11 households, have resorted to the roadside in the wider area, although Injunctions following vacation of the site mean that they do not encamp in the Borough. As with ORS, I know little of their circumstances, but it is also the case that the needs of the occupants of the appeal sites have not been factored in to the GTAA.

54. Time has passed since the GTAA was prepared, and while it may have provided a robust basis for preparation of the LP, it seems clear to me that there is more need on the ground now than is envisaged by the GTAA, such that it needs to be brought up to date if it is to be relied upon for the remainder of the plan period. I note also that the GTAA does not address qualitative aspects of site provision. I appreciate that the Council has set out to meet the identified need in a reasonable and positive way, but circumstances have changed and it appears to me that there is now likely to be a substantial unmet need for traveller pitches in the Borough.
55. Turning to the wording of LP Policy CN5 itself, while it commits to meeting identified need, it refers to a specific figure, 16 pitches, that was always likely to change, PPTS having been revised not long before its adoption. The Council in fact does not work to that policy requirement because it has been superseded, but that must mean that the Policy is out of date and, and, at the very least, must be accorded reduced weight. Because the intention of the policy is easily discerned however, I consider that the reduction in weight is small. Other than the reference to a superseded figure, the policy is consistent with the NPPF and PPTS.
56. The Council has not been able to point to any suitable and available alternative sites for the appellants within the Borough or the wider area.

#### Personal circumstances

57. The Eastwood family on Plot 3 have 4 children under 18, 2 of whom are attending Bramley Primary School. The Stokes families seeking to live on Plot 4 include 4 children, and the Stokes family on Plots 6/7 have 4 children under 18 and one unborn child. None of the families have access to an authorised pitch elsewhere, and the Plot 4 Stokes family say they are currently living on the roadside or doubling up with family or friends
58. Some of the adults and children have medical problems that require regular checks or treatment, and living on the roadside has made that difficult, with appointments being missed regularly. The older children have not had regular schooling because they have not had a settled base, but the younger children who currently get tutoring would be able to attend school from the site.

59. It is common ground that if there was no flood risk the best interests of the children on all 3 sites would be served by living there. They would have good access to education and health care. However, there is a considerable risk of harm from flooding. Since there are no alternative sites available, it must be a realistic prospect that the families would have to resort to the roadside if the planning applications are refused and the enforcement notices upheld, and this brings with it its own dangers, along with difficulties accessing education and health care. However, the potential implications of flooding of the sites, which I consider would not be satisfactorily overcome by the proposed measures, are serious, such that the best interests of the children would not, in my view, be served by living there.

#### Intentional unauthorised development

60. It is government planning policy that intentional unauthorised development is a material consideration that should be weighed in the determination of planning applications and appeals. The written ministerial statement announcing this policy expressed concern that where the development of land has been undertaken in advance of obtaining planning permission there is no opportunity to appropriately limit or mitigate the harm that may have been caused. The works that have taken place in advance of the planning applications have prevented assessment of the proposal against relevant local plan policies aimed at protecting local character and prevented the proper application of planning policies concerned with the quality of development. In the circumstances therefore I consider that the unauthorised nature of the developments should attract some adverse weight.

#### *Planning balance*

61. I have found that the appeal developments conflict with local and national policy on flood risk and the management of flood waters in the landscape, and I consider that there is a real risk to the safety of occupants in the event of flooding on the site. I have also found substantial adverse effects on the character and visual amenity of the area and the landscape, again in conflict with development plan policies, and the sub-standard Plot 6/7 highway access adversely affects highway safety, also contrary to policy. None of these matters could be satisfactorily resolved by planning conditions as suggested, and I consider that the developments, individually, are contrary to the development plan read as a whole.

62. The unauthorised nature of the development weighs against the appeals, but the unmet need, the lack of a 5-year supply of sites, and of alternative sites, are matters to which I give substantial weight. However, I consider that living on sites that are prone to flooding would not be in the best interests of the children, in view of the potentially serious consequences. I am mindful of the harm and dangers that arise from roadside living, and the possibility that the families would have to continue or resort to the roadside is a matter to which I attribute considerable weight, but in the overall balance I consider that the material considerations in favour of the developments, individually or cumulatively, do not outweigh the conflict with the development plan.

63. It was argued that the tilted balance in paragraph 11 of the NPPF should apply because LP Policy CN5 is out of date, but the NPPF policies on flooding provide clear reasons for refusing planning permission. In any case, there are a number



of important development plan policies that are not out of date and with which there is conflict. Hence the normal planning balance applies.

