Planning Inspectorate

Appeal Decisions

Hearing held on 10 June 2025

Site visit made on 10 June 2025

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 26 June 2025

Appeal A Ref: APP/Z3825/C/25/3361550
Appeal B Ref: APP/Z3825/C/25/3361551
Land at Staalcot Fields, Stall House Lane, Stall House Lane, North Heath, West Sussex, RH20 2HR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mr W Hughes and Appeal B by Mr Tony Castle against an enforcement notice issued by Horsham District Council.
- The notice was issued on 19 February 2025.
- The breach of planning control as alleged in the notice is: Without planning permission the material change of use of the land to use for the stationing of caravans for the purposes of human habitation, together with the associated operational development comprising the importation of crushed stone aggregate, the laying of material to form a hardstanding and the laying of services in connection with the unauthorised residential use of the Land.
- The requirements of the notice are:
  1) Permanently cease the use of the land for the stationing of caravans for the purposes of residential occupation;
  2) Remove from the land all the caravans and associated domestic paraphernalia;
  3) Remove from the land all works of operations development incidental to the unauthorised residential use of the land as a caravan site, namely the 3 No. septic tanks buried in the ground and the hardstanding in the appropriate position shown coloured brown on the attached plan;
  4) Remove from the land all material and debris resulting from compliance with steps 1,2 & 3 above; and
  5) Following the above steps, restore the land to its original conditions by re-seeding it with grass.
- The period for compliance with the requirements is Six (6) months.
- The appeals are proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended).

Summary of Decisions: The appeals succeed in part and the enforcement notice is upheld with a variation in the terms set out in the Formal Decisions.

Appeal C Ref: APP/Z3825/W/25/3360345
Staalcot Farm, Stall House Lane, North Heath, West Sussex, RH20 2HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr W Hughes against the decision of Horsham District Council.
- The application Ref is DC/24/1573.
- The development proposed is use of land for the stationing of caravans for residential purposes, together with the formation of hardstanding and associated landscaping. Construction of associated utility buildings.

Summary of Decision: The appeal is dismissed.

Decisions

Decision on Appeal A

1. It is directed that the enforcement notice is varied by deletion of ‘Six (6)’ and substitution of ‘Twelve (12)’ as the period of compliance.

2. Subject to this variation, the appeal is dismissed, and the enforcement notice is upheld.

Decision on Appeal B

3. It is directed that the enforcement notice is varied by deletion of 'Six (6)' and substitution of 'Twelve (12)' as the period of compliance.

4. Subject to this variation, the appeal is dismissed, and the enforcement notice is upheld.

Decision on Appeal C

5. The appeal is dismissed.

Appeal C

Preliminary Matters

6. During the appeal process it became apparent from third party evidence that incorrect certificates had been completed in relation to land ownership when the planning application was made, and thus there was a lack of formal notification to the relevant landowners.

7. The application was submitted by Mr W Hughes, one of two directors of H & C Land Development Limited. However, it is understood that the application/appeal site is owned across two titles, H & C Development Limited and Mr Benjamin Keet.

8. The appellant accepts that the wrong certificate was completed, and that in accordance with the provisions of S65 and S327A of the Town and Country Planning Act, 1990 and the Town and Country Planning (Development Management Procedure) (England) Order 2015, Certificate B should have been submitted and notice served on both Benjamin Keet and H & C Land Development Ltd. For this reason, the interested parties consider that the planning application and subsequent appeal are invalid.

9. I have had regard to the submissions made on behalf of the appellant, which included details of relevant case law[1]. In the case of *R. (on the application of Bishop) v Westminster Council* [2017] EWHC 3102(Admin) it was held that where there is an incorrect certificate completed in respect of a planning application, that application or indeed any subsequent decisions, whether by the local planning authority or an Inspector would not necessarily be invalid. The decision maker retains a discretion to consider and determine the application. It is for the decision maker to determine on each case how that discretion should be exercised, taking into account applicable and relevant facts.

10. In this case, Benjamin Keet currently occupies the site, and when the application was made he was an intended occupier of one of the four pitches for which planning permission was sought. The application was submitted by Mr W Hughes on behalf of Mr Keet and his family. Mr Keet was aware of the application and he attended the appeal Hearing. He is supportive of the development proposals which would provide him with a permanent base and home. Mr Keet has not therefore been prejudiced by having not been formally notified of the application when it was made as he was clearly aware of it and of this appeal.

[1] Note of Land Ownership and Certification, Michael Rudd, Kings Chambers, 11 May 2025.

11. H & C Land Development Ltd has two directors, one is Mr W Hughes (the appellant) and the other is Mr Tony Castle (the appellant on Appeal B, the linked enforcement appeal). Mr W Hughes, as the applicant, is clearly aware of the application and the appeal. Mr Castle was also aware as he is joint director of the business and attended the Hearing to confirm that to be the case.

12. Furthermore, despite Mr Keet and Mr Castle both having knowledge of the application on submission and the appeal, formal notice was subsequently served on Mr Keet and H & C development Ltd, and Certificate B completed. A copy of that Certificate has been provided and is dated 1 May 2025.

13. No third party would have been prejudiced by the failure to submit the correct certificate and notice, and the outcome of the application and appeal unaffected. It seems to me that even if Mr Keet and H & C Developments Ltd had been 'formally' notified when the application was submitted, despite both being fully aware of the planning application, neither were likely to have opposed the application, which in any event was refused. Thus, the outcome would have been no different and thus there is no prejudice arising out of that initial failure to notify. Having regard to established case law, neither the application nor appeal is invalid, and I have determined the appeal on that basis.

