



Report to the Secretary of State for Communities and Local Government

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TOWN AND COUNTRY PLANNING ACT 1990

APPEALS BY

MR PATRICK HANRAHAN

WYCOMBE DISTRICT COUNCIL

INQUIRY HELD ON 13 - 16 JULY 2010 AND 16 AUGUST 2010

LAND AT HEMLEY HILL, UPPER ICKNIELD WAY, SAUNDERTON, BUCKINGHAMSHIRE

FILE REFS: APP/KO425/C/09/2115651 & APP/KO425/A/09/2117340

CONTENTS

	Subject	Page
1	Introduction & Preliminary	2
2	The Case for Mr Patrick Hanrahan	7
3	The Case for Wycombe District Council	14
4	The Case for the Hemley Hill Action Group	19
5	Other Representations	22
6	Conditions	25
7	Inspector's Reasoning & Conclusions	27
8	Inspector's Recommendation	40
Annex A	Recommended conditions if permission is given	41
	Appearances & Documents	43

APPEAL A: File Ref: APP/KO425/C/09/2115651

LAND AT HEMLEY HILL, UPPER ICKNIELD WAY, SAUNDERTON, BUCKINGHAMSHIRE

- 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 Patrick Hanrahan against an enforcement notice issued by Wycombe District Council [WDC].
- The Council's reference is 09/00116/CU.
- The notice was issued on 2 September 2009.
- The breach of planning control as alleged in the notice is **without planning permission, the making of a material change of use of the Land to use as a gypsy and traveller caravan site and associated enabling development including the erection of fences and the laying of hard surfaces to facilitate that use.**
- The requirements of the notice are to:
 - (a) Remove all caravans, mobile homes, campervans and associated vehicles and residential paraphernalia from the Land.**
 - (b) Remove all fencing, gates, hardcore, concrete or other material imported or laid onto the Land in connection with the unauthorised use.**
 - (c) Restore the land to its previous condition as pasture land.**
- The period for compliance with the requirements is **6 months.**
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) & (g) of the Town and Country Planning Act 1990 as amended.

Summary of Recommendation: That the enforcement notice be varied, that the appeal be dismissed and the notice upheld in varied form.

APPEAL B: File Ref: APP/KO425/A/09/2117340

LAND AT HEMLEY HILL, UPPER ICKNIELD WAY, SAUNDERTON, BUCKINGHAMSHIRE

- 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 Patrick Hanrahan against the decision of Wycombe District Council.
- The application Ref 09/05790/FUL, dated 1 May 2009, was refused by notice dated 13 November 2009
- The development proposed is a **change of use to include the stationing of caravans for 9 no. gypsy pitches with utility/day room buildings and hard-standing ancillary to that use.**

Summary of Recommendation: That the appeal be dismissed.

1. INTRODUCTION AND BACKGROUND FACTS

1. This first section of the report contains descriptions of the development subject to the enforcement notice in Appeal A, the proposals in Appeal B, a description of the site and its surroundings, the identification of relevant planning policies, and agreed facts set out in the Statement of Common Ground (Doc.3). Thereafter, the report sets out the gist of the submissions made at the inquiry and in writing, the conditions of permission which were discussed at the inquiry, followed by my conclusions and recommendation. Lists of appearances and inquiry documents are appended. The written closing submissions on behalf of the main parties are included as inquiry documents. In delivery they were subject to alterations.
2. The appeals were recovered for decision by the Secretary of State for Communities and Local Government by letter dated 22 September 2010 because they involve significant development in the Green Belt.

The Appeals Development

3. Both appeals related to a 0.8 hectare land parcel located immediately to the north-west of Upper Icknield Way in countryside about 1 km to the south of the built up area of the town of Princes Risborough. The plan attached to the enforcement notice identified 9 plots being used as a residential Gypsy/Traveller caravan site. The "Proposed Site" drawing 09_245_003, forming part of the planning application in Appeal B, also showed 9 plots similarly numbered on the site, although there were differences in internal plot boundaries shown.
4. There was a discrepancy between the south-western site boundaries shown on the 2 plans, that in Appeal B showing the appeal site to be slightly larger. The Appellant argued that the boundary shown in Appeal B was correct in relation to the ownership of the land, but an error appeared to have been made by the Land Registry in plotting the boundary of the land acquired. A revised site plan was submitted (Plan D) according with the Land Registry details. This reduced the site area by about 7 metres in width in the vicinity of Upper Icknield Way, tapering to about 3 metres towards the rear. It was said that this revision would have little impact on the scheme details shown on the remaining appeal plans. The Council indicated that they would not object to substitution of the site plan to reflect this boundary and to accord with the enforcement notice plan. Such a course of action would be appropriate in the interests of accuracy. Although involving a small reduction in the effective site area, adjustments to the layout scheme could be accommodated with relatively little change to the impact of the details shown. The matter would be capable of being fully resolved by a condition of permission requiring specific details to be submitted for further approval.
5. Appeal B related to an application expressly for full planning permission. A list of the plans and documents submitted with it was set out in the Statement of Common Ground (Doc.3) at para 7. These included details of site layout showing the siting of a mobile home, a touring caravan and a utility/day room on each plot, an internal access road, areas of hardstanding on each pitch and areas to be subject to landscaping treatment. Additional details showed typical boundary treatments (combining temporary 2 metre high screen fencing, a 900mm width for hedge planting and a further agricultural mesh fence), a typical close boarded fence detail, a site entrance gate, a typical pitch entrance gate, and detailed plans and elevations for the utility/day rooms. Although a condition was invited with regard to details of the site access from Upper Icknield Way, the Appellant submitted during the inquiry a plan showing proposed works in greater detail (Plan A). These were believed to respond to concerns expressed at consultation stage by Buckinghamshire County Council as local highway authority.
6. The plot numbering system shown on submitted plans was not used in practice by site residents. The Appellant indicated that a condition restricting a permission to a personal basis was anticipated. A drawing was submitted (Plan C) which identified the names of

individual occupiers in relation to each of the defined plots to facilitate such a course of action, including the possibility of a permission being granted in respect of some named occupiers (and their dependants) on the basis of personal circumstances, but not others. The Council agreed with an approach based on named occupiers. Although there would be some complication arising from the fact that 2 site occupiers were named Jimmy Doran (one aged 30 years and the other aged 31 years at the time of the inquiry), such an approach would be appropriate having regard to the case advanced of need and personal circumstances for site residents. The appeal should be decided on the basis that the site would be occupied by Eileen Cash, Margaret Murphy, Eileen Nolan, Felix Doran, Kathleen Murphy, Jimmy Doran (30 years), Patrick Hanrahan, Jimmy Doran (31 years) and William Harris. For the pitches occupied by the 2 Jimmy Dorans the matter would be clarified by inclusion of the names of their respective wives.

The Site and Surroundings

7. The site, a roughly rectangular area of about 120m x 65m, was formerly part of a large agricultural field on a hillside slope rising to the south-west. Access was from Upper Icknield Way by way of what was an established field access. In the vicinity, Upper Icknield Way was a slightly sunken rural lane with no footpaths. It was bounded by tall hedgerows. Upper Icknield Way was first recorded in late Saxon land charters, and was of archaeological importance being part of a long distance prehistoric track linking centres on Salisbury Plain with East Anglia. Alongside the appeals site, Upper Icknield Way was also part of The Ridgeway Path, a national trail designated under the 1949 National Parks & Access to the Countryside Act. The Ridgeway Path branched off Upper Icknield Way a short distance to the south-west of the site, following a route across farmland (shown on Doc.P10 Appendix 2).
8. At the time when the planning application had been initially lodged in early May 2009, the appeal site was already partially occupied residentially with the majority of the site surrounded by timber screen fencing. A track to give access to individual pitches, centrally positioned across the site, had by this time been formed by the deposition of hardcore, and there were timber screen fences to demarcate the individual plots. Hardcore had been laid within parts of the individual plots. At Council officer visits at about this time 10 touring caravans and 2 campervans had been recorded on the site. An aerial photograph taken on 1 May 2009 showed the situation at this time (Doc.P12 – Appendix PJ2). A High Court Injunction (Doc.22) was granted on 30 April 2009 as a '*status quo*' injunction forbidding further works on the land. Since that time the number of caravans, other vehicles and structures on the appeal site had fluctuated. A total of 6 touring caravans had been noted at a Council officer visit on 27 May 2010. In a letter dated 12 July 2010 solicitors acting for the Appellant informed the Council of an intention to move back onto the land for a temporary period for the duration of the planning appeal (Doc.27).
9. At the time of my inspection on 15 July 2010 all plots, with the exception of one continuing vacant pitch, were occupied by at least one touring caravan. At that time the site's external boundaries were screen fenced with the exception of one pitch along the south-western edge. Internal fence lines were mainly in position. Most of the appeal site was grassed at this time with only a relatively small proportion of its surfaces being covered with stone/hardcore. The layout scheme for Appeal B indicated that the appeal site would be predominantly hard surfaced as roadway or hardstanding.
10. A short way to the north-east of the appeals site was a roadside ribbon of detached modern 'dormer' bungalows facing Shootacre Lane. These occupied generous garden plots. Six of these dwellings backed onto the appeal site, separated by strips of land varying between 35 and 50 metres in depth now owned by the individual householders and fenced off individually. These plots were subject to varying treatments. Each parcel was accessed from the rear garden boundaries of the dwellings, although the established garden boundaries otherwise remained in place. Each was mainly grass surfaced with evidence of varying degrees of grass management/mowing. Fruit trees had been planted on one plot. A vegetable plot had been defined on another site. Poultry was being kept on the land. There

were a number of structures on the individual land parcels, some of which appeared to be movable.

11. In the wider scene, the appeals site lay on the north-eastern slope of Hemley Hill in an area of farmland forming part of the foothills of the Chilterns escarpment. The surrounding landscape was one of large grass or arable fields with well developed hedgerows and punctuated by small wooded areas, including some residentially developed land. In longer distance views well established trees within the gardens of the Shootacre Lane bungalows were an example of such an area as an element in the rural landscape.

Planning Policy

12. Full details of the planning policies considered relevant by the main parties are set out in their evidence at Doc.P9 paras 15 – 115 & App.A8 - 13 and Doc.P12 App.PJ7.
13. Following the revocation of the Regional Spatial Strategy the development plan for the area comprised the 'Saved' policies of the Wycombe District Local Plan (2004) [WDLP] and the adopted Wycombe Development Framework Core Strategy to 2026 (2008) [WCS].
14. The appeals site lay within the Metropolitan Green Belt as most recently defined in the WDLP. Its Policy GB2 provided the overall policy framework for control of development in the Green Belt, in line with the guidance of *PPG2: Green Belts (1995)*, in terms of a general presumption against inappropriate development, which would not be permitted unless there were very special circumstances. The purposes excluded from this presumption largely followed *PPG2* guidance. This degree of protection was re-stated in WCS Policy CS9.
15. The site fell also within the Chilterns Area of Outstanding Natural Beauty [AONB]. National guidance in *PPS7* continued to emphasise that AONBs, as nationally designated areas, had the highest status of protection in relation to landscape and natural beauty, whose conservation should be given great weight in development control decisions. WDLP Policy L1 provided that "*... special attention will be paid to the conservation of its scenic beauty and to any wildlife interest. Development will not be permitted if it is likely to damage the special character, appearance or natural beauty of the landscape or the future public enjoyment of the area...*". Development should be of the highest quality, its design in sympathy with the local landscape and locally traditional building styles. The conservation and enhancement of the AONB was also reflected in the objectives of WCS Policy CS17.
16. WDLP Policies G3, G10, G11 and C10 promoted respectively high standards of design, landscaping, tree and hedgerow protection, and the protection of rural character. In relation to development WDLP Policy G8 sought to protect the amenity of residents of surrounding land and buildings in relation to specified impacts, including privacy and overlooking, visual intrusion and overshadowing and traffic noise and disturbance. Policy RT15 sought to protect the route and visual corridor of the designated Ridgeway Path, permission not to be granted for proposals which detracted from the convenience or enjoyment of its use or detracted from the character or appearance of its setting. These objectives were now also set out in WCS Policy CS19.
17. The reasons for issue of the enforcement notice also referred to concern at the means of access of the site to the highway network, a matter included within the requirements for development proposals under WCS Policy CS20 for Transport and Infrastructure.
18. WCS Policy CS14 set out that where the South East Plan identified a requirement for additional accommodation for gypsies and travellers or travelling showpeople (or there was a proven local need arising in the District), planning permission may be granted, or site exceptions proposed, for a rural exceptions site when all of listed criteria were met. These criteria included at (b) that the accommodation proposed was to meet the needs of those people with an existing significant and long standing family, educational or employment connection to that area.

19. WCS Policy CS21 expected development which created the need to improve or provide additional community infrastructure, amenities or facilities, to make appropriate contributions toward such provision where these could not be made individually or directly. This was built upon in Supplementary Planning Documents [SDD] with the adoption of *Developer Contributions (2007)* and the accompanying *Guide for Prospective Developers (2010)* (Doc.P12. App PJ13).
20. In terms of local policy guidance for the accommodation of Gypsies and Travellers, the Thames Valley Gypsy and Traveller Accommodation Assessment for 2006 – 11 [GTAA] (2006) covered the areas of Buckinghamshire, Oxfordshire and Berkshire. It estimated the total need for net additional permanent pitches in Wycombe District to 2011 as 8. More recently, the Council had commissioned the *Gypsy, Traveller and Travelling Showpeople Site Study*, Baker Associates (March 2010) (Doc.28). This was a technical study of sites to meet the GTAA assessed level of need for 2006 – 2011 with sites identified with potential to meet longer term requirements for permanent pitch provision. In March 2010 the Council approved the *Sites for Gypsies, Travellers and Travelling Showpeople in Wycombe, Interim Policy Statement [IPS]* (Doc.P12 App PJ8). This identified 2 sites as possible permanent sites to meet shorter term needs. Work was to continue to look for suitable sites to meet longer term needs, focusing on areas outside the Green Belt and in close proximity to existing settlements with a good range of services and facilities. These would be considered in the *Development Management DPD* currently timetabled for adoption in May 2014.

Other Agreed Facts

21. The development in both appeals constituted inappropriate development in the Green Belt.
22. The current access to the site was not appropriate for the use of the land as a Gypsy & Traveller site. Improvements were required to meet the standard set out in the County Highway Authority's consultation response, including widening and provision of bell-mouth radii and visibility splays. In principle these improvements could be secured by an appropriately worded condition.
23. After hearing the evidence of the 9 pitch occupiers, the Council accepted that the appeals should be considered on the basis that they were Irish Travellers within the definition of gypsies and travellers at para 15 of ODPM Circular 1/2006.

2. THE CASE FOR MR PATRICK HANRAHAN

The material points were

The Green Belt and an overall approach

24. As Gypsy sites were inappropriate development within the Green Belt, it was necessary to show that very special circumstances existed to justify the grant of planning permission in respect of both appeals. It was accepted that there was substantial harm by virtue of inappropriateness, that there was some harm by reason of the impact on the openness of the Green Belt, and that there was some harm by conflict with the Green Belt purpose of safeguarding the countryside from encroachment. Having regard also to the "other harm" attributable to the development, these matters were clearly outweighed by the other considerations relevant to the case. The very special circumstances therefore existed to warrant allowing both appeals.

