

Appeal Decisions

Inquiry held on 7, 8 and 9 February, 27 and 31 March, 7 April and 22 May 2017

Site visit made on 20 March 2017

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

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

Decision date: 02 August 2017

Land north west of Birdham Farm, Birdham Road, Birdham, Chichester PO20 7BU

Appeal Refs: APP/L3815/C/16/3148236 to 3148244, and APP/L3815/C/16/3148618, 3148625, 3148635, 3148641 and 3148647

- 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 Wayne Goddard, Mr William Hughes, Mr Frazer Sibley, Ms Kathy Boyden, Mr Daniel Hughes, Mr Keith Hughes, Mr Paul Watson, Ms Lauren Hughes, Mr Glenn Keet, Mrs Kimberley Goddard, Mrs Bonnie Hughes, Ms April Lamb, Ms Carla Baker and Mrs Katie Keet against an enforcement notice issued by Chichester District Council.
- The enforcement notice, numbered BI/31, was issued on 3 March 2016.
- The breach of planning control as alleged in the notice is without planning permission, change in the use of the land to a mixed use as a residential caravan site, for the storage of caravans and the keeping of horses.
- The requirements of the notice are:
 - i. Cease the use of the land as a residential caravan site and for the storage of caravans,
 - ii. Remove from the land all the residential caravans, ancillary structures and stored caravans,
 - iii. Remove from the land all hardcore,
 - iv. Remove the close boarded fences, sheds and field shelter buildings from the land, and
 - v. Following compliance with (i), (ii), (iii) and (iv) above remove all resulting debris, level the land and reseed with grass.
- The period for compliance with the requirements is six months.
- The appeals were made on the grounds set out in section 174(2) (a), (e) and (g) of the Town and Country Planning Act 1990 as amended. The appeal by Mr Wayne Goddard (ref 3148236) is proceeding on ground (a). In respect of all the other appeals, since the prescribed fees were not paid within the specified period, the appeals on ground (a) and the applications deemed to have been made under section 177(5) of the Act as amended in relation to those appeals have lapsed.

Summary of Decision: The appeals are dismissed and the enforcement notice is upheld with corrections and variations.

Appeal Refs: APP/L3815/C/15/3136977, 3136979, 3136985, 3136986, 3136988

- 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 Wayne Smith, Mr William Hughes, Mr Wayne Goddard, Mr Frazer Sibley and Mr Dan Hughes against an enforcement notice issued by Chichester
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District Council.

- The enforcement notice, numbered BI/30, was issued on 21 September 2015.
- The breach of planning control as alleged in the notice is without planning permission, the excavation of the land and the deposit of hardcore to form an access track and hardstandings and the erection of gates and fences in the approximate positions shown on the attached plan.
- The requirements of the notice are:
 - i. Remove the said hardcore forming the access track and hardstandings, including the black membrane sheeting from the land,
 - ii. Remove the said gates and fencing from the land,
 - iii. Following compliance with (i) and (ii) above, level the area of land affected and re-seed with grass.
- The period for compliance with the requirements is one month.
- The appeals were made on the grounds set out in section 174(2) (a), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended. The appeal by Mr William Hughes (ref 3136979) is proceeding on ground (a). In respect of all the other appeals, since the prescribed fees were not paid within the specified period, the appeals on ground (a) and the applications deemed to have been made under section 177(5) of the Act as amended in relation to those appeals have lapsed.

Summary of Decision: The appeals are dismissed and the enforcement notice is upheld with a correction and a variation.

Appeal Ref: APP/L3815/C/15/3065780

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Bill Hughes against an enforcement notice issued by Chichester District Council.
- The enforcement notice, numbered BI/24, was issued on 6 May 2015.
- The breach of planning control as alleged in the notice is without planning permission, change of use of the land for the stationing of caravans for the purposes of human habitation.
- The requirements of the notice are:
 - i. Cease the use of the land for the stationing of caravans for the purposes of human habitation,
 - ii. Remove the caravans from the land,
 - iii. Remove the BBQ and associated table and chairs from the land, and
 - iv. Remove the gas bottles, portable toilets and generator from the land.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed and the enforcement notice is upheld with a correction and a variation.

Appeal Ref: APP/L3815/W/15/3132281

- 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 Bill Hughes against the decision of Chichester District Council.
- The application Ref BI/15/01288/FUL, dated 23 April 2015, was refused by notice dated 24 June 2015.
- The development proposed is a single pitch site including the provision of a utility building for settled gypsy accommodation together with existing stables.

Summary of Decision: The appeal is dismissed.

Land to the rear and south west of Premier Business Park, Birdham Road

1. The appeal sites lie to the north east of Birdham village and formed part of a field that wrapped round the Premier Business Park and the farmstead at Birdham Farm.
2. At the time of the inquiry the rear part of the former field was subdivided into 14 caravan pitches, some with stable blocks. A paddock was in the north western corner and a larger paddock was in the south western part of the land. The land is served by a single vehicular access onto Birdham Road. An identifiable area of land along the rear and south western side boundary to the Premier Business Park was in separate ownership.
3. A topographical survey plan¹ in general terms accurately represented what was on the ground, as seen on the site visit on 20 March 2017. Mr Weymes (the appellants' agent) also submitted a plan identifying 14 plots and a schedule of the 14 households occupying the land. For the sake of consistency I will refer to the parcels of land as 'plots' hereafter.

The Inquiry

4. In the period between March 2016 (when enforcement notice BI/31 was issued) and the opening of the inquiry plots of land were sold and new families moved onto the site. During the course of the inquiry I received confirmation from Mr Masters, barrister and Mr Weymes, planning consultant that they were acting on behalf of the original appellants with 'live' appeals and the families who have later moved onto the Land and are now occupying some of the plots. 'The appellants' will be used as a shorthand term in respect of everyone represented by Mr Weymes and Mr Masters.
5. At the start of the inquiry Mr Masters made an application for an adjournment on behalf of his clients in order to allow time for further preparation of their case, including preparation of witness statements from 14 residents and rebuttal proofs to the Council's planning evidence and the landscape evidence on behalf of Birdham Village Residents' Association (BVRA). Two of his professional witnesses were unable to attend that day because of other commitments. After due consideration I ruled that the inquiry would proceed. Provision was made for submission of personal statements and rebuttals, extending the length of the inquiry and ensuring the programme on the opening day took account of witness availability. A second application for an adjournment to the following day was rejected in order that opening submissions could be heard and a start made on the Council's case. I am confident that my rulings were fair to all and that no injustice was caused to the appellants.
6. The Chichester Harbour Conservancy (CHC) was a Rule 6 party. BVRA did not have Rule 6 status but was represented at the inquiry by Mr Soltys, a chartered landscape architect. BVRA has around 250 members, some of whom sit on Birdham Parish Council.
7. An application for costs was made by the Council and also by CHC against the appellants. The applications were made on the final sitting day of the inquiry. I agreed that responses could be made in writing in accordance with an agreed

¹ Inquiry Document 21

timetable. These applications will be the subject of separate Decisions. The inquiry was closed in writing on 11 July 2017.

The Appeals

8. Due to discrepancies in the documentation (principally the statements of Mr Weymes) I attempted to confirm through pre-inquiry and inquiry notes and at the inquiry who was pursuing an appeal and the grounds of appeal. With reference to information in the Planning Inspectorate's records, I am satisfied that a position was reached that identified the names of those continuing with their appeal². Mr Weymes subsequently confirmed who had sold their interest and who is currently occupying various plots.

Appeal against enforcement notice BI/24 (Appeal Ref: APP/L3815/C/15/3065780)

9. This appeal was made on behalf of Mr Hughes on grounds (a) and (g). However, an application for planning permission for the development was made and the local planning authority issued the enforcement notice before the time to determine the application had expired. Under the provisions of section 174(2A) of the 1990 Act it is not permissible in such circumstances to appeal on ground (a) when appealing against the enforcement notice. Therefore the appeal is proceeding on ground (g) only. The related appeal under section 78 against the Council's refusal of planning permission enables the planning merits of a single pitch to be considered (ref. APP/L3815/W/15/3132281).

Appeals against enforcement notice BI/30

10. Appeals made by Mr J Sullivan, Mrs D Sullivan, Mr J Smith, Mrs B Hughes and Mr M Rodgers were all closed on 10 November 2015. The appeal made by Mr P Lansdale was withdrawn on 9 January 2017 and the appeal made by Mr J Morley was withdrawn on 24 January 2017. I will take no further action on all these appeals.
11. The appeals for determination are by Mr W Smith, Mr W Hughes, Mr W Goddard, Mr F Sibley and Mr D Hughes. Mr Weymes confirmed that Mr W Smith is no longer a land owner and that Mr George Hughes has taken over Plot 11³, previously owned by Mr D Hughes.
12. In relation to the ground (a) appeals a single fee was paid and was initially attributed to the appeal by Mr Smith (ref 3136977). As a result of later correspondence from Mr Weymes, the appeal on ground (a) was confirmed to be proceeding in the name of Mr W Hughes.
13. All the appeals on ground (e) were withdrawn on day 2 of the inquiry.
14. Mr Masters confirmed on day 6 of the inquiry that all the appeals on ground (f) were withdrawn.

Appeals against enforcement notice BI/31

15. There are in total 14 appeals. The appeals were made on grounds (a), (e) and (g). On day 1 of the inquiry a case on ground (b) was introduced and was

² Inquiry Note 4 contains a complete list of current appeals against the enforcement notices

³ Response to Inquiry Note 4. Personal statements indicated that Mr Curtis Robinson is the land owner of Plot 11.

expanded in writing during the adjournment after the first week. Certain procedural points were taken by the Council and CHC. I made a ruling on day 4 of the inquiry that I would accept and determine a ground (b) appeal as part of my decision. I considered that to do so would cause no prejudice to the Council or CHC, whereas to fail to determine it would result in injustice to the appellants. At that time I commented that a lot had happened on the site since the notice was issued but that the relevant date for ground (b) was 3 March 2016. I referred to the *Gregory* judgement by the Court of Appeal as authority that one enforcement notice may be served when land is divided into different ownerships⁴. I also drew attention to the available power in section 177(1)(a) of the 1990 Act.

16. All the appeals on ground (e) were withdrawn on day 2 of the inquiry. On the final sitting day a request to reinstate a ground (e) appeal was not pursued after discussion round the matter (see paragraph 30 below).
17. There was an indication in the statement of case that ground (f) may be pursued, a matter that I raised before the opening of the inquiry. On day 6 of the inquiry Mr Masters confirmed ground (f) was not at issue.
18. Mr Weymes confirmed that Plot 8 of the appellant Mr K Hughes is now occupied by Mr Ross Bridger, the appellant Mr Paul Watson has sold his interest and the appellant Ms Lauren Hughes has sold her interest and purchased Plot 13, which is outside the site. As noted above the appellant Mr D Hughes no longer owns Plot 11.

Other matters on the appeals

19. In respect of some of the appeals against enforcement notices BI/30 and BI/31, the appellant sold his/her interest in the land after making the appeal. An appeal may be continued by a subsequent landowner provided that there is a letter of consent from the original appellant. No such consent has been submitted. Therefore where plots of land have changed ownership the new owner will be treated as a third party.

Enforcement Notices

Enforcement Notice BI/31

20. When the notice was issued on 3 March 2016 the Land to which the notice relates included a paddock to the west of the Premier Business Park.
21. On 22 March 2016 the Council exercised its powers under section 173A to relax the requirements of the notice by reducing the area of land to which the notice relates. The recipients of the notice were notified in writing on that date. A revised plan was substituted for the plan originally attached to the notice. The effect was to take the paddock out of the defined area of Land.
22. The contents of and matters to be specified in an enforcement notice are set out in section 173 of the 1990 Act and Regulation 4 of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002. Regulation 4(c) states that an enforcement notice (issued under section 172)

⁴ *Gregory and Others v Secretary of State for the Environment and Reigate and Banstead Borough Council, Rawlins and Others v Secretary of State for the Environment and Tandridge District Council* [1989] (1990) 60 P&CR 413

- shall specify “the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise”.
23. Under section 173A a local planning authority may (a) withdraw an enforcement notice it has issued; or (b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).
24. No legal authority was identified to confirm that the substitution of a plan was equivalent to a relaxation of a requirement in law, enabling a conclusion that the Council correctly used its power under section 173A to substitute a plan to identify the Land. The Council in its submissions drew attention to the *Maistry* judgement⁵ which indicated that there was no clear reason why the power to waive or relax provisions of the notice should not be all embracing and that one should look at the purpose of the section. The point at issue in that case was whether there was power to relax the effective date of an enforcement notice.
25. The requirements of the notice refer back to the Land. Nevertheless my approach is to go back to the purpose of the plan, which is to identify the precise boundaries of the land to which the notice relates. The plan incorrectly described the Land. Therefore I consider that the appropriate course is to use the power under section 176(a) to “correct any defect, error or misdescription in the enforcement notice”. The test is whether by doing so in this case would cause injustice to the appellants.
26. Importantly the Land would be reduced in area. The excluded area is not owned by any of the appellants. The Council notified the recipients of the notice, clearly explaining the change well before the effective date. As a matter of fact the appeals were submitted on 13 April, after the notification by the Council. Mr Masters accepted that the inclusion of the land in question was a clear error and that no prejudice would be caused if the plan was corrected. The inquiry proceeded on the basis of the amended plan. I intend to correct the notice by substituting the amended plan, satisfied that no injustice would be caused.
27. During the course of the inquiry there was agreement that the Land does not include a strip of land on the north side of the Premier Business Park, now occupied and known as Plots 12, 13 and 14. For the avoidance of doubt the Land also excludes a strip of land adjacent to the Business Park along the rear and south western side boundaries.
28. A second minor correction is to describe the alleged breach as a material change in the use of the land, to reflect the description in the heading to the notice and to describe the allegation in the terms of the meaning of development in section 55(1) of the 1990 Act.

Enforcement notice BI/30

29. The Council requested that an amended plan be substituted to exclude parcels of land to the north of the Premier Business Park and to the north east of Birdham Farm, owned by Mr Rodgers. The amended plan also takes the red line tight to the eastern boundary of the access track and therefore one of the hardstandings adjacent to the site access is excluded from the notice.

⁵ *R. (Maistry) v London Borough of Hillingdon* [2013] EWHC 4122 (Admin)

30. The amended plan would be more consistent with the revised plan for notice BI/31, although the paddock owned by Mr Morley is included. The appellants raised no issue with the Council's request and on the final day of the inquiry Mr Masters accepted that the amended plan overcame his concern on matters related to a ground (e) appeal. I conclude that no injustice would result by the substitution of the amended plan through a correction to the notice.

Enforcement notice BI/24

31. I agreed with the parties that the wording of the alleged breach should describe the development as a material change of use of the land to use for the stationing of caravans for the purpose of human habitation.

Enforcement notice BI/23 (not subject to appeal)

32. This notice was issued on 6 May 2015 and relates to Land which is equivalent to Plot 6, adjacent to the land subject to notice BI/24. The breach of planning control is a change of use of the land (to use) for the stationing of caravans for the purpose of human habitation. An appeal against the notice was made by Mr Joseph Smith but was withdrawn on 12 January 2016. Therefore the notice has taken effect and the compliance period of 6 months has expired. In brief the requirements were to cease the use and to remove the caravans and associated domestic paraphernalia from the land. An appeal by Mr Smith against the refusal of planning permission for a gypsy caravan site on the same land was withdrawn on 1 December 2015.

Enforcement notice BI/29 (not subject to appeal)

33. The notice was issued on 10 August 2015 against the erection of a stable building on land formerly owned and occupied by Mr J Smith. There was no appeal against the notice and the 3 months period for compliance has expired. The notice requires the stable building to be dismantled and removed from the land. The stable is on land now owned and occupied by Ms Boyden (Plot 6).

Planning context for all appeals

Planning policy and designations

34. The development plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 (the Local Plan) and the Birdham Parish Neighbourhood Plan 2014-2029 (the Neighbourhood Plan). Policies in the Chichester District Local Plan First Review April 1999 no longer apply⁶.
35. Local Plan (LP) Policy 1 is very similarly worded to paragraph 14 of the National Planning Policy Framework in stating a presumption in favour of sustainable development and including 'a tilted balance'. The intention is to secure development that improves the economic, social and environmental conditions in the area.
36. LP Policy 2 identifies Birdham as a service village where provision is to be made for small scale housing, local community facilities and small scale employment, tourism or leisure proposals. The appeal sites are located to the north east of the village, outside the settlement boundary defined in Policy 13 of the

⁶ Reference was made to policies in the First Review Local Plan in the reasons for refusal of the planning application by Mr Hughes (Appeal ref 3132281) and in the reasons for issuing enforcement notice BI/24.

Neighbourhood Plan and hence in an area deemed to be rural. Policy 15 of the Neighbourhood Plan states that development within the rural area will be in accordance with the Framework paragraph 55, Local Plan Policy 45 and the General Permitted Development Order. The policy aims to address the need for development in rural areas to provide business and agricultural opportunities or housing for agricultural workers close to their place of work where the impact of so doing is acceptable. More specifically, LP Policy 45 restricts development to that which requires a countryside location or meets an essential local rural need or supports rural diversification. The Framework's emphasis is on promoting sustainable development in rural areas.

37. The sites are within the Chichester Harbour Area of Outstanding Natural Beauty (the AONB), an area which has the highest status of protection in relation to landscape and scenic beauty under national policy. LP Policy 43 reflects that status. Planning permission will be granted where development proposals meet all of the five stated criteria, one of which refers to the policy aims of the Management Plan for the AONB. LP Policy 48 is an additional policy protecting the natural environment and includes criteria to safeguard open views, rural and landscape character, the identity of settlements and their open setting.
38. A Supplementary Planning Document for the AONB was adopted by the Council in May 2017. The document draws attention to the important nature conservation designations within the AONB, including the Chichester and Langstone Harbours Special Protection Area (the SPA) which is of international importance. LP Policy 50 applies and is directed at ensuring compliance with statutory duties.
39. LP Policy 36 supports the development of Gypsy and Traveller sites where all the policy criteria are met. National policy is set out in Planning Policy for Traveller Sites (PPTS) which should be read in conjunction with the Framework.

Article 4 Direction

40. The Council made an Article 4 Direction that came into effect on 17 July 2015 and was confirmed on 7 January 2016. The Direction applies to all of the land adjacent to the Premier Business Park and Birdham Farm. The effect is to remove permitted development rights for minor operations comprised within Class A of Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015. The minor operations consist of the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Premier Business Park

41. On a site specific matter, the planning history of the Premier Business Park referred to its use as a lemonade bottling factory before becoming vacant around 2000. In January 2004 planning permission was granted for the "subdivision and refurbishment of existing factory into 3 no. separate units for B1(c). Use of 2 no. units for B1/B8 purposes and 1 no. unit for the sale, display and maintenance of motor homes". Planning conditions more specifically control the use of the units and external areas and required a landscape scheme. In July 2005 modifications to the access and hardstanding arrangements were approved. In March 2011 there was confirmation of new

hedge planting carried out on the north east and road frontage boundaries and the retention of existing planting along the rear and south western boundaries.

42. Within this overall planning context the merits of each development – the mixed use, the operational development and the single pitch - will be considered separately.