Main Issues

14. The main issues are the effect of the development on:

- the character and appearance of the area, including any impact on the adjoining Public Right of Way;
- the setting of Grade II listed Laurel Cottage;
- Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites in relation to water neutrality; and
- ecology and protected species.

Another matter is intentionally unauthorised development and the weight to be attached to that.

15. Other considerations, potentially weighing in favour of the development, include the need and supply of Gypsy and traveller sites, the availability (or lack) of alternative accommodation for the occupiers of the site and their other personal circumstances, including the best interests of the child.

16. Integral to my decision-making will be exercising duties under the Human Rights Act 1998. Article 8, a Convention Right[2] (ECHR), affords a person the right for their private life, their home and their correspondence. It is a qualified right that requires a balance between the rights of the individual and the needs of the wider community. In applying Article 8 there is 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 considerations should be given to their needs and the different lifestyles in the regulatory planning framework and in reaching decisions on particular cases. Under the Equality Act 2010, I will have regard to the public sector equality duty (PSED).

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

Reasons

Character and appearance of the area, including any impact on the adjoining Public Right of Way

17. The appeal site comprises 0.34ha of land located on the edge of the settlement of North Heath in a rural area. The site comprises grassland, and forms part of a wider field which is surrounded by mature native hedgerows and trees. There is a vehicular access in the southeastern corner of the site from Stall House Lane and a public footpath (PROW2298) runs between the hedgerow and the western boundary of the site.

18. Access to the site is from Stall House Lane. As part of the unauthorised development the subject of Appeal A and Appeal B, the access has been widened and a hard surface track has been formed to provide access into and through the site. Hardcore has also been laid to provide a base for the two static caravans which are currently on the site and to provide a parking area for touring caravans and cars. At the time of my visit there were two static caravans on the site and two touring caravans. Some post and rail fencing has been erected and four package treatment/septic tanks have been installed, together with mains electricity and a water supply.

19. The proposal is for four pitches, each comprising a mobile home, a touring caravan, a day room and a bike/refuse store with electric charging point. The proposed site layout indicates that the pitches would span the width of the site and be aligned perpendicular to Stall House Lane with a vehicular turning area provided in the site's southwestern corner. Post and rail fencing would be erected to separate the pitches and a new native hedgerow would be planted along the site's northern and western boundaries. The existing native hedgerow along the site frontage would also be strengthened with new interplanting.

20. Policy 25 of the Horsham District Planning Framework (HDPF) seeks to ensure that the natural environment and landscape character of the District, including the landscape, landform and development pattern is protected against inappropriate development. It advises that the Council will support development proposals which, amongst other criteria, protect, conserve and enhance the landscape and townscape character, taking into account areas identified as being of landscape importance, the individual settlement characteristics and maintains settlement separation. Policy 26 of the HDPF seeks to protect the rural character and undeveloped nature of the countryside against inappropriate development. It requires development proposals to be essential to its countryside location, enable the sustainable development of rural areas and be of a scale appropriate to its countryside character and location.

21. Policy 23 of the HDPF sets out the criteria to be taken into consideration when determining any planning application for Gypsy and Travellers for non-allocated sites. Criteria (e) requires the development to not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and to be sensitively designed to mitigate any impact on its surroundings.

22. The development plan policies set out above are generally consistent with paragraph 187 b) of the National Planning Policy Framework (NPPF) which requires all development in the countryside to recognise its intrinsic character and

beauty, whilst paragraph 135 (c) seeks to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

23. A landscape and visual appraisal (LVA) has been prepared on behalf of the appellant to support the appeal[3]. It has regard to the 2021 Horsham District Landscape Character Assessment (HDLCA) which identifies Local Landscape Character Area 43: North Heath and surrounds, as comprising mainly small-medium scale regular and irregular hedgerowed field pattern, along with the dispersed roadside settlement of North Heath. Its landscape value is described as having moderate tranquillity due to the noise influence of the A29, some ecological interest from hedgerows and value from streams and ponds and some amenity value with few public footpaths in the area. The landscape sensitivity is identified as moderate-high and landscape capacity for medium scale housing is considered to be low-moderate.

24. The LVA considers that, having regard to: an agricultural barn that has been permitted on the appeal site; its location at the settlement edge; the permitted barn at Peacocks Paddock adjacent to the site, and which extends ribbon development along the lane; the proximity of the railway line; and the number of existing properties that have access off Stall House Lane, the appeal site will, at the micro scale, fall into the moderate end of low-moderate categorisation in terms of overall landscape capacity. Furthermore, it is the appellant's case that the appeal scheme falls well below medium scale housing (100-500 dwellings). The existing hedgerows are recognised as providing screening and this can be improved with new and strengthened hedgerow planting. It is further suggested that when viewed from the adjoining public footpath, the proposed caravans would appear subordinate to the larger barn structure which has been permitted on the site.

25. The Council advise that the South Low Weald (LW5) and Billingshurst and North Heath Farmlands (J1) local character areas identified in the Landscape Character Assessment of West Sussex (2003) and Horsham Landscape Character Assessment (2003) are also relevant considerations. Key characteristics include remote rural character, winding lanes linking scattered farmsteads, small to medium fields, hedgerow enclosure, woodland blocks and copses, mature field trees and undeveloped character. From observations on my site visit I concur that the appeal site is representative of those landscape characteristics.

