



# Appeal Decisions

Inquiry held on 2 & 3 June 2009

Site visit made on 3 June 2009

by **Lucy Drake BSc MSc MRTPI**

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:  
26 June 2009**

---

## Appeal Ref: APP/H1515/C/08/2066552

### Clementines Farm, Murthering Lane, Navestock, Brentwood, RM4 1HL

- 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 James Sykes against an enforcement notice issued by Brentwood Borough Council.
- The Council's reference is 07/151/SYKE2.
- The notice was issued on 3 January 2008.
- The breach of planning control as alleged in the notice is the formation of hard standing, in the approximate position shown green on the attached plan.
- The requirements of the notice are
  - (i) Break up and permanently remove the hardstanding (outlined in green on the attached plan) and all the resultant material from the land.
  - (ii) To restore the land to a condition suitable for agriculture.
- The period for compliance with the requirements is 3 months.
- The appeal was made on the grounds set out in section 174(2)(a), (d), (f) & (g) of the Town and Country Planning Act 1990 as amended.

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

---

## Appeal Ref: APP/H1515/A/08/2084069

### Clementines Farm, Murthering Lane, Navestock, Brentwood, RM4 1HL

- 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 James Sykes against the decision of Brentwood Borough Council.
- The application No. BRW/645/2008, dated 25 June 2008, was refused by notice dated 18 August 2008.
- The development for which planning permission was sought is the change of use to include the stationing of caravans for 1 No. gypsy pitch with hardstanding and access road ancillary to that use.

**Summary of Decision: The appeal is allowed and planning permission granted subject to the conditions set out in the Formal Decision below**

---

## Procedural matters

1. At the inquiry an application for costs was made by Mr Sykes against Brentwood Borough Council. This application is the subject of a separate Decision.
-

2. The description of the development as sought by the planning application is set out above. The Council altered the description and refused permission for: 'change of use of land from agricultural land for the siting of a mobile home and caravan for residential purposes, associated hardstanding and access road (retrospective)'. No reason was given for this alteration, in particular the removal of any reference to the use of the land as a gypsy site. At the start of the inquiry, a description of the development for which planning permission was sought under the s.78 appeal was agreed as:

*The use of the land for the stationing of caravans for residential purposes as a single gypsy pitch, together with the formation of a hardstanding and an internal access road.*

### **The Notice**

3. Following discussions prior to and at the inquiry, the Council agreed to the deletion of the word 'approximate' in the breach of planning control, and the variation of the second requirement of the notice, so that it read:

*To restore the land outlined in green to its previous condition*

This led to the formal withdrawal by the appellant of grounds (d) and (f) of the s.174 appeal. Given these changes, and in the light of a separate enforcement notice alleging the change of use of the land from agricultural use to a use for residential purposes which was not the subject of an appeal and came into effect on 5 February 2008 with a compliance period of 3 months, the appellant also withdrew ground (g). This only left the ground (a) appeal under the s.174 enforcement appeal.

### **The s.78 appeal and the s.174 appeal on ground (a)**

#### **Background and Planning Policy**

4. The s.174 ground (a) appeal seeks planning permission for the hardstanding as defined in the enforcement notice. The s.78 appeal seeks planning permission for the revised description of development as set out above, which includes the same hardstanding. I shall therefore deal primarily with the s.78 appeal, returning to the issue of the s.174 appeal at the end of my decision.
5. At a national level, the most relevant policy documents are PPG2, the Government's Planning Policy Guidance Note on Green Belts issued in 1995, and ODPM Circular 01/06: Planning for Gypsy and Traveller Caravan Sites, issued in February 2006.
6. At the date the enforcement notice was issued (3 January 2008) and the application determined (8 August 2008) the most relevant Local Plan Policies, from the Brentwood Replacement Local Plan Adopted 25 August 2005, were:
  - CP1: General Development Criteria; of which the Council agreed sub-section (i) was the most relevant in this case: That the proposals would not have an unacceptable detrimental impact on visual amenity, or the character and appearance of the surrounding area.

- GB1: New Development in the Green Belt, which effectively replicates the provisions of paragraphs 3.1 and 3.2 of PPG2.
- GB2: Development Criteria in the Green Belt, which says, amongst other things: When considering proposals for development in the Green Belt the local planning authority will need to be satisfied that they do not conflict with the purposes of including land in the Green Belt and do not harm the openness of the Green Belt; and
- H13: Permanent Sites for Gypsy Travellers, which said that: the Council may allow the provision of small gypsy travellers sites in appropriate locations within areas excluded from the Green Belt where (i) the site is well screened; and (ii) such accommodation is restricted to gypsies who reside in or regularly resort to the Borough. From 25 August 2008, Policy H13, along with a number of other Local Plan Policies were 'not saved' by a Direction of the Secretary of State, issued in accordance with the provisions of Schedule 8 to the Planning and Compulsory Purchase Act 2004, i.e. it was in effect deleted, but the other three Local Plan Policies mentioned above were 'saved' and remain effective.

The Council has referred to no relevant policies from the Essex and Southend-on-Sea Replacement Structure Plan adopted in 2001, of which only a very small number of policies have been 'saved', none of which are directly relevant to this case.

7. The expiry of Local Plan Policy H13 means that there is no criteria-based development plan policy to guide the consideration of applications for gypsy and traveller sites in Brentwood. The RSS Policy (see below) is of a much more general nature. The Council's witness was unaware of any such a policy in the Council's emerging Core Strategy, despite the requirement of paragraph 31 of Circular 01/06 that *'The core strategy should set out criteria for the location of gypsy and traveller sites which will be used to guide the allocation of sites in the relevant DPD. These criteria will also be used to meet unexpected demand.'* In the absence of any adopted, or emerging, criteria-based development plan policy I shall principally rely upon the relevant provisions and requirements of Circular 01/06 in my assessment of the development in this case.
8. The most relevant policy from the adopted East of England Plan, The Revision to the Regional Spatial Strategy (RSS) for the East of England, May 2008 is H3: Provision for Gypsies and Travellers. This says:  
  