64. Turning to the possibility of a temporary planning permission, the lack of a 5-year supply is a significant material consideration, as is that the harm to the character of the area would be time limited. A period of 5 years is sought to allow time for the Council to identify suitable alternative and acceptable sites in a site allocations DPD. However, the land is highly vulnerable to flooding and this can happen at any time. Admittedly the risk over a 5-year period is lower, but in view of the history of this site I could not rule out the possibility that a high-risk event would occur within even that shortened time frame. The situation regarding Plots 6/7 is even clearer. The access is hazardous and its use gives rise to unacceptable safety risks. The weight I attach to those concerns remains extremely high, given the potential consequences. I am not satisfied therefore a temporary planning permission is justified.
65. Dismissal of the appeals and upholding the notices will make the occupiers of Plot 3 and Plots 6/7 homeless, and deprive the former occupiers of Plot 4 of a settled base, which represents interference with home and family life. However, while I am mindful of the human rights of the families and have had due regard to the public sector equality duty, regulating the use of land is in the national interest and national and local planning policy clearly seeks to protect the character of the countryside and to avoid highly vulnerable development in high risk areas. In view of the harm caused by the developments in these respects, and on highway safety in the case of Plots 6/7, I consider that the protection of the public interest cannot be achieved by means which are less interfering of the occupiers and prospective occupiers' rights. They are proportionate and necessary and hence would not result in a violation of the human rights of the occupiers or prospective occupiers.
66. For these reasons, having considered all other matters raised, I dismiss Appeals D, E and F, and Appeals A, B and C on ground (a) and I refuse to grant planning permission on the deemed planning applications made in respect of Appeals A, B and C.

### **Appeals A, B and C - ground (g)**

67. This ground is that the period for compliance falls short of what should reasonably be allowed. A period of 12 months is sought in each case in order to look for a suitable alternative site. In the case of Plot 4 this is not necessary since the plot is not occupied, but the Council now recommends a period of 7 months in total, which I consider to be reasonable. For Plot 3 and Plots 6/7, and mindful of the ongoing flood risk, I very reluctantly agree that extending the overall period for compliance to 1 year is reasonable in all the circumstances, and I shall allow the Appeal A and C appeals on this ground on that basis.

*Paul Dignan*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Alan Masters	Of Counsel
He called	
Ian Walton	SLR Consulting (Flood Risk)
John Eastwood	Occupier, Plot 3
Matilda Stokes	Prospective occupier, Plot 4
William Stokes	Occupier, Plots 6-7
Marie Stokes	Occupier, Plots 6-7
Brian Woods	Planning consultant, WS Planning

### FOR THE COUNCIL:

David Lintott	Of Counsel
He called	
Natalie Hyde	Environment Agency (Flood Risk)
Mark Fletcher	Enforcement Officer
Ian Dudley	Lockhart Garratt (Landscape)
Stephen Jupp	Planning Consultant

## DOCUMENTS

- 1 Flood Risk Statement of Common Ground (SOCG)
- 2 Planning Policy and Gypsy need SOCG - Draft
- 3 Highways SOCG - Draft
- 4 Rebuttal Proof - Woods
- 5 Rebuttal Proof - Jupp
- 6 Letters from neighbours (2)
- 7 Bundle of 'personal circumstances' documents - appellants
- 8 Council's opening submissions
- 10 Land Registry – access track - appellants
- 11 Map of highway land - appellants
- 12 Proposed alternative access Plots 3 & 4 - appellants
- 13 Agreed access visibility splays
- 14 Map showing Pelican Road site - Council
- 15 Bundle of highways/site access related documents - appellants
- 16 Appeal decision APP/Q3630/C/17/3181382 & APP/Q3630/W/18/3200398 - Council
- 17 Planning permission 17/02307/RET (Plots 32-33) and related documents - appellants
- 18 Planning note on progress of Council's allocated sites - Council
- 19 Documents related to Hounsme Fields planning permission - appellants
- 20 List of conditions - Council
- 21 Caravans and Houseboats – DCLG draft guidance - appellants
- 22 Council's closing submissions
- 23 Appellant's closing submissions

## **ANNEX 1 – Enforcement notice requirements and compliance periods**

### **Appeal A: APP/H1705/C/18/3203089**

**Notice Ref.** EC/16/00376/UMCU2

#### **Requirements**

- 5.1 Permanently cease the use of the land as a gypsy and traveller pitch.
- 5.2 Permanently cease the use of the land for residential accommodation.
- 5.3 Permanently remove all mobile homes/caravans and any structures or vehicles capable of human habitation from the land.
- 5.4 Permanently remove the utility buildings from the land.
- 5.5 Permanently remove all associated residential paraphernalia, included but not limited to wheelie bins, portable toilets, from the land.
- 5.6 Permanently remove all hard standing and (sic) from the land.
- 5.7 Restore the land to its condition before the breach of (sic) took place. These works to include, but not limited to, restoring the ground level, the infilling of any holes and reseeding the land with grass seed.

#### **Time for compliance**

For steps 5.1 to 5.3 a period of 6 months.  
For steps 5.4 to 5.7 a period of 7 months.

