



**TOWN AND COUNTRY PLANNING ACT 1990**

**Appeal by Mr Andrew Cash**

**Against an Enforcement Notice at**

**Land on the West Side of Brickyard,  
Brickyard Drive,  
Hucknall,  
Nottingham,  
NG15 7PG**

**STATEMENT OF ASHFIELD DISTRICT COUNCIL**

**Planning Inspectorate: APP/W3005/C/24/3348000**

**Ashfield District Council: E/2023/00003**

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## 1. The Development

- 1.1. This appeal relates to the submission by Mr Andrew Cash against the service by Ashfield District Council on 19 June 2024 of an Enforcement Notice (EN) (Appendix 1) alleging that without planning permission, the following has taken place:

Unauthorised change of use of land to a mixed use including the siting of a mobile home/caravan for residential use and commercial storage use (including the parking of commercial vehicles, plant and machinery), the laying of hardcore and erection of a front boundary wall and gates to facilitate the use.

At Land on the West Side of Brickyard, Brickyard Drive, Hucknall, Nottingham, NG15 7PG. The land in question is shown edged in red on the plan attached to the notice.

- 1.2. The reasons the Council issued the enforcement notice are because the breach of planning control has occurred within the last ten years.
- 1.3. The Council considers that the mobile home is harmful to the visual amenity of the residential area and out of character with the local vernacular of the area by reason of its design and siting. The hard surfacing is visually dominant in the area and the site lacks landscaping and biodiversity provision. The commercial use is detrimental to the visual qualities of the area and results in undue noise and disturbance in a residential area. The boundary wall and gates are visually detrimental in the street scene and impact on highway safety due to a lack of visibility in both directions on the highway.
- 1.4. The unauthorised use and operational development is therefore contrary to Parts 9 (Promoting sustainable transport), 12 (Achieving well-designed and beautiful places) and 15 (Conserving and enhancing the natural environment) of the National Planning Policy Framework (NPPF) (December 2023), and Policies ST1 (a), (b), (c) and (e) and HG5 (a), (c), (d), (e), (g) and (f) of the Ashfield Local Plan Review (ALPR) (2002).
- 1.5. Planning permission has previously been refused on 25 November 2020 for the 'Temporary Siting of Mobile Home', under planning application reference V/2020/0371, and was refused planning permission for the following reason:

The proposed caravan is required for a temporary period during the construction of a dwelling at the development site. The proposed

caravan would however, by virtue of its size and siting, prevent the construction of the permitted dwelling. Further, there is no location within the site that could appropriately accommodate the proposed caravan whilst allowing for the construction of the dwelling, as approved. The proposal therefore constitutes a form of inappropriate development which inhibits the comprehensive development of the site, contrary to policy ST1 of the Ashfield Local Plan Review 2002.

- 1.6. The decision to refuse planning permission for the siting of the mobile home followed consultations with local residents and statutory consultees, and a copy of the Decision Notice for application V/2020/0371 is attached at Appendix 2, and a copy of the Planning Committee Report for the same is at Appendix 3.
- 1.7. These decisions have been taken as the Council considers that planning permission should not be granted for the operational development or the change of use of the land undertaken at the site.
- 1.8. The requirements of the EN are as follows, for ease of reference:
  - Removal of and ease the use of the site for the stationing of a residential mobile home.
  - Cease the use of the site for a commercial use and removal all commercial vehicles, plant and equipment from the land.
  - Remove the hard surfacing that has been laid across the land from the site and return the land to a grass paddock which is its former condition.
  - Demolish and remove the front boundary wall and gates and remove all materials resulting from the demolition from the site.
  - Restore land to its condition before the breach took place.
- 1.9. The time periods for compliance with the EN are set out below for ease of reference:
  - Within 1 month from the date of when the notice takes effect, cease the use of the land for a commercial use and stop parking and removal all commercial vehicles, plant and equipment from the site.
  - Within 5 months from the date of when the notice takes effect cease the use of the land for the siting of a mobile home/caravan for residential use and remove the mobile home/caravan from the site.

- Within 6 months from the date of when the notice takes effect demolish front boundary wall and gates and remove all materials resulting from these works from the land.
- Within 6 months from the date of when the notice takes effect remove all the hard surfacing that has been laid on the land from the site, replace with a layer of topsoil and sow grass seed to return the land back to its former condition.

1.10. The appeal in respect of the EN is proceeding on the following Grounds:

- (a) That planning permission should be granted for what is alleged in the notice.
- (f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.
- (g) The time given to comply with the notice is too short.

## **2. The Appeal Site and its Location**

- 2.1. The appeal site is located on Land on the West Side of Brickyard, Brickyard Drive, Hucknall, within the main urban area.
- 2.2. The site context is considered to be residential with dwellings to the north, east, south and south-west. To the west (rear) and south of the site are grassed paddocks, adding character to the wider area.
- 2.3. The site is accessed from Brickyard Drive, over the railway level crossing before proceeding along Brickyard, a private unadopted highway.

### 3. Background

3.1. A timeline of the main points of action taken from an enforcement perspective is set out below:

- **08/06/2020** - Complaint received - Unauthorised change of use of land for the siting of caravan and motorhome for residential use and the laying of hardcore to facilitate the use.
- **12/06/2020** - Met with Mr Andrew Cash the owner on site, issues that have been raised was the vehicles, storage of materials/waste on land/stones laid at entrance etc. the materials on the land are less than what has been reported, he showed the details he has received from his agent and has been confirmed he submitted ADC application. no work to construct the house but he is storing some materials that will be used in the construction of the driveway.
- **17/06/2020** – Mr Cash confirmed he is to apply as he wants to live on the land whilst he builds the house. he added that he thinks a static caravan would have all the accommodation his family needs in the one unit, so this is what he will apply for.
- **17/06/2020** - Agent of Mr Cash asked for clarification of the breach- senior officer referred him to the sent letter, which he said he had a copy of and clarified the nature of the breach and his options are to apply for the caravans/use of land and hardcore or remove them within 10 days.
- **29/06/2020** - Mr Cash confirmed the bringing on of the 'static caravan'. He reiterated his desire to develop the house on the site and is waiting for his application for the conditions to be approved and then he intends to start work.
- **30/07/2020** - Mr Cash's agent stated he is waiting for the decision of the conditions before seeing whether there are any amendments to be made before submitting it.
- **25/11/2020** - Refusal notice for temporary siting of mobile home.
- **01/04/2021** - Site visit – Senior officer talked about the caravan and the fact that the caravan can't stay on the site whilst the work to

building the house is on-going. He said that he plans to move it onto the back field, which he said he owns. We also talked about PD for the caravan, and this only applies if work is happening on site and he is engaged with the work, he said he intends to do some of the work himself, employing trades when required.

- **24/02/2021** - Received an email complaint. Mr Cash on the west side of Brickyard is again digging up the land with a digger.
- **20/07/2021** – Email complaint received in regards the caravan siting and notice refusal.
- **10/08/2021** - Email / letter sent to Mr Cash stating that permission has been refused for the siting of the static caravan, and therefore the caravan is currently unauthorised until such time that works start on the construction of the dwelling.

Since the discharge of conditions application in early March, the Council have given you an opportunity to start works on the construction of the dwelling and have until this time avoided taking any enforcement action against the unauthorised siting of the static caravan. This cannot continue indefinitely and therefore works need to commence on the dwelling by 30th September 2021. I appreciate that you suggested end of September/early October, however I must give you a specific date.

- **27/10/2021** - Email from senior enforcement officer stating: in response to complaints about not dampening down the soil I observed that Mr Cash had on site a hosepipe and there was evidence that the spoil from the dug trench was wet (I felt it and observed its dark colour). Whilst on site he also demonstrated for me his method of dampening down and the builders confirmed that this is what they had been doing. He did tell me that the cutting of the soil had only begun this afternoon and earlier today they had been scraping back the hardcore on the site to allow the earth to be cut.

I am therefore satisfied that he is fully aware of his obligations in regard to the planning condition and assured me that he will continue to comply with it.

- **15/02/2022** – Email complaint regarding Mr Cash’s development site on the Brickyard. Complainant claims works on the development halted in December 2021.
- **18/02/2022** – Letter sent to Mr Cash, received a call from him stating that he added the footings in December, and broke ground, concreted also added, email sent with images to demonstrate.
- **11/04/2022** - Left a message to Mr Cash for an update and the required images to confirm works are commenced at the site for compliance.
- **19/05/2022** - Email sent to Mr Cash stating an update on the works we discussed, I received your images from February, please update me on what is the current situation for my file. Mr cash mentioned of a death in the family which has delayed the works.

Mr Cash forwarded calls to the Council states the planning team is harassing him and to go through his solicitor going forward.

- **22/06/2022** - Email from the complainant stating Mr Cash has not started work on site or no building is taking place.
- **15/06/2023** - Complaint in regards the owner developing a settlement of vehicles and no works commenced to the granted permission for a house. Video footage and photographic imagery of multiple vehicles on site.
- **16/06/2023** - Site visit of the property, owner not present development clearly shows no evidence of works to the house, land covered in gravel with caravan set back.
- **19/06/2024** – Enforcement Notice served.



#### **4. Planning History**

- 4.1. The relevant planning history for the site is set out below, with commentary provided for each planning application where considered to be necessary:
- 4.2. **V/2015/0298** - Outline Application for a Detached Dwelling - Outline Application Withdrawn.
- 4.3. **V/2015/0473** - Outline Application for a Detached Dwelling - Outline Application Refusal.
  - 4.3.1. This application was refused outline planning permission due to its impact upon highway safety, by virtue of the development increasing the likelihood of conflict with pedestrians.
  - 4.3.2. The applicant was identified as Miss K Kirkham. There was no mention within the application submission that the applicant is claiming gypsy traveller status, or that the site would be occupied by gypsy travellers.
- 4.4. **V/2017/0670** - Outline Planning Application With All Matters Reserved For a Maximum of 1 Dwelling and Associated Turning Head - Outline Application Refusal.
  - 4.4.1. This application was refused outline planning permission also due to its impact upon highway safety, by virtue of the development increasing the likelihood of conflict with pedestrians.
  - 4.4.2. Whilst the officer for this application acknowledged the principle of developing the site for a residential dwelling as likely being acceptable, this was on the stipulation that any proposed dwelling would be required to be of a form and scale in keeping with existing dwellings within the street scene.
  - 4.4.3. The applicant was identified as Miss K Kirkham. There was no mention within the application submission that the applicant is claiming gypsy traveller status, or that the site would be occupied by gypsy travellers.
- 4.5. **V/2019/0013** - Outline Application With All Matters Reserved For A Dwelling - Outline Application Conditional Consent.

- 4.5.1. During the consideration of this outline planning application, the principle of developing the site for a residential dwelling was accepted. However again, it was considered that this was subject to an acceptable form and scale dwelling being submitted at Reserved Matters stage, with an expectation expressed by the Council again that this should be in keeping with the existing dwellings within the street scene to ensure any property was appropriate for its locality.
- 4.5.2. The applicant was identified as Miss K Kirkham. There was no mention within the application submission that the applicant is claiming gypsy traveller status, or that the site would be occupied by gypsy travellers.
- 4.6. **V/2019/0440** - Dwelling - Full Application Withdrawn.
- 4.6.1. The applicant was identified as Mrs W Cash. There was no mention within the application submission that the applicant is claiming gypsy traveller status, or that the site would be occupied by gypsy travellers.
- 4.7. **V/2019/0652** - Approval of Reserved Matters Following Application V/2019/0013 for A Single Dwelling - Reserved Matters Application Conditional Consent.
- 4.7.1. During the consultation process for this application, comments received from residents indicated that commercial activity at the site was ongoing, which included the parking of HGV's, and that the site had also been subject to a series of unauthorised development in the past.
- 4.7.2. From a visual amenity perspective, the Reserved Matters details approved a red brick and grey roof tile dwelling with stone headers and cills to improve the overall appearance of the proposed dwelling, which drew design inspiration from a number of properties along Brickyard.
- 4.7.3. A **0.6m high wall** was also approved to be constructed along the eastern (front) boundary of the site, fronting onto the adjacent unadopted highway. The area between the principle elevation of the dwelling and the highway edge was to be hard surfaced for the parking of vehicles associated with the dwelling, whilst to the rear of the property this was to be landscaped garden area.
- 4.7.4. Based on the submitted details at that time, the Council considered that the proposal by virtue of its design, materials, siting, scale and

landscaping would not significantly impact visual amenity as the proposal was in keeping with the character of the area.

- 4.7.5. From a highway perspective, the applicant confirmed that the front boundary wall would be 0.6m in height, to allow appropriate visibility at the site access point. A condition was therefore attached (Condition 4) requiring 2metre x 2metre pedestrian visibility splays to be provided, with the areas within the splays to be maintained free of all obstructions over 0.6metre in height above carriageway level at all times.
- 4.7.6. It was never indicated on the submitted plans that gates would be erected at the site access.
- 4.7.7. The applicant was identified as Mrs W Cash. There was no mention within the application submission that the applicant is claiming gypsy traveller status, or that the site would be occupied by gypsy travellers.

