

Agenda



DEVELOPMENT MANAGEMENT COMMITTEE

Date:	Wednesday, 15 July 2015 at 10:00am
Venue:	Town Hall, St Annes, FY8 1LW
Committee members:	Councillor Trevor Fiddler (Chairman) Councillor Richard Redcliffe (Vice-Chairman) Councillors Christine Akeroyd, Peter Collins, Michael Cornah, Tony Ford JP, Neil Harvey, Kiran Mulholland, Barbara Nash, Linda Nulty, Liz Oades, Albert Pounder.

	PROCEDURAL ITEMS:	PAGE
1	Declarations of Interest: Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council's Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided.	1
2	Substitute Members: Details of any substitute members notified in accordance with council procedure rule 25.	1
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DECISION ITEM



REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	DEVELOPMENT MANAGEMENT COMMITTEE	15 JULY 2015	3

EXCLUSION OF THE PUBLIC

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

RECOMMENDATION

Members are invited to consider passing a resolution concerning the exclusion of the public from the meeting in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972 on the grounds that the business to be discussed is exempt information as defined in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, information relating to an individual and information which is likely to reveal the identity of an individual.

REPORT



REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	DEVELOPMENT MANAGEMENT COMMITTEE	15 JULY 2015	4

PERSONAL INFORMATION: LAND OFF FAIRFIELD ROAD, HARDHORN, POULTON-LE-FYLDE
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EXEMPT ITEM

This item contains exempt information under paragraphs 1 and 2 of schedule 12A to the Local Government Act 1972 and is likely to be considered in a part of the meeting not open to the public and is therefore not for publication.

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	DEVELOPMENT MANAGEMENT COMMITTEE	15 JULY 2015	5

ENFORCEMENT: LAND OFF FAIRFIELD ROAD, HARDHORN, POULTON-LE-FYLDE

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The report invites the committee to reassess its decision to take direct action to secure compliance with an enforcement notice affecting land off Fairfield Road, Hardhorn. The report includes updated officers' assessments of the planning merits of two alternative schemes that have been the subject of planning applications on the site and takes account of the current personal circumstances of site residents.

The report concludes that circumstances have not changed sufficiently to affect the decision made by the Committee in June 2014 after consideration of all the factors relating to the site and the site residents.

RECOMMENDATIONS

1. Note the matters set out in the report and its appendices (including the report of 6 June 2014).
2. Endorse the decision of the committee taken on 6 June 2014 to delegate power under Section 178(1) of the Town and Country Planning Act 1990 to enter the site and take the steps required by the enforcement notice (as amended by the Secretary of State) to the Director of Development Services.

CORPORATE PRIORITIES

To Promote the Enhancement of The Natural & Built Environment (Place)		To Encourage Cohesive Communities (People)	√
To Promote a Thriving Economy (Prosperity)		To Meet Expectations of our Customers (Performance)	√

SUMMARY OF PREVIOUS DECISIONS

Development Control Committee 2 June 2010: Refused the 2009 application.

Decisions were made under delegated authority to issue a temporary stop notice, seek an injunction

and issue the enforcement notice.

Development Management Committee 6 June 2014: Delegated power under Section 178(1) of the Town and Country Planning Act 1990 to enter the site and take the steps required by the enforcement notice (as amended by the Secretary of State) to the Director of Development Services, such power to be exercised not earlier than 21 July 2014.

Development Management Committee 1 April 2015: Refused the second application.

REPORT

PRELIMINARY

1. This report uses the following terminology:

"appeal decision" means the decision letter of the Secretary of State dated 18 August 2011, together with those parts of the inspector's report referred to in the decision letter and accepted by the Secretary of State

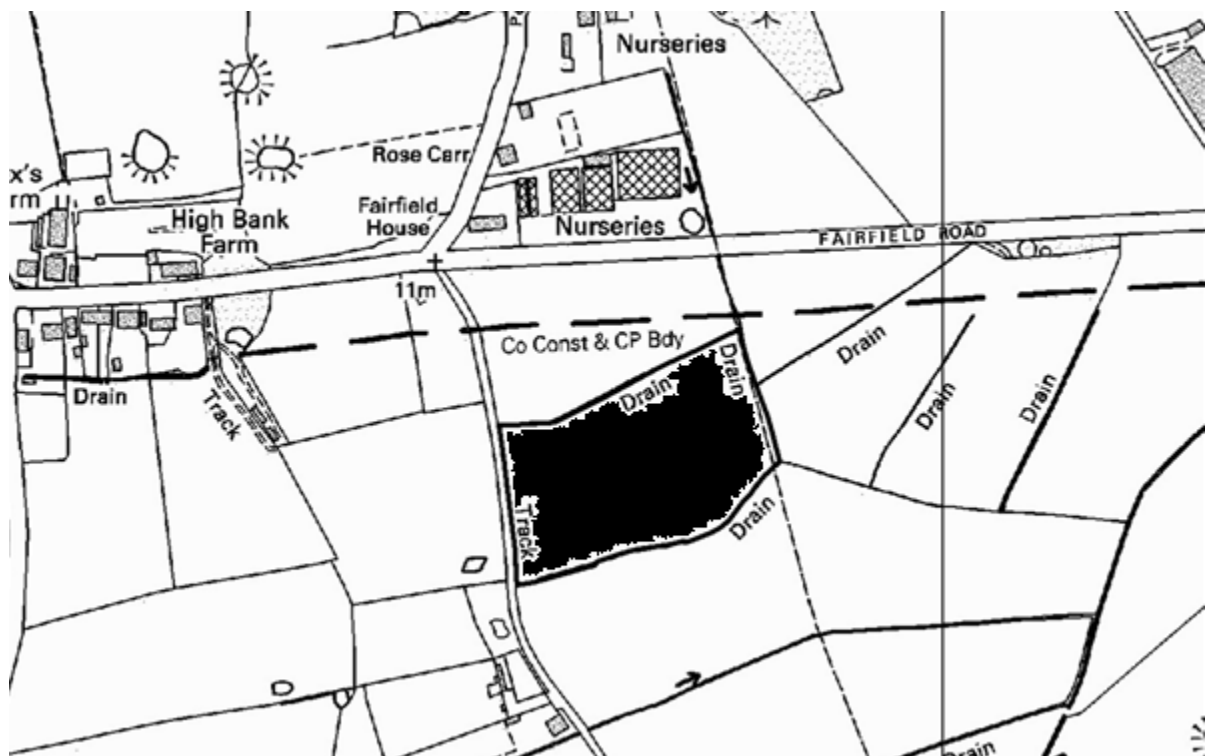
"convention rights" means rights under article 8 of, and article 1 of the first protocol to, the European Convention on Human Rights

"enforcement notice" means the enforcement notice relating to the site issued by the council on 27 July 2010, as subsequently varied by the Secretary of State for Communities and Local Government on appeal.

"options" means the six possible courses of action available to the council to deal with non-compliance with the enforcement notice set out in paragraphs 18 to 23 of the 2014 report

"second application" means the planning application reference 14/0490 considered by the committee on 1 April 2015 for change of use to establish a caravan site for occupation by gypsy travellers on part of the site.

"site" means the land off Fairfield Road, Hardhorn, shown in the plan below.



“site residents” means people living on the site

“2009 application” means the application the subject of the appeal decision reference 09/0830

“2014 decision” means the decision taken by the committee on June 6 2014 to authorise direct action under section 178(1) of the Town and Country Planning Act 1990 to secure compliance with the enforcement notice, as set out in paragraph 6

“2014 report” means the report to the committee meeting on June 6 2014, which the committee considered in making the 2014 decision

2. This report invites the committee to reassess the 2014 decision.
3. This report is supplementary to the 2014 report, which members must read and consider in conjunction with it. The council is under the same duties with regard to convention rights and equalities (including the public sector equality duty) as were set out in the 2014 report. This includes the important requirement that the best interests of children living on the site must be a primary consideration. Members should note that the likely effect of using direct action to force site residents to leave the site would be that the site residents, including children, would have to lead a roadside existence in at least the short or medium term, with the consequences set out in the 2014 report and its appendices.
4. The reassessment of the 2014 decision must have regard to all relevant matters and in particular to the present circumstances of site residents, current planning policy, the existence of the second application and the planning merits of the 2009 application in the light of these matters.

BACKGROUND

THE 2014 DECISION

5. The 2014 report set out the options open to the council to respond to non-compliance with the enforcement notice. The non-compliance was the use of the site as a residential caravan site. The notice required (among other things) those responsible to:

“Cease using the land as a residential caravan site and remove from the land all caravans, sheds, containers and any other structures associated with the use of the land as a residential caravan site.”

and to

“Remove from the land all equipment, articles and other paraphernalia associated with the use of the land as a residential caravan site.”

Other requirements of the notice related to the restoration and remediation of the site.

6. The committee made the decision to delegate power to the Director of Development Services to enter the site and take the steps required by the enforcement notice, such power to be exercised not earlier than 21 July 2014.

THE LEGAL CHALLENGE

7. Solicitors acting for some of the site residents submitted a pre-action letter to the Council asking that the 2014 decision be reviewed. They then began judicial review proceedings in the High Court to challenge the 2014 decision on a number of grounds. A further ground was subsequently added to the proceedings concerning the Council’s failure to review the 2014 decision in response to the pre-action letter.
8. A judicial review can only go to a full hearing if the court gives permission. The court will only give permission for grounds it considers arguable. The court initially refused permission for any

of the grounds to go to a hearing, but granted permission when the application was renewed¹. Permission was given only on some of the grounds². The hearing will be in the High Court on 29 July.

9. The grounds on which the court gave permission were (i) that the council erred or misdirected itself in relation to its appraisal of the planning merits, particularly the extent to which planning considerations had changed since the appeal decision and whether the Secretary of State might differ with the council over its assessment of the merits of a temporary permission; and (ii) that the council erred or misdirected itself because the 2014 decision and/or its continuing refusal to review that decision is or are vitiated by reason of the council's failure to address the right question before deciding to use the section 178 direct action power in order to clear the site, namely how long further toleration or temporary permission might be required.
10. A number of the grounds for judicial review accepted as arguable by the judge concerned matters that the site residents (through their legal representatives) say the committee should have taken into account in reaching decisions about implementing the enforcement notice, but did not. The council does not accept those contentions and will argue against them at the hearing. Nevertheless, it is sensible and appropriate to review the 2014 decision in the light of those matters and any updated information in advance of the judicial review.

REVIEWING THE JUNE 2014 DECISION

11. Members are required to read or re-read the following:
 - This report
 - The 2014 report, together with the appendices (collectively, appendix 1 to this report)
 - The personal information about site residents previously made available to the committee at the meeting in June 2014 and made available again in relation to the previous agenda item; and
 - Any additional or updated personal information about site residents made available in relation to the previous agenda item.
12. The information in the 2014 report and its appendices continues to be relevant unless it is updated or amended in this report or its appendices or is obviously out of date.
13. The six possible courses of action set out in paragraphs 18 to 23 of the 2014 report continue to be available to the Council to deal with the non-compliance with the enforcement notice. The guidance in the 2014 report concerning the Council's duties under human rights and equalities legislation and, the primacy of the interests of children living on the site continue to apply as set out in the report.
14. Members are asked to consider the updated information in this report and its appendices in the context of the possible courses of action set out in paragraphs 18 to 23 of the 2014 report and either (i) endorse the 2014 decision, or (ii) rescind the 2014 decision and instead select one or more alternative compatible options for responding to the ongoing non-compliance with the enforcement notice and delegate appropriate powers to the Director of Development Services or other relevant officers to enable the selected options to be implemented.

¹ The court takes its initial decision after looking at submissions on paper. A "renewal" of the application is effectively an appeal to a judge against a refusal on the papers.

² The grounds on which permission was not given argued that the 2014 decision was incompatible with the travellers' rights under article 8 of the European Convention on Human Rights or was irrational or based on a flawed balancing exercise.

POLICY

15. Paragraphs 42-47 of the 2014 report should now be read in the light of the following updated information on planning policy:
16. Since the 2014 report was considered by the Committee, there have been no relevant changes in planning policy either at a national or a local level. The Council has, however, resolved to produce a comprehensive Fylde Local Plan to 2032 rather than produce a two part plan, the first of which was proposed to include a criteria based policy and the second part would have included any site allocations to meet identified need.
17. The latest assessment of need is contained within the Fylde Coast Authorities Gypsy and Travelling Showpeople Accommodation Assessment September 2014 (GTAA 2014). Whilst this is not local policy, it is an important piece of the evidence base that will inform the development of policy. Within Fylde Borough, the GTAA 2014 establishes a need for an additional 17 pitches between 2014 and 2019 and a total of 26 pitches in the period to 2031.
18. Whilst the GTAA 2014 was not available to inform the 2014 report, the draft findings of the GTAA 2014 were emerging and it was acknowledged at paragraph 45 of the 2014 report that *“Early indications are that the study may indicate a need to provide additional pitches in Fylde Borough.”* In addition, the appeal decision was taken in the knowledge of the unmet need for Gypsy and Travelling Showpeople’s sites in the sub region. As the 2014 decision and the appeal decision both took account of the under provision of Gypsy and traveller pitches within the borough, it is considered that the publication of the GTAA since those decisions were made merely confirms that assumed position at that time and does not materially impact upon the decision that was made. In his appeal decision³, the secretary of state considered that a temporary planning permission cannot be justified and that the planning balance would not alter even if substantial weight were given to unmet need.

PERSONAL CIRCUMSTANCES

19. Paragraphs 48-55 of the 2014 report should now be read in the light of the personal information disclosed in relation to the previous agenda item. Those details are not reproduced in this report because of their personal nature. In summary, however, there appear to have been no material changes to the personal circumstances of the occupiers of the site since the June 2014 decision.

THE SECOND APPLICATION

20. At its meeting of April 1 2015, the Development Management Committee considered the second application. The application site extends to 2.4 ha, however, the area to be occupied by the 6 proposed pitches would be 0.55 ha. The remainder of the application site is proposed to remain as “paddock”. In terms of pitches, the second application was for six pitches, compared to fifteen pitches on the existing site.
21. The committee refused the application, for the following reasons:

The proposed development will result in an unacceptable level of conflicting traffic movements, with inadequate visibility splay requirements at the junction with Fairfield Road, thereby causing an additional risk to other highway users. Consequently, the development will have a detrimental impact on highway safety and is contrary to criterion 7 of policy HL8 of the Fylde Borough Local Plan

³ See paragraph 26 of the Secretary of State’s decision letter and paragraph 131 of the inspector’s report.

The caravans and travellers' vehicles including commercial vehicles would be visually intrusive and the development as a whole, including the provision of hard surfacing and fencing over part of the site would be harmful to the character and appearance of the area and contrary to the provisions of saved policies SP2 and HL8 of the Adopted Fylde Borough Local Plan.

22. The applicants have appealed against the committee's decision. A planning inspector or the Secretary of State for Communities and Local Government will decide the appeal. Paragraph 23 sets out the planning officers' assessment of the likely outcome of the appeal insofar as a permanent permission is concerned. Paragraphs 24 to 26 set out the planning officers' assessment of the likely outcome of the appeal specifically in relation to the prospects of a temporary permission being granted.
23. When refusing any planning application, the local planning authority must have regard to any potential appeal against the reasons planning permission is refused and so should ensure that any reasons for refusal are robust and justified. If the local planning authority do not consider that it can defend its reasons for refusal, it should not refuse planning permission. Clearly there are occasions on which the decision of the local planning authority is overturned at appeal. In this particular case, regard was had to the appeal decision, which was made by the Secretary of State, in so far as it related to the material considerations appertaining to the second application. An assessment was made of the reduced site area, reduced traffic generation and of other impacts on the character of the area and amenity. Having addressed each of these matters independently and in light of the most up to date policy and evidence, it was considered that planning permission should be refused.
24. In refusing the second application, consideration was given to the merits of granting a temporary planning permission. The purpose of a temporary permission would be to make the proposed use lawful until the local plan process had identified and delivered potential permanent sites which would be available to site residents. In considering whether to grant a temporary planning permission, it is therefore necessary to consider the likelihood whether, at the end of such a temporary period, such sites would have come forward and to balance that likelihood against the harm that would result from the development over the lifetime of the temporary planning permission.
25. The officer recommendation was that planning permission should be refused, even on a temporary basis, and this recommendation was accepted by the Development Management Committee. Officers concluded, and the committee agreed, that the likelihood of the local plan process identifying and delivering permanent sites which would be available to site residents was outweighed by the harm to the character of the area and to highway safety and that as such, temporary planning permission should not be granted. This followed a careful assessment of the personal circumstances and needs of the site occupiers. As set out above, planning permission should not be refused if it is considered that a subsequent appeal could not be robustly defended. In addressing this matter regard was had to the previous decision of the Secretary of State to refuse to grant a temporary planning permission for 15 pitches despite his acknowledgement that unmet need was a significant material consideration weighing in the applicants favour and that the planning balance would not alter even if substantial weight were given to unmet need⁴. Whilst regard was had to the previous decision of the secretary of state, the decision to refuse planning permission was taken, having regard to the changes in relevant national planning policy since the secretary of state made his decision.

⁴ See paragraph 26 of the secretary of state's decision letter.

26. The applicants have now appealed against the committee's decision to refuse the second application. Officers consider that the decision-maker in the appeal will be likely to reach the same conclusion as the committee and dismiss the appeal for the reasons set out in paragraphs 27 -31 below.
27. The Fylde Local Plan to 2032 is currently under preparation with an anticipated adoption date of April 2017. The plan is to be a comprehensive development plan for the borough and will include policies relating to the provision of Gypsy and Traveller Sites which will have been informed by the GTAA 2014. A revised preferred option (RPO) of the plan was agreed by the Development Management Committee on 17th June 2015 which will be the subject of public consultation in Autumn 2015. In January 2015, the Council issued a "Call for Sites" which included sites suitable for the provision of Gypsy and Traveller pitches. The exercise returned no suitable sites for inclusion in the emerging local plan. Accordingly, the RPO is only able to identify sufficient land to provide up to 6 additional pitches and does not identify sufficient sites to meet the need for the plan period as set out in the GTAA 2014 and additional work will be required in order to identify sufficient sites. The Council has conducted a review of its own land holdings (which are limited) and concluded that it does not hold any land that would be suitable to bring forward as a Gypsy and Traveller site.
28. Those Gypsy and Traveller sites that have been identified in the RPO are not available for general occupation as they are privately owned sites that are/have been developed by the prospective site occupiers themselves. It anticipated that any further sites are likely to be promoted on a similar basis.
29. The Council will continue to explore ways in which to meet the identified need, including working with neighbouring authorities. However, experience to date indicates that if the local plan is adopted in 2017, it is unlikely that it will be able to identify and deliver sufficient sites to meet the identified need, and that such sites as are identified and delivered would not be likely to be available to site residents.
30. It is necessary to balance the likelihood of the local plan process identifying and delivering sites likely to be available to site residents and the personal circumstances of the site residents against the identified harm that would be caused by the continued presence of the site during a period of temporary permission. The appeal decision identified the areas of harm in regard to impacts upon visual amenity (moderate weight), impact on the scale of the nearest settlement (moderate weight), landscape (substantial weight) and highway safety (Considerable weight). In the planning balance, these impacts were considered to be so significant that they would outweigh any argument in favour of granting planning permission, including the grant of any temporary planning permission. Whilst a smaller scheme would have a lesser impact, in considering the second application, officers consider it likely that the appeal decision-maker would consider that the impacts would still be so severe that planning permission should not be granted. Whilst each of the impacts is significant in the overall assessment, it is considered that the impact on highway safety, which may result in injury or even a fatality to a site occupier or a member of the wider community is so significant that planning permission should not be granted. The absence of any recorded accidents over the period since the occupation of the site in November 2009 is not considered to be justification for the tolerance of a substandard access which is detrimental to highway safety.
31. For these reasons it is considered that the appeal against the refusal of the second application is unlikely to result in the grant of a full or temporary planning permission for the site or for any reduced scheme notwithstanding the lack of sites to meet the identified need, the absence of a 5 year supply of housing in general or gypsy and traveller sites specifically and the personal circumstances of the applicants.

32. It is considered that the Council has taken a position on the second application which takes full account of the current national and local policy position and local circumstances and that can be robustly defended on appeal. Accordingly, it is considered that the decision to take direct action should not be undermined by the submission of the second application and the appeal against the Council's refusal of it.
33. For similar reasons to those set out above which conclude that it would be inappropriate to grant a temporary planning permission, it is considered that it would not be appropriate to tolerate the continued unauthorised occupation of the site in the shorter or longer term.

THE 2009 APPLICATION

34. In reassessing the appropriateness of taking direct action to secure compliance with the enforcement notice, it is appropriate to consider whether or not the development struck at by the enforcement notice continues to be unacceptable in planning terms. Planning officers have revisited their assessment of the 2009 application and they have concluded that the development continues to be unacceptable.
35. The development at the site remains an unacceptable form of development in that the harm created to visual amenity, the character of the area and highway safety remain. Whilst there have been no reported accidents at the site entrance in the period of occupation of the site, that is not to say that the site access is safe or that there will not be an accident in future. The original decision to refuse planning permission was taken in the knowledge that there was an unmet need for gypsy pitches in the sub region and the secretary of state noted that the overall planning balance would not alter even if substantial weight were given to unmet need⁵. Accordingly, it is considered that the findings of the GTAA 2014 would not have materially impacted upon the planning balance and that, had the 2009 application been determined today, planning permission would still have been refused. The changes in planning policy between the determination of the 2009 application and the 2014 report are set out in paragraphs 43 to 47 of the 2014 report. The decision to take action to secure the clearance of the site was taken on the basis of this revised appraisal and there have been no changes in planning policy sufficient to result in a different decision being reached. The revised personal circumstances of the site occupiers have been taken into account and it is considered that they do not outweigh the harm that the development as set out in the 2009 application would cause.
36. Planning officers have also considered whether an inspector or the Secretary of State, on appeal, would be likely to take the same view as them in relation to a hypothetical reconsideration of the 2009 application in the circumstances prevailing today. They conclude that the decision-maker would be likely to take the same view, for the reasons set out above.
37. Again, having considered the weightings applied to various matters applied by the SoS, it is considered that the Secretary of State would not have come to a different conclusion.

CONCLUSION

38. Consideration of the planning merits of the 2009 application and the second application results in the conclusion that both remain unacceptable in planning terms, and that temporary planning permission would not be appropriate. Further, officers are of the view that the Secretary of State or an appeal inspector would reach the same conclusion now.
39. Relevant circumstances have not changed sufficiently to affect the balancing exercise that members carried out in reaching the 2014 decision. Accordingly, members are recommended to endorse the 2104 decision.

⁵ See paragraph 26 of the Secretary of State's decision letter and paragraph 133 of the inspector's report.

IMPLICATIONS	
Finance	A number of the options set out in the 2014 report will have associated costs, which are difficult to estimate at this stage. It is possible, depending on which option is chosen, that these costs could run into tens of thousands of pounds, and there is currently no specific budget provision within the council's approved revenue budget. The next iteration of the council's medium term financial strategy will be updated to reflect any estimated costs flowing from the decision made by the committee.
Legal	Considered in the body of the report.
Community Safety	Considered in the body of the report in relation to the increased anti-social behaviour and potential roadside existence.
Human Rights and Equalities	The Public Sector Duty requires the local authority to take account of equalities in the decision making process. The report, considered with the 2014 report, includes evidence that the duty is fulfilled in the factors considered when outlining and making clear the impact on protected characteristics of the options presented to members. The council received third party independent equalities advice in relation to the 2014 report, whose options are revisited in this report. The advice confirmed that the approach to the application of the public sector equality duty has been considered and the impact on protected characteristics from any available option is clear.
Sustainability and Environmental Impact	Considered in the body of the report and the 2014 report and included in the appeal decision.
Health & Safety and Risk Management	Considered in the body of the 2014 report in relation to the potential of roadside existence and sanitary conditions.

REPORT AUTHOR	TEL	DATE	DOC ID
Ian Curtis	01253 658506	28 April 2015	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Report to Development Management Committee, 6 June 2014 and attachments referred to in it.	June 2014	Town Hall, Lytham St Annes

Attached documents

1. The 2014 report and attachments referred to in it.

REPORT

REPORT OF	MEETING	DATE
RESOURCES DIRECTORATE	DEVELOPMENT MANAGEMENT COMMITTEE	4 JUNE 2014

ENFORCEMENT: LAND OFF FAIRFIELD ROAD, HARDHORN, POULTON-LE-FYLDE

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

An enforcement notice relating to a residential caravan site at land at Fairfield Road, Hardhorn has not been complied with and the land continues to be used contrary to the requirements of the notice.

It is now open to the council to take action to enforce compliance with the notice. The report sets out the options open to the council, the context of the decision and the potential consequences of choosing each of the options. It describes the factors that members will need to weigh in taking their decision and draws attention to legal duties and obligations that apply to the decision-making process.

RECOMMENDATIONS

1. To select one or more compatible options for responding to the ongoing non-compliance with the enforcement notice
2. To delegate appropriate powers to the Director of Development Services or other relevant officers to enable the selected options to be implemented.

SUMMARY OF PREVIOUS DECISIONS

Development Control Committee 2 June 2010: Refused planning permission for change of use of the land to land for stationing of caravans for residential occupation by gypsy-travellers with associated development (hard standing, cess pools, fencing, utility buildings).

Decisions were made under delegated authority to issue a temporary stop notice, seek an injunction and issue an enforcement notice.

REPORT

INTRODUCTION

1. The previous item on the agenda invited members to consider personal information relating to individuals affected by the matters covered in this report.