MATERIAL CHANGE OF USE TO A MIXED USE: ENFORCEMENT NOTICE BI/31

Appeals on ground (b)

43. The appellants' case was developed primarily through submissions by Mr Masters, as opposed to planning analysis and evidence from Mr Weymes. Initially a point was taken that storage of caravans had not occurred but subsequently the case was developed whereby the focus was on the planning unit.
44. The main points of the case are:
- The notice treats the site as one caravan site and one planning unit, whereas in fact the site consists of a number of separate caravan sites, each caravan site being an independent planning unit sharing a joint access.
 - The chronology of events shows that the Council was aware that what was occurring was the sub-division of the land into many planning units and many independent plots, some for residential caravan use and some for both residential caravan use and horses.
 - With reference to injunction proceedings in June 2015 and the *Thrasyvoulou* judgement, the Council is estopped from saying there is one planning unit.
 - At the inquiry plots 12 to 14 were excluded as not being covered by the notice.
 - At the time of the service of the notice plots 2 and 3 were clearly not developed and no breach had occurred. The same applies to plot 11 and possibly plot 10.
 - Prior to issuing the enforcement notice the Council failed to serve a requisition of information notice to ascertain who owned and occupied the land.
 - The consequence of the global notice is that apart from Mr Hughes and Mr Smith no other owner and occupier of a plot have had the chance to deal with their own planning unit. The single notice requires them to justify the development as a whole and the notice requires them to comply with matters outside their control. The inspector has no power to split up the deemed planning application to give justice to each plot. Prejudice has occurred.
 - General principles in *Miller Mead* and *Thurrock* and the statutory definition of a caravan site are relevant.

45. The Council submitted that through the evidence of Mr Weymes there was a tacit abandonment of the ground (b) appeal. On the basis of the photographic evidence he found it very difficult to say that the unlawful change of use had not occurred as a matter of fact. Furthermore, with reference to *Burdle*⁷, there is an obvious physical and functional connection between the plots. There is a single complex of plots all sharing the same access. To claim otherwise is contrary to the appellants' case that they are highly dependent on each other for recreation and moral support. At the time the notice was issued plots 12 and 13 did not exist, plot 11 simply had a few caravans and plot 10 was used for the storage of caravans. Mrs Archer explained in her oral evidence that the description of the alleged breach in the notice captured the whole of the use taking place at the time. Residential occupation was apparent but also caravans that were just sited on the land and not in any form of use.
46. The Rule 6 party submitted that the appellants' case failed to acknowledge the situation on the ground at the point the notice was issued. The appellants provided no evidence to suggest that the situation on the ground was materially different to that shown on an aerial photograph dated 7 March 2016. There was a single planning unit, correctly described as a residential caravan site. The ability to consider the personal circumstances of the occupiers of each pitch separately is not a consideration on which to rest or determine a ground (b) appeal.
47. By way of preliminary observations, the appellants' case as finally presented appears also to include a ground (c) related appeal in respect of plots 2 and 3 (and possibly plots 10 and 11) in claiming there has been no breach of planning control on those areas of land. The principle in *Miller-Mead*, that the persons on whom the notice is served should be able to know what they have done wrong, is more of a validity argument than one on ground (b).
48. The issue on ground (b) is whether or not the matters stated in the notice as constituting the alleged breach of planning control have occurred. The matters stated are the use of the land as a mixed use as a residential caravan site, for the storage of caravans and the keeping of horses. The relevant date is that when the notice was issued, namely 3 March 2016.
49. The alleged use is a mixed or composite use comprising three primary uses – a residential caravan site, the storage of caravans and the keeping of horses, where it is not possible to say that one of the uses is ancillary or incidental to the other. A composite use is where the component activities fluctuate in their intensity from time to time but the different activities are not confined within separate and physically distinct areas of land. A caravan site is land where a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed⁸. Also relevant to this appeal is the terminology generally used in relation to traveller sites. A pitch is an area of land on a site, which can vary in size and have varying caravan occupancy levels, but is generally home to one household. A caravan or traveller site may have a number of pitches⁹. The Gypsy and Traveller Accommodation Assessment for the Coastal West Sussex Authorities is one

⁷ *Burdle v Secretary of State for the Environment* [1972] 3 All ER 240

⁸ Caravan Sites and Control of Development Act 1960 section 29(1) by way of section 1(4).

⁹ For the purposes of policy in PPTS "pitch" means a pitch on a "gypsy and traveller site".

example where that approach was taken¹⁰. Storage may be taken to mean where something (in this case caravans) is put away for a period of time because its use is not contemplated in the short term. The keeping of horses is distinct from the use of land for grazing, which is an agricultural use. Apart from perhaps storage, no case was made that the uses did not take place or were not present as a matter of fact.

50. The planning unit is the most appropriate area to assess the materiality of change. Referring to the leading case of *Burdle*, a useful working rule is to assume that the unit of occupation is the most appropriate planning unit because that is normally the largest unit in which a set of functionally and physically interdependent activities are being carried out. However, it may be appropriate to select a larger unit where there is a set of inter-related activities though separate ownership or occupation of different parts of the site. The subdivision of the land into different ownerships does not prevent a single enforcement notice being issued if justified by the circumstances.
51. Throughout the period from 2001 to 2013 the agricultural land enclosing the Premier Business Park appeared from aerial photographs to have been farmed as a single entity. There is no specific information to show who the owner/occupier was over that period. The probability is that the land was then acquired by Mr Sullivan and that from 2015 onwards the land was subdivided and transferred or sold to a number of people.
52. The evidence of Mrs Archer details the main events, starting in March 2015 when post and rail fencing was erected to divide the field into five parcels of land and stand pipes were provided in each of the paddocks. Over the next few months stable blocks and field shelters were erected. In addition works began on the laying of services, access tracks and hardstanding and caravans were moved onto the land. Enforcement action was taken including the service of enforcement notices BI/24 and BI/23, dated 6 May 2015, on Mr J Sullivan and Ms Della Sullivan as owners and on Mr William Hughes and Mrs Bonnie Hughes (BI/24) and Mr J Smith and Ms A Chatfield (BI/23) as occupiers.
53. Enforcement action continued over the period June to September 2015. Amongst the documentation associated with injunction orders, a plan indicated the subdivision and transfer of various plots of land. The laying of an access track and hardstandings and the erection of boundary fences and gates resulted in enforcement notice BI/30 dated 21 September 2015. The notice was served on five land owners and more generally on the owner/occupier.
54. Some six months later enforcement notice BI/31 was served on thirteen people as named owners¹¹. A stop notice was served at the same time. There is no doubt that between March 2015 and March 2016 the original field was subdivided, with an evolving pattern of ownership and occupation. The changes in land use and physical features over the same period are informed by series of photographs and aerial photographs.

¹⁰ Coastal West Sussex Authorities - Gypsy and Traveller and Travelling Showpeople Accommodation Assessment paragraph 2.2 states: A pitch is an area which is large enough for one household to occupy and typically contains enough space for one or two caravans, but can vary in size. A site is a collection of pitches which form a development exclusively for Gypsies and Travellers.

¹¹ Mr & Mrs Sullivan, Mr Sullivan Junior, Mr and Mrs W Hughes, Mr Sibley, Ms Boyden, Mr W Goddard, Mr W Smith, Mr D Hughes, Ms A Lamb, Mr K Hughes, Mr P Lansdale.

55. More particularly in January 2016, a few months before enforcement notice BI/31 was issued, the original field and its strongly defined boundaries were clearly seen. Within the field, the land adjacent to Birdham Farm acquired by Mr Rodgers in 2015 was physically separated from the land to the north by close boarded fencing. A wide strip of grassland immediately to the north of the Premier Business Park, with a narrower strip of land along the western boundary, by this time probably owned by Mr Lansdale, appeared to be fenced off and managed differently to the remainder of the land.
56. West of the new access track a block of land extended from the front to the rear boundary. A field shelter or stable block was centrally placed with perhaps a trench extending across the land immediately to the rear. Further to the north a new close boarded fence had been erected. At the head of the access track a parcel of land was fenced off, where a stable block was sited and mounds of materials were evident. To the east along the rear part of the land individual plots had been formed north of the access track. Mobile homes were sited and parking areas formed on three of the plots (plots 6, 7 and 9). A stable block was sited on the land known as plot 6. The remaining plot (plot 8) had a structure in the rear corner, probably a caravan but otherwise there was no sign of occupancy. Two plots existed north of Mr Rodgers' land, where it appeared caravans were stationed but no parking areas were present and no residential use looked to be taking place (plots 10 and 11).
57. By 7 March 2016, very soon after the notice was issued, reference to the aerial photograph of that date highlights the following changes. The block of land to the west of the access track was subdivided further. The land known to be owned by Mr Morley was physically separated from the land to the north by a close boarded fence. The land between this fence and the fence to plot 5 (Mr Sibley's land) was subdivided into smaller indeterminate number of plots. The land nearest the track was hard surfaced, occupied by touring caravans, vehicles were parked and a structure was in situ (later described as a stable). These plots may have had some degree of residential occupation¹². However, Mr Goddard stated that when he moved onto plot 1 in July 2016 there was hardstanding, a cess pit, a mobile stable on skids and a mobile home that needed replacing because it was damp and unliveable. He also stated that he bought the land to the rear (plots 3 and 4) after July 2016, although he did not know the owner. At the time the land was a green field.
58. On the plot at the head of the track an area of hard surfacing was laid and a touring caravan was sited there. Vehicles were parked. In respect of the land at the rear, a new building was erected on Plot 9 (later described as a stable). Plot 8 was occupied by a mobile home and an internal driveway formed. South of the access track, on plot 10 an area of hardstanding had been laid at the front of the plot. Possibly two touring caravans and a car on were parked there. The adjacent plot showed no change with a single structure (possibly a caravan) sited on the rear boundary.
59. Therefore in the period leading up to the issuing of the notice and around the relevant date the probability is that the land originally identified by the plan attached to the notice was in use for the siting of caravans for residential purposes, for the keeping of horses and for the storage of caravans. The

¹² Document 1 in Mr Lawrence's evidence includes a photograph dated 6 April 2016 which indicates plots 1 and 4 were probably being used for the storage of caravans at that time, rather than residential occupation.

photographic evidence indicates that the component activities fluctuated in their intensity over that period of time and that the different activities were not confined within separate and physically distinct areas of land. On 22 March 2016 the Council purported to reduce the area of land affected by the notice by the removal of the paddock owned by Mr Morley. However, it appeared to be the case that the keeping of horses took place elsewhere on the land such as the paddock in the north western corner and the stable blocks on some of the individual plots. The mix of uses described in the allegation remained.

60. The ground (b) case relies heavily on each pitch being a caravan site in its own right. There are factors that weigh against such a conclusion. In the period leading up to the service of the notice there was a high degree of pre-planning and co-ordination in the laying out and sub-division of the land. This was particularly evident in the formation of the access track to service all the land. Mr Weymes acknowledged this in stating that "the appellants confirm that they have jointly undertaken the provision of an access road".¹³ On some of the plots at least electricity, water and a cess pit, together with a stable block on skids, were installed pre-occupation. Plots 10 and 11 were an exception¹⁴.
61. The land was subdivided into pitches or plots to form a residential caravan site along with other primary uses. In some instances (such as plots 8, 10 and 11) storage of caravans occurred before first residential occupation at a later date. It may also be the case that when plots were vacated mobile homes were left on site - Mr Smith (plot 4) in his written statement said that when he moved onto the land in July 2016 there was an old mobile home which was leaking and damp.¹⁵ Mr Robinson commented that when he bought plot 11 from Mr Dan Hughes last year no one was living there, although there was a touring caravan stationed on the land. He stated the plot needed additions to be ready to live on. The size of some of the pitches was fluid and changed at a later date, as seen in area now occupied by pitches 1 to 4. Ownership and occupation was not stable in these early days, a matter illustrated by Mr Goddard's evidence. The dominant physical definition remained the original boundary landscape features. The internal access track was a unifying feature both physically and functionally.
62. Another aspect of functional interdependency was the mutual support and family ties between the occupiers of the plots. Mr Weymes described how the appellants established 'their own community base' and how they were all related by their travelling background and ownership of horses. Such dependency was brought out in the evidence of Ms Boyden, who moved onto plot 6 around September 2015 having bought the land from Mr Smith. She explained that she felt safe at Birdham because she has family and friends around her. Similarly Mr Hughes referred to having cousins and lifelong friends living beside him. Even though the ties may have strengthened as more land became occupied, such mutual support was present in the early months of 2016. The appellants agreed to make a single ground (a) appeal.
63. As to the other points raised by the appellants, in March 2016 there was sufficient information to show that the land which now forms plots 12 to 14 was physically and functionally separate from the larger area. The land was owned

¹³ Statement of case for appeal ref 3148236 at paragraph 6.1

¹⁴ Evidence of Mr Wayne Goddard, Mr Keet and Mr Robinson

¹⁵ In his oral evidence Mr Smith stated there was not a mobile home on the plot in March 2016.

- by Mr Lansdale who I understand to have connections with the Premier Business Park rather than the development of caravan pitches. There was no reason for the land to be subject to enforcement action. Mrs Archer reported that in January 2017 Mr Lansdale informed the Council that he had sold the parcel of land to Mr W Hughes who seemingly wanted the land to graze horses. The land was developed as caravan pitches but this change took place some 10 months or more after the notice BI/31 was issued.
64. In contrast the land known now as plots 2 and 3 was related to the adjoining lands and where development had taken place in the form of the erection of fencing. The appellants have not provided precise information about the ownership of that land in support of their ground (b), nor have they disputed the plan submitted as part of Mrs Archer's evidence that indicates these plots were within an area of land transferred or intended to be transferred from Mr Sullivan to Mr Sibley¹⁶. Mr Harrison stated that when he moved onto the land in January 2017 there was fencing, hardstanding and gates. Plots 10 and 11 were used initially for the storage of caravans. Mr Keet's evidence is that he bought Plot 11 in December 2015 and that he and his family moved onto the land in January 2016. In my view the land now comprising plots 2 and 3 and 10 and 11 correctly forms part of the land, especially bearing in mind the description of the mixed use.
65. On the point of alleged prejudice, the ability to take account of personal circumstances of all current residents does not have a direct bearing on the merits of a ground (b) appeal. In any event each owner/occupier has had the opportunity to submit his own personal statement. Mr Masters and Mr Weymes confirmed that they represented all appellants and current owners/occupiers and therefore had the opportunity to present a case on their behalf. Mr Crandon chose to present his evidence on landscape character in relation to the whole rather than each individual plot. Dr Murdoch's evidence on need and related issues was equally applicable to a global notice and individual plots. It came across through the proceedings and the evidence of the site residents that there was support for one another, there was a common purpose and a good amount of cooperation between them. There was a willingness to adopt a common approach and share the cost of a landscaping scheme for the land or in the case of some site residents to bear the full cost if by doing so they would be successful in their case. There was a single contribution towards mitigation in respect of the Special Protection Area. These matters further illustrate the functional interdependency between the occupiers.
66. There has been no explanation in the context of the provisions of section 179 of the 1990 Act (offence where an enforcement notice has not been complied with) how an owner/occupier of one plot could be successfully prosecuted for what occurred or did not occur on land outside the plot and over which he has no control. No prejudice has been demonstrated.
67. Finally, on the matter of estoppel, no legal argument was presented to support the point made. Furthermore, this matter was introduced more as an afterthought during closing submissions, without notice to the Council. Given the circumstances I am not going to make a determination on an issue of legal right.

¹⁶ See paragraph 53 above

Conclusions on ground (b)

68. The question as to what was the proper planning unit is essentially a matter of fact and degree. Whilst as a general rule the unit of occupation is the most appropriate planning unit there are factors in this case that justify an alternative approach. In summary these are the scale and progress of the subdivision and the associated evolving pattern of ownership and occupation, a single common purpose behind the planning and implementation of the development, the existence of a single site access and simple shared access layout and the ability to switch or further subdivide plots. This is a case where a set of functionally and physically inter-related activities support the selection of a larger unit.
69. The available evidence supports the description of the mixed use cited in the alleged breach of planning control at the relevant date. A set of functionally and physically interdependent activities were being carried out on the defined area of land. There is no good reason to exclude plots from the notice given the development that had occurred and the mixed use described. No prejudice has been caused by the issue of a single enforcement notice. In conclusion the appeals on ground (b) do not succeed.
70. The persons on whom the notice is served should be able to know what they have done wrong. There is nothing specific to show that the recipients of the notice did not understand the alleged breach of planning control. There are no grounds for quashing the notice for being invalid.
71. A finding that the notice dated 3 March 2016 was correctly directed at a mixed use (comprising a residential caravan site, the keeping of horses and the storage of caravans) would not preclude a conclusion that subsequently a material change in the use of the land occurred or that as a matter of fact and degree the land was divided into smaller planning units at a later date.

Appeal on ground (a), deemed planning application

General observations

72. The deemed planning application is derived directly from the description of the breach of planning control. Therefore the development for which planning permission is being sought is a material change in the use of the land to a mixed use as a residential caravan site, for the storage of caravans and the keeping of horses. The land owned by Mr Morley to the west, Mr Rodger's land to the east and the land immediately to the north of the Premier Business Park are not within the development site. Furthermore on day 4 of the inquiry, after the accompanied site visit, everyone agreed that plots 12, 13 and 14 were not within the Land identified by the notice plan.
73. The appellants may have intended or wished to seek planning permission for the development on the ground at the time of the inquiry, by which time all plots were occupied and the developed area had extended to include land south of the east-west access road. That later development is not at issue in this appeal, a fact which was accepted during the course of the inquiry. Equally, it is not the case that the development has to be assessed necessarily on the basis of exactly what was on site on 3 March 2016.

74. Planning permission may be granted for part of the development enforced against or in respect of part of the appeal site¹⁷. The presentation of the cases concentrated on the development as a whole, except for the individual witness statements primarily in relation to human rights considerations and gypsy status. In closing, Mr Stemp submitted on behalf of CHC (in summary) that it may be possible to demarcate some smaller identifiable area of residential caravan site for which permission could be granted. However, it was not possible to conclude plot by plot that each of those plots can be granted permission as a residential caravan site. Mr Masters was willing to adopt that line of argument. He emphasised that if having decided through the ground (b) appeal that the site was a single planning unit it was not permissible to separate out individual planning units through the deemed planning application. My approach will be to first consider the acceptability of the mixed use for the site as a whole and then to return to whether any smaller area may be acceptable. In any event plot 7 is able to be considered separately because of the section 78 appeal, which was made some 7 months before the issue of the enforcement notice.
75. The notice could have required the keeping of horses to cease but it does not do so. The situation may arise that planning permission shall be treated as having been granted in respect of that activity if all the requirements of the notice are complied with¹⁸. Such a planning permission would not be subject to planning conditions. Therefore it is not necessarily the case that should the notice be upheld the land would return to agricultural use. I will refer to this situation as 'the fallback' and will return to it as a consideration.
76. All residents, through their advisers, were afforded the opportunity and time to put forward information and speak to their witness statements. Dr Murdoch confirmed that the personal statements were in peoples' own words. There is very limited information about the appellants who are no longer resident on the site. The oral evidence was not given under oath or affirmation following the intervention of Mr Masters who considered that it would not be necessary or fair to do so. Mrs Archer made inquiries of owners of caravan sites, gypsy liaison officers and others and was not in all cases able to fully verify the information given. However, the fact there is not supporting documentary evidence to confirm residence at caravan sites or unauthorised encampments does not disprove the oral evidence. The oral accounts came across as being open and were subject to cross examination.

Major development

77. Paragraph 116 of the Framework states that planning permission should be refused for major developments in designated areas, including AONBs, except in exceptional circumstances and where it can be demonstrated they are in the public interest. There is no definition in the Framework as to what constitutes major development for the purposes of applying this policy. The Planning Practice Guidance advises that it is a matter for the decision taker, taking into account the proposal in question and the local context. Even though Mr Masters played down the significance of this policy it does set a very high test.

¹⁷ Section 177(1) ... (a) "grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates."

¹⁸ Section 173(11) and section 73A of the 1990 Act.

Furthermore paragraph 116, unlike paragraph 115, is a restrictive policy and the tilted balance in paragraph 14 of the Framework would not apply.