26. The appeal site is located in the countryside, and it is common ground that it does not form part of a valued landscape. Nevertheless, as set out above, in accordance with national policy, all development should recognise the intrinsic beauty of the countryside. Stall House Lane is a single track no through road. Development along the lane is low in density, and generally characterised by dispersed large properties in substantial grounds. There are some clusters of houses along its southern side, whilst development to the north is more sporadic and more agricultural in form. The appeal site lies on the northern side of the lane, at the edge of the settlement. In this location, travelling east beyond the existing housing, the lane has a much deeper rural feel and the appeal site makes a significant contribution to the intactness of the rural landscape.

[3] Landscape and Visual Appraisal, Furse landscape Architects Ltd.

27. Caravan sites are a form of development that often appear in the countryside, and the Planning Policy for Traveller Sites, December 2024 (PPTS) makes it clear that such sites for Gypsy and travellers can be acceptable in the countryside. Having regard to the existing development that has taken place on the site, it seems to me that the development of one or two pitches for Gypsy and travellers could be accommodated on the site without causing material harm to the character of the area, and would reflect the dispersed low density pattern of development which is currently found along the northern edge of Stall House Lane. However, the appeal proposal is for four pitches. Each pitch would comprise a static/mobile home, a touring caravan, a timber constructed day room and bike/refuse store. Extensive hard surfacing is also proposed across the site, as well as new fencing. The scale and form of the proposal would have a significant urbanising effect on the rural character of the appeal site. Whilst I appreciate that the site is largely screened from the lane by the existing hedgerow, the proposed development would not reflect the low density pattern of existing development in the area and would have a harmful and urbanising impact on its rural character.

28. The visual impact of the development on the users of PROW2298 would be a significant detractor. Having regard to the proximity of the proposed mobile homes to the footpath, there would be a high magnitude of visual effects, the development would be substantial, obvious, would draw the eye and its scale and form in this location would not be commonplace. The development would have an adverse visual impact on users of the right of way which could not in my view be mitigated by the planting of further hedgerows. Even with new planned established hedgerows along the northern and western site boundaries, the consolidated form of development as a whole would remain a visually intrusive form of development in this rural setting. Furthermore, the planting of a hedgerow alongside the PROW would detract from the spatial character of the field and on how its rural character and surrounding natural environment is appreciated by users of the PROW.

29. For the reasons given above, I conclude that the proposed development conflicts with Policies 25, 26 and 23 (e) of HDPF, the aims of which are set out above. There would also be conflict with paragraphs 135 (c) and 187 (b) of the NPPF. The significant adverse impact of the proposed development does not recognise the intrinsic character or beauty of the countryside, which has been established in case law means ‘protect’. There would thus be conflict with national policy. The harm to the character and appearance of the countryside would be unacceptable, significant and carries substantial weight.

Setting of Laurel Cottage

30. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. The glossary to the NPPF states that the setting of a heritage asset comprises the surroundings in which it is experienced.

31. Laurel Cottage is a C17 or earlier timber-framed cottage with plaster infilling and a tiled roof. It is Grade II listed with a list date of March 1955. The original cottage has been substantially extended during the late C20. From the evidence before me, including the list description, submissions on behalf of the interested parties by

Mr Crone[4] and from Mr Rix the Council's Conservation Officer, and observations on my site visit, I consider that the special interest/significance of Laurel Cottage is derived from its local vernacular construction and materials, its architectural design features and historic fabric. It also has historic interest in that it provides evidence of the historic development pattern of the area.

32. Laurel Cottage sits within substantial grounds which are laid as garden. It takes access from and has an open frontage to Stall House Lane. It is from the Lane where the listed building's vernacular architecture and historic fabric are fully appreciated and thus its significance revealed. The appeal site is situated on the opposite side of Stall House Lane and comprises a field behind the roadside hedge. It is common ground that there is no historic functional relationship between the listed building and the field and thus the appeal site does not have any particular significance in relation to the listed building.

33. I accept that historically Laurel Cottage will have been situated in a relatively isolated location with the pattern of development characterised by open fields surrounding farmsteads and cottages. However, the architectural details and historic fabric/vernacular construction which give rise to the cottage's heritage significance are not seen in the context of the appeal site. Whilst there is a glimpse of Laurel Cottage through the hedgerow when travelling across the appeal site on the PROW, its visibility is limited. The proposed development would be well screened from the lane and not viewed in the context of Laurel Cottage. Laurel Cottage will retain its open frontage and clear visibility from the road where its heritage significance is experienced from, and the proposed development would not result in harm to the significance of the listed building, as the appreciation of the dwelling's listed features and historic fabric would remain unchanged.

34. I conclude that the proposed development would preserve the setting of Laurel Cottage and there would be no conflict with the heritage aims of Policy 34 of HDPF. Nor would the development be contrary to the provisions of Section 16 of the NPPF which seeks to protect and enhance the historic environment, or the requirements of the Act[5]. Furthermore, there would be no conflict with the Historic England guidance in this regard.

Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites in relation to water neutrality

35. The appeal site is located within the Sussex North Water Supply Zone where Natural England have indicated that ground water abstraction may have an adverse effect on the integrity of the Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar Site. By reason of the international designation, the Arun Valley SAC/SPA are afforded the highest protection through UK legislation and Government policy[6].

36. The conservation objective for the SAC is to ensure that the integrity of the site is maintained or restored as appropriate and to ensure that the site contributes to achieving the favourable conservation status of its qualifying features, namely, the little whorlpool ram's-horn snail.

