The Planning Inspectorate

Appeal Decisions

Inquiry held on 4-7 June and 11 June 2024

Site visit made on 4 June 2024

by Peter Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th July 2024

Appeal A: APP/R3650/C/24/3337697
Land Rear of Burnt Hill, 7 Plaistow Road, Dunsfold, Godalming GU8 4PG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Darren Coyle against an enforcement notice issued by Waverley Borough Council.
- The notice was issued on 30 October 2023.
- The breach of planning control as alleged in the notice is, without planning permission:
  1) The material change of use of the Land to a residential caravan site
  2) The carrying out of works to materially alter land levels within the area cross hatched on the attached plan.
  3) The laying of hardstanding within the area outline in blue on the attached plan.
- The requirements of the notice are:
  1) Permanently cease the use of the Land as a residential caravan site.
  2) Permanently remove from the Land:
     (i) All mobile homes/caravans and touring caravans
     (ii) All domestic paraphernalia
     (iii) All fencing and gates
  3) Remove the hardstanding in the area outlined in blue on the attached plan.
  4) Restore the levels of the Land in the cross hatched area on the attached plan to the levels of the Land before the breach took place.
  5) Permanently remove from the Land all resultant materials arising from compliance with step (3) above to an authorised place of disposal.
  6) For the Part of the Land within the Chiddingfold Forrest SSSI (within the green line on the attached plan): after undertaking steps (1), (2), (3), (4) and (5) above undertake tree whip planting of 1100 whips per hectare, spaced at 2 metres apart and to include a mix of 1/3rd Oak trees and 1/3rd Hazel/Hawthorne of native origin. If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed uprooted or destroyed or dies, (or becomes in the opinion of the Local Planning Authority, seriously damaged or defective), another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.
- The periods for compliance with the requirements are:
  Step (1): 6 months
  Steps (2), (3), (4) and (5): 9 months
  Step (6): 12 months
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B: APP/R3650/W/24/3341670
Burnt Hill, 7 Plaistow Road, Dunsfold, Godalming GU8 4PG

- 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 Darren Coyle against the decision of Waverley Borough Council.
- The application Reference Number is WA/2024/00103.
- The development proposed is Material change of use of land to allow for stationing of 5 additional caravans (extension of existing caravan site); engineering works comprising alteration of levels and hardstanding; soft and hard landscaping (part retrospective)

Decisions

Appeal A

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

    - In Section 3 of the notice (The matters which appear to constitute the breach of planning control) the replacement of the word 'outline' in paragraph 3) with 'outlined';

    - In Section 5 of the notice (What you are required to do):

        - the deletion of the words 'to an authorised place of disposal' from Requirement 5; and

        - the deletion of Requirement 6;

    - The deletion of the periods for compliance set out in Section 6 of the notice (Time for compliance) and their replacement with the following:

      Step (1): 12 months after this Notice takes effect

      Steps (2), (3), (4) and (5): 15 months after this Notice takes effect

    - The substitution of the plan annexed to this decision for the plan attached to the enforcement notice.

2. Subject to those changes, 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.

Appeal B

3. The appeal is dismissed.

Preliminary Matters

4. During the Inquiry, the parties agreed that the plan attached to the notice should be revised to show a reduced site. It is a matter of agreement that this more accurately reflects what has taken place at the site. Neither party consider that injustice would occur if I were to correct the notice by substituting this plan, a view I share. Accordingly, I have considered Appeal A on the basis of the notice with the revised plan. I have also corrected a minor typographical error in the allegation.

5. When I carried out my site visit, the site targeted by the enforcement notice had been split up into a series of pitches, laid out around a turning area. The

turning area had a gravel surface, and the pitches were divided up with fencing and new planting. Only some of the pitches contained caravans. A similar layout is shown on the appellant's site survey from September 2023 (Drawing no T02). However, the appellant proposes a revised layout with only 5 pitches, which forms the basis of Appeal B. This layout could also be applied to the deemed planning application derived from Appeal A and secured with a planning condition, and I have approached Appeal A with that in mind.

Appeal A, Grounds (b) and (c)

6. It is argued that the site is lawfully used as a caravan site in accordance with a planning permission granted in 2007 for *Use of land for the siting of 4 additional showmen's caravans on existing showmen's site and construction of a turning area*[1]. The courts have established that planning permissions should be interpreted in a straightforward way, giving words their ordinary meaning[2]. Other documents connected to the consent may be relevant if there is an ambiguity in the consent itself.

7. There is disagreement about the area covered by the planning permission, (and on any reading of the plans it does not cover the whole of the land targeted by the notice) but the first question is whether the use alleged in the enforcement notice is materially different from the permitted use; if it is materially different, it cannot be lawful as a result of that planning permission, irrespective of the area the permission covers.

8. It is clear that the 2007 permission was specifically for showmen's accommodation; it refers to additional showmen's accommodation, refers to an existing showmen's site and was granted subject to a condition limiting occupation to travelling showmen. Although the description on the decision notice refers to 4 additional caravans, it is common ground that the effect of the permission was that 7 units would be lawful (3 being lawful by virtue of a previous planning permission). A site plan shows 7 caravans, an 'as existing' equipment storage area and a 'new' turning area.

9. From the decision of the Court of Appeal in *Winchester CC v SSCLG [2013] EWHC 101 (Admin) and [2015] EWCA Civ 563* it is clear that a permission for a showpersons' site is a distinct use and cannot be simply read as a permission for a caravan site. Whether or not a different use amounts to a material change is a question of fact and degree for the decision maker.

10. Here, it appears to me that the use alleged in the notice is materially different from the use permitted by the 2007 permission. It is clear from the planning permission granted that this was a use, within a single planning unit, combining not only living accommodation for showpeople, but also a storage area for their equipment and a turning area for their lorries. These are significant elements of the use permitted by that planning permission.

11. I do not know precisely what has been stored on the site in accordance with that permission, but showpersons' equipment could typically include very large and distinctive fairground rides. These would be towed behind lorries, which would also need significant space for storage and turning, as illustrated in the layout plan for the 2007 permission. The storage of such items will generally make it very obvious that such a site is not in a purely residential use, but also

[1] Ref: WA/2007/1449
[2] Trump International Golf Club Scotland Ltd v the Scottish Ministers [2015] UKSC 74

used in connection with a very particular type of business. Manoeuvring large commercial vehicles around the site would also affect the character of the use.