2. This report uses the following terminology:

"appeal decision" means the decision letter of the Secretary of State dated 18 August 2011, together with those parts of the inspector's report referred to in the decision letter and accepted by the Secretary of State

"caravan" means a caravan or mobile home on the site

"convention rights" means rights under article 8 of, and article 1 of the first protocol to, the European Convention on Human Rights

"enforcement notice" means the enforcement notice relating to the site issued by the council on 27 July 2010, as subsequently varied by the Secretary of State for Communities and Local Government on appeal.

"local residents" means people living in the vicinity of the site, but does not include site residents

"options" means the six possible courses of action available to the council to deal with non-compliance with the enforcement notice set out in paragraphs 18 to 23

"school" means Christ the King Primary School, Bathurst Road, Blackpool

"site" means the land off Fairfield Road, Hardhorn, shown in the plan below.



"site residents" means people living on the site

3. On February 28 this year, the time for compliance with the enforcement notice expired. The notice requires (among other things) those responsible to:

“Cease using the land as a residential caravan site and remove from the land all caravans, sheds, containers and any other structures associated with the use of the land as a residential caravan site.”

and to

“Remove from the land all equipment, articles and other paraphernalia associated with the use of the land as a residential caravan site.”

Other requirements of the notice relate to the restoration and remediation of the site.

4. The enforcement notice has not been complied with, and the site remains in use as a residential caravan site. As of May 1 2014, the site is divided into 15 plots and contains 33 touring caravans. 72 people live on the site, of whom 47 are children below the age of 18. 14 of these children are below the age of five.
5. This report invites the committee to consider how to respond to the non-compliance with the enforcement notice.

SCHEME OF REPORT

6. Paragraphs 8 to 16 of the report describe the site and set out its relevant history. Paragraphs 17 to 23 list the options and describe the effect of each. Paragraphs 24 to 31 set out the legal parameters within which the council must take any decision on the future of the site. Paragraphs 32 to 42 consider the environmental issues material to its consideration. Paragraphs 43 to 47 consider the planning policy context. Paragraphs 48 to 55 set out the relevant personal circumstances of site residents inasmuch as the council has been able to ascertain them. Paragraphs 56 to 73 detail legal duties that the council must comply with when considering actions that could lead to the eviction of site residents. Finally, paragraphs 74 to 96 evaluate the available options in the light of the council’s legal duties and the issues and circumstances described in the report.
7. A number of appendices are attached to the report. Members should consider them as part of the report and read each of them. Members should also have regard to the personal information about site residents disclosed in relation to the previous agenda item.

SITE HISTORY

8. The site comprises a field of 2.4 hectares in size and of rectangular proportions located to the south of Fairfield Road, due south east of Poulton - le- Fylde and Hardhorn village, north east of Staining and to the west of Singleton. The site has a frontage to an unmade vehicular access track, which links the site with Fairfield Road, which is situated 60 metres to the north.
9. Prior to the present unauthorised use, the site was a flat, open field divided into six plots and the field as a whole was surrounded by hedgerows. In one of the plots a stable building had been erected. Since the present use began on November 6th 2009, hardcore has been levelled across a significant amount of the site and caravans situated on it. Boundary treatment has also been erected in the form of timber post & rail and close boarded fences around the caravan pitches.

10. The field boundaries are predominantly formed by hedgerows although there are some timber post and rail fences around and within the site. There is no supplementary planting or screening within the site but there is on adjacent land to the west. The site lies in an area of particularly open, flat landscape and the caravans on the site can be seen from long distances from various vantage points. The immediate area is mostly agricultural land with a scattering of houses, farms & equestrian uses.
11. The caravan site use commenced without planning consent. In January 2010, the council obtained an injunction¹ limiting the number of caravans on the site and prohibiting certain activities that could cause nuisance to local residents.
12. On 14 December 2009, the council received an application for planning permission to change the use of the site to land for stationing of caravans for residential occupation by gypsy-travellers with associated development (hard standing, cess pools, fencing, utility buildings). The Development Control Committee refused the application on 2 June 2010. The reasons for refusal are set out in appendix 1.
13. The enforcement notice was issued on 27 July 2010. Copies were served as required and it was explained to the site residents what the notice said and the implications of it. A copy of the enforcement notice is at appendix 2.
14. The applicants appealed against the refusal of planning permission and the enforcement notice. The appeal was called in by the Secretary of State for his consideration. An inspector heard the appeals at a public inquiry in early 2011. In his report to the Secretary of State, he recommended that the Secretary of State refuse the appeals, subject to certain modifications to the enforcement notice. The Secretary of State accepted the recommendations in his decision letter of 18 August 2011. The inspector's report and the decision letter are included at appendix 3.
15. The applicants challenged the Secretary of State's decision by proceedings in the High Court and subsequently by other appeals and applications. Although ultimately unsuccessful, the legal process postponed the date for compliance with the requirements of the enforcement notice. The legal process was exhausted when the Supreme Court rejected an application for permission to appeal on 14 February this year. The time for compliance with the requirements of the enforcement notice finally expired on 28 February 2014. At the date of this report, the terms of the enforcement notice have not been complied with.
16. The photograph below is an aerial view of the site and its surroundings in March 2010.

¹ The injunction was obtained on 10 January 2010 and subsequently varied by the court on 10 February 2010.



OPTIONS

17. The six options are set out below, with a brief description of their impact. The options are not all mutually exclusive, though some are obviously incompatible with others.
18. **Do nothing:** The site would remain unlawful, but would be likely to continue in situ and to be used. Site residents would continue to be at risk of the council deciding later to seek an injunction, take direct action or prosecute². The use would not become lawful by the passage of time because the enforcement notice would remain in force unless it was withdrawn.
19. **Extend the time for compliance**³: The site would not be unlawful in planning terms during the extended time for compliance. During that time, it would continue in situ and to be used and site residents would not be at risk of the council seeking an injunction, taking direct action or prosecuting. The council would need to consider the options again when the extended time for compliance had passed.

² Unless the council used its power under section 172A of the Town and Country Planning Act 1990 to give any person on whom a copy of the enforcement notice had been served a formal assurance that they would not be prosecuted for a breach.

³ Town and Country Planning Act 1990, section 173A (1)(b)

20. **Prosecute⁴**: Breach of the requirements of an enforcement notice is a criminal offence. Prosecution or the threat of prosecution may persuade site residents to comply with the notice by vacating the site, but would not impose any additional direct requirement on them to do so. The maximum penalty in the Magistrates' Court is a fine of £20,000 for each offence. The Crown Court may impose an unlimited fine.
21. **Direct action⁵**: Unless the site was vacated voluntarily, the council would evict site residents and put in place arrangements to clear the site, by force if necessary.
22. **Apply for an injunction⁶**: The court has a discretion whether or not to grant an injunction. If an injunction were granted requiring the site residents to leave the site, a site resident who did not do so would be at risk of committal to prison for contempt of court.
23. **Further engagement**: The council could invite a further planning application for development at the site, or proactively seek to provide an alternative site. The site would remain unlawful in the meantime unless the council extended time for compliance.

MAKING THE DECISION

24. In taking its decision on which of the options to pursue, the committee must consider and weigh the competing interests, take into account matters to which legislation requires it to have regard and comply with the legal duties that apply to it.
25. The factors in favour of taking some action intended to secure the removal of the site include removing the environmental harm caused by the site (including harm to highway safety), maintaining the integrity of planning control and protecting local residents from anti-social behaviour associated with the site.
26. The effect of residents being required to leave the site should be assumed to be a roadside existence. The factors against taking some action intended to secure the removal of the site therefore both include those associated with the disruption to site residents' present arrangements and those associated with a roadside existence. These include the site residents' interests in having a stable home and community base, available access to medical care and stable education provision for the children.
27. In taking its decision, the best interests of children affected must be a primary consideration⁷.
28. As with carrying out any of the council's functions, the committee must have due regard to the matters that comprise the public sector equality duty. These matters are set out in paragraph 67.
29. The council has a legal duty to not take an action that interferes with the right to respect for a person's private or family life, home or correspondence except in limited circumstances. The council also has a legal duty to not take action that deprives a person of his possessions (including rights in land) or interferes with the peaceful enjoyment of them except in limited circumstances. As removing the site would be an interference with those rights, the committee would need to be satisfied that the relevant circumstances applied if it intended to seek

⁴ Ibid., section 179

⁵ Ibid., section 178(1)

⁶ Ibid., section 187B

⁷ See paragraphs 60-62

removal.

30. The council has a legal duty to not take any action that amounts to discrimination against those belonging to a particular racial group.
31. The remainder of the report explores in more detail the competing interests, the matters to which regard must be had and the legal duties.

ENVIRONMENTAL CONSIDERATIONS

GENERAL

32. The environmental considerations relevant to the committee's consideration are the same ones that informed the decisions of the Secretary of State to refuse planning permission and uphold the enforcement notice. The following paragraphs summarise the conclusions of the Secretary of State on those matters and provide updated information on them where appropriate.

THE EFFECT OF THE DEVELOPMENT ON THE LANDSCAPE CHARACTER OF THE AREA AND ON VISUAL AMENITY

33. After considering the character of the countryside around the site, the inspector concluded that the site:

*"...appears as a large and striking feature which is both extensive and discordant. It is visually intrusive and alien to the character of the landscape around it. It has an urbanising effect and is unrelated to any pattern of development in the area. The caravans draw the eye and the boundary fencing, which has been erected as a partial screen, is also visually intrusive. The design, layout and form of the development is also at odds with the character of the nearby Hardhorn village, which largely comprises individually designed dwellings. Other elements of the development have also resulted in harm to landscape and visual amenity. They include extensive areas of hardcore, the low bund along the eastern boundary, ornamental planting, the removal of a section of hedgerow near the junction of the access track and Fairfield Road and widening of the track near the site entrance to facilitate vehicle manoeuvring. The development would also result in utility buildings to serve the 15 pitches. It has diminished the tranquillity of the area."*⁸.

After considering relevant planning policies, he concluded that the development resulted in "substantial harm"⁹ and had a "substantial adverse impact on the landscape and a significant substantial impact on visual amenity"¹⁰.

34. The Secretary of State "agree[d] with the Inspector's reasoning and conclusions...on the effect of the development on the landscape character of the area and on visual amenity". He shared "the Inspector's conclusion that the development results in a significant and substantial adverse impact on the landscape and on visual amenity"¹¹.

THE EFFECT ON HARDHORN VILLAGE AND ITS RESIDENTS

35. The Secretary of State agreed with the inspector that it was "reasonable to consider Hardhorn village as the nearest settled community and...that a residential caravan site of this scale does not respect the small scale of the village". He also attached weight to the incidence of anti-social

⁸ Inspector's report, paragraph 87

⁹ Ibid, paragraph 89

¹⁰ Ibid, paragraph 90

¹¹ Secretary of State's decision, paragraph 13

behaviour in the vicinity associated with the site.¹²

36. Incidents of noise, nuisance and anti-social behaviour over the period of occupation of the site have been recorded in a residents log with 239 incidents recorded up to March 2014 of which 82 have a police crime reference. Further incidents of anti-social behaviour have been recorded to the date of the report.

THE EFFECT ON HIGHWAY SAFETY

37. The inspector found that a combination of deficiencies relating to vehicular access to the site would result in material harm to highway safety:

“Traffic movements associated with the development would result in a considerable proportionate increase in movements along the access track. They would be small compared with existing flows on Fairfield Road but could include vehicles towing caravans. [...] [A]ppropriate visibility splay requirements are not met at the junction of the site access road. While the deficiency to the right could be met by cutting back part of the roadside hedge and its subsequent maintenance, there is some harm to highway safety associated with overtaking movements by traffic approaching from the left. There is also harm from the likelihood of conflicting traffic movements resulting from the proximity of Puddle House Lane, which also has a sub-standard junction with Fairfield Road, and from the inadequacy of the junction of the access track with Fairfield Road for some vehicle manoeuvres.”¹³

The Secretary of State accepted those conclusions.¹⁴

REPRESENTATIONS

38. The council has received representations from “the residents against inappropriate development in Hardhorn, Singleton, Staining & Poulton”, Mark Menzies MP, Ben Wallace MP, local farmers and County Councillor Alf Clempson. All of the representations draw attention to the detrimental environmental effects of the site, the continued breach of planning law and the anti-social behaviour associated with the site. They call on the council to take action to secure the removal of the site.
39. The Council has also received a representation from the Head Teacher of the school, which outlines the extent of commitment and involvement of the occupiers of the site to the school and the local Roman Catholic community. It is included as appendix 4.

PLANNING

UNLAWFULNESS

40. The site was established in conscious defiance of the prohibitions of the law in November 2009. It required planning permission but no valid planning application was made until 14 December 2009. The site has therefore always been unauthorised in planning terms.
41. Site residents challenged the council’s refusal of planning permission by an appeal. That appeal was substantively refused. Challenges to the appeal decision were made unsuccessfully in the High Court and subsequently in the Court of Appeal. Permission to appeal to the Supreme Court

¹² Ibid., paragraph 14

¹³ Inspector’s report, paragraph 105

¹⁴ Secretary of State’s decision, paragraph 15

was applied for and refused. The judicial process began following the publication of the appeal decision in August 2011 and concluded in February 2014. This delayed the expiry of the date for compliance with the terms of the enforcement notice coming into effect, but did not make the site lawful in planning terms.

42. The period for compliance with the terms of the enforcement notice expired on 28 February this year. Since then, site residents have been committing criminal offences by not complying with it.

POLICY

43. The framework of relevant planning policy has changed since the appeal decision. The following material changes in policy have occurred:
- Revocation of Regional Strategy for NW England (“RS”)
 - Introduction of National Planning Policy Framework
 - Introduction of Planning Policy for Traveller Sites
 - Publication of Fylde Local Plan to 2030 Draft Preferred Option
 - Pending update of the Fylde Coast Gypsy and Traveller Accommodation Assessment (“GTAA”)
 - Policy 29 of the Joint Lancashire Structure Plan is no longer saved
44. Notwithstanding the changes in policy, planning officers consider that the general approach in regard to the balance of issues as set out in the appeal decision has not altered materially with the exception of the emerging GTAA.
45. The appeal decision was informed by the 2007 GTAA, which was prepared for the Partial Review of the RS. This assessment identified a need for 204 – 231 pitches in the sub-region, less than one pitch in Fylde Borough and 24 pitches in Blackpool Borough up to 2016¹⁵. An updated GTAA is currently being prepared which will in due course inform policy decisions. Early indications are that the study may indicate a need to provide additional pitches in Fylde Borough.
46. The site has been in place for more than four years without planning permission. The environmental harm identified in the appeal decision and discussed in paragraphs 33-37 above continues, notwithstanding the legal requirement of the enforcement notice that the unauthorised use should cease. In these circumstances, it would not be appropriate to delay a decision until the completion of the updated GTAA.
47. Furthermore, given the firm conclusion of the Secretary of State in the appeal decision that the nature and extent of the harm to the landscape, visual amenity and highway safety was such that even a temporary permission could not be justified, and that the planning balance would not alter even if substantial weight were given to unmet need¹⁶, planning officers consider that even after giving greater weight to a need for additional sites that may be indicated in an updated GTAA, taking into account the personal circumstances of site residents and taking the interests of site residents who are children as a primary consideration, the harm to landscape character, visual amenity and highway safety remain such that planning permission would not be granted for the site.

PERSONAL CIRCUMSTANCES

¹⁵ Ibid., paragraph 18

¹⁶ Ibid., paragraph 26

48. Council officers have worked with the Lancashire County Council Gypsy and Traveller Liaison Service and the staff of the school with the cooperation of the site residents to obtain up to date information from them to inform this report. Details of the occupiers of each plot were obtained in January and February 2011 and this detail was updated in April 2014. As there have been no significant changes on the site, your officers consider that there is enough information to enable members to consider this matter without a further report. The Gypsy and Traveller Liaison Team have no further information that they consider members should have in considering this matter.
49. The council's Working Together With Families lead officer has considered the impact on the site residents, in particular the children, of legal eviction by force, and a roadside existence. Her family and welfare report is attached to this report as appendix 5
50. Members have received information held by the council about the personal circumstances of site residents. The information is as complete and accurate as it has been possible to compile and is believed to be up to date at the time of publishing this report. Members must have regard to the information when they consider this report. The Gypsy and Traveller Liaison Service of Lancashire County Council and the staff of the school have collected much of the information. There has also been a meeting at the school between the council, staff of the school, LCC liaison officers and site residents followed by a meeting on site attended by the Chief Executive. The council also carries out ongoing monitoring visits to the site, interviews with site residents, and ongoing liaison with LCC and staff of the school. The information has been given by site residents with their support and co-operation
51. There are 13 households, comprising 25 adults and 47 children, living on the site in 33 caravans. One plot is currently empty as the occupiers are travelling. All site residents describe themselves as Irish Travellers. They are all or mostly members of the same extended family. The site residents regard the area around Fylde, Wyre and Blackpool, and, more particularly, the site, as their home and have established a close relationship with the school and the local Roman Catholic Church. Each household has paid a share of the cost of the land to the landowner on the understanding that they have each bought their own pitch. There are no records of these transactions recorded against the registered title of the site. None of the households has any lawful alternative pitch for their caravans. If they had to leave the site, they would be likely to live by roadsides until they could make alternative arrangements. The shortage of sites for gypsies and travellers in the Lancashire area makes it uncertain how soon, if at all, any alternative arrangements could be made in the region.
52. The site residents have expressed an aversion to "bricks and mortar" accommodation and consider that they would suffer medically significant stress, anxiety or psychological harm if forced to live in bricks and mortar. There are three adults and one child on the site who are particularly vulnerable on medical grounds and the needs of each of these must be carefully considered.
53. Site residents include 47 children under the age of 18 which includes 14 under the age of 5 and 28 of primary school age. There are 17 Travellers who are on the roll at the school. It is understood that there are at least 8 who attend from this site but that there are 22 identified on the April plot details as either attending, registered to attend but away travelling or will be registering to attend. There is one child who is registered as a home learner for medical reasons and the remaining 11 of school age are either home taught or there is no information. The head of the school is very positive about the attendance at the school and the increased commitment and integration with the school community that has developed since 2009. The children's' parents have generally expressed concern about the need for their children to be able to have

consistent and settled education provision and are anxious to avoid the disruption to the education of their children that would be caused by an unsettled roadside existence, including the strong possibility that it would be impossible in practical terms to continue their schooling. The needs of the children must be considered as a priority by the Committee in reaching a decision on this matter.

54. No site residents are known to be disabled. However, there are two older members of the community who have medical conditions that are serious and require regular medical attention and careful monitoring. For one of these a doctor's letter indicates that he would "*support any request [X] makes to secure suitable accommodation and in a caravan environment any damp or cold living circumstances would certainly be detrimental to [X]'s health*". There is one other adult occupier of the site who has presented with evidence of a medical condition which is severe. There is one child who has a medical condition which is severe. There are no women occupying the site who have indicated that they are pregnant.
55. The residents have indicated that they have one horse and a number of dogs but have indicated that if necessary these could be found other homes.

LEGAL DUTIES AND CONSTRAINTS

HUMAN RIGHTS

56. The council is not allowed¹⁷ to act in a way that is incompatible with a right set out in the European Convention on Human Rights.
57. Article 8 of the convention states that "*Everyone has the right to respect for his private and family life, his home and his correspondence*", and continues: "*There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests 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*".
58. Article 1 of the first protocol to the convention states that every person is "*entitled to the peaceful enjoyment of his possessions*¹⁸" and that "*No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law*". But the rights of the state to "*enforce such laws as it deems necessary to control the use of property in accordance with the general interest*" are expressly preserved.
59. Article 14 states that the enjoyment of rights under the convention is to be secured "*without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status*".
60. Article 3.1 of the United Nations Convention on the Rights of the Child provides: "*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration*". As a matter of law, this means that in all decisions concerning children,

¹⁷ Human Rights Act 1998, section 6

¹⁸ "Possessions" includes rights over land

their best interests must be of primary importance. That principle applies to planning decisions.

61. Taking direct action would interfere with the right to respect for the homes of site residents in the most direct and serious way. Commencing legal action with the intention of requiring or persuading them to leave the site would also be an interference with that right. Article 8 is therefore engaged in the council's decision. Direct action would also interfere with site residents' peaceful enjoyment of their pitches and caravans. Article 1 of the first protocol is therefore also engaged.
62. Where site residents are children, consideration of their convention rights must be in the context of article 3 of the United Nations Convention, which requires a child's best interests to be a primary consideration. However, the inherent primacy of those interests does not mean that they can never be outweighed by the cumulative effect of other considerations.

DISABILITY AND RACE

63. Direct discrimination occurs if a person is treated less favourably than another person would be because of a protected characteristic¹⁹. Indirect discrimination occurs where a provision, criterion or practice that is applied to all puts persons who share a protected characteristic at a particular disadvantage when compared with persons who do not share it and the provision, criterion or practice cannot be shown to be a proportionate means of achieving a legitimate aim²⁰.
64. "Protected characteristics" include race.
65. The site residents describe themselves as Irish Travellers. They should be regarded as being a racial group and sharing the protected characteristic of belonging to that group.
66. In considering each option, the committee will need to consider whether the option would place persons who are Irish Travellers at a particular disadvantage compared with persons who are not Irish Travellers. If such a particular disadvantage would arise, the committee will need to consider whether choosing the option would be a proportionate means of achieving a legitimate aim. If the option would not be a proportionate means of achieving a legitimate aim, it would not be lawful to choose that option.

PUBLIC SECTOR EQUALITY DUTY

67. In exercising its functions, including its functions as a local planning authority, the council must have due regard to the need to:

Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;

Advance equality of opportunity between people who share a protected characteristic and those who do not; and

Foster good relations between people who share a protected characteristic and those who do not.²¹

¹⁹ Equality Act 2010, section 13

²⁰ Ibid., section 19

²¹ Ibid., section 149(1)

68. Having due regard for enhancing equality involves removing or minimising disadvantages suffered by people due to their protected characteristics and taking steps to meet the needs of people from protected groups where these are different from the needs of other people²². Fostering good relations means tackling prejudice and promoting understanding between people from different groups²³. Complying with the duty may involve treating some people more favourably than others²⁴.
69. If the Council fails to have “due regard” to the matters identified above, it would fail to comply with its statutory duty.

HOMELESSNESS

70. The council has duties to persons who are homeless. A person is homeless if he has accommodation that is a caravan and there is no place where he is entitled or permitted both to place it and to reside in it²⁵. Since the enforcement notice came into effect, site residents have not been entitled or permitted to reside in their caravans on the site (notwithstanding that they have continued to do so). They therefore fall within the statutory definition of homeless.
71. The council’s duties to persons who are homeless are triggered by an application. The detail of the duties depends on whether applicants became homeless intentionally²⁶, whether they have a priority need and whether they have a greater local connection to the area of another local housing authority than to Fylde. Persons with a priority need include those who are pregnant, have dependent children or are vulnerable because of old age, mental illness or handicap or physical disability²⁷.
72. Where a homeless person with a priority need who has not become homeless intentionally and who has no greater connection to another local authority area applies to the council, the council must secure that accommodation which is suitable for them is available for them to occupy²⁸. The Council has provided the site residents with all the necessary information, contact details and procedures in respect of support for homeless persons in the Borough with the inclusion of additional information relating to gypsy and travellers that are homeless, along with details of legal site locations and availability across the region as well as how to apply for sites in the County.
73. The council will comply with its homelessness duties relation to site residents who apply for accommodation or assistance. As each such application must be treated on its own individual merits, members do not need to form a view on the nature of any assistance or accommodation that may be provided.

EVALUATION OF OPTIONS

DO NOTHING

²² Ibid., section 149(3)

²³ Ibid., section 149(5)

²⁴ Ibid., section 149(6)

²⁵ Housing Act 1996, section 175(2)(b). The full statutory definition is wider, but the most pertinent part is set out in the report.

²⁶ A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy: Housing Act 1996, section 191(1).

²⁷ Ibid., section 189(1)

²⁸ Ibid., section 193

74. Doing nothing would mean that the site would continue to be used by site residents as a caravan site. The use would be unlawful in planning terms, but would be likely to continue at least until a permanent and lawful site became available to site residents. It is unknown when or if such a site might be available, nor if it would be acceptable to site residents. The use would therefore be likely to continue at least in the short and medium term.
75. The site would continue to have the negative impacts on landscape character and on visual amenity identified in the appeal decision. The effect on Hardhorn Village and the issues around highway safety discussed in the appeal decision would also remain unabated. This would continue unless and until the site was vacated. As discussed above, this would be unlikely to happen in the short or medium term.
76. While they stayed on the site, site residents would continue to be able to access the same medical and education provision as they do now which is consistent with that available from all local authorities and health services. They would remain homeless in legal terms, but would be unlikely to seek or need assistance from the council. They would continue to be able to pursue their lifestyle and culture.
77. The convention rights of site residents would not be engaged. The impact on the interests of children living on the site would be neutral, as their circumstances would be unchanged from the present. They would be able to continue to attend the schools at which they are presently enrolled.
78. Doing nothing would not put persons who share a protected characteristic (for example, being Irish Travellers) at a particular disadvantage when compared with persons who do not share it, so would not constitute discrimination. It would be consistent with the Public Sector Equality Duty, as not enforcing against the unlawful site would be a step to meet the needs of people sharing the protected characteristic of being Irish Travellers where those are different to the needs of other people.
79. Doing nothing would engage the article 8 rights of local residents to the extent that the council's tolerance of the site would interfere with the enjoyment of their homes and their private and family lives. The council would need to justify any such interference as being "*necessary...for the protection of the rights and freedoms of others*": that is, the rights and freedoms of site residents. This would involve a balancing exercise comparing the fundamental interference with site residents' convention rights (including the fundamental interference with their article 8 rights) inherent in requiring them to leave the site with the more limited interference to local residents' convention rights caused by the continued presence of the site.