[4] Heritage Information, Heritage and Design Consultant, Mr D Crone, dated 10 April 2025.
[5] Planning (Listed Buildings and Conservation Areas) Act 1990, Section 66(1)
[6] The Conservation of Habitats and Species Regulations 2017, as amended ('the Habitats Regulations') set out the provisions and procedures which must be followed to assess the implications of plan and projects on European sites (Regulations 63 and 64).

37. The conservation objective for the SPA is to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Wild Birds Directive. The qualifying features of the SPA are its population of Bewick's swan and waterbird assemblage.

Habitats Regulations Assessment

38. The Habitats Regulations, as amended, requires that where any proposal is likely to have a significant effect on a European site either alone or in combination with other plans or projects, an Appropriate Assessment (AA) is necessary to establish whether there would be adverse effects on the integrity of the features of the European site and if there are, whether they could be modified through mitigation. Circular 06/2005 sets out that the decision on whether an AA is necessary should be made on a precautionary basis.

39. Natural England has advised that it cannot be concluded that the existing abstraction within Sussex North Water Supply Zone is not having an impact on the Arun Valley site. Thus, plans and projects affecting sites where an existing adverse effect is known (i.e. the site is failing its conservation objectives), must demonstrate certainty that they will not contribute further to the existing adverse effect. Developments within Sussex North therefore must not add to this impact and one way to achieving this is to demonstrate water neutrality. The definition of water neutrality is the use of water in the supply area before the development is the same or lower after the development is in place.

40. The application and appeal submission are accompanied by a Water Neutrality Report and Water Management Plan[7]. The baseline water consumption for the site is zero and the Part G calculator provided indicates that each caravan would use 64.3 litres per person per day. Taking into consideration to proposed occupancy figures it is estimated that the total water usage per day per unit is 225.05 litres, totalling 900.2 litres per day over the four units proposed.

41. The appellant proposes to meet the water demand by rainwater harvesting, utilising the roofs of the caravans and those of the proposed day rooms. The rainwater would be filtered to a potable standard, and the proposal demonstrates that there would be sufficient roof area to yield the required water plus a 60-day drought tolerance. Planning conditions would be necessary to secure the implementation of a management and maintenance plan for the rainwater harvesting system, including proposed water efficient fixtures and fittings, to secure submission of water quality test results to the Council, and to ensure the proposed water neutrality measures are maintained in perpetuity.

42. At the Hearing the Council drew my attention to a recent Inspector's decision (Wineham Case)[8]. In that case the appointed Inspector raised concerns over whether it would be possible to secure water neutrality by way of a planning condition, when there was no surety over the size of the caravans, and thus whether calculations for water collection, based on a certain area of roof, would reflect the capacity on site. I have had regard to that decision which I understand related to 13 plots, many of which it seems were occupied on a temporary or part-time basis, and thus the actual occupiers of the proposed plots and their numbers was largely unknown. Furthermore, a detailed scheme to demonstrate that water

[7] Water Neutrality Report and Water Management Plan, Promethean Planning, dated 17 August 2024.
[8] APP/Z3825/C/24/3350118/119, Wineham, Henfield, West Sussex.

neutrality could be achieved on the site had not been prepared. The Wineham case therefore differs from the proposal the subject of this appeal where a detailed Water Neutrality Report and Water Management Plan (WNP) has been prepared for the site and based on the size of the proposed mobile homes and known occupiers. The calculations within that report for rainwater harvesting are based on a minimum roof area, having regard to the size of the mobile homes and considering potential occupancy levels. It is reasonable and necessary for that minimum roof area to be provided on the site to ensure that the proposed rainwater harvesting levels in the WNP are achieved and water neutrality for the development secured. A planning condition to secure the implementation of a management and maintenance plan as set out in the paragraph above would be reasonable, necessary and enforceable having regard to the details contained within the WMP submitted.

43. During the appeal, Natural England were again consulted on the proposals and raised no objection subject to the imposition of conditions relating to the treatment of rainwater, and delivery, management and maintenance of the WNR's water neutrality measures. Subject to securing the strategy for water neutrality and treatment of collected rainwater through planning conditions, the proposal would not increase water abstraction and the potential harm to the integrity of the Arun Valley SPA/SCA would be mitigated.

44. For these reasons, the proposals accord with Policy 31 of HDPF which requires development with the potential to impact the Arun Valley SPA/SAC to be carried out in accordance with mitigation measures. The development also complies with the Habitats Regulations.

Ecology and protected species and biodiversity

45. The Council's reasons for refusal did not include matters relating to ecology and protected species. However, during the appeal process interested parties raised concerns in relation to those matters and appointed Ecology Solutions Ltd to undertake an ecological review of the site, its planning history, and of the Preliminary Ecological Appraisal and Preliminary Roost Assessment (PEA) which had supported the original planning application, undertaken by Arbtech (dated 17.11.23). The appellant had an opportunity to respond in writing to the Ecological Technical Note (ETN)[9] prepared by Ecology Solutions, and the issues were discussed at length at the Hearing.

