

The Planning Inspectorate

ENFORCEMENT NOTICE APPEAL FORM (Online Version)

WARNING: The appeal **must** be received by the Inspectorate **before** the effective date of the local planning authority's enforcement notice.

Appeal Reference: APP/W1905/C/23/3334117

A. APPELLANT DETAILS

Name	Mr Billy Joe Saunders
Address	Woodland Stables Cock Lane Hoddesdon EN11 8LS
Phone number	[REDACTED]
Email	[REDACTED]
Preferred contact method	Email <input checked="" type="checkbox"/> Post <input type="checkbox"/>

A(i). ADDITIONAL APPELLANTS

Do you want to use this form to submit appeals by more than one person (e.g. Mr and Mrs Smith), with the same address, against the same Enforcement notice? Yes No

B. AGENT DETAILS

Do you have an Agent acting on your behalf?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Name	Mr. Matthew Green
Company/Group Name	Green Planning Studio Ltd
Address	Unit D Lunesdale Shrewsbury Upton Magna SY4 4TT
Phone number	[REDACTED]
Fax number	[REDACTED]
Email	[REDACTED]

Your reference

23_1287

Preferred contact method

Email



Post



C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

Broxbourne Borough Council

LPA reference number (if applicable)

ENF/23/0033

Date of issue of enforcement notice

31/10/2023

Effective date of enforcement notice

30/11/2023

D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes



No



Address

Woodland Stables
Cock Lane
Hoddesdon
EN11 8LS

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?

Yes



No



What is your/the appellant's interest in the land/building?

Owner



Tenant



Mortgagee



None of the above



Did you/the appellant occupy the land/building under a written or oral licence BOTH on the date the enforcement notice was issued AND on the date of making this appeal?

Yes



No



What is your/the appellant's involvement with the land/building?

occupier

E. GROUNDS AND FACTS

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal?

Yes



No



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



The facts are set out in

the box below

1. The Notice refers to the site's location within a 250-metre buffer around a disused landfill. Council do not allege any harm and nor was this a reason for refusal on the recently refused planning application (07/23/0119/F). This is a matter that may result in an award of costs against the council.
2. The Council are asked to confirm as a matter of urgency whether they are pursuing contaminated land

as a reason for refusal. The appellant will be instructing a contaminated land expert imminently.

3. The LPA also state within the notice that the site is located within Flood Zone 1 and within 100m buffer of a power line. It is unclear if the LPA are raising an issue in relation to the powerline, and urgent clarification is sought.

4. It is accepted that as a matter of principle gypsy sites are normally inappropriate development in the Green Belt, therefore other considerations sufficient to clearly outweigh the harm by virtue of inappropriateness and any other harm so that very special circumstances exist are needed.

5. It will be shown that there would be modest impact on the openness of the Green Belt.

6. It will be shown that the site is sustainably located in transport terms.

7. Material considerations in favour of the development

8. The harm by reason of inappropriateness and any other harm is clearly outweighed by the general material considerations that would apply to any gypsy family, to the extent that very special circumstances exist and a permanent planning permission can be granted.

9. Those material considerations will include:

- The fallback position of a lawful mixed use of land for the stationing of a mobile home for residential purposes, horse livery and cattery;
- Need (national, regional, and local);
- Lack of available, suitable, acceptable, affordable alternative sites;
- Lack of a five-year land supply of gypsy and traveller pitches
- Failure of policy; and
- The likely location of additional gypsy pitches in the district.

10. If necessary, personal circumstances of the site occupants (personal need, health, and education) and the best interests of the child can be added to the balance.

Fallback position

11. The lawful use prior to the issue of the notice was a mixed use of land for the stationing of a mobile home for residential purposes, horse livery and cattery.

12. The appellant places reliance on s.57(4) of the Act, and this mixed use of land for the stationing of a mobile home for residential purposes, horse livery and cattery, is the fallback position.

13. This is a material consideration of significant weight.

Need

14. Taking into consideration the latest available estimations of need for gypsy and traveller sites in the District, GPS Ltd are of the view that the relevant GTAA underestimates the level of need in the district.

15. This is a material consideration of significant weight.

Lack of suitable, acceptable, affordable sites

16. Alternative sites must be available, acceptable, and affordable (*Angela Smith v Doncaster MBC*). It appears from all the available information that there are no alternative available sites for the site occupants to move to and there seems little likelihood that there will be in the foreseeable future.

17. The lack of alternative sites is a material consideration of significant weight in favour of the appeal.

Five-year land supply

18. The LPA are unable to demonstrate a five-year land supply of deliverable land for gypsy and

19. traveller sites. A lack of a five-year land supply is a matter that should attract considerable weight in favour of a grant of planning permission. The lack of a five-year land supply is a material consideration of significant weight in favour of the appeal.