EXTEND THE TIME FOR COMPLIANCE

80. Extending the time for compliance would mean that site residents would lawfully use the site as a caravan site during the extended compliance period.
81. During the extended compliance period, the site would continue to have the negative impacts on landscape character and on visual amenity identified in the appeal decision. The effect on Hardhorn Village and the issues around highway safety discussed in the appeal decision would also continue during this period.
82. During the extended compliance period, site residents would continue to be able to access the same medical and education provision as they do now and which is consistent with that

available from all local authorities and health services. They would no longer be homeless in legal terms. They would continue to be able to pursue their lifestyle and culture.

83. Convention rights of site residents would not be engaged. The impact on the interests of children living on the site would be neutral, as their circumstances would be unchanged from the present. They would be able to continue to attend the schools at which they are presently enrolled.
84. Extending the compliance period would not put persons who share a protected characteristic (for example, being Irish Travellers) at a particular disadvantage when compared with persons who do not share it, so would not constitute discrimination. It would be consistent with the Public Sector Equality Duty, as extending the compliance period would be a step to meet the needs of people sharing the protected characteristic of being Irish Travellers where those are different to the needs of other people.
85. Extending the compliance period would engage the article 8 rights of local residents to the extent that the council legitimising the site would interfere with the enjoyment of their homes and their private and family lives. The council would need to justify any such interference as being “*necessary...for the protection of the rights and freedoms of others*”: that is, the rights and freedoms of site residents. This would involve a balancing exercise comparing the interference with site residents’ convention rights (including the fundamental interference with their article 8 rights) inherent in requiring them to leave the site with the more limited interference to local residents’ convention rights caused by the continued presence of the site. The weight to be given to the interference to local residents’ article 8 rights would be less than in the “do nothing” scenario as the interference to their rights would be for a finite period.

PROSECUTE

86. If pursued on its own, prosecution of individuals for breach of the enforcement notice would not have any direct effect on the use of the site. However, because all site residents are Irish Travellers, prosecutions would put Irish Travellers at a particular disadvantage when compared with persons who are not Irish Travellers. They would therefore constitute indirect discrimination²⁹ unless the council could show that prosecutions are a proportionate means of achieving one or more legitimate aims. Enforcing planning control and dealing with the environmental issues raised in the appeal decision are legitimate aims. Assessing proportionality will involve balancing the impact of prosecutions against these aims.

DIRECT ACTION

87. Direct action would result in site residents being required to leave the site under threat of forcible eviction, or being forcibly evicted from the site. After the resolution of any public order issues that might be associated with an eviction, the negative impacts on landscape character, visual amenity, impact on Hardhorn Village and highway safety identified in the appeal decision would cease.
88. There is no evidence to support that site residents would be able to access pitches suitable for their needs on alternative sites in the local area, and so would be likely to lead a roadside

²⁹ See paragraph 63. Indirect discrimination occurs regardless of the intention of the person applying a provision, criterion or practice if the provision, criterion or practice in question all puts persons who share a protected characteristic at a particular disadvantage when compared with persons who do not share it unless the person applying the prohibition, criterion or practice can show it to be a proportionate means of achieving a legitimate aim.

traveller existence at least in the short and medium term. The lack of a settled base would severely affect their ability to access medical provision and the availability of education opportunities for the children on site. Sanitary and other facilities available at the roadside would not be comparable to those at the site, leading to the possibility of increased risk of disease amongst a group already suffering poor health. Requiring them to leave the site may lead to an increased possibility of applications to the council for accommodation. Departure from the site would make it more difficult for site residents to pursue their lifestyle and culture.

89. Article 8 rights of site residents would be engaged. Forcibly removing them from the site, or requiring them to leave under threat of forcible removal, would be a fundamental interference with the right to respect for their private and family life and home. The council could therefore only pursue direct action if, and so far as, article 8 permits: for example, if it was necessary to do so in the interests of public safety, the prevention of disorder or crime or the protection of the rights and freedoms of others, who might include local residents.
90. Site residents' rights under article 1 to the first protocol would also be engaged because removal would deprive them of their right to use the site and interfere temporarily with their enjoyment of their caravans and the contents of their caravans. The interference would be permissible only to the extent that the deprivation was in the public interest and any interference was necessary in the general interest.
91. The best interests of children on the site must be a primary consideration in deciding whether to take direct action³⁰ and in the consideration of the convention rights of site residents. The impact of removal from the site on the children living on the site would be that they would be unlikely to be able to continue with their education without significant disruption. They would be removed from a relatively settled existence to an uncertain roadside or traveller existence. They may have little or no opportunity for play in a safe outdoor environment. These impacts are further considered in the health and welfare report at appendix 5.
92. Because all site residents are Irish Travellers, forcible removal or the threat of forcible removal would put Irish Travellers at a particular disadvantage when compared with persons who are not Irish Travellers. It would therefore constitute indirect discrimination³¹ unless the council could show that it was a proportionate means of achieving one or more legitimate aims. The aims would be the removal of the three heads of harm identified in the appeal decision: that is, the effect on the landscape character of the area and on visual amenity, the effect on Hardhorn Village and its residents and the effect on highway safety. These aims are legitimate ones to pursue, having been endorsed in the appeal decision. Members will therefore need to consider carefully whether direct action involving the forced removal of the site residents from their homes, is a proportionate means of achieving those aims.

INJUNCTION TO REQUIRE VACATION OF THE SITE

93. An injunction is a discretionary remedy of the court. An injunction would result in site residents being compelled to leave the site, under threat of committal to prison for contempt of court. The council can apply for injunction if it considers it necessary or expedient for the breach of

³⁰ See paragraph 60. The application of this principle to planning decisions in general and this case in particular was accepted by the Court of Appeal

³¹ See paragraph 63. Indirect discrimination occurs regardless of the intention of the person applying a provision, criterion or practice if the provision, criterion or practice in question all puts persons who share a protected characteristic at a particular disadvantage when compared with persons who do not share it unless the person applying the prohibition, criterion or practice can show it to be a proportionate means of achieving a legitimate aim.

planning control to be restrained by an injunction³². But an injunction would only be granted if the council were able to persuade the court that an injunction was appropriate for the purpose of restraining the breach³³. The court would consider, among other matters, the matters set out in paragraphs 86-91 under “direct action”.

FURTHER ENGAGEMENT

94. So long as further engagement was coupled with taking no action to remove site residents, the effects would be the same as set out under paragraphs 74 to 79 above (the “do nothing” option).
95. Further engagement would be unlikely to be able to secure an acceptable proposal for development at the site because of the issues set out in paragraph 47 above.
96. Planning officers advise that there are presently no suitable identified alternative sites that could accommodate the development presently on the site. The search for an alternative site could only properly be carried on through the local plan process. While this process was ongoing, the negative impacts of the site identified in the appeal decision would continue.

CONCLUSION.

97. The council has a range of options from which to make a decision in response to the continuing breach of planning control at the Fairfield Road site in Hardhorn, including taking no action. In deciding which option to take, members are required to be clear about the aims that they want the option to achieve and the effect of each option on site residents, including those with disabilities. They must understand and comply with the council’s legal obligations, including those under the Human Rights Act 1998, and the Equality Act 2010. They must ensure that the best interests of site residents who are children are a primary consideration in making their decision.

IMPLICATIONS	
Finance	A number of the options set out in the report will have associated costs, which are difficult to estimate at this stage. It is possible, depending upon which option is chosen, that these costs could run into tens of thousands of pounds, and there is currently no specific budget provision for this within the Council’s approved revenue budget. The next iteration of the Council’s Medium Term Financial Strategy will be updated to reflect any estimated costs flowing from the decision made by the committee.
Legal	Considered in the body of the report
Community Safety	Considered in the body of the report in relation to the increased anti-social behaviour and potential roadside existence.
Human Rights and Equalities	The Public Sector Duty requires the Local Authority to take account of Equalities in the decision making process, the report includes evidence that the Duty is

³² Town and Country Planning Act 1990, section 187B(1)

³³ Ibid., section 187B(2)

	fulfilled in the factors considered when outlining, and making clear, the impact on protected characteristics of the options presented to members. The Council has received third party independent equalities advice, which confirmed that the approach to the application of the public sector equality duty has been considered and the impact on protected characteristics from any of the options available is clear.
Sustainability and Environmental Impact	Considered in the body of the report included in the planning appeal decisions.
Health & Safety and Risk Management	Considered in the body of the report in relation to the potential of roadside existence and sanitary conditions.

REPORT AUTHOR	TEL	DATE	DOC ID
Ian Curtis and Nicola Martin	01253 658506	22 May 2014	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Secretary of State's decision on planning appeal	18 August 2011	Town Hall, Lytham St Annes
Family and welfare report	21 May 2014	Town Hall, Lytham St Annes
Household information (redacted)	Various	Town Hall, Lytham St Annes
Letter from Head Teacher, Christ the King School	22 April 2014	Town Hall, Lytham St Annes

Attached documents

Appendix 1: Planning application reasons for refusal

Appendix 2: Enforcement notice

Appendix 3: Appeal decision letter incorporating inspector's report

Appendix 4: Representation from the school

Appendix 5: Family and welfare report

Reasons for Refusal: Development Control Committee 2 June 2010

1. *There is no current requirement to provide additional traveller pitches within the Borough of Fylde and the Applicant has failed to address the issue of need. It is not essential that members of the travelling community occupy a site in this location and therefore the proposal is contrary to criterion 1 of policy HL8 of the Fylde Borough Local Plan.*
2. *The proposed development will result in an unacceptable level of vehicular movements along a narrow track with poor visibility at the junction with Fairfield Road, thereby causing an additional risk to other highway users. The Applicant does not have any control over the land required to improve the visibility splays and improve the access track. Consequently the development will have a detrimental impact on highway safety and is contrary to criterion 7 of policy HL8 of the Fylde Borough Local Plan.*
3. *The immediate surrounding area is mostly agricultural land with a scattering of houses, farms & equestrian uses. The application proposal seeks to allow the retention of 15 pitches, potentially site 45 caravans on the land and allow the construction of amenity buildings. The site could conceivably accommodate between 60 and 100 people. The proposal is, therefore, of a scale that would be out of keeping with the countryside and thereby detrimental to the character and appearance of the rural area. As such, the development is contrary to policy SP2 and criterion 8 of policy HL8 of the Fylde Borough Local Plan.*
4. *The application proposal would be out of keeping with the scale and character of the nearest residential settlement and would overwhelm this settlement to the detriment of its character and the amenities of its residents. Consequently, the proposal is contrary to criterion 8 of policy HL8 of the Fylde Borough Local Plan.*
5. *The size of the site is overbearing and dominant in this rural location. It is totally out of character with the rest of the immediate area and has had a detrimental impact on the openness and the character of the countryside. The caravans and travellers vehicles including commercial vehicles would be visually intrusive and the development as a whole, including the provision of hard surfacing and fencing over part of the site would be harmful to the character and appearance of the area and contrary to the provisions of saved policies SP2 and HL8 of the Adopted Fylde Borough Local Plan.*

6. No landscaping of the site is proposed and such a limited amount of landscaping that exists for this large and visually prominent site would fail to adequately screen or assimilate such an obtrusive development into the landscape. Therefore, the proposal would have a detrimental impact on the character of the countryside and is contrary to policies HL8, EP11 and EP14 of the Fylde Borough Local Plan.

7. The development involves the loss of grade 2 and 3 agricultural land which is amongst the best and most versatile for food production. The Applicants have failed to demonstrate that the loss of this good quality agricultural land is necessary and that the development could not have been accommodated on a previously developed site. Therefore, the proposal is contrary to policies HL8 & EP22 of the Fylde Borough Local Plan.

8. The Applicant has failed to demonstrate that Water Voles, a protected species and a species of Principal Importance do not rely on the drainage ditch adjacent to the site as habitat, nor that they would not be adversely affected by the development. The proposal is, therefore, contrary to the advice contained within PPS9 and policy EP19 of the Fylde Borough Local Plan.

9. The proposal is contrary to policies HL8 & EP21 of the Fylde Borough Local Plan as no evidence has been submitted to demonstrate that the proposal would not have a detrimental impact on a site of cultural heritage.



Our Ref
EN/09/0226

Your Ref
Please Ask For
David Pilkington
Direct Dial 01253 658417

Date
28 July 2010

TO WHOM IT MAY CONCERN
LAND SOUTH/FIELD NO 7126,
FAIRFIELD ROAD,
SINGLETON,
BLACKPOOL,
FY6 8L

Dear Sir/madam

TOWN AND COUNTRY PLANNING ACT 1990

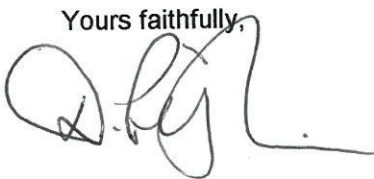
Re: LAND SOUTH/FIELD NO 7126, FAIRFIELD ROAD, SINGLETON, BLACKPOOL, FY6.

I can advise that the **issue of an Enforcement Notice has now been authorised and will be served on you today.**

It will specify the steps you must take to remedy the breach of planning control, and it will also specify a time period in which you must carry out the requirement of the Notice.

You do have a right of appeal against the Enforcement Notice, and information regarding the lodging of an appeal will be included with the Notice. An appeal may be lodged on certain specified grounds, and is decided by an Inspector on behalf of the Secretary of State for the Environment, Transport, and the Regions.

Yours faithfully,



David Pilkington
Enforcement Officer



TOWN AND COUNTRY PLANNING ACT 1990

ENFORCEMENT NOTICE

IMPORTANT — THIS COMMUNICATION AFFECTS YOUR PROPERTY

ISSUED BY: Fylde Borough Council

1 Notice

This notice is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2 The land to which the notice relates

Land south of Fairfield Road, Hardhorn, Poulton-le-Fylde shown edged red on the attached plan.

3 The matters which appear to constitute the breach of planning control

Without planning permission, the use of the land has been changed **from** use for (as to part of the land) equestrian use and (as to the remainder of the land) agricultural use **to** use as a residential caravan site

4 Reasons for issuing this notice

- a. The breach of planning control has resulted in an unacceptable level of vehicular movements along a narrow track with poor visibility, thereby causing an additional threat to other highway users. Consequently the breach has a detrimental impact on highway safety and is contrary to criterion 7 of policy HL8 of the Fylde Borough Local Plan.
- b. The immediate area is mostly agricultural land with a scattering of houses, farms & equestrian uses. The breach has resulted in there being up to 30 caravans on the land and the construction of amenity blocks. This is out of keeping with the scale of development in the countryside and thereby detrimental to the character and appearance of the rural area. As such, it is contrary to policy SP2 and criterion 8 of policy HL8 of the Fylde Borough Local Plan.
- c. The development comprised in the breach is out of keeping with the scale and character of the nearest residential settlement and overwhelms this settlement to the detriment of its character and



FYLDE BOROUGH COUNCIL

the amenities of its residents. Consequently, it is contrary to criterion 8 of policy HL8 of the Fylde Borough Local Plan.

- d. The size of the development makes it overbearing and dominant. It is totally out of character with the rest of the immediate area and has had a detrimental impact on the openness and the character of the countryside. The caravans and travellers vehicles including commercial trucks are visually obtrusive and the development as a whole, including the provision of hard surfacing over part of the site is considered to be harmful to the character and appearance of the area and contrary to the provisions of saved policies SP2 and HL8 of the Fylde Borough Local Plan.

5 What you are required to do

- (i) Remove from the land all caravans, buildings, sheds, containers, water supply pipes and any other structures.
- (ii) Remove from the land all equipment, articles and other paraphernalia associated with the use of the site for residential or business purposes.
- (iii) Remove from the land all hardcore, road planings and any other material imported to and deposited on the land on or after 6 November 2009.
- (iv) Return the site to the condition it was in immediately before 6 November 2009 by reseeded those parts then grassed with grass.

6 Time for compliance

4 months after this notice takes effect.

7 When this notice takes effect

This notice takes effect on **1 September 2010**, unless an appeal is made against it beforehand.

o

Dated:

27/7/10

o

Signed:

o

on behalf of:

Fylde Borough Council
Town Hall
St Annes Road West
St Annes
FY8 1LW



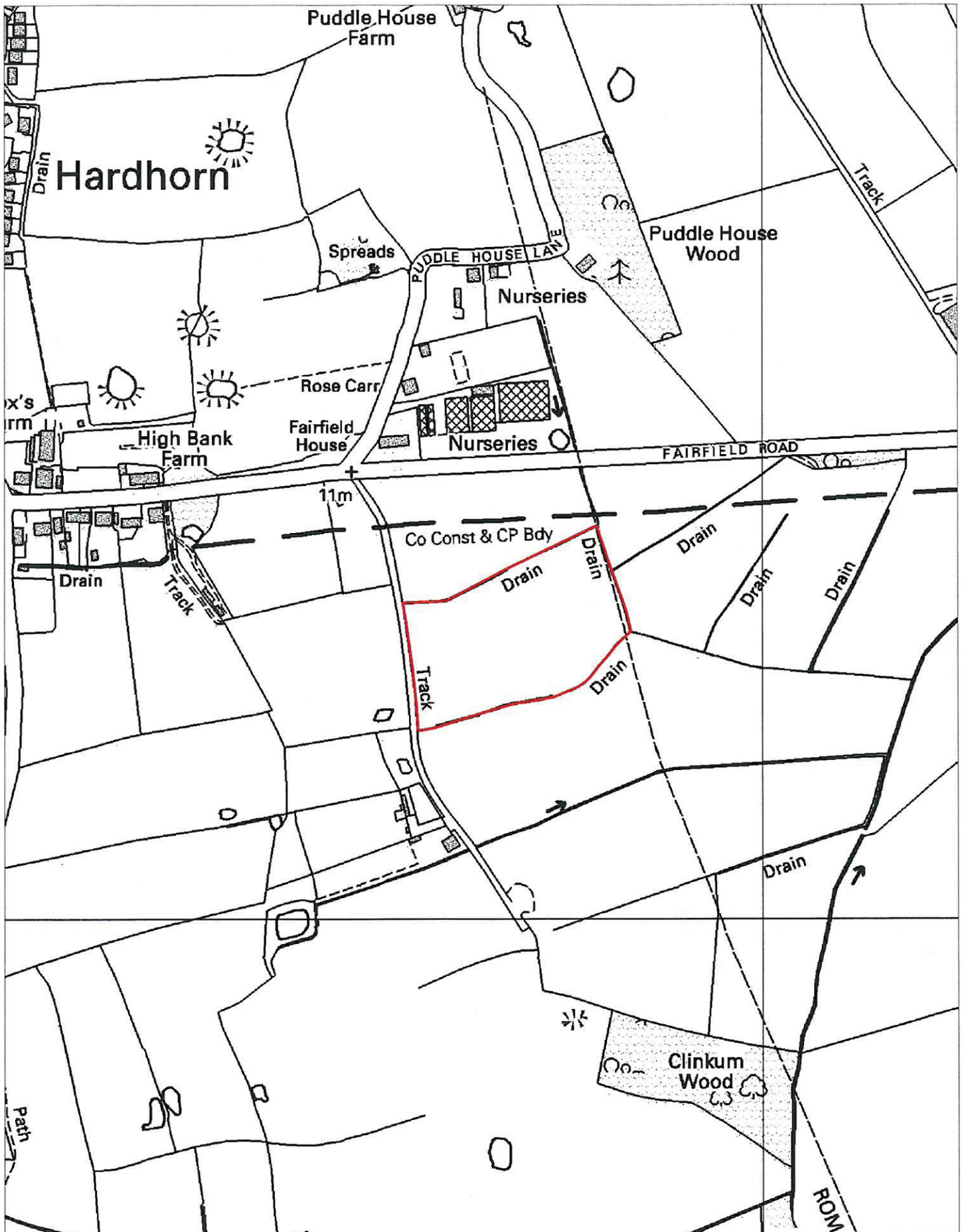
ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before the date specified in paragraph 7 of the notice. Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.



Scale 1:5000



FYLDE BOROUGH COUNCIL



The Planning Inspectorate

CST Room 3/05	Direct Line	0117-372 6372
Temple Quay House	Switchboard	0117-372 8000
2 The Square	Fax No	0117-372 8782
Temple Quay		
Bristol BS1 6PN		

www.planning-inspectorate.gov.uk

THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Planning Casework Service area of the Planning Portal (www.planningportal.gov.uk/pcs); or
- by getting enforcement appeal forms by phoning us on 0117 372 6372 or by emailing us enquiries@pins.gsi.gov.uk

You MUST make sure that we receive your appeal before the effective date on the enforcement notice.

In exceptional circumstances you may give notice of appeal by fax or letter. You should include:-

- the name of the local planning authority;
- the site address;
- your address; and
- the effective date of the enforcement notice.

We MUST receive this before the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms.

18 August 2011

Mrs A Heine
Heine Planning Consultancy
10 Whitehall Drive
Hartford
Northwich
Cheshire
CW8 1SJ

Our Refs: APP/M2325/C/10/2134060-74
APP/M2325/A/10/2134032

Your Ref: J26-05-FLYDE ENF

Dear Mrs Heine,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 78 and 174
APPEALS BY MR T COLLINS, MR M COLLINS, MR M COLLINS, MR J COLLINS,
MR P COLLINS, MRS J WHITE, MR A COLLINS, MR J CONNORS, MR A WHITE,
MR A WHITE, MR T COLLINS, MRS K COLLINS, MR A PRICE, MR C COLLINS
AND MR J COLLINS
AT LAND SOUTH OF FAIRFIELD ROAD, HARDHORN, POULTON-LE-FYLDE,
FY6 8LA
ENFORCEMENT REF: 5/09/0830
PLANNING REF: 09/0830**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr Keri Williams, BA MA MRTPI, who held a public local inquiry, which opened on 8 February 2011, into the following:

Appeals A to O: made by your clients against an enforcement notice issued by Fylde Borough Council ('the Council') on 27 July 2010, Ref 5/09/0830, which alleges that, without planning permission the use of the land has been changed from use for (as to part of the land) equestrian use and (as to the remainder of the land) agricultural use to use as a residential caravan site. The requirements of the notice are to (i) Remove from the land all caravans, buildings, sheds, containers, water supply pipes and any other structures; (ii) Remove from the land all equipment, articles and other paraphernalia associated with the use of the site for residential or business purposes; (iii) Remove from the land all hardcore, road planings and any other material imported to and deposited on the land on or after 6 November 2009; (iv) Return the site to the condition it was in immediately before 6 November 2009 by reseedling those parts then grassed with grass, with the period for

compliance with the requirements being 4 months. The appeals were made on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal P: made by your clients against a decision of the Council to refuse planning permission for the change of use of the land from former agricultural land to land for the stationing of caravans for residential occupancy by Gypsy-Travellers with associated development (hard standing, cess pools, fencing, utility buildings), in accordance with application number 09/0830, dated 14 December 2010.

2. On 10 March 2011, the appeals were recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990. The appeals were recovered because they involve proposals which raise important or novel issues of development control, and/or legal difficulties.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that appeals A - O be dismissed and the enforcement notice upheld with variations, and that appeal P also be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

The Enforcement Notice

4. The Secretary of State has taken account of the correction and variations to the notice put forward by the Council at the start of the Inquiry (IR3). For the reasons given by the Inspector at IR4, he agrees that these changes would not result in injustice to any party and that they should be made. He has determined the enforcement appeals (on grounds a and g only) on the basis of the corrected and varied notice.

Policy considerations

5. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

6. In this case, the development plan comprises the Regional Strategy for the North West of England to 2021 (RS), published in 2008, the saved policies of the Fylde Borough Local Plan as Altered (LP), adopted 2005, and the saved policies of the Joint Lancashire Structure Plan (SP), adopted 2005. The Secretary of State considers that the development plan policies most relevant to the appeals are those referred to by the Inspector at IR10 - 12. For the reason given by the Inspector, the Secretary of State shares his view that the weight to be given to SP policy 29 and LP Policy HL8 is limited (IR12).

7. The Secretary of State has made it clear that it is the Government's intention to revoke RSs, and the provisions of the Localism Bill which is now before Parliament reflect this intention. While the Secretary of State has taken this matter into account in determining this case, he gives it limited weight at this stage of the parliamentary process.

8. Other material considerations which the Secretary of State has taken into account include those documents listed by the Inspector at IR13 and those listed in section 3 of Schedule 1 to the IR.

9. The Secretary of State has had regard to the unpublished submitted Draft North West Plan Partial Review. However, having had regard to the Inspector's statement that work on the Review has been suspended (IR110), and in the light of his intention to revoke RSs, the Secretary of State considers it unlikely that the draft will progress to publication, and he has accorded its policies little weight.

10. The Secretary of State has had regard to the Inspector's consideration of Circular 1/2006: *Planning for Gypsy and Traveller Caravan Sites* at IR14 – 16. The Secretary of State has taken account of this Circular as a material consideration in his determination of this case. However, he has also taken account of his announcement on 29 August 2010 of his intention to revoke it as he considers it to be flawed and he gives less weight to the circular.

11. The Government has published a consultation draft Planning Policy Statement on *Planning for Traveller Sites* (April 2011) and a consultation draft National Planning Policy Framework (July 2011). Whilst he has had regard to both documents in his determination of this case, as these documents are for consultation, he has given them little weight.

