



Appeal Decisions

Hearing Held on 12 April 2022

Site visit made on 12 April 2022

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13th July 2022

Appeal Ref: APP/R4408/C/19/3223190 ('Appeal A') **Land to the rear of Cliff Lane, Brierley, Barnsley S72 9HR**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr D Connor against an enforcement notice issued by Barnsley Metropolitan Borough Council.
- The enforcement notice, numbered 2018/ENQ/00526, was issued on 25 January 2019.
- The breach of planning control as alleged in the notice is *Without planning permission, the carrying out of operational development comprising the construction of hardstandings, walls and the laying of services to provide bays for the caravans.*
- The requirements of the notice are to:
 - (i) Cease the carrying out of the works described... above;
 - (ii) Remove from the Land the hardstandings, walls and services and all other materials associated with the creation of caravan bays;
 - (iii) Remove from the land all vehicles and equipment and materials brought on to the land for the purpose of the above development; and
 - (iv) Restore the land to its previous condition prior to the breach described... above.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2)(a)(d) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal Ref: APP/R4408/W/19/3230574 ('Appeal B') **Land to rear of Connor House, 4a Cliff Lane, Brierley, Barnsley S72 9HR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr D Connor against the decision of Barnsley Metropolitan Borough Council.
- The application Ref 2019/0221, dated 21 February 2019, was refused by notice dated 20 May 2019.
- The development proposed is a material change in use of land for stationing of caravans for residential occupation with facilitating development (retrospective).

Summary Decision: The appeal is allowed.

Appeal Ref: APP/R4408/C/21/3283276 ('Appeal C') **Land at Cliffe Farm, Cliff Lane, Brierley, Barnsley S72 9HR**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr D Connor against an enforcement notice issued by Barnsley Metropolitan Borough Council.

- The notice, numbered 2019/ENQ/00363, was issued on 3 September 2021.
- The breach of planning control as alleged in the notice is *Without planning permission: The material change of use of land for the siting of caravans for human habitation.*
- The requirements of the notice are to:
 - (i) Cease the residential occupation of the caravans for human habitation purposes; and
 - (ii) Remove the caravans and any associated bases, fixtures and fittings, utilities, including vehicles from the land; returning the Land to its original condition prior to the breach of Planning Control taking place.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. My formal decisions below reflect the descriptions of the land given in each of the relevant notices issued by the Council. However, the appeals all relate to the same area of land, described by the Appeal B application as land to the rear of Connor House.
2. A plan of the Cliff Farm Green Space area produced at the Hearing revealed a different site area of that green space from that shown on a plan previously produced by the Council. It omits an area of land to the south of the appeal site on which a bungalow has recently been constructed. The appeal site nonetheless falls within the Green Space area shown on both plans.
3. Although no appeals are brought against either notice on ground (f), claiming that the requirements are excessive, concerns are raised in relation to the requirements of each notice. In relation to Appeal A, I find the first requirement (to 'cease carrying out the works') not to comply with section 173(3) of the 1990 Act. The notice is directed at operations that are alleged to have been carried out, not at ongoing activities or a use, and thus the 'step' identified in paragraph 5(i) is not reflective of the alleged breach. It being my duty to get the notice in order where possible, I shall vary the notice so as to omit that requirement.
4. Additionally in relation to Appeal A, a ground (d) appeal is raised but is expressed to be dependent upon the identification of the 'walls' against which the notice is intended to be directed. It being confirmed by the Council at the Hearing that the notice is directed at the 'dividing' walls (better described as concrete post and rail fences) rather than the perimeter walls, the ground (d) appeal is not pursued. In the interests of certainty, however, I shall correct the allegation and vary the requirements so as to refer to concrete fences rather than to walls.
5. In relation to Appeal C a concern is raised about the clarity of the requirement to remove vehicles from the land and whether this extends the reach of the notice beyond what is required to remedy the alleged breach. It was agreed at the Hearing that the notice could achieve its intended result by omitting the word 'including' from paragraph 5 (ii) (substituting it with 'and') so as to ensure that it is only those vehicles 'associated' with the caravans that are required to be removed if the notice is upheld.