46. The PEA was undertaken in 2023 and accompanied the planning application submitted in October 2024 (DC/24/1573), which is now the subject of this appeal. The PEA had been initially prepared to support previous planning applications for the development of the Land made in 2023/24 (DC/23/2098 & DC/24/0356). It was produced following a field survey undertaken in November 2023. The PEA provides a preliminary view of the likelihood of protected species being present, albeit it is understood that a biological records data search was not undertaken. The PEA found habitats within and adjacent to the site to include modified grassland, scattered scrub along the eastern boundary, trees ranging from semi-mature to mature in age including native oak, willow, field maple and hazel. Native hedgerows with trees enclose the southern site boundary and a rubble pile was found in the site's southeastern corner.

[9] 12648: Land at Staalcot Farm, Ecological Technical Note, Ecology Solutions, 11 April 2025

47. The PEA considered the interconnecting tree lines and hedgerows along the field boundaries to be suitable commuting routes for bats and the woodland and grassland to provide bats with foraging opportunities. It also identified the presence of four ponds within 500m of the site and noted that Great Crested Newts (GCN) are known to utilise such ponds and are typically found within terrestrial habitats up to 500m from breeding ponds. However, due to the short length of the grassland sward and intervening urban infrastructure, including tarmac roads and extensive managed grassland between the ponds and the site, the PEA considered the landscape features on the site suboptimal for GCN. It considered that further surveys were not necessary but that the presence of commuting GCN within the grassland and scrub on the site could not be discounted. A precautionary working method was recommended during construction. The PEA also concluded that the development area has a low suitability for reptiles, and again recommended that a precautionary working method should be adopted during construction. It found that no suitable habitats would be removed which would impact on the Hazel Dormouse.

48. GCN are European protected species protected under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981, as amended. All UK reptiles, including Grass Snakes and Slow Worms, are protected under the Wildlife and Countryside Act 1981, as amended, as are Dormice, their breeding sites and resting places.

49. The ETN identified from Defra's MAGIC map that the appeal site is in a landscape containing numerous ponds and wet ditches. The closest small pond is 150m east of the appeal site and there is a network of ponds 270m north of the Site, running east-west to the south of Stall House Farm. There are a further four ponds between 225m and 450m of the site. Furthermore, Mr Hobson, the author of the ETN, and who attended and partook in the Hearing, considers that having regard to the GCN Conservation Handbook[10], the appeal site would provide good foraging habitat and permits dispersal as very short pasture is easily traversed by newts. He accepted that due to the short length of the sward there would be little shelter from predators. Nevertheless, he considers that the matrix of small pasture fields, hedgerows and ditches around the site, and to and from nearby ponds is ideal habitat for GCN and offers high landscape permeability for newts to move around the countryside. Moreover, NatureSpace, in a consultation response to the 2023 application for development on the site, advised that the development is situated in the red impact risk zone indicating that highly suitable habitat for GCN is present in the surrounding landscape[11].

50. From the evidence available, including the PEA, NatureSpace correspondence, the ETN and what I heard at the Hearing, I consider that it is reasonable to conclude that the appeal site provided suitable terrestrial habitat for GCN. Having regard to Natural England/Government Standing Advice on 'GCN advice for making planning decisions' (v 7.4.25), if District Level Licencing (DLL) has not been applied for as an alternative approach, then where there is a suitable water body within 500m of the development, and certainly within 250m which is the case with this proposal, then a survey should be carried out to include eDNA sampling of the water body, population size surveys and terrestrial and aquatic habitat surveys.

[10] Langton, T.E.S. Beckett, C.L. and Forster, JP.(2001), great Crest Newt Handbook, Froglife, Halesworth.
[11] Document 2 submitted at the Hearing

51. Furthermore, paragraph 99 of Circular 06/2005 states “It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances.”

52. I appreciate that the PEA considered that further survey work for GCN would be disproportionate given the scale of the development. However, having regard to Standing Advice set out above and considering what I heard at the Hearing, including the ETN and my own professional experience, I consider that further survey work should have been undertaken or the developer should have chosen to use DLL. The appellant advised at the Hearing that recent contact with NatureSpace had indicated that he could apply for DLL retrospectively. Even if that were to be the case, I do not consider that a planning condition could be imposed on a grant of planning permission to require the appellant to enter such a scheme, particularly where that scheme requires payments to be made.

53. Furthermore, the ETN casts doubt on the robustness of the PEA regarding identifying suitable habitats for reptiles, including Slow Worms and Grass Snake and for the Dormouse. Indeed, the evidence from The Dormouse Conservation Handbook is that counties such as West Sussex are strongholds for Dormouse in England, and Mr Hobson considers the appeal site and surrounding landscape to be ideal for them.

54. Consequently, bearing in mind the precautionary principle, I cannot be sure on the evidence before me that protected species are not present on the site. I am not able to consider any measures necessary to avoid, mitigate or compensate for significant harm to protected species. No exceptional circumstances have been demonstrated such that the required ecological surveys could be left to coverage by a planning condition. Thus, the requirements of Circular 06/2005 have not been met.

55. For the above reasons, I conclude the proposed development does not adequately demonstrate the effect on protected species or the measures necessary to avoid, mitigate or compensate for any negative effects. This is contrary to Policy 31 of HDPF, which requires appropriate mitigation and compensations for adverse impacts on biodiversity. There is also conflict with paragraphs 187 and 193 of the NPPF which require decisions to contribute and enhance the natural and local environment and advises that development should be refused where there is significant harm to biodiversity, unless it cannot be avoided, adequately mitigated, or, as a last resort, compensated for.

Intentional Unauthorised Development

56. A Written Ministerial Statement (WMS) dating from August 2015 established that Intentional Unauthorised Development (IUD) is a material consideration to be weighed in the determination of planning applications and appeals. The WMS relates to all forms of development not just relating to Gypsy and traveller sites. It places particular emphasis on IUD in the Green Belt.