Main issues

12. The Secretary of State considers that the main issues in this case are those listed by the Inspector at IR83.

The effect of the development on the landscape character of the area and on visual amenity

13. The Secretary of State agrees with the Inspector's reasoning and conclusions, as set out at IR84 – 90, on the effect of the development on the landscape character of the area and on visual amenity. He agrees that the proposal conflicts with RS policies DP7 and EM1, LP policies SP2, HL8 and EP11, and Policy EC6 of PPS4 (IR89). He shares the Inspector's conclusion that the development results in a significant and substantial adverse impact on the landscape and on visual amenity and that this harm could not be overcome by effective landscaping measures within a reasonable period of time (IR90).

The effect on Hardhorn village and its residents

14. The Secretary of State has given very careful consideration to the Inspector's reasoning and conclusions on the effect on Hardhorn village and its residents, as set out at IR91 – 94. For the reasons given by the Inspector (IR91), the Secretary of State agrees that it is reasonable to consider Hardhorn village as the nearest settled

community and, like the Inspector, he concludes that a residential caravan site of this scale does not respect the small scale of the village and that this weighs against the development (IR92). However, for the reasons set out by the Inspector, he agrees that the effect of the development on outlook and from noise and disturbance would not be sufficient to weigh materially against the development (IR93). The Secretary of State has given very careful consideration to the evidence summarised by the Inspector at IR94 about anti-social behaviour and his conclusion that this matter should carry little weight in determining the appeals. Whilst the Secretary of State agrees with the Inspector (IR94) that there is conflicting evidence on this matter, having had regard to the police reports (appendix 3 of evidence document 34), he observes that the police have made a clear link between the site occupants and a number of incidents of criminal and anti-social behaviour. Having also taken account of the relatively short period over which these incidents have occurred, the Secretary of State considers that they attract somewhat greater weight than suggested by the Inspector.

The effect on highway safety

15. For the reasons given at IR95 – 104, the Secretary of State agrees with the Inspector's conclusions at IR105 with regard to the effect on highway safety. He agrees that the development would result in material harm to highway safety and would conflict with criterion 7 of LP policy HL8, which requires safe vehicular access to the site (IR105).

The effect on the best and most versatile agricultural land

16. For the reasons given by the Inspector at IR106, the Secretary of State agrees that little weight should be attached to the loss of agricultural land in this case and that the development does not materially conflict with LP policy EP22.

The effect on biodiversity and on cultural heritage

17. For the reasons given by the Inspector at IR107 – 108, the Secretary of State considers that potential harm to water voles and to Danes Pad can be avoided by the imposition of suitable conditions and that, subject to such a condition, little weight should be given to these matters.

The need for and provision of sites for gypsies and travellers

18. The Secretary of State has given careful consideration to the Inspector's reasoning and conclusions with respect to the need for and provision of sites for gypsies and travellers, as set out at IR109 – 117. He has had regard to the fact that the 2007 Lancashire Sub-Regional Gypsy and Traveller Accommodation Assessment (GTAA) identified a need for 204 – 231 pitches in the sub-region, less than one pitch in Fylde Borough and 24 pitches in nearby Blackpool Borough up to 2016 (IR109). He has also taken account of the fact that, in October 2010, the Council granted a permanent personal planning permission for a 6 pitch site in Bambers Lane (IR111). He agrees with the Inspector that in view of the lack of an identified need for sites in Fylde Borough in the GTAA, the development can be considered to conflict with the requirement of LP Policy HL8 (IR117). Whilst the Secretary of State has given little weight to the Draft North West Plan Partial Review,

he agrees with the Inspector that Circular 1/2006, which is national policy at the current time, does not limit consideration of need to the district in which a site is located (IR111). Like the Inspector, he concludes that the evidence of need in the wider area is a significant material consideration weighing in the appellants' favour (IR117).

The accommodation needs of the occupants of the site and the availability of alternative sites

19. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR118 – 121, with regard to the accommodation needs of the occupants of the site and the availability of alternative sites. He agrees that there are no alternative sites realistically available within Fylde, either for the group as a whole or for its component families, and he notes that the Council did not suggest that sites are available in the wider surrounding area (IR121). He further agrees that the need of the appellants for accommodation and the lack of suitable and realistically available alternative sites weighs in favour of the development (IR121).

The personal circumstances of the occupants of the site

20. The Secretary of State has given careful consideration to the evidence submitted on personal circumstances, including your proof of evidence (dated January 2011) and the written health assessment from Nicola Hartley of "Making Space" (dated December 2010). He agrees with the Inspector that, if the travellers were obliged to leave the site with no alternative site to go to, there would be serious disruption to the education of the children currently attending school (IR122). The Secretary of State is satisfied that the evidence in this case justifies attributing significant weight to continuity of education. The Secretary of State shares the Inspector's view that a roadside existence would make access to health care considerably more difficult, with the potential for a harmful effect on the health of some members of the group, including those with significant existing medical conditions (IR122). He attributes moderate weight to the health needs of the site occupants.

The sustainability of the site

21. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR123 with regard to the sustainability of the site. He agrees that in this case, sustainability is enhanced by the benefits of a settled site in terms of access to health and education, and avoidance of long-distance travelling and environmental damage associated with unauthorised encampments.

Other matters

22. The Secretary of State agrees with the Inspector (IR124), that the unauthorised nature of the development is not a matter which should weigh against the appellants in consideration of these appeals. He also agrees with the Inspector at IR125 that flood risk should not weigh materially against the development.

The overall balance in respect of permanent or temporary permission

23. The Secretary of State has given very careful consideration to the Inspector's reasoning and conclusions on the overall balance in respect of permanent or temporary permission, as set out at IR126 – 131. He agrees with the Inspector that substantial weight should be given to the harm to the landscape resulting from the development and to the harm to visual amenity (IR126). He further agrees that moderate weight should also attach to its failure to respect the scale of the nearest settled community (IR126). Like the Inspector, he also attaches considerable weight to the harm to road safety (IR127).

24. With regard to the matters put forward in support of the appeals, the Secretary of State has concluded that unmet need is a significant material consideration weighing in the appellants' favour (paragraph 18 above). He has also concluded that the accommodation needs of the site occupants and the availability of alternative sites weighs in favour of the development (paragraph 19 above). The Secretary of State has attributed significant weight to continuity of education and moderate weight to the occupants' health needs (paragraph 20 above). These matters, and the avoidance of potential adverse impacts which may arise if the appellants were to take up a roadside existence, are all considerations which the Secretary of State weighs in support of the appeal scheme.

25. Having carefully balanced these considerations, the Secretary of State concludes that the overall balance does not justify the granting of permanent planning permission for this development.

26. With regard to whether planning permission should be granted for a temporary period, like the Inspector (IR129), the Secretary of State has had regard to the advice set out in Circulars 01/2006 and 11/95. For the reasons given by the Inspector at IR130, the Secretary of State takes the view that it is not reasonably clear that planning circumstances in Fylde Borough will change for the occupants of this site at the end of a defined period. However, for the avoidance of doubt, he has considered the appellants' contention that a five year temporary permission should be considered (IR130 and IR40). The Secretary of State agrees with the Inspector that a temporary permission would limit the harm caused by the development by limiting its duration and that a temporary permission would also avoid the prospect of the appellants having to leave the site in the near future with no alternative site to go to (IR131). However, having regard to these matters and to the nature and extent of the harm to the landscape, visual amenity and highway safety, the Secretary of State agrees with the Inspector that a temporary permission cannot be justified, and that the planning balance would not alter even if substantial weight were given to unmet need (IR131).

Conclusions on the Enforcement Appeals on Ground (g)

27. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR132 – 133 with regard to the period for compliance with the requirements of the Enforcement Notice. He agrees that, whilst an extension of time would prolong the harm to landscape character, visual amenity and highway safety, that consideration must be balanced against the particular circumstances of this group of travellers (IR133). He agrees that an extension of time would be consistent with advice in

paragraph 11 of PPG18 and that the period for compliance should be extended to 12 months (IR133).

Human Rights

28. The Secretary of State has given careful consideration to the Inspector's reasoning and conclusions at IR134 – 139 with regard to the site occupants' rights under Articles 6, 8 and 14 of the European Convention on Human Rights. For the reason given by the Inspector, he agrees that dismissal of the appeals would be an interference with the occupants' homes and with their private and family lives (IR134). However, such interference must be balanced against the wider public interest and, like the Inspector, he is satisfied that the legitimate aim of protecting the environment and safety can only be safeguarded by the dismissal of these appeals combined with the extension of the period for compliance with the requirements of the enforcement notice (IR135). He agrees with the Inspector that such a decision would be proportionate and necessary in the circumstances and hence would not result in a violation of the appellants' rights under Article 8 of the European Convention on Human Rights (IR135).

29. The Secretary of State has carefully considered whether his decision to recover these appeals for his own determination amounts to an infringement of the site occupants' Human Rights under Articles 6 and 14. He set out the reasons for that decision in his letter of 10 March 2011 and agrees with the Inspector that the lawfulness and fairness of any decision he takes on a recovered appeal are subject to review through the courts (IR139). He agrees that, in that context, there is no basis for considering that there has been interference with the appellants' rights under Articles 6 and 14 (IR139).

Conditions

30. The Secretary of State has considered the proposed conditions at Schedule 4 of the IR, the Inspector's assessment of these at IR140 – 142 and the policy tests set out in Circular 11/95. He considers that the proposed conditions are reasonable and necessary and comply with the provisions of Circular 11/95. However he does not consider that, either individually or cumulatively, they would overcome his reasons for dismissing the appeal.

Overall Conclusions

31. The Secretary of State considers, overall, that the appeal development is not in accordance with the development plan as it would cause harm to the landscape character of the area, visual amenity and highway safety. He has gone on to consider whether there are material considerations which would outweigh this conflict. He has taken into account the factors that weigh in favour of the appeals which include the unmet need for sites in the wider area, the lack of available and suitable alternative sites, the strong personal need of the appellants for a settled base and the likely adverse effects on the appellants of a reversion to a roadside existence. However, he considers that these factors do not outweigh the conflict with the development plan.

Formal Decision

32. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation.

Appeals A – O: he hereby dismisses your client's appeals and upholds the enforcement notice, issued by the Council on 27 July 2010, Ref 5/09/0830, with the allegation at paragraph 3 of the notice deleted and replaced with the following: "Without planning permission, a material change of use from a mixed use comprising an equestrian use and agriculture to a mixed use comprising an equestrian use and use as a residential caravan site" and with the notice varied as follows:

- i) By the deletion of the requirement at paragraph 5(i) and its replacement with: "Cease using the land as a residential caravan site and remove from the land all caravans, sheds, containers and any other structures associated with the use of the land as a residential caravan site."
- ii) By the deletion of the requirement at paragraph 5(ii) and its replacement with: "Remove from the land all equipment, articles and other paraphernalia associated with the use of the land as a residential caravan site."
- iii) At paragraph 6 by the deletion of the words "4 months" and the insertion of the words "12 months".

Appeal P: he hereby dismisses your clients' appeal and refuses planning permission for the change of use of the land from former agricultural land to land for the stationing of caravans for residential occupancy by Gypsy-Travellers with associated development (hard standing, cess pools, fencing, utility buildings), in accordance with application number 09/0830, dated 14 December 2010.

Right to challenge the decision

33. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court.

34. A copy of this letter has been sent to the Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully,

Christine Symes

Authorised by Secretary of State to sign in that behalf

Appendix 3  Communities and Local Government		Appendix 1 www.communities.gov.uk community, opportunity, prosperity
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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for permission to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Report to the Secretary of State for Communities and Local Government

by Mr Keri Williams BA MA MRTPI

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

Date: 10 June 2011

TOWN AND COUNTRY PLANNING ACT 1990 FYLDE BOROUGH COUNCIL APPEALS BY MR TERRANCE COLLINS AND OTHERS

Inquiry opened on 8 February 2011

Land South of Fairfield Road, Hardhorn, Poulton-le-Fylde, FY6 8LA

File Refs: APP/M2325/C/10/2134060-74, APP/M2325/A/10/2134032

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Appeals A to O: APP/M2325/C/10/2134060 to 2134074
Land South of Fairfield Road, Hardhorn, Poulton-le-Fylde, FY6 8LA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Terrance Collins, Mr Michael Collins, Mr Michael Collins, Mr John Collins, Mr Patrick Collins, Mrs John White, Mr Alexander Collins, Mr John Connors, Mr Alexander White, Mr Alexander White, Mr Terrance Collins, Mrs Kathleen Collins, Mr Amos Price, Mr Christopher Collins and Mr John Collins against an enforcement notice issued by Fylde Borough Council.
- The Council's reference is 5/09/0830.
- The notice was issued on 27 July 2010.
- The breach of planning control as alleged in the notice is without planning permission, the use of the land has been changed from use for (as to part of the land) equestrian use and (as to the remainder of the land) agricultural use to use as a residential caravan site.
- The requirements of the notice are to:
 - i) Remove from the land all caravans, buildings, sheds, containers, water supply pipes and any other structures.
 - ii) Remove from the land all equipment, articles and other paraphernalia associated with the use of the site for residential or business purposes.
 - iii) Remove from the land all hardcore, road planings and any other material imported to and deposited on the land on or after 6 November 2009.
 - iv) Return the site to the condition it was in immediately before 6 November 2009 by reseeding those parts then grassed with grass.
- The period for compliance with the requirements is 4 months after the notice takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(a) (f) and (g) of the Town and Country Planning Act 1990 as amended. The applications for planning permission deemed to have been made under section 177(5) of the Act as amended also fall to be considered.

Summary of Recommendation: That the appeals be dismissed and the enforcement notice be corrected, varied and upheld.

Appeal P: APP/M2325/A/10/2134032
Land South of Fairfield Road, Hardhorn, Poulton-le-Fylde, FY6 8LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Messrs C and T Collins and other families against the decision of Fylde Borough Council.
- The application Ref.09/0830, dated 14 December 2010, was refused by notice dated 2 June 2010.
- The development proposed is described as the "Change of use of the land from former agricultural land to land for the stationing of caravans for residential occupancy by Gypsy-Travellers with associated development (hard standing, cess pools, fencing, utility buildings.)"

Summary of Recommendation: That the appeal be dismissed.

Procedural Matters

1. The Inquiry sat on 8-11 February, 16-17 March and 11 April 2011. An accompanied site visit to the appeal site and other locations was made on 17 March 2011. Lists of Core Inquiry Documents (CD) and of documents submitted at the Inquiry (Doc) are at Schedules 1 and 2 of this report. Cross-references to paragraphs of this report are in square brackets. These appeals were recovered for decision by the Secretary of State for Communities and Local Government by letter dated 10 March 2011. The letter referred to important or novel issues and/or legal difficulties.

2. A consultation document on Planning for Traveller Sites was issued by the Department for Communities and Local Government (DCLG) on 13 April 2011. It concerns a Planning Policy Statement for traveller sites to replace Circular 1/2006: Planning for Gypsies and Travellers and Circular 04/2007: Planning for Travelling Showpeople. It post-dates the close of the Inquiry. I have not taken account of its contents as the parties were not in a position to address it at the Inquiry. It will be a matter for the Secretary of State to decide how much weight to afford to his emerging draft policy.

The Enforcement Notice (CD1.5)

3. At the start of the Inquiry the Council put forward a correction and some variations to the notice, which the appellants considered acceptable. They are set out in Schedule 3 of this report. The correction is to the allegation and would describe the alleged use as being a mixed use of equestrian use and a residential caravan site. Requirement (i) of the notice would be varied to remove reference to water pipes and buildings. Business use is not alleged in the notice and reference to it in requirement (ii) would also be removed.
4. These changes would provide accuracy and clarity and are not more onerous than the notice as issued. A further requirement, to cease using the land as a residential caravan site, would also be added. The appellants confirm that they had understood this to be a consequence of the notice if upheld. They had prepared their case on that basis and say that they would not be prejudiced by the additional requirement. These changes would not result in injustice to any party and I agree that they should be made. The powers available to the Secretary of State contained in Section 176(1) of the Act as amended should be used to correct and vary the notice as set out in Schedule 3. Subject to the correction and variation of the notice, the appellants withdrew ground (f) of the enforcement appeals. No further consideration of that ground is necessary.

The Site and its Surroundings

5. The enforcement notice site is shown on the plan with the notice. It is broadly rectangular and measures about 130 metres by 215 metres, with an area of about 2.4 hectares. It is to the south of the B5266, Fairfield Road. Appeal P includes the same land plus the access track which links the site to Fairfield Road, forming a staggered junction with Puddle House Lane on the north side of Fairfield Road.
6. There are maps and photographs of the caravan site, the access track and the surroundings in Appendix B of Mrs Randall's evidence (Appendices RT1 to RT18). The site is bounded in part by drainage ditches and its western boundary is adjacent to the access track. There is a site entrance from that track. The track runs northwards from there to join Fairfield Road. It also continues southwards beyond the site. There is an internal access track within the site running east to west. The land on either side of it is divided into caravan pitches by fencing. For the most part, the track and pitches are surfaced with hardcore. At the time of my site visit, some of the pitches were occupied by caravans and other structures and there were timber stables on one pitch. Others were vacant. Areas to the north and south of these pitches remain grassed for use as paddocks. A low earth mound has been erected close to the site's eastern boundary and there is a close boarded fence, about 1.8 metres in height, along the northern boundary of the caravan pitches on the north side of the internal access track.

7. The site is to the south-east of Hardhorn village. It is separated from Fairfield Road by one field. The surrounding area includes low lying land, with a mixture of arable, pasture and some woodland. There are some buildings nearby, including glasshouses on the northern side of Fairfield Road and stables near the access track to the south of the site. The land rises to the west of the access track and towards Hardhorn. Features seen in more distant views include pylons, a railway line and Blackpool Tower. I give further consideration to the character of the area in my conclusions [84-90].

Planning Policy and Guidance

Government Policy

8. National policy of most relevance includes ODPM Circular 01/2006: Planning for Gypsies and Travellers, the following Planning Policy Statements: PPS1: Delivering Sustainable Development, PPS3: Housing, PPS4: Planning for Sustainable Economic Growth, PPS5: Planning for the Historic Environment, PPS9: Biodiversity and Geological Conservation, Planning Policy Guidance 13: Transport (PPG13) and Planning Policy Guidance 18: Enforcing Planning Control (PPG18).

The Development Plan

9. The Development Plan includes the Regional Strategy for the North West of England to 2021, 2008 (RSS, CD2.1), the Fylde Borough Local Plan as Altered, 2005 (LP, CD 2.3) and the saved policies of the Joint Lancashire Structure Plan, 2005 (SP, CD2.2).
10. The Secretary of State has made clear the Government's intention to revoke the RSS and the provisions of the Localism Bill, which is now before Parliament, reflect that intention. While that position is a material consideration which must carry some weight, the RSS remains part of the Development Plan for the area. However, there is no gypsy and traveller policy in the RSS and its policies are at a broad level. Relevant RSS policies include DP1 (Spatial Principles), DP2 (Promote Sustainable Communities), DP4 (Make the Best Use of Existing Resources and Infrastructure), DP5 (Manage Travel Demand: Reduce the Need to Travel and Increase Accessibility), DP7 (Promote Environmental Quality), RDF2 (Rural Areas) and EM1 (Integrated Enhancements and Protection of the Region's Environmental Assets).
11. SP policy 29, Sites for Gypsies and Traveller Families is also relevant. The most relevant LP policies are SP2 (Countryside Areas), HL8 (Sites for Gypsies/Travellers), EP10 and 11 (Building Design and Landscape Character), EP13 (Planting of Trees, Hedgerows and Woodlands), EP14 (Landscape Planting), EP19 (Wildlife Protection), EP21 (Archaeology) and EP22 (Protection of Agricultural Land).
12. SP policy 29 and LP policy HL8 are criteria based policies for gypsy and traveller caravan sites. They pre-date Circular 1/2006 and were not based on a quantitative assessment of the need for sites. Contrary to the approach in Circular 1/2006, they prohibit sites in specified areas, such as the Green Belt. This should limit the weight given to a conflict with these policies.

Guidance

13. Relevant guidance includes Manual for Streets (MfS1) and Manual for Streets 2 (MfS2), the Design Manual for Roads and Bridges (DMRB), Department for Transport guidance on Transport Assessment, Designing Gypsy and Travellers Sites – Good Practice Guide and the Landscape Strategy for Lancashire.

Submissions on Circular 1/2006: Planning for Gypsies and Travellers

14. The Council and the appellants made submissions at the Inquiry on the status of Circular 1/2006 and the weight it should be given. For the appellants it was said that, although the Secretary of State intends to revoke Circular 1/2006, it remains in force and should not be given less weight. It is not known what elements will go or be retained and it is speculation to consider what will replace it. Cases where the Secretary of State has given it less weight have been challenged. In the current vacuum, regard must be had to the binding policy framework of the relevant planning and housing acts, Circular 1/2006, PPS3, the Human Rights Act and the European Convention on Human Rights. National and regional policy is binding and must be given appropriate weight.
15. The Council refers to the Government's position that the interests of the settled community and the travelling community must be rebalanced. Circular 1/2006 has not yet formally been revoked but the Secretary of State intends to revoke it. He has described it as flawed and now gives less weight to it. Less weight should be given to it in this case. The right of gypsies and travellers to appropriately located settled sites is recognised but proper weight must be given to the views of the settled community and to the public interest in avoiding harm to landscape character and highway safety. Reference is made to other recovered appeal decisions in which reduced weight was given to Circular 1/2006 and to those decisions being challenged. As the RSS is also to go, less weight should be given to those parts of the Circular which rely on RSS policies to identify and meet the need for sites. The RSS is fundamental to the circular in its ability to redistribute need and in the requirement for Development Plan Documents to generally conform to it. The Circular depends on the ability to re-distribute need within regions and sub-regions. Notwithstanding this, the Council says the arguments against the development are sufficiently compelling for the appeals to fail even if the Circular was given the fullest weight. Two different scenarios could be considered, based on full weight or less weight to the Circular but the outcome would be the same.
16. My conclusion with regard to these submissions is that the Secretary of State's announcement that Circular 1/2006 is flawed and that he intends to replace it is a material consideration in these appeals. It has some effect on the weight that can be attached to the Circular as a statement of Government policy. The consultation process which is expected to lead to its replacement is in hand. Nevertheless, the Circular remains in force. As yet it is uncertain what will replace it. I consider that it should remain a central and weighty consideration in addressing some of the issues in these appeals.

Planning History of the Site

17. The lawful use of the land is agricultural, with equestrian use on part of it. In 2008 permission was granted for use for the keeping of horses on one of the 6 plots which made up the land before its occupation by the appellants. A Temporary Stop Notice was issued on 7 November 2009, after the first

occupation of the site. Injunctions were granted on 13 January 2010 and on 3 February 2010 to prevent more caravans being brought on and to restrict certain activities (CD7.1 to 7.3).

The Appeals Development

18. Although the access track to Fairfield Road is outside the enforcement notice area it is used for the unauthorised development so that all the appeals effectively concern the same site. Taking into account the corrected allegation set out in Schedule 3, the deemed planning applications in Appeals A-O are for a change of use from a mixed equestrian and agricultural use to a mixed equestrian and residential caravan site use. An indicative 1:250 scale plan submitted with planning application 09/0830 broadly shows the layout which now exists, with an internal access road running east to west and the site divided into 15 residential pitches, each with a paddock to the rear. A further plot is shown with the stables building. Each plot would have 2 or 3 caravans of which no more than one would be a static caravan. There would be no more than 36 caravans in total. Each plot would also have a paddock and a utility building or shed. Foul drainage would be by cesspit.

Agreed Matters

19. There are two Statements of Common Ground (SCG). One covers planning matters (Doc 1) and the other Highways Matters (Doc 2). Lancashire County Council is party to the Highways SCG as Highway Authority. In addition to a site description, relevant planning history and national and development plan policies, matters agreed in the Planning SCG include the following:

- The gypsy/traveller status of those occupying the site;
- The site is in open countryside and the development is an encroachment into that countryside resulting in harm to rural character;
- The site consists of grades 2 and 3 agricultural land. Two thirds of the site would be lost to agricultural use during the development;
- The site is on the route of a regular bus service between Blackpool and Preston. The nearest bus stop is 780 metres from the site;
- The site's eastern boundary is on the line of a former Roman Road known as Danes Pad;
- The effect of the development on biodiversity and on cultural heritage are matters which could be addressed by planning conditions. [107-108].

