The Planning Inspectorate

Appeal Decision

Hearing held on 11 February 2025
Site visit made on 11 February 2025

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Appeal Ref: APP/Z3825/C/24/3352762
Woodlands Farm, Broadwater Lane, Copsale, Horsham RH13 6QW

- 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 John Smith against an enforcement notice issued by Horsham District Council.
- The enforcement notice was issued on 30 August 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the Land from equestrian use to a mixed use of equestrian and the stationing of mobile homes for the purposes of human habitation (in the approximate position shown hatched orange on the attached plan) together with the associated operational development compromising the importation of soil and waste material to create a hard surface (in the approximate position shown hatched blue), change of land levels, the installation of a septic tank in the approximate position shown in brown on the attached plan, and excavation of land for services on the Land.
- The requirements of the notice are to:
  1) Permanently cease the use of the Land for the stationing of caravans for the purposes of human habitation;
  2) Remove from the Land all the caravans and associated domestic paraphernalia;
  3) Remove from the Land all works of operational development incidental to the unauthorised residential use of the land as a caravan site, namely the septic tank and waste water treatment plant;
  4) Remove from the Land the hardstanding and any resulting debris from the Land shown in the approximate position shown hatched blue on the attached plan;
  5) Following the above steps, restore the land to its original condition by re-seeding it with grass and restore the land levels.
- The period for compliance is, for steps 1), 2), 3) and 4) above, three calendar months; and, for step 5), six calendar months, from the date that this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Formal Decision

1. It is directed that the enforcement notice be corrected by:

   i) deleting the allegation and substituting it with the following wording:

   'Without planning permission, material change in the use of the Land from equestrian use to a mixed use of equestrian and residential involving the stationing of one mobile home for the purposes of human habitation (in the

approximate position shown hatched orange on the attached plan) together with associated operational development compromising the importation of soil and waste material to create a hard surface (in the approximate position shown hatched blue on the attached plan), change of land levels, the installation of a septic tank (in the approximate position shown hatched brown on the attached plan) and excavation of land for services'; and

'Without planning permission, the breach of conditions 2 and 3 of planning permission (ref DC/18/2627) dated 28 January 2019 for the retention of a temporary mobile home.'

ii) Deleting the wording 'and waste water treatment plant' from requirement 3.

iii) Deleting requirement 5 and its substitution with the following wording:

'Following the above steps, restore the land to its original condition and thereby restore those particular land levels that existed prior to the breach taking place.'

iv) It is also directed that the enforcement notice be varied with the period for compliance on steps (1), (2), (3) and (4) extended from three calendar months to nine months, and step (5) extended from six calendar months to twelve (12) months from the date the notice takes effect.

2. Subject to the above corrections and variation the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.

Background

3. Two previous planning permissions relating to the appeal site are of particular relevance. In November 2018 planning permission (ref DC/18/1960) was granted for the demolition of an existing stable block and the erection of a 6-bay equestrian stable block, along with a hay barn. The approved Block Plan also showed a mobile home on the site which, it is understood, from an earlier application, had been situated on the land and occupied since June 2014.

4. Subsequently, in January 2019, planning permission (ref DC/18/2627) was granted for the retention of the said mobile home. The permission was subject to two conditions, relevant to the current planning position; firstly, no 2, which stipulated that the permission be personal to Mr J Smith senior (the then applicant, and the current appellant's father), and it be for a temporary period of not more than two years, or the period of the applicant's occupation, whichever is the shorter). Also, condition no 3, says that upon cessation of occupation, the use shall cease, and the mobile home be removed from the land.

5. The case report for the 2019 permission makes reference to the applicant's claim that the need for the mobile home related to the horses' welfare and also for security purposes. In other words the residential use at the site, comprising only the occupation of the single mobile home, was in connection with the permitted equestrian use. Given, though, that the planning permission did not tie the residential use to the equestrian use I must conclude that the permission, at the point it was granted, resulted in a mixed equestrian and residential use. However, the requirements of conditions 2 and 3 have

been ignored as the mobile home remains on the land, and Mr Smith senior remains its occupant.