*Local authorities should make provision for sites/pitches to meet the identified needs of Gypsies and Travellers living within or resorting to their area. Pending the single issue review to this RSS on Gypsy and Traveller accommodation needs, provision in Local Development Documents and decisions on planning applications should be based on the latest available information on need within the region and local area, in the context of the urgent need for improved provision across the region.*
9. In February 2008 the East of England Regional Assembly (EERA) published their Draft Policy for the RSS Single Issue Review: Planning for Gypsy and

Traveller Accommodation in the East of England. Draft Policy H4 specified that:

*To contribute to housing provision in the East of England as a whole, local authorities will make provision through Local Development Documents for at least 1,187 net additional residential pitches for Gypsy and Traveller Caravans over the period 2006 to 2011.*

A numerical requirement for each local planning authority was set out, with that for Brentwood being 15. The Policy went on to say, amongst other things: *Local authorities should seek to achieve levels of provision required by 2011 as soon as possible through the development control process particularly when opportunities present themselves in respect of new major developments and through the preparation of Local Development Documents.*

10. The supporting text notes, in paragraph 5.15 that *Policy H4 seeks to meet the pressing needs for additional provision of residential pitches for Gypsy and Traveller Caravans that are evident in the East of England. This is in accordance with Government Policy expressed in ODPM Circular 01/2006. The level of provision to be made reflects the needs of those currently resident in the East of England without planning permission, anticipated natural growth and net movements between pitches and other forms of accommodation.*
11. In December 2008 the Report of the Panel which had undertaken the Examination in Public of the RSS SIR was published. This included at Appendix A, Recommended changes to Policy H4 (and a new Policy H4A concerned with the provision of sites for travelling showpeople). This is broadly similar to Draft Policy H4, with the most significant changes being the increase in the total regional requirement to 'at least 1,237' and the numerical requirements for individual local planning authority areas described as 'Minimum additional Pitches Required 2006-2011'. The minimum requirement for Brentwood remained unchanged at 15.
12. As an adopted development plan policy H3 has to be given the greatest weight, with the emerging SIR Review Policies of lesser weight, but giving a clear indication of the likely progress of policy and the statutory minimum requirements for new pitch provision at a local level.

### **The main issues**

- 13.** The appeal site lies within the Metropolitan Green Belt. It was agreed by the parties that the entirety of the development involved in both appeals has to be regarded as inappropriate development for the purposes of planning policy. *Such development should not be approved, except in very special circumstances (paragraph 3.1 PPG2, the Government's Planning Policy Guidance Note on Green Belts). 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. In view of the presumption against inappropriate development, when considering any planning application or appeal concerning such development, [I am required to] attach substantial weight to the harm to the Green Belt arising from such development (PPG2, paragraph 3.2).*

14. The main issues in this case are:

- (a) The effect of the development on the openness of the Green Belt and the purposes of including land in it.
- (b) The effect of the development upon the character and appearance of the surrounding area.
- (c) The sustainability of the site and its impact on the local community.
- (d) The provision of and need for gypsy sites in Brentwood and the wider area.
- (e) The accommodation needs of the appellant and his alternative accommodation options.
- (f) Whether the development complies with relevant development plan policies and other policy documents.
- (g) Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development in this case.

### **Reasons for the decision**

#### ***(a) The effect of the development on the openness of the Green Belt and the purposes of including land in it.***

15. The development consists, in the case of the enforcement notice, an area of hardstanding formed out of compacted hardcore approximately 40m by 15m in area alongside the north west site boundary. In the case of the s.78 appeal it is a slightly larger area of hardstanding in approximately the same location, the stationing of up to 2 caravans on the hardstanding, the laying out of an internal access road leading from the site entrance in the northern corner to the hardstanding appeal site and the use of the entire site as a gypsy and traveller residential caravan site.
16. The gate at the entrance and the boundary fences erected by the appellant do not form part of the application, and are accepted as being, or capable of being, permitted development. Neither do the small brick building and the metal storage containers and linking stables placed on the hardstanding. Were they to be retained they would need to be the subject of a separate application for planning permission. I am aware that the appellant currently grazes two horses on the southern part of the site and that the stables are used to house these animals during the winter and when foaling. But the use of the land for that purpose and the need for these buildings are not before me. However, in assessing the impact of the development, and especially if it were to be permitted, it is reasonable to take into account both the potential maximum size of a 'caravan' under the legislation, the need for a secure gate and means of enclosure, the common requirement for a separate amenity block on gypsy and traveller sites and the likely need for some additional storage facilities.

17. The area of hardstanding and access road amount to about 10% of the total site area. While these result in some loss of openness to the Green Belt, in both absolute terms, and relative to the site area, and the fact that they are surface features only, the degree of harm that they cause is relatively slight. This also has to be balanced against the removal by the appellant of a considerable number of abandoned vehicles, other objects and materials arising from fly-tipping over many years which would have had a negative impact on openness. Apart from the area of the hardstanding and access road, the rest of the land is now largely clear of other objects, and this could be subject to a condition to maintain it in this form.
18. The presence of up to 2 caravans, of which one could be up to about 20m by 6.8m in area and 3m tall, and one a touring caravan suitable for towing on the highway, together with one or two smaller buildings for amenity/storage purposes and the normal residential accoutrements such as a garden area and parked cars would cause an additional, but still relatively small, loss of openness. However, this harm to the openness of the Green Belt, and to the encroachment of the countryside (one of the purposes of including land in the Green Belt) must be given some, albeit limited, weight as an 'other harm'.