78. The policy was addressed in an appeal decision for a development of 46 houses on land to the south of Church Lane, Birdham. The inspector reviewed a number of appeal decisions, which indicated 'major' should be given its natural meaning and refers to the development rather than its effects. He considered the scale of the Church Lane proposal against the capacity of the local area for development and concluded that the scheme was a major development in the AONB. His approach was not challenged, no-one in the current appeal put forward an alternative interpretation and I consider the approach to be appropriate.
79. In this instance Mrs Archer concluded that the proposal, which was related to the use of the land as a caravan site with 10 plots, has the potential to be considered as a major development. I note that the reasons for issuing the notice cites paragraph 115 but not paragraph 116 of the Framework. Mr Weymes did not present evidence on the matter¹⁹. Dr Murdoch accepted that the paragraph 14 presumption did not apply because of the AONB designation although he did not specifically describe the development as major in the terms of paragraph 116. Mr Lawrence (CHC) recognised the more dispersed nature of the appeal development when compared to the Church Lane housing scheme but considered it more noticeable in the landscape because of the more open location. He concluded the policy applied. The conclusion of Mr Lawrence was not challenged in cross examination. Mr Soltys, who represented the BVRA in the Church Lane appeal, referred to a major change compromising CHC planning principle 01 but he did not rely directly on national policy.
80. The development is a material change of use, not operational development. Caravans are by definition moveable structures of a low height and not permanent buildings, although incidental works (use of hardcore, fencing) are involved. The development is a mixed use, not a single primary use as a caravan site. One component of the mixed use, the keeping of horses, appears to be acceptable to the local planning authority in that the use is not required to cease if the notice is upheld. The area of the development enforced against is not as sizeable as depicted on various plans in the evidence and in effect is the rear portion of the former field.
81. Even so the site is a sizeable area when compared to the settlement pattern of Birdham village. The residential mobile homes are similar in appearance to dwellings and require basic utilities and infrastructure. The proposal is for up to 22 caravans (11 of which would be statics) and the scale of the storage element of the mixed use is undefined. As to the local context, the site is located within the landscape setting of the village, forming part of the local agricultural heritage. The site also is a short distance from the Causeway at Birdham Pool at its closest point²⁰, a matter of significance given that the landward portion of the AONB is very small compared to the area covered by water.

¹⁹ Mr Weymes, in cross examination by Mr Stemp, accepted that he had not done an assessment in relation to paragraph 116 of the Framework.

²⁰ Mr Soltys gives the distance as 700 metres at paragraph 2.1 of his proof of evidence

82. All matters considered the mixed use, as described in the notice and on the basis of the corrected plan of the Land, can reasonably be concluded to be major development for the purposes of paragraph 116 of the Framework. Consideration should include the need for the development, its effect on the local economy, the cost of and scope for development elsewhere outside the AONB or meeting the need in some other way, the effect on the environment and the extent to which any detrimental effect could be moderated.

Gypsy status

83. For the purposes of applying Planning Policy for Traveller Sites (PPTS) “gypsies and travellers” are persons of nomadic habit of life whatever their race or origin²¹. Whether the appellants have gypsy status is relevant in that the deemed planning application is for development already carried out, where the land is occupied. Furthermore, the appellants rely on planning policies for traveller sites, considerations such as need for traveller sites, the failure of policy in provision of traveller sites and their personal circumstances. The relevant time to consider whether the appellants are gypsies is at the time of decision making.
84. Several of the people who made an appeal no longer own land on or occupy the site, namely Mr Daniel Hughes, Ms April Lamb, Mr Keith Hughes, Ms Carla Baker, Mr Paul Watson. The information available suggests that Mr Daniel Hughes and Ms April Lamb are gypsies in that they have a temporary pitch at Pond Farm, Newells Lane until January 2018. The information from Mr Keith Hughes and Ms Carla Baker is not up to date and in view of the information submitted from the Council I am unable to firmly conclude they have gypsy status. Mr Watson has not provided any information to support a conclusion he has gypsy status and the evidence submitted by the Council suggests otherwise. The appellant Ms Lauren Hughes stated that she lived on plot 1 from January 2016, before selling her land to Mr Mark Goddard. She now owns Plot 13 outside the appeal site. In view of her stated involvement with her brother’s horse business, her travels to horse fairs and family background I accept her gypsy status.
85. The Council disputes the status of the current occupiers Mr Ross Bridger (plot 8), Mr Wayne Goddard (plot 9), Mr Glen Keet (plot 10) and Mr Curtis Robinson (plot 11), primarily on the basis that they have all spent long periods of time living in bricks and mortar housing. However, that factor does not necessarily mean they do not have gypsy status. A range of considerations have to be taken into account, including previous lifestyle and future intentions.
86. The evidence of Ms Creighton described how her fiancée Mr Bridger continued to travel for work purposes even though their home was a bricks and mortar dwelling. Ms Creighton is not of a gypsy family but she considered herself to be a member of the gypsy community now, having been together with Mr Bridger for 6 years. She travelled to help her fiancée by dropping leaflets, even after the children were born. However, she accepted she did not travel so much and that last year she did not travel at all due to health problems of one of their children. Taking a longer term view she has not established a nomadic way of

²¹ The full definition is set out in Annex 1: Glossary to PPTS: *Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people traveling together as such.*

- life. All matters considered I accept that Mr Bridger, but not Ms Creighton, has gypsy status.
87. Mr Wayne Goddard agreed that he and his family lived in a house in Borden for some 8 years but they had moved there to give their children an education. During this time he travelled, mainly by himself, although his family would come with him during school holidays. They moved to the site in October 2015. He now keeps horses there as well as renting land nearby and he buys and sells at horse fairs. He also travels to find building work. Taking account of all the written and oral evidence I am satisfied that Mr Goddard has gypsy status.
88. Mr Keet's evidence was that his family are Romany Gypsies and that he travelled for work with his wife when they were young adults. It was not until they had their second child that they moved into settled accommodation. Even so he travelled for 3 to 4 months in a year during the time that his base was a bricks and mortar home. He has travelled since moving to the appeal site in early 2016. This information in the context of the other details he provided about his family life indicates to me that he has gypsy status.
89. Mr Robinson agreed that he was bought up in a bricks and mortar home but he also explained about his caravan accommodation, his travelling lifestyle since the age of 15 years and the ways he now earns a livelihood. He uses the appeal site as a base and can be away travelling in his touring caravan and living on the road side for 5 months a year. My conclusion is that he has gypsy status.
90. Mr Harrison (Plot 2), because of a family bereavement, did not give oral evidence at the inquiry. On the basis of his written statement the Council was not satisfied that he had demonstrated a nomadic habit of life. However, there is no evidence to contradict his description of his travelling patterns before 2016 and after he married or that he deals in horses and does roofing work. The probability is that he has gypsy status.
91. I am satisfied that Mr Mark Goddard, Mr George Smith (plot 3), Mr George Smith (plot 4), Mr Sibley, Ms Boyden and Mr and Mrs Hughes (plot 7) all have gypsy status. In particular the evidence of Mr Hughes, Mr Sibley and Ms Boyden brought out the importance of a regular pattern of travelling and the keeping and dealing in horses to their way of life and livelihoods.

Conclusion

92. The mixed use is very much associated with a gypsy way of life and planning policies for travellers apply.
93. An implication of this conclusion is that Article 8, a Convention Right,²² imposes a positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsies as a minority group means that some special consideration should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions in particular cases. A number of children live on the site. Their best interests must be a primary consideration and be at the forefront of my mind in examining all the issues. No other consideration can be treated as inherently more significant, although a child's interest is not determinative of the planning issue and may be

²² Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998.

outweighed by the cumulative effect of other considerations. Article 8, however, is a qualified right which requires a balance between the rights of the individual and the needs of the wider community.

94. In relation to the Public Sector Equality Duty (PSED) the occupiers of the site, as Gypsies, have a relevant protected characteristic for the purposes of applying the duties in section 149 of the Equality Act 2010.

Main Issues

95. The main issues are:

- the effect of the development alone or in combination with other plans and projects on the Chichester and Langstone Harbours SPA;
- the effect of the development on the natural beauty, special qualities and locally distinctive features of the Chichester Harbour AONB;
- its effect on local views and the visual amenities of the surrounding area;
- the performance of the site in respect of the remaining locally specific criteria for assessing site suitability;
- the existing level of local provision and need for traveller sites;
- the availability (or lack of) alternative accommodation for the appellants;
- the personal circumstances and human rights of the appellants.

96. The policy on intentional unauthorised development is also a consideration, which was accepted by the appellants through Dr Murdoch.

Effect on the SPA

97. The Chichester and Langstone Harbours SPA is one of three SPAs along the Solent shoreline. The SPA was designated principally for its international importance in supporting large numbers of wintering wildfowl and waders and migratory bird species.

98. The coastline within the SPA is popular and is enjoyed for a wide range of recreational activities. These activities and the associated human disturbance can have adverse impacts on the bird populations. Research undertaken in the Solent area showed that the level of disturbance is determined more by how people behave and where they go rather than the number of visitors. The research project concluded that there is likely to be a significant effect on the Solent SPAs from additional recreation which will result from new housing development. An interim mitigation strategy has been put in place, with the measures focussed on visitor management.

99. In the context of the Habitats Regulations²³ Policy 50 of the Local Plan requires appropriate avoidance/mitigation measures for development proposals which would result in a net increase in residential development within the 5.6 km zone of influence of the SPA. One such measure is a contribution in accordance with the joint mitigation strategy. The Council's Supplementary Planning

²³ The Conservation of Species and Habitats Regulations 2010

Document²⁴ identifies a contribution of £174 per net additional dwelling (updated on 1 April each year in line with the Retail Price Index). Mrs Archer confirmed that the payment is now £176 per dwelling.

100. On day 2 of the inquiry the appellant Mr William Hughes²⁵ paid to the Council a financial contribution of £2,464, being the sum required as appropriate mitigation for 14 pitches. The Council was satisfied that this form of mitigation was sufficient to deal with the potential effect on the SPA of the existing development of 14 pitches. Mrs Archer proposed that if the appeal was successful a planning condition should be imposed to limit the number of occupiers²⁶. The Rule 6 party did not pursue its objection in respect of the impact on the SPA as a result of the evidence on the payment of the financial contribution to the Council.
101. The mixed use development is not directly connected with or necessary to site management for nature conservation and would result in a net increase in the number of homes within the zone of influence. Mitigation is required. The financial contribution is based on the Council's policy and guidance. Consequently the development is not likely to have a significant effect on the internationally important interest features of the site alone or in combination with other plans and projects and does not require an appropriate assessment. There is compliance with Policy 50 of the Local Plan.
102. The appellants followed a procedure and entered into an agreement provided by the Council under section 111 of the Local Government Act 1972. The failure to enter into an appropriately worded planning obligation means that the sum payable is not able to be adjusted to be consistent with the level of occupation that may be permitted. Furthermore the sum included pitches on land outside the appeal site (plots 12 -14). In that respect the contribution is not fairly and reasonably related in scale and kind to the development. However, because a planning obligation is not the chosen mechanism, this discrepancy is a matter between the Council and the appellant.

Effect on the landscape character of the AONB

103. At a broad level the Local Plan identifies the characteristics to which particular regard should be given in determining development proposals affecting the unique landscape of the AONB. These characteristics are: the sheltered open water areas with contrasting narrow channels; the bare mudflat and saltmarsh exposed by the movement of the tides that create a wide, open and remote wildness; the unique undeveloped character of the harbour, internationally important to nature conservation; the largely flat hinterland, where the highly productive farmland, woodland and hedgerows contribute to its rural character; and the flatness of the landscape which makes the AONB particularly vulnerable to visual intrusion from inappropriate development both within or adjacent to the boundary. Such development may be seen from significant distances across the inlets, the main harbour channels or open countryside²⁷.

²⁴ Planning Obligations & Affordable Housing Supplementary Planning Document July 2016

²⁵ The ground (a) appeal is by Mr Wayne Goddard, not Mr Hughes.

²⁶ Mrs Archer suggested a planning obligation as an alternative to a planning condition. Mr Masters confirmed that no more than 14 pitches were sought and noted there should be a repayment if permission was for a smaller number of pitches.

²⁷ The Local Plan paragraph 19.13

104. The Neighbourhood Plan identifies as important the rural feel of Birdham, open views and the agricultural heritage. The night sky is part of the scenic beauty of the AONB and one of the strengths of the Manhood Peninsula is dark night sky for star gazing. Policy 5 defines dark at night as more than 50 metres from an existing street light.
105. The landscape character assessments referred to by the witnesses provide greater detail of the key characteristics of the particular landscape character areas relevant to the appeal site. These studies confirm that in the West Manhood Peninsula particular attention should be given to the effect on the undeveloped rural character, the field patterns and landscape features, the harbour character of the major recreational centres of Birdham Pool and Chichester Marina, tranquillity and the relationship to dispersed settlement and modern roadside development.
106. The degree of sensitivity of the landscape and its capacity to absorb development was assessed in the Chichester AONB Capacity Study. The study concluded that the Birdham Pool Coastal Plain, where the appeal site is located, has substantial landscape value and substantial sensitivity. The capacity of the area to accommodate future development is defined as negligible/low. The baseline assumptions in the Study on the likely built form of a new development are not directly comparable to a mixed land use at issue in the appeal. Even so, the Study is a useful indicator bearing in mind the range of factors taken into account and the relative comparisons of the character areas. The busy A286 is a significant physical barrier and so I attach little weight to Mr Crandon's comparison and the visual connection with the landscape character areas to the south.
107. Mr Crandon considered that the landscape value and sensitivity of the site is reduced by its fringe location in the AONB, its visual isolation from the main body of the designated area and the proximity to the Premier Business Park, a prominent visual detractor. Nonetheless, as pointed out by Mr Soltys, the hinterland of the Chichester Channel is a relatively scarce resource. North east of Birdham it is no more than 3 or 4 fields in depth, one of which is the location of the appeal site. There is a close physical association with Birdham Pool and the Marina, despite the weak visual link. Prior to the recent development the site functioned as part of a medium scale, open arable field enclosed by boundary hedges, a typical element of the characteristic field pattern and an integral component of the broadly flat landscape. The vehicle noise at the roadside quickly drops off moving into the field so that the site is relatively peaceful.
108. To focus on the Premier Business Park takes insufficient account of the relationship of the field to the historic core of Birdham village and its essential contribution to the open rural setting of the village. Significantly the pattern of the fields radiating out from historic settlements such as Birdham is one of the recognised historic features within the AONB²⁸. The AONB Management Plan considers the control of development to be essential to prevent any loss of the special qualities of the AONB from the pressures from new residential development.

²⁸ Chichester Harbour AONB Landscape Character Assessment page 123.

109. My conclusion is that the undeveloped appeal site made a positive and important contribution to the special qualities of the landscape character of the AONB, reinforcing the cultural and agricultural heritage associated with Birdham village.
110. The material change of use resulted in a fundamental change in land use from an open agricultural field, defined and enclosed by natural ditch and hedgerow boundaries to a mixed use, characterised by a high level of subdivision and man-made boundaries. The mixed use and more particularly the caravan site component would generate much more vehicle movement and human activity. The new use relies on a variety of structures, including static and touring caravans, sheds and utility blocks, stable blocks and field shelters and is supported by domestic and horse related paraphernalia. Land has been hard surfaced to provide parking and circulation areas and yards within the plots.
111. The consequences of the new land use on landscape character are detrimental. The development has encroached into the predominantly open, rural setting of Birdham village. The clear separation between the edge of the village and the Premier Business Park, a free standing roadside development, has been significantly reduced. Development is now in depth, a contrast to the typical pattern of dispersed settlement. The land has taken on a settled appearance, in sharp contrast to the former undeveloped field. The site layout, the form and materials of the residential caravans and the treatment of surrounding space is not in keeping with the predominant settlement form and pattern both within the village and around Birdham Pool. The field pattern has become fragmented and much of the fencing is of type more suited to a built-up area. Everyday activity has adversely affected the site's peaceful nature and led to the introduction of artificial lighting. Boundary hedgerows have been cut back at the site access. All in all the mixed use is not compatible with the farming landscape, even though the keeping of horses may be regarded as a rural land use. Even on Mr Crandon's evidence the impact on landscape character, without any form of mitigation, was assessed as major/moderate adverse. He agreed that without landscaping the development would be unacceptable.
112. A landscape strategy was submitted that allowed for the retention of existing trees and hedgerows, proposed native buffer plantations and hedgerow reinforcement and the replacement of entrance gates and close boarded fencing²⁹. The strategy was directed at minimising visual/landscape impacts and increasing ecological and biodiversity value. As mitigation, the purpose of the landscaping would be to filter views. Equestrian paddocks were shown in the south western and north western corners of the site. The appellants' case was that not only would the proposed landscaping mitigate any impact on landscape character within a period of 5 years or so but it would amount to a planning gain by ameliorating the views of the Premier Business Park.
113. Implementation of a landscape scheme based on the landscape strategy would not overcome the fundamental harm to special qualities of the landscape character of the AONB caused by the presence of the development. There would be no change to the type of mixed use, the loss of agricultural land to

²⁹ The strategy applied to the site area before the notice plan was purported to be corrected and also included land now occupied by plots 12, 13 and 14.

development, the encroachment into the open rural backdrop that defines the historic setting of the village, the degree of fragmentation in the historic field pattern, the continuing every day activity and so on. Even if the scheme was implemented the harm would remain substantial.

Conclusions

114. The mixed use development fails to conserve and enhance the natural beauty and locally distinctive features of the AONB, it detracts from its distinctive character and special qualities. Whilst the development would not lead to the actual or perceived coalescence of settlements it would undermine the predominantly open and rural character of the AONB. There is little by way of evidence to show that the development is appropriate to the economic, social and environmental wellbeing of the area, nor is it desirable for the understanding and enjoyment of the area. There is conflict with the policy aims of the Chichester Harbour AONB Management Plan. None of the criteria of LP Policy 43 are met. There is also conflict with criteria in LP Policy 48 that seek to protect the tranquil and rural character and the distinctive local landscape character.
115. There is conflict with Policy 4 of the Neighbourhood Plan in that the mixed use development does not maintain the local character of the landscape, rather it has an urbanising effect. The appeal site when in agricultural use would have been dark at night and following the direction of Policy 5 the new use should be resisted.

Visual Impact

116. I confirmed from site visits that the visual impacts are restricted to a relatively small visual envelope because of the flat nature of the land and the network of hedgerows and trees. Nevertheless the land is in a prominent location. The main viewpoints are from Birdham Road (the route to and from Chichester), the northern end of Sidlesham Lane and the public footpath along the western boundary through to Martins Lane. Use of the public footpath is likely to be for recreation, whether by visitors or residents and hence viewer sensitivity would be high. A similar high degree of sensitivity would apply to users of the footway along Birdham Road, although less for road users.
117. From a number of viewpoints the development is seen together with the Premier Business Park. The two are quite different types of development. The Business Park is on a compact site, well related to the main transport route. There is a single relatively large scale building, with external parking/storage of motorhomes and effective boundary planting. In general, except when seen from the road frontage, the roof of the building is the dominant feature in local views. Refurbishment and change of use allowed in the 2000s may well have increased the visual impact of the business site. However, the fact that commercial development was present before the designation of the AONB in 1964 is very relevant. The presence of the Business Park is not good justification for the in-depth development of adjacent lands.
118. The unauthorised development has small scale elements and structures but is extensive in land take. The boundary hedgerows help in filtering views but from short distance, especially from the footpath along the western boundary, the visually dominant elements - the close boarded fences, caravans and

general paraphernalia - are visually intrusive in their local context. The visual harm is limited to a small geographical area. However, the former open views across the heritage landscape were valued by the community, as confirmed by their specific identification in Policy 4 of the Neighbourhood Plan. This consideration increases the level of harm.