6. The appellant's agent confirmed at the Hearing that the new stable-block permitted in 2018 has not been erected, yet he considered that the permission remained extant as details of the external materials to be used in the construction of the building along with the constituents of the then intended hardsurfacing were subsequently approved by the Council. However, nothing compelling was laid before me as to details of works carried out in connection with the approved scheme to demonstrate commencement and any clear intention to implement the scheme. Accordingly, I am not convinced that the said planning permission is still capable of being lawfully implemented.

The planning position, and matters concerning the enforcement notice

7. I am required to ensure that the enforcement notice is on a correct footing. An enforcement notice is required to specify whether, in the opinion of the local planning authority, the breach of planning control is within s171A(1)(a) or s171A(1)(b) of the 1990 Act ie whether the allegation is one of development without planning permission, or a breach of condition or limitation on a planning permission. In this case it is clear that the Council is seeking to enforce against the continued use of the land as a caravan site, and has described this as a change of use.

8. However, neither the continuation of a use after the expiry of a temporary planning permission granted for a limited period, nor occupation of the land in breach of a personal permission, which also has the effect of limiting the duration of the planning permission, constitutes development, and this appeal is a case in point. An enforcement notice directed against the continuing use should therefore instead allege a breach of the condition(s) that required the use to cease at a specified time.

9. In this context it could be argued that bringing an additional mobile home on to the land would not represent a material change of use as it would not change the character of the use of the land. However, having heard all the evidence, having also paid regard to the documented planning history, and seen the site first hand at my visit, I have concluded that the functional nature of the original mobile home, in terms of the need for someone to be present at the site so as to provide care for horses and also for security purposes, would be supplanted by the residential element intensifying to become the land's primary use.

10. In the circumstances I am satisfied that a material change of use has occurred in this instance although, given the planning position as a whole, in that it also involves a breach of conditions, I shall amend the allegation to reflect this, accordingly.

11. Under the 'Murfitt principle' arising from the judgement of *Murfitt v SOS & East Cambridgeshire DC* [1980] 5 WLUK 47, an enforcement notice can require the removal of operational development that is integral to, or part and parcel of, an unlawful change of use, effectively restoring the land to its original state. This applies even when those items are immune or are not, themselves, development. However, it applies only to operation development that is incidental to the unauthorised use, and not that which is fundamental or causative of the change of use where, instead, the four year immunity bar may

apply instead by virtue of the Court of Appeal judgement in *SOS v Caldwell* [2024] EWCA Civ 467.

12. As such, I must draw a distinction between the various operational development cited and categorise this, accordingly.

13. I am of the view that the hardstanding laid below and surrounding the two mobile homes now present on the land facilitates the use – although the enforcement notice has not targeted this - as does the septic tank and waste-water treatment plant. In contrast, the amount of inert waste brought onto the site, and deposited on the land to the east of the mobile homes, cannot even be considered as incidental to the residential use. It appears to me that the importation of such waste material in order to significantly raise the land levels is an unrelated development to the previous planning permissions mentioned. Moreover, the Council's evidence indicates that the material was imported to the site during July and August 2024, just prior to the enforcement notice being issued.

14. The facilitative operational development, notably the septic tank would be subject to either the four or ten year immunity bar, depending on whether it was in place on 24 April 2024, in accordance with the provisions of the Levelling Up and Regeneration Act 2023. I note the appellant's agent has indicated that the septic tank was installed over ten years ago. However, I have not been provided with any actual evidence to confirm when exactly the installation took place but, even so, the enforcement notice can still require for its removal.

15. The enforcement notice cannot, though, lawfully require the removal of the specified waste-water treatment plant as no reference is made to this item in the stated allegation.