***(b) The effect of the development upon the character and appearance of the surrounding area.***

19. Navestock is a rural parish of unusual size (estimated by the Parish Council as being about 8 miles by 8 miles in area) with a relatively small number (146) of houses and no clear village centre. Although bisected by the M25, and being close to the urban areas of Brentwood, Epping and Havering, it retains a largely undeveloped and rural character, with agriculture being the predominant land use, scattered houses, farms, and fields and lanes edged by hedgerows.
20. The 'local area' for the purposes of this appeal includes the appeal site and the surrounding land, up to about 200m north and south on Murthing Lane and the land to east and west, which was walked at the site visit and is shown in the aerial photograph supplied by the Council. While largely in agricultural, or other 'open land' uses, there is a significant cluster of built development to the east and north of the appeal site in the form of at least 4 houses and domestic outbuildings, a haulage yard and associated buildings, a private airfield and a group of associated larger buildings, at least one farm yard and associated buildings including barns, sheds, stables and mobile structures. The last three of these have extensive areas of hardstanding and vehicles. Certainly not all of the land is in productive agricultural use but little can be seen from the road, which provides the main public vantage point but is bounded on both sides for most of its length by a thick and tall hedgerow.
21. Prior to the appellant moving onto the site in 2006 it would appear, from the aerial photograph and testimony at the inquiry from the Vice Chair of the Parish Council, to have been used for many years for the storage of abandoned agricultural and other vehicles, fly-tipping and rough grazing, rather than being in active agricultural use. Its narrow width and elongated triangular shape, as well as its rough ground surface in parts, militated against arable use. It did not have a gate across the entrance, until one was installed by the appellant, together with internal fencing.

22. The roadside hedge is some 4-5m tall alongside the appeal site. Although there are two or three sparser sections, through which the 2m high close-boarded fence on the inside can be glimpsed (and this would be far more obvious in winter) to a very large extent a passer-by on Murthering Lane would be unaware of the caravans or single storey buildings or structures on the far side of the site. Additional planting of the sparser parts of the hedge, and/or to the rear, to thicken the tree belt would almost entirely prevent views into the site from the road and further screen the fence. The metal 'angle-iron' gates are an unattractive and rather forbidding feature, especially the metal sheeting fixed to them. But there are similar gates (without the sheeting) at the haulage yard across the road and they are not seriously out of character with the surrounding area. Even with the sheeting removed, because of the position and angle of the gates, parallel to the road, it would not be possible for passers-by to see the hardstanding or any structures on it. Hard surfaced driveways behind metal gates are a common feature on Murthering Lane and the surrounding area.
23. The appeal site is seen from the footpath which crosses land to the south. From here the structures on the hardstanding are partly visible at a distance of several hundred metres, against a backdrop of trees, as minor features in the landscape, but these could be successfully screened, in the longer term, by appropriate planting on the south west boundary of the site. The hardstanding is not visible.
24. From the footpath to the north, through Jenkins Farm, neither the appeal site nor any caravan on it could be seen. Glimpses of the upper parts of buildings or caravans may be possible in winter, but they would be at some distance and screened by intervening hedges and structures. In addition there are several abandoned caravans in the nearer fields so that glimpses of one or two on the appeal site would not appear out of character. The only views of the site from another dwelling are from the upper floor of Clementines, the dwelling immediately to the east of the appeal site, owned by Mr Sykes's aunt who gifted him the land. Even discounting this family connection, views into the appeal suite are minimal and the distance involved, the screening effect of the roadside hedge and the relatively small quantum of development would not cause any material harm to the outlook.
25. This is a small caravan site within a part of Navestock which contains a significant cluster of residential, agricultural and commercial buildings and structures, surrounded by open land, only some of which is in active agricultural use. To a large extent the development for which planning permission is sought is in keeping with the character and appearance of the area. The 'built' development can be confined to a small part of the site by a condition, and the whole of the site is already well screened from public view, and could be even more so. All in all the effect of the development on the character and appearance of the area, especially as seen from any public viewpoint, is minimal, and accords with the provisions of Local Plan Policy CP1(i) in not having an unacceptable detrimental impact on visual amenity, or the character and appearance of the surrounding area. I therefore find no additional harm to be added to the harm by reason of inappropriateness and the harm to the openness of the Green Belt and the purposes of including land in it as discussed above.

**(c) The sustainability of the site and its impact on the local community.**

26. Paragraph 64 of Circular 01/06 says that (in terms of assessing site suitability) 'issues of sustainability are important and should not only be considered in terms of transport mode and distances from services, but also other matters including: (a) the promotion of peaceful and integrated co-existence between the site and the local community; (b) the wider benefits of easier access to GP and other health services; (c) children attending school on a regular basis; (d) the provision of a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment; and (e) not locating sites in areas at high risk of flooding.'
27. In terms of transport mode and distances from services any assessment must take into account earlier parts of the Circular which accept that gypsy sites are likely to be found in rural areas. 'Rural settings, where not subject to special planning constraints, are acceptable in principle and that in assessing the suitability of such sites, local planning authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Sites should respect the scale of, and not dominate the nearest settled community. They should also avoid placing an undue pressure on the local infrastructure (paragraph 54).
28. All of Brentwood's currently authorised gypsy sites are outside the urban area, and in the Green Belt, as are all five of the sites identified by the Council as forming their preferred strategy for providing 15 additional pitches (see below). Thus it is reasonable to make an assessment of sustainability based on a rural, rather than an urban perspective, taking into account local and site-specific circumstances. In this context the existence (according to the Council) of both a primary and a secondary school within 5km (3 miles), and the major urban centres of both Romford and Brentwood less than 8km (5 miles) with a drive time of 10-15 minutes (and smaller outlying settlements even closer) in my view rates the site well in terms of accessibility. I note that one of the Council's preferred choices for the 15 'additional pitches' is within a few hundred metres of the appeal site (Tree Tops, Curtis Mill Lane) which would suggest that the level of accessibility to services and facilities from this part of the Borough is acceptable in the local context.
29. In terms of the other matters in paragraph 64 of Circular 01/06, it is necessary to consider them both as they relate to a particular site, but also in comparison to the likely alternative situation for a gypsy site occupier of having no authorised site on which to live.
30. The appeal site is not in an area at high risk of flooding and therefore scores well on this criterion. The other matters in paragraph 64 of 01/06 reflect the main intentions of the Circular as set out in its paragraph 12. While in this case the authorisation of the site would not affect Mr Sykes's children's school attendance, I am first and foremost considering the appeal on the basis of the planning application, which was for the use of the land as a gypsy site, not for a named individual or family. On that basis the provision of an additional authorised gypsy site in this location has the potential to meet all of the other matters to be considered under paragraph 64, as well as intentions 12a), b), c), d), h), and i) of the Circular and therefore scores well in terms of its sustainability in most respects.



