



Appeal Decisions

Inquiry held on 8-10 September 2009

Site visit made on 16 September 2009

by **Bridget M Campbell BA(Hons) 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

Decision date:
22 October 2009

Appeal A: APP/U2805/C/09/2097945

Land at Ashley Road, Middleton, Market Harborough, LE16 8YP

- 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 Mrs L Purcell against an enforcement notice issued by Corby Borough Council.
- The Council's reference is ENF35.
- The notice was issued on 12 January 2009.
- The breach of planning control as alleged in the notice is without planning permission, change the use of the land from a grass paddock used for grazing horses to land for the stationing of caravans.
- The requirements of the notice are to
 - a) Stop using the land for the stationing of caravans and remove the caravans from the site
 - b) Remove from the land all additional areas of hard standing and reseed
 - c) Restore the land to its former condition for use as a grass paddock.
- The period for compliance with requirements a) and b) is 4 weeks and with requirement c) is 8 weeks.
- The appeal was initially proceeding on the grounds set out in section 174(2) (a), (b), (f) and (g) of the Town and Country Planning Act 1990 as amended with ground (c) added subsequently.

Summary of Decision: The appeal is allowed subject to the enforcement notice being corrected in the terms set out below in the Formal Decision.

Appeal B: APP/U2805/A/09/2099292

Land at Ashley Road, Middleton, Market Harborough, LE16 8YP

- 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 Mrs L Purcell against the decision of Corby Borough Council.
- The application Ref 08/00373/DPA, dated 21 July 2008, was refused by notice dated 9 January 2009.
- The development proposed is a change of use for the stationing of caravans for 3 no. gypsy plots with utility/day rooms and hard-standing ancillary to that use and including retention of the existing use of the land for stabling horses.

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

Application for costs

1. At the Inquiry an application for costs was made for Mrs L Purcell against the Council. This application is the subject of a separate Decision.
-

Preliminary matters

2. Prior to the start of the inquiry, the Council withdrew its objections on highway grounds.
3. At the inquiry and in relation to Appeal A, it was agreed that the alleged breach of planning control in the enforcement notice had been incorrectly described. It was further agreed that it could be corrected to address the mixed use of the site as a caravan site and for the keeping of horses without resulting in injustice for either party. The requirements of the notice at (a) could also be corrected to require the caravan site use to cease and for the caravans to be removed and at (c) for the land to be restored to its former condition before the breach took place. On the basis that these corrections would be made, the Appellant withdrew her appeal on grounds (b), (c) and (f). Appeal A proceeds on grounds (a) and (g) only.

Background and planning policy

Gypsy status

4. The occupiers of the appeal site comprise 3 related Irish gypsy households. The Appellant and her husband Myles Doran have 3 children aged between 3 months and 11 years at the date of the inquiry. James and Mary Nolan have 5 children between the ages of one and 16 years and are expecting another and Johnny and Eileen Doran have a 5 month old baby. From written evidence and from the oral evidence of Mr Myles Doran to the inquiry, it is clear that the families have a nomadic habit of life, travelling for work, and that they fall within the definition of gypsies for planning purposes as set out in Circular 01/2006 *Planning for Gypsy and Traveller Caravans*. That is not a matter in dispute.

The site

5. The appeal site is located to the north of Middleton (some 320 m from the edge of the settlement) in open countryside. It is located on the inside of a bend in the country lane, Ashley Road, so that to the north and east it is bounded by that highway. It is separated by a narrow field from an isolated residential bungalow, Ashmeade, to the west and it adjoins grazing land to the south. Opposite the site on the eastern side of the road is a small sewage treatment works.
6. Access to the site is towards the south-east corner beside a small stable block and store. A loose gravel drive follows the roadside boundary to an area of hardstanding at the northern end of the site which accommodates the families' caravans and vehicles. The remaining portion of the site is used for grazing.

Planning policy

7. Policy 16 of the East Midlands Regional Plan (March 2009) requires Local Authorities to identify land for additional pitch provision based on clearly evidenced assessments of need and sets out minimum net additional pitch requirements by local planning authority area for the period up to 2012 derived from up to date Gypsy and Traveller Accommodations Assessments (GTAAs).