Location in the Chilterns AONB

25. Circular 1/2006 stated that, in areas with nationally recognised designations, gypsy and traveller sites should only be granted where it could be demonstrated that the objectives of the designation would not be compromised by the development. In terms of impact upon natural beauty this had to be assessed from public viewpoints. Short range views of the site were limited. From Upper Icknield Way the caravans and fenced enclosures could be seen through a gateway into the adjacent field and a gap in the hedgerow where the fenced enclosure of the site could be seen. The site was also visible through its entrance onto Upper Icknield Way, but only immediately adjacent to this access point. Along the remaining frontage the mass of the tall hedgerow provided significant 'twig cover' even during winter months. A small section of the fenced enclosure of the site was also visible from the cross-roads between Upper Icknield Way and Shootacre Lane, although the substantial residential development along Shootacre Lane dominated views from this point and effectively screened the development behind.
26. In terms of longer distances any impact on the open countryside was only from distant views from high ground in the east. It was most visible from the public footpath at Brush Hill, but this was some 2.7km away at an elevation of 240m. Photographs submitted by Hemley Hill Action Group (HHAG) rather made the Appellant's point that the site was scarcely visible in the landscape from such points. Caravans on the site could be partially seen adjacent to the junction between Bledlow Ridge Road and Upper Icknield Way where the top of some caravans marginally projected above the crest of Hemley Hill. Similarly, the tops of caravans marginally projected above the crest of the hill in views from the footpath between Oddley Lane and Bledlow Road. In all long distance views the site was in the context of the adjoining Shootacre Lane dwellings.
27. Because of a quirk of the area's landform, site visibility amounted to only modest harm to the appearance of the AONB. This could be reduced by further planting at the appeal site. The proposal in Appeal B contained various measures to minimise any views of the site with additional native hedgerow and tree planting to supplement what existed on the site. This could be the subject of a planning condition. It might not completely meet a test of 'protect or conserve', but the remaining harm would be limited. In terms of impact upon countryside character, this area was not remote countryside, but adjacent to residential properties. The appeal development was as a result not considerably out of character with the area. Some harm might be attached, but it was not significant.

Access

28. The planning application was not refused on highway safety grounds. Improvements to the site access could be conditioned, and a plan was submitted showing the implications of meeting highway authority standards (Plan A), and in particular major road sight lines of

2.4m x 48m. There would be no significant alterations to site screening by the hedgerow to meet these requirements.

Impact on infrastructure

29. A reason for issue of the notice and refusal reason had referred to problems associated with increasing demands on highways, education and other infrastructure arising from the development. The principle of this was not disputed in relation to residential occupation of this site by 9 families. The Council's SDD (Doc. P12 - PJ 14) sought contributions towards named local facilities. This would necessitate the completion of a S106 Planning Obligation to secure the payments. There were serious difficulties associated with this process for the appeals site aside from the question of a temporary planning permission, for which the Council had indicated no contributions would be required.
30. Title to the appeals site might be in 3 names, but the equity was in 9 plots. It was impractical for the 3 Land Registry names to sign a S106 Agreement on behalf of the others. This would require 9 Agreements, which would create serious, if not insuperable difficulties. Nine agreements would be required to ensure that the payments were made and that one failure would not prejudice the permission of a different pitch. Such Agreements could not be concluded in practice within the timescale associated with the current appeals. It was suggested that, if it was concluded that a permanent permission was otherwise appropriate for the site, a temporary permission could be granted for 2 years with an express indication in the appeal decision that a permanent permission would be forthcoming subject to completion of the necessary S106 Obligations.
31. There was, however, a separate issue of principle in relation to the S106 Obligations required by the Council. A planning permission for this site would be bound to be granted on a 'personal' basis. A permanent 'personal' consent was less permanent than a general gypsy consent and significantly less valuable. It would be almost impossible to obtain finance on the basis of such a permission. Such a personal consent would lack permanence, and it was questionable whether it was necessary for a S106 Obligation to be completed and for the infrastructure payments to be necessary within the criteria established in Circular 05/2005. Any breach of a 'personal' condition might be applied to other persons as signatories to S106 Agreements.

Residential amenity

32. No objection on these grounds was pursued by the Council. HHAG raised objection to outlook, noise, disturbance and the ability to access neighbouring properties along Shootacre Lane having regard to lawful rights of way over parts of the appeal site.
33. Objection on grounds of visual impact from private land was unlawful as there was no right to a view from private land. If there were to be a principle of loss of open aspect and countryside views, there would never be any residential development on the edge of a settlement.
34. Noise objections raised by HHAG could be construed as implying a difference between residential and Gypsy sites. The Gypsy pitches were some 45m away from the boundaries of the existing dwellings. This would involve distances typical of those found in residential areas between residential dwellings, and which were regarded as acceptable in terms of noise impact from general activity at respective sites. For each Shootacre Lane property there would be residential neighbours in the row significantly closer and thereby more likely to generate intrusive noise and disturbance. Noise from comings and goings at the site would not be noticeable for similar reasons, as any increase in vehicle movements would be modest, and the site access was located away from the dwellings. No businesses had been conducted from the 9 pitches, as occupied, and none would be.
35. Separation distances of 45m in general residential development would be regarded as sufficient to secure privacy.

36. As to air pollution, bonfires and barbecues were popular with all. This could not be an objection unless there was some inherent pollution from Gypsy pitches. No account could be taken of use of the extended ownership land for the houses as these were not lawful garden areas, but simply agricultural land.
37. Other matters, such as on-site lighting and site drainage could be controlled by condition. Queries raised about capacity in the mains drainage system would, if well founded, be an issue for the authority to provide the necessary capacity. If mains drainage were for any reason inappropriate, it would be perfectly acceptable to use a package treatment plant.
38. HHAG's references to rights of way were assumed to refer to private rights of access, which would be a quite separate legal matter and not a planning consideration. If such rights to gain access to the rear of Shootacre Lane dwellings by way of the appeals site did indeed exist, it would be a simple matter to ensure that they were made possible by the design of the development.
39. The appeals development would not cause a significant loss of residential amenity, and such matters should carry very limited weight.

Need for Gypsy Sites in the Area

40. Other material considerations to be taken into account in deciding these appeals included the existing and planned provision of, and need for, sites in the area, the accuracy of the data used to assess need, the methodology employed in the assessment and how up to date it was, information on public and private sites, personal circumstances and alternative accommodation options. There was unmet need nationally, regionally and locally. DCLG Gypsy Count figures were almost universally an underestimation of need in any district because they did not include hidden need of those having to live against their wishes in 'bricks and mortar' houses, because of the variations in methodology used by Councils in counting caravans, because they did not take account of overcrowding within caravans, and because of the use on authorised sites of the permitted capacity figure rather than the actual number present through 'doubling up'. For Buckinghamshire CC the latest January 2010 count recorded a total of 434 caravans, of which 30 were on sites without planning permission. For Wycombe District the comparable figures were 52 and 8 respectively (Doc.P9 App A17).
41. Aside from this, the primary source of estimating need, following revocation of the Regional Spatial Strategy, was the Gypsy and Traveller Accommodation Assessment [GTAA]. Para 12 of C1/2006's advice underlining the importance of assessing needs at regional and sub-regional level remained. A district was not always going to be the right level to address particular issues. Logically, there was a need to look at clusters of local planning authorities. Government advice already encouraged co-operation between authorities on specific matters.
42. The GTAA for the Thames Valley Region was published in September 2006. For Wycombe District this found the indicative need for additional permanent pitches for 2006 – 2011 to be 8 (Doc.P9 App A11). This figure reflected a flaw common to most if not all GTAAs by its incorporation of a figure for outward migration over 5 years of 14 pitches with no corresponding figure for inward migration to the district. Net flows could only be assessed regionally. From studies carried out, most pitch requirements were stable in net terms. Although there would occasionally be some pitch reductions by deaths, these would be very small. Assuming a net balance rather than 14 losses by migration, the correct figure of need for Wycombe for 2006 – 2011 would be 21 or 22 rather than 8. The GTAA only calculated need to 2011. For the years 2011 to 2016 the most reliable estimate for growth in households was 3% compound annually. This gave a total 2006 – 2016 need of 32 pitches.
43. The Council's figures at Doc.P12 – App PJ11 suggested that the Council had permitted 9 additional pitches between 2006 and May 2010, although 1 was said not to have been implemented yet. On this basis the outstanding immediate need was for 13 or 14 pitches plus a further 10 pitches for 2011 – 2016. In terms of sites actually available to the

Appellant and other occupiers of Hemley Hill there must be doubts about counting in cases of the regularisation of unlawful sites and small extensions to established sites where additional pitches were almost inevitably going to be available only to family members of the group already on the land. Similar considerations applied to one site permitted by the Council at Ashbrook Farm subject to a 'personal permission'. Although the Council claimed to have met the 2006 – 2011 numerical need of the GTAA by permissions, they had not met the needs of persons such as those now at Hemley Hill or 'on the road'. The advice in para 54 of *PPS3: Housing* that authorities should identify sufficient specific deliverable sites to deliver housing in the first 5 years had to apply also to Gypsy and Traveller Accommodation Needs. It would be perverse to do otherwise. Where a 5 year supply could not be demonstrated, the advice at para 71 of PPS3 that authorities should consider favourably planning applications for housing should also apply to applications for Gypsy/Traveller pitches. This was also a very material consideration in this case.

44. The Council's planning witness accepted that there was substantial need in the wider "area" taking in the 4 districts of Aylesbury, Chiltern, South Bucks and Wycombe. It was not being claimed that there were any immediately available alternative sites for the occupiers of the appeals site. Their attempt to rely upon sites becoming available in adjoining districts had been explored in detail at the inquiry. There were serious doubts either about these coming forward for development/occupation or there were issues which would prevent them being available to the occupiers of the appeals site. In particular, most existing sites (including those which might be extended) were occupied by English Romany Gypsies, and Irish Travellers would be unwelcome. Buckinghamshire C C had a "separate sites" policy. Owners of private sites could decide who to accommodate. There was insufficient information to know that land would be available to Mr Hanrahan and other occupiers. No pitches were believed to be available currently at the Wapseys Wood site at Gerrards Cross. In any event the individual occupiers at Hemley Hill indicated in evidence their unwillingness to consider this site because of its extremely poor reputation in the past for anti-social behaviour and violence.
45. It was very unlikely that the 2 possible permanent sites identified in the IPS 2010 (Doc.P12 PJ8) at Dry Banks, Stokenchurch and Five Oaks Farm, Studley Green would be made available to residents of Hemley Hill as Irish Travellers. Five Oaks Farm already had a long history of unauthorised occupation. Dry Banks was already owned by a Romany Gypsy family, and the Council's Traveller Projects Officer had agreed that they would be unlikely to make land available to Hemley Hill residents.
46. Removal of the site occupiers from the appeals site would result in them becoming homeless without an alternative to move to. This would be contrary to the advice in para 12(i) of C1/2006. On the basis of the advice at para 43 of C1/2006 for situations of clear and unmet need, a site allocations DPD should be brought forward. The Council's estimate that their Development Management DPD (as their chosen vehicle) would be adopted in May 2014 created a gap which might be addressed by grants of temporary planning permission. Following occupation of Hemley Hill the Council had been working actively on meeting need with the production of the Baker Report (Doc.28) and the Interim Policy Statement (2010) (Doc.P12 App.PJ8). It was not inconceivable that the Council could allocate or grant planning permission for sufficient sites to meet the need.
47. In addressing need within this DPD the Council were likely to put forward sites which were within Green Belt and the AONB. 71% of the district fell within the AONB, and 48% of the district was Green Belt. Of the sites considered in the Baker Report (2010) (Doc.28) a significant number were in the Green Belt or AONB or both. Dry Banks was AONB and Five Oaks Farm was Green Belt.
48. The need for additional pitch provision in the area, the clear personal need of the site occupiers for accommodation, and the lack of available alternative sites were material considerations of very significant weight.

Personal circumstances

49. The personal needs and personal circumstances of the site's occupants were material considerations in their own right. In this case they were by themselves overwhelming. Very substantial weight should be given to the site occupants' need for a settled base, the education and health needs of the families, and the need and desire of the families to stay together as part of their traditional way of life and as a consequence of the mutual support and assistance that they provided each other. The desire to live in groups was a key feature of the Gypsy/Traveller way of life, and this was a consideration of some weight.
50. The evidence was that the occupiers of the 9 plots were Irish Travellers, and were all related as parts of an extended family. They had regularly resided in or resorted to the district, sub-region and region. Their needs had to be met within this district, sub-region or region.
51. All 9 occupiers gave evidence at the inquiry. Their individual witness statements are at Doc.5. Their individual circumstances are summarised in a table (Doc.P9 – App.A18). These showed that all were Gypsies with longstanding connections to the Buckinghamshire area. Their statements and the additional oral evidence provided details of their family connections, their longstanding connections to the Buckinghamshire area, their lifestyle, their lack of alternative sites as a base for travelling and their families' individual healthcare and educational needs. Patrick Hanrahan indicated that he had been looking for his own site with planning permission for 6 years. Eileen Cash had been looking for her own site for most of her life. Every occupier had family connections with others on the site, whether as brothers/sisters or cousins. Although the 9 occupiers had not beforehand travelled as a group, each had historically met up with others amongst the 9 occupiers for some part of each year. The appeals site would be a place where they could offer each other mutual support, a matter whose importance varied depending on the health and personal circumstances of the individuals concerned. A number of site occupiers had spent time on other Gypsies' pitches at the Weston Turville site in Aylesbury Vale. A number had also lived in the past at the Wapseys Wood site in Gerrards Cross.
52. Most site residents continued to travel regionally and nationally for at least a part of each year, but none had an authorised, settled base to return to. A number had been 'doubling up' or 'tripling up' on the plots of friends or other family members within the Buckinghamshire area mainly, or had been renting other Gypsy pitches on a short term basis while the owners were away. If unable to live at Hemley Hill, none had an alternative legal pitch to return to. Eileen Cash had lived for 6 years in a flat in London to allow her son to obtain an education, but had then returned to living in a caravan at various sites with relations. She said that she could never return to living in 'bricks and mortar' accommodation. Kathleen Murphy had also lived in 2 houses over a total period of 4 years 8 months, but couldn't cope with living in such a situation and had returned to caravan living on temporary sites in Bampton and Aylesbury. Margaret Hanrahan had lived in a house in High Wycombe for a while because her mother was dying. She had not liked it, and it had created problems for her son Johnny who suffered from ADHD.
53. Witness statements provided details of the healthcare issues and educational needs of individual families. Nine individuals required regular visits to the GP. Other residents had significant healthcare problems, for which the appeals site as a settled base would allow access to services in Princes Risborough. In some cases these were serious, and affected the ability of individuals to continue travelling. Kathleen Murphy's 25 year old daughter was blind, and had been diagnosed 18 months ago with a brain tumour. She was being treated at Stoke Mandeville Hospital with drug therapy. She needed full-time care. A settled base would allow her to have a guide dog, but this was not possible otherwise. A number of other site occupants were being treated for severe depression and other health issues, including chronic asthma. The overall position was one of the site occupiers having healthcare problems significantly more severe than the average. Gypsies and Travellers were believed to experience the worst health status of any disadvantaged group in England, and this was

directly linked to the lack of good quality sites. Access to health services had to be easier and more secure from a stable base.