### **Appeal B: APP/H1705/C/18/3203087**

**Notice Ref.** EC/18/00003/UMCU1

#### **Requirements**

- 5.1 Permanently remove the utility buildings from the land.
- 5.2 Permanently remove all hard standing from the land.
- 5.3 Permanently remove the vehicular access onto Cufaude Lane, including the hardstanding, sub base and pipe at the crossover from Cufaude Lane.
- 5.4 Restore the land to its condition before the breach took place. These works to include, but not limited to, restoring the ground level, the infilling of any holes and reseeding the land with grass seed.

#### **Time for compliance**

For steps 5.1 to 5.4 a period of 28 days.

### **Appeal C: APP/H1705/C/18/3203090**

**Notice Ref.** EC/17/00435/BOC1

#### **Requirements**

- 5.1 Permanently cease the use of the land as a gypsy and traveller pitch.
- 5.2 Permanently cease the use of the land for residential accommodation.

5.3 Permanently remove all mobile homes/caravans and any structures or vehicles capable of human habitation from the land.

5.4 Permanently remove the utility buildings from the land.

5.5 Permanently remove all hard standing from the land.

5.6 Permanently remove all associated residential paraphernalia, included but not limited to wheelie bins, portable toilets, from the land.

5.7 Permanently remove the vehicular access onto Cufaude Lane, including the hardstanding, sub base and pipe at the crossover from Cufaude Lane.

5.8 Restore the land to its condition before the breach took place. These works to include, but not limited to, restoring the ground level, the infilling of any holes and reseeding the land with grass seed.

### **Time for compliance**

For steps 5.1 to 5.3 a period of 6 months.

For steps 5.4 to 5.7 a period of 7 months.

## **ANNEX 2 – Formal decisions**

### Appeal A - APP/H1705/C/18/3203089

I direct that the enforcement notice be corrected by deleting from Section 4 the first paragraph and replacing it with the following: "It appears to the Council that the breach of planning control has occurred within the last ten years."; and by the substitution of 12 months as the period for compliance for all steps set out in the Requirements. Subject to this correction and variation I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### Appeal B - APP/H1705/C/18/3203087

I direct that the enforcement notice be corrected by:

At Section 3, after the words "Without Planning permission:" inserting the following: "The material change of use of the Land from agricultural to a gypsy and traveller pitch, and associated development including:"; and

At Section 4, deleting the first paragraph and replacing it with the following: "It appears to the Council that the breach of planning control has occurred within the last ten years."; and

At Section 4, inserting the following: "4.3 The breach introduces a highly vulnerable use into an area where there is a high probability of flooding and it has not been demonstrated that the development and occupiers would be safe, and no other exceptional circumstances have been provided to justify the development. In the absence of information to demonstrate otherwise it is therefore considered that the development would be contrary to the guidance contained within the National Planning Policy Framework, paragraph 13 of the 'Planning Policy for Traveller Sites (2015)' and Policies CN5 and EM7 of the Basingstoke and Deane Local Plan 2011-2029 and Policy RE1 of the Bramley Neighbourhood Development Plan 2011-2029."; and

At Section 4, inserting the following: "4.4 The breach results in an isolated, unsustainable and inappropriate form of development in the open countryside for a gypsy and traveller site which would not be within a reasonable distance of local services, would not result in the successful integration of the site with the settled community and would adversely impact upon the local amenity of the area and as such would be contrary to the National Planning Policy Framework and paragraphs 13, 14, and 25 of 'Planning Policy for Traveller Sites (2015)' and Policy CN5 of the Basingstoke and Deane Local Plan 2011-2029."; and

At Section 5, renumbering requirement 5.1 to 5.4, 5.2 to 5.5, 5.3 to 5.6 and 5.4 to 5.7, and inserting new requirements 5.1 to 5.3 as follows: "5.1 Permanently cease the use of the Land as a gypsy and traveller pitch. 5.2 Permanently cease the use of the Land for residential accommodation. 5.3 Permanently remove all mobile homes/caravans and any structures or vehicles capable of human habitation from the Land."; and

By the substitution of 7 months as the period for compliance for all steps.

Subject to these corrections and variations I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal C - APP/H1705/C/18/3203090

I direct that the enforcement notice be corrected by deleting from Section 4 the first paragraph and replacing it with the following: "It appears to the Council that the breach of planning control has occurred within the last ten years."; and by the substitution of 12 months as the period for compliance for all steps set out in the Requirements. Subject to this correction and variation I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal D - APP/H1705/W/17/3183258

The appeal is dismissed and planning permission is refused.

Appeal E - APP/H1705/W/18/3199357

The appeal is dismissed.

Appeal F: APP/H1705/W/18/3199331

The appeal is dismissed.