6. The development for which permission was refused (Appeal B) is broadly the same as that which is the subject of the two notices (Appeals A and C). The principal difference is that Appeal B also seeks permission for what was described in the application as 'facilitating development' and in the Council's notice of refusal as 'associated facilities', amounting to some additional sheds.

Application for costs

7. Prior to the Hearing an application for costs in respect of Appeal A was made by the Council against the appellant. This application is the subject of a separate Decision.

Main Issues

8. The notices (Appeals A and C) and the Council's decision refusing planning permission (Appeal B) were all issued citing different reasons. At the Hearing it was agreed that the main issues applicable to all appeals are:
 - The effect of the development on the character and appearance of the area;
 - The effect on the living conditions of the occupiers;
 - The effect on the living conditions of neighbouring occupiers;
 - The effect on the provision of green space;
 - The suitability of the access arrangements;
 - Whether intentional unauthorised development;
 - The need for the development and the availability of alternatives;
 - The personal circumstances of the occupiers, and the effects on the occupiers' human rights, the public sector equality duty and the best interests of children.
9. In addition to these specific issues the general question arises whether this is appropriate 'backland development', as identified in the Council's first reason for issuing the Appeal C notice. That is generally encompassed in consideration of the access arrangements issue. A further concern raised by the Council is that of future development pressures that would result if the appeal were allowed. This is identified by the Council as a matter relevant to the provision of green space and hence I deal with it there.
10. Although lying close to a Conservation Area, it is not suggested that any impacts on its setting would arise. I am mindful of my duty to pay special attention to the desirability of preserving or enhancing the character or appearance of such areas in the exercise of planning functions, but concur with the main parties that the setting is not affected.
11. Whether the latter questions of need and personal circumstances arise for consideration depends on whether the developments are otherwise consistent with the development plan for the area; the Council agreeing at the Hearing that the absence of demonstrated need would not (contrary to Appeal B RR1) in itself contravene Local Plan Policy GT1, which sets out criteria to be used when determining planning applications for traveller sites and encouraging self-sought provision where in accordance with that and other policies in the Local Plan.

Reasons

Character and appearance

12. Expressly stated as a reason for issuing the Appeal C notice, the question arises whether the development is inappropriate 'backland development' causing harm, by reason of its design and appearance, to the visual character of the area contrary to policy GD1 (General Development) of the Barnsley Local Plan and to the Design of Housing Development SPD.
13. At the Hearing the Council identified the particular points of departure, in their view, from policy GD1 as relating to the first two bullet points of the policy which require there to be no significant adverse effect on the living conditions of existing and future residents and compatibility with neighbouring land uses. These matters are relevant to other main issues. A further issue however concerns the landscaping of the site, where the policy requires proposals to include landscaping so as to appropriately reflect, protect and improve the character of the local landscape. The Council also draw attention to policy D1, requiring development to respect and reinforce local character.
14. The site lies at the edge of the urban area and overlooks fields to its eastern and southern sides. From the public right of way beyond the south of the site, the caravans are just about visible in places, and the site is also perceptible from Barnsley Road to the north, with limited glimpses from between the houses fronting that road. Although in an elevated position, the undulating nature of the surrounding land means that the site has a very limited impact in the wider landscape, being legible, where visible at all, in the context of the urban area it adjoins.
15. Therefore on this issue I do not agree with the Council that the caravans are incongruous and detrimental to visual amenity and wider streetscene. They are visible from few public vantage points and are well-related to the adjacent built up area. A planning condition requiring a boundary treatment to the north of the site is nonetheless necessary to secure an acceptable relationship.

Living conditions of occupiers and neighbours

16. A number of concerns are raised by the Council in this regard, principally relating to:
 - (i) play space and soft landscaping on the site;
 - (ii) potential user conflicts of the access arrangements and risks to child safety;
 - (iii) spacing arrangements between the caravans and between the site and neighbouring properties, with privacy and overlooking concerns raised; and
 - (iv) noise emanating from vehicles and residents of the site, and from plant and machinery laying hardstanding and moving material around the land.