54. There were 19 children on site, 12 being of school age on 3 of the pitches. Details of their attendance at local schools since moving to Hemley Hill were recorded (Doc.P9 – App.A18). Three other site occupiers had children currently of pre-school age. The appeal site had presented nearly all of the young children on site with their first opportunity to obtain any level of consistent education. Dismissal of the appeals would most probably bring that schooling to an end, and prevent those of pre-school age having the opportunity of early years' education. The educational needs of the site occupiers should be given substantial weight.

Failure of Policy

55. It was not disputed that WDC would not meet the key aim of para 12(c) of C1/2006 to address under-provision by 2011, or the terms of para 71 of PPS3 for a 5 year supply of deliverable sites. This was a clear failure of policy.

Human Rights and Race Relations Act considerations

56. Under Article 8 Of the European Convention on Human Rights [ECHR] there was a positive obligation to facilitate the gypsy way of life. This had to be balanced against national policy, and the European Court had shown a wide margin of appreciation in the exercise of the balancing act. Article 8 Rights were engaged in these appeals, and the decision maker had to consider the proportionality in particular of returning the Appellant and other occupiers to the road in circumstances where there had been a substantial failure of policy, inequality of approach, and the Council had only just begun to deal with their obligations under the Planning and Compulsory Purchase Act, Housing Act and C1/2006 in regard to Gypsy policy assessment and site identification. Eviction of the occupiers of this site until sites were identified in Wycombe and/or other districts in Buckinghamshire where they might remove to, would clearly be disproportionate.
57. The decision maker had to consider questions of discrimination and inequality of approach. This matter was compounded by comparison of the Council's approach to this development with the unauthorised development on immediately adjoining land where householders had developed garden extensions within the Green Belt. This was clearly urban development inappropriate to the Green Belt, and yet over a period of some 5 years the Council had done little apart from writing one or two letters to the owners. By comparison the Council had within a matter of days served a Temporary Stop Notice and obtained a High Court Injunction in respect of the development at the appeal site. This demonstrated clear inequality in the actions of the Council which constituted serious breaches of the amended 1976 Race Relations Act. The approach to be followed should have regard to the judgement in *Queen v SCLG and LBC Bromley 2008 EA civ 141*. The questions of discrimination and inequality of approach had to be considered both as material considerations and in the context of the Human Rights balance to be struck.

The overall balance

58. The harm to the Green Belt by reason of inappropriateness and loss of openness, together with limited harm to the AONB were clearly outweighed by the other considerations in terms of the lack of available, suitable, acceptable and affordable alternatives, the personal circumstances of the site residents, the failure of policy and the Human Rights and Equality considerations. The likely location of any proposed Gypsy sites in the District within either or both of the Green Belt and AONB, and causing the same harm, added further support to these appeals. Very special circumstances existed, and permanent planning permission should be granted.
59. If that were found not to be the case, the Green Belt balance would have to be re-done in relation to the grant of a temporary planning permission for 5 years until adoption of the DPD (and allowing some implementation time thereafter). In this case there would be less

weight to the Green Belt and AONB harm because it would be only for a temporary period. On this basis there would be an overwhelming case in favour of at least a temporary consent.

60. The suggestion made by the Council in closing submissions that a form of split decision might be possible if the personal circumstances of one or two of the site occupiers were found to be compelling had not been explored in their case presentation. The personal case related to the site as a whole in terms of the inter-relationships existing between occupiers and the mutual support offered to residents, including the more needy. In the event of permission for some plots but not others, the site, as now defined, would still effectively be a Gypsy site, and it was questionable whether harm was significantly less.

Ground (f) in Appeal A and validity considerations

61. Requirement (c) of the enforcement notice to “restore the land to its previous condition as pasture land” was excessive, and should be replaced by one specifying simply restoration “to its previous condition”.
62. The suggestion, made by the Inspector at the inquiry, of a need to add a further requirement to the enforcement notice for the “use to cease” in addition to removal of caravans, was not objected to. Such action would remedy a defect in the notice as issued.

Ground (g) in Appeal A

63. A compliance period of 6 months was too short to enable the Appellant and the other site occupiers sufficient time to find an alternative site. A period of 2 years was more appropriate given the problems of finding such sites.

3. THE CASE FOR WYCOMBE DISTRICT COUNCIL

The material points were

Green Belt and AONB harm

64. As development inappropriate to the Green Belt, permission should not be granted in either appeal unless very special circumstances existed that clearly outweighed the harm by reason of inappropriateness and any other harm.
65. The appeal proposals involved an inevitable loss of openness that could not be mitigated. That loss would be greater in the case of the planning appeal which sought permission for ancillary development in the form of further areas of hard-standing and 9 utility/day rooms. Even if permission were restricted to a mobile home and touring caravan on each plot, the presence of these structures, extensive hard-standing, and the occupiers' vehicles and domestic paraphernalia would lead to a significant reduction in openness. They would be urban features harmful to both the rural and visual character of the Green Belt. The development of this previously open field would represent an encroachment into the open countryside and an extension of development beyond the clearly defined edge of the Shootacre Lane settlement. This would be contrary to WDLP Policy GB2 and WCS Policy CS7.
66. There would further be significant harm to the character and rural landscape of the AONB. The extent and location of close boarded fencing presented an urban feature detrimental to the rural character of the AONB landscape. The accompanying screen hedging would in itself be uncharacteristic of the surrounding landscape as it would define a new land parcel unrelated to the established field pattern. The location and layout of the development would be unrelated to the established settlement pattern of a ribbon settlement of the kind found built up to the 1960s. It would appear isolated and out of keeping with the existing historic character. The extent of hardstanding, newly engineered site entrance, caravans and motor homes urbanised an otherwise open field. This was detrimental to the special character and appearance of the AONB, and harmful to future public enjoyment of the area in conflict with WDLP Policies L1, G3 and G10 and WCS Policy CS17.
67. All of these adverse features could be clearly seen from several locations along Upper Icknield Way and from the junction of Upper Icknield Way and Shootacre Lane to the east. The caravans and fencing could also be seen to some extent in the wider landscape. They could be viewed from Lodge Hill to the south-west of the site over the crest of Hemley Hill. They were similarly visible from Brush Hill. Both were popular viewing points along the Ridgeway Path. The site's features of fencing and caravans were similarly seen in distant views along footpaths to the north. Visibility of site features was significantly greater during the winter months when much of the area's tree and hedgerow vegetation was leafless. This was particularly the case in views from Upper Icknield Way alongside the site. Available details of the proposed bellmouth access did not make it clear how much the necessary works would add to site visibility. This section of Upper Icknield Way was also part of the Ridgeway Path national trail and the site part of its visual corridor. Whether or not the site entrance was gated in screen form as submitted, the development would inevitably have an effect on the character of the national trail as seen by its many users. This conflicted with WDLP Policy RT15.
68. The above matters spoiled what was a high quality landscape which derived its special quality from its natural appearance and beauty by virtue of the introduction of alien and in design terms, unsympathetic and inappropriate buildings and structures which detracted from these special qualities. This landscape was of national importance, and the development would severely compromise its objectives. In addition, it would detract significantly from the enjoyment and visual setting of The Ridgeway Path.
69. Proposed landscaping measures would have a limited effect in screening the close boarded fencing until after 5 – 10 years. Proposed tree planting would take up to 15 – 20 years to

have a significant effect in breaking up the visual impact of the development in wider landscape views.

70. Although properties to the east had acquired parcels of land extending from their rear gardens up to the boundary of the appeals site, the lawful use of these parcels was for agriculture. Save for low-key boundary fences and hedges between the parcels they remained almost completely open (see photos at Doc.P12 – PJ2). The layout of the appeal site and its position resulted in it appearing unrelated to the established settlement pattern.
71. Contrary to the suggestion made on behalf of the Appellant, there was no policy support for the proposition that some visual harm to the surrounding area must always be accepted in the location of Gypsy and Traveller development. In this case the harm to openness was significant, as was the harm to both the character and appearance of the area within the Green Belt and the AONB, including the harm to the visual corridor and setting of the Ridgeway Path.

Financial contributions to infrastructure

72. Harm also resulted from the increased impact on local services and facilities, which were already at capacity or in some cases unable to meet the needs of the existing population. The need for developer contributions in this case in relation to transport, public open space, secondary education, indoor sport and leisure, fire services and environmental schemes was set out in the adopted SDD (Doc.P12 – PJ13) in the context of the WCS Policy CS21.
73. The Appellant had not sought to challenge in evidence either the principle or the amount of contributions sought by the Council in the event of a permanent planning permission. No contributions would be sought in the event only of a temporary permission. There would be no reason to reduce the amount of contributions if a personal condition were imposed. The contributions were required to fund capital expenditure needed to meet the increased demand on infrastructure generated by occupiers of the appeal site. Whether that demand existed for a number of generations or only one, the capital expenditure would be the same. No alternative assessment of the level of contribution had been put forward.
74. As to the suggestion that contributions must be appropriate in relation to value and the financial circumstances of the pitch owners, the Appellant had taken no regard for para B10 of Circular 05/2005. In the absence of any financial information it was impossible to know whether the contributions sought by the Council threatened the viability of the appeal scheme, and if so, what level of contributions might be appropriate.
75. For what might be called administrative reasons, the Appellant would not be putting forward Planning Obligations for consideration. On this ground alone, a permanent planning permission would be contrary to Policies CS20 and CS21 of the WCS and the guidance in the Developer Contributions SDD, and should be refused.

Need

76. Despite the national and regional need for more Gypsy caravan pitches, the national advice that new sites in the Green Belt are normally inappropriate development remained unchanged. Only limited weight should be given to the existence of a general need. The DCLG Chief Planner's letter of 6 July 2010 made it clear that new sites should meet local needs rather than needs arising outside local authority's areas. The extent of need and provision at the local level was therefore of greater importance.
77. That need was assessed in 2006 as part of the Thames Valley Region GTAA. The result was an identified need for 8 new pitches in the period 2006 – 2011. Since then, Council officers had interviewed occupiers of sites within the district and invited planning applications where there appeared to be a need for further pitches. It was recognised that the GTAA was unsatisfactory in some respects, in particular in its reliance on assumptions rather than interviews with Gypsies in the district. Now that that omission had been remedied, the question was whether the available evidence demonstrated an existing unmet need.

Following this recent process the IPS (May 2010) had identified 2 sites at Dry Banks, Stokenchurch and Five Oaks Farm, Studley Green as potentially suitable to meet shorter term needs (Doc. P12 App.PJ8).

78. In relation to potential sources of information, there were no unauthorised encampments in the district in 2008, two in 2009 and two in 2010. (Doc.P11 – App.RD2-4). Although not a particular indicator of local need within the County, the available information on unauthorised encampments (Doc.P11 5.1.1- 5.1.3) did not suggest a significant unmet need.
79. Information on the number of planning applications and appeals (Doc.P12 App.PJ11) suggested clearly that whatever need there might have been on existing sites (other than the current appeal site) had now been met. Nine extra pitches had been permitted, of which 1 had yet to be implemented.
80. In terms of occupancy levels, plot turnover and waiting lists for public authorised sites evidence had been given on the situation in the 6 public sites in Buckinghamshire (Doc.P11 4.1.1 – 4.1.13). The Irish Travellers Site at Wapseys Wood, Gerrards Cross had proved problematic in the past. At the time of the GTAA in 2006 14 out of 17 pitches were vacant with nobody on the waiting list in Buckinghamshire. Vacancies had since been filled from outside the area, mainly from London, and the site was stable. There had been 3 vacancies in the past year, and there were currently 3 families on the waiting list, none of whom lived in Buckinghamshire or had local connections. Four of the other sites were for English Romany Gypsies, and were stable with rare vacancies and a number of families on the list. The Wing Caravan Site, formerly a transit site, had been in the process of development as an 8 pitch site in 2009 when the works had been vandalised. It was currently unlawfully occupied. Possession was an on-going process, after which a decision would be taken over its use and finance to complete the works. None of the families at Hemley Hill had submitted applications for pitches on the Wing site among the 13 on the waiting list.
81. Notably, only one person in housing in Wycombe was on a waiting list. The Biannual Gypsy Counts since July 2009 showed that the only unauthorised Gypsy caravan site in the district on the count days was the appeal site.
82. Submitted details of all Gypsy/Traveller planning applications and decisions by the Council in the last 5 years (Doc.31) demonstrated a lack of pressure as a reflection of no unmet need other than for the sites and families considered in the IPS. It was therefore submitted that currently there was no evidence of significant unmet need for new pitches in the district. The Appellant's assertion of an unmet need for 22 pitches (less any permanent pitches granted permission since 2006) was based on nothing more than the GTAA figures with an assumption of no plot turnover. His assessment was no more cogent than that in the GTAA, and was not supported by the available data.
83. The Appellant's reliance upon *PPS3: Housing* was also misplaced. Although PPS3 contained references to the accommodation needs of Gypsies and Travellers, national policy on meeting those needs was in C1/2006 which made no mention of a 5 year supply of sites. The Circular required provision to be made in accordance with requirements, fixed at regional level, which might relate to a period of less than 5 years. There was currently no obligation on the Council to demonstrate a rolling 5 year supply of sites.
84. There was nothing in any policy document to support an approach that regard should be had to need in neighbouring districts. Any such approach would be impractical. Following revocation of RSS it was for local authorities to assess and meet the needs arising in their areas. They could choose to co-ordinate provision across boundaries, but there was no requirement to do so.

Lack of alternative sites

85. It was being alleged that the occupiers of the appeals site would have nowhere else to go, and that the inevitable consequence of dismissal of the appeals would be a roadside

existence. The weight to such a consideration, if accepted, would depend in part on the extent to which they had brought this state of affairs on themselves. They had acquired and moved onto the appeals site without first obtaining planning permission or seeking the prior advice of the Council. They had all declined to put their names down on any waiting lists in the county, and had presented no evidence of real attempts to find a more appropriate site in the district or wider area.

86. As to whether there were alternative sites, the Appellant had provided no details of other sites considered, and presumably rejected, before purchase and occupation of the appeals site. There were possibilities. The Haddenham Caravan Site, a lawful Gypsy site had experienced problems over an extensive period. These had included a fly infestation associated with a neighbouring farm. Following a lease to a local family the site had recently been re-possessed by Bucks CC. Decisions upon its future would now be taken by Aylesbury Vale BC, and it was hoped that it would come back into use whether as a public or private site. It was a possible site for at least some of the appeals site's occupiers.
87. There was land in the north of the district, and in neighbouring districts outside the Green Belt and the AONB that would be acceptable in principle as a location for a Gypsy Caravan site. There was no reason to suppose that other agricultural land was beyond the means of the occupiers of the appeals site. The Baker Report (Doc.28) had identified "Sites For Further Investigation" over and above those to meet short term need. Conventional social housing was also a potential alternative for at least some of the occupiers, particularly those who had spent several years in housing. This could provide a short term alternative while they took steps to find a more appropriate site. Many of the occupiers had spent time on relatives' or friends' pitches at Weston Turville within Aylesbury Vale without any apparent problem. There was no reason to assume that dismissal of the appeals would prevent some of the occupiers with links to Weston Turville from returning there, if only as a short term measure. The Council's witness, as Traveller Projects Officer, had also suggested that occupiers could seek 'toleration' of the use of another site, such as the proposed Dry Banks site for a short period while a more permanent solution was found.
88. It was not therefore accepted that dismissal of the appeals would inevitably lead to the occupiers returning to the roadside, and if that were so, their actions meant that rather less weight should be attached to the claim.