12. Overall, it appears to me that the lawful use of part of the appeal site as showmen's accommodation is likely to be very different in character to a residential caravan site use (as alleged in the notice and proposed in Appeal B), where storage would tend to be on a domestic scale and lorries would not be expected. That, indeed, was the situation when I saw the appeal site. Although either use would involve people living in caravans, the uses must be considered as a whole. The possibility of occupation of the site being limited to Gypsies and Travellers does not change my view. Accordingly, a material change of use has occurred, as alleged in the notice.

13. Moreover, the 2007 planning permission only relates to part of the site of the enforcement notice. Indeed, it appears to me that the only part of the 2007 permission that overlaps with the enforcement notice site is that part of the 2007 site identified as a turning area. There is dispute on that point, the appellant arguing that the 2007 site is larger than the site referred to by the Council. The dispute arises because there are 2 parcels of land identified in the location plan (which is referenced in the decision notice), a larger strip of land to the west and a smaller area to the east. The appellant's case is that the site of the planning permission includes both areas.

14. However, the site layout plan does not include the additional piece of land to the east. Nor does any other plan show how that land would be used. The appellant argues that it is the area to be used for storing showmen's items, as referred to in the decision notice. However, there is no such labelling of the land on any approved plan. Condition 3 of the planning permission says that 'The rear part of the site shall be used only for the storage of showmen's equipment and vehicles as showing on the approved plans', but I cannot see that that is a reference to the additional land to the east. Rather, it appears to refer to the storage and turning areas towards the eastern end of the main strip of land, which are labelled as such on the layout plan and lie to the rear of the caravans shown on the plan (on the basis that the 'front' of the site is where the access is). I note the suggestion that the additional area to the east would have made a more convenient storage area, but that does not alter the fact that it is not identified as such on the approved plan.

15. Furthermore, if the additional land to the east were part of the site for which planning permission was sought, I can see no reason why it would have been delineated as a separate parcel of land on the location plan. The most obvious answer is that it was not part of the application site (which would have been delineated with a red line) but was, in fact, other land in the applicant's control (which would have been edged in blue). The plans available now are black and white copies but, having considered everything raised in connection with this matter, that seems to me to be much the most likely explanation. Thus, on the balance of probability, the 2007 planning application and permission related only to the land shown on the approved site layout plan.

16. I conclude, on the balance of probability, that the material change of use alleged in the notice has occurred. Nothing in the 2007 planning permission permits the use, and there is nothing else before me to indicate that the material change of use that has occurred is not a breach of planning control.

17. The operational development is substantial, and there is no claim that it does not amount to development. It is said that some hardstanding was already in place by 2005, as shown on an aerial image from that time. However, while the aerial image shows a cleared area and what may be a hardstanding of sorts, it is not clear from the image precisely what had been carried out. But from the colour of the site in the aerial image, its shape and the extent of vegetation, it is clear that the operational development now enforced against is something different again. While the 2007 permission included a turning area, that related to only a small part of the appeal site and did not authorise the hardstanding that has now been created.

18. Other points were raised regarding the precision of the allegation concerning altering land levels and a concern about the word 'residential' in the change of use allegation, but the appellant was content on those points by the close of the Inquiry.

19. For these reasons, the appeals on grounds (b) and (c) fail.

Appeal A, ground (a) and Appeal B

The applications and how they relate to each other

20. Appeals A and B relate to different but overlapping sites. It is important to note that:

- Since a revised enforcement plan has been agreed, Appeal A now relates to this reduced site area.
- Appeal B relates to part of this land, but also includes land to the west, which currently has additional mobile homes on it. It is a matter of agreement that the land to the west may lawfully be used for the siting of 7 showmen's mobile homes, in accordance with the planning permission granted in 2007. When I viewed the site, it contained 12 mobile homes rather than the 7 specified in the permission.
- Notwithstanding the description of Appeal B in the planning application form, read in conjunction with the accompanying Planning, Design and Access Statement, it is clear that the proposal is actually for 5 additional mobile home pitches at the eastern end of the site, and that the area covered by the 2007 permission would be unaffected. The statement indicates that the development would result in '12 pitches cumulatively'.
- Appeal A only seeks planning permission in respect of part of the land targeted by the notice, which is the land which forms the eastern end of the Appeal B site, and seeks permission for 5 pitches on that land. Under ground (a) I am able to consider granting planning permission in respect of the whole or any part of the matters alleged in the notice. It is, in principle, open to me to grant permission on ground (a) on the basis of the appellant's site plan, which could be the subject of a planning condition.

21. The area defined in the appellant's plan does not include all of the area where earthworks have taken place and so leaves open the question of what is to happen in respect of those unauthorised works. But to implement the appellant's scheme actually appears to rule out any realistic prospect of restoring land levels on the land adjoining it. To do so would result in a steep drop to the side along the boundaries of the proposed scheme. This would

plainly be impractical, and, in any event, I have no details of any retaining structures to achieve it. In fact, it was clear from the evidence at the Inquiry that the appellant's intention would be to leave land levels in their existing state. Thus, the scheme, in fact, assumes that the requirements of the notice in respect of land levels would be set aside in their entirety, not just within the smaller area shown on the appellant's layout plan. While that could not be achieved by Appeal B alone, it could be achieved in conjunction with Appeal A, which includes all the land subject to the earthworks.

22. Given the above, it is clear that appeals A and B propose essentially the same development. It is also clear that Appeal B is dependent on at least partial success on Appeal A in order to make it work. Accordingly, I consider both schemes together below.

Main issues

23. There was some narrowing of the issues and clarification of certain matters during the Inquiry. By the close of the Inquiry, the Council had decided not to pursue points relating to the effect on the settled community, on sustainable transport objectives, and on facilities, vehicle movements and parking within the site. The main issues now are:

    1) Whether the development is in accordance with local and national policies concerning the location of Gypsy and Traveller accommodation;

    2) The effect of the development on ancient woodland and the Chiddingfold Forest Site of Special Scientific Interest (SSSI);

    3) The effect of the development on the character and appearance of the area and the local landscape;

    4) The effect of the development on protected species and their habitat; and

    5) Whether any harm arising from the development is outweighed by other considerations, including any personal or general need for the accommodation provided by the development and any other benefits arising from the development as proposed.