119. Mr Crandon accepted that with the exception of one viewpoint the visual impacts upon close range receptors are substantial/moderate adverse. The landscape strategy was proposed to reduce the impacts to negligible or minor adverse from year 5 onward.
120. Local and expert knowledge suggested that the planting of buffer plantations and infill of gaps in existing hedgerows have a good prospect of becoming established and being effective in a period of five years or so. I would expect such an outcome to be reliant on good ground preparation in the first instance and appropriate management in the short term. Mr Crandon agreed that management would be critical to the scheme's success. However, a good proportion of the buffer plantation planting is shown to be on land owned by Mr Morley, outside the appeal site. Mr Morley stated in an email that he was agreeable to this but the email is not binding and does not provide a mechanism for future enforcement of planting requirements if necessary. No reliance can be placed on the proposed planting being carried out on his land, which would reduce the effectiveness of the strategy.
121. There are other factors that cast doubt on the delivery of an effective planting scheme. The submitted details were described as a strategy, not a detailed landscape proposal. On some plots buffer planting would require mobile homes to be re-sited and cause a significant loss of useable space. Removal of close boarded fencing would have implications for privacy. The mix of native plant species would be likely to have a high content of deciduous plants, which would reduce the effect of the mitigation on local views in the winter months. As to timing and delivery, separate planning permission(s) would have to be obtained for fencing and gates. Meeting the cost, estimated at some £30,000-£40,000, could be challenging³⁰.
122. The landscape strategy seeks to soft landscape the site to positively enhance the environment and to move away from enclosing the development with high walls and fences. To that extent it follows the guidance in the PPTS. Nevertheless, even with a successful landscape scheme, the important open views across the heritage landscape and agricultural heritage would be lost. Delivery of an effective scheme is uncertain, not least because of land ownership. Suitable mitigation has not been demonstrated to address the visual harm. There is conflict with Policy 4 of the Neighbourhood Plan and LP Policies 43 and 48.

Suitability of site

123. The criteria for assessing the suitability of proposed traveller sites are set out in LP Policy 36 and are reasonably consistent with the PPTS. Whilst the development at issue in this appeal is not for a single use site or pitch, it is nevertheless appropriate to apply the criteria because of the residential content

³⁰ Mr Crandon's revised cost estimate resulted in an overall budget of some £42,000, reduced to £29,400 if the scheme was implemented by suitably skilled residents. Mr Stemp submitted that the figure should be £32,500 if the residents did the work themselves.

and type of caravan accommodation within the mixed use and the occupation of the site by Gypsies.

124. Criterion 4 encompasses the protection of nationally designated areas of landscape and nature conservation sites. My conclusions on the previous main issues have identified a conflict in respect of the protection of the AONB (both in landscape and visual terms) but not the SPA. As a result of that conflict alone the caravan site does not have the support of Policy 36. However, assessment against all the criteria is necessary to identify other forms of harm, if any or support for the development.
125. The site is within walking distance of the local facilities and services in Birdham. There is a bus stop on Birdham Road very close to the site access. The bus service to Chichester operates seven days a week and provides a direct link to the railway station and the bus station. Overall the site has good access to major roads, public transport and services.
126. CHC referred to use of the site access creating disruption to the free flow of traffic on the A286 Birdham Road and the highway authority's concerns over visibility. The reasons for issuing the notice do not include a highway safety issue and my understanding is that improvements to the width and visibility at the access were carried out. Mrs Archer confirmed that the highway authority has no objection to the use on grounds of traffic impact or highway safety. The site visit confirmed that the access is of an adequate standard to avoid a material effect on highway safety or convenience. However, within the site the necessary infrastructure did not exist. The development of an internal track is not sensitive to local character, as I will explain in connection with the appeals against enforcement notice BI/30.
127. There is no evidence that the site would place an undue pressure on local infrastructure. CHC explored matters concerning site drainage and effect on water quality but there was no specific evidence of any occurrence of water pollution. The use of planning conditions could confirm and secure suitable means of disposal of surface and foul water drainage.
128. The site adjoins the residential property at Birdham Farm. Mr Rodgers gave evidence at the inquiry that the occupants were courteous neighbours who wished to live in the area and who caused no noise disturbance. In his opinion the twinkling of lights from windows did not amount to light pollution. The effect of the development on the amenity of himself and his family had been minimal.
129. I am satisfied that there is adequate separation distance between the dwelling at Birdham Farm to enable a reasonable level of visual and acoustic privacy to be achieved for all. A similar assessment applies to the dwellings to the north west of the site. A close boarded fence and coniferous planting extend along the northern side of the boundary ditch and screens the open land to the rear of those properties. Loss of privacy and residential amenity were not reasons for issuing the notice, nor did such matters feature in written representations from local residents. I conclude that there would be an acceptable level of amenity for the residents of nearby dwellings and for residents of the development.

130. The Neighbourhood Plan identifies the risk of flooding as a major concern in the locality and refers back to flooding events in 2012, when much of the flooding affected land in flood zone 1 (low probability of flooding). However, the Council has not drawn attention to any specific concerns over flood risk nor identified a critical drainage problem affecting the site. On that basis the site is not in a location that should be avoided on grounds of flood risk. The Premier Business Park is enclosed by a buffer of land and planting and would not be an incompatible neighbour.
131. The Council confirmed that there are no other gypsy or traveller sites nearby. The community, through the BVRA, presented their case against the development on a single issue - the adverse impacts on key characteristics of the AONB. That being so, when combined with the focus of the Council's case, there is nothing material to suggest that the development dominates the nearest settled community in terms of its social effects.
132. Therefore harm is associated primarily with the effect on the AONB and the inadequacy of on-site infrastructure.
133. The PPTS raises additional matters to do with site planning. The development does not involve the use of previously developed, untidy or derelict land. The site may have been planned to suit the landowners and there is sufficient space within the plots and site to provide play areas for children. However, the piecemeal nature and the apparent lack of consideration to planning policy requirements do not support a conclusion that the site is well planned. The site is close to the Premier Business Park and Birdham Farm but the location outside the village, the erection of close boarded fences and gates and the proposed belts of plantation planting suggest isolation of the site residents from the rest of the community. Landscape issues, dealt with in the sections above, are of serious concern. The development does not score well on site planning.
134. The reasons for issuing the notice refer to Policy 55 of the Local Plan, which states that planning permission will be granted for horse related development where it can be demonstrated that all the stated criteria have been considered. The supporting text indicates that the policy is directed principally at equestrian development associated with recreation. In this appeal the keeping of horses is part of a mixed use and is closely linked to the gypsy way of life of the residents. In their statements they described how they attended horse fairs. Mr Hughes, Mr Sibley and Ms Boyden in their oral evidence described how they buy young stock, train and school the horses before they sell them on. Mr Hughes stated he may turn over 40 horses a year.
135. In terms of the policy criteria there is no evidence to show inadequacy of land for the number of horses kept – Mr Sibley for example rents additional land in the area. However, new structures have had to be provided because there were no buildings on site to be re-used. A harmful impact on the landscape results from the loss of the undeveloped rural character. An adverse change in visual appearance is linked to the ancillary works and the piecemeal and unplanned nature of the development for which there has been no comprehensive scheme of management. The keeping of horses has occurred in combination with residential accommodation, although no case was made that it was essential to live on the site on grounds of animal welfare. The indication is that the quality of the agricultural land is moderate to very good but no

objection was raised by the Council regarding the irreversible loss of the best and most versatile agricultural land. Some concern was expressed by CHC about the loss of viable agricultural land but was insufficiently supported by evidence. The effect on highway safety is acceptable and no material impact on bridleways has been identified. The use of an appropriately worded planning condition could control the means of storage and disposal of waste materials.

136. On the basis of all the policy considerations the development is not supported by Policy 55.
137. Mrs Archer's evidence indicates that the Council's main concern with the use of the land for the keeping of horses was the associated operational works, structures and sub-division. In terms of the fallback, such elements would be subject to the Article 4 direction and the normal controls on development. To that extent the harm would be significantly less.
138. The appellants put forward no arguments in support of using the land for the storage of caravans, nor were any planning conditions suggested to control such a use. I can see no planning merits in this particular component of the mixed use because the harm to the landscape and visual qualities of the AONB would not be offset by social or economic benefits.
139. In conclusion the site is not suitable for the mixed use and the development is contrary to LP Policies 36 and 55.
140. In view of the location of the site in the countryside LP Policy 45 is relevant. The mixed use can be considered to require a countryside location because the keeping of horses is one of the component uses. The site is located close to an established settlement but the scale, siting, design and materials do not have a minimal impact on the landscape and rural character of the area. Therefore not all criteria are met and the development is not supported by the policy. It follows that the proposal does not comply with LP Policy 2 and Policy 15 of the Neighbourhood Plan.

Intentional unauthorised development

141. A planning policy statement issued on 31 August 2015 introduced a planning policy that makes intentional unauthorised development a material consideration in the determination of planning applications and appeals. The planning policy statement was also laid in the House of Commons on 1 December 2015 as a written ministerial statement. A reason for the policy was the Government's concern that there is no opportunity to appropriately limit or mitigate the harm that has already taken place. The statement also refers to such development involving local planning authorities having to take expensive and time consuming enforcement action. The policy applies equally to the settled and the traveller community. Whilst particular emphasis is placed on protecting Green Belt the policy also applies to non-Green Belt land.
142. The Council had served enforcement notices and temporary stop notices against development that had taken place over the period from the end of March 2015 to September 2015. The Council applied to the County Court for an injunction in June 2015, which resulted in undertakings being given to the Court by Mr W Hughes and Mr Joe Smith not to bring any further mobile home or caravan onto their property, not to erect any further buildings and not to lay

any hardstanding, install further drainage or external lighting (save for sensor lighting)³¹. An Article 4 direction was served on the site on 19 July 2015, which drew attention to its environmental sensitivity and the necessity to obtain planning permission for certain types of development. The history of enforcement action, of which some even if not all of the appellants were aware, points to the unauthorised development being intentional. It may not be the case that they were aware of the planning policy statement.

143. The development has caused serious harm to the special qualities of the AONB and to visual amenity. By intentionally implementing the development an iterative approach towards the design of a scheme has not occurred. An opportunity to limit or mitigate the harm was prevented and damage to the environment occurred. The local planning authority has had to have recourse to enforcement action, costly in time and resources. The policy is directed at such consequences.
144. I conclude that the change of use amounted to intentional unauthorised development within the meaning of the 31 August 2015 planning policy statement. This consideration weighs against granting planning permission. I attach moderate weight to this matter because of the history of enforcement proceedings and action in the period immediately preceding the unauthorised material change of use.

Fallback

145. In the event the notice is upheld and provided that all the other steps are carried out as required planning permission would be granted for the horse keeping activity. In view of the land ownership and the contribution of the keeping of horses to the appellants' gypsy way of life there is a possibility that the land would not return to a single arable agricultural field. However, residential and storage uses would cease, caravans, structures and ancillary works would be removed. Future minor operations such as the erection of fences, gates or other means of enclosure would be controlled by the Article 4 Direction. The essential qualities of the local landscape character would to a large extent be restored. The fallback was not relied on by the appellants and I attach very limited weight to it.

Planning conditions

146. Planning Practice Guidance advises that planning conditions can enhance the quality of development and, by mitigating adverse effects, enable development proposals to proceed where it would have been necessary to refuse planning permission.
147. Conditions put forward by the appellants and the Council would be directed at ensuring the level of development would be maintained in terms of the type and number of caravans and requiring additional details on matters such as landscaping and drainage. The identified harm to the landscape and visual amenity and the inappropriate location of the site would not be mitigated satisfactorily.

³¹ In April 2016 further undertakings were given by several of the appellants and are included in Mrs Archer's bundle of documents at appendix 10.

Need

Pitch provision

148. A Gypsy and Traveller and Travelling Showpeople Assessment (2103) (the GTAA) was carried out in 2012/13. The GTAA identified a need for Chichester to provide 59 pitches during the plan period 2012 to 2027, with 37 pitches to be provided in 2012-2017 and 11 pitches in each of the following five year periods. These figures are incorporated into LP Policy 36 as the potential need for permanent pitches over the plan period. Where there is a shortfall in provision, the policy provides for sites to be allocated within a Gypsy, Traveller and Travelling Showpeople Site Allocation Development Plan Document (DPD).
149. The Council maintained that as of February 2017 there was a surplus of 6 pitches in the 5 year supply for the period 2017 to 2022, amounting to a 7.3 years supply. The surplus increased to 7 pitches as a result of a grant of planning permission by the Council in March 2017 for an additional pitch at Pond Farm, Newells Lane. The up to date position took account of 35 pitches permitted and occupied since September 2012 and a supply of 19 pitches, which consisted of pitches with permission but which were not implemented and occupied.
150. The appellants drew attention to what they considered to be flaws in the GTAA, the Council's failure to take account of factors indicating an increase in need, the failure to meet the need for public sites and to plan for all types of tenure, the national and regional need and the personal need of the site occupiers. Reference was made to recent appeal decisions to demonstrate a continuing significant need generally both at district and regional level.
151. The starting point is the Local Plan. Policy 36 is informed by the GTAA. The GTAA is clearly identified as one component of the evidence base, along with the national guidance for GTAAs, the Framework and the 2012 PPTS. A reasonable expectation is that the GTAA was subject to scrutiny and accepted as good evidence on need at that time. Policy 36 identifies a 'potential' need for 59 additional permanent residential pitches. It seems to me that the use of the word 'potential' means that the number of pitches is not firmly fixed. In other words, providing the number of pitches stated in the policy may not necessarily meet need. The intention, as indicated by the supporting text (paragraph 17.34), is that a Site Allocation DPD will identify sites to contribute to the delivery of the stated provision. The policy makes no distinction between the need for and provision of public as opposed to private sites.
152. Since the base date of September 2012 there has been a significant increase in the stock of traveller sites in the district³². All the provision has been in the form of small private sites. Early work on a Site Allocation DPD was undertaken when a study identified potential sites across the plan area and assessed their potential suitability for accommodating Gypsies, Travellers and Travelling Showpeople. The purpose of the study was to provide an evidence base to the DPD³³. Mrs Archer explained that work on a DPD was halted in light of Government changes to the PPTS and the subsequent need for the GTAA to be updated in order to provide robust background evidence to support the DPD.

³² The GTAA reported at paragraph 2.10 that Chichester had two public sites with a combined capacity of 40 pitches and 16 private sites with a capacity of 47 pitches, or which three are for transit use

³³ See paragraph 17.34 of the Local Plan

The Council has commenced an early review of the Local Plan, which includes a review of the GTAA.

153. In view of these developments and information, I conclude that the Council's assessment on need, site provision and 5 year supply is reasonable when judged against Policy 36. However, other considerations are very relevant. PPTS expects local planning authorities, in producing their Local Plan to identify and update annually, a 5 year supply of specific deliverable sites. The GTAA no longer provides a robust evidence base to establish up to date accommodation needs in the district, bearing in mind legislative amendment and review of guidance³⁴. There has been no new provision of permanent public pitches even though families on the waiting lists for public sites are a consistent and important element of need. The GTAA concluded that almost 50% of the pitch need in Chichester should be in the form of public provision³⁵. By all accounts no pitches are available on the two public sites, turnover is low and waiting lists persist, a position recorded in an appeal decision dated February 2017³⁶. Back in March 2016 Mr Weymes provided confirmation from a registered provider Home Space Sustainable Accommodation that there were no vacancies on the 9 sites they managed across West Sussex with a combined total of 110 plots and approximately 60 families were on a waiting list.
154. In view of these considerations I am unable to conclude that need has been met in the district or that there is a supply of specific deliverable sites to provide 5 years' worth of sites against an up to date locally set target. There are no available alternative sites in the form of allocated land or pitches on public sites. Nonetheless, new private sites are an alternative source of supply and experience has shown that suitable land does become available for development. According to the Council's evidence, which was questioned by the appellants, there is a supply of pitches on privately owned land.
155. As to the implications for the application of national policy, the change to a mixed use has amounted to major development in an AONB. As such a specific policy in the Framework, set out in paragraph 116, indicates development should be restricted. That being so the tilted balance in paragraph 14 does not apply even though Policy 36 is out of date in respect of setting a local target for pitch provision (by reason of the GTAA being out of date). The submissions on behalf of the appellants on paragraph 49 of the Framework, paragraph 27 of the PPTS, *Wenman*³⁷ and the later Written Ministerial Statement add little and do not alter that conclusion³⁸. The same line of reasoning applies in respect of LP Policy 1.
156. Until a new GTAA, or similar study, is carried out the need for additional pitches is unable to be quantified. The indicators suggest that within the district there probably is a need, given that no public pitches have been developed over the last five years or so. National and regional need also have to be taken

³⁴ Section 124 of the Housing and Planning Act 2016 amended section 8 of the Housing Act 1985 and sections 225 and 226 of the Housing Act 2004 – the needs of gypsies and travellers must now be seen in a wider context of the needs of people for a site in which caravans can be stationed. The 2007 guidance on GTAAs was withdrawn in December 2016.

³⁵ GTAA Figure 25

³⁶ Appeal ref APP/L3815/W/16/3148352 Land south of The Stables, Hambrook, paragraph 30

³⁷ *Wenman v Secretary of State for Communities and Local Government and Waverley Borough Council* [2015] EWHC 925 Admin

³⁸ During cross examination by Mr Stemp Dr Murdoch accepted that the paragraph 14 presumption did not apply because of the AONB location.

into account. Overall, I attach moderate weight to the matter of need. Whilst probably there is numerically five years' worth of sites against the locally set target in the development plan, there is no year five year supply to meet probable need. This consideration has significant weight bearing in mind the emphasis in PPTS on local assessments of need and the development of fair, realistic and inclusive policies.

157. The evidence on need focussed primarily on the social need for traveller sites. No case was presented by the appellants to demonstrate the impact of permitting the development, or refusing it, upon the local economy. On that basis I have no reason to disagree with the evidence of CHC that dismissing the appeal would be unlikely to adversely impact the local economy.

Policy response

158. Of the Coastal West Sussex authorities, Chichester has the largest Gypsy and Traveller population. Since 2012 Government policy in respect of traveller sites has included aims to ensure that local planning authorities develop fair and effective strategies to meet need through the identification of land for sites and to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites. Prior to the adoption of the Local Plan, the Chichester District Local Plan First Review 1999 did not have a saved policy relating to the provision of gypsy and traveller sites. The Local Plan has addressed that policy vacuum but the Council has placed reliance on private site provision. The Site Allocation DPD was not progressed beyond the early stages before being overtaken by the need for a wide ranging policy review for the district. As a result no land has been identified and allocated for sites and a policy aim at local and national level has not been met. The range of circumstances leads me to conclude that the 'failure of policy' argument provides a small degree of support for the development at the present time.

Alternative sites

159. By way of introductory considerations, case law has established that to be a realistic alternative, accommodation has to be suitable, available, affordable and acceptable. Also there is no requirement for an appellant to prove non-availability of a suitable alternative site. An important observation in *Chapman* is that Article 8 does not in terms give a right to be provided with a home³⁹. This section focuses on alternative sites available for the appellants, following the earlier consideration of the availability of sites to meet general need.
160. The appellants' case is that if they are not allowed to stay on the appeal site they would have nowhere else to go and would be on the road in the district. In their view the appeal site, in gypsy ownership, is the only currently available and deliverable site.
161. Possible alternative sites or accommodation could take various forms. To be considered deliverable a site should be available now, offer a suitable location for development and be achievable⁴⁰. No vacant pitches have been identified on public sites to provide a settled base for any of the families. In view of the waiting lists the probability of sites becoming available in the short term is very

³⁹ *Chapman v The United Kingdom* paragraph 99

⁴⁰ Taken from the meaning in PPTS footnote 4

low. The only known vacancies are on the transit site in the district where a maximum period of 12 weeks occupation is allowed, with a discretionary no return period of 6 months. Clearly this form of site accommodation would not provide a permanent solution.