16. Under the provisions of s176(1) of the 1990 Act it is open to me to correct any defect, error or misdescription in the enforcement notice or to vary its terms if I am satisfied that the correction or variation will not cause any injustice to the parties. In this instance no representations were advanced to throw doubt on the validity of the notice, and I am satisfied that principles from the judgement of *Miller-Mead v MHLG* [1963] 2 QB 196 apply in that the recipient can tell here, with reasonable certainty, what steps are needed to be taken to remedy the alleged breaches.

17. Accordingly, the notice, as issued, is not bad on its face and the said corrections are necessary to accord with full legality and to fine-tune its wording.

18. In view of the above it is directed that the enforcement notice be corrected by the deletion of the text under 'The matters that appear to the local planning authority constitute the breach of planning control' and its substitution with the following wording:

'Without planning permission, material change in the use of the Land from equestrian use to a mixed use of equestrian and residential involving the stationing of one mobile home for the purposes of human habitation (in the approximate position shown hatched orange on the attached plan) together with associated operational development compromising the importation of soil and waste material to create a hard surface (in the approximate position shown

hatched blue on the attached plan), change of land levels, the installation of a septic tank (in the approximate position shown hatched brown on the attached plan) and excavation of land for services'; and

'*Without planning permission, the breach of conditions 2 and 3 of* planning permission *(ref DC/18/2627) dated 28 January 2019 for the retention of a temporary mobile home.'*

19. The notice's requirement 5 would involve the restoration of the land to its original condition by re-seeding it with grass and the restoration of the previous land levels. Whilst restoring the land levels, as existed prior to the breach(es) occurring is a legitimate requirement the land's re-seeding, although holding merit, represent a positive obligation upon the appellant and goes beyond the remedial steps that are allowed for under s173(4) of the 1990 Act. Accordingly, I shall delete this part of the requirement and substitute it with more appropriate wording.

20. For the reason given above I shall delete all reference to the waste water treatment plant from requirement 5.

21. With the above corrections I am satisfied that the enforcement notice has been put on a proper footing.

The appeal on ground (c)

22. The basis of an appeal under ground (c) is that, although the appellant acknowledges that the matters alleged have occurred, no planning permission is required for their lawful continuation or retention.

23. I have explained why both mobile homes require the benefit of planning permission.

24. The site layout plan (drawing no 2B) approved under planning permission ref DC/18/1960 shows an area to the east of the site annotated with the label 'Tarmac Yard', yet at my site visit I noted that this area has not been treated as such. Instead, it is unmade and takes in the wider area of the site to the east where the deposition of inert waste is evident. The land has been raised as a result. For the reasons I have already stated planning permission is required for this hardstanding's lawful retention.

25. No permitted development entitlement is available to the appellant for the operational development at the site, facilitative to the residential use of the land and, as such, this similarly requires the benefit of planning permission.

26. Accordingly, the appeal on ground (c) fails.

The appeal on ground (d)

27. An appeal under ground (d) is that, at the date the enforcement notice was issued, it was too late for the Council to take formal action as the development which constituted the breach of control had already acquired immunity from such in planning terms due to the passage of time.

28. The burden of proof is upon the appellant who needs to demonstrate immunity from planning enforcement action on the balance of probability. The key is that the evidence should be precise and unambiguous to this end.

29. S191(2) of the 1990 Act, as amended, says that uses and operations are lawful at any time if (a) no enforcement action may then be taken in respect of them because the time for enforcement action has expired, and they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

30. As mentioned, the original mobile home has remained on the land since June 2014 during which time it has been subject to two successive temporary planning permissions; the latter of which has expired. Given that the residential occupation of a mobile home represents a use of land the ten year immunity period applies. In this regard the appellant asserts that as the mobile home remained on the land for over ten years prior to the enforcement notice being issued it enjoys immunity from planning control. However, this is legally incorrect as the test is whether, throughout the ten years prior to 30 August 2024 the Council would have been continuously able to take formal enforcement action. If so, then the requisite period of time would have accrued to secure immunity from planning control.