Issue 1 – Policy and location

24. These appeals arise from the historic use of this and adjoining land. It appears that much of the land was once part of a larger site which acquired planning permission for use as a site for showpeople. However, the site was split up and the sites to the north and south are now in different ownerships. These adjoining sites contain caravans and provide much of the visual context for the appeal sites. Access to the appeal sites is from Plaistow Road to the west, while to the east the land is contained by mature woodland, which also wraps around the northern boundary of the enforcement site. Beyond this immediate setting, the appeal sites lie within a rural area.

25. The development plan for the area is comprised of the Waverley Borough Local Plan Parts 1 and 2 (LPP1 and LPP2), which were adopted in 2018 and 2023 respectively. LPP1 sets out strategic policies and sites, while LPP2 contains site allocations and development management policies.

26. Policy AHN4 of LPP1 sets out the broad approach to providing Gypsy, Traveller and Travelling Showpeople accommodation within the borough. It says that

provision will be made in accordance with the Waverley Traveller Accommodation Assessment. The first preferences are to provide additional pitches within available existing authorised sites or suitable extensions to available existing sites.

27. The appeal sites fall largely, but not entirely, within a site allocated under Policy DS15 for 3 Gypsy and Traveller pitches. The allocated site includes the strip of land now occupied by 12 caravans, most of the land subject to the enforcement notice and some additional land as well. The specific wording of the allocation is:

    Land is allocated at Burnt Hill, as shown on the Policies Map, for a total of 3 Gypsy and Traveller pitches, subject to:

    a) Locating development in a way that protects the Chiddingfold Forest SSSI.

28. There is disagreement between the parties regarding the intention of the allocation; was it to allow an additional 3 Gypsy and Traveller pitches, over and above any existing lawful caravans at the site, or 3 pitches in total across the entire site? It seems clear to me that the intention was to provide 3 pitches in total, for the following reasons. First, the wording is explicit that it is for a total of 3 Gypsy and Traveller pitches (my emphasis). Second, the site is described in the allocation as 'a former Travelling Showpeople site that has now become vacant'. It is therefore self-evident that no account was taken of any existing caravans when the allocation was made. Third, the size of the site is given as 0.58ha and the approximate density as 5 pitches per ha, which is consistent with 3 pitches on the entire allocation.

29. The appellant argues that the site was allocated on the basis that it was providing additional pitches within, or extending, an existing, authorised site, in accordance with the preferred approach set out in AHN4. The local plan examiner reported that, *'The selection of individual sites for allocation to provide Traveller accommodation has followed the process set out in Policy AHN4 of LPP1. The allocations all relate to the intensification of existing sites, which LPP1 considers to be preferable to the identification of entirely new sites'.* It is also said that the only reason to have included land to the east of the established showpersons' site would have been to provide additional pitches there.

30. However, while it is permissible to consider supporting text and other illustrative material, policies must be interpreted on the basis of what they actually say[3] and, in this instance, the wording of the policy is clear that the allocation is for 3 pitches in total. The precise points in the past when the site was occupied and vacant does not alter my view, since it is clear that the allocation was made on the basis that the site was vacant and 3 pitches in total were proposed.

31. The policy does not give any indication of where within the allocation the pitches should be positioned and there is no indication that certain parts of the site are to be avoided. However, it does not follow from that that any layout would be acceptable. That is clear from the wording of the policy, which establishes that development must be located in a way that protects the

[3] See R (Cherkley Campaign Ltd) v Mole Valley DC [2014] EWCA Civ 567

Chiddingfold Forest SSSI. It appears to me that allocating a relatively small number of pitches on the site would have provided the flexibility regarding siting to help achieve that objective.

32. At the Inquiry, the Council did not contest the appellant's claim that all those currently on the site meet the definition of Gypsies. Nevertheless, it is clear on any interpretation of DS15, and setting aside for the moment the question of any harm to the Chiddingfold Forest SSSI, that a development of 5 pitches does not accord with the policy. The development is not, therefore, in a location supported by the development plan for this scale of development. While the appellant argues that there is no material difference between 5 pitches and the 3 allocated, that does not alter the fact that the development does not accord with the allocation. In any event, it is clear that the proposal here is for 5 caravans in addition to any permitted by the 2007 permission, rather than 5 in total.

33. As to other locational considerations, by the close of the Inquiry, the Council did not oppose the development on the basis of any lack of local facilities or the need to minimise motorised transport. The Government publication Planning Policy for Traveller Sites (PPTS) gives advice on the determination of planning applications for Traveller sites. It lists issues to be taken into account, including the existing level of local provision and need for sites, the availability (or lack) of alternative accommodation for the applicants and other personal circumstances of the applicant. These are matters that I consider elsewhere.

34. I conclude that the development is not in accordance with the DS15 allocation and, to that extent, does not follow the Local Plan strategy for the location of Gypsy and Traveller accommodation. The extent of the harm arising from this and conflict with the policy depends on consideration on the effect on the Chiddingfold SSSI, a matter I turn to next.

Issue 2 - Ancient woodland and the SSSI

35. The site falls within Chiddingfold Forest - an area identified by Natural England as ancient woodland.

36. Much of Chiddingfold Forest is designated as a Site of Special Scientific Interest (SSSI). Part of the site along the northern and eastern boundaries lies within the SSSI. A significant part of the site lies outside the SSSI but within its 15m buffer zone. Part of the site lies beyond the buffer zone.

37. The Natural England Citation for Chiddingfold Forest Site of Special Scientific Interest[4] sets out the reasons for notification of the SSSI. It says:

> *Chiddingfold Forest consists of a number of areas of woodland which together form the largest more or less continuous area of oakwoods on the Weald Clay. It consists of a mixture of woodland types ranging from ancient oak woodland to coniferous plantation and includes many semi-natural types of woodland supporting a wide range of floristic communities. Many of the streams on the site cut deep into the clay and support a relict gill flora and fauna. The variety of woodland types, the gills, and the well-maintained rides provide habitats for a rich variety of insects and the site supports many nationally rare invertebrates and a number of regionally scarce bryophytes*

[4] Hutchinson Appendix 5

and lichens. The site is also noted for its diverse community of breeding birds.