4.8. **V/2020/0352** - Application for Approval of Details Reserved By Condition 2- Drainage, 5 - Ground Contamination, 6 - Ground Gas and 7- Noise of Planning Permission V/2019/0652 - Conditional Discharge Determined.

4.8.1. This application sought to discharge the following conditions of Planning Permission V/2019/0652:

Condition 2 (Drainage)

4.8.2. This is a pre-commencement condition. The submitted drainage plans illustrated additional development that had not been approved at Outline or Reserved Matters stages. Therefore whilst the drainage condition was discharged, a caveat was attached to the decision stating that no permission is granted for the other development as shown on the plan.

4.8.3. This condition was discharged.

Condition 5 (Ground Contamination)

4.8.4. This is a pre-commencement condition, with further details being required to be submitted to and approved in writing by the Council prior to the occupation of the dwelling. Such further details comprised evidence that the proposed ground membrane(s) had been satisfactorily installed, in addition to test certificates showing a record of the clean imported topsoil.

4.8.5. This condition has not been discharged and remains in force.

Condition 6 (Ground Gas)

4.8.6. This is a pre-commencement condition, with further details being required to be submitted to and approved in writing by the Council prior to the occupation of the dwelling. Such further details comprised evidence that the proposed dwelling has been fitted with appropriate membrane(s) to prevent harmful ground gasses from entering the property.

4.8.7. This condition has not been discharged and remains in force.

Condition 7 (Noise Insulation)

4.8.8. This is a pre-commencement condition. Details were submitted to address noise from neighbouring land uses, namely the nearby train and tram line.

4.8.9. This condition was discharged.

4.8.10. It is unclear whether any ground membrane has been installed at the site, especially in light of the ground works which have taken place by virtue of the laying of the hard surface across the site. It has also been claimed by the appellant that works have commenced on the footings of the dwelling, although limited evidence has been submitted to substantiate this. Nevertheless, no evidence that any ground gas protection measures being installed into any alleged footings that have been installed, as per the requirements of pre-commencement Condition 6, have been submitted to the Council.

4.8.11. The applicant was identified as Mrs W Cash. There was no mention within the application submission that the applicant is claiming gypsy traveller status, or that the site would be occupied by gypsy travellers.

4.9. **V/2020/0371** - Temporary Siting of Mobile Home - Full Application Refusal.

4.9.1. During the consultation process for this application, comments received from residents indicated that unlawful ground works had been undertaken on site to facilitate the siting of the mobile home, which in turn disturbed the ground contamination on site.

4.9.2. The application description provided within the planning application form submitted by the applicant was "***The siting of a mobile home for residential purposes prior to, and during construction of the previously approved proposed dwelling***" [emphasis added].

- 4.9.3. The mobile home was already on site at the time of this application. Notwithstanding the fact that there are still pre-commencement conditions to be discharged, and therefore any construction works on site would be unauthorised, the applicant stated within this planning application that the mobile home would be used as living accommodation on site during the construction of the approved dwelling, and that once the dwelling had been constructed, the mobile home would be removed from the site. However given the circumstances with on-site works and planning conditions, the mobile home was not classed as Permitted Development, and therefore planning permission was subsequently required for the siting of the mobile home on site (leading to this submission of this planning application).
- 4.9.4. However given the size and siting of the mobile home, and the approved location of the proposed dwelling, it was clear that the dwelling would be unable to be constructed by virtue of the positioning of the mobile home on site. In addition, given the size of the mobile home, there is no other alternative location within the application red-boundary of site which would allow the caravan to be sited and allow the dwelling to be constructed.
- 4.9.5. The Council subsequently took the view that the siting of the mobile home on the site would be out of keeping with the built form and existing development along Brickyard which would result in detrimental harm to the appearance of the street scene. However as the mobile home was applied for on a 'temporary' basis, the Council acknowledged that the siting of the mobile home on site only during the construction of the new dwelling would not lead to permanent harm to the visual amenity of the locality. Again, this conclusion was reached on the stipulation that the caravan would be removed once construction on the approved dwelling was completed.
- 4.9.6. The applicant was identified as Mr A Cash. There was no mention within the application submission that the applicant is claiming gypsy traveller status, or that the site/mobile home would be occupied by gypsy travellers.
- 4.10. At no point during any of the above planning applications was it identified that the applicant was claiming gypsy traveller status, or that the proposed mobile home was to be used to establish a new gypsy traveller pitch.
- 4.11. Seeking planning permission for a gypsy traveller pitch engages additional Planning Policies, as identified in Section 5 below.

4.12. The appellants submitted appeal statement indicates that there is a haulage yard / depot operating immediately opposite the appeal site. It is unclear where specifically the appellant is referencing with this statement as no specific details have been provided. However a planning history search of the residential property opposite (No.26 Brickyard) reveals no such record of any planning permission being granted for this.

## **5. Planning Policy**

- 5.1. The policies considered relevant to this case, now that gypsy traveller status is being claimed, are outlined below:

### **Ashfield Local Plan Review (ALPR) (2002):**

ST1 – Development.

ST2 – Main Urban Area.

HG5 – New Residential Development.

HG9 – Gypsy Caravan Sites and Site for Travelling Show People.

### **National Planning Policy Framework (NPPF) (December 2023):**

Part 2 - Achieving sustainable development.

Part 5 - Delivering a sufficient supply of homes.

Part 6 - Building a strong, competitive economy.

Part 9 - Promoting sustainable transport.

Part 11 - Making effective use of land.

Part 12 - Achieving well-designed and beautiful places.

### **Supplementary Planning Documents:**

Residential Design Guide (2014).

Residential Extensions Design Guide (2014).

Residential Car Parking Standards (2014).

**Nottinghamshire Highway Design Guide (2021).**

**Greater Nottingham and Ashfield District Council Gypsy and Traveller Accommodation Assessment (March 2021).**

**Planning Policy for Traveller Sites (PPTS) (December 2023).**

## 6. Comments on Grounds of Appeal

6.1. As identified in Section 1 (The Development) this appeal is proceeding on the following Grounds:

(a) That planning permission should be granted for what is alleged in the notice.

(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

(g) The time given to comply with the notice is too short.

Each of these grounds will be discussed below in turn.

### 6.2. Ground A – ‘Planning Permission Should be Granted’

#### Definition of Gypsy Traveller

6.2.1. Planning Policy for Traveller Sites (PPTS) (December 2023) is a Government publication with an overarching aim to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled communities. The policy must be taken into account as a material consideration in planning decisions.

6.2.2. The PPTS (December 2023), at Annex 1 (Glossary) provides a definition of ‘gypsies and travellers’. They are defined as:

*“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”*

6.2.3. To determine whether or not persons are ‘gypsies and travellers’, as per the above definition from the PPTS (December 2023), consideration should be given to the following issues (amongst other relevant matters):

a) whether they previously led a nomadic habit of life.

b) the reasons for ceasing their nomadic habit of life.

c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.



### Lack of Information

- 6.2.4. At the outset, it needs to be noted that this Ground of Appeal (Ground A) is supported by a distinct lack of information.
- 6.2.5. It is unclear who is actually occupying the site. Under the definition of 'gypsies and travellers' it highlights that consideration also needs to be given to any dependants' educational or health needs. It therefore should have been identified as part of the appellants statement who is occupying the site, whether there are any dependants, and what the educational and health circumstances are of any occupiers.
- 6.2.6. It is also unclear whether the appellant has previously led a nomadic habit of life, and no details have been submitted as to why any such nomadic habit of life ceased.
- 6.2.7. Additionally the PPTS identifies that information is also required as to whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances. It is unclear, as no information has been submitted to address these criterion, as to the appellants intentions when it comes to living a nomadic habit of life.
- 6.2.8. The appellant has gained planning permission to erect a dwelling at the site. The appellants submitted appeal statement indicates that the applicant is no longer in a position financially to be able to proceed with the construction of the new dwelling, and therefore it can be inferred from this that works to construct the dwelling will commence (pending if a 'start' has actually been made on site / conditions discharged) once financial funds become available. Based on this, it is showing intent to become 'settled', at which point the nomadic habit of life would cease.
- 6.2.9. It has not been explained how, if the appellant occupies a 'brick and mortar' dwelling, how they would be continuing to live a nomadic habit of life.
- 6.2.10. In addition, no information has been submitted as to the occupation of the appellant, and how they travel to or engage with employment opportunities, whether they travel to find work for at least part of the year, and whether this is compatible with a nomadic habit of life.
- 6.2.11. No information has been submitted in relation to the commercial use, and commercial activities, which operate at the site.
- 6.2.12. The Council therefore consider that without such information it is difficult to see how the appeal under Ground A can succeed.

### Pitch Need

- 6.2.13. The PPTS (December 2023) identifies a 'pitch' as meaning a pitch on a 'gypsy and traveller' site, whereas a 'plot' means a pitch on a 'travelling showpeople' site, which is an important terminology distinction.
- 6.2.14. The Council was part of the production of the Greater Nottingham and Ashfield District Council Gypsy and Traveller Accommodation Assessment (GTAA) (March 2021), which identifies need and informs pitch targets. This document forms a part of the evidence base for the emerging local plan.
- 6.2.15. No personal circumstances have been provided by the appellant to demonstrate the need for this site.
- 6.2.16. The GTAA (2021) covers a period between 2020-2038 and demonstrates that there is no identified need for the first 5 years of the assessment period but there is a need for further pitches later in the assessment period. However, although future need has been identified it should be noted that this may need to be reassessed as other pitches may come forward which reduces or removes the future need. In addition to this it should also be noted that there are sites across the District that were discounted from the GTAA due to them not currently being in use, however they have extant planning permission and could accommodate members of the community at any time.
- 6.2.17. An appeal decision from 13 November 2023, at an alternative site within the District, granted conditional planning permission for the change of use of a paddock to residential for static caravans and associated parking touring. This site is at Chesterfield Road, Huthwaite, and a copy of the appeal decision is attached at Appendix 4. The details submitted by the appellant also reference this appeal decision at Chesterfield Road.
- 6.2.18. The Inspector at Chesterfield Road acknowledged that the GTAA (December 2023) anticipates a need for one additional pitch in the period to 2025, and four pitches in the period to 2038. The Inspector at Chesterfield Road ultimately considered that need was, at that time, unmet, before concluding that there was an established need for a site.
- 6.2.19. The Council wishes to draw attention to the concluding remark of the Inspector at Chesterfield Road, considering there was an established need for 'a' site. This indicates the need for one singular site to be

provided to meet the, at the time, unmet need. By virtue of the appeal being granted at Chesterfield Road, and the site now being well established, the need as identified by the GTAA (December 2023) and by the Inspector from the Chesterfield Road appeal is considered to now have been met.

#### Ashfield Local Plan Review (ALPR) (2002) Policies HG5 and HG9

- 6.2.20. ALPR (2002) Policy HG5 relates to 'new residential development', and Policy HG9 relates to 'gypsy caravan sites and sites for travelling show people'. Both are criteria based policies, accepting that the principle of each respective development would be acceptable, subject to the development meeting certain criterion.
- 6.2.21. There are some similarities between the criterion of policies HG5 and HG9, such as in relation to visual amenity and landscaping. This similarity between the policies accentuates the importance of any development being of a design standard as to not cause any adverse harm to the visual amenity of the area. Development should also be complemented by an appropriate level of soft landscaping to enhance the appearance of a site.
- 6.2.22. For all intents and purposes, both of these policies require consideration in the planning balance. However for reasons already discussed, the Council consider that the development and change of use which has taken place at the site is detrimental to the visual amenity of the area, harmful to the residential amenity of the area, and detrimental to highway safety.

#### Visual Amenity

- 6.2.23. The site, before the unauthorised development and change of use occurred, was an open grassed paddock bound by hedgerows.
- 6.2.24. Brickyard is considered to be characterised on its east side by either low level forms of boundary treatments, be it fences, walls or managed hedges, or open frontages. The west side of brickyard is generally characterised by open paddocks, timber post and rail fencing and hedgerow/scrub planting. The consistency of the siting of dwellings and their front boundaries is considered to contribute positively to the openness of the street scene.