31. In this particular instance, the temporary planning permissions debarred the Council from taking action. Given that the last permission ceased to have effect in January 2021 the clock, so to speak, only started running from that point. Accordingly, immunity has not, and cannot, be demonstrated.

32. Clearly, neither the second mobile home, which was apparently delivered to the site in August 2024, nor the area of hardstanding targeted by the enforcement notice, which was apparently laid at this time with the importation of waste material, are immune from planning control. Regarding the septic tank no clear evidence has been adduced to show when it was installed and, in the absence of such, immunity has not been demonstrated by the appellant.

33. The appeal on ground (d) does not, therefore, succeed.

The appeal on ground (a); the deemed planning application (DPA)

Main Issues

34. These are:

1) planning policy and the five-year land supply position of gypsy and traveller pitches within the Horsham District Council area;

2) the effect of the development on the character and appearance of the surrounding area, involving also the raising of the land, and the effect on nearby ancient woodland;

3) the effect of the development on the area's ecology and biodiversity, and

4) the impact of the development on the Arun Valley Special Protection Area (SPA).

Reasons

Planning policy and five year land supply

35. National policy is contained in the government's Planning Policy for Traveller Sites (PPTS) which states that applications should be assessed and determined in accordance with the presumption in favour of sustainable development.

36. Policy B of the PPTS says that local planning authorities, in producing their Local Plan, should identify and update annually, a supply of specific deliverable traveller sites, sufficient to provide five years' worth of sites against their locally set targets. In this context 'deliverable' means sites that are available now, offering a suitable location for the development.

37. In the above connection, Policy H and paragraph 25 of the PPTS says that Councils should, amongst other things, consider the level of need for additional gypsy and traveller accommodation, the availability of alternative accommodation and also personal circumstances.

38. The Council says that during 2017 it commenced preparation of a Gypsy and Traveller Site Allocations Development Plan Document – Preferred Strategy (DPD) which set a requirement for 60 pitches over a ten year period (up to 2027), and a fifteen year requirement for 78 pitches, which included backlogs. Such a supply could not be shown and the document did not proceed to formal submission. Accordingly, the DPD was never adopted.

39. The Council did, though, commission consultants to produce an updated Gypsy and Traveller Accommodation Assessment (GTAA) which was published in 2020 with the intention of informing the Council's Local Plan Review. It provides an evidence base for the provision of pitches for the period 2019 to 2036 (the plan period), and identified that there is a need for 93 pitches over this period. Moreover, neither the GTAA nor the Regulation 19 Local Plan consultation document considers specific sites for potential allocation. Incidentally, I understand that the forthcoming new local plan's Examination in Public (EIP) was recently cancelled pending the Council considering its position due to concerns about the plan's soundness.

40. In the circumstances, therefore, the Council's evidence relating to the current appeal acknowledges that it is unable to demonstrate an adequate deliverable supply of gypsy and traveller pitches, as is required by the PPTS, and there remains a significant identified need.

41. The PPTS, in its paragraph 28, also indicates that, should a Council be unable to demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework (the Framework) apply. Concerned with sustainable development, this says that where the policies which are most important for determining the application are out-of-date – as is the case here - permission should be granted unless the application of policies in the Framework that protect areas of particular importance, such as Special Protection Areas (SPA) and Special Areas of Conservation (SAC) provide a strong reason for refusing the development, or any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole.

42. My findings relating to the other main issues identified, which I set out later in my decision, will address this aspect of the Framework.

43. Nonetheless, in view of the above I attach considerable weight to the current shortfall in land supply for gypsy and traveller purposes.

Character and appearance

44. The appeal site lies outside of the built-up area boundaries and is thereby considered to be within the countryside. In this regard Policy 26 of the

Horsham District Planning Framework local plan (LP) says that the rural character and undeveloped nature of the countryside will be protected, and should be essential to the countryside location. This objective is reflected in paragraph 26 of the PPTS which says that Councils should very strictly limit new traveller development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

45. LP policy 25, which serves to protect the natural environment and landscape character of the District says that, amongst other things, the Council will support proposals which protect, conserve and enhance the landscape character.