31. My only concern is the first sustainability consideration listed in paragraph 64: *the promotion of peaceful and integrated co-existence between the site and the local community*. I am aware of the concerns of Navestock Parish Council, expressed orally at the inquiry, with regard to the number of authorised, and especially unauthorised, gypsy and/or caravan sites in or very close to this large parish, which straddles two local planning authorities and adjoins a third. The Parish Council estimate that there are about 146 houses in the parish, with about 350 people living in them. Ten years ago there were 5 authorised gypsy sites, occupied by families who had long-established links with the area. But they estimate that today there are 21 temporary or unauthorised mobile homes in the parish, including Mr Sykes's, and about 20 more within a mile or two of the parish boundary, mainly in the London Borough of Havering. The Parish Council believe that most of these are occupied by gypsies and travellers.
32. The house-dwelling residents of Navestock feel that the parish has been expected to absorb a very disproportionate amount of such development, by all three boroughs. They feel that the scale of such an influx of new residents in such a short period of time, into what is still for the most part a traditional farming community where family farms have been passed down through many generations, has destabilised and unbalanced the community and made the integration of the two communities far harder. The Parish Council does not believe that they or local residents are 'anti-gypsy', but that the apparently uncontrolled growth of the number of gypsy and traveller sites in Navestock is unfair and unsustainable.
33. While the community integration aspects are its main concern, the Parish Council also voiced concerns over some of the practical consequences of these changes: the loss of the rural character and the 'sub-urbanisation' of land by the mobile homes, caravans, hardstandings, fencing, gates, lighting, ancillary buildings, parked vehicles, traffic, noise, burning of materials on site, the lowering of water pressure and the greater demand for school places, GP surgeries (an acute problem locally), dentists and other facilities. They also felt it was unfair that when there was inadequate affordable housing locally for many of their own relatives, that the gypsy and traveller community were circumventing normal planning procedures to establish or enlarge sites, and that this in itself did not help community relations.
34. While they had no animosity towards Mr Sykes, and recognised his local family connections, and that the visual impact of his site was slight and could be lessened by further landscaping and suitable fencing, the grant of planning permission in this case would mean yet another authorised site and another loss of Green Belt land.
35. I appreciate the legitimate and reasonable concerns of the Parish Council. The concentration of gypsy and traveller sites in the local area, compared to many other parts of Brentwood Borough, does seem to be disproportionate on a purely geographical basis. Paragraph 54 of Circular 01/06 says that *Sites should respect the scale of, and not dominate the local community. They should also avoid placing undue pressure on the local infrastructure*. This can equally apply to an excessive number of smaller sites in a particular area. It is always difficult to judge the point at which 'one more' becomes 'too many';

such a tipping point, if it is identifiable at all, is often only identifiable retrospectively.

36. However, the origin of the problem is an area, and indeed Regional (or in this location on the edge of London an inter-Regional) shortage of suitable, available and affordable authorised gypsy and traveller sites. The primary objective of Circular 01/06 is to address this shortage by requiring local authorities to meet regional and local needs on a planned basis with the prior engagement and support of both settled and traveller communities. The identification and allocation of a choice of sites for gypsies and travellers in a range of locations and communities would allow for a more gradual and sustainable integration, with no community being asked to accept more than is reasonable within a certain time scale. The past failure in many parts of the country to make provision in this way has resulted in the haphazard, unplanned and opportunistic approach to site provision by gypsies and travellers themselves on the basis of whatever available land they can afford, often in areas where they have family connections. This has resulted in the concentration of such sites in certain pockets, such as this part of Essex. The consequences of such actions for local communities is one of the underlying reasons for the new approach advocated by Circular 01/06, which all local planning authorities are required to adhere to.
37. Thus while accepting that an additional authorised gypsy and traveller site in Navestock would exacerbate, to a small degree, the harms and pressures which the Parish Council express and that this has to be recognised as an 'other harm' in this case to which I give some weight, it is also necessary to go on to look at the broader picture in terms of current needs and planned gypsy and traveller site provision at a Borough, County and Regional level.

***(d) The provision of and need for gypsy sites in Brentwood and the wider area.***

38. According to the most recent data provided by the Council (its Appendix 10) in July 2008 there were 12 authorised, privately owned, gypsy and traveller sites in the Borough containing 52 caravans, of which 22 were static caravans or mobile homes. Of these 12 sites, 5 were authorised only (or at least in part) on the basis of a temporary permission, with those permissions expiring on dates between 2009 and 2011. These 'temporary' sites contained 38 caravans, i.e. 73% of all the caravans on authorised sites. The Council's list of 'unauthorised' sites in July 2008 inexplicably contain the 5-pitch Roman Road, Mountnessing site, which was granted a five-year temporary planning permission in 2007, and also the Hope Farm, Horsemanside site, which had been granted a temporary permission, including 3 mobile homes expiring in March 2009 and has since been extended on appeal. I.e. the list of 'authorised' sites in July 2008 should have included these two sites, which would have increased the number of caravans at that date on authorised sites by a further 14 to 66, with 52 (78%) of these subject to a temporary permission. This leaves 7 unauthorised sites in July 2008 recorded as containing 19 caravans and a figure of 85 caravans on gypsy and traveller sites in Brentwood in total.
39. These figures can be compared to the January 2006 count which recorded 37 caravans in total of which 18 were on authorised sites and 19 on unauthorised

sites. I.e. there has been a significant growth in gypsy and traveller sites and caravans in Brentwood between January 2006 and July 2008. No breakdown of temporary and permanent permissions in January 2006 were available to the inquiry, but it is believed that almost all of the temporary permissions date from 2006 and have been granted on appeal. In numerical terms the number of caravans has more than doubled and, where planning permission has been granted, this has been given on a temporary basis and personal, largely in the expectation that the development plan process established by Circular 01/06 would make provision for the needs of these individuals on an area-wide planned basis.