38. Later it adds:

The importance of the site principally rests on the variety of woodland types present which provide a complex mosaic of habitats. The oldest semi-natural broadleaf areas are dominated by sessile oak Quercus petraea and hornbeam Carpinus betulus, with hazel Corylus avellana forming the bulk of the shrub layer with occasional holly Ilex aquifolium, and hawthorn Crataegus monogyna. Silver birch Betula pendula is found in dryer areas. The herb layer is composed of such species as bluebell Hyacinthoides non-scriptus, enchanter's nightshade Circaea lutetiana and honeysuckle Lonicera periclymenum.

39. The part of the SSSI affected by this development is identified as Unit 12: Tidy's Copse. This is about 87ha in area. Natural England describes it as 'a large block of woodland with high levels of connectivity to other areas of woodland. It is known to support roosting Bechstein's bat'.[5]

40. The Ancient Woodland, SSSI and Unit 12 are large areas of land, and the appeal development affects only a very small part of them. Nevertheless, there can be no doubt that the development has caused real harm.

41. The caravans and turning area are raised significantly above the surrounding woodland to the north and east. This plateau has been created by bringing a large quantity of material to the site. This material seems to have been tipped onto the land without any regard to its effect on the woodland. I saw during my site visit that trees had been broken, damaged and partially buried by the new material. The result was that there was a band of dead or dying trees alongside the development. A steep, obviously artificial bank has been formed along the edge of the site.

42. I do not know what precisely the material tipped on the land was made up of or where it came from, and it is now largely obscured from view by vegetation. However, photographs from a Council site visit in 2020 show what appears to be a mix of soil and building rubble. The lack of information about the material is particularly concerning; I heard undisputed evidence from Mr Dudley and Mr Hutchinson about the crucial importance of the soil to the SSSI and ancient woodland. This is reflected in standing advice issued by Natural England and The Forestry Commission[6], which emphasises the importance of the soils in ancient woodland and the seedbank they contain, which contributes to genetic diversity.

43. The development carried out here clearly has the potential to seriously harm the very specific makeup of the soil by introducing material which is different in nature and may well contain contaminants (while I have no substantive evidence that the material contains contaminants, it certainly cannot be assumed that it does not). Moreover, introducing material on this scale will have compacted the soil of the woodland floor below the new material and the seeds it contains. This clearly has important implications for both the health of existing trees and the regeneration of the land with new growth from the established seedbank.

[5] Hutchinson Appendix 6
[6] Hutchinson Appendix 4

44. Both parties provided expert evidence regarding the effect of the development on the ancient woodland and the SSSI, and the appellant accepts that the development has caused harm, including causing the demise of trees around the edge of the site. The harm arising from the development causes harm to the SSSI and ancient woodland as a whole, commensurate with the size of the site. This brings the development into conflict with Local Plan policies NE1 and NE2, which seek to conserve and enhance biodiversity within the Borough, with particular regard to SSSIs, and secure a connected local and regional ecological network of wildlife corridors and green infrastructure. Since the development has not been located in a way that protects the Chiddingfold Forest SSSI, there is further conflict with DS15.

45. The National Planning Policy Framework (The Framework) advises at paragraph 186 that:

> *b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
>
> *c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.*

46. It is quite clear that the development here has caused the loss or deterioration of ancient woodland, an irreplaceable habitat. Consequently, in accordance with the above policy guidance, planning permission should not be granted unless the benefits of the development clearly outweigh its impact on the SSSI, there are wholly exceptional reasons to justify the impact on the ancient woodland and a suitable compensation strategy exists.

Issue 3 - Character, appearance and landscape

47. The appeal site relates closely to pre-existing residential and showpersons' sites but lies within a wider countryside setting. The site falls within an Area of Great Landscape Value (AGLV), as defined by the Local Plan. Policy RE3 states that new development must respect and where appropriate, enhance the distinctive character of the landscape in which it is located. It adds that the same principles for protecting the AONB (Area of Outstanding Natural Beauty, now redesignated as National Landscape) will apply in the AGLV, which will be retained for its own sake and as a buffer to the AONB.

48. Given the longstanding inclusion of this land within the AGLV designation, it is clearly part of a valued landscape. The carrying out of unauthorised works at the appeal site does not alter that. In any event, while the qualities of individual parts of the AGLV may vary, it seems to me that the designation is a reflection of the overall character of the AGLV, and it is the landscape as a whole that is valued. Consequently, Paragraph 180(a) of the Framework, which seeks to protect valued landscapes, applies to this site.

49. Natural England's National Character Assessment places the appeal site within the Low Weald National Character Area, broadly described as a wet and woody, broad, low lying clay vale. The Surrey Landscape Character Assessment (2015) places the site within countryside associated with the Wooded Low Weald Landscape Type. The assessment divides each Landscape Type into a number of Character Areas, placing the appeal site and its surroundings within the Tugley to Sidney Wood Wooded Low Weald (WW3) Character Area. For the Council, Mr Dudley regarded the site and its setting as strongly representative of these landscape types.

50. The neighbouring sites containing caravans clearly affect the setting of this development. Views of the site are also limited, the site of the enforcement notice being barely visible from the road. However, the site is seen from a public footpath that runs through the woodland to the east of the site. Moreover, the woodland here is open access land. Thus, members of the public are able to see the new earth banking at close quarters. Although the visual effect of the development must be seen in the context of the existing planning permission and the previous clearance of trees, the new development has brought the new caravans, earthworks and tree clearance further eastwards into a visually sensitive area, next to the public footpath.

51. I walked along the footpath and some of the open access land. The relevant section of footpath is fairly level and, to one side, looking away from the appeal site, the woodland floor is similarly flat. To the other side, the edge of the appeal site is now formed by a steep, obviously artificial bank. This has now scrubbed over but, even so, it stands out as an artificial and alien feature within this particular setting. The dead/dying trees and a plastic drainage outlet which protrudes from the banking emphasise this. The change in levels and vegetation prevent views of the caravans. Nevertheless, the scale of the bank and its proximity to the public footpath results in an enclosing effect which has a marked effect on the experience of those using the path.

52. For the Council, Mr Dudley has carried out a Landscape and Visual Impact Assessment (LVIA). In it he finds the development to be significantly harmful in landscape terms, summarising the landscape effects as follows:

    - Site and its immediate setting: Major adverse.
    - Chiddingfold Forest: Major/Moderate adverse.
    - Tugley to Sidney Wood Wooded Low Weald Character Area: Major/Moderate adverse

53. The visual effects are summarised as major adverse both for users of the public footpath and for users of the open access land.