Failure of policy

20. The LPA do not currently have a policy capable of delivering the required number of pitches. The LPA are working towards too low a figure and will inevitably fail to meet the actual level of need in the District.

21. Failure of policy is a material consideration of significant weight in favour of the appeal.

22. The likely location of gypsy and travellers sites in the district

23. It is highly likely that in this district all new gypsy and traveller sites will be located within the Green Belt.

24. This is a material consideration of significant weight.

Personal circumstances

25. Personal circumstances only need to be considered if the Inspector finds a departure from policy and/or other harm and then finds that the other material considerations are insufficient to outweigh the identified harm. If necessary personal circumstances can be added into the pot to outweigh any harm. These will be set down and appropriate weight indicated.

26. The appellant's second position therefore is that the general material considerations and personal circumstances clearly outweigh the harm by reason of inappropriateness and any other harm so that a permanent consent can be granted subject to a personal condition.

Gypsy Status

27. Gypsy status of the occupiers is only relevant if it becomes necessary to take into account personal circumstances.

28. Evidence will be submitted through witness evidence to confirm the site residents meet the definition of Gypsies and Travellers that is appropriate for use at the time of the appeal hearing.

Permanent or temporary consent

29. If the Inspector concludes that the material considerations do not outweigh any identified harm sufficient to justify a permanent consent, then clearly a consent with a condition limiting the use to a temporary period, falls to be considered consistent with paragraph 12 of the NPPG.

30. It is common sense as well as case law Court of Appeal judgment Moore v SSCLG and London Borough of Bromley [2013] EWCA Civ 1194 that a temporary consent means the harm is reduced. The appropriate time frame for a temporary consent will be considered.

Human Rights Article 8 considerations

31. This is a clear obligation upon the Inspector to ensure that any decision made by a state body accord with the obligations under Article 8 ECHR. Incorporated into that obligation are the obligations set out under the United Nations Convention of the Rights of the Child, and in this case specifically Article 3. This obligation was not crystallised upon in the publication of AZ v SSCLG and South Gloucestershire District Council [2012] EWHC 3660 (Admin), but has existed for a number of years.

Best Interests of the Child

32. The best interests of the children are to enable them a safe environment where they have access to education and healthcare. Where the best interests of the child clearly favour a certain course, in this case a grant of planning permission, that course should be followed unless countervailing reasons of considerable force displace those interests.

33. There are no countervailing reasons of considerable force that have been relied upon to outweigh the need for the children to have a settled permanent base, which will enable amongst other things, access to education and to healthcare when needed.

34. The welfare and wellbeing of the children can only be safeguarded by the grant of a permanent planning permission, or in the alternative a temporary permission for a period that should give certainty of alternative suitable and lawful accommodation being secured by the LPA through the plan process.

(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.



The facts are set out in

the box below

35. The alleged breach is a single use. The area enforced against is in a mixed use. The mixed use is the stationing of caravans for residential purposes and the keeping of horses.

(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").



The facts are set out in

the box below

36. The lawful use prior to the issue of the notice was a mixed use of land for the stationing of a mobile home for residential purposes, horse livery and cattery.

37. The appellant places reliance on s.57(4) of the Act, and this mixed use of land for the stationing of a mobile home for residential purposes, horse livery and cattery, is the fallback position.

38. Some of the hardstanding on the appeal site was placed down in connection with express grant of planning permissions 07/14/0674/F, 07/13/0465/F and 7/0596/08/F/HOD.

39. The stationing of a mobile home for residential purposes on the site is lawful as per 07/14/0674/F. There may be a breach of condition(s) taking place, but the permission is still extant, and the breach of condition has not been enforced.

40. Whilst this is not specifically a ground (b/c) point, it relates to the failure of the notice to clearly identify the matters that are alleged in the breach.
41. The notice requires the removal of all buildings and structures from the Land.
42. The structures and buildings, have not been identified on the plan attached to the notice. A clear failure of the notice to comply with s173(1) of the Act.
43. Section 173(2) of the Act states that 'A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are'. As the notice fails to identify the structures, buildings, with reference to a plan, the notice is considered to be a nullity.

(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

The facts are set out in

the box below

44. The lawful use prior to the issue of the notice was a mixed use of land for the stationing of a mobile home for residential purposes, horse livery and cattery.
45. The appellant places reliance on s.57(4) of the Act, and this mixed use of land for the stationing of a mobile home for residential purposes, horse livery and cattery, is the fallback position.
46. Unless the fallback position is accepted by the local planning authority this is likely to need to be addressed in part by witness evidence on oath.
47. There is extensive hard surfacing located on the Land that has been in existence in excess of 4 years prior to the issue of the notice. This hardstanding has been put down in connection with lawful uses.
48. Evidence in the way of planning history, photographs and, if necessary, witness statements/affidavits will be relied upon to support this ground of appeal.

(e) The notice was not properly served on everyone with an interest in the land.