8. Policy 17 of the North Northamptonshire Core Spatial Strategy (CSS) (June 2008) addresses Gypsies and Travellers and indicates that where a need is identified, permission may be granted or site allocations proposed where 3 criteria are met. The first, makes reference to locational guidance set out in policy 9 *Distribution and Location of Development* and general criteria set out in policy 13 *General Sustainable Development Principles*. The second prohibits locations designated as environmentally sensitive and the third requires a close link to an existing settlement with an adequate range of services and facilities to maximise social inclusion and sustainable patterns of living.
9. Reference has also been made to the saved policies of the Corby Borough Local Plan and in particular to P10(E) which is concerned with Special Landscape Areas (SLAs) and to P10(J) entitled bad neighbour uses.

Appeal A ground (a) and Appeal B

Main issue

10. The main issue is
 - whether the site is suitable as a gypsy caravan site having regard to national and local planning policy, its specific location in the countryside, a designated SLA, and in close proximity to a sewage treatment works, and having regard to sustainability objectives; and
 - if not, whether the harm identified is outweighed by other material considerations.

Countryside and SLA

11. Although the site lies in open countryside it is within a short walk of Middleton, a settlement which is itself of notable size and which adjoins the settlement of Cottingham. In addition the site is close to a bungalow, Ashmeade, to the sewage treatment works opposite and adjoins a field to the south used for keeping horses and accommodating an assortment of utilitarian structures. It is not, therefore, as isolated as some countryside locations devoid of any neighbouring or nearby development.
12. From public viewpoints, those passing the site by motor vehicle would be unlikely to notice the residential caravan site use since the development is currently tucked into the northern corner and is well screened by the tall roadside hedge. It is not seen from the road when passing the access. What would be more apparent to those in vehicles would be the stable building and store at the access into the site and the grazing land beyond the surfaced entrance. These elements are not out of keeping in this area where there appear to be a number of fields used for horse grazing and which include the occasional structure. Observant pedestrians passing the site would be aware that there is more behind the hedge than a field, but there are no clear views through or over the hedge into the site from the road so that the existing caravan site, does not visually intrude in views along this country lane so as to materially harm its rural character.
13. I am aware that more of the development might be visible in winter months but even then it seems to me that the thickness of the hedge with its network of branches and twigs would provide a good degree of screening even without leaf cover. Moreover, where considered necessary, additional planting could be

introduced to reinforce less dense sections of the hedgerow. Similarly, further hedgerow planting could be undertaken along the southern and western boundaries where gaps currently exist so as to better screen the site from adjoining private land.

14. Despite its open countryside situation, I consider that the site has a very limited effect on the character and appearance of the area. It is not a particularly isolated location being close to other development and to two settlements and even without supplementary planting it benefits from good screening. The layout of the pitches as shown on the drawing accompanying the planning application (Appeal B) would result in the caravan site use extending further across the site in a southerly direction so that more would be visible from public viewpoints, but primarily only when passing the entrance where the paddock and stable building would remain in the foreground and where additional screen planting is indicated.
15. I am aware that if planning permission was to be granted the highway authority asks for the entrance gate to be set back 16m to enable a vehicle and trailer to stand clear of the highway whilst opening the gate to the site. That would certainly increase the prominence of the site but it seems to me to be unnecessary bearing in mind the limited occasions when such movements would occur and that no such set back is made for other field gates in the area where farm machinery or equestrian vehicles of similar length require access. The provision of sight lines at the access could necessitate trimming back the hedgerow but supplementary planting could be undertaken where necessary to maintain the vegetated edge to the site.
16. The first criterion of policy 17 of the CSS requires gypsy sites to accord with the locational guidance set out in policy 9 and the criteria in policy 13 where relevant. Policy 9 states that development in the open countryside will be strictly controlled. That is an objective which, in my experience, is common in both national and local planning policies. It is a starting point to protect the countryside for its own sake but an interpretation that in the context of policy 17 it prevents the location of gypsy sites in the countryside is, in my view, to apply too strict an interpretation and one which flies in the face of recently introduced national policy. Circular 01/2006 has a clear section entitled *Sites in Rural Areas and the Countryside* which at paragraph 54 indicates that sites might be found on the outskirts of built-up areas and in rural and semi-rural settings. I do not accept the Council's suggestion that a rural setting should be taken to be a village, hamlet or small cluster of dwellings with open countryside as something more, being countryside outside of a village or settlement. There is no such distinction made in the Circular and neither was I pointed to anything within any of the Development Plan documents to suggest a different definition to that normally applied in adopted planning policies where all areas outside defined settlement boundaries are taken to be in the open countryside. Indeed the Council's planning witness agreed that was the correct interpretation.
17. Criterion (o) of policy 13 says that development should conserve and enhance landscape character and makes reference to the Environmental Character Assessment. Saved Local Plan policy P10(E) indicates that proposals for development in the open countryside will not normally be permitted and that particular regard will be paid to the SLAs and the need to avoid visual intrusion,