57. There is no dispute between the parties that IUD has taken place. Mr Rudd on behalf of the appellant contends that it has been held that a grant of retrospective

planning permission is not inherently unlawful, although this should not afford an advantage. The works undertaken are easily removeable and as the appellant did apply for planning permission prior to undertaking the works, he clearly did not intend for the development to remain unauthorised. There is therefore an opportunity, if necessary, to impose conditions on any permission granted. The impact of IUD is therefore negligible and should be afforded little weight.

58. IUD did not form any part of the Council's case but was raised as an issue by the interested parties' solicitor at the Hearing. A planning application was submitted (DC/23/2098) for a mixed use of land for agricultural use and the stationing of 4 static caravans for residential purposes, together with the formation of hardstanding and associated landscaping. That application was refused on 19 January 2024. An application (DC/24/0356) for stationing 4 static caravans and 4 touring caravans for residential purposes, together with the formation of hardstanding and landscaping was refused on 3 May 2024. A further planning application (DC/24/1573) was submitted on 8 October 2024 for the use of land for the stationing of 4 static caravans for residential purposes, together with the formation of hardstanding and associated landscaping and the construction of associated utility buildings. This was subsequently refused on 30 January 2025 and is the subject of this appeal.

59. Over the weekend of 18/19 January 2025 work commenced on constructing a hardstanding and a base for the individual pitches. In addition, some touring caravans were brought onto the Land. A temporary stop notice was served by the Council on the Land and handed to persons working on the site on 20 January 2025. Work continued, and on 23 January 2025 a static caravan was moved onto the Land.

60. Based on the evidence before me, unauthorised development occurred, and this was intentional. The evidence is that while planning applications were submitted, the outcomes were largely ignored. I appreciate that a PEA was undertaken prior to the incursion taking place, and no further surveys were recommended in that report. However, notwithstanding my finding that further surveys should have been undertaken or DLL sought, the PEA did recommend a precautionary working method during construction and there is no evidence that this took place when the incursion occurred. No mitigation in relation to protected species was undertaken and it is likely that there has been some irreversible harm to those protected species. Other harms, though reversible, have endured for some considerable time.

61. I appreciate the occupiers desire to have a settled base for the families, including the children, nevertheless, in this instance the IUD does carry moderate weight against the development, in decision making terms.

Personal circumstances of the occupiers, including the best interests of any children, all in the context of Human Rights considerations and the Public Sector Equality Duty (PSED)

62. I heard at the Hearing and the Statement of Personal Circumstances submitted by the appellant during the appeal process, confirms that the site would provide a permanent base and home for four families. Mr B Keet currently occupies the site with his wife and four children, three of whom are of school age. His brother, Mr D Keet, his wife and two small children occupy the other mobile home which has

been brought onto the site. The additional two pitches are intended for Mr B Keet's mother -in -law, Ms Carey, and Mr Keet's sister and brother-in-law, Mr D Brazil, their small child and expected baby. Prior to moving onto the site Mr B Keet and his mother-in- law were living on a private site in Durley, Winchester. However, their pitch was overcrowded as he was sharing it with his mother- in -law who needs her daughter to help care for her. In addition, Ms Carey found it difficult living with other families on that site. Mr Keet told the Hearing that he has sold his pitch at Durley to move to the appeal site and as such it is no longer available or an alternative available to him and his family. Ms Carey is currently living with a friend in Horsham and Mr Brazil and his family on a transit site in Chichester. The appeal site would provide a permanent home for the extended family group.

63. Article 8 of the ECHR is incorporated into UK law through the Human Rights Act 1998 and provides that everyone has the right to their private and family life, home, and correspondence. The duty to facilitate the Gypsy way of life is part of that, and Article 8 must be considered in the context of Article 3(1) of the United Nations Convention on the Rights of the Child. This states that the best interest of the child shall be a primary consideration. Whilst these interests can be outweighed by other factors; no consideration can be inherently more important.

64. It is understood that there are six children currently living on the site. Three of those attend the local primary school in Fittleworth. The headteacher of the school states that now the children are living permanently in their current home, the children's attendance has significantly improved and they are making good progress. Having to move schools again would have a detrimental effect on their education.

65. Two of the adults on the site have health concerns. Mr B Keet confirmed at the Hearing that they are now registered at the local doctor's in Pulborough and one of the adults attends Southend University Hospital for specialist care/treatment. Living together as a family group enables the families to support and care for each other. Indeed, Danny Keet's wife is a registered carer for Mr B Keet's wife. She supports and helps to care for her and her family when Mr B Keet is away travelling for work. A roadside existence would make access to healthcare more difficult for everyone on the site. Furthermore, it is not in the public interest to have families living on the roadside with no access to drainage or facilities to store waste.

66. Dismissing the appeal should give rise to an interference with the occupants' Article 8 rights. Any interference must be in accordance with the law, necessary in a democratic society in the interest of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. In considering the appeal I have had due regard to the PSED contained within the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish travellers are ethnic minorities and thus have the protected characteristic of race. Having regard to the personal circumstances and for the reasons set out above, I attached substantial weight to all the personal circumstances of the family group, including the best interests of the children.

Other Matters

67. Mr Yeatman on behalf of the interested parties also raised concern with regard to matters of drainage, and the site's suitability given its location, access to services and other highway considerations.