Play space and soft landscaping

17. No local plan policy expressly requires the provision of play space, although my attention is drawn to paragraph 26 of the national Planning policy for traveller

sites ('PPTS') recognising the provision of soft landscaping and play areas for children as material considerations. The relevant local plan policy GT1, applying to applications for traveller sites, requires sites generally to provide a good safe living environment with appropriate standards of residential amenity.

18. Here, there are no play areas expressly provided, and the site itself is exclusively laid to hardstanding. This would usually attract adverse weight. However, given my conclusions below that the site could only be acceptable to meet the personal needs of the family, I consider the availability of play space in the context of the wider landholding of the appellant. That includes a substantial adjoining field presently used as a paddock. Because of this I concur with the appellant that there is sufficient space for children to play in.
19. As to soft landscaping, I recognise the benefit to travelling families of sites that are easy to maintain and here the site overlooks the adjoining field. As a result of this immediate access to the countryside for those living on the site, the lack of soft landscaping on the site itself is not a concern.

Safety of access

20. The Council also expresses concern as to child safety because of the ability of vehicles to manoeuvre in the site's open areas. Whilst recognising that the nature of the site means that large vehicles such as touring caravans will sometimes be in transit around the site, the arrangements do not strike me as essentially different from any family housing where children have access to a domestic off-street driveway.

Spacing, privacy and overlooking

21. It is disputed by the appellant whether the Design of Housing Development SPD is applicable here. Whilst accepting that caravans are usually constructed to different dimensions from bricks and mortar housing, there is nothing in the document to indicate that it should not apply to traveller sites (acknowledged in the National Planning Policy Framework ('the Framework') to be a type of 'housing' at paragraph 62). Particular spacing distances are advised, all with the aim of ensuring high standards of privacy, light and outlook and by avoiding close overlooking, intense vehicular or pedestrian movements close to dwellings, and overbearing or overshadowing development.
22. The document advises a minimum 21m distance between facing habitable rooms. This is not achieved on the site itself although as the appellant points out, the licensing requirements are for spacing of 6m, and in any event the Council do not object on this basis. The complaint raised is that the development leads to an unacceptable loss of privacy for residents on Barnsley Road.
23. The relevant guidance requires 10m between habitable room windows at first floor level and the boundary of a private garden. A reduced distance may be accepted for bungalows provided they meet garden size standards and ensure adequate levels of amenity for occupants.
24. Here, the appeal site is on raised ground above the gardens of properties facing Barnsley Road. The closest mobile home is around 3m from the site boundary, behind an approximately 2m high fence (on the appeal site side; it is considerably higher to the other side). The Barnsley Road gardens are generally well vegetated and around 35m in length.

25. The guidance seeks to achieve adequate levels of privacy and the avoidance of overlooking. The combination of the boundary fence, the vegetation, and the distance from the Barnsley Road houses results in an acceptable relationship where those houses and gardens are not unacceptably overlooked by the occupants of the appeal site. A planning condition requiring a boundary treatment to the northern side of the site, and requiring obscure glazing to the northern elevation of the caravan nearest Barnsley Road, will secure the position. The mobile homes also lie relatively close to the boundaries of the properties on Cliff Lane to the east, and a condition requiring a boundary treatment here is also necessary to avoid any unacceptable privacy impacts arising.

Noise

26. The Appeal A notice alleged noise and disturbance arising from the works to complete the development. Whilst accepting this may have been the case, those works are now complete and no ongoing harm is alleged in this regard. Ongoing harm is alleged, however, arising from noise resulting from the occupation of the site.

27. As with the privacy and overlooking concerns, I consider that acceptable distances are achieved from the neighbouring dwellings. Some large construction vehicles apparently cause problems on the adjoining highway. Whilst this may have been a concern during the completion of the development, and neighbours spoke of ongoing vehicle movements, there is no ongoing allegation of anything other than a residential use of the site taking place. The site adjoins an existing residential area, and there is a satisfactory distance from neighbouring properties. No reports of any complaints to Environmental Health have been supplied and I have no reason to believe that the residential occupation of the site would cause unacceptable noise or disturbance to neighbouring residents.