54. This assessment, which is in broad accordance with my own view, was not challenged by the appellant, whose own landscape witness agreed that significant landscape harm had been caused. Rather, it was said that the harm arising from the development could be better addressed by granting planning permission subject to conditions – a matter I turn to later.

55. For these reasons I conclude that the development carried out at the site has harmed the character and appearance of the area and the local landscape. This gives rise to conflict with Local Plan Policy RE3. By harming a valued landscape, it also leads to conflict with Paragraph 180 of the Framework.

Issue 4 - Protected species

56. The planning application was supported by an Ecological Appraisal & Biodiversity Net Gain Report, prepared by John Wenman MCIEEM. The methodology included a site visit and desktop study work before and after the visit. The appraisal concludes that 'The site is unsuitable for protected and notable species and therefore impacts from the proposals are unlikely'. The Council's concerns focus on 2 protected species – bats and great crested newts.

57. It is clear that bats, including Bechstein's bat – one of the rarest of the UK's bat species, are present within the SSSI. Natural England's assessment of Tidy's Copse[7] states that *'In recent years it has been determined that these woodlands are also of special importance in providing supporting habitat for one of Britain's rarest mammals, the Bechstein's bat'*. It also states that Tidy's Copse is known to support roosting Bechstein's bat. For the Council, Mr Hutchinson advised that there is a record of a Bechstein's bat within 140m of the appeal site[8]. In his view, it was likely that they were flying closer still to the site.

58. Circular 06/2005 *Biodiversity and Geological and Conservation* advises that *'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*'. It adds that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.

59. Mr Hutchinson considered that the bats are likely to have been affected by the development. I share that concern. I heard from both sides that bats are susceptible to light pollution. By bringing caravans closer to where bats have been recorded, there is significant potential for the bats to be affected by artificial light arising from the use. While outside lighting might be controlled, I do not see that light spillage from the caravans is something that could be adequately addressed with a planning condition. The fact there is likely to be light spillage from existing, lawful caravans does not justify a worsening of the situation.

60. Moreover, it is common ground that the appeal site is within a Core Sustenance Zone (CSZ) for Bechstein's Bat and Barbastelle. While the area is only a small proportion of the CSZs, the destruction of woodland and increase of human activity within the area adds to my concerns regarding the effect on bats. Mr Wenman's Ecological Appraisal & Biodiversity Net Gain Report did not refer to the CSZs and, to that extent, did not fully assess the impact of the development on bats in my view. Although the matter was addressed in subsequent evidence to the Inquiry, it reduces the weight I attach to Mr Wenman's assessment.

61. Thus, given the evident proximity of bats to the appeal site, I consider that there is a reasonable likelihood that they have been affected by the development.

[7] Hutchinson Appendix 6
[8] Based on survey work carried out by Surrey Bat Group – see Hutchinson 5.3.9

62. The position regarding great crested newts is less clear, since there are no records of their presence close to the site. However, the lack of a record does not establish that newts are not present. For the Council, Mr Hutchinson advises that it is likely that Chiddingfold Forest supports amphibians, while Mr Wenman advises that there is a single record of a great crested newt about 2km from the site. Moreover, there is a pond only 58m to the south of the site, and a second pond about 220m to the south. The nearer pond has only recently been created (within the last 4 years). Nevertheless, Mr Hutchinson considered that there is potential for it to be colonised by great crested newts.

63. I asked the relevant witnesses for both sides of the likelihood of great crested newts being present near the site. For the appellant, Mr Wenman considered that there was a 'low likelihood'. For the Council, Mr Hutchinson said there was a 'good chance' that great crested newts are present. Both have relevant qualifications and experience. Mr Hutchinson advises that he holds protected species survey class licences for great crested newt, and is on the committee of the Surrey Amphibian and Reptile Group, which indicates a certain degree of expertise in that field.

64. Advice on when survey information should be sought is provided by the Natural England guidance *Great crested newts: advice for making planning decisions.* This indicates that a survey should be requested where there is a suitable water body such as a pond or ditch within up to 500 metres of the development, even if it only holds water for some of the year. This suggest that a survey would be appropriate in this case. Although the nearer pond is evidently recent, the evidence of Mr Hutchinson, which I accept, was that great crested newts can colonise ponds quickly, and certainly within the approximately 4 years that this pond has existed. Plans provided by the Council[9] show that there are routes that would allow amphibians to colonise the ponds to the south.

65. I am not aware of any ponds close by to the north of the site. Moreover, the bare ground habitat of the appeal site is not an ideal environment for newts. However, Mr Wenman acknowledges that 'the woodland loss from the baseline position within the application site are of higher terrestrial value for amphibians'. While he goes on to state that there would be no net loss of suitable amphibian habitat in the long term, it seems to me that the substantial changes that have taken place at the site have the potential to have changed an area of land that may be crossed by great crested newts. There is insufficient information before me to fully understand how this may have affected any great crested newts present.

66. I conclude that there is a reasonable likelihood that bats and great crested newts, both protected species, are present nearby and likely to have been affected by the development. There is insufficient information before me to determine the precise effect, contrary to the advice within Circular 06/2005 and there is, therefore, a possibility that harm has been caused to these protected species. This places the development contrary to the aims for biodiversity and geological conservation within Policy NE1 of the Local Plan. Paragraph 186(a) of the Framework states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating

[9] See Hutchinson Rebuttal Proof

on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Issue 5 - Need

67. Both parties have approached the question of need for the development on the basis that the site would be occupied by Gypsies/Travellers, a matter that could be secured with a planning condition. The Council does not challenge the appellant's claim that all those currently occupying the site could comply with such a condition. By the close of the Inquiry there was substantial common ground on the question of the need for the development. In particular, it is agreed that there is a need for 63 Gypsy/Traveller pitches within the borough for the plan period (to 2032).

68. It is also agreed that there is sufficient supply to meet that requirement during the plan period. The appellant puts the figure at 66 (ie 3 above the requirement) while the Council contends it is 76. The difference of 10 is accounted for by the appellant's approach of not including two personal planning permissions in the supply.