- 6.2.25. The anomalies to this however, are the unauthorised high level fencing and walls to the northern end of Brickyard. These high forms of boundary treatment do not benefit from planning permission, and are considered to be harmful to the character of the street scene. These unauthorised high level boundary treatments do not define the streets general character sufficiently to make the scale and extent of the wall and gates on the appeal site acceptable.
- 6.2.26. The existing high level front boundary wall and gates at the appeal site, given their location, occupy a prominent position within the street scene. Due to their height, the wall and gates have a hard appearance, which jars awkwardly in contrast with the open and verdant character of the street scene. Accordingly, the wall and gates appear as an incongruous feature that would be detrimental to the character and appearance of the street scene.
- 6.2.27. Multiple reference to the vast expanse of unauthorised hard surfacing on site being a dominant feature which harms the character and appearance of the street scene, has already been discussed throughout this appeal statement.
- 6.2.28. The caravan is large, with its external clad walls and shallow pitch roof. As previously discussed the immediate area is generally characterised by brick-built houses which feature gardens and parking areas to the front or side facing the road.
- 6.2.29. The caravan contrasts greatly with its surroundings in terms of its design and materials, and is sited in a highly visually prominent and open location. It constitutes a dominant feature within the local street scene and as a relatively large feature, it is at odds with the wider residential location in which it is situated and as such is harmful to the character and appearance of the area.
- 6.2.30. Overall, the unauthorised development and change of use of the site appear overly prominent within the street scene and is out of keeping with the areas character, which causes detrimental harm to the appearance of the locality.
- 6.2.31. Paragraph 26 of the PPTS (December 2023) identifies that when considering applications, weight should be attached to matters (a) – (d).
- 6.2.31.1. Criterion (a) highlights the effective use of previously developed (brownfield), untidy or derelict land. Prior to the appellant installing hardcore across the site and moving the caravan onto the site, it

was an open undeveloped paddock. The site was therefore not previously developed brownfield land.

6.2.31.2. Criterion (b) requires sites to be well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness. The site lacks any soft landscaping, with the hard surfacing being visually dominant within the street scene.

6.2.31.3. Criterion (c) seeks to promote opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children. As per criterion (b), the site lacks any soft landscaping provision and is dominated by hard landscaping.

6.2.31.4. Criterion (d) seeks to ensure that sites are not enclosed with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. The site is extensively hard surfaced which dominates and harms the visual amenity of the area. In addition, the high level front boundary wall and gates enclose the site, and are detrimental to the visual amenity of the street scene and highway safety.

6.2.31.5. Taking all the above into account, the unauthorised development and change of use of the site are also contrary to Paragraph 26 of the PPTS (December 2023).

#### Residential Amenity

6.2.32. ALPR (2002) Policy HG9 requires, amongst other things, the development and operation of gypsy traveller sites to minimise noise and other disturbances from any business use, and to ensure the use of the site does not adversely affect the visual amenity of the area (criteria (c) and (d) respectively).

6.2.33. The PPTS (December 2023), at Paragraph 18, identifies that business uses taking place on gypsy traveller sites should have regard to the safety and amenity of neighbouring residents.

6.2.34. To access the appeal site a number of residential properties have to be passed.

6.2.35. The appellant is storing large commercial vehicles and equipment on site. By virtue of the site's location in respect of nearby residents, the comings

and goings of large commercial vehicles and equipment is causing noise and disturbance to nearby residents, harming their amenity.

6.2.36. In addition, the parking and storage of such commercial vehicles on site also detracts from the character of the area.

6.2.37. As such, the unauthorised development and change of use of the site is considered to be contrary to the above referenced criterion of ALPR (2002) Policy HG9, from a residential amenity perspective, and also conflicts with Paragraph 18 of the PPTS (December 2023).

#### Highway Safety

6.2.38. As identified above, the PPTS (December 2023), at Paragraph 18, identifies that business uses taking place on gypsy traveller sites should have regard to the safety and amenity of neighbouring residents.

6.2.39. Additionally, it has also been previously identified within this appeal statement that the unauthorised front boundary wall and access gates are considered to detrimentally harm high safety.

6.2.40. Brickyard has no defined pedestrian footways. The unauthorised high level front boundary wall and gates, being used to access the site by large commercial vehicles and equipment, harms the safety of nearby residents as the necessary vehicle and pedestrian visibility splays cannot be achieved for vehicles exiting the appeal site. The frequent comings and goings to the appeal site by these commercial vehicles, in conjunction with being unable to achieve visibility splays, is detrimental to highway safety and increases the likelihood of vehicle-vehicle and vehicle-pedestrian conflict.

6.2.41. In addition, the hardcore which has been placed across the site could also result in harm to highway safety by virtue of deleterious material (loose stones etc) being deposited on to the highway.

6.2.42. The impact upon highway safety from the development and use of the site has been discussed as various points throughout this appeal statement of case, so the Council would wish to draw the Inspectors attention to those points to avoid any undue repetition in this section of the statement.

6.3. Ground F – Steps of Compliance are Excessive

6.3.1. For ease of reference, the appeal under Ground F is in relation to ‘the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.’

6.3.2. The appellant within their appeal application form identify that:

*“Planning permission has been implemented and, therefore, remains extant for the construction of a dwelling, including the laying of hard-surfacing. Returning all of the land to a grass paddock goes further than is necessary to restore the land to its condition before the breach took place and, the requirements of the notice should only affect development which was not part of the previously permitted.*

*The removal of boundary walls and gates goes beyond what is necessary to remedy the breach. Enforcement action is not intended to be punitive and, a reduction in height to 1 metre adjacent to the highway would be sufficient to remedy the breach of planning control.”*

6.3.3. Limited details have been submitted in relation to the extent of works undertaken on site in association with the planning permission for the dwelling. Pre-commencement conditions have not been fully discharged which are considered to go to the heart of the permission, i.e. land contamination. As such it is a) unclear what works have taken place and when, b) if some works have taken place, whether that is suitable to warrant a ‘start’ of the application, and c) by virtue of the conclusions from points a) and b), whether the planning permission for the dwelling remains extent.

6.3.4. By virtue of point 6.3.2 above, and the uncertainties surrounding the previous planning permission, the EN served requires the removal of all unauthorised development and the cessation of the use of land for the stationing of a residential mobile home.

6.3.5. One of the requirements of the EN is to remove the front boundary wall and gates. The appeals process is not a place to evolve a scheme. The appellant has had ample opportunity to address and resolve the breaches of planning, which includes the front boundary wall and gates.

6.3.6. In addition to the height of the wall and gates, it is also their siting which also affects and impedes visibility.

- 6.3.7. The extent of hard surfacing implemented on site is excessive, and is considered to be in no way related in reasonableness and scale to the appellant attempting to implement their planning permission.
- 6.3.8. The requirements of the EN are clear and unambiguous, and are considered to be proportionate and reasonable to remedy the breaches which have occurred.

6.4. Ground G – Time Given for Compliance is too Short

- 6.4.1. For ease of reference, the appeal under Ground G is in relation to the time period given for compliance with the EN being too short.
- 6.4.2. The EN provides the appellant periods of between 1-month and 6-months to comply with the various requirements of the EN.
- 6.4.3. The appellant within their appeal application form identify that a 'blanket' period of 12-months be provided to comply with the requirements of the EN, as:

*“The appeal site is the appellants home and, has been for several years. A period of 12 months is required for the appellant to relocate his family and, avoid becoming homeless.”*

- 6.4.4. Firstly, the site has been occupied in breach of planning control for a number of years, and an array of unauthorised works have taken place as detailed within the EN. Simply put, the appellant has been occupying the site unlawfully. Whilst the appellant may have become accustomed to living on the site, they have been doing so on a permanent basis without the benefit of planning permission so should not have been living there in the first place.
- 6.4.5. No information or evidence has been provided as to why a 12-month period is required for, amongst other things as specified within the EN, for the mobile home to be relocated.
- 6.4.6. The 5-month period specified within the EN for the mobile home to be removed from the site is considered to be reasonable and proportionate to the requirements of the EN.
- 6.4.7. It is unclear where the appellant was living before moving onto the appeal site, and whether that location remains available.



## **7. Human Rights & Equality**

- 7.1. The details set out in the report are considered to be compatible with the Human Rights Act 1998. Article 1 of the first protocol may be of relevance as it provides for every natural and legal person to be entitled to the peaceful enjoyment of their possessions. However it is specifically stated that this right shall not impair the right of the state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest. The interference likely to occur here has been fully assessed in this report. It is considered that any interference can be justified in the general interest, as defined by national planning policy and policies of the Development Plan and is proportionate. The applicant has a right of appeal in accordance with Article 6.
- 7.2. In addition, the Authority understand the relevant requirements of the Equality Act 2010 and conclude that the appellant is in no way being treated unfairly based on any protected characteristic(s). Enforcement action has been taken and this appeal statement has been prepared solely on the planning permits of the appeal site.

## **8. Conclusion**

- 8.1. This appeal is supported by a distinct lack of information, in regards to the appellants and the appeal site (including the commercial activities), which should have been submitted to support the appellants arguments under Ground's A, F and G.
- 8.2. At no point during the consideration of any planning application, as discussed within Part 4 of this appeal statement of case, was it identified that the applicant was claiming gypsy traveller status, or that the proposed mobile home was to be used to establish a new gypsy traveller pitch.
- 8.3. Seeking planning permission for a gypsy traveller pitch engages additional Planning Policies, as identified in Section 5 below.
- 8.4. No details have been put forward as part of this appeal to indicate a change in the appellants circumstances since the submission of the aforementioned planning application(s), and as such it is unclear why gypsy traveller status is only now being claimed, and why this was not raised at an earlier date.
- 8.5. It is considered that the need for a gypsy traveller pitch, as identified by the Greater Nottingham and Ashfield District Council Gypsy and Traveller

Accommodation Assessment (GTAA) (March 2021), has now been met by virtue of the referenced appeal decision at Chesterfield Road, Huthwaite.

- 8.6. The caravan contrasts greatly with its surroundings in terms of its design and materials comparative to existing built form, and is sited in a highly visually prominent and open location. It constitutes a dominant feature within the local street scene and as a relatively large feature, it is at odds with the wider residential location in which it is situated and as such is harmful to the character and appearance of the area.
- 8.7. Due to their height, the wall and gates have a hard appearance, which jars awkwardly in contrast with the open and verdant character of the street scene. Accordingly, the wall and gates appear as an incongruous feature that would be detrimental to the character and appearance of the street scene.
- 8.8. The wall and gates are also detrimental to highway safety as the necessary vehicle and pedestrian visibility splays cannot be achieved for vehicles exiting the appeal site, increasing the likelihood of vehicle-vehicle and vehicle-pedestrian conflict. The comings and goings of commercial vehicles to the site will only exacerbate this.
- 8.9. The vast expanse of unauthorised hard surfacing on site is a dominant feature which harms the character and appearance of the street scene.
- 8.10. It is unclear whether the identified contamination risk at the site has been appropriately address and/or mitigated through any of the unauthorised development or change of use which has taken place at the site.
- 8.11. The requirements of the EN are clear and unambiguous, and the timeframes for compliance are considered to be proportionate and reasonable to remedy the breaches which have occurred. No substantive evidence has been submitted as to why the requirements of the EN are excessive, or why the time periods given for compliance are unachievable.
- 8.12. The application must be determined in accordance with the development plan unless material considerations indicate otherwise. Applications should also be assessed and determined in accordance with the presumption in favour of sustainable development, and the application of specific policies in the National Planning Policy Framework (December 2023) and Planning Policy for Traveller Sites (December 2023).
- 8.13. The unauthorised use and operational development at the appeal site is therefore contrary to Parts 9 (Promoting sustainable transport), 12

(Achieving well-designed and beautiful places) and 15 (Conserving and enhancing the natural environment) of the National Planning Policy Framework (NPPF) (December 2023), and Policies ST1 (a), (b), (c) and (e) and HG5 (a), (c), (d), (e), (g) and (f) of the Ashfield Local Plan Review (ALPR) (2002).

- 8.14. The unauthorised development and change of use of the site are also contrary to Paragraphs 18 and 26 of the PPTS (December 2023), and due to the lack of information being submitted, also contrary to Part 4 (Decision-taking) of the PPTS (December 2023).
- 8.15. For the reasons discussed throughout this Statement of Case, the Inspector is respectfully requested to support the Local Planning Authority, and uphold the Enforcement Notice.

## Appendix 1 – Copy of Enforcement Notice



Mr Andrew Cash  
Land on the West Side of Brickyard  
Brickyard Drive  
Hucknall  
Nottingham  
NG15 7PG

<b>Contact:</b>	George Spence	<b>Your Ref:</b>	
<b>Direct Line:</b>	01623 457397	<b>Our Ref:</b>	E/2023/00003
<b>Email:</b>	g.spence@ashfield.gov.uk	<b>Date:</b>	19 <sup>th</sup> June 2024

### **IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

Dear Mr Cash

**RE: TOWN COUNTRY PLANNING ACT 1990 (AS AMENDED) – SECTION 172  
ENFORCEMENT NOTICE – LAND ON THE WEST SIDE OF BRICKYARD  
BRICKYARD DRIVE HUCKNALL NOTTINGHAM NG15 7PG**

The Local Planning Authority, Ashfield District Council, has issued an enforcement notice relating to the above land and I now serve on you a copy of that notice as an owner of the Land.