Conclusion on living conditions

28. For these reasons I do not find there to be any conflict with the provisions of the development plan seeking to secure acceptable living conditions for existing and future occupiers.

Effects on green space provision (and future development pressures)

29. The appeal site is designated as a 'green space' to which policy GS1 of the Local Plan applies. Such spaces are not necessarily limited to those to which public access rights apply; they are however described as 'open' areas which are valuable for amenity, recreation, wildlife or biodiversity. However, the quantitative standards for natural and semi-natural areas set out in Appendix 1 of the Green Space Strategy refer to the (former) English Nature's accessible natural green space standard, which in turn describes a space as accessible only if full or conditional access may be gained to it. Whilst there is a right of access to the public right of way running along the southern edge of the Green Space Area, this lies some way beyond the appeal site, and the caravans are barely visible from it. Appendix 2 of the Strategy sets out quality standards which are a local version of the 'Green Flag' quality standard; again, the national version requires accessibility as an important criterion.

30. The Cliff Farm Green Space designation pre-dates the existing Local Plan and is described as one of three 'natural and semi natural areas' within Brierley (or Grimethorpe). Its quality has not been assessed, although as a privately owned site it appears that few of the Appendix 2 criteria could have any application.
31. The summary of provision in the area is that 'most of Brierley has access to Natural Areas although there is a small deficiency to the north of the area' (later specified as meaning north of the A628) and the overall assessment of such areas is that they are of mixed quality and high value.
32. None of the relevant criteria of GS1 applies here: there is no assessment showing an excess of natural or semi-natural space in the area; the proposal is not for facilities needed to support or improve the green space; and no appropriate replacement green space is proposed to be provided. The Council seek £12,564 towards compensatory provision, which is neither proffered nor secured.
33. The proposals do not therefore comply with this policy. However, I do not give this conflict more than moderate weight in the absence of any qualitative assessment of the green space or, as a natural or semi-natural area, of its benefit to wildlife and given the lack of public access to it, in the light of the Strategy's reference to accessibility standards. As the appellant points out, the appeal site has for some time been enclosed by a perimeter wall. The parties are disagreed as to the extent of hardcore that has previously been laid upon it, the Council submitting a 2017 aerial photograph showing it to be enclosed but green at that point. On this basis, the appeal site clearly does not comprise previously developed land.
34. The Council's concern relates not only to the existing loss of green space caused by the current proposals, but also to pressures to further develop the land in future. The remainder of the green space area within the appellant's ownership is used as a paddock area with stables, although an extensive area of hardstanding has been laid.
35. Given my overall findings that the development is not compliant with the development plan for the area but could be justifiable only on the basis of the particular circumstances arising, I do not agree that to allow this appeal would create an inexorable pressure for further development of the green space.

Access arrangements (and backland development)

36. A wide shared driveway gives access from Cliff Lane to the existing dwellinghouse at no. 4a, the new bungalow to the south of the appeal site, and the three caravans on the appeal site as well as to the paddocks below. Permission for a further dwelling towards the front of the access is understood to have lapsed. The Council considers the appeal proposals to constitute inappropriate backland development and raise particular concerns as to the access arrangements, due to potential conflict between vehicles and pedestrians and the ability of fire appliances to turn around. The Council's concern that the shared driveway would serve more than 5 dwellings, contrary to guidance, does not now apply because of the lapse of the previous permission. The limit is said to relate to the notional capacity of a private service connection, but there is no dispute that the caravans benefit from connections to necessary services.