Failure of Policy

89. It was not accepted that the Council would have failed to address the need within the 3 – 5 year time frame set down by C1/2006. The Council had jointly commissioned the GTAA, and had granted planning permissions meeting the need identified within it. Other information sources did not support the claim that there remained a significant unmet need.

Likely location of Gypsy site provision in the district

90. The Appellant's argument that there was a significant probability that new sites would be within Green Belt and/or in the AONB was not accepted. The 2 sites identified in the Council's IPS (Doc.P12 - PJ8) were indeed in the Green Belt and/or AONB. The fact that other more appropriate sites in Green Belt/AONB had been found did not mean that the appeals site was rendered any more acceptable.

Personal circumstances

91. The personal circumstances of the occupiers varied markedly. Given the lack of evidence of travelling together as a group, or mutual dependence, there was no basis for lumping them all together. For example, Margaret Murphy's needs were obviously of a different order to those of other site occupiers. All occupiers had a need for accommodation, but none could claim a need to be on the appeals site, or in the Green Belt or AONB, or in the district. None appeared to have any particular links to the district (as opposed to Aylesbury Vale), or medical or educational needs that required a site in the area. Healthcare and educational needs were not specifically linked to this site or its locality.

Data Protection Act 1998

92. The Appellant had objected to the introduction by the Council of pupil information. The 1998 Act permitted the processing of sensitive personal information where certain conditions were satisfied. These included where it was necessary for the purposes of legal proceedings, for the administration of justice, or for the exercise of any statutory functions. The introduction of the pupil information to the current inquiry would therefore be lawful.

Human Rights, equality and other non-planning matters

93. The Council had had full regard to the requirements and duties as set out in Article 8 of the European Convention on Human Rights, and had concluded that enforcement action was proportionate and necessary. The duties under S71 of the Race Relations Act 1976 had also been fully and properly followed, and careful consideration had been given to the need to not undermine good relations. Throughout the process the Council had acted objectively in taking a proportionate approach whilst being mindful of the needs and rights of all involved.
94. Non-planning matters had been raised during the inquiry. It had been alleged that the Council had obtained an injunction requiring all the occupiers to leave the site. This had not been so (Docs.23, 24 & 25). The correspondence (at Doc.26) also disproved the further allegation that the Council had refused to allow occupiers to swap caravans where the correct procedure had been followed and justification established. It alleged that the Council had turned a blind eye to unlawful development on neighbouring agricultural land. In fact the Council had raised the issue in correspondence some years ago. In the absence of evidence of a recent breach warranting intervention by the Council, there was no substance to the allegation of double standards.

Overall conclusions

95. The identified harm to the Green Belt, the AONB and local infrastructure needs was not clearly outweighed by the other considerations advanced, and very special circumstances did not exist to justify a grant of planning permission to inappropriate development. With regard to the possibility of a grant of temporary consent and the advice on the matter in C1/2006, the grant of a number of Gypsy site planning permissions since 2006 and the recent work undertaken to identify further sites to meet the need in the short term meant that there was no currently unmet assessed need within the District. No temporary permission was justified in this respect. Furthermore, there was a need to consider the cost to a developer of implementing such a temporary permission on this site. The site currently had no water, electricity or mains sewerage provision, all of which would need to be connected at the developer's cost. Many other site infrastructure works would be needed, and all would have to be cleared at the end of a temporary permission with the land restored to its previous condition.
96. Even if a temporary permission were limited to a period of 4 – 5 years, the harm to the Green Belt, the AONB, and the Ridgeway Path would not be outweighed by the other considerations relied upon by the Appellant. If personal circumstances were found to be sufficient in some cases, but not in others, it would be possible to grant permission on a plot by plot basis rather than to the site as a whole.

Ground (f) in Appeal A

97. Requirement (c) as set out in the enforcement notice was the same thing as what the Appellant was requesting as the appeal site was previously pasture land. The notice merely set out precisely and reasonably what was necessary to remedy the breach. It was particularly important to be specific about these requirements given the location within the Green Belt and AONB.

4. THE CASE FOR HEMLEY HILL ACTION GROUP

The material points were

98. The Hemley Hill Action Group (HHAG) comprised a number of local residents, including persons occupying nearby properties along Shootacre Lane (Doc.7). HHAG adopted the submissions made by the Council on the principal issue relating to the Green Belt subject, additionally, to the Group's residential amenity objections.

Green Belt/AONB harm

99. The harm was not merely by reason of inappropriateness. There was an obvious, brutal destruction of the openness and visual amenities of the Green Belt, which would be exacerbated by the additional development for which planning permission was now sought by Appeal B. This involved the high, close boarded fencing and the visual impact of caravans, mobile homes and the proposed utility buildings. The hard surfacing and enclosed layout were clearly seen from the site entrance, and the site was visible from other locations within the AONB. These conflicted with Green Belt purposes, and would be highly incongruous in the rural landscape, and highly damaging to the visual amenities of the Green Belt and the AONB. They would not reinforce or maintain the local distinctiveness of the countryside of the AONB, or protect the existing or future public enjoyment of it. Passing through the AONB at this location was the nationally important Ridgeway footpath. The scheme would fail to protect the enjoyment and visual corridor of this way contrary to Policy RT15.
100. The site could be viewed from a variety of locations over short and longer distances. The hedges along Upper Icknield Way formed partial visual barriers in the summer, but were much more open in the winter. Walkers were able to see things not viewed by car drivers or passengers. Required improvements to the site access (Plan A) would necessitate reduction of the hedgerow embankments as well as cutting back the hedge vegetation.
101. The impression was of an enclosed area with high walls with white structures protruding above this. Viewed from various local footpaths, the fences and white tops of the relatively few caravans on the site in recent months gave Hemley Hill unnatural straight lines and unusual colours rather than the rounded shape and natural greens and browns which were typical of the Chilterns. The appeals site was visible as a relatively small part of the whole landscape from Lodge Hill, Chinnor Hill, Whiteleaf Hill and Brush Hill nature reserve as well as other local footpaths and bridleways. It had had a significant impact on the wider landscape, introducing features eroding the essential open and rural character and beauty of the area. This impact would be materially increased by a larger number of caravans, the introduction of taller mobile homes and the proposed day room buildings.
102. Views from private land at the rear of the dwellings in Shootacre Lane were just as relevant as those from the public realm. It was residents adjoining the site who were the most affected by its visual impacts. It would be odd indeed if planning attached less weight to harm which they must suffer day after day, and more weight to harm observed by a member of the public on a day trip. The Appellant's position that visual impact from private land was unlawful as there was no right to a view from private land, was wrong. The impact of development on residential amenity (ie the amenity enjoyed on private land) was a material consideration, and this must include what is seen by the eyes.

Absence of contributions

103. There was a clear policy basis for planning contributions in this case. HHAG adopted the Council's submissions and evidence in this regard. The Appellant's objections to providing an Obligation were entirely misconceived. There was no good reason why 'bond' issues could not already have been addressed. The failure to provide an Obligation was on its own sufficient reason to refuse permission.

Harm to residential amenity

104. What was being applied for was a personal planning permission, and those who had been living on the site to date were among those who would benefit from that permission. It was therefore appropriate to consider what the impacts of the site had been thus far. They would not be any less or different in the future. They would increase. The evidence given by HHAG on residential amenity impacts was founded on their experience of what had happened to date. It ought therefore to carry significant weight. The Appellant's comparison with the potential for noise and disturbance from existing residential development was a false one. Nine houses on the appeals site would be equally objectionable. The context for assessing residential amenity was not abstract but concrete. It was the pre-existing, quiet rural setting which local residents had hitherto enjoyed. That peaceful setting was an amenity which could reasonably be expected in a home in the countryside and AONB.
105. Ms S Weir, an occupant of 'Hogia', Shootacre Lane, greatly valued the rural nature of the area, which was very quiet, particularly during the evening and night-time, and also very dark at night. The aspect from the rear of her property used to have an open country feel. The 6 ft high close boarded fence at the appeals site, elevated above the dwellinghouse and close to the rear boundary, was now claustrophobic and intrusive. Together with other local residents, she had experienced a lot of noise from the site, especially into the night. The noise emanated from car and caravan doors being closed, adults and children shouting, children playing, car horns being used to indicate returning home and the constant noise from generators. The vehicle noise, including slamming of doors, often occurred late at night and early morning – even on Sundays. During the summer they had been unable to enjoy their garden or even open the back windows. This was especially noticeable during warm weather. Her own son had had to have medication to help him sleep as a result of disturbance levels. At the request of the WDC Environment Service she had kept a diary of noise and smoke events at the site between May – September 2009 (Doc.20).
106. At the present time not many people appeared to be living on the site, and consequently, it was to be expected that if planning permission was granted and all plots were fully occupied, the noise would only get worse. This was all new noise in an area which had previously been quiet, making the impact much greater than in a not so tranquil location. Due to the elevated position and proximity of the site and the prevailing wind direction the noise carried straight into the adjoining homes and gardens. Many residents were no longer comfortable either being in or allowing children or animals onto the land directly behind the site because of incidents, which may have been accidental, of arrows being shot into the garden and a broken air pistol and other detritus appearing. The fencing was oppressive, and made the gardens feel enclosed. Sitting in her garden on a warm summer's evening was no longer as enjoyable, and she could no longer see the sun disappear behind Chinnor Hill. Her comments and the concerns of her neighbours about enjoyment of gardens were expressly in relation to the lawful garden areas at the backs of dwellings and not the agricultural land acquired beyond that.
107. The Appellant's culture involved bonfires and outdoor eating. The constant smoke and food smells generated during last summer had prevented her and her neighbours from enjoying their gardens, especially those who were asthmatic.
108. The previously dark skies of the area had been disrupted by on-site lighting. The need by appeals site residents for lighting to enable them to move around at night could not be reconciled with this. A lot of light was generated by the development, shining directly into her upstairs bedroom.
109. At the present time the tops of touring caravans were visible above the 2m high screen fencing. If permission was granted, hardstanding would be added on top of the hardcore now present to lift ground levels relative to the fence. Mobile homes, whose height had not been specified, would be taller than touring caravans, and likely to be in the range of 2.75 – 3.00m high. The day rooms were shown to be 3.75m to the ridges of their pitched roofs. All of the above matters amounted to conflict with WDLP policy G8 (Doc.P15 para 4.44).

110. Six of the adjacent properties should have a 3 metre wide legal right of access through the field to the backs of land which they now owned. This had been taken away from all the residents by the screen fencing erected right up to the individual property boundaries. This was further erosion of amenity.

Other considerations and the existence of Very Special circumstances

111. HHAG adopted the Council's submissions in relation to the Appellant's "very special circumstances" case, including questions of need and alternative sites, and made the following submissions of its own.
112. The Appellant seemed to regard his case as marginal in the sense that he had conceded that the circumstances which he relied upon could not justify a general as opposed to a personal permission. It followed from this that the level of general need must on his own case be accepted as modest. It was said that it was the personal circumstances of the occupiers which made the difference in this appeal.
113. In relation to personal circumstances, those advanced were not particularly unusual or acute. There had been no evidence to substantiate educational, health or financial matters raised orally. If personal circumstances were found in some cases to be persuasive as "very special circumstances", there would be a power to impose conditions on both appeal decisions to give effect to differential findings. Indeed, the decisions must reflect any differences in findings on personal circumstances insofar as those findings might justify permission for some, but not for others.
114. It was noted that most of the site occupiers who claimed to have a need to live on the appeals site had in fact been living elsewhere up until the date of the inquiry.
115. There had been no policy failings by the Council. It had authorised additional sites in its area, and adopted its Interim Policy Statement in advance of its DPD. Whatever else might be said, the appeals site was not a contender for allocation in any forthcoming policy. It had already been considered in the Baker Report (Doc.28), and rejected for reasons corresponding with those raised to it at this inquiry, including conflict with existing residential dwellings.
116. In considering these matters both individually and collectively, in line with the Court of Appeal judgement in *Wychavon DC v SSCLG & Butler [2008] EWCA Civ692*, the other considerations did not clearly outweigh the Green Belt and other harm. Very special circumstances did not exist, and the appeals should be dismissed.
117. On the alternative advanced of a temporary permission, any justification for such action must outweigh the temporary harm to the Green Belt, the AONB, nationally important footpaths and residential amenity. It was highly unlikely in view of the conclusions of the Baker Report on the site that the forthcoming DPD would allocate the appeals site, or that there was a need to delay so that the Appellant would benefit from any future site allocations. No material planning purpose would be served by allowing continued occupation of the land, or that any purpose that this would serve was sufficient to outweigh the substantial harm even a temporary permission would cause.
118. On the ground (f) appeal the requirement (c) was more precise than the Appellant's alternative wording which would not define what that condition was.

5. OTHER REPRESENTATIONS

The material points were

The case for other parties who appeared at the inquiry

Mr Joseph G Jones

(Statement, notes and documents at Doc.13)

119. He said that he was a Technical Expert appointed by the United Nations to give advice to the Advisory Group on Forced Evictions. He was also a Member of the Gypsy Council Executive Committee. Additionally, he acted for Buckinghamshire Floating Support which specialised in assisting Gypsies and Travellers with a wide range of issues, he was the UK Representative for the International Alliance of Inhabitants (a housing rights NGO), and he had been appointed the UK Representative to the International Romany Union in 2008.
120. In April 2006 he had assisted Tribal with their preparation of the GTAA as one of 3 community consultants. The majority of surveys completed in the Thames Valley were conducted personally by himself. Ultimately, neither himself nor the other 2 community consultants put their names to the report because they all felt that the figures in the report were too low. There were other discrepancies within it, including the omission of the site at Booker in High Wycombe.
121. Following occupation of the Hemley Hill site he had attempted to assist the residents in liaising with the Council. He gave an account of various events over the period following April 2009, including a residents meeting at the British Legion in Princes Risborough on 20 April 2009, communications with Council officers about their operation of the High Court Injunction, and breaches by the Council of the Data Protection Act in their committee report. He submitted documents which were part of these processes (Doc. 13 App.1-19). Events outside the public meeting had demonstrated an angry backlash from people of the area at the unauthorised use of the site. Although the Injunction was supposed to be a *status quo* one, its terms had made life very difficult for the people living on the site. Caravans that were substituted on the site, pretty much like for like, were deemed unacceptable and their removal insisted upon. Personal information about medical details and children's school details in the Council report were later redacted. Mr Jones criticised the role of Oxford Gypsy Services as the organisation now responsible for management of Gypsy sites in Buckinghamshire, as being more concerned with evictions than management.
122. There was an undeniable need for more sites in Buckinghamshire. If there were any empty pitches on local authority sites in Bucks there was a waiting list for them, and they would easily be taken by the existing resident's adult children. The former Gypsy Liaison Officer had told him in 2006 that there was a Bucks CC site waiting list of 120 families. He was not aware of any more recent figures for waiting lists since Oxford took over running the local authority sites. Mr Jones gave details of what he believed to be 8 Council sites in Bucks, not the 6 sites claimed by the Council's witness. Two of the Council sites were closed. Wapsey's Wood was the only Irish site that would be potentially available to the Hemley Hill site residents, if they were evicted. There were no empty pitches, and if there were they would be taken by relatives of the people living there.