68. I have had regard to the Highway's Technical Note, prepared by Markides Associates[12] which sets out the distance from the appeal site to local facilities and recommended walking distances from published guidance by the Chartered Institute of Highways and Transportation. It is his view that the majority of facilities are beyond the recommended acceptable walking distance and that occupiers of the site would be reliant on the private car as the site is also not readily accessible to a range of transport modes.

69. The PPTS advises that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Paragraph 13 of the PPTS seeks to promote access to health services and schools and to provide settled bases to reduce the need for long-distance travel. Policy 23 (d) of HDPF advises that in assessing non allocated sites for Gypsy and travellers the site should be located in or near to existing settlements, within reasonable distance of a range of local services and community facilities, in particular schools and health services.

70. Whilst the site is in the open countryside, it is not remote or isolated and is situated on the edge of the settlement of North Heath. Neither the PPTS nor Policy 23 (d) of HDPF requires sites for Gypsy and travellers to be within walking distance of local services and facilities. There is health care, education facilities and supermarkets within 4km of the site, and bus stops approximately 1km away. There are therefore adequate shops, schools and other facilities within reasonable travelling distance. Having regard to paragraph 13 of the PPTS having a settled base will support social integration. It enables the children to attend school regularly, make friends and gain access to health services and other community facilities. The site provides the occupants with access to the road networks to allow them to travel for their work, which having regard to their traditional lifestyle contributes to sustainability. I thus find no conflict with the development plan or the PPTS in relation to the site's accessibility to services/facilities.

71. I have considered other Inspector's decisions which have been brought to my attention. In particular those which related to proposals for new dwellings also in North Heath at Gennetts Farm House (3342546) and Roseacre (3262656). However, in those cases the proposals were not for a Gypsy and traveller site, and the relevant development plan policy and national guidance is not therefore strictly comparable to this case. I therefore give those decisions little weight in my consideration of this appeal.

72. The local highway authority was consulted on highway safety matters during the planning application stage. Having regard to the scale of the development, the neighbouring highway network and road conditions they raised no objections subject to the imposition of planning conditions. I noted on my site visit the single track nature of Stall House Lane, absence of footways and visibility requirements. However, from the evidence before me and in the absence of any substantive

[12] Appendix 6 Interested Parties Representation, Mr Yeatman. Hgh, dated April 2025

evidence that would suggest otherwise, I am satisfied that a safe and suitable access to the site can be achieved for all users. I am also mindful that paragraph 116 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residential cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

73. In support of concerns over flooding and drainage, Helen Jolly produced a Flood Risk and Drainage Statement[13] and attended the Hearing to discuss those matters which were of concern to interested parties. The appeal site lies within Flood Zone 1 and is thus in an area which is at the lowest risk of fluvial flooding. It is also not located within any Critical Drainage Area. However, the NPPF advises that when determining any planning application, local planning authorities should ensure that flood risk is not increased elsewhere. Local residents advise that there is evidence of localised flooding in close proximity to the appeal site on Gay Street and Stall House Lane. There is concern that the introduction of hard surfacing, and the installation of package treatment plants/tanks, would have the potential to increase the risk of ground and surface water flooding on and off the site.

74. The appellant acknowledges the need for a sustainable drainage strategy and is committed to complying with any condition attached to a planning consent in that regard. All hard surfacing would be permeable. However, the development which includes new built development, would undoubtedly have some impact on surface water drainage. Nevertheless, considering the size of the site, including adjoining land owned by the appellant, there would be sufficient space to accommodate any required infiltration system, drainage field, swale or underground storage system which may be required. Ms Jolly confirmed at the Hearing that there would be a technical solution to dealing with any increase in surface water resultant of the development and the matter could be controlled by a planning condition. Details of the proposed foul water/sewerage system could also be controlled by condition.

75. I have had regard to the concerns raised by the interested parties about the appellant's speculative interest in the site. However, there is no reason why an individual should not make a planning application to develop land for himself or on behalf of another person. I therefore give this consideration no weight in the planning balance. Furthermore, Mr B Keet told the Hearing that he did on occasion advertise touring caravans to rent, and this was on behalf of a friend. In any event, the business interests of Mr B Keet are not a matter for my concern in this appeal.

Planning Balance

76. Policy H of the PPTS is a reminder that planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Furthermore, it states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provision in paragraph 11(d) of the NPPF applies. Thus, having regard to the local planning authority's position that they cannot demonstrate an up-to-date 5 year supply of deliverable sites, there is a presumption in favour of sustainable development and a grant of planning permission, unless criteria (i) or (ii) in paragraph 11(d) apply. With regard to criteria (i), there would be no strong reason to refuse the development in line with specific NPPF policies set out in footnote 7.

[13] Appendix 7, Interested Parties Representation, Mr Yeatman. Hgh, dated April 2025

77. In this case I have concluded that the development is contrary to the development plan and the NPPF in terms of policies which seek to protect landscape and local character, including one of the criteria against which the development of Gypsy and traveller sites are judged. This harm arises due to the scale and design of the proposed site development in a rural landscape and adjoining a public right of way. This impact has not been shown to be capable of being successfully mitigated through landscaping. Conflict with the NPPF includes those policies specified in footnote 9 of the NPPF and this matter attracts substantial weight against allowing the appeal.

78. I have also concluded that the development is contrary to the development plan and the NPPF in terms of policies which seek to protect ecology and biodiversity. This harm arises due the proposed development's impact on protected species. This impact has also not been shown to be capable of being successfully mitigated by conditions. This matter attracts substantial weight against allowing the appeal.