There is a right of appeal to the Secretary of State (The Planning Inspectorate) against the notice. Unless an appeal is made, as described below, the notice will take effect on the 19<sup>th</sup> July 2024 and you must then ensure that the required steps as detailed in the notice, for which you may be held responsible, are taken within the period(s) specified in the notice.

Please see the enclosed information sheet from The Planning Inspectorate, which tells you how to make an appeal.

If you decide that you want to appeal against the enforcement notice you must ensure that your appeal is **received** by The Planning Inspectorate **before** 19<sup>th</sup> July 2024.

Extracts from the Town and Country Planning Act 1990 (as amended) sections 171A, 171B, 172 to 177 are enclosed for your reference and information. Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

(a) that planning permission should be granted for what is alleged in the notice (or that

**Address:** Council Offices, Urban Road, Kirkby-in-Ashfield, Nottingham. NG17 8DA  
**Tel:** 01623 450000 **Fax:** 01623 457585  
[www.ashfield.gov.uk](http://www.ashfield.gov.uk)

If reasonable adjustments are needed to fully engage with the Authority - contact **01623 450000**

- the condition or limitation referred to in the enforcement notice should be removed);
- (b) that the breach of control alleged in the enforcement notice has not occurred as a matter of fact;
  - (c) that there has not been a breach of planning control;
  - (d) that, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice;
  - (e) the notice was not properly served on everyone with an interest in the land;
  - (f) the steps required to comply with the requirements of the notice are excessive and lesser steps would overcome objections;
  - (g) the time given to comply with the notice was too short.

If you appeal under Ground (a) this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £1,156 to Ashfield District Council. Joint appellants need only pay one set of fees.

Yours Sincerely



George Spence  
**Compliance and Enforcement Officer**



**IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**TOWN AND COUNTRY PLANNING ACT 1990  
(as amended by the Planning and Compensation Act 1991)**

**ENFORCEMENT NOTICE**

**ISSUED BY: Ashfield District Council**

**To: Mr Andrew Cash**  
**Land on the West Side of Brickyard,**  
**Brickyard Drive Hucknall**  
**Nottingham NG15 7PG**

1. **THIS NOTICE** is served 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 on the West Side of Brickyard, Brickyard Drive Hucknall  
  
Nottingham NG15 7PG shown edged red on the attached plan. (See ADC-1)
  
3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**  
  
Without planning permission, , unauthorised change of use of land to a mixed use including the siting of a mobile home/caravan for residential use and commercial storage use (including the parking of commercial vehicles, plant and machinery), the laying of hardcore and erection of a front boundary wall and gates to facilitate the use.

#### **4. REASONS FOR ISSUING THIS NOTICE**

1. It appears to the Council that the above breach of planning control has occurred within the last 10 years.
2. It is considered by the council that the mobile home is harmful to the visual amenity of the residential area and out of character with the local vernacular of the area by reason of its design and siting. The hard surfacing is visually dominant in the area and the site lacks landscaping and biodiversity provision. The commercial use is detrimental to the visual qualities of the area and results in undue noise and disturbance in a residential area. The boundary wall and gates are visually detrimental in the street scene and impact on highway safety due to a lack of visibility in both directions on the highway. For these reasons the unauthorised use and operational development is contrary to Section 9, 12 and 15 of the National Planning Policy Framework (December 2013) and Policy ST1(a), (b), (c) and (e) and HG5 (a) (c) (d) (e) (g) and (f) of the Ashfield Local Plan Review (ALPR) 2002.

The Council consider that planning permission should not be given, because planning conditions could not overcome these objections to the development.

#### **5. WHAT YOU ARE REQUIRED TO DO**

You Andrew Cash **MUST**:

- 1) removal of and cease the use of the site for the stationing of a residential mobile home,
- 2) cease the use of the site for a commercial use and removal all commercial vehicles, plant and equipment from the land,
- 3) remove the hard surfacing that has been laid across the land from the site and return the land to a grass paddock which is its former condition.
- 4) Demolish and remove the front boundary wall and gates and remove all material resulting from the demolition from the site.
- 5) Restore land to its condition before the breach took place.

#### **6. TIME FOR COMPLIANCE**

The periods for compliance with the steps in paragraph 5 are:

1. Within 1 month from the date of when the notice takes effect, cease the use of the land for a commercial use and stop parking and removal all commercial vehicles, plant and equipment from the site.

2. Within 5 months from the date of when the notice takes effect cease the use of the land for the siting of a mobile home /caravan for residential use and remove the mobile home/caravan from the site.
3. Within 6 months from the date of when the notice takes effect demolish front boundary wall and gates and remove all material resulting from these works from the land
4. Within 6 months from the date of when the notice takes effect remove all the hard surfacing that has been laid on the land from the site, replace with a layer topsoil and sow grass seed to return the land back to its former condition.

**7. WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on 19<sup>th</sup> July 2024 unless an appeal against it is made beforehand.

Dated: 19<sup>th</sup> June 2024



Signed:

On behalf of:

Ashfield District Council  
Urban Road  
Kirkby-in-Ashfield  
Nottinghamshire  
NG17 8DA





## **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 Planning Inspectorate acting on behalf of the Secretary of State **before** the date specified in paragraph 7 of the notice.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal

[\[www.planningportal.gov.uk/uploads/pins/eninfosheet.pdf\]](http://www.planningportal.gov.uk/uploads/pins/eninfosheet.pdf)

### **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.

Persons notice served upon:

Mr Andrew Cash  
Land on the West Side of Brickyard

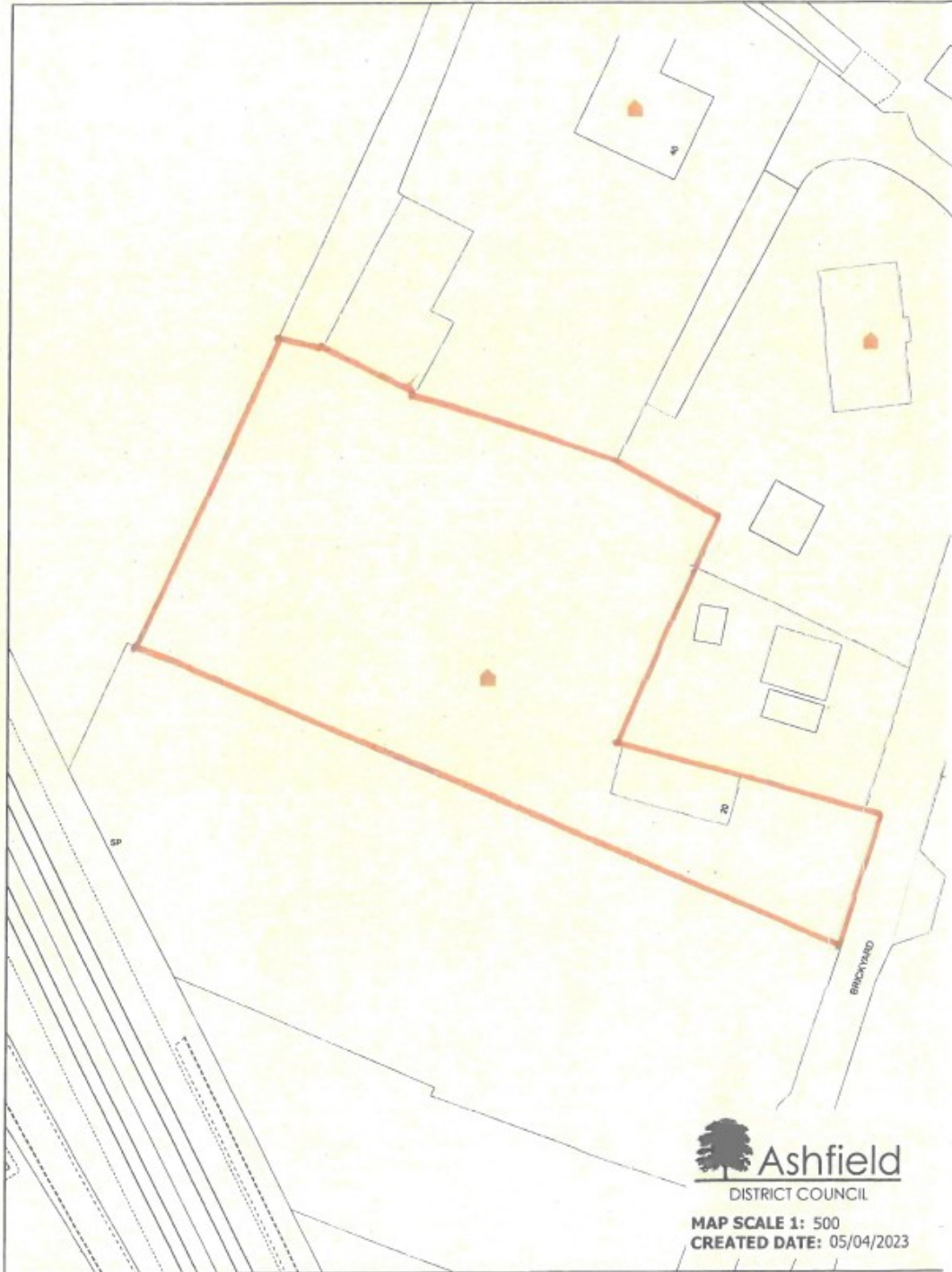
Brickyard Drive

Hucknall

Nottingham

NG15 7PG

**ADC-1 Land west of Brickyard Hucknall**



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**Delegated Report to take formal enforcement action**

Enforcement Case Number: E/2023/00003  
 Site address: Land on the West Side of Brickyard  
 Brickyard Drive  
 Hucknall  
 Nottingham  
 NG15 7PG

Description of the unauthorised development	Change of use of land to a mixed use including the siting of a caravan for residential use and commercial storage use (including the parking of commercial vehicles) and the laying of hardcore and erection of front boundary wall and gates to facilitate the use.
Policy Considerations	<p><b>Ashfield Local Plan Review (ALPR) 2002</b></p> <p><b>ST1 – Development</b></p> <p><b>ST2 - Main Urban Areas</b></p> <p><b>HG1 - Housing land allocations</b></p> <p><b>HG5 - New Residential Development</b></p> <p>Paragraph 5.84 states proposals for the location of caravans and mobile homes in general will be considered within the context of Policy HG5</p> <p><b>National Planning Policy Framework 2019</b></p> <p>Part 9 Promoting sustainable transport          Part 12 Achieving well Designed Places</p> <p><u>Enforcement</u>          With regard to enforcing planning legislation the document states that effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and local planning authorities should act proportionately in responding to suspected breaches of planning control.</p>
Relevant Planning History	<p>V/2019/0013 Outline application with all matters reserved for a dwelling – Granted 8 May 2019</p> <p>V/2019/0652 Application for reserved matters following application V/2019/0013 for a single dwelling – Granted 6 January 2020</p> <p>V/2020/0352 Application for approval of details reserved by condition 2 – drainage, 5 – ground contamination, 6 – ground gas and 7 – noise : of planning permission V2019/0652</p>

	V/2020/0371 Temporary siting of mobile home - Refused 25 <sup>th</sup> November 2020
Other Material Considerations	<p>The Crime and Disorder Act 1998 places a duty on the local planning authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on community safety is therefore a material consideration in the authorisation of enforcement proceedings.</p> <p>The issue of human rights is also a material consideration in the determination of planning applications and enforcement issues. Article 8 of the Human Rights Act 1988 requires respect for private and family life and the home while Article 1 of the First Protocol provides an entitlement to peaceful enjoyment of possessions. However, these rights 'qualified' and it is necessary to consider whether refusing planning permission and/or issuing an enforcement notice would interfere with the developer's human rights. If it would, the decision maker must decide whether any interference is in accordance with the law, has a legitimate aim and is proportionate.</p> <p>The impact on the human rights of the developer must be balanced against the public interest in terms of protecting the environment and the rights of other people living in the area. In this case, the balance points to safeguarding the amenity of the area.</p> <p>Because the site is being used for the siting of a residential mobile home consideration has been given to assess whether the occupier has ever claimed Gypsy and Traveller status. The applicant has always claimed the siting of the mobile home is required for a temporary period whilst he constructs a dwelling on the site. This was made clear in his planning application and there has only been one caravan on the site at any one time and this has been the case since at least December 2021. It is therefore clear that no claim has ever been made that this development should be considered on this basis and from the evidence the occupiers are not nomadic and there has been shown to be no intension by the occupiers to lead a nomadic lifestyle.</p>
Summary of comments received	N/A
Comments on above	N/A
Summary	<p><b>The Site</b> The site is located on the Land west of the Brickyard off Brickyard Drive Hucknall.</p>