20. Matters agreed in the Highways SCG include the following:

- The shared private access track serving the site is a no through road with a rolled surface and with some tarmac patches near its junction with Fairfield Road. It serves other uses, including stables. It has a driveable width of 4.0 to 5.3 metres. It is about 4.65 metres wide at a set of gates which are about 5 metres back from Fairfield Road measured to the near gatepost;
- At the junction of the access track with Fairfield Road visibility to the left (west) is 2.4 metres by 58.5 or 59.7 metres. To the right (east) it is between 40.6 metres and 47.8 metres (Doc 15);

- The B5266 Fairfield Road is a single carriageway local distributor road subject to the national speed limit of 60mph where it passes the site access track, reducing to 30mph about 100 metres to the west where it approaches Hardhorn village. Fairfield Road is between about 5.4 metres and 6.1 metres wide, with grass verges. The verge on the south side is 1.5 metres to 2.0 metres wide. There is no street lighting and there are no footways. The nearest footway is about 200 metres west of the access track;
- Puddle House Lane is publicly maintained and serves a farm and several houses and other uses including a touring caravan park. At its southern end it is about 4 metres wide and it reduces northwards. At the junction of Puddle House Lane with Fairfield Road visibility to the right (west) is 2.4 metres by 154 metres. To the left (east) it is 2.4 metres by 13.6 metres;
- Part of a hedge fronting Fairfield Road to the east of the access track has been removed. It is not in the appellants' control and if it was replaced and allowed to grow back to its former width, visibility would be reduced;
- There were 149 traffic movements to and from the access track in a 15 hour survey on 23 September 2010, when the site was occupied by 20 caravans. 94% were by cars. 68 movements were recorded to and from Puddle House Lane. The development would generate about 150-170 vehicle movements per day;
- Measured traffic speeds (Design Speeds), on Fairfield Road at the 85th percentile were 41.7mph and 53.3mph westbound (at two different survey points) and 45.5mph and 58.3mph eastbound. Some vehicles were travelling considerably faster;
- The extent of highway land (Doc 2, Figure 1);
- Accident statistics for January 2004 to September 2010 (Doc 2, Figure 3);
- Previous planning decisions on the appeal site and nearby sites (Doc 2, paragraph 2.1).

The Case for the Appellants – The Material Points

The general need and the district need for sites

21. There has been a failure to address the housing needs of gypsies and travellers over many years, although the overall need is small scale. They are of nomadic habit and do not restrict themselves to district boundaries. It is not disputed that there is a significant need for sites in the North-West, in the sub-region and in Blackpool. There is a shortage of suitable, available sites to meet that need. Incidents of unauthorised encampments in Fylde and the wider surrounding area are further evidence of need. Nor is it disputed that the assessment of the general need for sites is a material consideration. This is shown in the case of *Hedges and Hedges v Secretary of State for the Environment and East Cambridgeshire District Council*, 73 P&CR 534 (Doc 22). Paragraph 12(e) of Circular 1/2006 refers to the importance of assessing the wider need and to developing strategies to address it fairly and effectively.
22. The Council's position is that the Lancashire Sub-Regional Gypsy and Traveller Accommodation and Related Services Assessment, 2007 (GTAA, CD5.1) found

little need in their District, so that they do not have a need for sites. The GTAA was based on a "need where it is seen to arise" approach and it recognised that this reinforced the historic inequalities in site provision in different districts. The Council's approach fails to address the need in Blackpool, although the appeal site is very close to the boundary of Blackpool Borough. The partial review of the RSS found significant unmet need at regional and sub-regional levels and in Blackpool. Blackpool is much smaller than the neighbouring Fylde and Wyre districts. Taking this into account and due to constraints in Blackpool, including Green Belt land, the coast and land availability issues, the partial review said that Fylde should help meet the general need. This was confirmed in the report on the partial review (CD 5.2). It would have become policy but for revocation of the RSS.

23. The Government's announcement regarding the future of RSS and the replacement of Circular 1/2006 result in problems in allocating general need between districts. In the absence of any national or regional mechanism to allocate the general need between districts, the decision maker must grapple with this at each Inquiry where it is an issue. The general need for sites in the wider surrounding area has long been recognised as a material consideration, even if there is no local need in the district where development takes place. The issue is recognised in the Localism Bill, which proposes a mechanism for councils to co-operate. The vacuum in terms of re-distribution of need is very relevant to this case. Unlike Blackpool, which has little land to meet its substantial need for sites, substantial areas in Fylde are in the countryside and not subject to national or local designation or restraint.
24. It is too early to say what will happen when the Localism Bill is enacted. Whether and to what extent Wyre and Fylde will assist in meeting general need is not known. The Council has submitted evidence suggesting that Blackpool will reduce its housing requirement, allowing more land to meet its GTAA requirement (Docs 32 and 33). This may happen and the appellants should be allowed to stay on the site rather than being needlessly evicted with nowhere to go. Wyre District Council is also understood to be undertaking a search for sites. The significant wider need and lack of suitable available alternative sites in the region, sub-region or any of the districts to meet it cannot be ignored.
25. Under Article 8 of the European Convention on Human Rights there is an obligation to facilitate the gypsy way of life. This requires the identification of their housing need and the allocation of sites to meet it. Failure to do this led to the ruling in *Chapman v United Kingdom (2001)*. It set out the need to consider the general need, the availability of alternative sites and financial matters concerning the likely availability of those alternative sites. The nomadic character of gypsies makes assessment at a district level problematic. Assessment is made through GTAA at regional and sub-regional level. It is trite to argue that, nevertheless, the Council must only provide for need in its district if applications are made by gypsies or travellers who do not resort exclusively to that district.

The effect on the countryside, landscape and visual amenity

26. The development is not inconsistent with national, regional and local policies. Paragraph 54 of Circular 1/2006 says that a gypsy site in the countryside is acceptable in principle. The site is close to settlements and not constrained by national or local designation. It is not in open countryside away from settlements and complies with LP policy HL8 in that respect. Caravan sites are part of the

character of the wider area. There are other visual detractors and this is not an area of high sensitivity. Any amenity or environmental objections can be met by conditions. There is no flooding objection and the site is highly sustainable.

27. The Council's landscape witness, Mrs Randall, acknowledged the acceptability in principle of a site in the countryside and that a rural setting may be appropriate if the site is suitable and the proposal is in scale with the nearest settled community and does not dominate it. She conceded that the site could be made acceptable by a 15 metre wide tree planting screen around at least two sides of the site. She referred to other sites with similar screening and accepted it would not be inappropriate. Her evidence is that there is enough land to create a landscaping feature to meet her concerns. A landscaping scheme would be appropriate. A 15 metre screening belt would be excessive but could be provided if necessary. A condition could require a site layout, with hard and soft landscaping. This would create the required buffer, including a buffer around Danes Pad, the buried Roman Road.

The effect on the nearest settled community

28. Hardhorn village is not distinct from Hardhorn/Poulton-le-Fylde. It is part of the urban sprawl around Blackpool and there has already been substantial additional housing development in Hardhorn. The appeal site has no undue impact on local infrastructure or local residents. There is no tangible residential amenity issue. Visual amenity is not harmed because most residents cannot see the site. There is an unjustified fear of the effect on property prices. If permission is given the site would be assimilated into the local area and would contribute positively to it.

Highway safety

29. While layout and visibility may not fully accord with desirable design standards, there is an acceptable level of visibility provision and, on balance, highway safety would not be unacceptably compromised. The appellants rely on MfS2. Its guidance must be applied having regard to local context and with a commonsense approach. A highway objection cannot be sustained on proper analysis of the evidence and the concessions made by the Council's highway witness, Ms France. An analysis of whether safety would be compromised must be made, rather than blindly applying standards.
30. The Council's submitted evidence was based on the full application of standards in the Design Manual for Roads and Bridges (DMRB), which provide for continuous through traffic speeds. At the Inquiry it was conceded that a 0.375g rate of deceleration could be applied. It covers the ability of all vehicles to stop, including HGV. However, it is not necessary to consider HGV in this case. Due to the characteristics of the road network they comprise less than 5% of traffic. They are also subject to a 40mph speed limit on single carriageway roads, which is below the Design Speeds used to consider visibility splays in this case. The relevant consideration in this case is providing for non-HGV traffic to stop. This supports a Sight Stopping Distance (SSD) based on a 0.45g deceleration rate. Fairfield Road is not a high speed road as defined in TD1/95 (Mr Hurlstone, appendix E). There is good forward visibility for drivers and this helps to explain the lack of injury accidents at the Puddle House Lane junction, where visibility to the east is severely constrained.
31. It was also conceded that the full splay distance to the right could be met at an X-distance of 2.0m and that, at a 2.4m X-distance, the splay could be provided

within the highway boundary. This could be achieved by trimming back the roadside hedge to its centreline. It could be trimmed at an angle, while retaining its root system. This is not unusual. It was further agreed that an 8m length of hedge would need to be trimmed back to its centre and beyond that the effect on the hedge would diminish. The length of hedge near the access track/Fairfield Road junction, which was removed by the appellants, is on highway land and the Highway Authority is unlikely to require its replacement.

32. Traffic flows on Fairfield Road are low. It operates well below its capacity, as does the access track. The volume of traffic which would use the access track can also be described as low. The Council agrees that Fairfield Road is lightly trafficked and that there is satisfactory visibility to the left when measured to the centreline of the carriageway. The remaining concern is the ability of a driver emerging from the access track to see an overtaking vehicle travelling eastbound towards the site access. An emerging driver would be able to see a vehicle approaching from the east in the far traffic lane. Ms France conceded that there is satisfactory visibility when measured to the centreline, that a driver would not turn out of the track in circumstances where an eastbound driver on Fairfield Road was approaching and that an overtaking driver in that situation would see a driver at the access track junction with Fairfield Road. If an overtaking manoeuvre had started before the emerging driver appeared, the oncoming driver would have passed the access by the time the emerging driver stopped and looked left and right. This explains why there have been no relevant road accidents. It was also conceded that a driver was unlikely to overtake when seeing a vehicle emerging from the access track and that the swept path analysis showed it was unlikely that a vehicle would turn left out of the access without crossing the centreline of Fairfield Road.
33. Paragraph 10.4.2 of MfS2 advises that research has not shown increased injury accidents where recommended visibility standards are not met. The absence of recorded accidents at the junction shows that the junction of the access track, Puddle House Lane and Fairfield Road operates safely. It is common on many routes where the minor arm does not provide for full unimpeded movement for all vehicles for a driver on the primary route to slow to allow emerging vehicles to join the road. This must already occur at Puddle House Lane.

Sustainability

34. It is not disputed that there is a "hail and ride" bus service which will stop at the end of the access track and that the level of service was good. The Council did not assess the wider sustainability considerations as advocated in Circular 1/2006. The appellants consider it unnecessary to provide a footway along Fairfield Road to link to a bus stop but they would do so if it was a requirement.

Personal circumstances

35. The appellants have acute welfare needs and personal circumstances. The site was selected partly because of its proximity to schools. Although there had been some access to education for the children now on the site while travelling, it had been disrupted. 22 children from the site now attend Christ the King Catholic Primary School, which is within Blackpool Borough. More are on the waiting list. The school has secured additional support for the children. The headmistress, Mrs Smith, says that the families have engaged with the school and the pupils have made significant progress. They are well behaved, work hard and are highly

valued members of the school's Catholic community. One child is to progress to secondary school, which is unusual in traveller families.

36. The poor health of travellers is well documented and there is often poor engagement between them and health professionals. Travellers are often reluctant to consult a GP and fear losing contact with services in areas they previously visited. There is also poor access to secondary medical services when families are on the road. The occupants of this site did not have access to consistent and stable healthcare services until they settled on the appeal site.
37. Mrs Hartley, a Minority and Ethnic/Gypsy/Roma/Traveller Community Development Worker, has worked closely with the travellers living on the site. Her evidence refers to a number of them having conditions requiring regular medical treatment, including some serious medical conditions such as heart conditions, epilepsy and diabetes (Mrs Hartley, 4.1- 4.19). She also refers to high levels of stress and depression. Living on the site has allowed the travellers to benefit from regular health care and monitoring. If they were required to leave the site with nowhere to go they would again face serious difficulties in accessing healthcare and other agencies. They would suffer further stress and tension.

Anti-social behaviour and integration with the local community

38. Mrs Collins, who lives on the site, acknowledged that their occupation of the site had caused problems. They were trying to be good neighbours and had themselves experienced some incidents of anti-social behaviour. Mrs Hartley has visited the site at least weekly for over a year. She says that complaints against the travellers were usually unfounded. The site was kept to a high standard and the travellers behaved well. They had helped local residents on occasion and had brought in quieter generators to avoid undue noise. Community tension had reduced and the travellers were using local shops and services and attending church. There had not been a police presence for some months, apart from routine visits. Mrs Smith, the headmistress of the Christ the King Catholic Primary School, referred to the high standards within the site. Father Collins, the parish priest at Saint Cuthbert's Church, High Cross had visited the site. He referred to the high moral standards of the site residents and to their religious conviction. A number of them regularly attended his church.

The overall balance

39. The development is consistent with local and national policy, so that there is a presumption in its favour. A countryside location is acceptable in principle, the site is not otherwise constrained and there is no highway safety problem. There is a significant unmet need for sites and no likelihood of alternative sites coming forward in a reasonable period of time to meet the need. There is and will be a failure of Councils in the regions and sub-region to have realistic policies to deliver sites. The vacuum created by the non-completion of the partial review of the RSS has added to the problem with regard to meeting Blackpool's need. The absence of a means to redistribute need is a material consideration to be added to the balance. Refusal of permission and eviction from the site would have a disproportionate effect on the appellants' Human Rights. Any remaining concerns can be met by planning conditions.
40. A permanent permission would contribute to meeting the wider need and should be granted. If not, consideration must be given to a temporary consent. In that case, more weight must be given to unmet need and less weight to any harm,

because it will be temporary. The transitional provisions in Circular 1/2006 are engaged and do not prevent consideration of need in the wider area. Sites will have to be made available in Blackpool. There is a reasonable prospect of sites coming forward within a five year period.

The period for compliance with the enforcement notice

41. The period for compliance is unreasonably short having regard to advice in PPG18 and in Enforcing Planning Control: Good Practice Guide, 1997. The appellants are an extended family traveller group with nowhere else to go and with a history of unauthorised encampments. The site is their home and they would have to find somewhere else to live, suited to their traditional way of life. If not, they would return to the misery and hardship of a roadside existence. The planned approach to providing additional sites which was envisaged in Circular 1/2006 has not been successful in providing suitable sites in the Blackpool/Fylde coast area. The Council cannot suggest alternative sites. The appellants were entitled to assume they might be successful in gaining planning permission and should receive a reasonable period after the notice takes effect.

The Case for the Council – The Material Points

Policy context and the need for sites

42. No local need has been established. The 2007 GTAA (CD5.1) was robust. It identified a sub-regional need for sites but virtually no need in Fylde borough, so that there is no local need. The sub-regional need is in Blackpool, where the GTAA specified 24 further pitches. There is no sustainable reason why Fylde should meet that need.
43. Although the draft 4NW Panel Report (CD5.3) recommended a redistribution of the sub-regional need, the partial review was not completed. The RSS has no gypsy and traveller policy and there is no prospect of a partial review. There is now no mechanism for re-distributing need between districts in the north-west so that any redistribution would be voluntary. There is little evidence that such co-operation will take place. Indications are that it will be for individual councils to determine the level of need in their area and meet it. There is no requirement for this Council to meet Blackpool's need. In the absence of a re-distribution mechanism, the need for sites in the region or in Blackpool should be given very little weight in support of the appeal. At the partial review Examination in Public it was argued that Blackpool is built-up tight to its boundaries. However, it is now intended to consult on a reduced housing land supply target (Docs 32 and 33). That is likely to mean more land available to meet Blackpool's need for gypsies and traveller pitches. The appellants' case on need cannot succeed.

Highway safety

44. The Council has taken a carefully considered, safety oriented approach based on up to date guidance underpinned by robust professional judgement. The appellants have stretched all known guidance and parameters almost to breaking point. The expert witnesses agree that the guiding principle is safety. The Highway Authority says that the site will undermine road safety. The view of the appellants' position that continued use of the appeal site access would not unacceptably compromise highway safety is taken on balance. It strains the interpretation of recent guidance and it would not take much to tip that balance

-
- against the development. Other development proposals relying on the access track have been refused on highway grounds.
45. MfS1 and MfS2 give up to date and robust guidance. They must be applied with regard to local context but there must be good reason for departing from their clear direction. Visibility splays, the relationship of the site access with Puddle House Lane and the adequacy of the site access remain in dispute. They must be considered in an overall assessment before considering if relevant technical guidance standards can be relaxed. The speed of vehicles on Fairfield Road, the design deficiencies of the access track and the staggered junction with Puddle House Lane lead to the conclusion that it would be a gamble to take the appellants' "on balance" approach.
 46. There is agreement on Design Speeds for traffic on Fairfield Road but appropriate Sight Stopping Distances (SSD) are not agreed. MfS2 advises that its SSD guidance should be used only if appropriate to the local context. Where, as here, speeds are above 40mph for significant parts of the day DMRB parameters are recommended. The SSD in MfS2 are expressed as minimum requirements and Table 10.1 in MfS2 makes it clear that DMRB reaction times and deceleration rates should be used where design speeds exceed 60kph (37.3mph), as in this case. It would be folly to use the 0.45g deceleration rate advocated by the appellants. It pushes guidance to its limits without regard to local context and is inappropriate where safety is concerned.
 47. A deceleration rate of 0.375g can be applied, which is a relaxation having regard to MfS2. This results in required splays of 115-116m to the right and 98-99m to the left, which are not achieved when measuring to the near side of the road. Only 47.8m is achieved to the right and only 58-59m to the left. MfS2 make it clear that the nearside edge of the vehicle track should be used unless overtaking by vehicles approaching from the left is unlikely, which does not apply here. Drivers approaching the site access track from the left are leaving a built-up area, going into a 60mph speed limit area and have good forward visibility. This gives an obvious temptation to overtake. There is no justification for measuring to the centre line or far edge for vehicles coming from the right. Vehicles are travelling nearer to the near side kerb, not in the middle of the road. MfS2 is also clear that an X-distance of 2.4m should be used. To avoid vehicles overhanging the carriageway at junctions, a relaxation to 2m should only apply in some slow speed situations when flows on the minor arm are low. Given the design speeds here, these conditions are not met.
 48. Achieving appropriate visibility to the right relies on the Highway Authority using its Highways Act powers to cut back the roadside hedge and then maintaining an unobstructed splay. Without relatively intensive maintenance the hedge would grow and intrude into the visibility splay. The deficiencies with regard to visibility splays are sufficient for the scheme to be rejected on highway safety grounds. There is also an uneasy relationship with Puddle House Lane. Vehicles exiting the lane already have to encroach onto Fairfield Road while taking account of vehicles travelling at high speed and there is the potential for crossing conflict with vehicles entering or leaving the appeal site. Dismissal of the appeals would reduce the likelihood of unacceptable conflict. The inadequacy of the site access track will also give rise to conflicting vehicle movements which will undermine safety. Larger vehicles would need to cross the centreline of Fairfield Road when entering or leaving the track. A vehicle turning left into the track may be required

to reverse back out onto Fairfield Road to permit another vehicle to exit the track, an inherently unsafe manoeuvre.

Impact on the character and appearance of the countryside

49. Unlike the appellants, the Council has carried out a careful landscape and visual impact assessment. It assesses the sensitivity of landscape character areas, the magnitude of change and the significance of impacts. The development has a significant substantial adverse impact on landscape character and a significant substantial to moderate adverse effect on local visual amenity. The appellants accept that there would be an unspecified measure of harm, relying on landscaping to overcome any problems. That is not a proper approach.
50. Not all sites in the countryside are unacceptable and development need not be hidden. Rural settings for gypsy and traveller sites are acceptable in principle but that does not mean that any level of harm must be accepted. Circular 1/2006 does not displace guidance in PPS1 and PPS7 on design and on the importance of protecting the countryside. Circular 1/2006 says that sites should respect the scale of and not dominate the nearest settled community, maintain visual amenity and blend into their surroundings. The landscape character here is unsuited to any new development. Development of a caravan site will be visible from a range of public vantage points. The appellants accept that the site is harmful to the character of the area and to its visual amenities.
51. Caravan sites are not part of the character of the area. They are not mentioned as such in the Lancashire Landscape Strategy (CD5.4, page 92) and most caravan sites in the area are sufficiently well screened to blend into the area, as at the nearby Todderstaffe Hall site. The appellants' approach relies on a much larger area than the landscape compartment in which the site sits. They include "urban fringe" caravan sites whereas the appeal site is in a rural area. If planning permission was granted a woodland belt would be required. Its purpose would not be to hide the site but to more readily blend it into the landscape which is harmed. The extent of landscaping needed shows the poor choice of location for the development. The Council's landscape witness accepted the general proposition that landscaping could overcome adverse impacts but her position remains that the scale of woodland planting needed would radically alter the landscape in views south from Fairfield Road. Woodland screening of a modified layout would itself be a slightly incongruous feature. She also doubts the practicality of maintaining a visibility splay by regular maintenance of the roadside hedge. The overall impact of the development on landscape character and visual amenity would be unacceptable.

Impact on the settlement of Hardhorn

52. Circular 1/2006 requires consideration of the relationship to the nearest settled community to ensure that the site respects and does not dominate it. Hardhorn village is the nearest socially and geographically identifiable community. It is shown as a settlement on the Ordnance Survey map and is discrete from the open countryside and from Hardhorn/Poulton. Local residents feel themselves part of a distinct community. It cannot be concluded that there is no such thing as the settlement of Hardhorn village.
53. The caravan site amounts to a "new" settlement of comparable size to Hardhorn village and across the road from it. Its scale and impact has a disproportionate effect on the village. The Council is not pursuing an anti-social behaviour

argument but the level of related traffic movements harms the settlement and there have been incidents of nuisance. These effects result from such a large site in close proximity to this settled community. There has been some recent improvement but the unacceptable relationship with Hardhorn village counts strongly against granting permission.

Loss of agricultural land

54. The site comprises grades 2 and 3 agricultural land, which is the “best and most versatile.” It is in a farming area. Circular 1/2006 does not dilute PPS7 guidance on loss of agricultural land. The built development on the site would lead to its loss. This is not sufficient for the appeals to fail but should be given something approaching significant weight in the overall balance.

Archaeology and ecology

55. The appellants accept suggested conditions on these matters. Only if these, or similar, conditions are imposed would they be dealt with acceptably.

Development plan policies on gypsies and travellers

56. SP policy 29 and LP policy HL8 are specific policies against which the development must be judged. They are “saved” so are presumed to be consistent with up-to-date national policy. They are generally consistent with Circular 1/2006 other than the prohibition on Green Belt sites and, in policy HL8, on open countryside sites. The development conflicts with criterion (c) of SP policy 29 because of its impact on the environment. The SP is a countywide document. The term “local” in SP policy 29 must relate to local planning authority areas and the term “area” in LP policy HL8 is the Fylde Borough area. This interpretation is in step with the Government’s localism agenda.

Local connection and alternative sites

57. Paragraph 48 of Circular 1/2006 refers to having particular regard to the needs of households who are current residents or have a family or employment connection. Paragraph 62 cautions against refusing permission solely because there is no local connection. Local connection is a relevant consideration, otherwise local need may not be met. Without considering local connection, occupiers of private sites could more easily argue that their need should be met in that location. This view was rejected in the Hut Lane appeal decision (Mr Evans, appendix MDE8).
58. The appellants’ desire a settled base but their choice of the appeal site was a geographical co-incidence arising from their temporary stop in Fleetwood. They have travelled across the whole of Northern England. The evidence does not suggest regular stops in the Fylde and Blackpool area. There is nothing special to them about that area and little evidence of any local connection to it before occupying the site. To consider their presence on the site as compelling evidence of need would run contrary to the Hut Lane decision and to the attitude of the Secretary of State. It weighs in favour of the appellants that the Council has not identified any alternative sites but they did not look for other sites before coming to Hardhorn. This lessens the weight to be attached to the lack of alternatives.

Personal circumstances

59. Little evidence of personal circumstances was given with the planning application. The only clear evidence is that of Ms Hartley. Her role as a Community Development Worker is to support the site occupants, resulting in a natural tendency to emphasize their difficulties and needs. Some of the incidents she referred to relied on hearsay. Her medical evidence was based on client interviews rather than medical expertise. The Council has been sufficiently aware of the welfare needs of the site occupants. The benefits of a settled base, particularly for education and health, weigh in the appellants' favour, although a good number of the site occupants do not suffer from ill health. Nor were they entirely isolated from the education and health systems before occupying the site. The apparently stark picture of life on the road does not mean that all the children will receive no education or that people will not be able to access medical services. Personal circumstances do not outweigh the harm caused by the development.

The overall balance and temporary permission

60. There are substantial policy conflicts, which are not outweighed by any benefits, so planning permission should not be granted. The test with regard to temporary permission is set out in paragraph 45 of Circular 1/2006 and is not met. There is no unmet need and a temporary permission would result in unacceptable harm to highway safety and to the local area. The Council does intend to update the GTAA but there is no reasonable prospect of it preparing a Development Plan Document to allocate further sites. Blackpool may seek to address the need for sites in its area but there is no commitment to providing further sites in its Core Strategy Preferred Options. It is accepted that the personal circumstances of the site occupiers, their need for a settled base and the chance for their children to have an education are material considerations to be weighed in the overall balance.

The period for compliance with the enforcement notice (ground (g))

61. The 4 month period given for compliance with the notice is reasonable. The appellants have not justified staying on the land for a longer period. It would be highly inappropriate to extend the period for compliance.

The Case for Others Appearing at the Inquiry – The Material Points

Mr Mark Menzies MP

62. Local residents strongly object. They consider that the development disregards planning law and the environment. They are also concerned about crime, anti-social behaviour and the effect on the local economy, property prices and agricultural land. The needs of the travellers in terms of healthcare, education and other services are understood but this is a flagrant abuse of the planning system. To grant retrospective permission for such a large scale development would set a worrying precedent. Appropriate provision should be made to accommodate travellers groups. This should be done in a planned way and the Council has already exceeded what was required. Given the flagrant breach of planning rules, the Council's clear decision and the overwhelming views of residents, the Council's decisions should be upheld.