Mr R Uglow, Chairman of Bledlow-cum-Saunderton Parish Council

(Statement at Doc.9)

123. The Parish Council, whose area the site lay within, supported the decisions of WDC. The site was in an AONB. The development would be seriously detrimental to the beauty and character of the landscape, it would detract from the enjoyment of others using local footpaths roads and bridleways, as well as local residents. A caravan site with high close boarded fencing could hardly be less in keeping with the local environment. The Parish Council opposed any conversion from agricultural to residential or business use other than

in exceptional circumstances. Such development should be located closer to main settlements. The site was in Green Belt, and was not a designated area for development.

124. The application did not address concerns about access to power, water, disposal of waste, noise and light pollution, or how site access by vehicles could be managed safely. The road was narrow, and the entrance partly obscured. The Parish Council would not support the removal of hedges in the AONB. Currently, the use of generators and floodlights was a serious nuisance particularly to the neighbouring properties.

CIlr Mrs Pam Priestley on behalf of the North West Chilterns Local Area Forum
(Statement at Doc.8)

125. Every Councillor took very seriously their duty to hand on to future generations the beautiful and precious landscape in as excellent a state as they could. This did not mean that they opposed every application in this area. They appreciated the fact that Gypsy and Traveller families had a need for accommodation, and supported the actions of WDC through their Interim Policy Statement. Where very special circumstances had been demonstrated, or it had been shown that the objectives of the AONB had not been compromised, they had permitted sites in both Green Belt and AONB.
126. There were, however, the most serious reasons for opposition to the use of the Hemley Hill site. They were greatly concerned about the impact of the Travellers' site on the open rural character of the AONB and Green Belt. This was an area much beloved of walkers and ramblers using the Ridgeway Path and Icknield Way. The Ridgeway Path was part of an 85 mile long ancient highway and national trail, used since prehistoric times, and remaining a most popular route for long distance walkers as well as local ramblers. The site fencing, mobile homes, caravans, buildings, cars and lorries were totally alien and inappropriate here, and had a most negative effect on both the immediate surroundings and views across the Saunderton Valley. They did not feel that the special circumstances being claimed by the Travellers in this case by any means outweighed the harm being done. Whilst acknowledging that each appeal should be decided on its own merits, they were also enormously concerned that a permission in this appeal would set a precedent which could be detrimental to any other area of AONB and Green Belt inside or outside Wycombe District.

Mr R Craft, Vice-Chairman of Lacey Green Parish Council
(Statement at Doc.10)

127. Lacey Green Parish Council, whose boundary adjoined the Hemley Hill site, fully supported WDC's position in refusing this application. The Chilterns were a nationally recognised and protected AONB, falling within the Metropolitan Green Belt. The appeal proposal did not accord with WCS Policy CS14, and was also contrary to 'Saved' policies of the WDLP, most particularly L1, GB2 and RT5. The Parish Council considered the planned development to have a detrimental effect on the enjoyment of users of the Icknield Way and the Ridgeway Path, both very ancient long-distance paths.

Mr R Voss, Planning Field Officer for the Chiltern Society
(Statement at Doc. 12)

128. Mr Voss said that he monitored the Princes Risborough area on behalf of the Society, and wished to register the Society's strong opposition to the appeals. The site was within the designated Chilterns AONB, and the development was clearly in breach of AONB policies designed to protect the special qualities of the Chilterns and to prevent land uses such as this one. Any special case exception in these appeals would set a serious precedent which would undermine all future efforts to maintain this special countryside. The Society also considered that a temporary permission should not be granted to this particular land owner without cautious consideration. In view of his track record the Society had a low confidence that any limitations and liabilities associated with such approvals would be met or complied with.

Mr T Davies, Chairman of Risborough Area Residents Association

(Statement at Doc.11)

129. The Risborough Area Residents Association (RARA) had over 500 members. RARA's objections to the Hemley Hill development had been made to WDC at the application stage. The Chilterns AONB was one of only 2 such areas within 40 miles of London, and was a major tourist and leisure area for millions of people. Between the large commercial centres of High Wycombe and Aylesbury this part of the Chilterns AONB was a green lung providing beautiful landscape and essential leisure facilities. There had been considerable investment in the Risborough area to promote tourism and economic activity through SEEDA, Tourism South East and local councils involving £80,000 on a visitors project to promote the area and on developing walking and cycling routes.
130. In RARA's view the special circumstances of this appeal were not sufficient to set aside the extensive planning protection that designation as AONB and Green Belt with the nearby Icknield Way and Ridgeway Path gave to this landscape.

Written representations

131. 675 letters and emails were submitted to WDC at the time of the planning application (45 supporting the application and 630 objecting to it (Doc.P6). The committee report at Doc.P9 App.A2) summarised the many representations made at that time. 411 letters and emails were submitted to the Planning Inspectorate in response to consultation on the appeals (Doc.P7). These overwhelmingly identified objection to the development, and encompassed matters for the most part raised by the various parties who appeared at the inquiry and summarised in this report. These focused on concerns at development within the Green Belt; objection to the impact on the AONB landscape and its enjoyment by walkers, including the Ridgeway and Icknield Way; loss of residential amenity to persons living in the area; unsuitability of the access to the site; distance from local amenities and services for occupiers; and lack of local infrastructure for the community. Others also expressed concerns at what was seen as blatant disregard for planning laws; loss of property values; the precedent effect for the Green Belt and AONB if this were to succeed; and concerns at increase in crime.
132. In a letter David Lidington MP (Doc.P8) drew attention to the extent of public concern at this development. He objected to it as the land was in both Green Belt and AONB, marring the AONB landscape for local residents and visitors; the amenity of local residents had been adversely affected; the site was not served by public transport and was distant from shops and public services; and because the applicants had deliberately set out to flout the planning rules. It would undermine the integrity of the planning system were they to benefit from their actions.

6. CONDITIONS

133. Permission might be granted in a number of forms reflecting the separate appeals against the enforcement notice and refusal of planning permission and the possibility of permanent or temporary consent. The list of conditions set out in Annex A for a permanent permission for Appeal B, together with listed variations for other forms of decision, reflect these variable factors. The conditions are those which I consider to be appropriate and necessary to impose in those individual circumstances.
134. Lists of the conditions suggested by the Council and by the Appellant are at Docs. 36 & 37. These were discussed during the inquiry, together with further conditions proposed by HHAG. Some measure of accord was reached. The following comments are directed to the numbering used in Annex A.
135. Condition 1 would be necessary to reflect the exceptional basis for permission for inappropriate development within Green Belt. For the same reason, and because of the key role which personal circumstances would be likely to play in any decision to grant planning permission at this site (as discussed in the next section) a condition 2 making permission personal to the named occupiers should be imposed. A site restoration condition 3 would be an integral part of such an arrangement.
136. Conditions 4 and 5 relating to the size of vehicles kept at the site and commercial activities would be required to avoid harm to residential amenity of residents of properties located to the north-east. Condition 6 would impose a limit on the scale of development in line with the terms of the application and the works carried out thus far, as further intensification of residential use could have ramifications for the visual impact of the site. Condition 7 is needed to bring under control those aspects of the development scheme, which had not thus far been sufficiently detailed in submitted plans and documents, in the interests of protecting the visual amenity of the area, and the residential amenity of near neighbours. The detailed format of this condition is made necessary by the fact that development has already commenced. The landscaping maintenance condition 8 would be needed for the same reasons as number 7. Condition 9 would be required to secure a satisfactory standard of appearance. Conditions 10 - 13 would be related solely to the works connected with the erection of 9 day rooms because of the possibility that they might reveal material of historic or archaeological importance.
137. There were a number of additional issues relating to conditions, including other conditions suggested by the parties.
138. Differences between Appeal B and the deemed application in Appeal A would not require differences to many of the conditions being suggested here with the exception of those related to the 9 day rooms included in Appeal B. These would amount to separate operational development not included (or treatable as ancillary matters) in Appeal A. As a result the suggested condition 7 would require modification in this respect and the archaeological/historic concerns of 9 - 13 would also not be needed.
139. Temporary planning permissions for a period of 5 years (being the period after which circumstances could be anticipated to change in terms of pitch availability after adoption of the DPD) would require the same conditions as permanent ones in both A and B with the exception that landscaping works should be excluded from condition 7. Although the Appellant was seeking permission for a full scheme of works in each case, I consider that imposition of landscaping requirements which would be geared to the longer term and ineffective during a 5 year period, would be excessive.
140. Although not put forward in writing, the Appellant suggested that a form of 2 year permission could be granted to the development if it were decided that permanent consent was justified, apart from the lack of completion of S106 Obligations to deal with infrastructure matters. Such a course of action would be allied to a clear indication by the decision maker that this deficiency was the only obstacle to a permanent permission. This

would then enable the parties involved at the site to prepare and conclude the necessary documents, and submit the required bond monies. The Council indicated that a temporary permission of this kind might be an option if it was found that the lack of S106 Obligations was the only obstacle, although they doubted that it need be as long as for 2 years. If such an approach were to be followed, a 2 year time scale would be an appropriate recognition of the processes involved to secure the Obligations in respect of 9 separate plot owners. Annex A sets out how other conditions should be treated in this eventuality.

141. Further matters would be raised by any decision which permitted the use only of certain plots on the basis of the personal circumstances of the particular occupants. Any form of split decision would have to be accompanied by a plan identifying those parts of the site permitted, and the enforcement notice plan would also have to be amended to reflect those areas where its provisions were being upheld. Such a course of action is discussed in the following section setting out my conclusions. This approach would also have ramifications for conditions relating to site restoration, as I have set them out in Annex A.
142. The condition specifying the maximum weight of vehicles to be stationed at the site would be sufficient to control the amenity effects of vehicular traffic without additional restrictions suggested by HHAG on the hours of their use. There would be enforceability difficulties with such a suggestion. The suggested condition requiring approval for the siting of the static caravans and mobile homes was considered necessary by HHAG as part of the measures to protect the rights of way by neighbouring owners to gain access to their land. This matter could, however, be dealt with sufficiently by including these details together with other aspects of site layout within the details to be required under the 'umbrella' condition 7 setting out timetabling provisions for site development as well as outstanding details.
143. HHAG's concerns at the potential privacy and outlook effects of structures being higher than indicated on currently submitted details would raise problems in practice where the height and floor levels of mobile homes and other caravans varied, and were effectively matters outside planning control. A condition specifying maximum finished site levels could be included within the umbrella 'condition', and would provide a measure of control over the matter in relation to further alterations to ground levels. Bearing in mind the additional site survey work required for these details to be prepared, the time to be specified for their submission should be set at 3 months. WDC concerns to minimise this time because of local highway authority concerns over safety of the existing site access would not justify a lesser period. Although a more detailed plan had been submitted during the inquiry showing access works, these still required further refinement to clarify impacts on the hedgerow, and the details should remain within condition 7.
144. The condition suggested by the Council (number 7 in Doc.36) restricting use of the day rooms as sleeping accommodation would be unnecessary, and raise enforcement difficulties. If the buildings were converted into general living accommodation, that could be a matter for separate enforcement.
145. HHAG's request for a condition expressly protecting residents' rights of way across the land would go beyond the reasonable scope of a planning condition in protecting private interests in land. The control over site layout should be sufficient in planning terms, and the addition of a written clause to the 'umbrella' condition indicating that matters approved under it "*should ensure that any right of way across the site for the benefit of adjoining land to the north-east are not obstructed*" is unnecessary. HHAG's wish for a condition controlling bonfires and fumes at the site would represent a duplication of controls where other legislation was already available to regulate any pollution concerns of this type.

7. INSPECTOR'S REASONING AND CONCLUSIONS

Numbers in brackets [n] indicate source paragraphs in the report from which the Conclusions are drawn.

Ground (a) & the deemed planning application in Appeal A and Appeal B

146. The development in the 2 appeals was effectively the same, even though the works and use currently on the site (and thereby expressly the enforcement notice development) were incomplete [8,9]. A permission under Appeal A for a 9 pitch Gypsy and Traveller caravan site would enable the fuller physical development and occupation embodied in the Appeal B scheme, subject to conditions such as one imposing a limit on caravan numbers. The only substantial difference would be the absence of day/utility rooms on each pitch, which would be separate operational development requiring planning permission. Such structures were, however, recognised to be ordinarily part and parcel of a permanent Gypsy site.
147. The appeals also related to the same site. The discrepancy over the south-western site boundary on submitted plans would be overcome by substitution of the plan submitted by the Appellant at the inquiry (Plan D) for that accompanying the application. This was agreed by WDC [4], and would in my view be appropriate in the interests of accuracy.
148. Introduction into the inquiry of an email from the Head Teacher of Bledlow Ridge School addressed to a WDC officer was the subject of objection by the Appellant as an unlawful submission of sensitive personal information contrary to the Data Protection Act 1998. The Council's response [92] identified a number of circumstances where the Act permitted the processing of such information by local authorities. One of these was where the information was necessary for the purposes of legal proceedings. Where the educational needs of children based at the appeals site was an issue before the inquiry, I am satisfied both that the planning inquiry as a statutory inquiry fell within the meaning of legal proceedings, and that the information was potentially relevant. The email therefore falls within the exemption. I have therefore treated this as an inquiry document, now listed as Doc.41.
149. The named occupiers of the appeals site were identified in relation to identified plots on a submitted plan [6]. All had Gypsy status, and were of Irish Traveller origin [23].
150. I am aware of a CLG Press Release dated 29 August 2010, announcing the intention of Ministers to revoke Planning Circular 1/2006, which was issued after the inquiry had closed.

An overall approach

151. It was accepted that the appeals involved inappropriate development in the Green Belt [21, 24]. Para 3.1 of PPG2 stated that inappropriate development should not be approved, except in very special circumstances. Whether very special circumstances existed to justify permission in this case provides the overall issue to be decided. Para 3.2 of PPG2 stated that "*Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations*". This sets the framework for consideration of the subsidiary issues which provide the basis for an overall assessment of the balance. The cases for the main parties were presented in this manner, and have been reported in this sequence.
152. The harm by reason of inappropriateness attracts substantial weight in its own right [24].

Harm to openness

153. A residential caravan site was a use of land which had a clear impact upon the openness of the Green Belt. The appeals site was a sizeable area of 0.8 hectares, whose physical character had been substantially modified by the use, associated activity and operations, and would be altered further by completion of the scheme. The erection throughout the site and along its boundaries of tall screen fencing directly inhibited openness. The hard surfacing of extensive areas, the parking of vehicles, and the siting of caravans, mobile

homes, day/utility rooms, and domestic paraphernalia all had the effect of reducing the openness of the land involved and substituting what was effectively an urban land use. In view of the site's location, it was clearly in conflict with the Green Belt purpose, set out at 1.5 of *PPG2*, of assisting in safeguarding the countryside from encroachment. Having regard to the extent of land area involved, my conclusion is that the harm to openness is a matter which adds substantial weight to the harm by reason of inappropriateness.