37. The driveway is some 60m in length, which exceeds the recommendation of the South Yorkshire Residential Design Guide (Section 4, B1.1.11) of 20m where no turning facility suitable for a fire appliance is provided, and potentially constitutes the type of private driveway resulting in excessive 'man carry distances' that the Design of Housing Development SPD ('Backland Development') seeks to avoid. Whilst at present there appears ample space at the head of the driveway, a substantial part of that land is not within the appeal site and thus the availability of this area for manoeuvring in the long term is uncertain.
38. The appellant disputes the applicability of the Design of Housing Development SPD to the proposal, constituting as it does the provision of caravans rather than bricks and mortar housing. Although caravans are being provided, the aim of this guidance is to ensure the provision of refuse collection and other services without excessive carrying distances, which would seem equally applicable regardless of the type of accommodation. The applicability of the Residential Design Guide is also disputed, but on this issue of the accessibility to fire appliances I see no reason to draw a distinction by accommodation type.
39. Although there is some departure from the guidance on both of these issues, there is nonetheless no objection from the Local Highway Authority to the proposal. As the current driveway (in the absence of the previously permitted house to the front) is of considerable width I do not envisage that a fire appliance would not be able adequately to access or leave the site. The distance from the highway for the purposes of refuse collection, whilst not ideal, is not unduly far away and is commensurate with the distance of no. 4A and the new bungalow. Consequently I do not consider there is any overall departure from policy D1 (which the Design of Housing Development SPD supplements) by reason of accessibility or ease of movement. Nor do I perceive any conflict with the requirement of policy GT1 for a site to have good vehicular and pedestrian access from the highway.

Conclusions on compliance with the Development Plan

40. Policy GT1 requires traveller sites to have good access to facilities and primarily to be located within urban areas. There is no dispute that the site complies with these aspects. In terms of its specific location there are no concerns as to flood risk or land contamination. In respect of the vehicular and pedestrian access from the highway I have found no overriding concerns, and the same applies to the living environment and standards of residential amenity.
41. The parties dispute the meaning of the remaining GT1 criterion, which is to say that a site should have 'no other restrictive development constraints'. Matters enumerated in the supporting text include ownership issues, the scope to provide services, ground stability or other practicability issues, in respect of which no concerns are raised here. The policy goes on to say that self-sought provision will receive positive consideration where it accords with GT1 and with other policies in the plan.
42. I have found that the development would conflict with policy GS1 as it involves the loss of green space without justification or compensation, although for the reasons I have explained I give this conflict only moderate weight. However, I do not consider that policy GS1 is a 'restrictive development constraint' for the purposes of policy GT1. It is not a constraint of the type enumerated by the

policy's supporting text. It is instead another applicable policy of the Plan. Thus, in its own terms, I do not find any conflict with policy GT1.

43. However, because policy GS1 is not complied with, the development does not attract positive consideration from policy GT1. Policy GT1 encourages self-sought traveller site provision only where there is compliance with both GT1 and other policies in the Plan. Here, whilst there is compliance with the GT1 criteria, there is not compliance with all other policies in the Plan (namely, there is conflict with GS1) and therefore the development is not encouraged by GT1.
44. Thus the development is neither encouraged nor discouraged by policy GT1. It does not comply with policy GS1 and hence there is some overall conflict with the development plan for the area.

Intentional Unauthorised Development ('IUD')

45. The Ministerial Statement of 2015 establishes that IUD is a material consideration to be weighed in the planning balance. A Stop Notice was issued and served at the same time as the Appeal A enforcement notice, requiring the cessation of operational development 'to provide bays for the caravans'. The notice plainly envisaged there to be caravans, but it is not clear from the face of either notice whether or not these were already in situ. These notices however followed a temporary stop notice issued the previous month, in December 2018 alleging both an unauthorised change of use and the laying of hardstanding and services to form three caravan bays. According to the Council works nonetheless continued. The Council's case (costs application 2.3) is that at the time of the Appeal A notice no change of use had taken place and that the caravan bays were as yet unoccupied by caravans. There is on the face of it some tension between these accounts, with the TSN alleging an unauthorised change of use by December 2018, but the underlying distinction appears to be between use and occupation. It is not contended by the appellant that any caravans (or mobile homes) were being occupied by the time of the TSN.
46. The appellant contends that by the time of service of the Appeal A notice, the caravan bays were completed and two of them were then occupied by caravans. It is said that touring caravans have been kept on the land for a number of years and it was not realised that permission was required.
47. Although there are differing accounts of the extent of the development that was in place by the time of service of any notices, on the appellant's own account at least some development has taken place since the TSN was served, and in particular the mobile homes were not occupied before January 2019. The need for permission was, according to the Council, explained to the appellant in December 2018 at a visit prior to service of the TSN, and the appellant advised to cease works. Although the appellant was not professionally advised at that point, the Council's assertion that the appellant is very familiar with the planning system is borne out by the number of previous applications relating to the land.
48. I consider as a matter of fact that at least some of the development prohibited by the Stop Notice and the subject of the notices has been carried out in the knowledge that it was unauthorised.