Mr Ben Wallace MP

63. Mr Wallace wrote to the Secretary of State on 26 January 2011 asking him to recover determination of the appeals. He says that the development is a breach of planning legislation. There is a deliberate intention to thwart planning rules, ignore enforcement action and break the law. The appellants should observe the same rules as others. This is the wrong development, in the wrong place at the wrong time. It is contrary to proper planning. The objective of PPS3 is to ensure that areas are strategically chosen for development and this site has not been chosen. A planning application would have been refused. There are enough sites. There is no historic need for sites in Poulton-le-Fylde and there is no clear evidence of the need for further residential development in Hardhorn. Brownfield sites should be used before greenfield sites such as this are considered. The development is visually intrusive and fails to improve local character. Smaller scale development on the land has previously been rejected. Traffic movements from the development may increase the risk to highway safety and waste, sewage and fire safety requirements are not met. The Localism Bill is progressing and the Government is reviewing the approach to providing sites for gypsies and travellers. The appeals should be rejected.

Hardhorn, Staining, Singleton and Poulton Residents Association (HSSP, Doc 34)

64. Local residents have been alarmed and upset by the occupation of the site in November 2009 and the works to the site after that, including the arrival of plant, machinery and frequent arrival of trucks bringing in more than 35,000 tonnes of hardcore. The appellants ignored a Stop Notice, Injunctions and local residents' wishes by refusing to stop work on the site. Hardhorn Village was a peaceful settlement. Since the development there have been regular incidents of anti-social behaviour. They have included excessive noise, litter and nuisance from dogs. Sheep have been worried or attacked by travellers' loose dogs. A police report refers to numerous incidents involving occupants of the site.

65. The site is visually intrusive. It is harmful to the character of the open countryside around Hardhorn village and to the landscape enjoyed by the wider community. It is clearly visible from the Preston to Blackpool North railway line. The development has devastated local flora and fauna. Trees and hedging have been removed near the access onto Fairfield Road, which has harmed the area's character. The fencing erected is an alien feature in the countryside. A Roman Road is thought to run through the site so there could also be damage to the cultural heritage.

66. Hardhorn village is a small hamlet, on the periphery of Poulton-le-Fylde but separate from it. The development is overwhelming to the local community. It would almost double the size of the village, permanently alter the village's character and lead to a loss of its unique character. It conflicts with the requirements of LP policy HL8. The appellants have no connection with the Borough and did not contact the Council about available sites. Nor is the site close to a settlement that can provide services and facilities. The huge increase in anti-social behaviour has harmed the residents' quality of life. The site is also prone to flooding and no Flood Risk Assessment was submitted.

67. There are serious concerns about road safety. Access is along an unmade single track with no footways. It joins a de-restricted section of Fairfield road at a point opposite Puddle House Lane. Fairfield Road is busy, with fast moving traffic. The

access is inadequate. Permission would put road users' lives at risk. A police report shows 31 accidents on Fairfield Road in the last 5 years, of which 12 resulted in injuries, with 3 resulting in serious injury. Visibility at the access onto Fairfield Road is wholly inadequate and drivers cannot see the access track. Other developments reliant on the track have been refused on highway safety grounds.

68. The development conflicts with LP policy SP2, which limits development in the countryside to specific categories and does not include this type of development. The Government is reviewing guidance on gypsy and traveller development. Residents have been denied the chance to comment before such a large development took place. To grant permission, even on a temporary basis, would destroy the lives of the settled community. Consideration of the appellants' human rights must be balanced against those of the wider community.
69. The appendices to HSSP's evidence (Doc 34) include an extract from the Highway Code, police responses to freedom of information requests concerning accidents on Fairfield Road and incidents related to occupants of the appeal site and a timetable and summary of events at the site.

Michelle Caulton, resident of Puddle House Lane (Doc 19)

70. There was no consultation with residents before the development occurred. Since it began, in November 2009, there has been daily concern about road safety. The junction of Puddle House Lane with Fairfield Road is not ideal but is adequate. There are daily conflicts of traffic entering or leaving the farm track with vehicles from the appeal site. Ms Caulton considers this puts her and her family at a high risk of a road accident and that it is irresponsible for the appellants to argue that the development is acceptable on highway safety grounds or that a bus could stop adjacent to Puddle House Lane.
71. There is noise nuisance from the people, dogs and vehicles related to the site. This is disturbing in what was a tranquil area. There have also been problems caused by stray dogs, a pony loose on the lane and incidents of anti-social behaviour. There is a high level of vehicle movements from the site and at night headlights from departing vehicles are a nuisance. Ms Caulton is concerned that traffic, noise and disturbance from the setting up of the site has been damaging to her Caravan Club business. The development has caused stress and worry to her and her family and has affected their Human Right to enjoy their property in peace and harmony.

Mr Robson, farmer and local resident (Doc 18)

72. Mr Robson's farmland adjoins two sides of the appeal site. Sheep are kept on the land in the winter and there have been problems with dogs from the appeal site worrying and savaging some sheep, causing some to be driven into a dyke. Sheep stressed in this way do not fully recover. Dogs from the site have been found roaming in the fields and one of the dogs was shot. Other local farmers have similar concerns. Roaming dogs can be a threat to farmers' livelihoods and spread disease. About a month after normal hedge cutting was carried out, a section of hedge alongside the entrance was cut back through the stock. The situation has led to unacceptable stress to Mr Robson and his family. There has been some improvement in the last few months.

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73. Another concern is the level of traffic. If an agricultural vehicle entered the access track and met another vehicle, it would have to reverse out onto a busy road. There has been one collision between a tractor and trailer and a vehicle leaving the site. The site and the surrounding field are low lying and wet, especially in winter. Some spoil and hardcore has spilt into the drainage ditch, making adjacent fields wetter than normal. A large number of cess pools would result in raw sewage leaching into these watercourses, causing pollution and smells.

Mr Williamson, local resident

74. Mr Williamson lives directly opposite the site, with views over it. He moved there for tranquillity and views over open countryside. He says that Hardhorn village is a tight-knit community, beginning at the junction of Fairfield Road and Longhouse Lane, extending eastward and including nearby farms. The travellers arrived in a convoy during the night in November 2009. There was bedlam in the following months with a constant stream of lorries delivering hardcore and the development of the site has continued until recently. Part of a hedgerow was ripped out near the entrance to the track.
75. The development has resulted in trauma and stress. Idyllic green pasture has been replaced by hardcore and there are now views of caravans, vehicles, portaloos, skips, rubbish, fencing and sheds. It is a hive of activity from dawn to well into the night. Peace and quiet has been lost, with noise from people, dogs and vehicles into the night. The track is in constant use. On many occasions vehicles have had to brake severely or swerve to avoid travellers' vehicles. There has been no relationship with the travellers, who appear to disregard the environment, road-safety and the community. There was no consultation with the local community before the development. Mr Williamson agreed that problems had reduced after the initial occupation of the site.

Mr Cawkwell, local resident

76. Other development in the area, including a development of stables and static caravans has been carefully controlled. To ensure fairness and equity there should be the same planning controls on gypsies and travellers as on others.

Mr Hall, resident of Lytham St Annes (Doc 20)

77. Mr Hall explained that he was speaking for himself and a number of residents of Hardhorn village. He clarified that there was no evidence of residents' involvement in interfering with water supply to the site or placing nails on the access track as had been alleged. A hole in the hedge on Fairfield Road was the result of a car accident. Residents object on planning grounds and because of the impact on them. Incidents of anti-social behaviour by residents of the site have been recorded. Photographs of incidents have been submitted to authorities and are supported by the police presence in the area since 6 November 2009 when the site was occupied. A letter from the Lancashire Constabulary, dated 22 April 2010, forms part of Mr Hall's evidence and contains information from monitoring of police involvement at the site. It refers to 14 crimes, 5 of which resulted in arrests, 13 reports of anti-social behaviour, 3 road related offences and 65 other reported incidents.

Mr Duncan, local resident (Doc 29)

78. The starting point is the merit and value of the site prior to the development. It has no landscape or other designations but was characterised by hedged green fields, horse paddocks and demure, wooden buildings. It was unremarkable until it was changed dramatically with detriment to its landscape character. The unremarkable line of fields was a sympathetic, beautiful hollow climbing up to the High Bank, an expanse of green leading the eye to the horizon. There was temporary flooding in the spring, with flora and fauna of interest. This natural harmony contrasts with what now exists. The vista is lost and the eye fixes on the 80 person caravan site and car parking area. There is hardcore, noise and frenetic activity. It is a substantial, urbanising development which has a substantial landscape impact and cannot be absorbed.
79. The area provides a rural escape for walkers, being on the edge of an urban area. The site is prominent and affects not only residents but also the rural experience of motorists, rail travellers and walkers on public footpaths. It occupies 25% of the view of the horizon, with thin screening from the roadside hedges. The development is incongruous, insensitive and dominant, at odds with the surrounding fields. The irregular pattern of caravans and vehicles is not harmonious. The boundaries are variable and the overall effect is disorganized and unnatural. The site will not blend in with time and screening would also be intrusive. There is activity day and night and there would be light pollution if full services were provided. There is some sympathy for the difficulties facing travellers but the major deleterious effect on the landscape weighs heavily against the appeal.

Ms S. Moulding, local resident

80. The main concern is road safety for the residents, road users and the travellers themselves. There have been more accidents than suggested in the appellants' figures.

Written Representations

81. There have been a large number of written representations, both on planning application 09/0830 and in respect of the enforcement action. The Council's Committee Report of 2 June 2010 (CD1.2) summarises representations on the planning application. It refers to objections to the development by Lancashire County Council (as Highway Authority, from its Ecology Officer and on archaeological grounds), Wyre Borough Council, Staining Parish Council, CPRE (Fylde Branch) and the Ramblers Association. The Environment Agency referred to the tipping of large quantities of waste on the site and the need to obtain exemption from consent for those operations if planning permission was granted. Lancashire County Council also observed that, in principle, the development could contribute to meeting requirements in the emerging RSS partial review. The Committee Report also lists the matters referred to in 192 other letters of representations. They are similar in scope to those alluded to by third parties appearing at the Inquiry [62-80].

Planning Conditions

82. For the most part there is agreement between the main parties on conditions which could be applied if planning permission was granted. Lists of conditions suggested by them are in the Planning SCG, the Highways SCG (Docs 2 and 3)

and at Doc 25. Although both sides agree that a landscaping condition should be applied, the appellants consider it should be in general terms whereas the Council favour a condition specifying planting requirements. The appellants consider the conditions suggested by the Council with regard to visibility splays, the provision of length of footway along Fairfield Road and the provision of bus stops to be unnecessary. However, they would accept them if they enabled planning permission to be granted. It was agreed at the Inquiry that a condition concerning junction kerb radii (Document 25, condition no.4) is not necessary.

Conclusions – The Enforcement Appeals on Ground (a), the Deemed Planning Applications and the Appeal Against Refusal of Planning Permission

The Main Considerations

83. The main considerations in this case are as follows:

- i) The effect of the development on the landscape character of the area and on visual amenity;
- ii) The effect on Hardhorn village and its residents;
- iii) The effect on highway safety;
- iv) The effect on the best and most versatile agricultural land;
- v) The effect on biodiversity and on cultural heritage;
- vi) The need for and provision of sites for gypsies and travellers;
- vii) The accommodation needs of the occupants of the site and the availability of alternative sites;
- viii) The personal circumstances of the occupants of the site;
- ix) The sustainability of the site;
- x) The overall balance in respect of permanent or temporary permission;

The effect of the development on the landscape character of the area and on visual amenity

84. The site is in the countryside. While it is reasonably close to Hardhorn village, this part of the countryside has largely retained an open character. It is not an area where the encroachment of urban features results in a markedly urban-fringe character. The landscape character of the wider area is described in the Landscape Strategy for Lancashire (CD 5.4 and 5.5). The site is within the Fylde character area, which has a gently undulating landform. At a more local level, it is part of a low-lying countryside area to the east of Blackpool. Nearby settlements are on higher land. The area more immediately around the site is a generally open and well-managed agricultural landscape, with ditch or hedgerow field boundaries, small woodlands and rising land to the west. There is a degree of tranquillity. In addition to Hardhorn village to the west, other development in the area includes isolated farmsteads, farm buildings and a stables development to the south of the site.

85. The area is not protected by national or local designation and there are some existing visual detractors, including electricity pylons, agricultural and other buildings. There are other caravan sites, including one at High Bank Farm and one off Puddle House Lane, which are near the appeal site, and others in the wider surrounding area. I was able to see a number of them during my site visit. For the most part they are tourist sites. A map at appendix RT2 of Mrs Randall's evidence also shows two travellers caravan sites. These other caravan sites vary greatly in their size, setting and in the extent to which they blend successfully into their surroundings but caravan sites are not a predominant element in the character of the landscape area within which the appeal site is perceived and

which forms its more immediate context. An aerial photograph at appendix RT4 shows that prior to the development the site was part of an uninterrupted open rural landscape. There is conflicting evidence on the sensitivity of this landscape to change. In view of its open, rural and low lying character and lack of extensive development the evidence of the Council's landscape witness, Mrs Randall, that this is a landscape with a high sensitivity to change, is to be preferred.

86. Views of the site from the west are largely precluded. The main public viewpoints of the site are from vantage points to the north, north-east and south-east. The site is seen in views from Fairfield Road, a track/footpath near Fairfield Farm, the track and footpath near Todderstaffe Hall, and from part of Puddle House Lane. It can also be seen from the railway line to the east. Although some views are interrupted there are gaps in roadside hedgerows through which the site can be seen and it would be more exposed to views in the winter months. The site is more prominent in views from somewhat elevated positions, for example near Fairfield Farm. Land within the appeal site rises to the west, increasing the prominence of that part of the site. There are also views of the site from private land, including from the access track and from a number of dwellings, although not generally from dwellings in Hardhorn village.
87. The development does not exceed the maximum size of 15 pitches referred to in paragraph 4.7 of Designing Gypsy and Traveller Sites – A Good Practice Guide (CD3.12). Nevertheless, it appears as a large and striking feature which is both extensive and discordant. It is visually intrusive and alien to the character of the landscape around it. It has an urbanising effect and is unrelated to any pattern of development in the area. The caravans draw the eye and the boundary fencing, which has been erected as a partial screen, is also visually intrusive. The design, layout and form of the development is also at odds with the character of the nearby Hardhorn village, which largely comprises individually designed dwellings. Other elements of the development have also resulted in harm to landscape and visual amenity. They include extensive areas of hardcore, the low bund along the eastern boundary, ornamental planting, the removal of a section of hedgerow near the junction of the access track and Fairfield Road and widening of the track near the site entrance to facilitate vehicle manoeuvring. The development would also result in utility buildings to serve the 15 pitches. It has diminished the tranquillity of the area. Assuming a visibility splay to the east at the junction of the access track with Fairfield Road of 116 metres, there would be a requirement for the cutting back of up to 32 metres of roadside hedge, including hard pruning of about 13 metres (Doc 26). This would increase views of the site from Fairfield Road to some extent. However, having regard to the length of hedge involved it would not add greatly to the overall effect of the development on the landscape and visual amenity.
88. If planning permission was granted, a landscaping scheme could be required by condition. Annex C of Circular 1/2006 suggests that landscaping can help development to blend into its surroundings and maintain visual amenity, rather than seeking to isolate a site. Sketch landscaping details submitted with the planning application show additional hedge planting. The appellants are willing to implement more extensive measures if necessary. The Council suggests that landscaping measures would need to include a woodland planting belt of locally occurring species, at least 15 metres wide, around the perimeter of the site. At the Inquiry the Council's landscape witness conceded that this could overcome the landscape and visual impact. It would radically alter the view southwards

from Fairfield Road and the field north of the site would appear visually isolated. It is estimated that such a planting belt would take about 7 to 10 years to achieve a good visual screen, so that the landscape and visual harm would persist over a lengthy period. Such a requirement would be excessive and ineffective if a temporary permission was granted. No other form of landscaping which would be effective in blending this site into its surroundings been put forward.

89. Paragraph 54 of Circular 1/2006 says that rural sites not subject to special planning constraints are acceptable in principle and a degree of harm to local character and appearance is not unusual with gypsy and traveller sites. However, the Circular does not override other national planning policy and, as I set out above, this development results in substantial harm. It conflicts with Policy EC6 of PPS4, which continues the protection of the countryside for its intrinsic character and beauty and the diversity of its landscapes previously found in PPS7. It also conflicts with the protection of environmental quality and assets in RSS policies DP7 and EM1. It is not within the acceptable categories of development in LP policy SP2 and does not avoid harm to countryside character as required by that policy. The harm to landscape and visual amenity also conflicts with LP policies HL8 and EP11.
90. I conclude on this matter that the development results in a significant and substantial adverse impact on the landscape and a significant substantial impact on visual amenity. That harm could not be overcome by effective landscaping measures within a reasonable period of time.

The effect on Hardhorn village and its residents

91. An aerial photograph (Mrs Randall, appendix RT4) shows the area the Council considers to be Hardhorn village. It is a small settlement of about 26 houses, grouped around the junction of Fairfield Road and Smithy Lane. Hardhorn village is also shown as a separate entity on an Ordnance Survey map (Mr Atherton, appendix MA12). It is very close to the suburban built-up area of Poulton-le-Fylde/Hardhorn to the north but there is a degree of physical separation. In his evidence, Father Collins did not recognize Hardhorn village as a separate place. Nevertheless, a number of local residents consider it to be their village and local community. There is no prescriptive method of defining a community. In this case it is reasonable to consider Hardhorn village as the nearest settled community to the site.
92. Paragraph 54 of Circular 1/2006 requires consideration of whether a development respects the scale of and does not dominate the nearest settled community. The caravan site comprises 15 pitches and is intended to accommodate up to 36 caravans. There has been other housing development close to Hardhorn village and there are existing touring caravan sites at High Bank Farm and Puddle Cottage. The degree of separation helps to avoid the site physically dominating the village. Nevertheless, a residential caravan site of this scale does not respect the small scale of the village and this weighs against the development.
93. From the evidence of HSSP and of local residents, both at the Inquiry and in written representations, there is a strong perception that the development has dominated the village community. That perception derives, in part, from the circumstances of the unauthorised occupation of the site in November 2009. The site is separated from Fairfield Road by one field and the access onto Fairfield

Road is separated from the edge of the village as defined by the Council. The development does not materially affect the outlook from dwellings in the village and the extent of separation would diminish any noise and disturbance from activity at the site or from related traffic movements. The appellants have taken steps to reduce noise by installing quieter generators. There are views of the site and the access track from dwellings on Puddle House Lane, to the east of the village, and there would be a somewhat greater degree of noise and disturbance there. However, the effect of the development on outlook and from noise and disturbance would not be sufficient to weigh materially against the development.

94. There is conflicting evidence on anti-social behaviour. Mrs Hartley has frequently visited the site. Her role is to support its residents. She reports a good standard of conduct and high moral standards. She observes that police visits were initially frequent but were later greatly diminished. Mrs Collins said that there had been problems but stressed the wish to be good neighbours. On the other hand, HSSP and a considerable number of local residents consistently refer to incidents of anti-social behaviour, although some acknowledge that this has reduced more recently. The police report of 22 April 2010 (Appendix to Doc 34) refers to 14 crimes, resulting in 5 arrests, to 13 reports of anti-social behaviour and to 65 other reported incidents, of which 15 involved animals. It does not refer to any convictions. Most of the incidents in the Council's record of events (Mr Atherton, appendix 15) appear to relate to breaches of Injunctions on the site rather than to anti-social behaviour. I consider it likely that there has been a significant problem of anti-social behaviour related to the appeal site but that it has diminished and can be addressed effectively by the police and other agencies. It should carry little weight in determining the appeals.

The effect on highway safety

95. Paragraph 66 of Circular 1/2006 refers to the individual assessment of projected traffic movements and advises that proposals should not be rejected if they would give rise to modest additional vehicle movements and/or the impact on minor roads would not be significant. The most up-to-date and relevant guidance on highway matters is in Manual for Streets 2 (MfS2, Doc 8), which builds on guidance in Manual for Streets 1 (MfS1, CD4.2). MfS2 extends its key principles of MfS1 and can be applied in non-trunk road situations outside urban areas. While MfS1 and 2 are the starting point, other guidance is to be taken into account where appropriate. MfS2 encourages consideration of the local context and a degree of flexibility. This was the approach taken by the Inspector in decision APP/A6835/A/10/2132061, concerning a residential caravan site for 6 gypsy families in Holywell (Doc 10), having regard to the particular characteristics of that development and the surrounding road network.
96. The character of the highway network, likely traffic generation and measured Design Speeds are not disputed [20]. The principal matters in dispute are the appropriate visibility splays and the extent to which they can be met, the effect of the relationship of the access track and Puddle House Lane and the adequacy of the site access for vehicle manoeuvring.
97. An assessment of appropriate visibility splays requires consideration of some underlying assumptions. They include the appropriate Stopping Sight Distance (SSD). Table 1.1 of MfS2 explains that in areas with speed limits above 50mph its advice on SSD can be applied subject to local context. However, paragraph 1.3.6 refers to the use of parameters from the Design Manual for Roads and

Bridges (DMRB) where, as in this case, speeds are above 40mph. At the Inquiry the appellants submitted a table of Design Speeds and SSD (Doc 15). It sets out two DMRB based SSD and one MfS based figure, each with a related vehicle deceleration rate.

98. The local context in this case includes a very low proportion of traffic on Fairfield Road being HGV. Nor is it necessary to allow for an uninterrupted traffic flow, which would be a consideration on trunk roads. On the other hand, paragraph 1.3.8 of MfS2 refers to research showing a statistically significant relationship for collisions on rural single carriageways with traffic flow, link length and farm accesses. The Council concedes that the 12 hour flow of about 3300 vehicles on Fairfield Road can be considered relatively low. On the other hand, the site access track resembles a farm access and there is another junction, Puddle House Lane, in close proximity. In all the circumstances, I find an SSD based on a deceleration rate of 0.375g to be appropriate in this case. It translates into an SSD of about 116 metres for westbound traffic and about 99 metres for eastbound traffic. These figures can be used for the appropriate visibility along Fairfield Road to the east and west respectively (the Y-distance). I also consider the position if the appellants' preferred measure, based on a deceleration rate of 0.45g, is used.
99. Paragraph 10.5.6 of MfS2 advises that in most built-up situations visibility is measured at 2.4 metres back from the main carriageway (the X-distance). This is based on a reasonable maximum distance between the front of a car and the driver's eye. This access is outside a built-up area. MfS2 does refer to a 2 metre X-distance in some slow speed situations where flows on the minor arm are low, but this would mean the front of some vehicles protruding into the carriageway. TD41/95: Vehicular Access to All-purpose Trunk Roads also refers to a relaxation to 2 metres in lightly used accesses where site conditions are particularly difficult. In this case there is good forward visibility for drivers on Fairfield Road and it is not heavily trafficked. Nevertheless, having regard to the Design Speeds, I consider a 2.4 metre X-distance to be appropriate here. Fairfield Road is a single carriageway with no physical barrier preventing vehicles from crossing the centre line. Paragraph 10.5.3 of MfS2 advises that visibility has previously been measured to the nearside kerb, although it could be more accurately measured to the nearside edge of the vehicle track. MfS2 does not support measurement to the centreline where, as in this case, opposing flows are not physically separated.
100. The available visibility from the access track to the left (west), measured to the nearside edge, at 58-59 metres (Doc 15), is well short of the required Y-distance of 99 metres. To the right (east), it is a maximum of 47.8 metres compared with a Y-distance of 116 metres. The available visibility to the right depends, in part, on the absence of the length of hedge that has been removed. The appellants' Design Speed and SSD table (Doc 15) also shows that if the appellants' preferred assumption of 0.45g was used the available visibility is still well below the appropriate Y-distances, when measured to the nearside edge.
101. Consideration is also needed of the extent to which these deficiencies can be overcome and of the consequences if they cannot. The land required to provide a suitable visibility splay to the right is not in the appellants' control but is highway land, so that it is within the control of Lancashire County Council as Highways Authority. Adequate visibility could be provided by the regular cutting back of the roadside hedge to maintain an unobstructed splay. The length of hedge which

- would have to be cut back would be up to about 32 metres (Doc 26). Although the Council suggests that a relatively intense maintenance regime would be needed, it can be assumed that the County Council would exercise its powers reasonably and with due regard to highway safety, so that limited weight should be attached to the risk of the visibility splay not being maintained. As the hedge is not within the appellants' control, the imposition of a condition requiring its maintenance would not be appropriate if planning permission was granted.
102. Vehicles approaching from the left would be leaving a built-up area and the 30mph speed limit area. There is good forward visibility and drivers are likely to overtake if there is an opportunity. The junction of the site access track and Fairfield Road could be seen by approaching drivers but their focus is likely to be on the road ahead. They would be able to postpone an overtaking manoeuvre if they were aware of a vehicle at the access track junction, although overtaking could already be underway when a vehicle arrives at that junction. Drivers at the access track/Fairfield Road junction can also be assumed to exercise reasonable caution and would be able to see vehicles approaching from the left in the far lane. Nevertheless, the combination of limited visibility to the left and the overtaking opportunity for drivers on Fairfield Road adds a degree of risk. The extent of that risk is reduced to some extent because Fairfield Road is not heavily trafficked and by the relatively short distance from the 30mph speed limit area to the site access track.
 103. Puddle House Lane is of limited width and its junction with Fairfield Road is almost directly opposite the site access track. It is an oblique junction and vision to the east along Fairfield Road is severely limited, so that exiting vehicles have to encroach into the main carriageway to see approaching traffic. Paragraph 9.4.4 of MfS2 says that "*cross roads and multi-armed junctions have a much higher number of conflicting traffic movements and therefore tend to perform worse in terms of road safety.*" The potential for conflicting movements is shown in the Council's Swept Path Diagrams (drawings 5915-0012 and 5915-0013 of Ms France's appendices). These diagrams also suggest that some vehicles exiting the site access track would need to cross the centre line of Fairfield Road and that the limited width of the access track could give rise to vehicles reversing out onto Fairfield Road to allow another vehicle to exit. A planning condition could limit the size of vehicles on the site to no more than 3.5 tonnes. On the other hand, traffic generated by the development is likely to include vehicles towing caravans. These manoeuvres also add to risk in the context of traffic speeds on Fairfield Road and of the overtaking manoeuvres referred to above. That risk is limited to some extent by the traffic volumes on Fairfield Road and by the volume of traffic generated by the development and on Puddle House Lane.
 104. Of the 10 road accidents recorded in the area by Lancashire County Council between January 2004 and September 2010, 8 were of only slight severity (Doc 2, Figure 3). Only one concerned a turning movement and it did not involve the junction of Fairfield Road with the access track or with Puddle House Lane. The Council also refers to a further accident related to the appeal site, involving a lorry shunting the rear of a car, which occurred after that recording period. Police records for the period January 2005 to March 2011 refer to 12 injury collisions on Fairfield Road, of which 3 involved serious injury, but these records do not specify the causes of collisions. While local residents have referred to other incidents, they have not been formally verified.