162. The schedule of caravan sites granted planning permission over the last five years or so demonstrates that suitable and acceptable land does come up which is affordable for travellers. The appellants did not suggest that they had thought about or explored the possibility of taking on any of the sites with permission that currently form part of the supply. The sites cannot be ruled out. For some of the families affordability would appear to be a critical issue, not least because available resources were invested in buying land on the appeal site. The option of bricks and mortar accommodation may be a possibility for a limited number of residents but the personal statements suggest that for most residents the effects on family life and health would make this an unsuitable form of accommodation.
163. Up to date evidence on individual needs was restricted to those families currently living on the site. Some of the original occupiers or owners of land on the site have moved on. The indication is that Mr D Hughes and Ms Lamb have a site with permission until 2018. The current circumstances of Mr K Hughes and Ms Baker and of Mr Watson are not known. According to the completed human rights questionnaires, Mr K Hughes and Ms Baker stated in April 2016 that they and their 3 children would be homeless, yet in September 2016 Mr Bridger and his family were able to occupy their plot. Similarly Mr Watson stated in April 2016 he had nowhere to go but it appears he voluntarily moved from the site. More generally, the statements produced for the inquiry indicated residents are aware of available sites that have been and are used during periods of travelling.
164. In conclusion, the evidence indicates caution about accepting that all families would be forced to live on the roadside and would have to rely on all-year round unauthorised encamping. Having said that the loss of the home and settled base without an alternative permanent site would have serious consequences. This would be particularly so for Mr and Mrs Goddard and their children (plot 1) in view of Mrs Goddard's health. Family ties and friendships and children's education would be disrupted. Such an outcome would not be in the best interests of the children. The mixed use of the site, which may not be readily available elsewhere, is an advantage enabling the keeping of horses in support of traditional lifestyles and livelihoods. The lack of availability of alternative suitable permanent caravan sites for the appellants has significant weight.

Personal circumstances and human rights

165. The evidence of the residents has several inter-related themes, the main ones being the need for a secure and settled base, proximity to family and friends, and provision of health and education. The best interests of the children are evident in each of these issues. Mr Masters in his closing submissions stated that there are three relevant children to consider. However, based on the personal statements, eleven children live on the site and four children regularly visit. Mrs Harrison is expecting their first child.

166. Need for a permanent pitch. The recent travelling histories of some of the families show that they had a settled base for the winter months and a series of known sites where they could stop but for various reasons the base was no longer available. Mr and Mrs Harrison and Mr and Mrs Smith were given notice to leave a caravan site at Bloxham, near Banbury which was due to close down on 31 January 2017. Family disputes meant that Mr and Mrs Hughes and Mr and Mrs Goddard were no longer able to stay at their former sites. In the case of Mr Sibley and Ms Boyden they previously occupied an unauthorised site in Bignor. Mr Bridger and Mr Keet had a bricks and mortar base but found adapting to that form of accommodation difficult and took up the opportunity of a pitch at Birdham. Mr Keet's children are able to visit and stay regularly with him now he has a fixed base.
167. Family and friends. There are strong ties between residents, who are either related to one another whether as near relatives or as part of the extended family, or they are close friends. This position is well illustrated by the residents of Plots 1 to 4. Mrs Goddard's best friend Karla Smith who now lives on a neighbouring plot (Plot 4) and Mrs Harrison is her niece. Mr Smith and Mrs Smith's son and his wife live on Plot 3. Mrs Goddard has been very ill and her family and friends are now able to offer mutual support and ease the caring responsibilities on her daughter. Other residents appreciate the proximity to family who live or have a base elsewhere in the locality. The stability offered by a settled base enables family, including residents' children, to visit regularly as described by Mr Keet and Mr Robinson.
168. Health and education. An aim set out in PPTS is to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure. In this case, children living on the site attend a local primary school or are coming up to school or pre-school age. Children of other families receive home tuition. Some families have registered at local medical practices. Attention has been drawn to specific health problems affecting members of several of the families where proximity to health care and support would be important.
169. The land is the home of the eleven family households, although not all have the status of appellants. It is also the case that by the time of the inquiry the storage of caravans was not obviously taking place at the site and the number of residents had increased over the past year or so. Nevertheless whether a material change of use has occurred since the notice was issued has not been a consideration in this appeal and hence it would not be appropriate to come to a conclusion on the matter. There was no suggestion by any of the parties that the personal circumstances and human rights of the more recent residents should be excluded from consideration and I do not intend to do so. There is the potential for interference with the rights of each resident.
170. If the ground (a) appeal is unsuccessful the notice requires the use of the land as a caravan site and the storage of caravans to cease and all the caravans to be removed from the land. In effect the families would lose their homes and there is no certainty that there would be alternative sites available to prevent them becoming homeless. The lack of a settled base in all probability would have an adverse impact on access to education and healthcare and the ability to have mutual support may suffer. The interference with the home, private and family life would be serious. The consequences for

the families' wellbeing would be of such gravity as to engage the operation of their Article 8 Convention rights. Children would be particularly vulnerable.

171. In conclusion the personal circumstances and human rights of the appellants provide considerable weight in favour of the development.

Planning balance and human rights

172. The AONB is a unique landscape that has a high level of policy protection. The land based component, including the villages and their setting form a vital part of the AONB. The appeal site, although located near the periphery of the AONB, is within a sensitive area. At the local scale the Neighbourhood Plan emphasises the importance and value of the landscape character and open views. The mixed use development is not compatible with the distinctive character and special qualities of the AONB by reason of the subdivision into land parcels, the dwelling type, the additional caravans and ancillary structures, the dominance of hard surfaces and proliferation of fences. The proposed landscape mitigation would not overcome the substantial harm. The development is not supported by LP Policies 43, 45 and 48 and there is conflict with Policies 4, 5 and 15 of the Neighbourhood Plan. Informed by conclusions against the criteria in LP Policies 36 and 55, the location of the site is unacceptable for the mixed use. The material change of use is not in accordance with the development plan when read as a whole and the weight against the mixed use is very substantial.
173. The Framework expects the planning system to contribute to and enhance the natural and local environment, indicating great weight be given to conserving landscape and scenic beauty in AONBs. PPTS expects new traveller sites outside areas allocated in the development plan to be very strictly limited. On these matters the development is not appropriately located or well-planned and conflicts with national policy. The change of use also amounted to intentional unauthorised development, a factor which has moderate weight given the enforcement history of the site. The development goes against the plan led approach to need and would be a continuation of the 'ad-hoc' approach which was adversely criticised in the closing submissions on the appellants' behalf. Being 'major development' the Framework directs that planning permission should be refused unless there are exceptional circumstances and the development is demonstrated to be in the public interest.
174. The development has provided additional traveller pitches and has met individual needs for a settled base. These are important considerations when account is taken of general need, the difficulty travellers have in finding suitable and affordable land, the lack of available alternative sites especially as regards public provision and the very limited progress on a Site Allocations DPD, which would provide direction on and promote delivery of additional pitches in acceptable locations. The short history of the mixed use development has illustrated how opportunities have been taken by a number of families to buy into the site in order to establish their homes. As a result they have been able to strengthen family ties and friendships, benefit from the associated stability in health and educational provision, secure the best for their children, whilst following their traditional and nomadic way of life. The social aspects very much support the development, particularly in view of the positive obligation to facilitate the Gypsy way of life and advancing equality of opportunity. The economic effects at best would be neutral.

175. The site complies with policy criteria regarding highway safety, access to services, facilities and public transport, flood risk, residential amenity and nature conservation. However, having regard to LP Policy 36 and PPTS, these matters are required of development and are neutral in the planning balance rather than attracting positive weight in support of the development.
176. Bringing all these matters together, the environmental considerations are compelling. The other considerations are not of sufficient weight to overcome the serious conflict with the development plan. The development is contrary to LP Policy 1. There are not the exceptional circumstances to overcome the presumption of refusal of permission for major development in the AONB, nor when all matters are considered would the development be in the public interest. Even if the material change to a mixed use is not categorised as major development, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. My initial conclusion is that the balance is strongly against the development. Permanent planning permission should not be granted for the mixed use development and the ground (a) appeal should fail.
177. However, I have to be satisfied that this outcome would be no more than necessary to achieve the objective of protecting the environment through the regulation of land use. Furthermore whether the interference is necessary is dependent on it being proportionate. In the context of Article 8 the aim is to ensure a fair balance between the demands of the general interests of the wider community and the protection of the individual's fundamental rights.

Proportionality assessments

178. I recognise the links through extended families and friendships and a common interest in wishing to stay living on the site and the case presented on the ground (b) appeals regarding the planning unit. However, occupancy of the site has not been stable and some of the appellants no longer retain ownership of land. Importantly it is the loss of the home of the individual or family unit and its effect on that individual's or family's rights, not the rights of the collective group as whole, which has to be balanced against the harm to the public interest.
179. For each family or individual the development and the location of the site are well suited to their needs for varying reasons. The main factors likely to affect an individual's or a family's interests and in turn the seriousness of the interference are: the effect on children, the vulnerability of the individual or family (often related to health and well-being, family relationships), availability of mutual support, provision of a safe and secure home, the effect on a nomadic habit of life and means of earning a livelihood, and the availability of alternative suitable accommodation. These matters have been considered in general terms within the main issues and my earlier conclusions help to inform individual assessments.
180. As a general rule it is also highly relevant whether or not a home was established unlawfully in considering whether a requirement that the individual leave his or home is proportionate to the legitimate aim pursued. In this case account also has to be taken of an individual's literacy skills, knowledge of the statutory planning policy framework and regulation, contact with the Council

and public authorities and personal and family well-being. When a 'risk' has been taken, even given the underlying reasons, some responsibility has to lie with the new land owner. This is especially so on plot 6 given its enforcement history. The relevance of unauthorised occupation and how it may affect the balance to be struck will be sensitive to the circumstances of each individual/family unit.

Summary of relevant considerations relating to the enjoyment of private and family life and the home

181. Plot 1: In the two years or so before moving onto the pitch in July 2016 the Goddard family had gone through a very difficult and stressful period as a result of illness, bereavement and disharmony in the wider family. As a consequence they decided to leave their permanent base and with no other available option understandably took up the offer of a home at the Birdham site. The strong support from family and close friends and easy access to medical care has brought much needed help and happiness. The family's only source of income is from work found by travelling, which because of family circumstances is likely to be facilitated by having a stable base and support network at hand. In addition, the parents want their two teenage children to retain the traditions and culture of the Gypsy way of life. The ability to stay on the site would be in the children's best interests. No alternative permanent site has been identified, although sites for temporary accommodation are known to them.
182. Plot 2. Mr and Mrs Harrison moved onto the pitch in January 2017, as their former site was closing down and they had family on the Birdham site. There is no indication that they were aware of or made inquiries into the planning position of the land or investigated alternative options. Their family circumstances are due to change as they are now expecting their first child. Therefore their need for a stable base, accessibility to health care and proximity to family and friends is likely to be increased. Interference with their home and family life would be serious.
183. Plot 3. The evidence of Mr and Mrs Smith's circumstances was inconsistent and lacking in detail. Whilst they have close family on the neighbouring pitch they appear to travel extensively. No children live on the plot.
184. Plot 4. Before moving to Birdham Mr and Mrs Smith stayed on several base sites for temporary periods, travelling also to horse fairs and looking for work. They have never had their own lawful caravan site, despite looking for many years. They have invested all they could afford into acquiring the current pitch and moved there in July 2016, even though they knew there was an issue as to whether they would be able to stay in the long term. The benefits to private and family life of having their own pitch are illustrated by the fact that they have been able to register for the first time with a doctor. Friends and family live on adjacent plots and their two eldest daughters and grandchildren visit regularly every week. One of the children receives home tutoring.
185. Plot 5. Mr Sibley previously was on a permanent unauthorised pitch in Chichester district for some 17 years, during which time there was continuous contact with the Council seeking to resolve the planning position through enforcement proceedings. During the year he travels for about 3 to 4 months in connection with his trades as a horse dealer and a dealer in vehicles, plant and

machinery. He got to know of the land at Birdham via word of mouth. He has a pitch and an adjacent paddock and has also sold on other land that he owned there. He maintains he would not be able to afford to buy a new plot of land elsewhere. The pitch and associated land at Birdham provides a permanent base, well suited to his livelihood. He knows other people well on the site and is seeking a secure future. His son is now an adult living and working in London and does not have a nomadic habit of life.

186. Plot 6. Ms Boyden is the sole occupier and was the owner of the aforementioned unauthorised pitch in Chichester district. After she sold that land left she tried living in a flat and then moved to stay with friends abroad for a year or so to recuperate. She returned to England when there was the opportunity to acquire land at Birdham. Although aware of the planning issues it appears that the recent planning history was not understood fully or acknowledged. The evidence on the sale of previous property indicates affordability may not be a constraint on securing an alternative site. Her adult son visits one or two times a month. The plot at Birdham provides a safe environment because of having friends and family on hand and it is very suitable to her gypsy way of life.
187. Plot 7. Mr and Mrs Hughes have strong family connections with the area, dating back to childhood. Their need for a new permanent pitch arose out a family dispute. As a result they were required to leave their former pitch which had been their home for over 7 or 8 years. The opportunity to acquire the land at Birdham ended a period of unauthorised encamping. In the absence of available public provision Mr Hughes has attempted to provide a home for his family that is in keeping with their way of life and culture, although aware of planning restrictions. Their two children are able to continue their education by attending a local school. Contact is maintained with grandparents, despite the move away from the family site. Living on the same site as extended family and close friends is important to them.
188. Plot 8. This plot is occupied by a family with two young children. Having experienced difficulties and illness coping with bricks and mortar accommodation, a permanent pitch at Birdham was said to be so much better – they were happy, settled, safe and confident. Happiness within the family was regarded as more important than the risk of moving to Birdham, when they knew there were problems. The prospect of being on the road with two young children was very worrying.
189. Plot 9. The Goddard family moved to Birdham in October 2015. They had lived for some 8 years in a Council house, which they used as base whilst still maintaining a travelling lifestyle. During that period they had suffered abuse and were unable to keep animals. The children’s schooling suffered. Since moving to the site the children have been healthier and happier, have freedom to play outside when they wish and they are able to tend to their ponies. Their eldest daughter’s performance at school has much improved. They have many connections to the local area through their family and several members of their extended family live on site. Council traveller sites would not be a suitable or available alternative because they have long waiting lists and do not allow horses.
190. Plot 10. Mr Keet has temporarily separated from his wife, who lives in a house in the Hampshire area. His three children come to stay every weekend

and in the summer holidays, where they can play and be safe in the community. There are issues regarding health and education which are related to uncertainty over the home. If planning permission is granted there is said to be a probability that his wife and children would move back to live there. The lack of a settled base has had and would have a serious effect on family life.

191. Plot 11. This plot is the settled base for the owner Mr Robinson and a friend of the family, a fellow traveller. The evidence indicates that Mr Robinson spends a lot of the time travelling, often with his brother and that he has been looking for his own plot for around 10 years. Having a base enables his son to stay and he hopes to be more successful in life. In January 2017 he was aware that buying the land was a risk, but every day was regarded as a risk when travelling on the road.
192. Non-resident appellants. The indication is that Mr D Hughes and Ms Lamb have a caravan site with permission until 2018 and information from Mr Weymes indicates they no longer continue to have an interest in the land as owner. The current circumstances of Mr K Hughes and Ms Baker and of Mr Watson are not known. In the absence of information to suggest otherwise would be no interference with the Article 8 Convention rights of these appellants.

Public and community interests

193. Attention in the main issues has focused on the detail specific to the site and the development. The conclusions will not be repeated in this section but are highly relevant. As to the context, the Framework confirms that the purpose of the planning system is to contribute to the achievement of sustainable development by fulfilling social, economic and environmental roles. Positive improvement should be sought in the quality of the built and natural environment as well as people's quality of life in order to meet present and future needs. The regulation of land use is in accordance with the statutory framework. Planning law requires that applications for planning permissions must be determined in accordance with the development plan unless material considerations indicate otherwise. A high level of protection is afforded to conserving landscape and scenic beauty in designated AONBs and the conservation of cultural heritage is also regarded as important.
194. The appeal site is in an area covered by a Neighbourhood Plan, forming part of the development plan. The environmental policies are based on an overwhelming desire of the community that any development should preserve the rural feel of Birdham and protect open views. Conserving the AONB is also regarded by the community as being very important. The designation of the AONB dates back to 1964 and the statutory primary purpose is to conserve and enhance the natural beauty of the area. The Management Plan highlights the national and international importance of the AONB and its increasing popularity for recreation. The location of the development on the appeal site has been shown to be unacceptable when assessed against the core planning principles and policies that seek to conserve the much valued environment for the enjoyment of all.

Fair balance

195. The final part of the assessments is to carry out a structured weighing up and balancing of all these interests, attributing weight to the various factors and interests.
196. A lack of success in the appeal would cause varying degrees of disruption to home and family life, whether directly or indirectly in terms of family members and children who live off-site. I attach greater weight where the best interests of children are involved and where the family are vulnerable or have experienced recent hardship. My conclusion is that in respect of plots 1 and 9 the interference with home and family life would be very serious. The interference would be serious in respect of plots 2, 4, 7, 8 and 10 and less so in relation to plots 3, 5, 6 and 11. The community interest in protecting the environment has great weight because of the AONB designation. The land is not a suitable location for a pitch and permanent long term provision should be plan led in the wider community interest. The interference with residents' rights would be justified.
197. In each case I conclude that the interference with the Article 8 Convention rights of the family or individual occupiers is necessary and proportionate in pursuit of the legitimate aim of regulating land use. To dismiss the ground (a) appeal would not result in a violation of their rights under Article 8.

Article 1 of the First Protocol

198. Under this article every person has a right to the peaceful enjoyment of their possessions. It is however, a qualified right. The appellants did not present any specific evidence to show that upholding the notice would be an unjustified interference with their rights.
199. Similar general conclusions apply as considered in respect of Article 8. The dismissal of the ground (a) appeal would mean that the appellants in due course would no longer be able to station their caravans on the land and hence the families would lose their homes. Finding an alternative settled base probably would be hard. There would be a serious interference with the right of each household to the peaceful enjoyment of their possessions. Nevertheless the residents would not be deprived of their possessions in the sense that there would be no expropriation of property. The notice does not require the use of the land for the keeping of horses to cease.
200. The public interest centres on regulating the use of land and upholding planning control in accordance with the statutory framework in a designated AONB. I have considered the rights of every individual resident in light of the information and evidence provided through the appeal. My conclusion is that the interference with every person's rights under Article 1 of the First Protocol is proportionate and necessary in the public interest.

Conclusion on permanent permission

201. The mixed use development is not in accordance with the development plan when read as a whole. Other considerations are not of sufficient weight to overcome the conflict with the development plan to enable planning permission to be granted. More particularly the policies in the Framework and PPTS as a

whole do not support allowing the land use change to a mixed use. The material change of use is not sustainable development.