69. Paragraph 10 of the PPTS makes clear that sites making up the supply of Gypsy and Traveller accommodation must be deliverable and must be available now. No specific policy or guidance was drawn to my attention to clearly establish how personal planning permissions fit into this, and it seems to me that it is something that depends on the circumstances of any given case. Clearly, a personal permission makes a different contribution to the supply of sites compared to an unrestricted permission, in that it is not available to anyone. That said, in practice all sites have their limitations, whether it be their size, location or some other factor. The fact that they may not be available or suitable to anyone who meets the Gypsy/Traveller definition (including those on the appeal site) does not mean they are not part of the supply of such sites. Provided they can meet somebody's needs such that they can be occupied, they may be capable of making up part of the supply.

70. Here, it appears that the two sites subject to personal planning permissions are occupied, and so fulfilling the purpose of providing pitches for Gypsy/Traveller families. In so doing, they form part of the supply of pitches. When those families leave the sites, the sites will cease to form part of the supply, unless the conditions are changed or removed so that the sites can be occupied by other families. But on the basis of the evidence before me, they form part of the current supply of pitches.

71. In reaching that view, I have had regard to two appeal decisions raised by the appellant. In the Downshire Lodge case[10], the occupiers of the restricted site were moving out of the borough. Consequently, it was clear that the site could no longer be lawfully occupied. In the Oaklands case[11] the appellant no longer wished to follow a travelling lifestyle and wished to replace their mobile home with a two storey dwelling. It is clear in both cases, therefore, that the sites could no longer form part of the supply of pitches. That is very different to the situation here, where there is nothing before me to suggest that the two sites subject to personal permissions cannot form part of the current supply of pitches.

[10] APP/X0360/A/13/2209203
[11] APP/R0335/W/20/3259197

72. But even if I were to follow the appellant's approach on the matter, there can be no case based on a mathematical need for additional pitches within the borough. And whichever figures are used, providing new pitches and increasing choice is a benefit of the development.

73. As to personal circumstances and need, there are 5 households currently at the site. The occupants include a 15-year-old child who is currently home-tutored. I have no evidence to show where the site occupants might be relocated if the enforcement notice is upheld and I cannot rule out the possibility of a period of roadside existence. I am told that occupiers of the site suffer from various health conditions. I have only limited information regarding this, but it is not disputed. The loss of a home, and the possibility of a roadside existence, could be even more harmful in these circumstances.

74. There is no planning consideration inherently of more importance than the best interests of a child. However, the weight to be given to it will ultimately depend on the circumstances of the individual case. Here, it appears to me that the best interests of the child at this site will lie in continuing to live at the site in accordance with the apparent wishes of those caring for her. Moreover, I am mindful that, at the age of 15, loss of her current home could cause significant disruption to her education.

75. Overall, allowing the existing residents, including one child, to remain in their current homes is a clear, very significant benefit of the scheme. However, I also consider that the actual likelihood of a roadside existence occurring depends, to some degree, on the time period allowed for compliance with the notice, since a longer period of time would allow residents further time to make arrangements for their future. I consider this further in relation to ground (g).

Issue 5 - Landscaping/planting proposals arising from the development

76. The appellant's proposals include a scheme for landscaping/planting at the site. This is illustrated in a Landscape Strategy plan (Drawing No 881/02) prepared by Draffin Associates. The plan shows the areas to the south and east of the turning area (currently laid out as pitches) as a 'Woodland Restoration Zone', with an area of meadow grass and an enhanced outer landscape margin of native trees and hedging. The pitches are shown with post and rail timber fencing and clipped hedging. It is argued that a planting scheme along these lines, together with appropriate planning conditions, would be more effective in terms of undoing the damage that has been done than the blunt effect of the enforcement notice, particularly since a larger area is available for new planting than has been 'lost' due to the development. I have noted the comments of the Forestry Commission on the planning application, which referred to there being an opportunity to replant some of the area as woodland.

77. However, I have significant concerns about the effectiveness of the proposals. First, as Mr Draffin confirmed, there are no plans to remove the majority of the new material that has been brought to the site. That means that the existing, evidently artificial, landform would remain. Moreover, the harm to the woodland floor and soil would continue. Additionally, since the material is an unknown quantity, I have no way of knowing how suitable it is for supporting the proposed landscaping in the long term.

78. Second, I am not convinced that the proposed meadow grass area is practical. I heard evidence from Mr Hutchinson that establishing a meadow of genuine

ecological value is no easy task and is dependent on soil and careful management. Here, however, the meadow grass would be on an underlying material of unknown provenance and the meadow would be located next to a turning area opposite the proposed residential pitches. In this situation, it appears impractical to avoid the area being used by the residents as a recreation area. While new soil might be brought in to help establish the planting, I have little detail of this and I cannot assume that the new planting would be unaffected by the underlying material.

79. Third, the tree and hedge planting along the northern boundary of the site appears impractical. The plan shows the planting taking place in a very narrow area between the caravans and the edge of the bank. I am not convinced that trees of an appropriate woodland variety would have space to thrive here, since the caravans would plainly be within the root protection areas of the trees. Even if the trees were to establish, their proximity to the caravans would create practical difficulties for the occupiers of the units, in my judgement. The new hedging could also be held back due to light deprivation arising from the closeness of the caravans. Furthermore, Mr Draffin confirmed during the Inquiry that the caravans are shown smaller on this plan (compared to the proposed site layout plan). This adds to my concern that the proposal is not realistic.

80. At the Inquiry, Mr Draffin emphasised that the purpose of the document was to set out broad principles, and the details of it could be changed and secured with planning conditions. While that may be so, the fact is that there is nothing before me to show that an appropriate and beneficial planting scheme can be introduced alongside the development proposed.

81. The enforcement notice does not specifically require material to be removed from the site; rather, the requirement is to restore the levels of the Land in the cross hatched area to the levels of the Land before the breach took place. Thus, it is argued, the enforcement notice would not secure the removal of the harmful material. This is relevant when comparing the relevant merits of the appellant's proposals to the enforcement notice requirements.

82. However, material has been brought to the site, as the appellant acknowledges, and it is quite obvious that material must be removed from parts of the site if levels are to be restored to their previous condition. It is difficult to understand why any material other than the new, imported material, which has apparently been laid on top of the pre-existing ground, would be removed. Although it was suggested that the material could be moved elsewhere within the site rather than being removed entirely, there is nothing before me to show that it would be practical to do so, or that it could be done without causing another breach of planning control. Overall, therefore, it appears to me that the notice would be likely to lead to the removal of the new material that has been brought to the site. While the appellant argues that the new contours that would be achieved would not be desirable either, I nevertheless consider that it would be an improvement compared to the current situation, based on the information before me. There is no scheme before me to show any preferable alternative proposal for recontouring the site.