46. As mentioned, it is patently obvious that a large importation of waste material has been brought onto the site, raising the land levels which could easily have implications for drainage. Further, when, at the Hearing, I asked as to the provenance of the imported waste, I was told it was from 'Eurogreen'. My previous understanding of Eurogreen Environmental Ltd is that it is concerned with the recycling of green waste yet to the naked eye it appears here as inert waste such as stone brick fragments and coarse earth – in other words, landfill material. Inert waste is unlikely to decompose and may cause harm to the environment. Possible land contamination is therefore an issue.

47. In this instance the development lies in proximity to a swathe of Ancient Woodland. and new development should normally allow for a buffer zone of at least 15 metres from the boundary to ensure avoidance of root damage. At my site visit the appellant took a rough linear measurement of 15 metres in an attempt to show compliance. This appeared somewhat imprecise and, as mentioned, my concerns in this instance not only relates to the possible of root compaction from the waste material laid along the line, and in the area surrounding it, but also drainage and contamination issues.

48. By way of an aerial photograph the appellant has attempted to show that both mobile homes could be moved slightly so that the 15m buffer to the nearby woodland might be achieved. However, in the wider context of things, and in the absence of any desk-top survey – at the very least – to investigate and assess any degree of harm already caused I am not convinced.

49. In the above connection paragraph 193(c) of the Framework says that development resulting in the loss or deterioration of irreplaceable habitats, such as ancient woodland, should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

50. Accordingly, in the first instance development proposals should have undertaken a site assessment to establish the likelihood of and identify the types of impact, implement appropriate mitigation and compensation, provide adequate buffers and, importantly, back this up with adequate supporting evidence.

51. Suitable mitigation may include such measures as action under BS 5837:2012 to provide adequate tree and root protection, non-invasive root protection, retaining and enhancing natural habitats around ancient woodland to improve connectivity with the surrounding landscape and, maybe, the implementation of an appropriate management plan to ensure that proposed measures are effective over the long term.

52. I acknowledge that the parties have agreed a condition aimed at remediation and amelioration in this regard, but I am of the view that the waste material should best be removed in the first instance. Subsequently, if considered necessary, the land could be resculptured with earth, the provenance of which is reliably known, and for which planning permission should be sought.

53. In the absence of any evidence to the contrary I must conclude that the development is harmful to the character and appearance of the landscape and conflicts with the objectives and requirements of LP policies 23, 24, 25, 26 and, 33 and is also at odds with relevant advice within the Framework.

Ecology and Biodiversity

54. The Natural Environment and Rural Communities Act 2006 (as amended) includes a duty under s40(1) that every public body must, in exercising its functions, have regard to the purpose of conserving biodiversity.

55. It is reasonable to expect that all development should follow a biodiversity mitigation strategy. This involves, amongst other things, considering in the first instance, any adverse effects on such so as to avoid negative impacts, and then minimising any unavoidable impacts in an attempt to reduce the harm. A thorough analysis of the applicant or appellant's ecological report as part of its wider determination of the application can then be made. In reaching a decision, it should be taken into account whether it has been adequately demonstrated that the proposal would deliver the stated outcomes if planning permission is granted.

56. The presence or absence of protected species – in illustration, the Council has mentioned Great Crested Newts - and the extent to which they could be affected by the proposed development, should therefore be established before planning permission is granted, otherwise all material considerations might not be properly considered in making the decision. Accordingly, the use of planning conditions to secure ecological surveys after planning permission has been granted should only be applied in exceptional circumstances.

57. From the evidence adduced, the appellant has clearly failed to provide sufficient information to accompany the DPA which might have suggested that ecological matters have been addressed. The proposal is therefore in direct conflict with LP policies 24, 31 and 33.