79. I have also found that conflict with the WMS on intentional unauthorised development carries moderate weight against allowing the appeal.

80. The absence of harm to the setting of Laurel Cottage and the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar Site has a neutral impact on the planning balance.

81. On the other side of the balance, the absence of a 5 year supply of deliverable Gypsy and travellers, as defined in Annex 1 of the PPTS carries significant weight in favour of the appeal.

82. I have found that it would be in the best interests of the children on the site to allow the appeal, and this factor together with the site residents' overall personal circumstances and the lack of alternative accommodation carries substantial weight, all in the context of human rights considerations and the PSED.

83. In relation to Article 8 of the ECHR, safeguarding the environment, the countryside and its appearance are relevant to both the economic well-being of the country and the rights and freedoms of others. Under PSED, eliminating discrimination and advancing equality of opportunity, in terms of providing decent places to live, may often necessitate treating Gypsy and travellers more favourably than the settled community. However, the harms associated with the occupation of the site and the objections raised by the interested parties means that its continued occupation would be unlikely to foster good relations. Human rights and PSED considerations will nevertheless be relevant to my consideration of ground (g) in the enforcement appeals.

84. I conclude that the adverse impacts I have identified of granting planning permission significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, including the PPTS, and having particular regard to key policies for securing well-designed places. The development is not therefore sustainable and there is conflict with Paragraph 11(d)(ii) of the NPPF. The dismissal of the appeal is a proportionate response.

85. The appellant seeks a permanent permission, however, I have also considered whether a temporary one would be reasonable. Planning Practice Guidance indicates the circumstances in which a temporary planning permission may be appropriate include where a trial run is needed to assess the effect of the

development on the area or where it is expected that planning circumstances will change in a particular way at the end of that period. In this case a trial run is not needed. The circumstances in relation to the supply of pitches may change with the adoption of the Local Plan 2040, however, having regard to the current status of the Local Plan Review which is in abeyance, there is no certainty that this would be for a number of years.

86. I conclude that a temporary planning permission should not be granted. The appeal on ground (a) does not succeed.

Appeal A and Appeal B on ground (g)

87. The issue is whether the compliance period of six months is reasonable and proportionate. After further consideration the Council consider that having regard to the personal circumstances of the residents occupying the site, and their need to find alternative accommodation, then a period of 12 months would not be unreasonable. The appellants have requested a period of 18 months.

88. Whilst, for the reasons given above, I have refused to grant a permanent or temporary planning consent, a period of 6 months as set out in the notice is not a reasonable period for the site occupiers to find a new home. I am also mindful that a smaller, well-designed proposal for the Land may have a less harmful impact on the character and appearance of the area, and a longer period of time may give the appellant an opportunity to explore an alternative scheme, carryout the necessary ecological surveys and/or DLL. Thus, the decision that I have come to is that a period of 12 months would be proportionate and a more reasonable time frame within which the appellant could comply with the notice and/or liaise with the local planning authority on an alternative scheme.

Conclusion on Appeal A and Appeal B

89. For the reasons given above, I conclude that the period of compliance with the notice falls short of what is reasonable. I shall vary the notice prior to upholding it. The appeals on ground (g) succeed to that extent**.**

Conclusion on Appeal C

90. I have found that the proposal conflicts with the development plan, read as a whole. No other material considerations, including the NPPF and PPTS, have been shown to indicate that a decision should be taken otherwise than in accordance with it. I conclude that the appeal is dismissed.

Elizabeth Pleasant

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr Michael Rudd, Barrister, Kings Chambers

Mr Ben Kirk Promethean Planning Ltd

Mr Tony Castle Appellant

Mr W Hughes Appellant

Mr Benjamin Keet Resident Occupier

FOR THE LOCAL PLANNING AUTHORITY

Hannah Darley Senior Planning Officer

Robert Hermitage Principal Planning Officer

Reg Hawkes Principal Planning Officer, Compliance Team

Shaun Rix Conservation Officer

INTERESTED PARTIES

Len Ellis-Brown Ward Councillor

Appearances were made by the following professionals on behalf of a group of residents of seven properties on Stall House Lane:

Alfie Yeatman HGH Consuting, Planning Consultant;

David Cooper, Solicitor David Cooper and Co;

Dorian Crone BA. BArch. DipTP. RIBA.MRTPI. IHBC Heritage Design Consultant;

Des Hobson CEnv MCIEEM Ecology Solutions; and

Helen Jolly Markides Associates, Drainage Consultants.

THE PRESS

James Ingham BBC Journalist for the South East

DOCUMENTS SUBMITTED AT THE HEARING:

1) Appeal Decision Ref: APP/Z3825/C/24/3350118/119.

2) Email from Nature Space, Case Ref: DC/23/2098, dated 9 January 2024.
3) Email from Nature Space, Case Ref: DC/24/1573, dated 28 January 2025.
4) Horsham GTAA Review July 2024.
5) Horsham DC Schedule of Suggested Modifications to Reg 19 Local Plan.

DOCUMENTS SUBMITTED AFTER THE HEARING:

1) Suggested water neutrality condition.
2) Consultation response to PINS from Natural England, dated 23 June 2025.

Appendix 1
List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/Z3825/C/25/3361550	Mr W Hughes
Appeal B	APP/Z3825/C/25/3361551	Mr Tony Castle
Appeal C	APP/Z3825/W/25/3360345	Mr W Hughes