49. A number of factors are put forward by the appellant concerning the weight that ought to be attributed to this, including primarily the lack of alternatives. Although for the reasons set out below I agree with the position as to the lack of alternatives, it is clear that no steps were taken by the appellant to ascertain that position prior to beginning (or continuing, in the face of advice from the Council) the development.
50. An urgent need to use the land for the extended family is asserted. The land had nonetheless been used for touring caravans for a number of years and the particular urgency of installing mobile homes together with the associated operational development is not explained. That the Council may not have considered their Public Sector Equality Duty or undertaken welfare assessments, or that the site is not in the Green Belt and the amount of development is limited, does not affect my findings that the development was IUD in part. Nonetheless the appellant did then seek professional advice and submit an application with relative alacrity. Consequently I attribute moderate weight to the IUD.

Other matters

51. A number of representations have been received from third parties, mostly relating to the matters considered above. Additional concerns about anti-social behaviour are raised, but it appears that Environmental Health have not had cause to become involved with the site and there is no evidence to suggest that these are not generalised fears. Concerns have been raised about the raising of ground levels on the site, but these (if they have occurred) do not form part of the allegation in either notice or the application for planning permission, and so are matters beyond my consideration in these appeals. Concerns have been expressed about traffic and the impact on pedestrians including passing schoolchildren. I saw at my visit that the roads around the post office were prone to some congestion, but no concerns are raised by the Local Highway Authority and I have no good reason to depart from their view.
52. Nonetheless I have found the development to be in overall conflict with the development plan, as well as it consisting of intentional unauthorised development. Each of these matters attracts moderate weight. It is necessary to consider whether there are matters weighing in its favour.

Need and available alternatives

53. The Council's needs assessment ('GTAA') of 2015 identified a five year requirement of 15 pitches to 2018/19, reduced to 7 pitches by planning approvals and improvements to an existing site by the time of the Appeal B application. The GTAA identified an overall need for 33 pitches to 2034 and, in an assessment described by the Local Plan Inspector as robust, identified two sites for allocation, at Industry Road Carlton (11 pitches) and Burntwood Cottages extension (8 pitches), the latter site being 'washed over' by the Green Belt. The Council is in the process of updating the needs assessment, although this is not imminent, and contends for an existing surplus of more than eight (reduced from 10) available suitable pitches against the identified need to 2024/25.
54. The appellant disputes the assumed deliverability of the Carlton and Burntwood Cottages sites as a result of their allocation. Without a planning permission in place, the appellant considers the sites not to be deliverable.

55. The PPTS advises that to be considered deliverable, sites should be available now, offer a suitable location for development, and be achievable with a 'realistic prospect' that development will be delivered on the site within five years. Sites with planning permission should be considered deliverable in the absence of specific reason.
56. More generally as to the deliverability of housing, the Framework advises that allocated sites should be considered deliverable only (in the absence of a planning permission) where there is 'clear evidence' that housing completions will begin on site within five years. The PPTS does not repeat this advice. The Framework specifically advises that the supply of deliverable sites for travellers should be assessed separately, in line with the policy in the PPTS.
57. As a result, I see no reason to import the Framework's advice as to what constitutes a 'deliverable' housing site when making that assessment in respect of traveller sites. Hence I do not consider whether there is clear evidence of delivery within five years, but whether it is a realistic prospect.
58. Although both allocated sites were said to be available at the time of the Local Plan Examination, it appears that no application has been forthcoming in respect of either site. There is considerable uncertainty about if or when those allocations will come forward. Whilst the allocations give rise to a theoretical possibility of development of the sites, the apparent lack of progress since the adoption of the Plan leads me to consider that the prospect of delivery within five years is not a realistic one.
59. It is also relevant to consider the particular need identified here, in relation to whether there is alternative accommodation available to the site's occupants. The two allocated sites are owned by third parties and each allocation is for a larger number of pitches than is presently sought. There appears no realistic prospect of either site becoming available to meet the immediate requirements of the occupants (whose needs were not accounted for in the GTAA). Neither the appellant nor the Council has identified any immediately available alternatives. The appellant's contention of there being at least nine households on the waiting list for the Council-run site at Smithies Lane is not disputed.
60. Overall therefore I conclude that there is an immediate unmet need for a traveller site of the size that would meet the requirements of each of the site's occupants, and that there is not presently a five year deliverable supply of sites to meet the particular need identified here. This weighs considerably in favour of the proposal.