Other harm

Visual character of the area/AONB effects

154. Impact of the development upon the visual qualities of the Green Belt and effects upon the Chilterns AONB were in this case one and the same thing. *PPS7* confirmed that areas such as this designated under the 1949 Act as an AONB had the highest status of protection in relation to landscape and scenic beauty. The conservation of the natural beauty of the landscape and countryside should therefore be given great weight in development control decisions within AONBs.
155. The appeals site lay on a hillside slope within a tract of farmland forming part of the foothills of the Chilterns escarpment [11]. The landscape of this area was of high quality. The Appellant's claim that this was not "remote countryside" because of its proximity to the Shootacre Lane dwellings [27] might be technically correct, but that should not in my view significantly downgrade the quality of the surroundings, or mean that the appeals development had had a limited impact upon character.
156. The site was located in countryside some way to the south of the effective limit of the built up area of Princes Risborough. The Shootacre Lane dwellings represented an outlier of modern roadside ribbon development of a kind which appeared to have been permitted in the area until the 1950s or 1960s. It had not in this instance had the effect of visually extending the urban area of Princes Risborough to its southernmost tip. The ribbon of dwellings was now effectively an element of the rural landscape, with the dwellings, at least in part, assimilated by the passage of time and the growing maturity of tree and other vegetation in their sizeable garden plots. The site was fairly close to these established dwellings. Alterations to the intervening strip of land at the rear of the Shootacre Lane properties, now owned by the householders, had thus far been modest in their impact [10], although the creation of separate land parcels had been harmful in changing the 'grain' of the landscape over land where a large agricultural field had previously existed. Because of the relatively small gap now remaining between the caravan site and the dwellings, the appeals development had tended to create the appearance of a larger single block of developed land uses.
157. The extensive screen fencing, large scale provision of hardstanding and access roadway, a newly engineered site entrance from Upper Icknield Way, the caravans and mobile homes, day/utility rooms and occupiers vehicles would lend an urban character to an otherwise open field. This would be inevitably detrimental to the special character of this rural area within the AONB. The Appellant argued that such harm would, however, be limited in practice because of the very specific characteristics of local topography and development in the area which restricted views of the site to a substantial degree [25-27]. This was a matter to which I gave detailed consideration during my inspection of the appeals site and its immediate surroundings and during my visits further afield to public rights of way and vantage points around the area.
158. Short distance views of the site from publicly accessible land were possible from Upper Icknield Way as it passed the site and from the open land around the junction of that lane with Shootacre Lane. The tall hedgerow along the site frontage, which extended in both directions beyond it, offered substantial screening to views from Upper Icknield Way at the time of my inspection during a summer month. Walkers passing the site might be aware of the screen fencing immediately behind the hedge, but vehicle drivers would probably not. The exceptions were of course the views of screen fencing from the Shootacre Lane cross-

roads and views at the site entrance from the lane. Although now somewhat enlarged from the earlier field access, this access and trackway were still set at an angle, and visibility of the developed features of the site was available to passers-by only over a relatively short distance. From this location the discordant features of the site's development were clearly evident.

159. Visibility from this point would increase with improvements to the vehicular access now being proposed to secure a wider roadway, an engineered bellmouth and improved highway sight lines [5]. The rural character of Upper Icknield Way, as a slightly sunken lane bordered by tall hedgerows, would be harmed by these works as now illustrated. The attendant opening up of views of the appeals site would increase perception of the site's discordant appearance. As to the implications for the hedgerow of achieving the access standards of width, geometry and visibility, this was viewed during the site inspection. From the available information it was not possible to form a detailed judgement on the extent of damage likely to established vegetation and thereby its screening value. From what I was able to see, established small trees and bushes within the hedgerow would be likely to be affected to some degree with attendant increase in visibility of the appeals development over a longer length of road frontage.
160. The hedgerows along Upper Icknield Way were predominantly composed of broadleaved species, and their screening value would be quite different during leafless winter months. Although I did not view the location under these conditions, I am unable to agree with the Appellant that "twig cover" at these times would remain largely effective in shielding the developed features of the site from close quarters [25]. The vegetation would filter visibility of the development behind, but not in my view avoid it. This would be particularly the case for walkers following the Icknield Way and the Ridgeway Path, passing the site and adjoining area at low speeds and with interest in the features of the countryside through which they were passing. These popular walking routes would be likely to remain well used during the winter months. The perceived effects to the character and natural beauty of the AONB would amount in this context to material harm.
161. Location of the appeals site on a hillside slope a little below the summit of Hemley Hill itself, and the position of the row of dwellings along Shootacre Lane meant that views of the land from countryside vantage points in the middle distance were heavily restricted, as suggested [25]. Visibility of the site and its development was thereafter progressively opened up with increasing distance from Hemley Hill and Shootacre Lane, and the incidence of higher land both to the south-west and the north-east.
162. I viewed it from various points along local roads and footpaths, and from more distant available viewpoints along the Ridgeway Path at Lodge Hill and Brush Hill. From Brush Hill the Shootacre Lane dwellings provided the immediate foreground, softened by the trees within the sites of houses. The appeals site development was, however, clearly visible above this as a long straight band of screen fencing with the upper sections of white coloured caravans seen above this. A similar situation prevailed in views from Lodge Hill, a similar distance to the south-west, from where the fencing and caravans were seen above the local crest of Hemley Hill.
163. As to the Appellant's suggestion that submitted photographs taken from these positions rather made their point about the site being scarcely visible [26], my experience was that the photographs did not do justice to the reality of the views which could be experienced from these locations and others along paths and local roads. Lodge Hill and Brush Hill were popular vantage points along the Ridgeway Path. The appeals site only represented a small part of the broad sweep of views of the AONB landscape possible from them, but the features were in my view both clearly visible and discordant in their impact because of the nature of the works and structures involved. I would expect those aspects to be more intrusive in the winter landscape. I have also to take into account that the extent of development on the appeals site in terms of mobile homes and day/utility rooms would increase substantially following a grant of planning permission.

164. My conclusion is therefore that the development has already caused clear harm to the scenic beauty and rural character of the AONB landscape, and that harm would be increased by the fuller development of the land being proposed. Mitigation of this by the proposed landscaping measures would achieve little over the short term with hedge masking of the boundary fencing unlikely to be effective for 5 – 10 years, and tree screening/breaking up of the silhouette of development only likely to have effect after 15 – 20 years [69]. Benefits would be achieved ultimately for longer distance views of the site, although I doubt that visibility from the immediate area alongside Upper Icknield Way would change much. In appraisal of these appeals, the harm attributable to the AONB landscape is significant.
165. This is a conflict with the objectives of AONB designation and with the terms of development plan policies WDLP L1 and WCS CS17, which seek to conserve and enhance the designated area. Substantial weight should be given to this as an element of 'other harm'. I do not consider that this weight should be materially reduced as a result of the argument that any sites ultimately found by WDC to meet unmet Gypsy need were likely to be within Green Belt and/or AONB [47]. Alternative sites within Green Belt would cause the same harm by reason of inappropriateness and loss of openness, but half of the District remained outside Green Belt. A larger percentage was AONB, but what would matter more in such cases would be the extent of individual harm to AONB objectives. Sites considered thus far had included locations in one or other of these designations, but there was no inevitability that sites would be within such protected locations, or that other AONB sites would cause equivalent harm.
166. The impact upon the natural beauty and character of the AONB was additionally a source of conflict with WDLP Policy RT15 and WCS Policy CS19 in terms of the proximity of the Ridgeway Path [67,99]. This route was a significant component of the area's leisure and tourism resources. The development detracted from its visual corridor. This matter adds further weight to the harm arising from the appeals development.

The site access

167. The implications of proposed alterations to the site access for the character and appearance of the area have been considered in the preceding section. Concerns about the adequacy of the access and its safety [124, 131], a matter included as reason 3 for issue of the enforcement notice, would, however, be adequately addressed by the works shown on the revised drawing submitted at the inquiry [28].

Financial contributions to infrastructure

168. The principle of developer contributions towards meeting the impact of development on local services and facilities within the district was now firmly established in development plan policy for the area [19]. This principle and its potential applicability to development by Gypsies and Travellers were not disputed by the Appellant [29]. It accorded with the Policy Test at para B9 of ODPM Circular 05/2005. No challenge was made to the formulae and payments levels specified in the SDD and associated Developer Contributions document [19]. It was accepted by WDC that the regime established by WCS Policy CS21 would not be applicable to a temporary planning permission [73].
169. The Appellant's initial concern was with the mechanics of achieving compliance in the context of this case where there was one Appellant, arguably 3 owners of the title to the site, and the equity was in 9 plots [30]. The practical difficulties which he foresaw in the completion of 9 separate S106 Obligations and the implications for other site occupiers of a failure by any one occupier to complete the process would be real, but would not be a reason to set aside the legitimate strategy of WDC to secure contributions, commensurate with the development being proposed, towards the additional demands imposed upon the named local services.
170. As to the issue of principle raised by the Appellant against the system, the effect on the value of a planning permission for a Gypsy site being made on a personal basis and the ability to use it as a basis for raising finance [31] are not matters upon which I am

competent to comment. Such a condition might be seen as making a permission less permanent than an unrestricted one, but it would, nevertheless, be expected to be of significant duration and the demands imposed upon capital provision for local services would still have to be met. No account appeared to have been taken of the guidance at B10 of C05/2005 on the need for negotiations between developers and local authorities where the economic viability of a scheme was seen as threatened by the application of the system. No such discussions had taken place in this case at the Appellant's request, and I see no reason for this requirement to be set aside on the basis of the general concern raised.

171. In the absence in these appeals of submitted S106 Obligation(s) it would not be possible to require their completion by a condition of planning permission. The circumstances of this case, and in particular the partly implemented status of development, could not alternatively support the use of a 'Grampian' condition to secure their conclusion prior to development commencing.
172. The absence of Obligations(s)/Agreement(s) to secure the specified financial contributions, and the lack of circumstances which might justify setting the regime aside, are a further element of conflict with the development plan in terms of WCS Policy CS21. It adds further significant weight as a matter of 'other harm' to the grant of a permanent planning permission. This matter would not of course count against the development in the consideration separately of the basis for a temporary consent.

Residential amenity

173. Objections on this ground were raised by HHAG [104 – 110] and in the representations of interested persons and letters from third parties [124, 131 & 132]. These raised matters largely concerned with noise and disturbance generated by the appeals site development, effects upon outlook from the backs of the dwellings along Shootacre Lane, loss of privacy, concerns about light pollution and the environmental impact of bonfires/smoke generated by occupation of the site. HHAG effectively, and in my view, properly conceded [106] that no account should be taken of any domestic use by householders of the intervening strips of 'agricultural' land between their back garden boundaries and the appeals site.
174. In significant measure the Appellant's response was that separation distances between appeals site plots and the existing houses in Shootacre Lane were of the order of what might be expected and therefore found acceptable within a residential area. Whilst that would be true, it was in my view an over-simplistic response. The row of houses along Shootacre Lane did not constitute a residential area, but a small residential enclave within countryside where the living environment for occupants was materially different. Although each dwelling would already have a close neighbour along at least 1 side boundary, the setting for the properties was of a quiet countryside area. The addition of 9 new dwellings to their rears would have a material impact upon this in like manner to 9 caravan pitches. This would include a range of impacts, including the potential for noise and disturbance, and loss of privacy.
175. The visual impact of the development on the residential properties was not a matter of a claim to a right to a view over private land, as suggested [33], but a question involving the outlook enjoyed by residents of those properties as a matter of private residential amenity. Where before there were uninterrupted views over farmland and beyond Hemley Hill to the wider countryside and higher hills of the Chilterns, there was now only an uninterrupted block of tall screen fencing over a distance of about 120m with the white tops of caravans protruding above it. This constituted harm to amenity by a material loss of outlook for occupants of the dwellings, notwithstanding the distance between their back garden boundaries and the line of fencing. That visual impact was made the greater by the significant change in levels between the sites.
176. The level changes would also contribute to the reported perceptions of increased noise and disturbance arising from activity on the appeals site, increased awareness of light pollution from on-site floodlighting, and loss of privacy. A number of the matters raised would be

capable of being controlled either by other legislation (in the case of bonfires) or by conditions of planning permission (in relation to landscaping, siting of caravans, and external lighting).

177. Nevertheless, my conclusion is that, having regard to the pre-existing environment of the area, the development has resulted in material harm as a matter of some conflict with WDLP G8 [16]. The impacts arose from the juxtaposition of uses of a residential nature, but it was a source of harm which adds some further weight to the objections to the development.
178. Protection of individual householders' rights over parts of the appeal site to allow them to gain access from the rear to the additional land which they had acquired would involve a separate legal matter between individual land owners rather than a planning consideration. Where the respective parties were aware of the situation, it would be perfectly possible to take any such right into account in the detailed layout of development so as to ensure that it could be retained. This was a matter which could readily be accommodated in consideration of such a detailed scheme in response to one of the conditions discussed at the inquiry (and included within the Annex to this report).

Other considerations

Unmet need for Gypsy Sites in the Area

179. Since publication of C1/2006, provision of sites for Gypsy/Traveller accommodation had been guided by the findings of the Thames Valley GTAA. This study identified an indicative need for 8 additional permanent pitches over the period 2006 – 2011 within Wycombe District. WDC's evidence was that planning permission had been granted thus far over the period since 2006 for 9 new pitches within the district, of which 1 was unimplemented [79]. Recent work had been carried out in the Baker Report. The Interim Policy Statement (May 2010) [IPS] had identified as potentially suitable to meet shorter term needs 2 additional sites at Dry Banks and Five Oaks Farm [77]. Additional provision to meet identified need would be in the Development Management DPD, programmed for adoption in May 2014.
180. Although the GTAA provided the best single indicator of need in this local area, criticisms of its assessment [42,120] appeared to have foundation. WDC accepted that its use of assumptions in the place of personal interviews with occupiers of sites in their area was a deficiency, and one which they had sought to remedy in the work carried out leading up to approval of the IPS [77]. This process was able to identify need in the form of unauthorised sites and household formation of families on existing sites. This would have provided only part of the picture. The GTAA figure of 14 pitches becoming vacant through normal turnover over 2006 – 2011, was argued to represent an assumption of outward migration from the district of that magnitude over that period [42]. It was not counterbalanced by any figure for inward migration, and was seen as an error which had been found in other area GTAAs. It was not possible to examine all the assumptions upon which the GTAA figures for Wycombe were calculated (see Doc. P9 App.A11). Certainly there was no equivalent figure allowing separately for the movement of Gypsies into the district over the 5 year period. WDC did not challenge the Appellant's evidence in this respect that the GTAA calculation was flawed.
181. That would not necessarily mean that need ought simply to be increased by 14 pitches. The evidence was not there to assess net flows into and out of the area, or to accept that pitch vacancies arising from the death of individuals was insignificant numerically [42]. It suggested that a measure of unmet need remained locally, although not substantial. This would be consistent with the evidence to be drawn from details of planning applications and decisions within the district in the last 5 years [82].
182. The additional figure proposed by the Appellant of 10 pitches to allow for household growth between 2011 and 2016 would be based on rates of household formation amongst Gypsy families widely used in studies of the subject [42]. This would of course relate to the need

to plan for the next 5 years 2011 to 2016, which would be considered by the Council's DPD. It would not, however, be an indication of currently unmet need in the area.