Impact on the SPA

58. The site is located within the Sussex North Water Supply Zone. As set out in Natural England's Advice Note regarding Water Neutrality within the Sussex North Water Supply Zone, the existing water supply in the Zone cannot be ruled out as contributing to a decline in wildlife within internationally protected sites in the Arun Valley SPA, SAC and Ramsar site. Achieving water neutrality is recognised as a suitable method to rule out potential adverse effects on the integrity of these sites arising from new development.

59. The development at issue would, in the circumstances, breach relevant water neutrality criteria for the area. As such, a Water Neutrality Statement has been prepared by the appellant in the above regard which indicates that a rainwater harvesting system is to be installed so as to provide a certain sufficient yield to meet the water demands of the site, and thereby would

minimise the impact of the development on the Sussex North Water Supply Zone.

60. If I was minded to grant planning permission then I would be required by law to carry out an Appropriate Assessment as to the impacts of the development, and consult Natural England, accordingly. However, as I am refusing the DPA for other substantive reasons it is not necessary that I explore this matter further.

Other Considerations

Personal circumstances

61. I understand that there are certain concerns as to John Smith senior's health. As mentioned, he has apparently occupied the original mobile home for almost eleven years. Also, at the Hearing the appellant, John Smith senior's son, indicated an intention to bring his 13 years old nephew, who has special educational needs to come and live at the site. Official letters have been provided to confirm the boy's needs.

62. However, as I said at the Hearing, whilst I can take health issues for Mr Smith into account, as the DPA is only concerned with the current situation and not proposed occupation – although I understand that there is a planning application pending for which proposed occupation would be a consideration – this is not a matter to which I can have regard here.

Human Rights and the Public Sector Equality Duty.

63. Article 8 of the European Convention on Human Rights, enshrined in UK law through the Human Rights Act 1998, provides that everyone has the right to respect for his private and family life, his home and correspondence. In this regard there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary, amongst other things, for the protection of the rights and freedoms of others.

64. In other words, if Article 8 is engaged, then interference with those rights can be justified by the Council if it is a legitimate aim, in accordance with the law and necessary in the public interest. The Public Sector Equality Duty (PSED), set out in s149 of the Equality Act 2010, is concerned with how a planning decision might impact upon a person with a protected characteristic of which gypsies and travellers are examples.

65. I find there was a legitimate aim here in the Council's decision to issue the enforcement notice, particularly with regard to protecting the character of the landscape, ecological matters, to address possible land contamination, and also water neutrality implications. Accordingly, I am satisfied that the Council's decision to take formal enforcement action was necessary and proportionate and, in the policy context, it does not unduly compromise the right of respect for the appellants' private and family life, nor does it mean that the occupier's gypsy status should outweigh the issues which strongly indicate that planning permission should be refused.

Temporary planning permission

66. In the judgement of *McCarthy, Sheridan and Others v SOS & South Cambridgeshire DC* [2006] EWHG 3287 the court held that, in cases where the

harm caused by a permanent development would justify refusal, the balance between the reasons for grant and reasons for refusal may be altered if the development is temporary.

67. From the evidence put forward, particularly with the emerging replacement local plan, it seems that alternative sites for gypsy and traveller purposes might become available in the near future.

68. Given the issues highlighted in the current appeal I am of the view that, notwithstanding the possible implications for the natural water supply in terms of water neutrality, the other adverse impacts arising from the development demonstrably outweigh the benefits afforded to the appellant and his father from residing at the site.

69. Under the ground (g) appeal the appellant's agent has effectively requested a temporary period of 3 years, which is tantamount to a planning permission subject to a time limitation condition, rather than an extension of the stipulated period of compliance with the enforcement notice's requirements. It follows, though, because of the nature of the development, that the harmful effects of the development on its surroundings would not be diminished if it was limited to a temporary period requested rather than being a permanent planning permission.