	<p>The site is located within the main urban area of Hucknall and comprises of a parcel of land to the west of the brickyard. Sited to the east and south of the site is existing residential development, whilst immediately North and West is an area of open land which is allocated for residential development as outlined within policy HG1 of the ALPR 2002.</p> <p><b>Background</b></p> <p>The caravan was claimed by the landowner to be required for a temporary period during the construction of a dwelling on the site permitted by reference V/2019/0013 on the 8<sup>th</sup> May 2019. The reserved matters for the dwelling were approved (ref V/2019/0652) on the 6<sup>th</sup> January 2020 and conditions were discharged (re V/2020/0352) on 3<sup>rd</sup> March 2021. The use claimed by the owner was to be a temporary period of occupation whilst building works were taking place.</p> <p>Schedule 2, Part 5, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) permits the use of land as a caravan site without planning permission. This is limited as specified in Paragraph 2A which in turn refers to circumstances specified in paragraphs 2 to 10 of schedule 1 to the 1960 Act. Paragraph 9 specifies use as a caravan site of land which forms part of, or adjoins, land on which building or engineering operations are being carried out (being operations for the carrying out of which permission under Part III of the Act of 1947 has, if required, been granted) if that use is for the accommodation of a person or persons employed in connection with the said operations. There is also a condition with the Development Order which requires the use to discontinue when the circumstances specified in paragraph A.2 cease to exist, and all caravans on the site are to be removed as soon as reasonably practicable.</p> <p>The caravan was moved from its original location to that which it currently stands and on approximately 27 October 2021 building works on the permitted dwelling commenced on the site. Footings were excavated, and concrete foundations laid. By December 2021 works on site ceased. In February 2022 questions were asked of the occupier who provided images of the foundations being laid. In May 2022 the owner claimed a death in the family resulted in works not continuing. No authorised works have been carried out since December 2021. The owner/occupier Mr Cash is fully aware of the need for planning permission for a mobile home and has explained he only wanted it to live in whilst his dwelling was built. This clearly is not the case and he is fully aware he is not complying with this requirement. The works he has carried out also do not conform with the planning permission and discharge of conditions he has sought and gained approval for.</p> <p>Hard surfacing has subsequently been laid over the site of the dwelling, a vehicular access has been constructed which is not in accordance</p>
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with any approved plans with walls and gates which exceed 1 metre in height. More recently the hard surfacing has been extended and a commercial business is being operated from the site with the parking of commercial vehicles and storage of equipment.

#### **Development**

##### **The Caravan**

In respect of the static caravan on the land, section 55(1) of the 1990 Act defines within the meaning of development the "*carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in the use of any buildings or other land*".

The caravan on the site is a static caravan which has been bought to the site and placed on the ground, some degree of construction on-site may have been necessary, water and drainage, but it is considered to be easy to disconnect and it is considered to not be physically attached to the ground. Physical attachment to the ground is not regarded in itself to be conclusive, but it is a factor to be weighed in the balance. In this instance, the structure sits directly on the ground and its weight appears to provide it with the necessary stability, although the base of the unit has been infilled to give it the appearance of a fixed structure.

Finally, with regard to the degree of permanence, the static caravan has been on to the land since 2020 and in its current location since October 2021. It was originally moved to the rear of the site when Officers of the Council informed the occupier through the refusal of planning permission that it would be impossible to build the dwelling, he claimed he was building because the caravan was sited on the ground where the dwelling was to be constructed. Since moving the caravan to the rear of the site clear of any possible building works it would appear not to have been moved but is clearly capable of being moved.

In view of the above it is considered on balance that the siting of a static mobile home/caravan amounts to a material change in the use of the land for the purposes of section 55(1) of the 1990 Act and would therefore constitute development that requires planning permission.

##### **The Commercial Use**

The occupier of the caravan runs a commercial business from the site and parks commercial vehicles on the land to the North of the Caravan, to the rear of adjacent residential properties. The parking of these vehicles includes equipment and necessitates the comings and goings of staff employed in the commercial operation. This use has also resulted in the hardstanding area being extended from what was originally carried out. The commercial use of the site with associated parking of commercial vehicles and equipment amounts to a material change in the use of the land for the purposes of section 55(1) of the 1990 Act and would therefore constitute development that requires planning permission.

	<p><b>The Hardstanding</b>  The hardstanding has been laid across the whole site which constituted the curtilage of the approved dwelling and subsequently extended to the west in front of the caravan and to the north to the rear of adjacent residential properties. This has extended the use into the adjacent paddock beyond the red boundary of site identified in the planning application for the residential dwelling. The area proposed for landscaping in the application for the dwelling has been covered in hard surfacing.</p> <p><b>The Front Boundary Wall and Gates</b>  The planning permission for the dwelling V/2019/0652 included a vehicular access to the southeast corner on the street frontage. Conditions were included to ensure the access had visibility splays 2m x 2m with nothing above 0.6m in height. No permission has been granted for a front boundary wall and gates and therefore any means of enclosure on this boundary should not exceed 1m in height irrespective of the condition in respect of visibility without planning permission, since this is the permitted height as specified in Part 2 Class A of the T&amp;CP GPDO 1995 as amended.</p> <p><b>Concerns if no formal enforcement action taken</b>  Paragraph 5.84 of the Ashfield Local Plan Review 2002 states that caravans and mobile homes can have a significant effect on the environment and amenity of an area and although it may be desirable to allow them on a temporary basis it may not be appropriate on a permanent basis. It is clear the applicant has not been carrying out any building works since the laying of foundations other than unauthorised works. The use is therefore not permitted in accordance with the GPDO for temporary accommodation whilst building works are taking place. The use would become lawful after 10 years if no formal action is taken and it would be to use the site for those uses, siting of caravans and commercial use, which are unauthorised and the construction of boundary treatment and hard surfacing.</p> <p><b>Visual Amenity</b>  The siting of a mobile home on the site is considered to be out of character with the vernacular of the area and introduces a temporary structure which can quickly deteriorate. A mobile home is discordant with the visual appearance of the area, which is mainly 2 storey terraced, semi-detached and detached properties and a bungalow which align with the street frontage. The mobile home is sited to the rear of the site in what was previously a paddock, it does not align with the street frontage development that is prevalent of the area. The extensive hard surfacing without any landscaping gives the site a harsh appearance and the boundary wall and gates introduces a clear barrier rather than integrating the development in the street scene.</p> <p>Residential amenity.</p>
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The hard surfacing has been carried out to enable a commercial use to operate from the site which is out of character with the residential uses in the area and results in an increase in traffic and mild but annoying noise and disturbance with employees arriving and departing the site with the commercial equipment. Such a use is considered to be inappropriate in a residential area and leads to an increase in vehicular traffic and increase in noise and disturbance particularly early in the morning and late afternoon when equipment is collected and dropped off. Accessing the site via the level crossing may also result in more traffic waiting at the crossing with engines running and therefore greater noise and disturbance to those in close proximity to the crossing. It is therefore considered that this is a site where commercial activity will have a detrimental impact on the amenities of nearby residential properties and such issues cannot be overcome via conditions.

**Conclusion**

The mobile home was stated to be required for a temporary period during the construction of a dwelling at the development site which would normally be PD. Since no authorised building works have taken place for over 3 years this is not a lawful development. The use of the site for the stationing of a mobile home for residential purposes amounts to a material change in the use of the land, it is not permitted by the GPDO and does not have the benefit of planning permission.

A commercial operation is taking place at the site with a number of commercial vehicles being parked on the land together with storing plant and equipment, mini diggers, trailers etc. This is not an incidental use and is a material change in the use of the land for which planning permission has not been sought or granted.

The hard surfacing of the site with rolled stone has taken place which covers the whole site for which planning permission was granted for a dwelling and extends to the north to the rear of the adjacent garages towards the adjacent bungalow. There is no signs or evidence of any works for the dwelling, any foundations laid have been covered over and not disturbed for over 3 years. The laying of hard surfacing amounts to development for which planning permission has not been sought or granted.

The construction of a boundary wall and gates adjacent to the highway, Brickyard, exceeds 1m in height, is therefore not permitted by the GPDO, and amount to building operations for which planning permission has not been sought or granted.

It is therefore essential that enforcement action is taken otherwise these unauthorised uses become immune from enforcement action and therefore lawful with limited control except in respect of proving intensification which would not be simple. Since when does a commercial use of a site become more intensive or the use of land for



	<p>parking mobile homes, if it meets the licensing requirements the siting of more mobile homes without limitation would be possible.</p> <p>The development that has taken place is therefore unacceptable and has a detrimental impact on the visual and residential amenities of the area, impacts on highway safety and is contrary to policies ST1(a), (b), (c) and (e) and HG5 (a) (c) (d) (e) (g) and (f). and does not meet the requirements of the NPPF (Dec 2023) in particular chapters 9 Promoting sustainable transport, 12 Achieving well-designed and beautiful places and 15 Conserving and enhancing the natural environment.</p> <p>In looking in detail to the above policies  ST1(a) it will conflict with policy HG5.  ST1(b) it is considered that the mobile home design and appearance is at odds with the local vernacular, the hard surfacing is excessive, landscaping is lacking the boundary wall and gates are dominant and visually detrimental to the street scene and the commercial use impacts on the residential amenities.  ST1(c) the wall and gates adversely impact on highway safety with a lack of visibility and vehicles waiting, whilst gates are opened/closed on the highway.  ST1(e) the commercial use conflicts with the residential use of the adjoining properties due to noise and disturbance.</p> <p>HG5 (a) the amenities of neighbouring properties is detrimental affected due to visual discord and noise and disturbance  HG5 (c) the site is all hard surfaced, there is no private garden space.  HG5 (d) the front boundary treatment impacts detrimentally on the visual appearance of the street scene and area generally.  HG5 (e) the access lacks visibility and therefore is not safe for vehicles pedestrians or cyclists.  HG5 (g) The design is a mobile home set amongst traditional residential properties and is therefore out of character and discordant with the character and appearance of the area; and  HG5 (f) there is no landscaping which complements or enhances the appearance of the development.</p> <p>NPPF chapter 9 paragraph 114 safe and suitable access to the site cannot be achieved for all users with the lack of visibility splays at the access;  NPPF chapter 12 paragraph 131 the development carried out does not create the high quality, beautiful and sustainable buildings and places which is fundamental to what should be achieved.  Paragraph 135 requires decisions to ensure the development functions well over the lifetime of the development and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping , none of which have been achieved in the development carried out. It is further not sympathetic to the local character and does not maintain a strong sense of place.</p>
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	<p>Paragraph 139 states Development that is not well designed should be refused.</p> <p>NPPF chapter 15 requires at Paragraph 186 that if significant harm to biodiversity cannot be avoided then there should be adequate mitigation. There does not appear to be any mitigation on this site. It was a paddock grassed over but the whole surface is now hard standing with no landscaping .</p>
<p>Recommendation</p>	<p>The Assistant Director of Planning, in accordance with the Council's constitution, authorises to service of an enforcement notice under the Town and Country Planning Act 1990 and any subsequent legal proceedings necessary to secure compliance with the enforcement notice.</p> <p>Give the following reasons why it is expedient to authorise enforcement action:</p> <p>It appears to the Council that the above breach of planning control has occurred within the last ten years and the unauthorised use and operational development do not have the benefit of planning permission.</p> <p>It is considered by the council that the mobile home is harmful to the visual amenity of the residential area and out of character with the local vernacular of the area by reason of its design and siting. The hard surfacing is visually dominant in the area and the site lacks landscaping and biodiversity provision. The commercial use is detrimental to the visual qualities of the area and results in undue noise and disturbance in a residential area. The boundary wall and gates are visually detrimental in the street scene and impact on highway safety due to a lack of visibility in both directions on the highway. For these reasons the unauthorised use and operational development is contrary to Section 9, 12 and 15 of the National Planning Policy Framework (December 2013) and Policy ST1(a), (b), (c) and (e) and HG5 (a) (c) (d) (e) (g) and (f) of the Ashfield Local Plan Review (ALPR) 2002.</p> <p>Confirm that the notice will require the following steps to be taken:</p> <p>To AUTHORISE enforcement action pursuant to section 172 of the Town and Country Planning Act 1990 (as amended) to secure the following:</p> <ol style="list-style-type: none"> <li>1) removal of and cease the use of the site for the stationing of a residential mobile home,</li> <li>2) cease the use of the site for a commercial use and removal all commercial vehicles, plant and equipment from the land,</li> <li>3) remove the hard surfacing that has been laid across the land and return the land to a grass paddock.</li> <li>4) Demolish and remove the front boundary wall and gates and remove all material resulting from the demolition from the site.</li> <li>5) Restore land to its condition before the breach took place</li> </ol>

Time for compliance	<ul style="list-style-type: none"> <li>• Within 1 month from the date of when the notice takes effect, cease the use of the land for a commercial use and stop parking and removal all commercial vehicles, plant and equipment from the site.</li> <li>• Within 5 months from the date of when the notice takes effect cease the use of the land for the siting of a mobile home /caravan for residential use and remove the mobile home/caravan from the site.</li> <li>• Within 6 months from the date of when the notice takes effect demolish front boundary wall and gates and remove all material resulting from these works from the land</li> <li>• Within 6 months from the date of when the notice takes effect remove all the hard surfacing that has been laid on the land from the site, replace with a layer topsoil and sow grass seed to return the land back to its former condition.</li> </ul>
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	Signed	Dated
Case Officer		19th June 2024
Development Team Manager		19th June 2024
Determined by the Assistant Director of Planning (before legal scrutiny)  Or on their behalf		19 <sup>th</sup> June 2024
Determined by the Assistant Director of Planning (after legal scrutiny)  Or on their behalf		

Appendix 2 – Copy of Decision Notice for application V/2020/0371



**TOWN AND COUNTRY PLANNING ACT 1990**

Town and Country Planning (General Permitted Development) (England) Order 2015  
Town and Country Planning (Development Management Procedure) (England) Order 2015  
Town and Country Planning (Control of Advertisements) (England) Regulations 2007  
Town and Country Planning (Tree Preservation) England Regulations 2012  
Planning (Listed Buildings and Conservation Areas Act 1990  
Planning (Hazardous Substances) Act 1990  
Planning and Compensation Act 1991

## **Refusal Notice**

### **Full Planning Application**

The application referred to below has been refused by Ashfield District Council.