Temporary planning permission

202. Consideration must be given as to whether there are lesser means to achieve the legitimate aims identified above. Planning permission may be granted for a specified period only, one instance being where it is expected that planning circumstances will change in a particular way at the end of the period granted.
203. The Council has commenced a review of the Local Plan and provision for the needs of gypsies and travellers will form part of that review. The current timetable for adoption of the Local Plan is in late 2019. As mentioned earlier the Site Allocations DPD for gypsy and traveller sites is on hold. No information was forthcoming as to potential progress on the DPD and no date was given for anticipated adoption.
204. In the list of planning conditions, forming part of the signed statement of common ground, a period of three years was suggested. The Council did not wish to see any longer period because of the harm being caused. The appellants subsequently indicated a period of between 2 to 5 years. A shorter period was linked to resolution of the planning position of plots 12, 13 and 14, on the basis that a lack of success in the current appeal would not get rid of the harm, especially if plots 2 and 10 were to be excluded from the notice. The longer period was linked to allowing time for securing an alternative site(s). A temporary permission also was seen as a means of achieving the planning gain through the landscaping strategy.
205. The purpose of a time-limited permission would be to allow time for alternative acceptable sites to come forward, whether by site allocations in a DPD or by private provision. At the present time there is uncertainty on the issue and the Local Plan Review process may help to clarify the Council's approach to future site provision. In the event a Site Allocations DPD is progressed, the process would include the carrying out of a needs assessment, identification and assessment of potential sites, consultation and so on. Additional time should be allowed to secure the necessary permission(s), funding and for implementation.
206. A period of four years strikes the right balance. A temporary permission would have the advantage of being less interfering with the appellants' rights and remove immediate uncertainty about their home. As a consequence of granting a temporary permission the enforcement notice would cease to have effect and at the end of the temporary period the prohibitions in the notice would not be revived. This result has implications for the length of time the harm from the development may continue.
207. The reasoning on the main issues applies equally to consideration of a temporary as opposed to a permanent permission. Key considerations include whether the harm would be reduced because the development would be temporary and not permanent and whether adjustment should be made to the weight attached to the various aspects of identified harm and the factors supporting the development.

208. The fact that the development would be temporary would not alter the incompatibility of the mixed use site with the distinctive and highly valued landscape character of the AONB within the rural setting to Birdham village. Harmful change to important open views would remain. To require by planning condition the implementation of a comprehensive landscape strategy and detailed scheme would be unreasonable. Any new planting required would have to be commensurate with the temporary period. In view of the approval process the probability is that some six months should be allowed before planting would take place. In summary, little reliance may be placed on the role of landscaping in mitigating the harm to landscape character and visual amenity. The reduction in harm to landscape character and visual amenity would be primarily because of the prospect of the harm being restricted to a temporary period of a minimum of four years. In view of the high level of protection afforded to the AONB the harm has substantial weight.
209. When assessed against all the applicable criteria a temporary period does not change the fact that the site is not suitably located for the mixed use. Accepting a mixed use that allows for storage of caravans is a particular concern. The policy conflict has substantial weight. Intentional unauthorised development was carried out and having regard to the reasons underlying the policy, this consideration continues to have moderate weight.
210. Turning to the considerations that may support the mixed use development, PPTS states that a local planning authority's failure to demonstrate an up-to-date 5 year supply of deliverable sites should be a significant material consideration when considering applications for the grant of temporary planning permission. The exceptions include sites within an AONB.
211. Within this policy context, there is evidence that indicates there is a need to provide additional pitches in the district and the wider area, notwithstanding the Council's ability to show a five year supply of sites against the Local Plan target. The lack of progress on and continuing uncertainty over a Site Allocations DPD is not helpful to improving the availability of pitches. The development would contribute to pitch provision in the short term and help to avoid unauthorised roadside camping. This would have particular importance for the families currently on site, who probably would have difficulty in securing an alternative settled base in the short term. The potential consequences would be hardship to varying degrees dependent on specific personal circumstances. The adverse effect on children, both resident on site and who come to stay with parents, is a primary consideration. Acceptance for a temporary period would facilitate their gypsy way of life and respond to inequalities that affect the traveller community.
212. In view of the current occupation and evidence on personal circumstances, the considerations specific to the residents have very significant weight. The considerations applicable to general need and meeting that need have moderate weight, taking account of the location of the site in an AONB.
213. Weighing up all considerations, the balance is against the mixed use development. Furthermore, balanced against the rights of each family is the legitimate public interest objective of protecting the nationally important unique landscape and scenic beauty of the AONB. In each case, the interference with the family's Article 8 Convention rights would be necessary and proportionate. The development is not acceptable for a time limited period.

All or nothing

214. The general observations above made reference to the power in section 177(1) and the submissions on its applicability to the deemed planning application. I consider that it would be inappropriate in this case to exercise this power to grant planning permission for part of the development enforced against or part of the site, having taken account of description of the breach as a mixed use and my conclusions on ground (b) regarding a single planning unit.
215. In any event, the evidence and my assessment of the planning merits and human rights implications do not support a grant of planning permission for part of the development or part of the land.

Conclusion

216. For the reasons stated above, the mixed use development is unacceptable and the appeal on ground (a) does not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Appeals on ground (g)

217. The issue is whether the compliance period of 6 months is reasonable.
218. The appellants in their grounds of appeal considered that 12 months could be achievable. At the inquiry a period of 18 months was proposed. The Council reaffirmed a six month period. CHC concluded that no extension of time for compliance was justified but if this ground of appeal was to be allowed at most an 18 month period might be permitted.
219. The notice requires the residential and storage components of the mixed use to cease and also the removal of structures and ancillary works in order that the land can be levelled and reseeded with grass. Allowance therefore should be made for a staged process to enable all requirements to be met within the stated timescale. No specific difficulties were identified in carrying out the physical works, apart from bad weather conditions in the winter. The effect of the notice would be to prevent the appellants from living on the site and therefore the compliance period has to be proportionate. A shorter compliance period is likely to result in a greater level of interference with their Article 8 rights. A longer period may assist in the residents' ability to find an alternative suitable site.
220. The public interest lies in remedying the breach of planning control as soon as possible in order to bring to an end the harm to the valued landscape of the AONB and the setting to the village. As a general rule a compliance period should not exceed one year unless justified by exceptional circumstances.
221. On the basis of all the relevant evidence I conclude that the families' circumstances justify a period of 12 months to cease the uses with a view to reducing the seriousness of interference with home and family life. An additional three months should be allowed to carry out the remedial works. To this extent the appeals on ground (g) succeed.

Overall Conclusion

222. For the reasons stated above, the appeals should not succeed. I shall uphold the enforcement notice with corrections and variations and in respect of the appeal by Mr Wayne Goddard I refuse to grant planning permission on the deemed planning application. This outcome is necessary and proportionate and no violation of the appellants' human rights would result.

OPERATIONAL DEVELOPMENT ENFORCEMENT NOTICE BI/30

Appeal on ground (a)

The development and main issues

223. The access track extends from the main site access towards the rear part of the site to the boundary of plot 5. At interludes the track widens to form passing places and gateways. The track also extends roughly east to west along the frontage to plots 6 and 7. According to the Council the construction of the access track consisted of the removal of top soil and the deposit of crushed hardcore. At a later date, after the notice was issued, a bonded hard surface was laid on top and vehicle speed humps formed. The appellants stated that the track is made up of loose gravel laid over a porous membrane and also described a rolled gravel access track. The areas of hardstanding identified by the notice plan are to the side of the site access and at the northern and eastern ends of the track. The area by the access provides a firm surface for the siting of refuse bins. The fencing and gate at the site access are of close boarded timber. One of Mr Lawrence's photographs shows that the site access previously was marked by low rising bollards, was without any fencing and enclosed by hedgerow planting.

224. The main issues are:

- The effect of the development on the special qualities of the landscape character and appearance of the AONB;
- Whether the development is necessary to provide safe access to and security of the Land.

Reasons

Landscape character

225. Key characteristics of the landscape character are: broadly flat open arable farmland with medium to large field patterns, small scale hedged paddocks concentrated around villages with an intimate character, dispersed modern roadside development along the A286 and a largely rural undeveloped character.

226. The development primarily serves development at depth, not roadside or linear settlement. As result the track is of excessive length and introduces a grid-like urban feature into the rural scene. The construction and surface materials contribute to an over-dominant and engineered means of access, with no sense of intimacy. The areas of hardstanding compound the harm. Similarly, the close boarded fencing defining the access and the high solid timber gates are insensitive to the farming landscape. They are a sharp and

unacceptable contrast to soft boundary hedgerows and five bar gateways more in keeping with the rural setting.

227. In terms of LP Policy 43, the development fails to conserve and enhance the natural beauty and locally distinctive features of the AONB, nor does it reinforce and respond to the character and special qualities of the AONB. The development undermines the predominantly open and undeveloped character of the AONB. Policy aims set in Policy LS1 and BD1 of the Chichester Harbour AONB Management Plan are not met. Consequently the development is contrary to Policy 43.
228. Referring to LP Policy 48 the development and its detailed design fails to recognise and contribute sensitively to the quality of the landscape character of the site and surrounding area or public amenity. As a result the policy does not support the grant of planning permission. Similarly, there is conflict with Policy 4 of the Neighbourhood Plan in that the local character of the landscape is not maintained. The development causes diminution in the important view across the heritage landscape and agricultural heritage to the north of Birdham Road. In accordance with policy in the Framework at paragraph 115 great weight should be given to conserving the landscape and scenic beauty in the AONB.

Reasons for the development

229. The stated purpose of providing a hard surfaced track was to overcome the problems experienced in gaining access to the paddock enclosures. Photographs were submitted to show the track deteriorated to mud, leading to difficult and dangerous conditions. On the accompanied site visit pooling of water was visible on adjacent land outside the site boundary. The probability is that the ground does not drain well and is likely to suffer from waterlogging in wet conditions. Frequent use of an untreated track by vehicles would result in the conditions illustrated in the evidence. No specific justification was provided for the areas of hardstanding or the gates/fence.
230. The need for the access track and hardstandings to overcome difficult conditions is very closely related to the mixed use development and later development on the land. The subdivision of the land into a number of plots has substantially increased the amount of activity and associated comings and goings and vehicle use. The degree of subdivision and arrangement of the plots also influenced the length and position of the track and hardstandings. I have decided that the mixed use development is not acceptable. Plots 12 to 14 are unauthorised and do not have the benefit of planning permission. Their existence does not provide good justification for allowing the operational development.
231. The fallback use is the keeping of horses. In view of current land ownership the use would have social and economic benefits for the site residents and contribute to their gypsy culture and way of life. Such a use could generate a certain amount of vehicular activity. However, the appellants have provided no information on the implications of such a use. Furthermore, the use would not necessarily involve a similar level of subdivision or arrangement of plots. The probability is that an access track appropriate to the keeping of horses would be much less intrusive and harmful than the unauthorised track. The fallback has little weight.

232. The close boarded fence and gates define the site entrance, offer a small amount of privacy and security and distinguish private from public land. The landscaping strategy, in association with the material change of use, proposes their replacement with five bar timber agricultural gates and post and rail fencing. This proposal indicates that the design and form of the existing gates and fence are not essential to achieve the purposes of a means of enclosure at the site access.
233. Even on the basis that the development requires a countryside location, the siting, design and materials do not minimise the impact on the landscape and rural character of the area. The development fails to comply with LP Policy 45.

Planning conditions

234. At first no conditions were put forward for consideration by either party. When I questioned this Mr Weymes stated in writing that no conditions were necessary. Mrs Archer suggested two conditions, one requiring details of the construction, surfacing and drainage and the second removing permitted development rights for works to maintain or improve a private way. In the discussion on conditions, the reasonableness of both conditions was disputed by the appellants. No condition was proposed requiring replacement of the existing close boarded gates and fencing by a different means of enclosure.
235. The deemed planning application is in respect of the matters stated in the enforcement notice as constituting a breach of planning control. The first proposed condition indicates the requirement for the submission of an alternative scheme, which would fall outside the scope of the application. Furthermore the unacceptable route and extent of the track would not be overcome. Proposed condition 2 is directed at controlling future works and similarly would not overcome the existing harm.
236. In summary the development is not able to be made acceptable by the use of planning conditions.

Conclusions

237. The access track and associated works are visually intrusive and detrimental to special qualities of the landscape character of the AONB. The development, in the form undertaken, is not necessary to provide safe access and security of the land. The development fails to comply with the development plan when read as a whole. The direction provided by the Framework is that the development is unacceptable because of its failure to enhance a valued landscape in a designated area with the highest status of protection. There are no other considerations to justify a decision other than in accordance with the development plan.
238. For the reasons stated above, the appeal on ground (a) does not succeed.

Appeals on ground (g)

239. The main issue is whether the compliance period of one month is reasonable.
240. The notice was issued in September 2015. At that time development had not progressed to a level reflected in notice BI/31. Residential occupation was

limited to Mr and Mrs Hughes on plot 7 and possibly plot 6, owned then by Mr J Smith. In their grounds of appeal a period of nine months was requested in order that the works could be undertaken in the dry conditions of the summer months.

241. Events have moved on since the notice was issued. The track serves the homes of a number of families occupying the development that has been considered through the appeals concerned with the material change of use. The compliance period needs to be consistent with the period I intend to allow for the requirements on notice BI/31 to be carried out. On that basis a period of 15 months is reasonable.

Conclusion

242. For the reasons given above the appeals should not succeed. I shall uphold the enforcement notice with a correction and a variation and refuse to grant planning permission on the deemed application.

SINGLE PITCH SITE

Appeal ref APP/L3815/W/15/3132281

The proposal

243. The single pitch site, referred to now as Plot 7, is located to the north of the Premier Business Park, fronting onto the east west access track. The submitted site layout plan shows a mobile home located centrally on the rear boundary, with a utility building and amenity area on the eastern side and a stable block in the north western corner. A parking and turning area occupies the space at the head of an internal drive running along the western side boundary. The remainder of the land is described as a grazing paddock, enclosed by post and rail fencing. There are elevational and floor plans of a mobile home and a utility building. The red line of the application site extends along the length of the track to the access onto the A286.
244. A planning condition, agreed by the appellant, would require the development to be carried out in accordance with the submitted plans. However, the site layout on the ground is different to that shown on plan. The access track is in a central position, splitting the paddock/amenity area into two. The mobile home is larger than the simple home shown on plan. No request was made to substitute amended plans and the proposal will be determined on the basis of the application plans. A small utility building incorporating a day room and bathroom would be a reasonable facility on site, although Mr Hughes indicated that he would be willing to forgo the utility building if this would assist in gaining permission.
245. When the planning application was made in April 2015 aerial photographs show that the site for the single pitch was part of a field. The development for which planning permission was sought amounted to a material change of use of land from agriculture, even though this is not explicitly stated in the description. The larger scale development that took place subsequently is unauthorised and I have decided to uphold the enforcement notices (BI/30 and BI/31). Therefore the mixed use development is not a consideration of any weight. The potential fallback – the keeping of horses – is a consideration to be weighed in the balance. In addition the three pitches, known as plots 12, 13

and 14 are unauthorised without planning permission and have very limited relevance when assessing the effects of the single pitch on local character and appearance.

246. The pitch was proposed for and is occupied by Mr William Hughes and his family. Mr and Mrs Hughes have gypsy status for the purposes of applying planning policy and hence planning policies for travellers apply. Furthermore, Article 8 imposes a positive obligation to facilitate the Gypsy way of life. The best interests of the two children living on the site must be a primary consideration and at the forefront of my mind in examining all the issues.
247. In relation to the Public Sector Equality Duty (PSED) the occupiers of the site, as Gypsies, have a relevant protected characteristic for the purposes of applying the duties in section 149 of the Equality Act 2010.
248. The planning context is set out in paragraphs 34 to 41 above. The single pitch is not major development and the test in paragraph 116 of the Framework does not apply. Paragraph 115 of the Framework, which indicates weight and LP Policy 43, which is worded permissively, are not restrictive policies in relation to control of development in an AONB for the purposes of paragraph 14 of the Framework.

Main issues

249. The main issues are:

- the effect of the development alone or in combination with other plans and projects on the Chichester and Langstone Harbours Special Protection Area (SPA);
- the effect of the development on the natural beauty, special qualities and locally distinctive features of the Chichester Harbour AONB;
- its effect on local views and the visual amenities of the surrounding area;
- the performance of the site in respect of the remaining locally specific criteria for assessing site suitability;
- the existing level of local provision and need for traveller sites;
- the availability (or lack of) alternative accommodation for the appellant and his family;
- the personal circumstances and human rights of the appellant and his family.

250. One of the reasons for refusal of planning permission concerned the suitability of the access onto the A286 Birdham Road. The Council confirmed that this reason was not being defended following advice from the highway authority that adequate visibility at the access could be secured by planning condition.

251. The policy on intentional unauthorised development does not apply because the appeal was made before 31 August 2015.

Effect on the SPA

252. Chichester Harbour is internationally important for its wildlife interest. The wide mudflats and saltmarsh supports thousands of wintering waders and wildfowl. Evidence has been collected through the Solent Disturbance and Mitigation Project that shows bird species in the SPA are being adversely affected by disturbance, where human activity is a major influence.
253. The proposal is not directly connected with or necessary to site management for nature conservation and is subject to LP Policy 50 that applies the provisions of Regulation 61 of the Conservation of Habitats and Species Regulations 2010. The single pitch site would result in a net increase in residential development within the 5.6 km zone of influence of the SPA. Natural England's advice is that in such circumstances the development is likely to have a significant effect on the SPA either alone or in combination with other developments. The appellant has not put forward any contrary evidence. Adopting a precautionary approach, I have no reason to depart from the advice of Natural England.
254. There is policy provision for appropriate avoidance and/or mitigation measures which if complied with would avoid any likelihood of the development having a significant effect on the SPA. A SPD sets out that off-site management mitigation will be funded by financial contributions secured through planning obligations⁴¹. The standard contribution is £174 per net additional dwelling within the zone of influence of the SPA, the sum being updated each year in line with inflation.
255. Before the determination of the planning application a completed planning obligation was not presented in order to ensure payment of the required contribution. In August 2015 the grounds of appeal stated the appellant had no objection to making a proportionate mitigation payment and indicated that this matter would be addressed to enable the objection to be overcome. The matter remained outstanding when the inquiry opened.
256. The appellant relies on a payment of £2,462 and an accompanying signed agreement, dated 8 February 2017, under section 111 of the Local Government Act 1972⁴². The sum was intended to satisfy the mitigation requirement in respect of the 14 resident families and so included the families who are now resident on plots 12, 13 and 14.
257. The signed agreement, entitled Habitats Mitigation Contribution, states the appeal reference number in respect of the operational development (3136977) and enforcement notices ref BI/30 and BI/31. The agreement has been signed by Mr Weymes and the name of the applicant is given as Mr William Hughes. The Council has confirmed that it did not sign the document.
258. The main parties were invited to comment on the present position. In summary the Council was of the view that the proposal remained contrary to policy because there was no financial contribution or appropriately worded unilateral undertaking towards the appeal. The Rule 6 party considered that on

⁴¹ Planning Obligations & Affordable Housing Supplementary Planning Document 2016

⁴² On day 2 of the inquiry a copy of a receipt for the payment of £2,464 was handed in to me as an inquiry document but not a copy of the document entitled Habitats Mitigation Contribution, which was submitted later by Mr Weymes in response to Inquiry Note 5. Mr Weymes' recollection is that he distributed the documents to all parties at the inquiry.

its face there appeared to be no payment in relation to the section 78 appeal, which remained contrary to policy. The appellant's position is set out above.

259. The SPD indicates that mitigation contributions will be through section 106 agreements. That mechanism, whereby a person enters into a planning obligation, is the normal procedure that is governed by statutory and policy requirements and has the advantage of transparency. The appellant chose to use an alternative procedure by making a payment in accordance with section 111 of the Local Government Act 1972, using a template type form produced by the Council. The contribution is not identified as being in respect of the single pitch proposal and the related appeal. On that basis the appropriate mitigation has not been secured and the LP Policy 50 requirement has not been met.
260. Mr Hughes's pitch was one of the pitches covered by the lump sum payment. It could be said, as the appellant implies, that he has paid the necessary sum as mitigation for his plot even though the application/appeal reference is not specifically quoted in the agreement document. The difficulty with that argument is that the agreement provides for a refund if an appeal is dismissed. The Council may consider it is obligated to return the full amount because of the reference numbers and developments described in that document. I cannot be certain that provision would be made to retain a sum as mitigation for the single pitch. Therefore proper and appropriate provision by way of mitigation has not been made by the appellant in respect of his development.
261. I conclude that the proposal is likely to have a significant effect on the SPA either alone or in combination with other plans and projects. Before planning permission could be granted an appropriate assessment would have to be carried out of the implications of the proposal for the SPA in view of its conservation objectives. In the light of that conclusion it would also have to be ascertained whether or not the proposal would adversely affect the integrity of the SPA. These are stringent tests and LP Policy 50 suggests even if those hurdles are overcome the tests for derogations in Regulation 62 are unlikely to be met.