40. In terms of quantitative needs assessments for gypsy and traveller sites (a requirement of the Housing Act 2004), Brentwood was party to an Essex-wide study undertaken by the University of Salford in 2006, entitled Looking Back, Moving Forward. This was before formal guidance on the preparation of Gypsy and Traveller Accommodation Assessments (GTAAs) had been published by the government. The study did not differentiate the estimated need arising from individual local planning authority areas in Essex and suggested a requirement for an additional 249 pitches across the county in the period up to 2011. This was the only quantitative gypsy and traveller needs assessment for Essex available to the East of England Regional Assembly (EERA) when commencing the Single Issue Review (SIR).
41. A number of important deficiencies in the study were recognised by EERA which they concluded had resulted in a significant underestimate of total need in Essex. In an attempt to come up with a more realistic estimate of net additional need for the county EERA adopted an approach, as recommended by a study undertaken on behalf of the Department for Communities and Local Government in 2007<sup>1</sup> to address the severe backlog of need. This was a formula derived from the best fit to a range of early GTAAs considered to be robust and was used by EERA for those parts of the Region where GTAAs were not considered to be robust. The formula was based on the January 2006 Caravan Count figures for unauthorised and unauthorised sites, converted to a notional number of pitches on a ratio of 1.7:1.
42. The formula of 'the number of unauthorised development pitches plus 40% of the authorised pitches' was accepted by its originators as only able to provide crude estimates of pitch requirements but was intended to represent a starting point and a way forward for the RSS process. In essence it was intended to provide for all unauthorised development pitches within the study area at that time and the anticipated additional need over time arising from family formation and growth, overcrowding and other factors including net movement from bricks and mortar housing. The application of this approach was recognised by the study as an interim measure being essentially pragmatic, designed for simplicity and representing 'the bare minimum rather than generous'.
43. Adopting this approach, but using the January Caravan Count figures for the three years 2005-7 rather than just 2006, EERA calculated the need for Essex as 389 additional pitches by 2011, as part of a Regional need for 1187

---

<sup>1</sup> Preparing Regional Spatial Strategy Reviews on Gypsies and Travellers by Regional Planning Bodies, CLG March 2007

additional pitches. All but 18 of these additional pitches were included in the total County Requirement of 371 pitches. The additional need for Brentwood was calculated as 14 under the formula, but along with 8 other Essex local authorities where calculated need was less than 15, a minimum requirement of 15 was imposed to allow for a more equitable spread of pitch provision and the proportionate reduction in numerical requirement for Basildon (from 163 to 81), the authority which under the formula had the largest numerical need arising from its existing sites. In effect Brentwood, along with 8 other Essex local authorities was expected to take a share of the 'excess need' from Basildon. These figures formed part of Draft Policy H4 which was considered by the RSS SIR Panel at an Examination in Public (EIP) in October 2008.

44. The Report of the Panel<sup>2</sup>, broadly supported the Draft Policy wording, overall approach and numerical requirements across the Region, and Brentwood's requirement of 15 net additional pitches 2006 – 2011, while raising the total Regional minimum requirement to 1,237 and altering some of the individual District requirements. Relevant general comments in the Report include:
- The figures proposed are not maximum numbers but minimum numbers to be achieved, and when development control decisions are made individual circumstances will be relevant. We therefore conclude that the main principles of the wider distribution strategy are sound. (3.30)
  - The instrument used by EERA to achieve a wider distribution is to impose a minimum level of 15 pitches to every district regardless of the estimate of locally arising need calculated by the GTAA or formula. (3.31)
  - Overall we accept the minimum level of 15 as appropriate to provide the opportunity for a wider range of locational choice for gypsy and traveller communities than currently exists at the moment. (3.35)
  - The distribution proposed in the Policy has not been influenced by the extent of Green Belt constraint, except so far as this underpins the reduced requirements in Basildon District Council and possibly South Cambridgeshire. All other Districts containing Green Belt are expected to make provision for their full local need. (3.36)
  - There was very little evidence to support EERA's contention that in areas with tightly drawn Green Belt boundaries, sites would be likely to be found outside the Green Belt. (3.39)
  - On balance the Panel accepted that the judgment made in setting a requirement of 15 pitches for Brentwood was correct. ... The recent increase in the number of unauthorised sites and with temporary planning permissions was drawn to the Panel's attention by the Brentwood Gypsy Support Group (4.14), but was concluded that: 'In so far as some of the recently arising need is met elsewhere, the fact that the total calculated need in the virtual county closely balances the level of provision should limit the distance which families have to move in order to obtain alternative accommodation.' (4.24)
45. In the light of the perceived shortage of gypsy and traveller sites in Brentwood, the Borough Council was one of two local planning authorities in England required by the Government to give priority to the preparation of a Gypsy and

---

<sup>2</sup> Planning for Gypsy and Traveller Accommodation in the East of England Report of Panel December 2008

- Traveller Sites DPD to assess the need for an identification of sites and policies to provide for gypsy and traveller accommodation needs in the Borough.
46. An Initial Issues and Options Consultation took place in July 2007, followed by a Stage 2 Consultation on Suggested Site Options in May 2008. This sought public comments on 9 Specific Sites and 8 General Locations for possible areas of search. These appear to have been chosen on the basis that they had been suggested to the Council as possible permanent gypsy and traveller residential sites rather than by the Council undertaking a 'sequential search' process. Of the 9 Specific Sites 7 were in the Green Belt. Of these 3 were subject to a temporary planning permission and two were unauthorised gypsy and traveller sites. One was allocated in the Local Plan as a Protected Urban Open Space. Of the 8 General Locations, all eight are in the Green Belt and none contain an authorised or unauthorised gypsy and traveller site.
  47. The Suggested Site Options document did not contain a proposed criteria based policy, or any criteria against which any of the 18 'Suggested Site Options' had been or might be assessed in planning, or any other terms. It did however note a number of factors, derived from Circular 01/06 which 'will be important ... in assessing the appropriateness of a site location' and says that 'The Council will include a criteria-based policy in the DPD which will be used to consider the appropriateness and suitability of any site for the accommodation of gypsies and travellers.'
  48. At the Council's Policy Board in March 2009 the Consultation Responses were reported. I was advised at the inquiry that the detailed analysis of the Responses, while available to the Council's LDF Member Working Group was not available as a public document. The Working Group's recommendations to the Policy Board were, in the light of the likely RSS requirements that:
    - It is in the best interests of the Borough to accept that 15 additional authorised permanent residential pitches be provided by 2011.
    - The meeting should consider in Part 2 [which the Council's witness said was not a public session] where those 15 pitches should be located, and in doing so it would be preferable to consider the existing sites with temporary planning permission or existing authorised sites; and
    - The above decisions should form part of the basis for the next consultation document.
  49. The Policy Board unanimously resolved to agree these recommendations. By a Press Release issued on 12 March it was announced that the Council had accepted that 15 pitches be authorised on 5 named sites. The next stage of the consultation, setting out the Council's preferred strategy for providing the 15 additional pitches, will begin in early summer and be reported back to the Policy Board in October 2009, before being submitted to the Secretary of State for approval and public examination held by a Government Inspector.
  50. The 5 named sites include the three 'temporary permission' gypsy and traveller sites which were listed as Specific Sites 1-3 in the Consultation Document, one of the unauthorised sites and another gypsy and traveller site with a temporary planning permission (Cottage Garden, Beads Hall Lane, Pilgrim Hatch) which had not been included in the Consultation Document.