#### **Application Details**

Planning Reference Number: **V/2020/0371**

Location of Development: **Land on the West Side of Brickyard  
Brickyard Drive  
Hucknall  
Nottingham  
NG15 7PG**

Description of Development: **Temporary Siting of Mobile Home**

Applicant Name: **Mr A Cash**

**Date:** **25/112020**

**Address:** Council Offices, Urban Road, Kirkby-in-Ashfield, Nottingham. NG17 8DA  
**Tel:** 01623 450000 **Fax:** 01623 457585  
[www.ashfield.gov.uk](http://www.ashfield.gov.uk)

If reasonable adjustments are needed to fully engage with the Authority - contact **01623 450000**

**REASONS:**

1. The proposed caravan is required for a temporary period during the construction of a dwelling at the development site. The proposed caravan would however, by virtue of its size and siting, prevent the construction of the permitted dwelling. Further, there is no location within the site that could appropriately accommodate the proposed caravan whilst allowing for the construction of the dwelling, as approved. The proposal therefore constitutes a form of inappropriate development which inhibits the comprehensive development of the site, contrary to policy ST1 of the Ashfield Local Plan Review 2002.

**INFORMATIVE**

For further detail on the decision please see the application report by contacting the Development Section on 01623 457388.

**PROACTIVE WORKING**

The processing of this application has been undertaken in accordance with the requirements of the National Planning Policy Framework 2019.



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**PP. Carol Cooper-Smith**  
**Interim Chief Executive**

Appendix 3 – Copy of the Committee Report for application V/2020/0371

<u>COMMITTEE DATE</u>	25/11/2020	<u>WARD</u>	Hucknall South
<u>APP REF</u>	V/2020/0371		
<u>APPLICANT</u>	A Cash		
<u>PROPOSAL</u>	Temporary Siting of Mobile Home		
<u>LOCATION</u>	Land on the West Side of Brickyard, Brickyard Drive, Hucknall, Nottingham, NG15 7PG		
<u>WEB-LINK</u>	<a href="https://www.google.co.uk/maps/@53.0318749,-1.1921183,17z">https://www.google.co.uk/maps/@53.0318749,-1.1921183,17z</a>		
<u>BACKGROUND PAPERS</u>	A, C, K		

App Registered: 13/08/2020                      Expiry Date: 07/10/2020

*Consideration has been given to the Equalities Act 2010 in processing this application.*

*This application has been referred to Planning Committee by Councillor Mitchell on the grounds of policy implications.*

The Application

This is an application which seeks planning consent for the siting of a static caravan on land to the west side of the Brickyard. The caravan is proposed to be occupied for a temporary period during the construction of a dwelling at the development site.

Consultations

Site Notices has been posted together with individual notifications to surrounding residents.

The following responses have been received:

**Resident Comments:**

7x Letters of objection/concern have been received from a local resident group and residents in respect of the following:

- Mobile home has already been positioned on site and is occupied
- No drainage details have been provided despite the mobile home already being occupied
- The siting of the mobile home would restrict the development of the approved dwelling (mobile home sited in location of dwelling) – the house would never be built
- Unlawful ground works undertaken on the site to facilitate the siting of the mobile home – disturbed ground contamination

- Fence has been erected unlawfully along the plot frontage
- The applicant has failed to serve the correct notice
- The mobile home will be used for business purposes
- Applicant has not detailed how long 'temporary' will be
- Increased traffic along the unadopted driveway
- Consultation period has been very short

**No further comments received from statutory consultees or local residents in respect of the proposal.**

**Policy**

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

**National Planning Policy Framework (NPPF) 2019**

- Part 5 – Delivering a Sufficient Supply of Homes
- Part 11 – Making Effective Use of Land
- Part 12 – Achieving Well Designed Places

**Ashfield Local Plan Review (ALPR) 2002**

- ST1 – Development
- ST2 – Main Urban Area
- HG5 – New Residential Development

**Supplementary Planning Documents**

- Residential Design Guide 2014
- Residential Car Parking Standards 2014

**Relevant Planning History**

**V/2019/0652**

Details: Approval of Reserved Matters Following Application V/2019/0013 for a Single Dwelling  
 Decision: Conditional Consent  
 Date: 06/01/20

**V/2019/0013**

Details: Outline Application with all Matters Reserved for a Dwelling  
 Decision: Outline Conditional Consent  
 Date: 08/05/19

**V/2017/0670**

Details: Outline Application with all Matters Reserved for a Maximum of One Dwelling  
 Decision: Outline Refusal  
 Date: 16/01/18

**V/2015/0473**

Details: Outline Application for a Detached Dwelling  
Decision: Outline Refusal  
Date: 27/10/15

**V/2015/0298**

Details: Outline Application for a Detached Dwelling  
Decision: Withdrawn  
Date: 16/06/15

**V/2014/0200**

Details: Outline Application for a One Dwelling  
Decision: Outline Refusal  
Date: 17/07/14

**Comment:**

The application site comprises of a parcel of land to the west of the Brickyard, where planning permission for the construction of a dwelling with associated off-street parking and private amenity space has previously been approved.

Sited to the east and south of the site is existing residential development, whilst immediately to the north and west is an area of open land which is allocated for residential development as outlined within policy HG1 of the ALPR 2002.

As part of this application, the applicant seeks planning consent for the siting of a mobile home on the site for a temporary period, during the construction of the dwelling house permissioned under application references V/2019/0013 (outline permission) and V/2019/0652 (approval of reserved matters).

The main issue to consider as part of this application is the principle of the proposed development.

***Permitted Development:***

The application site is located within the main urban area of Hucknall, where the principle of development is considered acceptable, as set out within policy ST2 of the ALPR 2002.

As previously mentioned, the applicant seeks planning consent for the siting of a mobile home. The applicant has stated that the mobile home will be in situ during the construction of the previously approved dwelling. Once constructed, the mobile home is proposed to be removed from the site. A timeframe for the construction works and subsequent removal of the mobile home has not been provided.

Class A, of Part 5, of Schedule 2 of the General Permitted Development Order (2015) allows, amongst other things, the use of land which forms part of, or adjoins,



land on which building or engineering operations are being carried out as a caravan site, if that use is for the accommodation of a person or persons employed in connection with building on engineering operations.

The caravan proposed is currently in situ on site, and although it will be occupied by an individual who is understood to be constructing the permitted dwelling, as the permission relating to the dwelling has pre-commencement conditions which have not yet been discharged, any construction works on site would be unauthorised until such time that the conditions are formally discharged. As such the caravan, at present, would not comprise of Permitted Development, and planning permission is subsequently required for its siting.

The plans submitted with the application indicate that the proposed caravan will measure approximately 12.5m in length, and just over 4m in width. The caravan is to be located in the sites north-eastern corner, horizontal to the northern boundary of the site.

The dwelling which has been granted planning permission on site is to be located approximately 8m off the highway edge, is 10m in length and 9m in width.

Given the size of the caravan proposed, in combination with the siting and size of the permitted dwelling, it is clear that the dwelling would be unable to be constructed by virtue of the positioning of the proposed caravan on site, which would project approximately 4m into the area in which the dwelling is proposed to be sited.

In addition to this, whilst the applicant has claimed that the caravan is on wheels and can therefore easily be relocated within the site to accommodate the building operations, based on the dimensions of the proposed caravan, there is no other alternative location within the development site which would allow the caravan to be accommodated and allow the dwelling to be constructed, as approved.

***Other Matters:***

Whilst the proposed caravan would be out of keeping with the built form of development along the Brickyard, it is acknowledged that the siting of the caravan is proposed to be for a temporary period only, and as such, would not result in permanent detriment to the appearance of the street scene. Further, the proposal would not give rise to any significant impact on nearby residents by virtue of massing, overshadowing or overlooking.

Concerns have been raised regarding increased traffic along the unadopted road known as the Brickyard, the traffic generated by the siting of the caravan and its occupier's, is considered to be no greater than if the dwelling were constructed and occupied, as previously approved.

No drainage details have been submitted as part of the application. As part of any approval of the application, a condition requiring drainage details to be submitted

within 28 days of any permission would be necessary, given that the caravan is understood to already be occupied.

The application site is understood to comprise of unregistered land. In circumstances where the applicant does not know who owns a parcel of land over which they are proposing a development, they are required to complete and sign Certificate D on the application form. Where Certificate D is signed, the applicant is required to advertise their intention to apply for planning permission on the site in the local newspaper no sooner than 21 days before the submission of the planning application. The applicant has followed this procedure by advertising their intentions for the site in the Hucknall Dispatch.

Planning permission cannot be refused on the grounds that an applicant does not know who owns the land, or is unable to find out through land registry searches as the land is unregistered. Any issues that may arise surrounding land ownership disputes between the land owner and the applicant would be a private civil matter.

Local residents have also raised matters relating to the consultation period given for comments. Residents were consulted for 28 days (14<sup>th</sup> August – 11<sup>th</sup> September), and therefore the Council are satisfied that the statutory period for consultation has been complied with in this instance.

**Conclusion:**

In conclusion, it is considered that the proposed siting of a static caravan at the application site would not give rise to any permanent undue impact upon the visual amenity of the area, by reason of its temporary nature, and would also not result in any detriment to the amenity of nearby residents in respect of massing, overshadowing or overlooking. The siting of the static caravan would however, by virtue of its overall size, prevent the construction of the permitted dwelling, constituting a form of inappropriate development which would inhibit the comprehensive development of the application site.

**Recommendation: Full Application Refusal**

**REASONS**

1. The proposed caravan is required for a temporary period during the construction of a dwelling at the development site. The proposed caravan would however, by virtue of its size and siting, prevent the construction of the permitted dwelling. Further, there is no location within the site that could appropriately accommodate the proposed caravan whilst allowing for the construction of the dwelling, as approved. The proposal therefore constitutes a form of inappropriate development which inhibits the comprehensive development of the site, contrary to policy ST1 of the Ashfield Local Plan Review 2002.



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## Appeal Decisions

Hearing Held on 25 October 2023

Site visit made on 25 October 2023

**by Laura Renaudon LLM LARTPI Solicitor**

an Inspector appointed by the Secretary of State

**Decision date: 13 November 2023**

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### **Appeal Ref: APP/W3005/C/23/3321017 ('Appeal A')**

**Land adjacent to Woodend Public House, Chesterfield Road, Huthwaite  
NG17 2QL**

- 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 Arram Price against an enforcement notice issued by Ashfield District Council.
- The enforcement notice was issued on 31 March 2023.
- The breach of planning control as alleged in the notice is *Without planning permission, the material change of use of the Land from agricultural use to residential use.*
- The requirements of the notice are to:
  - (i) Cease the unauthorised use of the Land for residential purposes;
  - (ii) Remove the unauthorised buildings from the Land;
  - (iii) Remove the unauthorised close boarded timber fencing and post and rail timber fencing from the Land;
  - (iv) Remove the unauthorised hardstanding from the Land; and
  - (v) Remove all the caravans, vehicles, domestic structures and domestic paraphernalia from the Land.
- The period for compliance with the requirements is three 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 ('the 1990 Act').

**Summary Decision: the appeal is dismissed and the notice is upheld (but, pursuant to Appeal B, is subject to the provisions of section 180 of the 1990 Act).**

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### **Appeal Ref: APP/W3005/W/23/3320752 ('Appeal B')**

**Land adjacent to Woodend Public House, Chesterfield Road, Huthwaite  
NG17 2QL**

- 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 Ian Cox against the decision of Ashfield District Council.
- The application Ref V/2022/0391, dated 14 May 2022, was refused by notice dated 16 January 2023.
- The development proposed is the change of use from paddock to residential for static caravans and associated parking of touring and domestic vehicles for use by one family group, plus utility blocks.