Effect on landscape character

262. The Local Plan identifies the unique characteristics of the AONB landscape. I consider that in the West Manhood Peninsula particular attention should be given to the effect of the proposal on the undeveloped rural character, the field patterns and landscape features, the harbour character of the major recreational centres of Birdham Pool and Chichester Marina, tranquillity and the relationship to dispersed settlement and modern roadside development.
263. Until 2015 the site was part of an agricultural field. The proposed single pitch would create an isolated parcel of residential development clearly identifiable by the mobile home, residential activity and paraphernalia, parked vehicles, extensive hard surfaces and means of enclosure. The paddock, bounded on two sides by an access track, would appear as an incidental area of grazing land. Access to the pitch would be from the A286 Birdham Road via a relatively long straight track to the west of the Premier Business Park that would turn and run eastwards to and along the front of the pitch. The undue length of track is necessitated by the location of the pitch away from the road frontage. This means of access would be an additional encroachment into the former field.

The small scale sub-division of the field to define a residential pitch would be out of keeping with the surrounding field pattern.

264. The design and access statement considered the set back to be an advantage. However, the single pitch would be not be consistent with maintaining an undeveloped rural character to the setting of the village and its isolated location away from the roadside is not characteristic of the local settlement pattern. The proposed native hedging along the rear side boundaries to the pitch would not have any effect on these inherent aspects of the proposal. Harm would be caused to the unique landscape character of the AONB and there is conflict with LP Policies 43 and 48 and Policy 4 of the Neighbourhood Plan.
265. Allowing for a gypsy pitch to be an acceptable type of development in a countryside location, outside a settlement boundary, the proposal is located close to a village, although is not well-related to an existing farmstead or group of buildings. The hard surfaced areas within the pitch, the associated access track to Birdham Road and the siting of the caravan have not been designed to have minimal impact on the landscape and rural character of the area. That being so, there is no support from LP Policy 45. Consequently the development should be resisted in accordance with LP Policy 2 and Policy 15 of the Neighbourhood Plan.

Effect on local views and visual amenity

266. The Neighbourhood Plan specifically identifies as important the open view across the heritage landscape and agricultural heritage to the north and south of Birdham Straight. The single pitch would be located within this open area. The Neighbourhood Plan also explains that views from public footpaths are regarded as significant, local footpaths are well used and walking and rambling is a common activity among household members. The pitch would be seen in views from the footpath to the west and the access road would be a prominent feature. Its presence would interrupt and be harmful to the appearance of the open landscape.
267. The Premier Business Park is a dominant form of development and much larger in scale than the single pitch. However, the commercial development pre-dated the designation of the AONB. The adjacent farmland, including the appeal site, would have formed a characteristic area of open farmland that helped to define the setting of Birdham and enclose an established developed site. Today the Business Park is well contained and visually related to the main road. It has a limited effect in ameliorating the visual harm from the single pitch, which by contrast is set well back and visually divorced from the commercial site.
268. A landscape strategy was proposed, primarily in relation to the mixed use development on the larger site. Mr Hughes stated he would be willing to carry out a comprehensive scheme as mitigation for his pitch alone. However, it would not be reasonable to impose a planning condition to require landscaping of that extent. Furthermore a condition would not be enforceable because the new planting is shown to be on land which is outside the appellant's ownership. Reliance would have to be placed on the limited amount of hedge planting shown on the site layout plan. In view of the proposed native species the

softening effect would not be all year round and the access track would remain as an engineered feature drawing attention to the residential pitch.

269. Balanced against these considerations, there is a backdrop of coniferous planting on land to the north and the pitch would be occupied by single storey structures of a small domestic scale. As a result the visual impact would be restricted to short distance views and would not extend over a wide area. The degree of visual harm would be reduced accordingly. Nonetheless the proposal would cause diminution of important local views and is contrary to Policy 4 of the Neighbourhood Plan and LP Policies 43 and 48.

Suitability of site

270. The pitch is located close to Birdham, which the Local Plan identifies as a service village. A bus stop is within easy walking distance, near to the site access on Birdham Road, from where a regular bus service operates to and from Chichester. I consider the pitch has good access to the major road network, public transport and local facilities and services.

271. The site access is of an adequate standard and utilises a pre-existing access point onto Birdham Road. However the internal track amounts to new infrastructure which is not sensitive to local character. I have already concluded the development would adversely affect essential features of the AONB and without mitigation conflicts with policy to protect the SPA.

272. There are no concerns about visual and acoustic privacy for both people living on the site or people living nearby because of the generous separation distance between the pitch and nearby residential properties. No evidence has been produced to show that the pitch would be at risk of flooding. The Premier Business Park, although authorised for business and storage use, is compatible with a residential use.

273. In conclusion the development complies with criteria 1, 3, 5 and 6 of LP Policy 36 but fails to comply with criteria 2 and 4. Therefore Policy 36 does not support the single pitch as a suitable gypsy site.

274. Referring to PPTS, the single pitch would respect the scale of and not dominate the settled community and no undue pressure would be placed on infrastructure. Positive weight should be given to the opportunity for adequate playspace for the children. Nevertheless the site is in an inappropriate location in open countryside where traveller sites should be very strictly limited.

Fallback

275. The potential fallback, the use of the land for the keeping of horses, is linked to enforcement notice BI/31, rather than notice BI/24.

276. Mr Hughes keeps and trades in horses. Therefore there is a possibility that the land would not return to an agricultural use. However, as a result of the requirements of the notices the use as a residential caravan pitch would have to cease and the caravans, structures, domestic paraphernalia and ancillary works be have to be removed. Future minor operations such as the erection of fences, gates or other means of enclosure would be controlled by the Article 4 Direction. The essential qualities of the local landscape character would to a large extent be restored. Any harm would be very substantially less than the

use as a single pitch. The fallback was not relied on by the appellant and I attach very limited weight to it.

Planning conditions

277. Conditions would be directed at ensuring the proposed level of development would be maintained (type and number of caravans) and requiring additional details on matters such as landscaping and drainage. The identified harm would not be mitigated satisfactorily.

Need

278. On this issue I refer to the reasoning in the decision on the mixed use site⁴³.

Pitch provision

279. In summary, LP Policy 36 identifies the potential need for permanent pitches for the period 2012 to 2027 based on a GTAA published in 2013. To meet a shortfall in provision sites will be allocated in a Site Allocation DPD. Since the base date of September 2012 the number of small private traveller sites in the district has significantly increased. As of March 2017 the Council calculated a 7.3 years supply for the period 2017 to 2022. On that basis good progress has been made on addressing the need identified by Policy 36.

280. This conclusion has to be balanced against other considerations. The Council accepts that the GTAA requires updating. Consequently the GTAA no longer is a robust evidence base for assessing need. That being so LP Policy 36 is out of date in respect of setting a local target for pitch provision, which is sufficient to trigger the tilted balance in LP Policy 1 and paragraph 14 in the Framework.

281. Reliance has been placed on private site provision to meet the numerical target confirmed through LP Policy 36. Whilst PPTS promotes more private traveller site provision it recognises that there will always be those travellers who cannot provide their own sites. No increase has been made in public pitch provision in Chichester despite its important contribution in meeting identified need and a consistent demand for such accommodation shown by the waiting lists. The Council's evidence, which was questioned by the appellants, shows there currently is a supply of pitches on privately owned land. However, overall I am unable to conclude that need, based on factors regarding quantity and form/type, has been met in the district or that there is a supply of specific deliverable sites to provide 5 years' worth of sites against an up to date locally set target. There are no available alternative sites in the form of allocated land or pitches on public sites.

282. Until a new GTAA is carried out the need for additional pitches is unable to be quantified adequately. The probability is that within the district there is a limited but nevertheless significant level of need, bearing in mind the number of public pitches has remained constant over the last five years or so. National and regional need also have to be taken into account. All matters considered I attach moderate weight to the matter of need. While probably there is numerically five years' worth of sites against the locally set target in the development plan, there is no year five year supply to meet probable need. This consideration has significant weight, bearing in mind the emphasis in PPTS

⁴³ Paragraphs 148-158 above

on local assessments of need and the development of fair, realistic and inclusive policies.

Policy response

283. Chichester has a large Gypsy and Traveller population compared to other Coastal West Sussex authorities. The Chichester District Local Plan First Review 1999 did not have a saved policy relating to the provision of gypsy and traveller sites. The Local Plan has addressed that policy vacuum. In practice the Council has placed reliance on private site provision. The Site Allocation DPD was not progressed beyond the early stages before being overtaken by the need for a wide ranging policy review for the district. As a result no land has been identified and allocated for sites and a policy aim at local and national level has not been met. The range of circumstances leads me to conclude that the 'failure of policy' argument provides a small degree of support for the development.

Alternative sites, personal circumstances and human rights

284. Mr Hughes's evidence is that he and his wife and two children moved onto the pitch in May 2015 after purchasing the land off Mr Joe Smith. They were in need of a settled base, having left their previous pitch at Lakeside Barn, Hunston after a serious argument with the owner Mr James Sullivan, Mr Hughes's father in law. In the interim period Mr Hughes said the family travelled in and out of the district staying on parcels of land until moved on by the Council. Whilst aware of the problems associated with setting up a pitch at Birdham Mr Hughes explained they were having problems everywhere they stopped.

285. A settled base enables the children to attend primary school, have a stable education and good attendance would be encouraged. PPTS aims to ensure that children can attend school on a regular basis and in terms of providing equality of opportunity meeting the educational needs of the children is an important consideration. Reference was made in early evidence to members of the family having health problems, although this information was unsubstantiated and was not included in the witness statement or oral evidence. Nevertheless, as a general rule the provision of appropriate accommodation improves access to health care and well-being.

286. The Council questioned the ongoing nature of any family dispute and explored whether the ability to be with their grandchildren would enable Mr Sullivan to allow the family to return to Hunston. Mr Hughes rejected that suggestion and maintained that option was not open because the plot was now occupied by another member of the family. He indicated in his oral evidence that he had enquired whether there were any pitches available at the Westbourne and Tangmere sites but they were ruled out because of the length of the waiting lists. He had asked an officer of the Council about an alternative pitch when being moved on from Hunston Playing Field but the answer was negative. The evidence indicated that the lack of a permanent base had resulted in unauthorised encampment, an outcome which is recognised as being costly in resources and a cause of environmental damage.

287. Therefore it appears that permitting the single pitch would be in the best interests of the children. An alternative site is not available at the public

traveller sites in the area and in the short to medium term a pitch is unlikely to become available due to the waiting lists. Progress on a Site Allocations DPD is slow and could not reasonably be regarded as offering an option within the next three years or so. Mr and Mrs Hughes have lived in caravans all their lives and a bricks and mortar home would be unlikely to be acceptable. The record of planning permissions shows that areas of privately owned land come forward regularly to provide acceptable traveller sites. Unfortunately in this case land was bought and development commenced without account being taken of the consequences of the AONB designation. The indication was that an alternative private site would be unaffordable, although unsupported by evidence. The private sites in the Council's supply appear not to have been explored.

288. In the event the appellant is not successful in his appeal, he and his family risk losing their home. Very relevant is the fact that an enforcement notice has been issued which requires the cessation of the caravan site use and removal of the caravans from the land. The notice is subject to a ground (g) appeal and therefore the timing as to when the requirements would come into effect is the only issue. The operation of Article 8 is engaged.
289. In the probable absence of an alternative pitch the family may well have to return to unauthorised camping, with the social, environmental and economic costs this would entail. This outcome would not provide a secure basis for family life. Lack of a settled base would make regular access to education and healthcare difficult and could adversely affect the mutual support from family and friends in the surrounding area. In such circumstances interference with the right to respect for private and family life for the occupiers would arise, where the Article 8 rights of the children have to be viewed as a primary consideration.
290. When taken together all these considerations add significant weight in favour of the proposal.

Planning balance, proportionality and conclusion

291. The proposed single pitch caravan site fails to meet all the criteria set out in LP Policy 36 and therefore is not supported by that policy as a suitable gypsy site. The use of locally specific criteria is endorsed by PPTS and the criteria are consistent with issues recognised by national policy. This conclusion is a very strong factor against the development. In addition, and linked to criterion 4 of Policy 36, all the criteria for favourably considering a proposal in an AONB are not met and so there is no support from Policy 43. This policy consideration has great weight in view of the high status of protection afforded to the designated area. The diminution of an important view, and harm to landscape character, is in conflict with Policy 4 of the Neighbourhood Plan. Whilst the harm to visual amenity affects a limited area, the value placed by the community on a sense of place and the rural setting to Birdham village increases the weight to be attached to this harm. Criteria in LP Policy 48 to protect the natural environment are not met. Following the direction provided by LP Policy 45, the single pitch should be resisted in accordance with LP Policy 2 and Policy 15 of the Neighbourhood Plan.
292. The Framework expects the planning system to contribute to and enhance the natural and local environment, indicating great weight be given to conserving landscape and scenic beauty in AONBs and the importance of

conserving wildlife and cultural heritage in these designated areas. The site is in an open countryside location where PPTS expects new traveller site development to be very strictly limited. On these matters the proposal is not supported by national policy.

293. PPTS sets out the Government's aim to ensure fair and equal treatment for travellers. Good progress has been made on addressing the need identified by LP Policy 36. However, the Council accepts that the GTAA requires updating. That being so the potential need identified in LP policy 36 is not up to date. Reliance has been placed on additional pitches on private sites with insufficient recognition that there will always be those travellers who cannot provide their own sites. This consideration has particular relevance in Chichester. All matters considered the issue of need has moderate weight. I am not satisfied that a five year supply to meet probable need has been demonstrated, which adds further significant weight to the balance. Putting policy into practice has been shown to have inadequacies, notably a lack of progress on a Site Allocations DPD. This consideration merits a small amount of weight.
294. The personal circumstances of the appellant and his family highlight the personal need for and the difficulties in finding a permanent settled base. The pitch would facilitate the family's nomadic habit of life, provide suitable accommodation, access to health, education and welfare services and the opportunity for a healthy lifestyle. The probability is that no suitable, affordable, acceptable, alternative site would be available in the immediate to short term. The implications for home and family life would be serious. In my view there is not the evidence to justify attaching great weight to the interests of the children. My conclusion is that together these considerations have very significant weight.
295. The site complies with policy criteria regarding highway safety, access to services, facilities and public transport, flood risk and residential amenity. However, having regard to LP Policy 36 and PPTS, these matters are neutral in the planning balance rather than attracting significant positive weight in support of the development.
296. Weighing all the various social, environmental and economic considerations the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed the policies in the Framework, and the PPTS, taken as a whole. Accordingly the proposal fails to comply with LP Policy 1. The direction provided by the development plan and national policy is that the proposal is not acceptable. That being the case it is not necessary to carry out an appropriate assessment in respect of the SPA. Nevertheless it is relevant that appropriate mitigation has not been secured the requirements of LP Policy 50 are not met. This policy conflict is a further factor against the development.
297. This conclusion on the unacceptability of the proposal potentially has serious adverse consequences for the well-being of the appellant and his family. The operation of Article 8 is engaged. The interference with the Article 8 right would not be against the law provided that planning policy is lawfully applied. The interference would be necessary to regulate land use in an area that is environmentally sensitive and has a high level of protection in the public interest. A proportionality assessment is required to determine whether the protected rights of the appellant and his family would be disproportionately

interfered with if the rights of the community are upheld by protecting the special qualities of the AONB. The assessment is based on the factual information forthcoming from the appellant and the conclusions on the issues of public interest considered above.

298. Mr Hughes developed the pitch before gaining planning permission, which was reflected in the enforcement notice issued in May 2015. The fact that the home was established unlawfully is relevant to the fair balance. However, the two children have their own individual rights which are not affected by such actions.
299. Summarising the relevant considerations, Mr Hughes and Mrs Hughes have strong family connections with the area, dating back to childhood. Mr Hughes is a general builder and horse dealer and travels widely mainly during the summer months, sometimes staying with family and often to attend horse fairs across the country. His wife and children travel with him on occasion. They were required to leave their former pitch, their home for some 8 years, because of a serious family dispute. The opportunity to acquire land at Birdham ended a period of unauthorised encamping. The children were able to be enrolled into school. Contact is maintained with grandparents, despite the move away from the family site.
300. The ability to stay on the site would enable the family to have safe accommodation with the essentials for daily living from where they could, when needed, conveniently access health and welfare facilities and essential services. The probability is that a stable home environment would be beneficial to the children's education and strong family ties would be supported. In the absence of an alternative suitable site the best interests of the children would be served by their existing home. The Framework recognises the importance of a home to health and well-being and more particularly a healthy living environment is identified as meeting the needs of children and young people to grow and develop. In the absence of available public provision Mr Hughes has attempted to provide a home for his family that is in keeping with their way of life and culture. The social, cultural and equality considerations are strong.
301. Balanced against these considerations is the harmful impact on the landscape and scenic beauty of the AONB, a nationally designated area that has the highest status of protection and where great weight is placed on conserving its assets. The SPA is an internationally important site, where there is a statutory duty to be certain that the development would not adversely affect the integrity of the SPA. The appellant has not ensured the essential policy requirement is met.
302. In conclusion, the interference with the private rights of the appellant and his family is necessary and proportionate because of the public interest in protecting a unique and much valued natural environment.

Temporary planning permission

303. The appellant indicated that he would accept a temporary permission as being preferable to eviction from the site without an alternative site to go to. Notwithstanding, consideration must be given as to whether there are lesser means to achieve the legitimate aims identified above.

304. Planning permission may be granted for a specified period only, one instance being where it is expected that planning circumstances will change in a particular way at the end of the period granted. The adoption of a new Local Plan, as a result of the ongoing review of the current Local Plan, is programmed for late 2019. The means for providing for the needs of gypsies and travellers will form part of the review and therefore in two years time or so the Council's approach should be clear. There is no indication that specific site allocations would form part of the Local Plan Review and the probability is that a separate Site Allocations DPD for gypsy and traveller sites would be progressed, if required. The timescale would necessarily be longer. On the basis of these matters a temporary period of four years should be considered.
305. A temporary permission would also have the advantage of being in the best interests of the children, interfering less with the family's rights and removing immediate uncertainty about their home. As a consequence of granting a temporary permission the enforcement notice would cease to have effect and at the end of the temporary period the prohibitions in the notice would not be revived. This outcome has implications for the length of time the harm from the development may continue.
306. The reasoning on the main issues applies equally to consideration of a temporary as opposed to a permanent permission. Key considerations include whether the harm would be reduced because the development would be allowed for a time limited period only and whether the weight to be attached to the various aspects of the identified harm and the factors supporting the development should be adjusted.
307. My conclusions are the harm to the landscape character and the conflict with LP Policy 43 merits substantial weight because of the AONB designation and the high degree of protection afforded to the nationally important area. The diminution of an important view in conflict with Policy 4 of the Neighbourhood Plan has significant weight. The unacceptable location of the site, when assessed against all the criteria of LP Policy 36 and the direction provided by PPTS, has substantial weight.
308. Paragraph 27 of PPTS states that the lack of an up to date 5 year supply of deliverable sites should be a significant a material consideration when considering a temporary planning permission. One of the exceptions is where, as in this case, the development is located within an AONB. This policy indicates a lesser degree of weight should be attached in a highly protected designated area, which is a reasonable approach to be taken into account.
309. Within this national policy context, evidence indicates there is a need to provide additional pitches in the district and the wider area, notwithstanding the Council's ability to show a five year supply of sites against the Local Plan target. The additional pitch provision identified in the Local Plan requires updating and is under review. In Chichester the five year supply is made up of private sites. In the identified supply there is no new public site provision, for which there is a need. The issue of need has moderate weight and when the five year supply and policy response are factored in the weight in support of the development becomes significant.
310. The pitch is owned and occupied by the appellant and his family. No suitable, affordable and acceptable alternative site has been identified for the short

term. A reasonable expectation is that the pitch would continue to be their home should a temporary permission be granted and so the possibility of unauthorised roadside camping and the associated serious disruption to home and family life would be avoided. The very positive effect in respect of the personal circumstances and human rights of the family, including the best interests of the children has very significant weight.