105. I conclude with regard to the effect on highway safety as follows. Traffic movements associated with the development would result in a considerable proportionate increase in movements along the access track. They would be small compared with existing flows on Fairfield Road but could include vehicles towing caravans. Flows on Fairfield Road, amounting to about 3300 over a 12 hour period, are relatively low. Relevant guidance, including that in MfS2, should be applied having regard to local context and with some flexibility. Nevertheless, appropriate visibility splay requirements are not met at the junction of the site access road. While the deficiency to the right could be met by cutting back part of the roadside hedge and its subsequent maintenance, there is some harm to highway safety associated with overtaking movements by traffic approaching from the left. There is also harm from the likelihood of conflicting traffic movements resulting from the proximity of Puddle House Lane, which also has a sub-standard junction with Fairfield Road, and from the inadequacy of the junction of the access track with Fairfield Road for some vehicle manoeuvres. It is not uncommon for road junctions in rural areas to be below desirable standards and there has not been a significant level of serious recorded accidents in the area. Nevertheless, having regard to the combination of these deficiencies, the development would result in material harm to highway safety. The development would conflict with criterion 7 of LP policy HL8, which requires safe vehicular access to the site.

The effect on the best and most versatile agricultural land

106. Paragraph 28 of PPS7 confirms that the land in grades 1, 2 and 3a of the Agricultural Land Classification constitutes the best and most versatile agricultural land. The appeal site is partly grade 2 and partly grade 3 land. It is not known whether the grade 3 element is 3a or 3b. Permanent planning permission for the development would result in a loss of agricultural land. If temporary permission was granted with a site restoration condition, the duration of that loss would be reduced and finite. Much of the countryside in Fylde Borough is in grades 2 or 3, so that any caravan site in the countryside would be likely to result in some loss. Part of the appeal site was in equestrian rather than agricultural use before it was occupied and it has not been shown that the remainder was in productive agricultural use. In these circumstances I conclude that little weight should be attached to the loss of agricultural land in this case. LP policy EP22 does not permit development resulting in the loss of grades 1, 2 and 3a land where it could reasonably take place on previously developed land, within the boundaries of existing developed areas or on poorer quality land. The evidence does not suggest that alternative sites are available and there is predominance of high quality agricultural land in Fylde. I consider that the development does not materially conflict with LP policy EP22.

The effect on biodiversity and on cultural heritage

107. One reason for refusal of planning permission was a failure to demonstrate that water voles, a protected species, do not rely on the drainage ditch adjacent to the site for habitat and would not be adversely affected. The appellants later commissioned an ecological assessment (Mrs Heine, Appendix 9). It establishes that the drainage ditch does not provide a suitable habitat for water voles. It is agreed between the main parties that this issue could be resolved by a condition requiring the retention of watercourses and associated vegetation on the site. Subject to such a condition, little weight should be given to this matter in determining the appeals.

108. Another reason for refusal of planning permission was a failure to demonstrate that cultural heritage would not be harmed. The line of a Roman Road, known as Danes Pad, runs close to the site's eastern boundary. It has no formal designation but is a heritage asset within the terms of PPS5. The main parties agree that harm to cultural heritage can be avoided by the imposition of a condition requiring the erection of fencing to protect Danes Pad. Subject to that condition, little weight should be given to this matter in determining the appeals.

The need for and provision of sites for gypsies and travellers

109. One of the principal aims of Circular 1/2006 is to increase significantly the number of Gypsy and Traveller sites in appropriate locations with planning permission in order to address under-provision. There has been a longstanding unmet need for additional sites in the wider area despite policies aimed at increasing the provision of sites. Although the appellants refer to shortcomings in the methodology of the 2007 GTAA for the sub-region (CD5.1), it remains the best available source of information on need. It found a need for 204 to 231 pitches in the sub-region up to 2016. A need for less than one pitch was identified in Fylde Borough and for 24 pitches in nearby Blackpool Borough.
110. The omission from the RSS of a specific policy for providing Gypsy and Traveller sites was to be addressed by a partial review. That review was initiated but was suspended when the Secretary of State announced the abolition of RSS in May 2010. The unpublished Submitted Draft North West Plan Partial Review, by 4NW (CD 5.2) envisaged some re-distribution of provision to meet the sub-regional need for sites, as set out in Table 7.2 of the document. This would have resulted in a requirement for 15 pitches in Fylde Borough. However, the partial review was not completed. It is unlikely to be taken further and no weight can be given to its policy of re-distributing allocations. There is no other existing mechanism for re-distribution, although a duty on authorities to co-operate is expected to arise from the Localism Bill.
111. In October 2010 the Council granted a permanent, personal planning permission for a site at Bambers Lane, St Annes, where there was previously a temporary permission. The 6 pitches on that site considerably exceed the GTAA requirement for Fylde. In that context, the Council's position that it has more than met the requirement placed on it is understandable. Nevertheless, Circular 1/2006 does not limit consideration of need to the district in which a site is located and it is consistent with *Hedges and Hedges v Secretary of State for the Environment and East Cambridgeshire District Council*, 73 P&CR 534 (Doc 22) to ensure that all relevant aspects of need are taken into account. The nomadic character of Gypsies and Travellers in general, and of this group in particular, together with the proximity of the appeal site to the boundary of Fylde Borough with Blackpool Borough, also support this approach.
112. The appellants suggest inconsistency in the Council's approach to the Bambers Lane site and the appeal site. However, there are significant differences between the two. In particular, the site at Bambers Lane is considerably smaller, there are dwellings and other buildings near to it, giving more of an urban fringe character and there was no highway safety concern at Bambers Lane. Nor does the Bambers Lane decision suggest acceptance by the Council of providing in Fylde for need arising in the wider sub-region.

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113. The bi-annual counts for January 2008 to July 2010 for Fylde Borough do not record any caravans on unauthorised sites other than those on the appeal site itself. The bi-annual counts provide only a snapshot and can be unreliable. The Council also refers to 21 reported incidents of unauthorised encampments in the borough between May 2006 and June 2010, including the appeal site. This is not a particularly large number over a period of almost 4 years. Information from the Council's Environment Protection Team suggests that many of these cases may involve persons travelling through the borough or visiting family locally.
114. The bi-annual count of Gypsy caravans for July 2010 showed 60 caravans on authorised sites in Blackpool Borough and none on unauthorised sites. The Blackpool Borough Council's site at Marton Moss is full. Blackpool is much smaller than the two neighbouring districts of Fylde and Wyre. During the partial review process it argued that constraints, including its coastal location, Green Belt and the need for land allocations for other purposes, would affect its ability to provide further sites. Nevertheless, the GTAA includes a need for 24 pitches in Blackpool. The appeal site is also very close to Fylde's boundary with Wyre Borough but the GTAA found no need for sites there.
115. Although the appellants suggest that constraints on development within Blackpool will probably mean that future provision of sites will have to be in Fylde or Wyre, that outcome is far from certain. The Council does not intend to prepare a DPD to allocate further sites in Fylde, although it will review the GTAA and take action if a need is found. As I set out above, there is no mechanism for requiring a redistribution of allocations. Two reports submitted by the Council concerning Blackpool's Core Strategy (Docs 32 and 33) indicate that consideration is being given to reduced housing allocations in the light of consultation results and the Secretary of State's announcement on the future of the RSS. This could affect the assessment of constraints on providing additional Gypsy and Traveller sites in Blackpool but the outcome of that process is also uncertain.
116. The appellants also point to the reference in paragraph 71 of PPS3 to giving favourable consideration to applications for planning permission for housing where Local Planning Authorities cannot demonstrate an up-to-date five year housing supply. In this case, the Council does not claim a five year supply of housing land. While this lends some support to the appellants' case, paragraph 71 is not expressed as outweighing other considerations. It is qualified by reference to paragraph 69 of PPS3 which, amongst other things, refers to the suitability of a site for housing, including its environmental sustainability. It is also expressed in general terms. It does not imply any freestanding requirement for a five year supply of sites for Gypsies and Travellers. Moreover, in this case the GTAA found negligible need within the Council's area so that no supply of sites would be required to meet that specific need.
117. As the Inspector found in his decision on Hut Lane, Chorley (Mr Evans, appendix MDE8), the presence of Gypsies or Travellers on a site need not, in itself, be seen as proof of a local need. In this case, the GTAA and other evidence does not support the need for site allocations within Fylde. Due weight should be given to that situation. That was the approach of the Inspector in an appeal decision on a site in Oswaldtwistle (Mr Evans, appendix MDE9). It is consistent with the local determination of site provision. Criterion 1 of LP policy HL8 requires the identified need for gypsy sites in the area. In view of the lack of an identified need for sites in Fylde Borough in the GTAA, the development can be considered to conflict with that requirement. Nevertheless, in my judgement the evidence of need in the

wider area is a significant material consideration weighing in the appellants' favour.

The accommodation needs of the occupants of the site and the availability of alternative sites

118. The site is occupied by 78 people, including 39 children. With the exception of two Scottish Travellers, they are all Irish Travellers. Irish Travellers are a distinct ethnic and cultural group with a long history of travelling around Britain and Ireland in large groups. Mrs Heine's evidence summarises (at paragraph 6.10) the results of a study of Irish Travellers. It refers to problems of disadvantage and marginalisation, high levels of discrimination, harassment, a lack of sites and insecure, unhealthy living conditions. Irish Travellers are less likely to have a settled base than many Romany Gypsies.
119. Irish Travellers in general and this group in particular attach great importance to travelling and living together as an extended family. This group has been unable to do so until now because no site has been available. They comprise four closely related family groups and have led a highly nomadic life, never living in houses. They have travelled extensively, mostly in the north of England and particularly in the area between Stockport in the south and Blackpool and Fleetwood in the north. They have lived on the roadside or on other unauthorised sites, including land in Blackpool, Fylde and Wyre districts. They have frequently been moved on by the police, often at short notice. Their need is for a site of sufficient size to accommodate the group in order to allow easy access to basic sanitary facilities and to provide a settled base from which to travel for work purposes and allow better access to health, education and other services.
120. Although the appellants have stayed at sites in the Blackpool/Fylde area, that has been as part of travelling over a wide area. Other members of the extended family are or have been on other unauthorised sites in the Blackpool area and at Preesall, near Fleetwood. Paragraph 62 of Circular 1/2006 cautions against refusing planning permission solely because the applicant has no local connection. While it is a material consideration, it is not one which should carry significant weight in this case.
121. There are no alternative sites realistically available within Fylde, either for the group as a whole or for its component families. Nor has the Council suggested that sites are available in the wider surrounding area. The appellants did not carry out a systematic search for sites before moving onto the land. However, there is no evidence that such a search would have been fruitful. In that context the lack of an advanced site search should carry little weight. In June 2010, some months after occupation of the site, letters were sent by the appellants to 26 councils to establish if they had available pitches or any suitable and affordable land for purchase. None of the replies received revealed any suitable site or land. The appellants also sought accommodation on a number of residential caravan parks without success. Their need for accommodation and the lack of suitable and realistically available alternative sites weigh in favour of the development.

The personal circumstances of the occupants of the site

122. A roadside existence does not preclude all access to education. Nevertheless, it is very likely that if the travellers were obliged to leave the appeal site with no alternative site to go to there would be serious disruption to the education of the 22 children currently attending school. It is also likely that the education of those

on school waiting lists would be disrupted. Mrs Hartley has no medical qualifications but her work requires close liaison with health professionals. Her evidence on medical matters is detailed and credible. A roadside existence would make access to health care considerably more difficult, with the potential for a harmful effect on the health of some members of the group, including those with significant existing medical conditions.

The sustainability of the site

123. Although the site is in the countryside and outside any settlement, there is a bus route along Fairfield Road which provides a good level of service and operates on a "hail and ride" basis. While many journeys from the site are likely to be by car, the site's proximity to Poulton-le-Fylde and Blackpool would allow reasonably short journeys to services and facilities. There is no footway link between the site access track and Hardhorn village but the grass verge is reasonably wide and appears to be used by pedestrians. Taking this into account, together with the existing bus service, it would be unreasonable to require the provision of a footpath link, or bus stops, if planning permission was granted. Paragraph 64 of Circular 1/2006 encourages a wider consideration of sustainability. In this case sustainability is enhanced by the benefits of a settled site in terms of access to health and education, and avoidance of long-distance travelling and environmental damage associated with unauthorised encampments.

Other matters

124. Many of the representations by local residents and others refer to the occupation of the site by the appellants as a flagrant breach of planning control which should not be tolerated. The occupation of the site was sudden and unauthorised. The concerns of residents are understandable. However, it was not illegal, although the appellants ran the risk of the enforcement action which was subsequently taken. The unauthorised nature of the development is not a matter which should weigh against the appellants in consideration of these appeals. Nor are any alleged breaches of Injunctions matters for these appeals.
125. Although some local residents refer to the site as being low lying and prone to flooding, flood risk was not a reason for refusal of planning permission or for the issuing of the enforcement notice. The site is in Flood Zone 1, which is at low risk of flooding, and flood risk should not weigh materially against the development.

The overall balance in respect of permanent or temporary permission

126. This part of the countryside is not protected by any special designation. Gypsy and Traveller sites are acceptable in principle in such areas. Nevertheless, it is consistent with national and local policies to protect the countryside for its intrinsic character and beauty and the diversity of its landscapes. In that context I consider that substantial weight should be given to the harm to the landscape resulting from the development and to the harm to visual amenity. That harm could not be effectively mitigated by condition within a reasonable period of time. Having regard to the scale of the development, moderate weight should also attach to its failure to respect the scale of the nearest settled community.
127. The development would result in a significant proportionate increase in vehicle movements along the access track and in turning manoeuvres at its junction with Fairfield Road, including manoeuvres involving towed caravans. Fairfield Road is a local distributor road. In the light of its relatively low traffic flows for a road of

its type, its mix of traffic, with a low proportion of HGV, and a history of few serious accidents, there is some scope for flexibility in the application of appropriate guidance. Nevertheless, while the deficiency in visibility to the east could be addressed by cutting back the roadside hedge, there is a combination of inadequate visibility to the west, with the associated risk relating to overtaking vehicles, the effect of the staggered junction with Puddle House Lane and the effect of deficiencies in the access track on some vehicle manoeuvres. I consider that considerable weight should be attached to the harm to road safety.

128. Although the GTAA did not demonstrate an immediate, unmet need for additional Gypsy and Traveller sites in the Fylde Borough, in my judgement the unmet need for sites in the wider area, which has not been effectively addressed over a long period, is worthy of considerable weight. There is also considerable uncertainty as to when and how that wider need will be addressed and met. There are no available and suitable alternative sites for this large group of Irish Travellers, either in Fylde or the wider area. They have a strong personal need for a settled base from which to access work, education, medical and other services and this site is in a reasonably sustainable location. Eviction from this site would probably lead to a roadside existence and that would be likely to adversely affect those on the site with significant medical conditions and the children's access to education. Reversion to a roadside existence could also have adverse environmental and other impacts elsewhere. These are also considerations worthy of substantial weight in the appellants favour. Nevertheless, having particular regard to the effect on the landscape, visual amenity and highway safety, I consider that the overall balance does not justify the granting of permanent planning permission for this development.
129. I turn now to whether planning permission should be granted for a temporary period. Paragraph 45 of Circular 01/2006 draws attention to Circular 11/95. Paragraph 110 of Circular 11/95 advises that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission. Paragraph 46 of Circular 01/2006 says that such circumstances might arise where a local planning authority is preparing its site allocations DPD. In that situation it advises that substantial weight should be given to unmet need when considering a temporary permission.
130. In this case, although the Council intends to review the GTAA, it currently has no intention to prepare a site allocation DPD because there is no identified need to allocate sites in Fylde and no mechanism to oblige it to cater for any wider need for sites. It will review the position in the light of the GTAA review. The appellants argue that the wider need must be addressed, particularly in nearby Blackpool where the 2007 GTAA found a need for 24 additional pitches by 2016. They contend that they should not be required to leave the site while that process occurs and that a 5 year temporary permission would be appropriate. However, it has not been shown that Blackpool Borough Council intend to prepare a site allocation DPD to provide additional sites for gypsies and travellers, or that there is any timetable for preparation of such a DPD. Reference was also made to Wyre Borough Council undertaking a search for sites but it has not been shown that a site allocation DPD is to be prepared. It is therefore not reasonably clear that planning circumstances will change at the end of a defined period leading to a reasonable likelihood of an alternative site being available.

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131. A temporary permission would limit the harm caused by the development by limiting its duration. It would avoid the prospect of the appellants having to leave the site in the near future with no alternative site to go to. However, having regard to the above and to the nature and extent of the harm to the landscape, visual amenity and highway safety, I do not consider that a temporary permission can be justified, even if substantial weight were given to unmet need. In all the circumstances I consider that the only course open is to refuse planning permission and I shall recommend accordingly.

Conclusions on the Enforcement Appeals on Ground (g). The period for compliance with the requirements of the Enforcement Notice

132. The appellants seek to extend the 4 months period for compliance with the enforcement notice to a period of 12-18 months. If the appeals are dismissed it is likely that this group of Irish Travellers would be required to leave the site and that they would have no option other than a roadside existence. The group is a large one. It includes 39 children and people with significant existing medical conditions. The absence of any alternative site increases the effect of this interference with their home, private and family life. The difficulty of finding an alternative site or sites is likely to be exacerbated by the size of the group, the importance to them of staying together and because some existing sites tend to be dominated by English Romany families. The required works to the site could reasonably be carried out within a 4 month period but an extended period would increase the chances of members of the group finding an acceptable alternative site, either locally or further afield.
133. The appellants were entitled to assume that their appeals could succeed so that their period of occupation of the site should not count against them in considering a reasonable period for compliance. An extension of time would prolong the harm caused by the development, including the harm to landscape character, visual amenity and highway safety. However, that consideration must be balanced against the particular circumstances of this group of travellers. An extension of time would also be consistent with advice in paragraph 11 of PPG18 with regard to the time needed to find and secure another site. I conclude that the period for compliance should be extended to 12 months. I shall recommend that the notice be varied accordingly.

Human Rights

134. The appellants' rights under Article 8 of the European Convention on Human Rights, and those of their families, must be taken into consideration. If these appeals are dismissed it is likely that the appellants and the other members of their families would be required to vacate their homes without any certainty of suitable alternative accommodation. This would be an interference with their homes and with their private and family lives. It is also consistent with *Chapman v United Kingdom (2001)* to recognise the occupation of a caravan is an integral part of the Gypsy and Traveller identity and tradition of pursuing a travelling lifestyle. I appreciate the difficulties they would face without an authorised site in pursuing their traditional way of life.
135. This interference with the rights of the appellants and their families must be balanced against the wider public interest in pursuing the legitimate aims stated in Article 8. With regard to both permanent and temporary permissions, the harm which would continue to be caused by the development, particularly in terms of

the protection of the environment and safety, is considerable. Taking into account all the material considerations, including the appellants' personal circumstances, I am satisfied that this legitimate aim can only be safeguarded by the dismissal of these appeals combined with the extension of the period for compliance with the requirements of the enforcement notice to which I refer above [132-133]. The protection of the public interest cannot be achieved by means which are less interfering of the appellants' rights. Such a decision would therefore be proportionate and necessary in the circumstances and hence would not result in a violation of the appellants' rights under Article 8 of the European Convention on Human Rights.

136. The appellants also refer to an infringement of Human Rights under Article 6 and 14 with regard to the recovery of these appeals for decision by the Secretary of State. Under Article 6 everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Article 14 prohibits discrimination. It does not confer any freestanding right but requires that other Articles of the Convention are enjoyed without discrimination.
137. The appellants say that the Secretary of State's recovery decision raises a justifiable sense of unfairness and injustice. It occurred after Mr B Wallace MP had written to the Secretary of State urging recovery. Mr Wallace's letter referred to sending out *"a firm message to other potential sites throughout the UK as well as ensuring that the residents receive the long awaited justice they deserve."* The Secretary of State's decision was made after the start of the Inquiry and after the appellants' evidence had been given. The reason given was that the *"appeal involves proposals which raise important or novel issues of development control and/or legal difficulties."*
138. The appellants observe that the site is not in the Green Belt and has no other particular designation. They consider the issues in these appeals to be common to many gypsy sites and say that no novel issues were identified at the start of the Inquiry or by witnesses in cross-examination, so that there is no good reason for recovering these decisions. They are concerned that the recovery decision is an unlawful intervention into the fairness of the Inquiry process, giving cause for concern about the abuse of power and infringement of Human Rights, particularly under Article 6, which guarantees the right of due process. There is also concern that determination of these appeals will be used to send a political message to the gypsy and traveller community. The appellants say they have no confidence in the Secretary of State's impartiality or that a decision will be made on planning merit. They refer to the case of *R(Alconbury) v Environment Secretary (2001)* as highlighting concerns over the conflicting roles of the Secretary of State as policy maker and decision taker. They urge the Secretary of State to reconsider and return these decisions to determination by an Inspector.
139. The Secretary of State's decision to direct that these appeals be recovered for his determination was taken under section 70 and paragraph 3 of Schedule 6 of the Town and Country Planning Act, 1990. He set out the reasons for that decision in his letter of 10 March 2011. The lawfulness and fairness of a decision taken by the Secretary of State on a recovered appeal are subject to review through the courts. In that context, there is no basis for considering that there has been interference with the appellants' rights under Articles 6 and 14.

Suggested Conditions

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140. Schedule 4 lists the conditions that I consider should be attached if the Secretary of State disagrees with my recommendations and decides to grant planning permission on all or any of these appeals. Occupation of the site could be limited to gypsies and travellers or, if a decision to grant planning permission relies on personal circumstances, to those occupying the site. Permission could also be limited to a temporary period if considered appropriate. Further conditions could address site restoration, the number of caravans, the exclusion of any commercial activities and the maximum size of vehicle permitted on the land.
141. To mitigate the effect on the landscape and visual amenity conditions could require the submission and implementation of a site layout, showing the siting of caravans, amenity blocks, hardstandings, parking areas and other facilities. Details of the amenity blocks and of external lighting could also be required, as could details and implementation of a landscaping scheme. A landscaping condition would ensure control over landscaping matters. I do not consider it necessary for a condition to specify precise landscaping measures. Having regard to my conclusions on highway safety [95-105] and sustainability [123] I do not consider conditions on the maintenance of a visibility splay, the provision of a length of footpath and the provision of two bus stops to be necessary.
142. To protect bio-diversity and cultural heritage conditions could also address the retention and protection of existing watercourses, the timing of works to vegetation, the erection of fencing to protect Danes Pad and the carrying out of archaeological investigations. To protect the environment details of foul and surface water drainage could also be required. Where appropriate, the form of conditions would need to reflect the retrospective character of the development.

RECOMMENDATIONS

Appeals A to O: APP/M2325/C/10/2134060 to 2134074

143. I recommend that the notice be corrected at paragraph 3 by the deletion of the allegation and its replacement with the following: "Without planning permission, a material change of use from a mixed use comprising an equestrian use and agriculture to a mixed use comprising an equestrian use and use as a residential caravan site." I also recommend that the notice be varied as follows:
- i) By the deletion of the requirement at paragraph 5(i) and its replacement with: "Cease using the land as a residential caravan site and remove from the land all caravans, sheds, containers and any other structures associated with the use of the land as a residential caravan site."
 - ii) By the deletion of the requirement at paragraph 5(ii) and its replacement with: "Remove from the land all equipment, articles and other paraphernalia associated with the use of the land as a residential caravan site."
 - iii) At paragraph 6 by the deletion of the words "4 months" and the insertion of the words "12 months".
144. I further recommend that the appeals be dismissed, that the enforcement notice be upheld subject to the correction and variations set out above and that the planning applications deemed to have been made under section 177(5) of the Act as amended be refused.

Appeal P: APP/M2325/A/10/2134032

145. I recommend that the appeal be dismissed.
146. If the Secretary of State is minded to disagree with my recommendations on all or any of the above appeals, Schedule 4 lists the conditions that I consider should be attached to any approval granted.

K Williams

INSPECTOR

APPEARANCES AT THE INQUIRY

FOR THE APPELLANT: Mr A Masters, of Counsel.