83. For these reasons, I am not persuaded that the appellant's planting proposals represent a better option for the site than the enforcement notice requirements and they do not weigh in favour of the development.

Issue 5 - Planning obligation

84. The appellant has submitted a unilateral undertaking under s106 of the Act. The purpose of this is to provide compensatory off-site tree planting to offset the impact of the development at the appeal site. The planting would take place at land at Rycote Wood, Cranleigh. The undertaking refers to both of the appeals before me. It would take effect 'on the date the Planning Inspector allows the Appeals and grants planning permission for the Development'.

85. The undertaking is signed, dated and adequately drafted. However, I have significant concerns about its effectiveness. It contains, in effect, a single obligation, 'to plant 1/3 of Oak trees, 1/3 of Hawthorne trees and 1/3 Hazel trees on 0.5 acres of land in the next planting season following the grant of planning permission'. It goes on to specify the land on which the planting is to take place, but makes no mention of the number of trees to be planted or at what density. Without such basic information, the obligation is essentially meaningless, since it does not commit the owners to any particular quantity of planting (beyond the 3 trees necessary to achieve the mix stated). Nor is there any indication of the size of trees to be planted or details of their aftercare.

86. Moreover, I have no adequate assessment of the land at Rycote Wood in its current condition, the information provided by the appellant being limited to a desktop survey. Without such information, it is not possible to know whether tree planting on the site would be beneficial. Indeed, without a proper understanding of the effect on any existing biodiversity, it could prove to be harmful in net terms.

87. For these reasons, I do not regard the proposals as a benefit of the scheme and attach no weight to the planning obligation.

Other Matters

88. It is clear that intentional unauthorised development has taken place. In 2015, the Government introduced a policy to make intentional unauthorised development a material consideration in the determination of planning applications and appeals. The Written Ministerial Statement introducing the policy explained that the Government was concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. While the appellant argues that the weight to be attached to this consideration should be limited compared to, say, the case of an untouched and isolated piece of land, the development causes real and, in some respects, irreversible harm. Consequently, I regard this as the kind of development that the policy was designed to discourage, and this reinforces my view that the development has caused particular harm.

89. I have considered carefully the very recent appeal decision[12] concerning the land immediately to the south, which concerned an enforcement notice also alleging alterations to land levels and the creation of a hard surface. In that case, the notice was quashed and planning permission granted, subject to

[12] Ref: APP/R3650/C/22/3305965

conditions, much along the lines the appellant is suggesting in this case. It is, of course, important that there is consistency in appeal decisions.

90. However, there are important differences between the two cases. In particular, the allegation in that case only concerned operational development and was not concerned with new caravan pitches, a matter that is clearly important to my assessment of the issues in this case. Moreover, I do not know precisely what matters were raised at that appeal, but the Inspector did not address the question of the effect on protected species, an important issue in this case. Nor was there any consideration of Paragraph 186 of the Framework, a further important consideration in the appeals before me. These factors distinguish the two cases and mean that the balance of planning considerations may be different.

91. A set of broadly agreed conditions was provided during the Inquiry. These would, amongst other things, limit the occupation of the units to Gypsies and Travellers, limit the number of units, control various detailed matters of the development and require a biodiversity mitigation plan. I have considered these carefully and, while they would limit some impacts of the development, they would not overcome my concerns overall.

92. Other matters raised by the Council include fire risk, drainage and waste/littering, but there is little to support such concerns and they play no part in my decision.

Planning Balance and Conclusion

93. Drawing these threads together, the development does not accord with the DS15 allocation in the local plan and there is clear harm arising from the effect of the development on the ancient woodland/SSSI, the character of the local landscape and protected species, resulting in conflict with other policies of the local plan, as set out above. This leads me to conclude that there is conflict with the development plan as a whole.

94. I am not persuaded that any significant benefits arise from either the landscaping proposals relating to the appeal site or the proposed planting at Rycote Wood.

95. The development results in the creation of new Gypsy and Traveller accommodation for 5 households. Notwithstanding the adequate availability of such sites, this is a clear benefit of the scheme.

96. The site is currently occupied. The occupiers include one child and people with a range of health conditions. The benefit to these occupiers of the development remaining, and the implications for them if the notice is upheld, are very important material considerations.

97. Para 186(c) of the Framework establishes that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. Having considered all matters raised in support of the development as a whole, there are not wholly exceptional reasons in this case. Nor is there any adequate compensation strategy. It is thus clear that planning permission should be refused. The benefits of the scheme do not clearly outweigh the harm to the SSSI as required by Paragraph 186(b)

98. I have no doubt of the important implications of upholding the notice for the occupiers of the site, which include a child. Loss of their home would represent a serious interference with their right to respect for their private and family lives and homes in accordance with Article 8 of the European Convention on Human Rights, as set out in Schedule 1 of the Human Rights Act 1998.

99. I have also had due regard to the Public Sector Equality Duty (PSED), as set out in s149 of the Equality Act 2010. This establishes the aims of eliminating discrimination, victimisation or harassment against persons with protected characteristics, advancing equality of opportunity for those persons and fostering good relations between them and others. Protected characteristics include age, disability and race/ethnic origin.

100. However, the right under Article 8 is a qualified right. The interference in this case is in accordance with the law, given the provisions of the Town and Country Planning Act 1990. While the notice would result in people losing their current homes, that must be weighed against the public interest of ensuring the proper planning of the locality. I cannot see that the legitimate planning aim of addressing the very significant planning harm arising from this case could be achieved by any other means which would cause less interference with their rights under Article 8. In my judgement, dismissal of the appeals is a necessary and proportionate response, and would not result in any violation of the rights of the individuals concerned. Nor, in the circumstances of this case, would the principles of the PSED be compromised, given the above.

101. Viewing the case as a whole, the material considerations raised in support of the development do not outweigh the harm arising from it and the consequent conflict with the development plan. Accordingly, and irrespective of the question of cumulative impact and precedent, planning permission should not be granted.