Personal circumstances

61. The family have lived in the village for some 30 years. Three of the appellant's sons are said to occupy the mobile homes on the site with their families, together consisting of eight children under the age of nine. Some of the children are enrolled in school at Ryhill. No particular healthcare needs arise for any of the family.
62. The past occupation of the site by the family is disputed, with the Council not having witnessed occupation of all the mobile homes, and reference is made to a planning permission for housing elsewhere in the area said to benefit some family members.

63. Nonetheless the traveller status of the family is not disputed and nor is the preference of the sons for traveller accommodation. The family are Irish travellers, two of whom have married into English traveller families which can make finding other accommodation difficult. The Council attributes little weight to this given the lack of specific detail, but as a general proposition the reluctance to accept people of different gypsy or traveller heritage on some sites is not unusual and I accept the appellant's contentions in this regard. The sons each have their own business but all keep traditional cobs in the adjoining paddock and attend the main horse fairs.
64. No consideration appears to have been given by the family as to how else to meet their accommodation needs. It was said at the Hearing that no approach has been, or would be, made to the Council. However, from the information available, there is a shortage of available pitches on Council-run sites with a waiting list of at least nine households.
65. Whilst acknowledging the family's ties to the area and the benefit to the family of being co-located at this site, I do not give these matters weight because they appear to me matters of preference rather than need. The best interests of the children involved are however a primary consideration, and I attribute considerable weight to the enrolment of all of the school-aged children of the site in school and the benefits to them of this settled base from which to attend the school.

Planning balance and Conclusions

66. A clear conflict with policy GS1 of the Local Plan arises, by reason of the loss of land allocated as Green Space without justification according to the policy criteria and without any compensatory payment or provision. The development does not conflict with the criteria-based policy pertaining to traveller sites, GT1, but does not attract overall support from it because of the conflict with policy GS1 that arises. Because of the conflict with policy GS1, the development does not comply with the development plan for the area.
67. As to the harm caused by that policy conflict, I have found this not to attract more than moderate weight in the absence of any qualitative assessment of the green space and given the lack of public access to it, in the light of the Strategy's reference to accessibility standards, or of any assessed wildlife benefits. Any tangible benefit of the green space allocation has not been demonstrated because of the lack of assessment of the site's relevant characteristics including any benefit to wildlife, and it lacks (whether or not the development is present) any public access or, largely, visibility from public vantage points. Thus the harm caused by its loss is, on the evidence before me, limited. Additionally, I have found the development to have amounted to intentional unauthorised development which also attracts moderate adverse weight.
68. In considering whether there are benefits of the development that outweigh the harm I have identified, a number of considerations arise.
69. There is not in my judgement presently a realistic prospect of meeting the requirement for a five year supply of traveller pitches in the area, and bringing the allocated sites forward is a matter beyond the control of the appellant or the site's occupants. A number of families are currently on the waiting list for Council-run provision, and I find that there is an immediate need for traveller

accommodation for this family that would not otherwise be met. These matters attract considerable weight, as does the benefit to the children's interests in securing a settled base from which to continue their education.

70. Together I find these considerations to outweigh the harm caused by the conflict that arises with the development plan for the area, and by the development having been intentionally unauthorised.
71. Aside from the loss of green space, the site is otherwise suitable and well-located, and I have not found the concerns relating to safety, living conditions, access arrangements or the effects on the character or appearance of the area to be justified. These matters weigh neutrally in the planning balance. Overall however I find there to be material considerations indicating a decision otherwise than in accordance with the development plan for the area.
72. Therefore subject to conditions, I will grant permissions in respect of each of the appeals.