51. From all this it would appear that:

- The Council have resolved to progress only 5 specific sites in their Gypsy and Traveller DPD in order to meet the RSS Panel-recommended 15 additional pitch minimum for the Borough.
- All proposed allocation sites are owned by their current gypsy and traveller occupiers.
- Four of the five sites are currently subject to temporary planning permissions.
- At least 3 of these (which together comprise 11 of the 15 proposed permanent pitches) are subject to personal occupancy conditions, limiting occupation to named individuals. I.e. the allocation of these sites through the DPD will primarily benefit the current site owners and occupiers, rather than being available to any gypsy and traveller. Although, if allocated in an adopted DPD the implication is that they would be granted a permanent planning permission at the expiry of the current temporary periods.
- There are three authorised gypsy and traveller sites the subject of temporary planning permissions which expire between July 2009 and April 2011, comprising 7 pitches which, were not included for consideration in the Suggested Site Options document. Additionally there are 4 unauthorised sites (including the appeal site in this case) comprising another 5 pitches which were not included for public consultation the Suggested Site Options document.
- I.e. as of July 2008 there were 12 established gypsy and traveller sites, including the appeal site, within Brentwood which the Council did not include as possible options in the emerging DPD. It is possible that some, if not all, of these may have been established since January 2007; the last Caravan Count data which influenced the formulae figure of calculated need in the RSS SIR, or certainly since January 2006.
- If the DPD is adopted on the basis of the five 'chosen' sites, the implication is that no provision will be made for this element of locally arising need through the development plan system.
- As a consequence this element of locally arising need will, in accordance with the emerging RSS provisions, have to be accommodated elsewhere within the Region, or further afield.
- The Council provisionally expect their Gypsy and Traveller DPD to be adopted some time in 2010. The Council's witness was unaware of the Gypsy and Traveller site DPD timetable for any other local planning authority in the Eastern Region, believing that Brentwood was the most advanced in this respect.
- The Council's witness could not point to any alternative authorised gypsy site or sites on which Mr Sykes, or any of occupants of the other unauthorised gypsy and traveller sites in Brentwood, or the occupiers of the 'non-allocated' sites for which temporary planning permission would shortly expire, could be accommodated, either in Brentwood or further afield.

52. In conclusion I find that:

- The RSS Gypsy and Traveller SIR for the Eastern Region has been prepared in the context of the urgent need for improved provision across the region and a likely need to provide around 1200 additional permanent sites by 2011.
- The SIR was not informed by a robust GTAA from any local planning authority in Essex. The calculated need for additional gypsy and traveller sites in Essex was derived from a formula and based on Caravan Count data from 2005 - 2007 but since then, at least in Brentwood, there have been a significant number of new gypsy sites established.
- The requirement for all local planning authorities in the Eastern Region to provide a minimum of 15 additional permanent residential pitches was not based on any estimate of locally arising need calculated by a GTAA or formula but is the instrument being used by EERA to achieve a wider distribution of gypsy and traveller pitches.
- Brentwood Borough Council has not, so far, undertaken a robust GTAA to provide the evidential basis for the assessment of local need for authorised gypsy and traveller sites to inform and underlie its Gypsy and Traveller Sites DPD
- The Local Plan Policy concerning gypsy and traveller sites has not been saved and no criteria-based policy to guide the search process and identification of gypsy and traveller sites in the DPD or to assess applications for 'windfall sites' exists in any of Brentwood's existing or emerging Local Development Framework Documents.
- All existing authorised, and proposed to be allocated, gypsy and traveller sites in Brentwood are in the Green Belt.
- The Council's approach of identifying 5 sites for 15 permanently authorised pitches through their emerging DPD would meet the minimum requirements of the emerging RSS but would not accommodate the needs of the occupiers of 12 temporarily authorised or unauthorised pitches in the Borough.
- The failure of the Council to include provision for this element of local need within the emerging DPD, in the context of the substantial shortage and pressing need for additional provision of residential pitches across the Region will mean that those individuals will either have to await the formulation of gypsy and traveller site DPDs in other local planning authorities, with excess capacity or more generous provision and/or, and in the mean time seek to acquire or extend a planning permission to allow them to remain on their current sites. If they are unsuccessful in this they are likely to be subject to and enforcement notice requiring them to vacate their site with no suitable affordable alternative being available, the situation facing Mr Sykes here.
- In terms of the likely timing of provision of new sites to meet the needs of Mr Sykes, or other gypsies and travellers living in Brentwood on a 'non-allocated site', at the present time and in the light of the announced approach to be taken by the Council in progressing their Gypsy and Traveller DPD, there is no reasonable expectation of a change in circumstances within a definite and foreseeable period.

53. I give these factors, as they impact on the appeal site, substantial weight in favour of the grant of planning permission for the development in this case.