**Summary Decision: the appeal is allowed and conditional planning permission is granted.**

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### **Preliminary Matters**

#### *Notifications and consultation*

1. Several people were served with the enforcement notice who were not subsequently notified of the appeal or of the hearing date, contrary to the

requirements of the relevant procedure rules. It was confirmed on behalf of the appellants that all other occupants of the site had been made aware of the proceedings. As to those others served with the notice, it appeared that they were former owners of the land no longer having an interest in it.

2. One letter of representation had been received in relation to the planning application (Appeal B) from a former owner contending that the land had been developed in breach of a condition of the sale contract, thus entitling the former owner to compensation. Whilst the sender of this letter had not been notified of the appeal proceedings, the representation did not appear to me to raise any material planning considerations. Therefore any prejudice arising from the lack of notification was unlikely to arise and I proceeded with the hearing.

#### *The notice*

3. The notice alleges a material change of use, and as well as requiring that use to cease it requires the removal of various 'unauthorised' buildings, fences and hardstanding from the land. I expressed some concern that it might not be obvious to the recipient of the notice what had to go. The appellants accepted that, prior to the development taking place, there were no buildings or hardstanding present on the site, and thus all buildings or hardstanding would have to be removed. As to the fencing, the Council conceded that a roadside boundary fence up to 1m in height was not intended to be caught by the notice. The appellants accepted that the notice was capable of correction and/or variation if necessary.

#### *Differences between the appeal schemes*

4. The parties agreed that what I witnessed on site was broadly the same as when the notice was issued; the Council contending that any additional development since would be subject to the notice's requirements and hence the deemed planning application in Appeal A is for what I saw on the site. The main difference between that and Appeal B is that the present development consists of some buildings on the site in different locations from the utility blocks proposed in Appeal B.

#### **Main Issues**

5. The main issues in the appeals arise from the Council's reasons for refusing planning permission and for issuing the enforcement notice. The principal issue is the effect of the development on the character and appearance of the countryside.
6. Other matters for consideration include the need for Gypsy and Traveller sites in the area, whether all or any of the occupants of the site are Gypsies or Travellers, and the suitability and availability of any alternative sites. In the event that conflict with the development plan is found, it may also be necessary to consider any personal circumstances put forward by the appellants to justify any grant of planning permission.
7. Other aspects of alleged harm arise from the Council's case, and I issued a pre-hearing note indicating that I wished to understand these. First, whether a case is being pursued in relation to the effect of the development on heritage assets. Secondly whether any impacts on the living conditions of neighbours, potentially arising out of associated commercial uses of the land, could be

avoided or mitigated through the imposition of planning conditions. Thirdly, the Council's second reason for refusing planning permission cited no development plan (or national) policies but raised issues of sustainability and proximity to nature sites.

8. The Council confirmed at the hearing that they wished to pursue a case in relation to the sustainability of the development, a matter arising under the local policy HG9 concerning the suitability of sites. The Council also confirmed their pursuit of the issues of the effects of the development on heritage assets, and in relation to adverse impacts on nature conservation interests. These were matters upon which the Council did not pursue a positive case of harm but of lack of sufficient information to enable them to conclude otherwise. It was conceded that impacts on the living conditions of neighbouring occupiers was a matter that could be satisfactorily dealt with by imposing planning conditions on any grant of permission.
9. A further issue arose during the course of the hearing whereby the local Ward Member (for both District and County, as well as the local Fire & Rescue Service) Cllr Tom Hollis raised the question of the development having been intentionally unauthorised. A Written Ministerial Statement of 2015 confirms this to be capable of amounting to a material planning consideration in planning decisions.

#### **Reasons**

10. The appeal site lies, by common consent, in a countryside location, but beyond the Green Belt, and so to which policy EV2 of the Ashfield Local Plan Review 2002 applies. Permission will only be given to 'appropriate development' which comprises development types listed which do not expressly include Traveller sites. The appellants point out that the list of 'rural uses' is not exhaustive, and contend that Traveller sites are an appropriate rural use not excluded from the ambit of the policy. The Council accept that Traveller sites are not completely excluded and that the policy must be read in the light of Planning Policy for Traveller Sites ('the PPTS') which seeks to strictly limit such developments in the open countryside. The overarching requirement of policy EV2 is to avoid adversely affecting the character of the countryside, particularly its openness. Policies ST1 and ST4 in turn provide that development will be permitted where (inter alia) it will not adversely affect the environment and, in the countryside, only where appropriate as set out in policy (as relevant) EV2.
11. The policy directly applicable to applications for Traveller sites is HG9, which is permissive of sites outside the Green Belt where a number of criteria are met. The supporting text indicates that such sites are unlikely to be acceptable outside the Main Urban Areas or Named Settlements, but is not exclusive of countryside locations subject to criteria including that adverse effects on the visual amenities of the area are avoided. The supporting text also records that, upon drafting the Local Plan Review, investigations had failed to identify any suitable Traveller sites.

#### *Need for a site*

12. The first criterion of policy HG9 requires that the need for a site is established. The appellants' case is that this criterion is out of date and should be given no weight here, the need for sites being a relevant local policy matter only when plan-making and deciding upon allocations. The need for a site and the existing

level of local provision is nonetheless a material consideration, as stated by paragraph 24 PPTS.

13. A Gypsy and Traveller Accommodation Assessment (GTAA) for the Greater Nottingham and Ashfield areas dates from March 2021. It describes the existing provision of a single authorised site in the district providing four pitches. Reference is made to a further three authorised sites for 14 pitches, but concludes that these sites are not available and so have been excluded from the pitch supply and need calculations. The GTAA anticipates a need for one additional pitch in the period to 2025 and four pitches in the period to 2038. The appellants contend that such needs are underestimated because of the failure to include authorised (and occupied) sites from which household growth needs are likely to derive, and because the GTAA figures are derived from ethnic identity rather than from merely a nomadic habit of life.
14. The Council place reliance on authorised sites excluded from consideration by the GTAA and in particular on a permission granted on appeal in 2012 for eight pitches at Park Lane. That 2012 permission is understood to be extant, although little development has taken place and the site is not presently occupied. The permission is soon to be affected by a permission for 38 dwellings pending the completion of a section 106 agreement. That permission, although not describing a Traveller site in the operative grant, is understood to allow for the retention of the Traveller site although no planning conditions require its sequential provision and there is no information before me as to whether it is affordable or available. Consequently, and consistently with the findings of the GTAA, the site cannot presently be treated as one that is available.
15. The GTAA does not account for the accommodation needs of the particular occupiers of this site, but it does anticipate a need of one additional pitch in the period to 2025, which is presently unmet. For the reasons suggested by the appellants, the needs anticipated by the GTAA, which has yet to go under examination, are if anything an underestimate. Thus in relation to this policy criterion I conclude that there is an established need for a site.
16. Having reached that conclusion it is strictly unnecessary for me to decide whether the present occupiers of the site are Gypsies or Travellers whose need for accommodation would be met, because in order to give effect to meeting this need a planning condition restricting the occupation of the site to such persons would be necessary. However, from what I have read and heard, with the possible exception of Mr Cox (the Appeal B appellant) who did not attend the hearing and whose circumstances were not explained in detail, I am satisfied that the occupiers of the site are Gypsies or Travellers, the working aged men of the site travelling to find work for at least part of the year.

*Accessibility to community services and facilities*

17. The site lies to the north of and down the hill from the built-up area of Huthwaite, and is agreed by the parties to be within 1km of a supermarket and 1500m of a GP surgery and a primary school. A footway with street lighting is available for those distances. A bus stop immediately outside the site provides an hourly service. A public house lies next door. I heard that occupants of the site are able to attend health facilities and that some of the children are enrolled in, and attending, school. The Council's statement was somewhat inconclusive on this issue, finding that the site has a certain level of access to

community services and facilities. The distances (and availability of public transport) to services and facilities are not at all excessive in the context of a Traveller lifestyle and I find criterion (b) to be satisfied here. Although concerned with a somewhat larger settlement (Kirkby-in-Ashfield) I note that the 2012 Inspector concluded similarly in that case although the distance of that site from the centre was around 1.5 miles.

18. A distinct but related matter concerns the PPTS advice that new Traveller sites should be very strictly limited in open countryside that is away from existing settlements. The appellants suggested that this requirement has some parity with the National Planning Policy Framework's ('the Framework') objection to 'isolated' houses in the countryside save in certain circumstances; the Council suggested that whether a Traveller site would be 'away from' a settlement would be a subjective evaluation depending on the need and supply situation at the relevant time. I am unpersuaded by either suggestion: whether a site is 'away from' a settlement is a question of fact, and the PPTS does not use the terminology of 'isolated', as found in the Framework.
19. 'Away from' a settlement plainly means something more than 'outside' an existing settlement boundary and suggests some degree of remoteness. The site access here lies within the 30mph vehicular speed restriction applicable to Huthwaite, and it lies within the area of streetlighting. Across the road from the site lies a small triangular area of open space that adjoins some of the houses on Woodland Avenue, presently the furthest extent of the settlement (as defined by planning policy) of Huthwaite. The appeal site is overlooked by some of those houses, although to a limited degree because of extensive tree cover. Adjoining the appeal site to the south are two houses, and as the crow flies the site lies some 100m from the settlement boundary as defined in the Proposals Map. In reality it gives the impression of falling within the wider settlement area which begins at the point of the 30mph signs, The Willows, and the public house. But although perhaps 'outside' the settlement, the site here cannot reasonably be said to be 'away from' it, when it lies within an acceptable and safe walking distance of its centre, and I find no conflict with paragraph 25 of the PPTS in this regard.

*Noise and disturbance arising from business activities*

20. Although I observed what appeared to be some evidence of car-breaking activities at the site, the appellants confirmed that there is no intention to carry out business activities and would accept a planning condition to this effect. This being the case, the Council confirmed that a condition would control noise and disturbance effects. Thus there is no conflict with criterion (c).

*Effects on the visual amenities of the area and landscaping measures*

21. I include in this analysis the Council's objection to the effects on the character and openness of the countryside and to the mature landscape setting. Those objections arise from the considerations of policies EV2 and EV4. The former requires any development to be located and designed so as to avoid adverse effects on the character of the countryside, in particular its openness. EV4 is permissive of developments which do not adversely affect the character and quality of mature landscape areas.
22. The site lies within area NC07 of the Nottinghamshire Coalfields regional character area, described in the Greater Nottingham landscape character

assessment ('LCA') document of June 2009 as having a good landscape condition with a moderate strength of character. Huthwaite is recorded as being the highest settlement in the region, with the land falling away on sides including to the north, as here.

23. The characteristic features are described in the LCA as comprising strongly undulating ground with land uses generally a mixture of woodland and agriculture. The appeal site here was formerly in an agricultural use, and with the exception of the road frontage the site remains mostly bounded by established hedgerows although with additional fencing within, both to the site edges and to demarcate the separate pitches. Nonetheless the original field boundaries remain discernible.
24. The actions to be taken by the LCA include conserving the field patterns and conserving hedgerows, avoiding development on high ground and ridgelines and to conserve the undeveloped character of the area, with future change to reflect existing development patterns and to be primarily focussed within settlement areas.
25. Some of these objectives are met by the development: although internally subdivided, the pre-existing field pattern is not disturbed, with no evidence of any hedgerow removal having taken place internally within the site but only to the roadside. The site is not on higher ground but in the valley floor below Huthwaite adjoining the former railway line to the north. Views across the site to the linear settlement at Wild Hill to the north are obtainable, although the site itself is not visible from there because of the boundary hedgerows which are particularly well established along the line of the old railway. Apart from within some of the dwellings on the escarpment to the south, the site is not readily visible except to passing traffic on Chesterfield Road. It is well-related to the existing settlement of Huthwaite and the site is bounded to two sides by existing development in the form of the public house and its carpark to the north and the dwellinghouses to the south. The caravan pitches are located in the three furthest corners of the site from the road, with no development appearing close to the roadside between those pre-existing buildings save for the site access and the new fence.
26. The roadside fence (as well as the close-boarded fences within the site) is uncharacteristic of the area although, as the appellants point out, constructing such fences up to 1m in height next to a road (and 2m otherwise) could amount to permitted development. The imposition of a planning condition requiring boundary treatments to be agreed could lead to improvements. The Proposed Block Plan submitted with the Appeal B application describes all internal boundaries to be post and rail fences 1.2m high with hedge planting to give 1.8m height.
27. Although the LCA advises against any development outside settlements in area NC07 this is unrealistic counsel in the case of a Traveller site that is otherwise well-located, as here. The PPTS envisages that Traveller sites will be found suitable in rural or semi-rural settings, subject to ensuring that their scale does not dominate the nearest settled community. Like the 2012 Inspector considering the site at Park Lane, I consider the Council's countryside protection policies to be somewhat incompatible with national policy insofar as Traveller site developments are concerned. Nonetheless the site meets a broad measure of compliance with what those policies require, once it is accepted



that a Traveller site is not of necessity an unacceptable use of land in the countryside.