70. Accordingly, in this instance, I conclude that a planning permission subject to a time limitation condition is not here justified.

Planning Balance

71. I have afforded substantial weight to the accepted shortfall in land supply for gypsy and traveller provision. However, this is outweighed by the potential adverse effects I have highlighted, given the absence of details relating to the main issues in this appeal.

72. Although I have not received medical details I accept that John Smith senior may have health issues due to age. I have therefore factored this in to my conclusions relating to the ground (g) appeal, which is set out below

73. I have had regard to the comprehensive planning conditions as agreed between the main parties, at least in terms of the matters covered. However, they are so detailed, and with many substantial requirements and consequential considerable expense, such that I have some doubt that they would be fully observed. Besides, as I have mentioned, I am of the view that the waste materials imported and deposited on the land should be removed for reasons I have already set out, rather than be the subject of the standard contamination condition set out in the Statement of Common Ground which is more appropriate to an actual development proposal, as is the case with other suggested conditions here, rather than a retrospective one.

74. The unauthorised development is, on the whole, contrary to the aims of local planning policies and also significant aspects of the Framework. The government's PPTS document does not provide guidance to the contrary.

75. I have had regard to the documents provided by the appellant in support of the appeal. In particular, I have read the previous PINS decision letters submitted. However, planning decisions are made with regard to individual circumstances

and the merits and impacts arising. Direct parallels are not therefore easily drawn. Accordingly, my conclusions have not been affected.

76. I have also assessed the contents of a letter from Alex Madden of Hugh James, which sets out a series of objections to the development. Whilst in agreement with certain points raised I am not of the view that the development has/would give rise to unacceptable highway impacts nor does it realistically have significant implications for the amenities of local residential occupiers.

77. In summary, therefore, taking all matters into account, I have found that the costs outweigh the benefits of granting planning permission.

Conclusion

78. For the reasons given above I conclude that the appeal should not succeed. In taking all the main issues together I have found that the development is contrary to the development plan as a whole and also relevant guidance within the Framework.

79. I shall therefore uphold the enforcement notice, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.

The appeal on ground (f)

80. An appeal on ground (f) is that that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by those matters.

81. The starting point in such an appeal is identifying the purpose of the enforcement notice which, in this particular instance, is to remedy the breach of planning control. The next step is to consider whether there is any obvious alternative or lesser step which would achieve the purposes of the enforcement notice with less cost and disruption. The requirements of the notice should therefore be proportionate in that sense.

82. Given the site's planning position which I have already explained I would consider that the notice's stated requirements, for which I have fine-tuned the wording, are both proportionate and commensurate with the reasonable objective of remedying the likely harm caused; harm that the appellant has not attempted to disabuse the Council on.

83. Accordingly, the appeal on ground (f) fails.

The appeal on ground (g)

84. An appeal on ground (g) is that the time period specified for compliance with the enforcement notice's requirements is unreasonably short. Here, it is stipulated that the notice's four main requirements should be carried out within three calendar months and the land restored to its previous condition within six months. However, having taken into account the age of Mr John Smith senior and the likely disruption and inconvenience caused that would arise from him vacating his home, I am prepared to accept that the period for compliance be increased from three to nine months, and the land restoration extended to twelve months.

85. I am aware that the Council is currently in the process of dealing with a planning application for a largely identical development to that the subject of the current appeal. Indeed, during the Hearing the Council witness indicated that the case report had been largely written up, although there were still some outstanding concerns. Accordingly, the extension of time might potentially allow his son, the appellant, the opportunity to address those concerns. Alternatively, there would be more time available to explore the possibility of accommodation elsewhere.

86. The appeal, therefore, succeeds to this extent.

Timothy C King

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Phillip Rowe, Planning Consultant
Mr John Smith junior - Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Helen Sissons - Principal Planning Enforcement Officer

INTERSTED PARTIES

Alex Madden, Planning Consultant
David Cotton – Chair of Nuthurst Parish Council