especially in the Welland Valley. The site lies within the Welland Valley SLA. This is clearly a locally valued landscape which the policies seek to protect but C01/2006 could not be clearer in stating at paragraph 53 that local landscape designations should not be used in themselves to refuse planning permission for gypsy and traveller sites. Thus the location within the SLA should not, in itself, generate an "in principle" objection but rather the development needs to be assessed having regard to its impact upon the special quality of the landscape. I do not accept that the site offends policy 17(b) of the CSS by being within an area "designated" as environmentally sensitive. The only designation is that of the SLA and if that were to be considered as environmentally sensitive for the purposes of this policy it would directly conflict with the Circular by introducing an in principle objection to sites in SLAs.

18. In the vicinity of Middleton, the Environmental Character Assessment says that the valley floor is sparsely settled with occasional farms close to the river channel beyond with the only structures on the Welland valley floor being occasional sewage works and bridges. That may be so and that may go towards contributing to the character of the area but it does not follow that no other forms of development can be accommodated unless an in principle objection to gypsy sites in this SLA contrary to C01/2006 advice is to be maintained. Rather it is necessary to assess the impact of the development on the landscape character of the area. In this respect I have already found the site to be well screened so that there is little visual intrusion. There would be no change to the field pattern in the area and indeed part of the site would be retained as grazing land. I recognise that a gypsy caravan site would not be in keeping with the existing character of the area but that would be so in any countryside location and criterion (o) of policy 13 that development should conserve "and" enhance landscape character is not limited in application to SLAs. In this particular location, however, with a relatively discreet position, good screening and close to other development the effect on the overall quality of the landscape character of the area is limited.

Proximity to sewage treatment works

19. The Council has talked of the introduction of a residential use in close proximity to this potentially bad neighbour as being contrary to the principles of saved Local Plan policy P10(J). That policy however addresses Corby Sewage Treatment Works. It makes no reference to any other sewage treatment works and there is no evidence to demonstrate that the two works, which are of very different size, are comparable in terms of their potential to cause nuisance over a specified area. Policy P10(J) has no relevance to these appeals.
20. Anglian Water says that whilst it takes all reasonably practicable steps to prevent nuisance arising from its works, it is important that there should be no development which is potentially sensitive to odour within 400m of one of its works. However, I have been provided with no information as to why 400m has been settled upon as the appropriate distance and the DEFRA Code of Practice on Odour Nuisance from Sewage Treatment Works states that differing circumstances between individual works makes a standard distance "cordon sanitaire" difficult (page 16). Moreover, Anglian Water does not appear to have been consistent in its advice. Twenty three houses have recently been

constructed in Middleton of which, I am told, half lie within 400m of the treatment works and to which development Anglian Water raised no objection.