311. On my scale, 'substantial' is of a higher order of weight than 'very significant'. Therefore, weighing the adverse impacts against the benefits, the balance is against allowing the proposed caravan site for a temporary period. Because of the unacceptability of the caravan site it is not necessary to carry out an appropriate assessment. Even so, the failure to comply with LP Policy 50 is an additional consideration of substantial weight.
312. In the light of this conclusion I have carefully considered the proportionality assessment and am satisfied that the interference with the Article 8 rights of the appellant and his family is necessary and proportionate in the public interest. The related appeal against the enforcement notice on ground (g) is an opportunity to ensure the compliance period is reasonable and proportionate.

Conclusion

313. For the reasons stated above, the material change of use to provide a single pitch is not in accordance with the development plan as a whole. Other considerations are not of sufficient weight to overcome the conflict with the development plan to enable planning permission to be granted. The appeal should be dismissed. This outcome is necessary and proportionate and no violation of the appellant's human rights or those of his family would result.

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314. The appeal is proceeding on a ground (g) only.
315. The appellant when making the appeal in June 2015 suggested a period of 12 months would be proportionate to enable the appellant to try and find an alternative site and gain permission on any such site that became available.
316. The main issue is whether the compliance period of six months is reasonable.
317. The appeal against the refusal of planning permission for the use of the land as a caravan site has been unsuccessful. In order to remedy the breach of planning control the use as a caravan site has to cease and the caravans and domestic paraphernalia have to be removed. Caravans are by definition capable of being moved from one place to another and therefore their physical removal is not a key factor in determining the length of the compliance period. However, there are likely to be practical difficulties in finding alternative authorised accommodation. Minimising hardship for the family is an essential consideration, taking full account of their human rights. The compliance period has to be proportionate.
318. In this instance the compliance periods for enforcement notices BI/30 and BI/31 are relevant considerations. The proportionality assessments in the ground (a) appeal for the mixed use and in the section 78 appeal have highlighted the public interest arguments and the relevant considerations

relating to the enjoyment of family life and the home and in respect of the peaceful enjoyment of their possessions.

319. Compliance with the notice will in effect mean the loss of the home and settled base. No suitable alternative site has been identified and so the impact on home and family life would be more serious. The probability is that the schooling of the children would be interrupted. Unauthorised camping would raise safety and health concerns.
320. Planning Practice Guidance confirms that there is a clear public interest in enforcing planning law and planning regulation in a proportionate way. The three reasons for effective enforcement apply in this appeal. It will (i) tackle the unacceptable impact on the amenity of the area, (ii) maintain the integrity of the decision making process, and (iii) help ensure public acceptance of the decision making process is maintained. Furthermore the site is within an AONB which has the highest status of protection in relation to landscape and scenic beauty. At the local level, the Neighbourhood Plan (part of the development plan) confirms the strong community support and responsibility for protecting the landscape of Birdham. There are compelling reasons for remedying the breach of planning control in the shortest period.
321. Clearly there is a conflict between the public and private interests. In the absence of exceptional circumstances and taking account of the compliance periods for enforcement notices BI/30 and BI/31 a compliance period of 12 months strikes a fair balance between the rights of the appellant and his family and the interests of the community. I am satisfied that this period of time is proportionate in the circumstances. By reason of the nature of the requirements a staged compliance period is not necessary.
322. In addition there would be interference with the rights afforded by Article 1 of the First Protocol, protection of property. This is a qualified right. No considerations are raised that would justify a longer compliance period than 12 months.

Conclusion

323. A reasonable period for compliance is 12 months and the enforcement notice will be varied accordingly, prior to upholding it. The appeal on ground (g) succeeds to that extent.

FORMAL DECISIONS

Material Change of Use

Appeal Refs: APP/L3815/C/16/3148236, 3148237, 3148238, 3148239, 3148240, 3148241, 3148242, 3148243 and 3148244 and APP/L3815/C/16/3148618, 3148625, 3148635, 3148641 and 3148647

324. It is directed that the enforcement notice (BI/31) be corrected by the substitution of Plan 1 annexed to this decision for the plan attached to the enforcement notice when issued on 3 March 2016 and by the insertion of the words 'a material' before the word 'change' in the description of the alleged breach of planning control, paragraph 3.

325. It is directed that the enforcement notice (BI/31) be varied by the deletion of 'Six months after this notice takes effect' in paragraph 6 and the substitution of "Requirements (i) and (ii) - twelve (12) months after this notice takes effect; Requirements (iii), (iv) and (v) – fifteen (15) months after this notice takes effect."

326. Subject to these corrections and variations, the appeals are dismissed and the enforcement notice is upheld and in respect of the appeal by Mr Wayne Goddard planning permission is refused on the planning application deemed to have been made under section 177(5) of the 1990 Act as amended.

Operational Development

Appeal Refs: APP/L3815/C/15/3136977, 3136979, 3136985, 3136986, 3136988

327. It is directed that the enforcement notice (BI/30) be:

- corrected by the substitution of Plan 2 annexed to this decision for the plan attached to the enforcement notice;
- varied by the substitution of fifteen (15) months as the time for compliance.

328. Subject to the correction and variation, the appeals are dismissed and the enforcement notice is upheld and in respect of the appeal by Mr W Hughes planning permission is refused on the planning application deemed to have been made under section 177(5) of the 1990 Act as amended.

Single pitch (s78 appeal)

Appeal Ref: APP/L3815/W/15/3132281

329. The appeal is dismissed.

Material change of use single pitch

Appeal Ref: APP/L3815/C/15/3065780

330. It is directed that the enforcement notice (BI/24) be corrected by the deletion of the descriptive wording of the alleged breach of planning control in paragraph 3 and the substitution of "Without planning permission, the material change of use of the land to use for the stationing of caravans for the purposes of human habitation."

331. The appeal is allowed on ground (g) and it is directed that the enforcement notice be varied by the deletion of six months and the substitution of twelve (12) months as the period for compliance. Subject to this correction and variation the enforcement notice is upheld.

Diane Lewis

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Alan Masters of Counsel	Instructed by Mr Weymes
He called	
Mr Rhodri Crandon	Director of TDA, landscape consultancy practice
BA(Hons) Dip LA	
Dr Angus Murdoch	Director, Murdoch Planning
BA(Hons) MSc PhD MA MRTPI	
Mr Mark Wayne Goddard	Resident of Plot 1
Mr George Smith	Resident Plot 4
Mr Frazer Sibley	Appellant
Ms Kathy Boyden	Appellant
Mr William Hughes	Appellant
Ms Gemma Creighten	Resident of Plot 8
Mr Wayne Goddard	Appellant
Mr Glen Keet	Appellant
Mr Curtis Robinson	Resident of Plot 11
Mr Les Weymes DipTP MRTPI	Planning consultant, Les Weymes Planning Consultancy Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr Gwion Lewis, of Counsel	Instructed by the principal solicitor to the Council
He called	
Mrs Anna Longley Dip LA CMLI	Landscape Architect Environmental Initiatives Team, Hampshire County Council
Mrs Shona Archer MA MRTPI	Manager, Planning Enforcement Team, Chichester District Council

FOR CHICHESTER HARBOUR CONSERVANCY:

Mr Scott Stemp, of Counsel	Instructed by Chichester Harbour Conservancy
He called	
Mr Steve Lawrence BSc(Hons) Dip TP DipUD MRTPI	Planning Officer, Chichester Harbour Conservancy

FOR BIRDHAM VILLAGE RESIDENTS ASSOCIATION:

Gary Soltys BSc(Hons) Dip LA MIHort CMLI	Partner, Soltys Brewster
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INTERESTED PERSONS:

Mr Malcolm Rodgers	Local resident
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DOCUMENTS submitted at the inquiry

- 1 Notifications of the inquiry
- 2 Notifications dated 22 March 2016 of relaxation of requirement, enforcement notice BI/31
- 3 Copies of proof and figures of BVRA
- 4 Updates to Appendices of Mrs Archer

- 5 Bundle of documents re planning application for land off Cemetery Lane, Westbourne, including five year land supply update
- 6 Copy of proof of evidence of Mr Crandon
- 7 Appeal decision Land south of the Stables dated 7 February 2017 ref APP/L3815/W/16/3148352
- 8 Planning Obligations & Affordable Housing SPD (extract)
- 9 Interim Solent Recreation Mitigation Strategy
- 10 Receipt dated 08.02.2017 regarding SPA mitigation
- 11 Comments from Mr Weymes on Inquiry Note 2
- 12 Details of households of Plots submitted by Mr Weymes
- 13 Site layout plan for Land south of the Stables (ref APP/L3815/W/16/3148352)
- 14 Bundle of documents regarding planning history of Premier Business Park
- 15 Email from Mr Jeff Morley dated 8 February 2017
- 16 Extract of Figure HAD 19 Landscape Character Types submitted by Mr Soltys
- 17 Plan showing land acquired by Mr Rodgers
- 18 Viewpoint location plan
- 19 Information on transit site
- 20 Citation and objectives for Chichester and Langstone Harbours SPA
- 21 Topographical and landscaping scheme plans
- 22 Signed statement of common ground and list of planning conditions
- 23 Bundle of documents re Plot J Pond Farm Newells Lane West Ashling
- 24 Medical and school information
- 25 Corrected plan for enforcement notice ref BI/30
- 26 Signed statement by Mr George Smith Plot 4
- 27 Landscape cost estimate 30.03.17
- 28 Review of landscape cost estimates by Mr Soltys
- 29 Adopted Joint Chichester Harbour AONB Supplementary Planning Document
- 30 Note by Mr Weymes regarding Adopted Joint Chichester Harbour AONB Supplementary Planning Document
- 31 Closing statement of Mr Soltys
- 32 Closing note on behalf of Chichester Harbour Conservancy
- 33 Closing submissions of the Council
- 34 Notes to oral closing submission on behalf of the Appellant



Plans

The plans on the following pages are Plan 1 and Plan 2 referred to in my decision dated: 02 August 2017

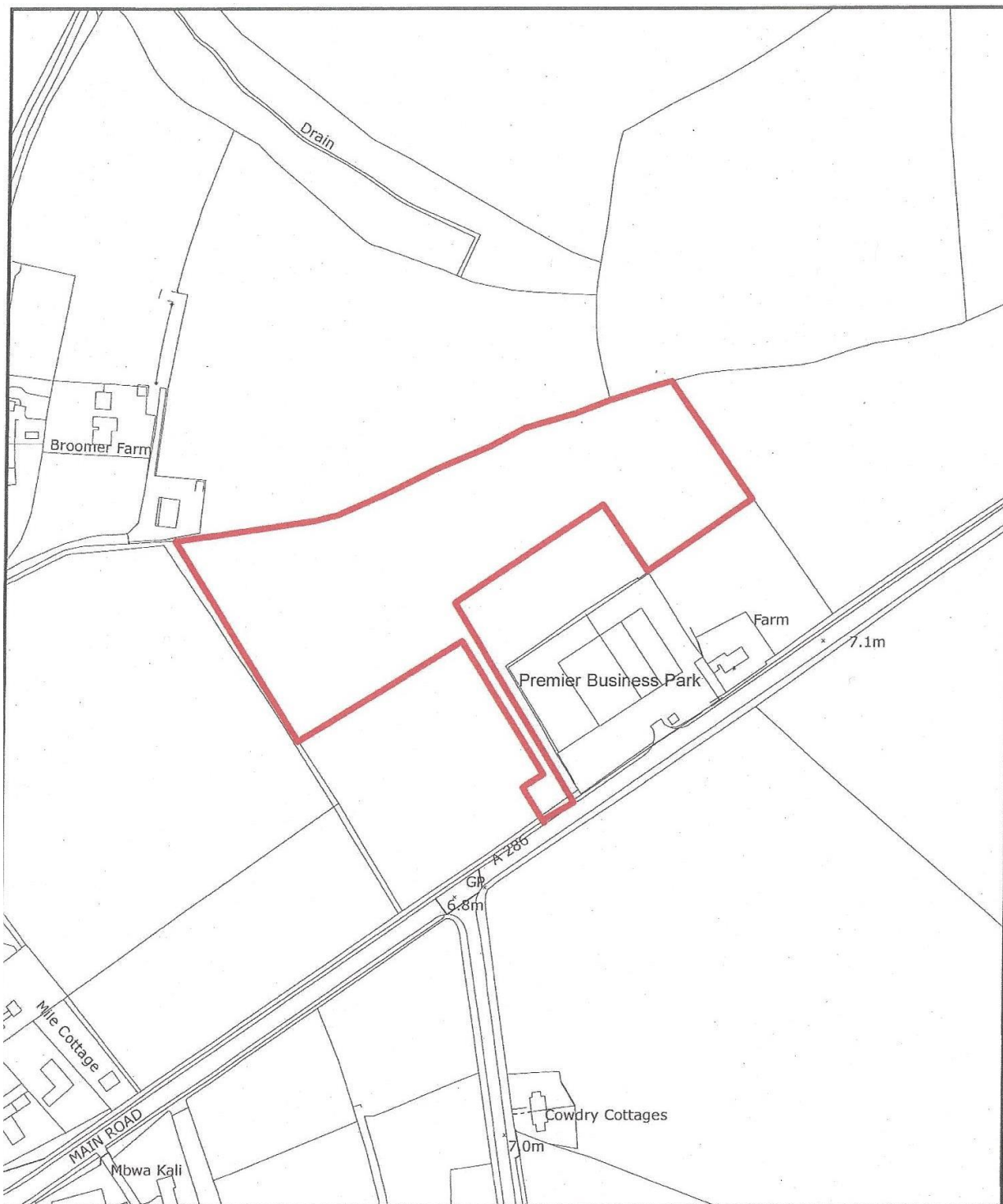
by Diane Lewis BA(Hons) MCD MA LLM MRTPI

Land at: North west of Birdham Farm, Birdham Road, Birdham, Chichester PO20 7BU

Plan 1 Appeal References: APP/L3815/C/16/3148236 to 3148244, and APP/L3815/C/16/3148618, 3148625, 3148635, 3148641 and 3148647

Plan 2 Appeal References: APP/L3815/C/15/3136977, 3136979, 3136985, 3136986, 3136988

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CHICHESTER DISTRICT COUNCIL

S. R. CARVELL, DIP TP, MRTPI.
EXECUTIVE DIRECTOR OF ENVIRONMENT



Subject: Revised Enforcement Notice Plan

LOCATION: Land west of Premier Business Park, Birdham Road, Chichester, W.Sussex

File Reference:
BI/15/00139/CONSH

Scale: 1:2500

O.S. Plan Reference: SU8200

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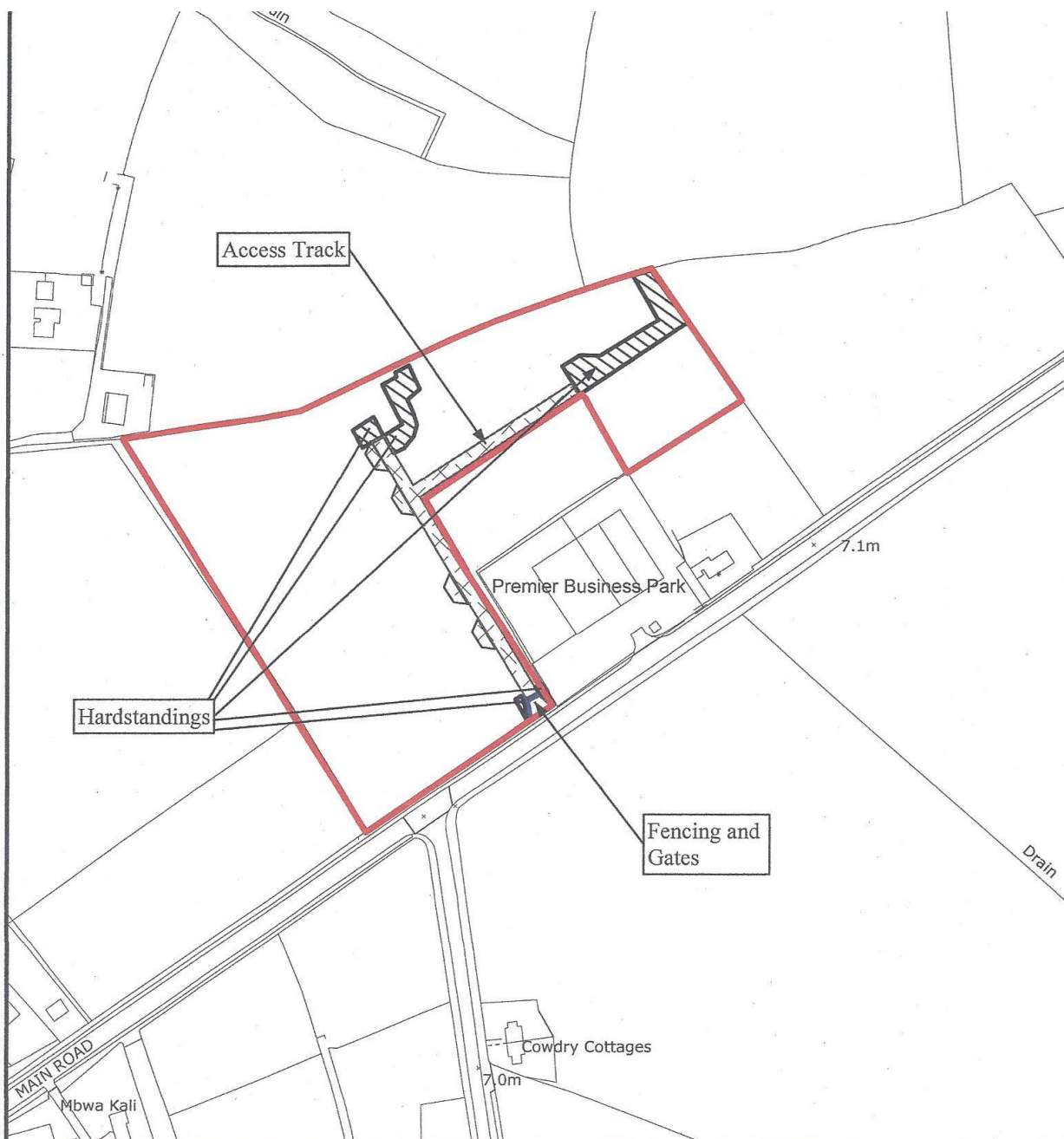
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PLAN 1

PLAN 2



CHICHESTER DISTRICT COUNCIL
 S. R. CARVELL, DIP TP, MRTPI.
 EXECUTIVE DIRECTOR OF ENVIRONMENT



Subject: Enforcement Notice Plan BI/30 amended

LOCATION: Land north west of Premier Business Park, Birdham Road, Chichester, W. Sussex

File Reference:
 BI/15/00139/CONSH

Scale: 1:2500

O.S. Plan Reference: SU8200

Produced on GIS by NW



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