Conditions

73. It is necessary for any permission to be personal to the present occupants of the site because I have taken their circumstances into account in my decision to grant planning permission for the site. For this reason and in the interests of character and appearance it is also necessary to limit the number of caravans.
74. Securing the site layout by reference to the Site Layout Plan submitted with Appeal B is necessary to retain the spacing relationships that exist, and the need for a boundary treatment condition is as set out above, to secure an acceptable visual impact and relationships with neighbouring properties. A condition prohibiting commercial or industrial activities and imposing a weight limit on vehicles was agreed at the Hearing, as was a condition requiring obscure glazing on the northern elevation of the caravan nearest Barnsley Road to prevent overlooking.
75. Although each appeal before me raises slightly different subjects, they are all ultimately concerned with the development of the site to provide caravans for the purpose of residential occupation. Therefore I shall apply all the conditions to each of the three permissions I shall grant.

Formal Conclusions and Decisions

76. For the reasons given above I conclude that the appeals should each succeed. The success of Appeals A and C on ground (a) means that the appeals on ground (g) do not need to be considered.

Appeal A

77. It is directed that paragraph 5(i) be omitted from the notice.
78. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the carrying out of operational development comprising the construction of hardstandings, walls and the laying of services to provide bays for the caravans on land to the rear of Cliff Lane, Brierley, Barnsley S72 9HR referred to in the notice, subject to the conditions set out in the attached Schedule of Conditions.

Appeal B

79. The appeal is allowed and planning permission is granted in accordance with the terms of the application Ref 2019/0221 dated 21 February 2019 for the use of land to the rear of Connor House, 4A Cliff Lane, Brierley, Barnsley S72 9HR for the stationing of caravans for residential occupation with facilitating development (retrospective) subject to the conditions set out in the attached Schedule of Conditions.

Appeal C

80. It is directed that the word 'including' be deleted from paragraph 5(ii) of the notice and replaced with 'and'.

81. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the use of land at Cliffe Farm, Cliff Lane, Brierley, Barnsley S72 9HR as referred to in the notice for the siting of caravans for human habitation, subject to the conditions set out in the attached Schedule of Conditions.

Laura Renaudon

INSPECTOR

SCHEDULE OF CONDITIONS

Applicable to all appeals

- 1 The development hereby approved shall remain in strict accordance with the Site Layout Plan, photographs and specifications submitted with application 2019/0221.
- 2 The site shall not be occupied by any persons other than the sons (James, Patrick and Israel) of Mr David Connor and their immediate families.
- 3 No more than six caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than three shall be static caravans, shall be stationed on the site at any time (whether pursuant to this or any other planning permission granted on this date).
- 4 No commercial or industrial activities shall take place on the site, including the storage of materials, and no vehicles exceeding 3.5 tons in weight shall be parked on the site.
- 5 The windows on the north elevation of the caravan facing 9 Barnsley Road shall at all times be fitted with obscure glass.
- 6 All caravans shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within three months of the date of this decision a scheme, to include a proposed timetable for completion of the works, for the provision of boundary treatments ('the boundary scheme') to the northern and eastern perimeters of the site shall be submitted to the local planning authority for approval;
 - (ii) If within six months of the date of this decision the local planning authority refuse to approve the boundary 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 boundary scheme shall have been approved by the Secretary of State;
 - (iv) The approved boundary scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved boundary scheme the scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

APPEARANCES

For the appellant:

Alison Heine of Heine Planning

David Connor (Snr) appellant

David Connor (Jr)

Israel Connor

For the Local Planning Authority:

Hannah Andrew MRTPI MRICS

Chris Byrne

Interested Parties (local residents):

Mark Smith

Leslie Smith

Paul Turner

DOCUMENTS received at the Hearing

1. Barnsley Green Spaces Strategy
2. Barnsley's Green Spaces Part Two: In Your Neighbourhood
3. Plan of Cliff Farm Green Space area
4. Drawing no 001 of 25/10/2016 showing Natural Area Sites and catchment areas