28. Turning to HG9 which is the relevant policy applicable to Traveller site development, the relevant criteria (d and e) require that the site does not adversely affect the visual amenities of the area and that adequate landscaping measures are included. A nearby neighbour spoke at the hearing about the positive improvements she considered had been delivered by the development of the site, it having previously, on her account, been a somewhat neglected field. The site lies in close proximity to the Silverhill Trail, a recreational route along the former railway line, but this lies below the site and there appears no intervisibility between the site and the users of the trail. The site is somewhat apparent to users of the adjoining public house but intervisibility there is limited by a tall conifer hedge (and beyond that by internal fencing within the appeal site). There appears little if any intervisibility between the site and the open space area to the other side of the Chesterfield Road owing to the extensive vegetation.
29. The public house, and nearly opposite it the dwellinghouse known as The Willows, are, together with the 30mph vehicular speed restriction immediately after passing over the old railway line, the first indicators of the approaching settlement when arriving from the north. The site appears between the public house and the dwellings where the road begins to rise before bending towards Huthwaite. Both the public house and the dwelling adjoining the site are bounded to the front by low walls, and hence the intervening fence does not appear too incongruous from that approach. The extent of the close-boarded fencing within the site is however more apparent when leaving Huthwaite from the south, where it appears at odds with the vegetative backdrop of the adjoining hedgerows that form the site's northern and eastern boundaries. With suitable landscaping, however, the visual amenities of passing travellers would not be adversely affected. The site appeared mostly tidy at the time of my visit, without unnecessary amounts of hardstanding and with some measures to effect boundary planting having taken place.
30. Thus overall on these criteria I find that the effects on the visual amenities of the area can be overcome with the approval of adequate landscaping measures, and thus that there would be compliance with criteria (d) and (e) of policy HG9.

*Other matters*

*Heritage assets*

31. The Council discuss the effects of the development on heritage assets in the vicinity, including that it reduces the landscape buffer between Hardwick Hall and Sutton-in-Ashfield. As also recorded, however, the site does not feature strongly in views from the roof of Hardwick Hall. To the extent that there is intervisibility, the site would be viewed in the context of Strawberry Bank behind it. As acknowledged by the Council, views are generally restricted in the area by topography, and I find that the development of the appeal site has no effect on the setting or other interest of Hardwick Hall, and thus my duties under section 66 of the Planning (Listed Buildings &c) Act 1990 are not engaged.

32. Locally listed heritage assets are the Woodend Inn, which is the public house adjoining the site, and Strawberry Bank which is considered to be the highest point in the County and to be the location of an ancient hill fort.
33. A public house has existed at the site since around 1900, originally associated with the adjoining railway and the subject of various extensions and alterations. The pantile roof appears to be the only remaining original feature. The public house lies opposite a dwellinghouse and adjoins the former railway line. Until the development of the appeal site it was adjoined by the former agricultural field to the east. The development of the appeal site has not reduced the building's prominence in the street scene and the lack of any development at the appeal site to the roadside results in the open gap between the public house and the dwellinghouses further south having been meaningfully maintained.
34. The views of the site from Strawberry Bank (and from the open space area at Woodland Avenue) are limited because of the extensive intervening vegetation, and the development of the site has done nothing to affect or interrupt any views from the Bank across the site to the fields and settlements beyond, with all the development on site sitting substantially below the height of its northern and eastern boundary hedgerows, as well as being dwarfed by the row of conifers separating it from the public house to the west.
35. Thus on this issue I do not find there to be any conflict with the desirability of preserving or enhancing the interests of any heritage assets. No relevant local policies were cited to me by the Council in this respect.

*Local nature sites*

36. Although receiving scant discussion in the Council's case, and again with no local policy references, the second reason for refusing planning permission was that the development had not been demonstrated to be sustainable in this location adjacent to local nature sites. The Skegby Junction Grassland and the Whiteborough Railway received a first mention in the draft statement of common ground, the parties agreeing that the Whiteborough Railway lay adjacent to the site. The officer report also records that the local wildlife site 'City of Whiteborough Station' adjoins the site to the north.
37. Very little information about these local nature sites has been made available to me. The Whiteborough Station site is recorded of being of geological interest and thus I consider its interests are unlikely to have been affected by putting the adjacent field to a new use. The Whiteborough Railway site is described as a 'biological site' with 'a grassland community of particular note'. Natural England were consulted on the planning appeal but had no specific comments to make. I observed that although adjacent to the appeal site it is separated by extensive vegetation surrounding the former railway line, and again conclude that any grassland or other biological interest of the site is unlikely to have been affected by the development.

*Intentional Unauthorised Development ('IUD')*

38. Although referring to breaches of the requirements of a Temporary Stop Notice and of an injunction, IUD was not a matter expressly raised by the Council's case on the appeals. It was however adverted to by the Local Member in attendance at the hearing. The appellants conceded that IUD had taken place.

39. Whilst this constitutes a material consideration weighing against the grant of planning permission, given my findings in relation to compliance with the development plan I do not consider it to be a matter of sufficient weight to dictate a departure from the development plan or to justify a refusal of planning permission. The development that has taken place appeared to me to be mostly capable of reversal and the appellants have derived no particular advantage from undertaking the development without prior authorisation. This is particularly so because the fact of the appellants having already settled on the site and having enrolled the children in schools are not matters that in the end affect my decision to grant planning permission.

#### **Planning Balance and Conclusion**

40. For the reasons I have set out above, I conclude that the development of the appeal site as a residential caravan site occupied by Travellers is consistent with the development plan for the area, at least insofar as the development plan remains consistent with national policy found in the Framework and the PPTS. I have found no conflict with any of the specific policy requirements of the Ashfield Local Plan Review 2002 policy HG9. Whilst there is some limited harm to the openness of the countryside, the appeal site is not away from a settlement and is in a location supported by the PPTS and, consisting as it does of the development of three pitches, does not dominate the nearest settled community. Although not comprising the redevelopment of previously developed land, it is well and spaciouly planned, and capable of being landscaped in a way that is positive to the environment and to the health of the occupants of the site including play areas for children.
41. It follows that a permission will be granted. Here there are two appeals seeking permission for largely the same development, the main difference being that Appeal A seeks a planning permission for the development alleged in the Council's enforcement notice, whereas Appeal B is rather more specific in its description and includes the provision of utility blocks. Whilst I would potentially be prepared to grant either permission, in the interests of giving certainty to all parties about exactly what is being permitted at the site, and to avoid any unnecessary duplication, I shall grant only Appeal B which is, sequentially, the first application.
42. The development in Appeal A, although potentially acceptable in its own right, appeared to me unfinished and might require further development of utility blocks or dayrooms on some pitches to facilitate the living arrangements of the occupiers. It would not be compatible with also allowing Appeal B and I shall therefore dismiss the appeal in Appeal A and uphold the enforcement notice. Because the appellants have accepted that the site was previously undeveloped, and confirmed it is understood what is meant by the requirements to remove the various 'unauthorised' structures, I do not find that the notice requires any correction or variation.
43. Section 180 of the 1990 Act provides that where, after the service of an enforcement notice, permission is granted for any development already carried out, the notice shall cease to have effect so far as inconsistent with the permission granted. Thus, although I am upholding it, the notice will largely cease to have effect, save in respect of those elements for which permission is not granted by Appeal B such as the additional buildings and any fences that are not authorised by Appeal B or do not amount to permitted development.

### Conditions

44. I have been guided by the list of suggested conditions supplied to me and discussed with the parties at the hearing. A condition limiting the occupation of the site to Gypsies and Travellers (applying an extended definition, post-*Smith*) is required, because of the reliance placed on policy HG9 and the PPTS in reaching my conclusions on the appeals. A limit to pitch and caravan numbers is required in order to maintain the site's spacious layout which has contributed to my conclusions about its acceptability in its landscape and visual amenity impacts. There is no need for a personal permission, because the site occupiers' personal circumstances have ultimately not founded my reasoning to grant a permission. Nonetheless if the land does cease to be occupied for the purposes of the permission, a requirement to reinstate it to its former condition would be needed, because the development is only acceptable in the particular policy circumstances that apply to the provision of Traveller sites. A prohibition on large vehicles and commercial activities is required in order to avoid deleterious impacts on neighbouring residents.
45. A 'plans' condition will be required in order to ensure that the site is laid out broadly as it is at present, avoiding development adjacent to the roadside and securing the spacious separation of the three pitches. Additionally, because the Appeal B permission will allow for the provision of utility blocks for each pitch, a requirement for the existing buildings to be removed will be needed so as to avoid the accumulation of unnecessary built development. A site development scheme covering these and matters such as the boundary treatments, landscaping, external lighting and the provision of refuse storage will also be needed to ensure that the site is developed in a way consistent with my conclusions. Finally, I shall also impose the condition requested by the Local Highway Authority requiring a hard surface to the accessway for a minimum of **eight metres from the highway boundary**, in order to avoid any deposits of loose stones on the carriageway.

### The Appeal A appeal on ground (g)

46. As I have resolved to uphold the enforcement notice on Appeal A, it follows that the appeal against it on ground (g) requires consideration. This ground of appeal will fail, because the reasons for making it are predicated on a refusal of permission for the residential development. As permission is being granted on Appeal B, the residual requirements of the notice would be limited only to those aspects that are not permitted by the Appeal B permission. Crucially, the success of Appeal B means that there is now no need for the present occupiers to vacate the site or find anywhere else to live. The time limit of three months to carry out those minor residual requirements is not unreasonable, and the appeal on ground (g) does not succeed.

### Conclusions and Formal Decisions

#### Appeal B

47. For the reasons given above, I conclude that the development complies with the development plan for the area and that the appeal should be allowed. Planning permission is hereby granted for the use of land adjacent to the Woodend Inn, Chesterfield Road, Huthwaite NH17 2QJ as a residential site for

static caravans and associated parking of touring and domestic vehicles for use by one family group, plus operational development consisting of the construction of utility blocks, in accordance with the application dated 14 May 2022 made under reference V/2022/0391, subject to the following conditions:

- (1) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- (2) No more than nine caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended (of which no more than three shall be a residential mobile home/static caravan) shall be stationed on the land at any time.
- (3) The site shall consist of three caravan pitches each containing no more than one residential mobile home/static caravan and no more than two touring caravans, and shall be laid out and thereafter retained in accordance with the Proposed Block Plan submitted with the application.
- (4) When the land ceases to be used for the purposes authorised by this permission, within three months of such cessation all caravans, structures, hardstanding, materials and equipment brought onto or erected on the land and all works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development having taken place.
- (5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land and no commercial or business activities, including the storage of materials or any burning of materials, shall take place on the land.
- (6) There shall be no external lighting on the land other than in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority.
- (7) 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 28 days of the 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 ('the site development scheme')
    - to achieve compliance with the application plans (Site Location Plan @ 1: 1250; Site Layout Plan; Block Plan – Existing; Block Plan – Proposed; Floor plans and elevations of utility building; Plans of electricity box; Photograph of typical static caravan; and Photographs of chicken shed)
    - showing details of the internal layout of the site including the extent of the three residential pitches, the location of

the caravans, vehicle parking and turning, and provision for refuse storage;

- showing hard and soft landscaping including the provision of boundary treatments;
- showing the provision of surfacing in a hard-bound material of all access, parking and turning areas within at least eight metres of the highway boundary; and
- providing for the demolition and removal of buildings and structures not authorised by this permission

shall have been submitted for the written approval of the local planning authority and the site development scheme shall include a timetable for its implementation;

- (ii) within 11 months of the date of this decision if the local planning authority refuse to approve the scheme or have failed 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 paragraph (ii) above, that appeal shall have been finally determined and the site development scheme shall have been approved by the Secretary of State;
- (iv) the approved site development scheme shall have been carried out and completed in accordance with the approved timetable.

Following the implementation of the site development scheme required by this condition, there shall be no change to any of the approved details. The parking and turning areas identified shall be retained for those purposes. The area to be surfaced in a hard-bound material shall be maintained as such thereafter. The loss of any planting comprised in the landscaping including boundary treatments approved under the scheme within five years of such approval shall be replanted within the first planting season following the loss with plants of the same species as those lost.

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 shall be suspended until that legal challenge has been finally determined.

### **Appeal A**

48. For the reasons given above, although the Appeal A proposal is otherwise potentially acceptable, it is unnecessary to duplicate the permission granted under Appeal B and, in the interests of certainty, I decline to do so. Therefore I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

49. Nonetheless I have drawn the parties' attention to the provisions of section 180 of the 1990 Act.

50. The appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

*Laura Renaudon*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT:

Philip Brown, agent  
Arram Price, appellant (Appeal A)

FOR THE LOCAL PLANNING AUTHORITY:

Bob Woollard, planning consultant  
Cllr Tom Hollis, Local Member (District and County)  
Mick Morley

INTERESTED PERSONS:

Shirani Situnayake