He called: Mrs A Heine, MSc, BSc, MRTPI	Heine Planning Consultancy.
Mrs E Collins	A resident of the appeal site.
Ms N Hartley	Black Minority and Ethnic/Gypsy/Roma/Traveller Community Development Worker, Fylde and Wyre.
Mr J Hurlstone, BSc(Hons), MIHT, CMILT	The Hurlstone Partnership.
Mrs S Smith	Headmistress, Christ the King Catholic Primary School.
Father Collins	Parish Priest, St. Cuthbert's Church, High Cross.

FOR THE LOCAL PLANNING AUTHORITY: Mr J Easton, of Counsel.

He called: Ms A France, IEng, FIHE, AMICE, MCIHT	Sanderson Associates.
Ms P Randall, BSc(Hons), MALA, FLI	Randall Thorp.
Mr M Atherton, BA(Hons), BPI, MRTPI	Senior Planning Officer, Fylde Borough Council.
Mr M D Evans, BA(Hons), MRTPI	Assistant Director of Planning Services, Fylde Borough Council.

INTERESTED PERSONS:

Michelle Caulton	Local resident.
Mr A Robson	Local resident.
Mr Hall	Representing a group of local residents.
Mr M Menzies, MP	Member of Parliament for Fylde.
Mr B Wallace, MP	Member of Parliament, Wyre and Preston North.
Mr W Williamson	Local Resident.
Mr Cawkwell	Local resident.
Mrs Cawkwell	Local resident.
Mr Horton	Local resident.
Mr Poulson	Local resident.
Mr Hudders	Local resident.
Ms Chew	Representing the Hardhorn, Staining, Singleton and Poulton Residents Association.
Mr Duncan	Local resident.
Ms Moulding	Local resident.

SCHEDULE 1: CORE DOCUMENTS (CD)

1 Planning Application Documents.

- 1.1 Planning application 09/0830 and supporting documents.
- 1.2 Planning Officer's report to Committee, 2 June 2010.
- 1.3 Late observations schedule for Special Development Control Committee, 2 June 2010.
- 1.4 Decision notice, 2 June 2010.
- 1.5 Enforcement notice, 27 July 2010.
- 1.6 Temporary Stop Notice.

2 Development Plan.

- 2.1 Regional Spatial Strategy for the North West.
- 2.2 Joint Lancashire Structure Plan 2005- Policy 29- Sites for Gypsies and Traveller Families.
- 2.3 Fylde Borough Local Plan 1996-2005 as altered, 2005.

3 Relevant National Policy, Planning Policy Statements (PPS) and Planning Policy Guidance (PPG), Companion Guides and Guidance Documents.

- 3.1 ODPM Circular 01/2006: Planning for Gypsies and Travellers.
- 3.2 DCLG Circular 11/95: The Use of Planning Conditions.
- 3.3 ODPM Circular 06/2005 and Defra Circular 01/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System.
- 3.4 PPS1: Delivering Sustainable Development.
- 3.5 Planning and Climate Change Supplement to PPS1.
- 3.6 PPS3: Housing.
- 3.7 PPS5: Planning for the Historic Environment.
- 3.8 PPS7: Sustainable Development in Rural Areas.
- 3.9 PPS9: Biodiversity and Geological Conservation.
- 3.10 PPG13: Transport.
- 3.11 PPG18: Enforcing of Planning Control.
- 3.12 Designing Gypsy and Travellers Sites - Communities and Local Government Good Practice Guide.
- 3.13 Communities and Local Government Guidance: Gypsy and Traveller Accommodation Needs Assessments, October 2007.
- 3.14 Office of the Deputy Prime Minister: The Planning System: General Principles.

4 Highways Documents

- 4.1 Relevant extracts of Design Manual for Roads and Bridges.
- 4.2 Manual for Streets 1.
- 4.2 Manual for Streets 2.

5 Other Local Documents

- 5.1 Lancashire Sub-Regional Gypsy and Traveller Accommodation Assessment (GTAA), May 2007.
- 5.2 4NW Consultation Paper.
- 5.3 The unpublished draft 4NW Panel Report.
- 5.4 Lancashire County Council Landscape Character Assessment SPG.
- 5.5 Lancashire County Council Landscape Strategy.
- 5.6 Fylde Borough Council's submissions to the North West Planning Partial Review, October 2009.
- 5.7 Report to Council, 5 August 2010 following revocation of the RSS.
- 5.8 Bi-Annual Gypsy Count for the Region.

5.9 Statistical Return submitted by the Local Authority to the ODPM Gypsy Count.

6 Relevant Planning Applications.

- 6.1 Application 05/0690 – Change of use from a field to fishing pond and small stock pond with associated car parking for 8 cars, refused 13 October 2005.
- 6.2 Application 08/0811 – Change of use from agricultural land to equestrian use for the keeping of horses – granted 23 October 2008.
- 6.3 Application 07/0845 – Stables/agricultural storage building – refused on 4 October 2007.
- 6.4 Application 08/0130 dated 12 February 2008, comprised of a resubmission of application 07/0845 for stables/agricultural storage building – refused on 8 April 2008.
- 6.5 Application 05/00086/FUL (Wyre Borough Council) dated 18 February 2005 for private stables, refused on 12 April 2005.

7 Injunctions.

- 7.1 Report to the Development Control Committee dated 16 December 2009.
- 7.2 Order of His Honour Mr Recorder Bartley Jones QC dated 13 January 2010.
- 7.3 Order of His Honour Judge Howarth dated 3 February 2010.

8 Other Relevant Documents.

- 8.1 Secretary of State's letter of 27 May 2010 regarding the revocation of the Regional Spatial Strategy.
- 8.2 Secretary of State's letter of 6 July 2010 regarding the revocation of the Regional Spatial Strategy.
- 8.3 Ministerial Statement of 29 August 2010 in relation to Circular 01/2006.
- 8.4 Letter from Chief Planner of the Department of Communities and Local Government, dated 10 November 2010.
- 8.5 Cala Homes (South) Ltd. v Secretary of State for Communities and Local Government (2010) AII ER (D) 102(Nov).
- 8.6 Cala Homes (South) Ltd. v Secretary of State for Communities and Local Government (2010) AII ER (D) 205(Dec).

SCHEDULE 2: DOCUMENTS SUBMITTED AT THE INQUIRY

1. Statement of common ground.
2. Highways statement of common ground.
3. Council's opening submissions.
4. Council's list of appearances.
5. Full copy of Mrs Collins' proof.
6. Suggested correction and variations to the enforcement notice.
7. Article from Transport Professional on Manual for Streets 2.
8. Extract from Manual for Streets 2.
9. Email from Ian Elvin to James Jenkinson, 17 November 2010.
10. Appeal decision APP/A6835/A/10/2132061.
11. Drawing of potential 215 metre visibility splay.
12. Fylde Borough Council letter, 1 September 2010, on waste collections.
13. List of Councils contacted by the appellants.
14. Extract from the Highways Act, 1980.
15. Table of design speeds and SSD submitted by Mr Hurlstone.
16. Note on traffic incident, dated 9 December 2009.
17. Summary of Blackpool Council's representation on the RSS Partial Review.
18. Statement of Mr A Robson.
19. Statement of Michelle Caulton.
20. Statement of Mr Hall.
21. Statement of Mr Menzies, Member of Parliament for Fylde.
22. Hedges and Hedges v Secretary of State for the Environment and East Cambridgeshire District Council, 73 P&CR 534.
23. Cala Homes (South) Ltd. v Secretary of State for Communities and Local Government (2010) AII ER (D) 205(Dec).
24. Letter from Mrs Sarah Smith, Christ the King Catholic Primary School.
25. A France email of 14 March 2011 with draft highway conditions, drawings 5915-034A, 035A, 036A, 037A and table Impact to Hedge.
26. Revised Impact to Hedge table.
27. Drawings 5915-038, 039.
28. Final statement of residents of HSSP, with appendices.
29. Statement by Mr Duncan, with attached photograph.

30. Heine Planning Consultancy letter, 14 March 2011.
31. Planning Inspectorate letter, 15 March 2011.
32. Report entitled Blackpool Core Strategy, The Need for New Homes to 2026.
33. Report to Executive of Blackpool Council, 3 November 2010.
34. Further complete copy of final statement of residents of HSSP, with appendices.
35. Council's closing statement.
36. Appellants' closing statement.

SCHEDULE 3: CORRECTION AND VARIATIONS TO THE ENFORCEMENT NOTICE (DOC 6)

Correction: At paragraph 3 of the notice replace the allegation with "Without planning permission, a material change of use from a mixed use comprising an equestrian use and agriculture to a mixed use comprising an equestrian use and use as a residential caravan site."

Variations: i) replace requirement (i) with "Remove from the land all caravans, sheds, containers and any other structures associated with the use of the land as a residential caravan site."

ii) replace requirement (ii) with "Remove from the land all equipment, articles and other paraphernalia associated with the use of the land as a residential caravan site."

iii) Add as a further requirement "Cease using the land as a residential caravan site."

SCHEDULE 4: LIST OF SUGGESTED CONDITIONS

- 1) The use hereby permitted shall be for a limited period being the period of (3 or 5) years from the date of this decision. At the end of this period the use hereby permitted shall cease, all materials and equipment brought on to the land in connection with the use shall be removed, and the land restored to its former condition.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 3) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependents:

John and Mary Collins, Christopher and Elizabeth Collins, James and Annmarie Connors, Patrick Collins and Margaret Connors, Kathleen, Elizabeth, Bridget and Kathleen Collins, Terry and Pearl Collins, Alex and Margaret White, Alex and Mary Ellen White, John Connors and Mary Delaney, Alexander and Isobel Collins, John and Priscilla White, Patrick and Bridget Quinn, Patrick and Rose Collins, John and Bridget Collins, Michael and Phylliss Collins, Jeremiah and Mary Collins, Terry and Eileen Collins, Bridget, Elizabeth and Alice Collins.
- 4) Within 3 months of the land ceasing to be occupied by those named in condition No.3 above, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto or erected on the land, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition before the development took place.
- 5) No more than 36 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 17 shall be a static caravan or mobile home) shall be stationed on the site at any time.
- 6) The erection of any amenity blocks shall not take place until samples of the materials to be used in the construction of the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 7) No commercial activities shall take place on the land, including the storage of materials, plant or equipment.
- 8) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 9) All existing watercourses and associated vegetation on the site shall be retained and shall be protected from physical or chemical disturbance or pollution, excepting approved maintenance or enhancement works which have been submitted to and approved in writing by the Local Planning Authority.
- 10) No vegetation (tree, shrub, hedgerow or reedbed) shall be removed during the bird nesting season (March to August inclusive) unless the absence of nesting birds has been confirmed in writing to and agreed by the Local Planning Authority.
- 11) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision, or such other period as the Local Planning Authority may agree in writing, a scheme for: the internal layout of the site, (including the siting of caravans, plots, amenity blocks, parking areas and hardstanding); foul and surface water drainage, external lighting, landscaping (including fencing, tree, hedge and shrub planting with details of species, plant sizes and proposed numbers and densities), the implementation of a programme of archaeological works and the provision of

a fenced area around the former Roman road known as Danes Pad within which no works are to take place; hereafter referred to as the site development scheme shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.

- ii) if within 11 months of the date of this decision the site development scheme has not been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
- iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.



Christ The King Catholic Primary School

Bathurst Avenue, Blackpool, Lancashire FY3 7RJ

Telephone: 01253 395985 Fax: 01253 398667

E-mail: admin@christ-the-king.blackpool.sch.uk

Tuesday, 22 April 2014

Dear Nicola,

Following our visits to the traveller encampment over recent weeks and our conversations on the telephone I write this formal report in support of the community. This report gives a brief background to the schools' relationship with families from the Traveller Site off Fairfield Road, Hardhorn and a general overview of the progress they have made. It has governing body support.

Admission

The schools' initial contact with this traveller community was made in early December 2009. We admitted three children from the same family. Since this point and our engagement with the families, word has spread across the site of our provision. Now we have 17 traveller children on our school roll. This equates to just over 8% of our intake. At one time there were a number of traveller pupils on our waiting list to secure places in Year one. These applications went through a formal appeal process within Blackpool Council and one child was successfully admitted on appeal.

Since this initial admission in 2009 the process of requesting a place in a Blackpool school became ever more bureaucratic. The traveller site is within the Lancashire border/authority. As a consequence Blackpool are unable to admit a child that lives outside of its border, without Lancashire's agreement.

The process is now much more fluid and involves these families making contact with our school and completing a form for Lancashire. The form is then sent to Blackpool for approval, who contacts our school again. The family then complete another form which is sent to Blackpool, when they are then given confirmation of the place. The process can take around four weeks. Despite our help and constant reassurance this process has been stressful for a number of families. They have made the initial step of requesting education for their children and then having to wait unnecessarily for a place.

School has developed good links with the families involved and a number of local council employees to ensure that the process is now smooth. We have worked closely with the Traveller Engagement Officers in Lancashire over recent months to support the families in completing the necessary forms as there are few families with good literacy skills on the site.

Despite the complicated admission process, we still continue to receive requests to admit new families that arrive on the site. Our most recent request for a place is for a family of two children earlier this month, both of whom did have places at Christ the King in January 2013. They have since this point: travelled, attended another school (being taken off roll at CTK) and are now applying for their new school place.

Educational Attainment

The families of these children have traditionally rarely engaged with education and as a consequence the literacy and numeracy skills are limited. Few of their parents can read or write, although their own children are now learning to do so. Pupils within our Key Stage Two classes are significantly behind their peers and one pupil up until last month was “out of year group”, due to the child’s medical needs. The family have now elected for “home education” for this child who officially would now be in Year 7.

That said most of the pupils within our Foundation Stage and Years 1 and 2 who have attended our school for at least 6 months, are making good progress. They are now either in line with national expectations, or close to them.

All of the pupils have settled well, are polite, have excellent manners and have made friends with ease. They are valued members of our school community. Up until relatively recently each class now has at least one traveller within it. Some families have moved out of the area and as a consequence we now have three classes without a traveller on roll. Two classes however have five travellers in each class.

Catholicity

All of our Irish Traveller pupils are practicing Catholics and regularly attend weekly mass. They are highly religious and contribute significantly to the parish and prayer life of our school community. They mainly practice at English Martyrs in Poulton-le-Fylde, however a number of families also attend a Catholic Church in Bispham or Sacred Heart in the centre of Blackpool town centre. The families’ commitment to their faith has been illustrated during some of the children’s preparation for First Holy Communion (October 2010). Father Collins (no relation) prepared five of the children outside of school as well as supporting the pupils during several sessions in school. The event was a real celebration and the church was filled with school staff, school governors and friends of the traveller community. In November 2011 another group of children received this sacrament and again it was a huge celebration for both communities.

Additional Resources

Blackpool Authority has recognised the additional educational need of these pupils and has responded quickly to school requests for support.

Over the last four years seven of the traveller pupils from Years 2 and 4 attended morning lessons at Thames School in Blackpool. Following discussions with the parents it was agreed that an intervention programme run within Thames’ “Illuminate” department would provide an opportunity for one to one intensive tuition. This was a successful six week venture and one continued for more children for several terms. Many of these families attended a short parents morning to celebrate the good progress their children had made in December 2010 at the Illuminate Centre.

Mrs Jane Gray from Blackpool’s Diversity Education Team has also funded a Diversity Liaison Officer one day a week to support those traveller pupils who do not attend the Illuminate provision in 2011. Mrs Jean Stuart worked on developing the basic skills of reading, writing and maths. The pupils she worked with again made progress, although their starting point was well below the national average for their age group.

Additional intervention has been a constant theme for these children over the last four years and school resources have been diverted accordingly. Many of our traveller pupils have scored highly in the government’s “two levels progress” measure at the end of Key Stage Two although on many occasions fell short of the Government’s National Expectation of a Level 4.

Attendance

Most of the children, when on the Hardhorn site attend well. In 20010/11 our Family Engagement Officer Mrs Goodhew had daily checks on attendance and worked hard to stay in regular contact with the families. Regular visits, to the site, by the Pupil Welfare Service (PWO) confirm this. Since her departure in 2013 Miss Catherine Calvey as Assistant Head teacher and Attendance Lead has developed strong links with the community and attends the site regularly. We now encourage the families to inform us of their intention to travel in advance so that we can provide additional reading books and educational materials.

However, clearly travelling, without notice does happen. All traveller families left for several weeks, during the Summer Term 2013 to travel to Sweden and beyond. Some pupils are still not back in school.

Out of School Provision

Many of the families attend our After School provision. This is an evening club where children receive a hot meal and an opportunity for homework support and play activities for a small fee. Our Extended Schools Team continue to develop strong links with the community and she is respected by them.

Parental Engagement

The families continue to engage with our school where possible. For example one family of a child in Year 6 applied for a place at our local secondary school in 2011 and other traveller pupils have attended our Outdoor Adventure residential visits – something quite unheard of in the traveller community. An indication of the trust that has been built for the safeguarding of their children.

Yours sincerely,



Mrs Sarah Smith



Headteacher: Mrs Sarah Smith



Holly Whittaker

Partnerships Officer, Fylde Borough Council

Working Together With Families Coordinator for Fylde

Fylde Children's Trust Coordinator

21st May 2014

Fairfield Road Site and Family Welfare Report

This report is to inform the decision making process of the Development Management Committee in respect of the illegal occupation of the Fairfield Road site. The report includes the impact on the individuals, in particular the children, of firstly legal eviction by force, and secondly a roadside existence. The report will also give consideration to the family network and the individuals within it. Most of the families have occupied the site since 2009.

I have been given information on two sets of site documentation. One set was a report completed in 2011 from the PCSO Andy Rigby and the latest information was collated from Gill Cookson; the Lancashire County Council Gypsy and Traveller Liaison Officer in 2014. I have also reviewed the Health Assessment report from December 2010 by Nicola Hartley, the Black Minority and Ethnic/Gypsy/Roma/Traveller Community Development Worker for Fylde and Wyre. From the most recent information captured it indicates that there is a

	2011	2014
Plots	15	13
Caravans	47	26
Travellers	88	72
Workers	11	0
Total number of residents (approx.)	99	72

reduction in residents on the site between 2011 and 2014.

From the recent information I have been given there is no indication of any workers at the site.

Across the thirteen pitches that I have received information on, there are twenty five adults and forty seven children. There are fourteen children aged 5 or under who are accessing children's centres provisions. The children's centres provide a range of high quality services to children aged under five and their families. The multi-agency services are based around a 'core offer' of child & family health, early education & childcare, family support and employment & training. Services provided vary between centres in order to meet local need. Children's centres contribute towards ensuring that every child gets the best start in life. They also work towards better opportunities for parents, and a stronger and safer community. Children's centres have links to a range of local, affordable, good quality childcare providers and are available from local authorities across the country.

Twenty children at primary school age are currently on roll or expected to go on roll in the September 2014 autumn term at Christ the King Catholic School, Bathurst Avenue, Blackpool, Lancashire, FY3 7RJ. Seven of the children are electively home educated and two children are aged between sixteen and eighteen. The families have established bonds with the local Catholic Church and Christ the King Primary School.

Legal Eviction by Force

There is a recognised risk to the health and quality of life to members of the travelling community as a result of proposed legal eviction by force. In respect of this site there are identified health related issues for three adults and one child. There are forty seven children on the site. The families currently have access to services such as water, sanitation, schools and health care. The families at the site include vulnerable persons including children, people who are elderly and those living with disabilities.

I have no information that there is an alternative site available to the occupiers of this site. In these circumstances the impact of eviction is likely to be to remove or make it more difficult to access facilities. Without a fixed address the travellers are at risk to being pushed further into poverty and social exclusion. Fixed accommodation enables communities to function and adapt in a positive manner, rather than continually reacting to insecurity and the need to struggle to access basic necessities such as water, sanitation and emergency healthcare.

The impact of eviction on the children at this site is likely to be severe. Disruptions are likely to occur in accessing an education provision, this would have a detrimental effect on the children involved. Links that have been made with the local school community maybe

severed, such as the friendships and relationships made at school with peers, teachers and the Priest.

A forced legal eviction can be a threatening and a frightening experience for the child. There would be fear as a child of someone taking your parent away, taking your home away, or people they care about being hurt in the eviction process. Research from the Children's Society suggests that there is an unspecified but substantial negative psychological impact on children who experience evictions and family tensions associated with insecure lifestyles.

Roadside Existence

In a publication written by Patrice Van Cleemput of Sheffield University it stated there are adverse effects of roadside existence upon the family member's health particularly where there are identified health issues. Firstly it would make access to health care considerably more difficult, with the potential for a further harmful effect on the health of some members of the group, including those with significant existing medical conditions. From the information collated by Gill Cookson; the Lancashire County Council Gypsy and Traveller Liaison Officer, it states numerous serious health concerns from the information gathered amongst site members, such as kidney transplants, heart failure, epilepsy and depression.

Most roadside existences are without sanitation, rubbish collection, clean drinking water or electricity. These facilities are vital to everyday living. Furthermore, being forced onto inappropriate stopping places usually creates social tension between local people and Gypsies and Travellers, with those living on the Road side often being blamed for an increase of crime and fly-tipping.

The site family members are able to present themselves at any time as homeless to Fylde Borough Council, and where there is priority need, the Council would support them in finding alternative accommodation. Fylde Borough Council have well established multi agency partnerships in place for all members of the Fylde community supporting those with priority needs willing to actively engage in the support services available.

A road side existence is likely to have a detrimental impact on the medical and personal needs as several of the site residents have severe medical problems mentioned previously. The residents do have established medical support in place at local GPs and hospitals. However, research indicates that those living a roadside existence are likely to only access health care at the point of crisis. This results in an over-dependence on A&E Departments. At A&E departments people know that they will not have to explain their housing situation,

and that they would be guaranteed to be seen that day or at least within a few hours and will generally receive a good level of care.

There are benefits stemming from a settled base for the gypsy and traveller community, most particularly easier access to GPs and other health services and the benefit of children attending school regularly. Each and every family member has access to some sort of provision whether it be school, church, their GP, hospital or children's centre. A road side existence may prevent access to these services.

Point 3.6 of Nicola Hartley's report states that the local healthcare service offers patients with a temporary address GP access, however this service is usually full and the patient would need to look for alternative healthcare. If the families were to live a roadside existence this is likely to happen.

Point 5.5 of the report also highlights that whilst the families have lived on the site they have been able to access preventative health treatment, such as smear tests, blood pressure monitoring, tests for prostate cancer, flu jabs, hearing and sight tests. Should the families live a roadside existence it is likely that access to these precautionary health measures would be difficult to receive.

In research with children and young people participating in the (New Traveller) Children's Participation Project, the Children's Society (1998) explored children's preferences for types of site accommodation. In line with the majority of Gypsies and travellers of all ethnicities and cultural backgrounds the majority of young New Travellers desired to live on small sites with access to grazing, play areas, trees and grass. Children reported that they wanted to live in rural areas but with access to shops and facilities such as running water, with postal deliveries being made to sites. A number of children felt that it was important to be able to 'stay as long as you want', with the opportunity for moving to other safe locations without the risk of eviction or forced movement.

A major study by the Department of Health found many health problems for Gypsies and Travellers. They have "significantly poorer health status and significantly more self-reported symptoms of ill-health" than other people in the population of a similar age, gender and economic status (Parry *et al*, 2004b: 5). Poor living conditions are known to have a negative effect on health. This is made worse because they have less access to health services. Prejudice, communication difficulties with health staff, and being moved on even when family members are ill mean that "the health needs of Gypsies and Travellers are not being met through current plans and provision" (Parry *et al*, 2004a: 8).

Children living in roadside existence could go on to experience hyperactivity, aggression, bedwetting, soiling and disturbed sleep patterns.

Living a roadside existence would have an adverse effect on children's educational progress because of problems relating to accessing schools, attendance, and the isolation that children can feel due to their circumstances. The children could face long, exhausting journeys to school, and be so tired they can't concentrate in class causing severe disruption to schooling. The children could then go on to have lower academic achievements which can increase the likelihood of insecure or low-paid jobs or unemployment in the future. They also have a higher risk of developing long-term health problems. Long-term health problems affect employment opportunities later in life.

Impact on family life of the large family network.

The dislocation from families within the network would cause a damaging effect on the Traveller community and their kinship support system leading to further cycles of disadvantage. Many Gypsies and Travellers place great importance on family networks, and on passing down their culture and traditions through the generations.

Children value living amongst an extended family and feel a sense of safety living on a site and having the extended family as support are important aspects of gypsy and traveller culture.

Legal eviction could create the potential for the loss of close family support and of the immediate proximity of relatives and friends who can offer support, friendship and protection can have a damaging effect on the children living on the site. It would be likely to have a detrimental effect on the emotional health and wellbeing of the children.

Conclusion

Having taken into consideration the information provided by the travellers through the Lancashire County Council Gypsy and Traveller Liaison Service and the Head Teacher of Christ the King Primary School I am of the view that the legal eviction of each of the identified travellers and their children would have a detrimental effect on the children and the identified adults with the health issues that have been shared with the Council. Particularly, a legal eviction would be likely to impact on the access of the children to education. It would also be highly likely to have an adverse effect on those members of this community with identified health issues. The best interests of the children must be taken into account as a

primary consideration. The impact of a road side existence is likely to be severe on the children and put them in an unstable, traumatic and vulnerable state of mind. Children living in roadside conditions will not have the privacy they need to play, do homework and sleep properly. Without room to grow, many children become sick or fall behind at school. The children may feel that they never know where they will be moved to next and could possibly develop anxiety, depression and behavioural problems.