183. There was a personal need for accommodation by the 9 families now occupying the Hemley Hill site. Although not travelling and living together on a long term basis as a group, they had not over the period before moving to the land had the benefit individually of a lawful settled base of their own. Although Eileen Cash, Kathleen Murphy and Margaret Hanrahan had spent time living in conventional housing (but not immediately preceding occupation of the appeals site) [52], the current occupiers of the site all had a personal need for a caravan site.
184. Their occupation of this site might be said to reflect unmet local need to some degree, although the evidence of their movements and places of residence before moving to the site [51, 52] was more indicative of something which appeared to be less in dispute – that there was a significant level of unmet need within the wider area of the local authorities within Southern Buckinghamshire [44]. The timescale for dealing with need issues within Wycombe was established by the DPD process, but there was no evidence of the timetable for addressing issues within this wider area.
185. WDC argued that, following revocation of RSS, it was for them as the local authority to assess and meet the needs arising in their area [84]. The guidance accompanying the DCLG's Chief Planner's letter dealing with the implications of revocation made it clear that "local authorities will be responsible for determining the right level of site provision, reflecting local need and historic demand". Whether such need should relate expressly to defined district authority boundaries was less clear. Past co-operation between authorities in the Thames Valley area appeared to recognise that individual district boundaries did not reflect the pattern of living of the travelling community. Certainly, in considering at the inquiry possible locations where the appeals site occupiers could move to, the Council sought to have regard to sites in adjoining local authority areas within South Buckinghamshire. Having regard to the extent to which the situation within this wider area is relevant to the issue, my conclusion is that there is currently a local need for further Gypsy sites, and that this is a consideration which weighs in favour of the appeals.

Alternative sites for the appeals site occupiers

186. Alternative accommodation had to be suitable, available, affordable and acceptable.
187. It was certainly clear that there were no current opportunities to accommodate the 9 families as a single group. They had not, however, previously travelled together as a single extended family group [51], even though they had individually met up with others from the site from time to time. Provision within a single location for all 9 would not be an absolute requirement.
188. Healthcare and educational links appeared to have mainly been established since the time of occupation in April 2009, although the extent to which limitations on school attendance had been a product of a continuing travelling lifestyle or perceived difficulties arising from the High Court Injunction (with pitch owners spending time elsewhere), was unclear [8, 114]. An alternative location outside this part of Wycombe District would disrupt continuity of education for those children now enrolled at local schools, but the past links of site residents had been spread over a wider area, including other parts of Buckinghamshire and Oxfordshire.
189. Of the various alternatives suggested by WDC [87], the occupation of conventional social housing by those occupiers who had spent some time in 'bricks and mortar' accommodation would not be a realistic alternative, having regard to their evidence of the problems which they had experienced and their aversion to it [52]. A short term solution of returning to the pitches of relatives or friends at sites such as Weston Turville would on the evidence of availability of pitches be an invitation to 'double up' on other Gypsy plots. That would not be a reasonable requirement. Other site occupiers, who currently rented other Gypsy pitches

on a short term basis, pending the outcome of the appeals, could presumably remain where they were, but without any form of security for such rentals.

190. Much inquiry time was spent in discussing the availability of other sites in the district and adjoining parts of Buckinghamshire. This included established Gypsy sites, and identified opportunities for bringing land back into use or developing new pitches. These raised many detailed issues about the prospects of using land for this purpose, current levels of occupation at particular sites, and issues of land ownership and compatibility between individual groups of Gypsies. It is impractical for me to form conclusions on all of the individual cases as specific alternative sites for the Appellant and other occupiers. Their potential to provide accommodation for Irish Travellers, such as those now living at Hemley Hill, over a longer timescale was not clear cut, but it was effectively accepted by witnesses for WDC that there were no immediately available alternative sites [44]. This took into account the waiting list situation at publicly owned sites within Buckinghamshire, and issues of ownership, family control of individual sites, and compatibility of groups.
191. Beyond the short term it is difficult to assess the prospects of the various "opportunities" identified by the Council [86,87]. Of the 2 sites now identified in the IPS, the Five Oaks Farm site appeared unrealistic in that its identification was effectively seeking to deal with longstanding unauthorised occupation. The Dry Banks land was said to be larger than the short term pitch provision proposed by the IPS (Doc.P12 App.PJ8.2), but the land was owned by a Romany Gypsy family [45]. The Baker Report and IPS had identified "Sites for Further Investigation" [87] to meet medium and longer term need. This suggested that the groundwork existed to identify further sites in the event of a need being found, although there was no commitment to pursue these in relation to the persons now on the appeals site, or in advance of DPD preparation. There was no evidence to assess the further claim by WDC that there was no reason to suppose that other potentially suitable land outside Green Belt and AONB, purchasable at agricultural land value, could not be found in the north of the district or in neighbouring districts [87]. Whilst this would seem bound to be true, availability of such sites could not of course be assumed.
192. Two site occupiers indicated that they had been looking for a site for a number of years [51], but there was no detailed evidence of such a search or the options pursued. It does not add materially to the weight to be given to lack of available pitches. None of the occupiers had placed their names on waiting lists for Council run sites within the area [85] on the basis that there was little point in such action. A number of site occupiers had at some stages in the past lived at the Council run site at Wapseys' Wood, Gerrards Cross [51]. Pitches at this site were no longer available, and the site occupiers indicated in their evidence that they were unwilling to consider this as an option because of the site's history of violence and anti-social behaviour [44]. This stance was probably reasonable in the past when this site had had serious problems, but would probably not be so if pitches were now to become available at this location.
193. There were no immediately available sites as alternatives either in Wycombe or neighbouring districts. The prospects of suitable and available sites coming forward in the short term also appeared limited. There would be a possibility that some at least of the site occupiers would run the risk of 'returning to the roadside', although no inevitability about this for all 9 occupiers. It is, however, a matter which adds potentially to the impact upon the occupants' Article 8 rights, whilst at the same time itinerant camping has ramifications for the public interest. This is an issue which weighs materially in support of the appeals.

Personal circumstances

194. C1/2006 stated that Gypsies and Travellers were believed to experience the worst health and education status of any disadvantaged group in England with a link between lack of good quality sites for them and poor health and education. HHAG's argument that the personal circumstances advanced in this case were not particularly unusual or acute [113] would not therefore mean that such a finding would result in little weight being given to this factor.

195. There were currently 12 children of school age at the site [54]. Although most site occupiers retained a travelling lifestyle, the Appellant's evidence was that the majority of school age children were now enrolled at local schools (Table at Doc.P9). Accessing education from no fixed address, or from a series of temporary and/or unauthorised sites would be problematic. On the basis of my conclusions above about alternative accommodation, there would be a clear risk of continuity and stability of education being adversely affected by dismissal of the appeals. This adds weight in the overall balancing exercise, particularly in the case of Johnny Hanrahan who had been diagnosed with ADHD [52].
196. A total of 9 individuals were said to need regular visits to GPs [53]. Healthcare issues are also matters to be accorded weight even if not of an unusual degree of incidence or severity. The notable exception to the general pattern of needs was Kathleen Murphy's 25 year old daughter, Margaret, who was blind and had a malignant brain tumour [53]. In her case a settled base would be of great importance to maintaining family support, and her healthcare links both locally and with her consultant at Stoke Mandeville Hospital. The uncertainty which would attend dismissal of the appeals was therefore a matter of more significant weight in the balance in her case. If her individual circumstances were seen as of particular importance, I nevertheless doubt that they would warrant separately either a full permission for the whole site, or an individual pitch permission with others refused. The Appellant did not seek this latter course of action [60], arguing that family links and mutual support from the whole group was the basis of the personal case. The pitch occupied by Margaret Murphy was located at the north-western limit of the site. If her pitch were permitted in isolation, the full access roadway would have to be retained; water, drainage and electricity services (not yet present) would have to be installed to the furthestmost point with all costs borne by a single plot; harm to the Green Belt and the landscape would still be significant; and site restoration of the remainder would be more complicated.
197. My conclusion is that these personal circumstances are separately a matter of significant weight. If they were held to be the determining factor in the grant of a permanent or temporary permission, such a permission should be made subject to a condition limiting occupation to named individuals.

Failure of Policy

198. The failure being claimed by the Appellant was expressed in relation to the guidance at para 12c) of C1/2006 on meeting short term under-provision. The 2006 GTAA was the basis upon which such need up to 2011 was measured in accordance with para 20 of C1/2006. That study had been commissioned by WDC in association with other local authorities in the Thames Valley region, and it appeared subsequently to have adopted its findings of need for additional pitch provision in its development control decisions, which had resulted in permissions for the numbers specified in the GTAA. Any more recent evidence of a greater level of need would not amount to a failure of policy on the part of WDC, particularly where it had acted to deal with the situation by approval of the IPS. A process was now also in place following the inclusion in the adopted Wycombe Core Strategy of Policy CS14 (in line with C1/2006's requirement on setting out locational site criteria) to guide allocations within the now timetabled DPD.
199. Reference to the need to accommodate Gypsies and Travellers earlier in *PPS3* would not mean that its paras 54 and 71 requirement to maintain a rolling 5 year supply of deliverable sites applied also to Gypsy and Traveller accommodation. Policy on this was in C1/2006, to which *PPS3* was cross-referenced.
200. The above matters do not add to the weight of other considerations in the balance.

Race Relations Act considerations

201. The duty under S71(1) of the 1976 Race Relations Act is to have due regard to the need to achieve the goals of eliminating unlawful racial discrimination and promoting equality of opportunity. The officer report into the appeal application (Doc.P9 App.A2 para 5.67) explicitly drew the Council's attention to this provision, and explained how a balance had

been drawn between the interest of the land owner(s) seeking to develop the land, the interests of neighbouring landowners, the wider interests of the community and the protection of the environment. Proper regard was had to the duty under the Act.

202. The Appellant's focus on inequality issues was his comparison [57] between how the site occupiers were treated by WDC, and how the acquisition of land by adjacent residents had been handled by the authority. I see no basis for the claim. WDC had taken speedy action in securing a Temporary Stop Notice and High Court Injunction in relation to unauthorised occupation of the appeals site as the works and use involved a very clear cut breach of planning control in conflict with well established policies to protect the Green Belt and AONB. Although residential garden use of agricultural land within the Green Belt would probably have been a breach of Green Belt policies, the nature of the use being instituted by the purchasers in 2004/5 was by no means as clear cut as a breach of control [10]. The Council had carried out investigations, and had corresponded with individuals about the criteria to be applied in judging whether works or activity on the land amounted to a material change of use to a residential garden. The matter had not led to enforcement action over 4 – 5 years, but that was not demonstrably a product of inequality of approach.

Human Rights considerations and the overall balance

203. Dismissal of the appeals would result in an interference with the occupiers' Article 8 ECHR Rights to respect for their private and family life and their home. Factors bearing on the balance to be drawn on this question have been for the most part discussed in the preceding sections, including on the one side the harm to the Green Belt, the AONB landscape, the infrastructure needs of the local community, the impact upon the residential amenity of neighbours; and on the other side the needs of Gypsies in the locality for accommodation, the availability of alternative accommodation for site residents, and their personal circumstances.
204. Failure of the appeals would amount to a significant interference with Art 8 rights. I have assessed the individual components in terms of the effects of refusal on site residents balanced against the wider public interest. I have also taken into account the fact that occupation of the site was unlawful, having regard to the finding in *Chapman V UK [2001]* that when considering whether a requirement that an individual leave his or her home was proportionate to the legitimate aim pursued, it was highly relevant whether or not the home was established unlawfully. Having regard to the limited reasons advanced for the unauthorised occupation of this land, and the possibility that the interference with Art 8 rights could be taken into account in relation to the period for compliance with the requirements of the enforcement notice, I have concluded that refusal of planning permission would be proportionate.
205. On the planning balance to be drawn in respect of a grant of permanent planning permission, the components of identified harm are considerable, most notably in respect of the harm to the Green Belt (both by reason of inappropriateness and loss of openness) and the adverse consequences for the AONB landscape. Although there are also significant factors on the other side of the balance, my overall conclusion is that those 'other considerations', whether viewed individually or collectively, do not outweigh, let alone clearly outweigh, the combined harm arising from the development in both appeals. Very special circumstances do not therefore exist to justify inappropriate development in the Green Belt. Both appeals conflict with development plan WDLP Policy GB2 and WCS Policy CS9 [14], and with national policy in *PPG2* to protect the Green Belt. I shall therefore recommend that ground (a) in Appeal A should fail, and the deemed application be refused, and that Appeal B should be dismissed.
206. Dismissal of the appeals would require the Appellant and other site occupiers to vacate the site (which has to be regarded as their home) without any certainty of suitable alternative accommodation being readily available. I recognise that this would represent an interference with their home and family life. However, the harm which has been caused by the development in terms of its effects upon the economic well-being of the country (which

includes the preservation of the environment) and the protection of the rights and freedoms of others is considerable. The protection of the public interest cannot be achieved by means which are less interfering of the Appellant's rights. They are proportionate and necessary in the circumstances, and would not result in violation of their rights under Article 8 of the ECHR.

207. If the Secretary of State were to come to a contrary view about the grant of permanent planning permission in respect of both appeals, it would be appropriate to attach the conditions now set out here in Annex A. In the case of Appeal B, the permission ought to refer to the details of the application, as determined by the Council, and on the basis of the list of plans and documents set out in the Statement of Common Ground at Doc.3 but with reference to the site area defined on the plan submitted during the inquiry [4] as Plan D. This was drawing No.09_245_001B.
208. The other option advanced by WDC and HHAG was for permission to be granted on a split basis if it were held that the personal circumstances of one or a number of plot occupiers were sufficient to tip the balance in favour of planning permission, but not those of other pitch occupiers. It was submitted by HHAG that, as a matter of law, this course of action had to be followed if such a conclusion were reached [113]. It would be possible to give effect to such a course of action by the issue of split decisions, to which would be attached plans (based on the pitch occupier drawing Plan C) identifying those plots for which planning permission was being granted, and those parts for which appeals were dismissed, and in the case of Appeal A, the enforcement notice upheld.
209. I have separately considered the overall balance in this manner, taking account of the more significant personal circumstances and needs of some occupiers, and in particular those of Kathleen Murphy. In my view this does not lead to a different conclusion for reasons set out largely at para 196 above. Her need for a settled base was greater, but to a significant degree the benefits which she currently obtained from living at the appeals site, derived from the mutual support offered by other members of the group as extended family. That would either lead to full permission for the whole site, or dismissal of the appeals.

Temporary planning permission

210. If the Secretary of State were to take the view that the balance was tipped solely by the 'other harm' accruing from the lack of financial contributions to local infrastructure, there would be a reasonable prospect that such a deficiency could be remedied [30]. It would therefore be appropriate to grant a permission for a temporary period of 2 years subject to the conditions set out in Annex A. At the same time it would be necessary to indicate clearly that this was the reason for the decision being taken, to enable the site occupiers to progress and conclude the necessary S106 Obligations to allow a re-application to WDC for permanent consent within the timetable defined by the temporary permission.
211. I have separately re-assessed the balance between the various considerations in the light of the possibility of a grant of temporary planning permission for reasons other than the infrastructure issue. If such a permission were granted, it would be appropriate to make it for a period of 5 years on the premise that alternative sites would be capable of being brought forward by the adoption of the Council's DPD in May 2014, plus a year to allow for implementation [59, 96, 137].
212. As with the suggestion of a 2 year permission, harm arising from the lack of infrastructure contributions would not form part of the '5 year balance' [73]. The other sources of harm – to the Green Belt and its openness, the natural beauty of the AONB and its enjoyment by users of the Ridgeway Path, and the effects upon the amenity of nearby residents – would be the same. The harm would be very substantial for the duration of such a permission. At the time of the inquiry site development was incomplete both in relation to works on individual pitches and implementation of such matters as connection to a water supply, sewerage facilities, electricity supply, access and roadway works. The substantial capital costs of implementing all these matters for a limited time period raise doubts in my mind

about the likelihood of them happening. If it were not so, the current unsatisfactory living conditions for site occupants and impacts upon the local environment would not be ameliorated, or fully dealt with over this time span.