Appeal A, Ground (f)

102. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first (s173(4)(a)) is to remedy the breach of planning control which has occurred. The second (s173(4)(b)) is to remedy any injury to amenity which has been caused by the breach. In this case, the notice requires the use to cease, land levels to be restored and various items to be removed. The intention appears to be remedying the breach of planning control in accordance with s174(4)(a). Indeed, the Council says this is the purpose of the notice[13].

103. There was narrowing of the ground (f) dispute at the Inquiry. The Council accepted that the reference to 'an authorised place of disposal' should be removed from Requirement 5, a change I will make. By the close of the Inquiry, the key area of dispute concerned Requirement 6. Helpfully, the parties agreed some changes to this requirement, notwithstanding the underlying dispute.

104. Requirement 6 requires tree planting to take place. The appellant says that this exceeds what is necessary to address the breach of planning control. It is argued that the removal of the trees is not development and not part of the allegation in the notice. Accordingly, the requirement is excessive. In support

[13] Jupp 5.34

of this, I am referred to the recent appeal decision concerning the adjoining land to the south. In that case, despite quashing the notice, the Inspector also varied it by removing a similar requirement relating to tree planting, pointing out that the ancient woodland has no formal tree protection covering it that would make the felling of trees without planning permission a breach of planning control.

105. Notwithstanding that decision, I do not see that there is an 'in principle' bar to steps intended to return land to its condition before the breach took place, even if that involves restoring features that, in themselves, were not part of the breach of planning control. To that extent, my view is consistent with that of the Inspector in the case referred to by the Council concerning a site at North Baddesley[14], Hampshire, where a requirement concerning the planting of trees was retained in an enforcement notice.

106. Nevertheless, I am not persuaded that the requirement for tree planting serves such a purpose in this case. The evidence I heard and read was consistent in emphasising that ancient woodland is an intricate ecosystem that has evolved over centuries. In particular, the soil and the seedbank it contains is fundamental to the ecosystem. That is why introducing new soil of unknown provenance is so harmful.

107. With that in mind, it seems to me that, once land levels are restored at the site, there is merit in allowing the affected woodland to regenerate naturally. Introducing new tree stock, even the native oak, hazel and hawthorne proposed, would not be the same as allowing regeneration from within the woodland itself. The lack of detail regarding the methodology of planting the new trees – in contrast to the Baddesley case where more detail regarding the new stock and planting method was specified - also leaves me with some doubt as to how successful the new planting would be.

108. While allowing the land to regenerate naturally would take time, regeneration from whips would also be a slow process. In their evidence to the Inquiry, both Mr Dudley and Mr Hutchinson were clear in the view that the woodland would regenerate naturally over time – even without new planting – if the imported material were removed from the site. Restoring the land to its condition before the breach took place will inevitably be a long-term process, but is as likely to be achieved without Requirement 6 as with it in my view. Consequently, I am not persuaded that Requirement 6 is necessary to remedy the breach of planning control, and will delete it from the notice.

109. Various other matters were raised in the grounds of appeal but either conceded or not pursued in detail at the Inquiry. I am satisfied that the land targeted by the notice is clear without further references to 'the land edged red' and am satisfied also with the wording of Requirements 1 and 2. I see no merit in any addition to Requirement 3 to refer to breaking up the hardstanding before its removal. I do not consider that it is necessary to vary the notice to specify whether the land should be raised or lowered, since the requirement to 'restore the levels of the land' is sufficiently clear. The notice does not impose any unreasonable requirements on the appellant concerning land outside their control.

[14] APP/C1760/C/21/3278981

110. I see no reason to exclude the land covered by the 2007 planning permission from Requirement 2. The only part of the 2007 permission site within the enforcement site boundary is the area identified as a turning area. Read in conjunction with Condition 3 of that permission, it does not appear to me that there is any tension between what the permission allows on the relevant part of the site and what the notice requires to be removed.

111. For these reasons, I will make changes to the requirements of the notice as indicated above. To that extent, the appeal on ground (f) succeeds.

Appeal A, Ground (g)

112. I asked at the Inquiry about the stage the education of the child at the site had reached. In view of her age, I was told that she might be taking school exams in the next (2024/25) school year. It appears to me that the notice could now be varied to accommodate this by increasing the period for compliance with Requirement 1 from 6 months to 12 months. Given the importance of minimising any impact on the child and on her education, such a change would be desirable in my judgement. Such an increase would also improve the prospects of the residents of the site finding alternative accommodation before they are required to leave the site. The Council did not oppose such a change in the circumstances of the case, and also accepted that it would be necessary to increase the time periods for compliance with the other requirements by the same amount. The appellant did not make any case that the 18 months suggested in the grounds of appeal should be applied. Consequently, I will increase the compliance periods by 6 months and, to that extent, the appeal on ground (g) succeeds.

Conclusion

113. For the reasons given above, I shall uphold the enforcement notice with correction and variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended). Appeal B is dismissed.

Peter Willows

INSPECTOR

APPEARANCES

FOR THE APPELLANT: Freddie Humphreys, Barrister

Who called:

- Adrian Draffin
- John Wenman
- Emily Temple

FOR THE LOCAL PLANNING AUTHORITY: David Lintott, Barrister

Who called:

- Ian Dudley
- Robert Hutchinson
- Stephen Jupp

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Opening Submissions – appellant
2. Opening Submissions – LPA
3. Statement of Common Ground[15]
4. Notification letters
5. Rebuttal Proof – Stephen Jupp
6. Rebuttal Proof – Ian Dudley
7. Rebuttal Proof – Robert Hutchinson
8. Aerial Photograph – SSSI and Ancient Woodland boundaries
9. Aerial Photograph showing eastern boundary of DS15
10. Drawing No T02 - Site Survey
11. Guidelines for Landscape and Visual Impact Assessment
12. Plan showing area of existing site
13. LPA Position Statement – S106 Unilateral Undertaking
14. Draft planning conditions
15. Suggested changes to the Enforcement Notice
16. Swept Path Analysis – Drawing No 2310098 – TK04
17. Revised Enforcement Notice Plan
18. Closing submissions – LPA
19. Closing submissions – appellant

[15] The document is titled 'Draft Statement of Common Ground', but it is, in fact, a signed and completed document

Plan

This is the plan referred to in my decision dated: 25th July 2024

by P H Willows BA MRTPI

Land at Rear of Burnt Hill, 7 Plaistow Road, Dunsfold, Godalming GU8 4PG

Appeal Ref: APP/R3650/C/24/3337697

Scale:NTS