**(e) The accommodation needs of the appellant and his alternative accommodation options.**

54. Mr Sykes was not born to a gypsy and traveller family but since the age of 9 was brought up by a Romany Gypsy family and lived, travelled, and later worked with them. The Council accept his gypsy and traveller status for planning purposes and his need for a gypsy and traveller site within reasonable travelling distance of his girlfriend and sons who live in a house in Harlow. Since the age of 9 he has not lived for any length of time in a house. He tried living with his girlfriend and her parents but could not settle. Since becoming an adult he has owned a caravan, but has never had his own authorised pitch and 'doubled up' on authorised or unauthorised sites with family or friends: he estimates he may have stayed on over 25 sites in this way in the 9 years before settling on the appeal site.
55. He had been looking for a pitch for himself for many years without success. He did not know of any vacant plots and there would not be many gypsy and traveller sites on which he would be welcome as he was not a Romany Gypsy or Irish Traveller by birth. He had very limited funds and he had been outbid on one or two sites. His main priority was to find a site within up to 30 minutes drive of Harlow which would be suitable for himself, and his sons when they stayed with him overnight, which he tried to do a couple of nights a week when he was not away travelling. He had made a few enquiries at Council-owned sites but they had come to nothing and he had never put his name on a list. Those sites were all full and with waiting lists and in any case gave priority to families living with children and people with family connections to existing tenants on the site, neither of which he had.
56. His aunt, the owner of Clementines Farm, had gifted him the land, to live on. If he was denied planning permission for it he did not know what he would do. He would probably have to return to an itinerant existence as he had done before, but his girlfriend would not let him have his boys to stay in those circumstances and it would be very difficult to look after his horses, which he grazed on the land and a nearby field owned by his uncle.
57. Given the widespread and significant shortage of authorised gypsy and traveller sites across the Eastern Region, as discussed above, even if Mr Sykes had unlimited funds and a willingness to move some considerable distance this would not assist him: if there are no available alternative sites (and no party could point to any) then there is little point in making a fruitless search for them. Because of his personal circumstances there is a negligible chance of him being offered a pitch on a Council-own site, even if one were to become available. He has a reasonable desire to live on a gypsy and traveller caravan site within relatively easy access of his children. Such a site is unlikely to be found in an urban area. While not all of the rural area within 30 minutes drive time of Harlow is in the Green Belt, much of it is, especially the nearer parts, and realistically, almost any alternative, suitable and affordable gypsy and traveller site would be.
58. The enforcement notice against the use of the appeal site as a residential caravan site has come into effect and therefore the refusal of planning



permission would make its continued occupation unlawful. The Council's announced intentions, in terms of selected sites, for their Gypsy and Traveller DPD gives no realistic likelihood, for the foreseeable future, of providing Mr Sykes with an alternative site by that means. There is no evidence to suggest that any other local planning authority in the eastern region is as advanced in the preparation of its Gypsy and Traveller DPD as Brentwood and thus provision of an alternative site through the development plan process at a local level anywhere else in the Region is likely to be several years off. Furthermore, when such sites are provided there is likely to be severe competition for any that become available on the open market.

59. As a consequence the effect of a refusal of planning permission in this case would be to make Mr Sykes homeless, with no realistic prospect of an alternative authorised site becoming available to him for the foreseeable future. This would be directly contrary to the Government's key objective for planning for housing: to ensure that everyone has the opportunity of living in a decent home, (Circular 01/06 paragraph 1) and intention 12(i) of the Circular: to help to avoid gypsies and travellers becoming homeless through eviction from unauthorised sites without an alternative to go to.
60. While this section has considered the accommodation needs of the appellant, and his alternative accommodation options were the appeal to be dismissed, many of the findings apply equally to any gypsy and traveller currently living on an unauthorised site in Brentwood, or on an authorised site subject to a temporary planning permission due to expire shortly which is not one of the 'preferred 5' chosen for progression in the DPD. In the light also of the provisions of adopted RSS Policy H3, and the consequences for all of the individuals involved of the approach being taken by the Council I give these factors significant weight in favour of this appeal, and not only in terms of Mr Sykes personal situation.

***(f) Whether the development complies with relevant development plan policies and other policy documents.***

61. As set out above, subject to conditions concerning landscaping and other matters, I find that the development would comply with the relevant parts of Local Plan Policy CP1. Policy GB1 is closely based on the reasoning required by PPG2 and I deal with this under the next issue.
62. Except for changes of use of buildings or land, engineering or other operations which met the terms of paragraphs 3.7-3.12 of PPG2 and were thus not inappropriate, it would be very rare for any development in the Green Belt to comply with Policy GB2. Almost any new building, even if 'not inappropriate' because it fell within one of the categories of paragraph 3.4 would have some negative effect on openness, and cause consequential harm to one or more of the purposes of including land in the Green Belt, and thus conflict with the provisions of GB2. Any inappropriate development would also, almost by definition, conflict with GB2, whereas GB1 and PPG2 make specific provision for such development to be allowed, where very special circumstances exist. Thus while the development in this case conflicts with GB2, because it causes some harm to the openness of the Green Belt and the purposes of including land in

it, I give the policy limited weight as is contrary to GB1 and the provisions of PPG2.

63. With regard to adopted RSS Policy H3, the provision of an additional gypsy and traveller pitch would help, in a small way to address the urgent need for additional sites in the Eastern Region, and recognise the requirements of Draft RSS Policy that *local authorities should seek to achieve levels of provision required by 2011 as soon as possible through the development control process*. I accept that Brentwood appear to be making steps to meet their likely RSS requirement to provide 15 additional authorised pitches by 2011, but this figure, as all the other 'requirement' figures are expressly noted as minima and are not based on, or necessarily a reflection of, a robust quantitative assessment of local need. This site appears unlikely, at the current time, to be included as an allocated site in the emerging DPD.
64. Finally, the development is in accord with the overall objectives and specific criteria of 01/06 as set out on page 9 of the Council's Suggested Site Options Consultation Document of May 2008. It is available; it is suitable for its purpose; it has no material impact on the character and appearance of the locality or local amenity. Its location is suitable; and, on its own, it has a minimal impact on the nearest settlement. I deal with the wider impact on the local community above and below. It has satisfactory access onto the main road network; it is well related in relation to existing schools and other services; it provides an acceptable living environment for its residents; on its own, a single pitch gypsy site would not over-dominate the existing residential community; it would not materially harm the character of the landscape or the biodiversity value of the site and its surroundings; and finally it is not located within an area at risk of flooding. While the site is in the Green Belt, this cannot be regarded as being an over-riding factor against it, given the provisions of PPG2, Circular 01/06, Local Plan Policy GB1 and the views of the EIP Panel which specifically do not preclude the provision of, or grant of planning permission for, gypsy and traveller sites in the Green Belt, the development accords with development plan policy and other relevant policy documents. I give this matter substantial weight.