213. On the other side of the balance, regard should be had to the advice on temporary permissions in paras 45 and 46 of C1/2006 on the weight to be given to unmet need where there was a reasonable expectation of new sites becoming available as alternative accommodation for the site occupants at the end of the period. At the same time there would be no direct link between the educational and healthcare needs of site residents and the suggested timescale of a temporary permission. This matter would not add to the weight of 'other considerations'.
214. Putting all these matters together, I consider that the interference with Art 8 rights arising from appeal dismissal would remain proportionate. My conclusion is that the remaining harm caused by the use would still not be clearly outweighed by the benefits of the development. Very special circumstances would not exist to justify a temporary planning permission for 5 years for this inappropriate development in the Green Belt. Such a course of action will not therefore be recommended. If the Secretary of State were to come to a contrary view, the format for permission would be the same as for permanent permission subject to the appropriate Annex A conditions.

Appeal A: the requirements of the notice and ground (f)

215. The enforcement notice imposes requirements for the removal of caravans and other specified items, together with site reinstatement. Although the notice makes an allegation of material change of use, it does not include a requirement for the unauthorised use as a gypsy and traveller caravan site to cease. In its absence the carrying out of the listed steps for removal and ground reinstatement would represent full compliance with the notice. It would be possible, thereafter, for the unauthorised use to resume taking advantage of the terms of S173(11) of the 1990 Act. Such a situation was clearly not the intention of the Council in issuing the notice. It would defeat the purposes of the action, and the defect renders the notice invalid in its issued form. It would, however, be possible to validate the notice by adding a requirement for the use to cease.
216. Although this would be an addition to the requirements, a variation of this kind would be possible so long as injustice would not result. I raised this matter early during the inquiry. The Appellant indicated that there were no objections to such a course of action [62]. As the variation would reflect the parties' expectations of the effect of the notice and the intentions of the Council in issuing it, I consider that variation to require the use to cease falls within the powers available to the Secretary of State at the appeal stage without causing injustice. I shall recommend such a variation.
217. The specific ground of appeal raised under (f) related to the requirement to "*Restore the Land to its previous condition as pasture land*", which was regarded as excessive [61]. Argument that the chosen words were more precise and therefore reasonable would not be the point. The breach was the unauthorised use of the land, and the appropriate remedy would be for that to cease, together with removal of related items from the site. A positive obligation for the former use to resume, which is implied by the words now used, would clearly exceed what was needed to remedy the stated breach. Requirement (c) for restoration of the land to its previous condition would suffice without the last 3 words in the form issued. The ground (f) appeal should succeed in this regard, and I shall recommend this variation.

Ground (g) in Appeal A

218. The Appellant sought a compliance period of 2 years in place of the 6 months specified [63].
219. The 6 months period would be sufficient to allow vacation of the site and restoration works, but in the light of the lack of immediately available alternative sites, such a compliance period would offer little scope for residents to seek and identify alternative accommodation.

The interference with Art 8 rights should in my view also be taken into consideration in relation to the period for compliance with the enforcement notice requirements. Because of the problems over site availability and the personal circumstances of site occupants, discussed in this report, I consider that an extended period of 18 months would be a proportionate response and appropriate as a form of success under ground (g). I shall recommend this.

8. INSPECTOR'S RECOMMENDATION

APPEAL A: Ref APP/KO425/C/09/2115651 against the enforcement notice

220. I recommend that the enforcement notice should be varied as follows:

- i) At section 5 by the insertion of an additional requirement before item (a) to read "*Cease the use of the land as a gypsy and traveller caravan site*"; and
- ii) At section 5 by the deletion of the words "*as pasture land*" from requirement (c); and
- iii) At section 6 by the substitution of "*18 months*" as the period for compliance.

221. Subject thereto, I recommend that the appeal be dismissed, the application deemed to have been made under section 177(5) of the 1990 Act be refused, and the enforcement notice upheld, as so varied.

APPEAL B: Ref APP/KO425/A/09/2117340 against the refusal of planning permission

222. I recommend that the appeal be dismissed.

Alan Upward

INSPECTOR

ANNEX A LIST OF RECOMMENDED CONDITIONS

CONDITIONS TO BE ATTACHED TO A PERMANENT PLANNING PERMISSION IN RESPECT OF APPEAL B

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 2) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Eileen and Jimmy Cash; Margaret Hanrahan; Eileen Nolan; Felix and Rita Doran; Kathleen and Margaret Murphy; Jimmy Doran and Kathleen Doran; Mary Hanrahan, Patrick Hanrahan and Joanna Hanrahan; Jimmy Doran and Margaret Doran; William Harris and Charlene Harris.
- 3) When the land ceases to be occupied by those named in condition 2 above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use including the day rooms hereby approved, shall be removed. Within 6 months of that time the land shall be restored in accordance with a scheme previously submitted to and approved in writing by the local planning authority.
- 4) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) There shall be no more than 9 pitches on the site and on each of the 9 pitches hereby approved no more than two caravans shall be stationed at any time, of which only one caravan shall be a residential mobile home.
- 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 date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for: the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; improved visibility splays, bellmouth and radii, surface treatment, drainage arrangements and road width at the site access; details of the gate to be provided at the main entrance to the site; the internal layout of the site, including the siting of caravans, mobile homes and day rooms, plots, hardstanding, access roads, parking and amenity areas, maximum finished site levels, details of hard and soft landscaping, tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
 - ii) if within 11 months of the date of this decision the site development scheme has not been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 8) At the same time as the site development scheme required by condition 7 above is submitted to the local planning authority there shall be submitted a schedule of

maintenance for a period of five years of the proposed planting commencing at the completion of the final phase of implementation as required by that condition; the schedule to make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

- 9) The erection of the amenity blocks hereby approved shall not take place until samples of the materials to be used in the construction of the external surfaces of the buildings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) The erection of amenity blocks hereby approved shall not take place until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and
- 11) The erection of the amenity blocks hereby approved shall not take place other than in accordance with the Written Scheme of Investigation approved under condition 10.
- 12) The use of the amenity blocks hereby approved shall not commence until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 10 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- 13) Any historic or archaeological features not previously identified which are revealed when erecting the amenity blocks hereby approved shall be retained in-situ and reported to the local planning authority in writing within 15 working days. Works shall be halted in the area affected until provision has been made for the retention and/or recording in accordance with details to be submitted to and approved in writing by the local planning authority.

CONDITIONS TO BE ATTACHED TO A PERMANENT PERMISSION IN RESPECT OF APPEAL A

The same conditions as those listed above for Appeal B should be attached to a permanent permission for A with the following exceptions. The words "including the day rooms hereby approved" in condition 3 should be omitted. Condition 7 should be imposed but excluding reference to "day rooms". These were separate (as opposed to ancillary) operational development in the application for Appeal B, but would separately require planning permission in relation to the development which would be permitted in response to the enforcement notice. For this reason conditions 9 – 13 (inclusive) should also be omitted.

CONDITIONS TO BE IMPOSED TO A 2 OR 5 YEAR TEMPORARY PERMISSION IN RESPECT OF APPEALS A & B

The conditions should be the same as for a permanent permission in both A and B with the exception that "*details of hard and soft landscaping , tree, hedge and shrub planting including details of species, plant sizes and proposed numbers ...*" should be excluded from condition 7. In parallel with this condition 8 should be omitted. An additional condition would also be needed (and placed as number 1) as follows:

The use hereby permitted shall be discontinued and the land restored to its former condition on or before [*date 2/5 years from date of permission*] in accordance with a scheme of work submitted to and approved in writing by the local planning authority.

As with other decision options for Appeal A the references to "day rooms" in conditions 3 and 7 should be omitted, together with conditions 9 – 13.

APPEARANCES

FOR THE APPELLANT:

Mr Alan Masters	Of Counsel, instructed by Green Planning Solutions LLP
He called	
Mr Patrick Hanrahan	Appellant
Mr Jimmy Doran (aged 31 years)	Occupant of land at Hemley Hill, Saunderton
Mr William Harris	Occupant of land at Hemley Hill, Saunderton
Mr Jimmy Doran (aged 30 years)	Occupant of land at Hemley Hill, Saunderton
Ms Eileen Cash	Occupant of land at Hemley Hill, Saunderton
Ms Kathleen Murphy	Occupant of land at Hemley Hill, Saunderton
Ms Margaret Hanrahan	Occupant of land at Hemley Hill, Saunderton
Mr Felix Doran	Occupant of land at Hemley Hill, Saunderton
Ms Eileen Nolan	Occupant of land at Hemley Hill, Saunderton
Mr M Green	Partner, Green Planning Solutions LLP

FOR THE LOCAL PLANNING AUTHORITY:

Mr Robin Green	Of Counsel, instructed by the Solicitor to Wycombe District Council
He called	
Ms N Huijer BA (Hons) PGDip MLI	Landscape Architect, Wycombe District Council
Ms R Dillon BTEC Advanced in MGTS	Traveller Projects Officer, Oxford and Bucks County Councils Gypsy and Traveller Services
Ms P Jarvis BSc (Hons) Dip TP MRTPI	Planning Consultant

FOR THE HEMLEY HILL ACTION GROUP:

Mr James Pereira	Of Counsel, instructed by Pitmans, 47 Castle Street, Reading, Berks, RG1 7SR
He called	
Ms S Weir	Local resident
Mr P Bird	Local resident
Mr P Hughes BA (Hons) Dip MS MCMi MRTPI	Principal of PHD Chartered Town Planners

INTERESTED PERSONS:

Mr R Uglow	Chairman, Bledlow cum Saunderton Parish Council
Ms P Priestley	District Councillor on behalf of NW Chilterns Local Area Forum
Mr R Craft	Vice Chairman of Lacey Green Parish Council
Mr P Voss	Planning Field Officer, The Chilterns Society, White Hill, Chesham, Bucks, HP55 1AG
Mr T Davies	Chairman of Risborough Area Residents Association
Mr J G Jones	Of Saga Court, 3 Sibleys Rise, South Heath, Bucks, HP16 9QQ

DOCUMENTS SUBMITTED PRIOR TO THE INQUIRY

Document	P1	Copy of the enforcement notice
Document	P2	Copy of the appeal application and submitted plans
Document	P3	Appellant's Statement of Case
Document	P4	Council's Statement of Case
Document	P5	Statement of Case by Hemley Hill Action Group
Document	P6	Bundle of letters and emails sent to the Council at the time of consideration by them of the planning application
Document	P7	411 written representations received in response to letters of notification of appeals
Document	P8	Letter dated 8 December 2009 from David Lidington MP
Document	P9	Proof of evidence of Matthew Green and his appendices
Document	P10	Proof of evidence of Ms N Huijjer and her appendices
Document	P11	Proof of evidence of Ms R Dillon and her appendices
Document	P12	Proof of evidence of Ms P Jarvis and her appendices
Document	P13	Proof of evidence of Ms S Weir and her appendices
Document	P14	Proof of evidence of Mr P Bird and her appendices
Document	P15	Proof of evidence of Mr P Hughes and his appendices
Document	P16	Statement of case by Bucks CC as local highway authority

DOCUMENTS SUBMITTED AT THE INQUIRY

Document	1(1-5)	Lists of persons present at the inquiry
Document	2	Letter sent by the Council notifying inquiry arrangements
Document	3	Statement of Common Ground
Document	4	Written statement of Stephen Chainini, on behalf of Children and Young People's Services, Bucks CC
Document	5	Bundle of signed witness statements by appeal site residents
Document	6	Chief Planning Officer letter dated 6 July 2010 and extract from attached "Questions and Answers"
Document	7	List of HHAG Core Members
Document	8	Statement of Cllr Mrs Pam Priestley
Document	9	Statement of Mr R Uglow
Document	10	Statement of Mr R Craft
Document	11	Statement of Mr T Davies
Document	12	Statement of Mr P L Voss
Document	13	Witness statement of Mr J Jones, Supplementary statement, his additional speaking notes and his Appendices 1 – 13
Document	14	Letter from Dr M Mulholland of the Wellington House Practice relating to Margaret Murphy submitted by the Appellant
Document	15	Copy letter dated 1 September 2002 from T M Holland (submitted by the Appellant)
Document	16	WDC letter dated 4 November 2004 to occupier of Fourways
Document	17	Site visit notes re enforcement investigation at Fourways during 2005
Document	18	WDC letter to Mrs Beckley, Fourways dated 18 February 2005
Document	19	Extract documents submitted by WDC re application for pole barn at Hemley Hill Farm during 2006
Document	20	Bundle of documents relating to investigation by WDC of complaint re noise and smoke at the appeal site, including residents diary of Suzanne Weir
Document	21	Witness statement of Alastair Nicholson dated 29 April 2009 in High Court injunction proceedings
Document	22	HC Injunction Order dated 30 April 2009
Document	23	Attendance Note by WDC of High Court proceedings on 30 April 2009

Document	24	WDC letter to site occupiers at the appeal site dated 1 May 2009
Document	25	WDC letter to Davies Gore Lomax dated 8 May 2009
Document	26	Bundle of correspondence/emails between WDC and Davies Gore Lomax relating to the injunction, submitted by the Council
Document	27	Letter dated 12 July 2010 from Davies Gore Lomax to WDC
Document	28	PJ9 The Baker Report and Appendices, March 2010
Document	29	Letter dated 29 January 2010 from Bucks CC re The Haddenham site
Document	30	Schedule setting out appraisals of potential gypsy sites, submitted by the Council
Document	31	Schedule of Gypsy and Traveller planning decisions by WDC in last 5 years, submitted by the Council
Document	32	Appeal decision for The Willows dated 12 March 2007 (Ref APP/C/06/2017774-5)
Document	33	Committee report relating to the Five Oaks Farm site
Document	34	Email from Bucks CC dated 12 August 2010 relating to re-possession of the site at Haddenham
Document	35	Example title deed submitted by HHAG relating to the rights of way claimed over appeal site by owners of Shootacre Lane properties
Document	36	List of suggested conditions of planning permission submitted by the Council
Document	37	List of suggested conditions submitted by the Appellant
Document	38	Closing submissions by HHAG
Document	39	Closing submissions by WDC
Document	40	Closing submissions by the Appellant
Document	41	Email from Head Teacher of Bledlow Ridge School dated 12 July 2010.

PLANS SUBMITTED AT THE INQUIRY

Plan	A	Supplementary Drawing 09_245_MURP2 of highways access to the appeal site
Plan	B	Plan submitted jointly by the Council and HHAG showing public rights of way and suggested viewing points for the site inspection
Plan	C	Plan of appeal site annotated with names of occupiers submitted by the Appellant
Plan	D	Amended site plan for Appeal B submitted by the Appellant to accord with boundaries shown on Land Registry plans

PHOTOGRAPHS SUBMITTED AT THE INQUIRY

Photo	1	Google Maps photo of the appeal site entrance submitted by the Council
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