The facts are set out in

the box below

49. Not all persons with an interest in the Land were properly served with the Notice, in particular the Council failed to serve the notice on the occupiers of the Land.
50. The Council are invited to withdraw the enforcement notice as a matter of urgency.

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

The facts are set out in

the box below

51. Requirement ii requires to 'Permanently remove all caravans and mobile homes from the Land'. This would catch all caravans on the site for whatever purpose. Caravans can be lawfully on the land for a number of purposes. In particular, it would require the removal of the mobile home permitted under 07/14/0674/F which is part of the lawful mixed use fallback permission. This requirement is therefore excessive. The requirement should either be removed or amended to only require the removal of caravans that facilitate the alleged breach of planning control.
52. One of the buildings on the site that would be caught by requirement iii is a stables building used for the keeping of horses. The building does not facilitate the alleged breach of planning control and the removal of the building is not necessary to remedy the breach. Therefore, requirement iii as worded is excessive and needs amendment to exclude the stables building.
53. Requirement iv requires 'Permanently remove all the tarmac from the Land from the Land, including the area shown shaded with a black pattern on the attached plan'. This would include all tarmac regardless for the purpose for which it had been put down. The requirement to remove areas of hardstanding that are clearly lawful through the passage of time and are connected with the lawful fall back mixed use, clearly goes beyond what is necessary to remedy the breach and would be contrary to statutory revisionary rights. The hardstanding that is lawful through the passage of time and facilitates the statutory revisionary rights should be excluded from the area to be removed.
54. Requirement vi requires 'Restore the land shown shaded by a black pattern by seeding the land

using native grass seed'. This is excessive as the condition of a significant part of the land prior to the breach was not grassland. This requirement needs to be remedied to 'restore the land to its condition prior to the breach.'

(g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why.

The facts are set out in

the box below

55. The time for compliance in relation to the stationing of caravans for residential purposes is 3 months.

56. A compliance period of at least 2 years is required for all requirements of the notice, to enable the occupiers living on the site to find alternative accommodation.

57. This will be demonstrated with reference to the scale of need for additional pitches in the district, the lack of a five-year supply of gypsy and traveller pitches, the lack of suitable, affordable, available, and acceptable alternative sites and the LPA's ongoing failure of policy.

F. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations

2. Hearing

3. Inquiry

You must give detailed reasons below or in a separate document why you think an inquiry is necessary. The reasons are set out in

the box below

This appeal will be linked with another ongoing Section 78 appeal reference APP/W1905/W/23/3327012 and both will need to be discussed at the same time.

Under ground D in this enforcement appeal, evidence will need to be given on oath, and cross examination may need to be undertaken for both professional and lay witnesses.

The appellant has several witnesses that the Inspector may want to cross examine.

The issues are more complex, and therefore a hearing would not provide the time or appropriate level of questioning. The Inspector is likely to want to clarify matters between the parties.

(a) How long do you estimate the inquiry will last?

4 day(s)

(b) How many witnesses do you intend to call?

10

(c) Is there any further information relevant to the inquiry which you need to tell us about?

Yes

No

G. FEE FOR THE DEEMED PLANNING APPLICATION

1. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice? Yes No

a) the date of the relevant application

09/02/2023

b) the date of the LPA's decision (if any)

25/05/2023

2. Are there any planning reasons why a fee should not be paid for this appeal? Yes No

If no, and you have pleaded ground (a) to have the deemed planning application considered as part of your appeal, you must pay the fee shown in the explanatory note accompanying your Enforcement Notice.

H. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided? Yes No

Please give details, including our reference number(s), if known.

Section 78 appeal, PINS reference APP/W1905/W/23/3327012
We would like to request that both appeals be linked.

I. SUPPORTING DOCUMENTS

01. Enforcement Notice:

[see 'Appeal Documents' section](#)

02. Plan (if applicable and not already attached)

[see 'Appeal Documents' section](#)

J. CHECK SIGN AND DATE

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full grounds of appeal) to the LPA today.

Signature

Date

Name

On behalf of

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018.

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).

K. NOW SEND

Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full grounds of the appeal) to the LPA.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:

<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>

- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the enforcement notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

You may wish to keep a copy of the completed form for your records.

L. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to **appeals@planninginspectorate.gov.uk**. If posting, please enclose the section of the form that lists the supporting documents and send it to Initial Appeals, Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN.

You will not be sent any further reminders.

Please ensure that anything you do send by post or email is clearly marked with the reference number.

The documents listed below were uploaded with this form:

Relates to Section: SUPPORTING DOCUMENTS
Document Description: 01. The Enforcement Notice.
File name: CORRECTED_Woodland Stables EN 31 Oct 2023.pdf

Relates to Section: SUPPORTING DOCUMENTS
Document Description: 02. The Plan.
File name: EN Plan 31.10.2023.pdf

Completed by MR. MATTHEW GREEN

Date 29/11/2023 16:26:30