***(g) Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development in this case.***

65. PPG2 requires me to give substantial weight to the harm by reason of inappropriateness when considering any case of inappropriate development in the Green Belt. In this case it is also necessary to add some limited weight to the harm to openness arising from both aspects of the development, and some additional weight to the harm arising to the local area in terms of adding to what is a relatively high concentration of gypsy and traveller sites and the pressures that this is putting on the local community and infrastructure. I find no separate material 'other harm' to the character and appearance of the area.

66. In terms of the relevant other considerations, the development complies with Local Plan Policy CP1, adopted RSS Policy H3, and emerging Policy H4 and the provisions of Circular 01/06, as set out above. I give this broad compliance with development plan and national policy substantial weight. I also give the regional and local shortage of gypsy and traveller sites, the acknowledged urgent need for additional sites and the failure of the Council to include provision for a significant element of local need within the emerging DPD substantial weight. I also give additional significant weight to the absence of any available, suitable and affordable alternative gypsy and traveller site and the consequences of this for Mr Sykes, or any other gypsy and traveller living on a site in Brentwood which does not already have a permanent planning permission or has been selected as one of the five 'chosen' sites for the DPD. Realistically any alternative gypsy and traveller site in this part of Essex will also be in the Green Belt. Taking all these other considerations together, and without going on to consider the detailed personal circumstances of Mr Sykes, I find that they clearly outweigh the harm by reason of inappropriateness, and any other harm as set out above. I have no hesitation in finding that the very special circumstances necessary to justify inappropriate development in the Green Belt exist in this case.
67. In undertaking my duties under Article 8 of the Human Rights Act, I find that the significant interference to Mr Sykes' rights which would occur were the appeals to be dismissed, or granted on a temporary basis only, would be disproportionate to any, and in this case very limited, public benefit arising from such a decision.
68. I have therefore decided to allow both appeals, subject to conditions in the case of the s.78 appeal, and to quash the enforcement notice, having varied it in the terms set out at the start of my decision.

### **Conditions**

69. I have considered the conditions suggested by the Council in the light of Circular 11/95, Government advice on The Use of Conditions in Planning Permissions.
70. The planning application leading to the s.78 appeal was made, and considered, on the basis that it was for a residential caravan site for 2 caravans, no more than one of which would be a static caravan or mobile home, and occupied only by gypsies and travellers. Conditions are necessary to control these aspects of the development as they go to the heart of the scale and nature of the development permitted. Because of the pressing general need for additional gypsy and traveller sites in the local and wider area, and the weightings of the overall balance above, I find no justification for imposing a personal occupancy condition. The application and need is for a permanent pitch and I shall grant planning permission on that basis.
71. As the development permitted is for a residential use, any significant commercial use would be outside the permission and potentially the subject of an enforcement notice or separate application. I therefore do not consider it necessary, as suggested by the Council, to impose a condition specifically precluding any commercial activity on the site. Neither is it necessary to impose a condition preventing the 'installation' of additional hard surfacing

without the prior written approval of the local planning authority. The use does not attract such permitted development rights and any such development, in excess of *de minimis* would need to be the subject of a separate application. Neither do I see any necessity for a condition expressly preventing the erection of additional fencing or other means of enclosure. Much can be erected under permitted development rights, and I find no justification for removing those rights in this case. As before, development in excess of those rights would require the separate express grant of planning permission.

72. I do however see a need for a condition requiring details of hard and soft landscaping, including any alterations or additions to the means of enclosure, details of foul water drainage arrangements and any proposed external lighting to be submitted to the Council, within a strict time scale for their approval, and the subsequent implementation to ensure that such matters which are important in a practical or visual sense to the successful operation and integration of the site into the local area, are addressed.
73. Given the above, and the fact that the planning permission granted under the s.78 appeal essentially subsumes that sought, and granted under the s.174 ground a) appeal I see no need for the imposition of any conditions on that grant of planning permission. The Council had suggested only the imposition of a personal use condition which is inappropriate in the circumstances for the reasons given above.

## **Formal Decisions**

### **S.174 Enforcement Appeal Ref: APP/H1515/C/08/2066552**

74. I direct that the enforcement notice be varied by:
- (a) the deletion of the word 'approximate' in the 'The matters which appear to constitute the breach of planning control.'
  - (b) the variation of the second requirement of the notice so that it reads: 'To restore the land to its previous condition.'
75. Subject to these variations I allow the appeal under ground (a), quash the enforcement notice and grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the formation of a hard standing, in the position shown green on the attached plan.

### **S.78 Planning Appeal Ref: APP/ H515/A/08/2084069**

76. I allow the appeal and grant planning permission for the use of the land for the stationing of caravans for residential purposes as a single gypsy pitch, together with the formation of a hardstanding and an internal access road at **Clementines Farm, Murthering Lane, Navestock, Brentwood, RM4 1HL** in accordance with the terms of the application No. BRW/645/2008 dated 25 June 2008, and the plan numbered 07-151-001 submitted therewith, subject to the following conditions:

- 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) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan) shall be stationed on the site at any time.
- 3) 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 2 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
  - i) Within 3 months of the date of this decision a scheme for:  
the means of foul water drainage of the site; any existing or proposed external lighting; hard and soft landscaping including any proposed hard surfacing material, tree, hedge and shrub planting and additional or altered boundary fencing, together with a programme of maintenance and provisions for the replacement of dead or damaged species if necessary;  
*(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) Within 11 months of the date of this decision the site development scheme shall have 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.

*LM Drake*

INSPECTOR