21. Nonetheless, there is no residential development as close as the appeal site to the treatment works with the site itself having only some 20m separation and the nearest residential caravan being about 109m from the treatment unit itself. The next nearest property is Ashmeade, an isolated bungalow some 159m from the treatment unit. The evidence is that the works do give off an unpleasant smell which is apparent to pedestrians passing by. As far as the appeal site is affected the evidence from Myles Doran who occupies the site and his agent who had visited, was that whilst the smell can be detected at the access, it is not discernable where the caravans are located. This was certainly the case at the time of my visit although it seems to me likely that such conditions are likely to vary rather than remain constant.
22. There is no evidence that the treatment works has been the source of any complaint despite houses in Middleton lying within the 400m cordon sanitaire (albeit some 300m or more distant) and a bungalow lying within 159m. But I can understand the concern about the potential for odour nuisance on the appeal site which is closer than any other development, and also about the potential of residential development in such close proximity to suppress the way in which the facility is operated. The two very different developments do not make good close neighbours. It is widely accepted that odour from sewage treatment works can have a detrimental impact on the quality of the local environment for those living close by and yet such works are essential for maintaining standards in water quality.
23. The possible impact of potentially polluting development on land use including general amenity is a material consideration as is consideration of the need to separate necessary but potentially polluting and other land uses (Appendix A, PPG23). In this case the appeal site could not be much closer to the works, separated only by the width of the road. There is no dispute that the works do emit odours which, on the evidence I heard, are commonly detectable from the road alongside and at the edge of the appeal site. In my view this points to the unsuitability of the appeal site for residential use as there is a likelihood of conflict between the two uses arising from the emission of odours. In these circumstances and given that there is no other residential development within a comparable distance from the works from which to draw from experience, I consider a precautionary approach to be the appropriate response.

Sustainability objectives

24. The third criterion, (c), of CSS policy 17 requires gypsy and traveller sites to be closely linked to an existing settlement with an adequate range of services and facilities and criterion (a) refers back to policy 13 which at (k) provides that development must allow for travel to shops and school by foot, cycle and public transport. The Council's rigid application of these policies ignores the advice in C01/2006 that sites are to be found in rural and semi-rural settings. Even with the narrow interpretation (which I do not accept) that that is taken to be within a village, hamlet or small cluster of dwellings, such locations would still be unlikely to satisfy an inflexible application of the policies. Rural locations, as have been accepted in C01/2006, will necessarily be more remote from day to day services and facilities than development within settlement limits.

25. In this case the appeal site is only some 300m away from the edge of Middleton and that settlement is physically very closely linked to the adjoining settlement, Cottingham. Facilities provided by the two settlements are limited. Middleton had a convenience shop but that is currently closed and its future is uncertain. Cottingham has a primary school and a community meeting hall and collectively the settlements are provided with bus services, public houses and churches. The appeal site is within a reasonable distance of all of these services by foot and cycle as well as by car along a relatively short straight stretch of country lane before entering the village. The road is a typical country lane unlit and without footways.
26. The nearest convenience shop selling a range of essential day to day items is attached to a petrol station some 2.3 miles from the site, with the centre of Corby which has a wide range of facilities and services only 3.5 miles from the site. As with the settled population, the fact that the occupiers might choose to use services or facilities at a greater distance (for example a school for reasons of religion) does not have a bearing on an assessment of the sustainable qualities of the site generally. In my view, this site, with some facilities in very close proximity, and within a reasonable and convenient distance of a large settlement by car or bus is sustainable taking into account the acceptability in principle of gypsy sites in rural locations and the wider considerations set out in C01/2006. The provision of a settled base close to two existing settlements of significant size and within a short journey of a town with a range of services measures up well to the sustainability considerations as set out in paragraph 64 of the Circular, in particular in that it will enable access to health services, regular school attendance for the children, and a reduction in the need for long distance travelling.

Other material considerations

27. The need for more gypsy sites nationally and regionally is well documented. The need in Corby following the benchmarking of the GTAA is for 15 pitches by 2011 and 17 pitches by 2017. The Council has made good progress in making provision in that 14 pitches have been provided on two sites in the form of 8 pitches at Brookfield for new age travellers and 6 at Dunlop Close for gypsies.
28. Taking into account the provision made, the RSS sets out a requirement in Corby of one additional pitch to 2012 and the Council is already taking steps to meet this and the identified need to 2017 in a proposal to provide an additional 4 pitches as an extension to the Dunlop Close site. That, the Council says, is sufficient to meet the need and since CSS policy 17 is predicated on a need being identified there can be no reason to grant planning permission elsewhere. I find that to be too narrow an interpretation of the policy which cannot be right. The RSS figure is identified as a minimum pitch provision and the accompanying text seeks a regular update of GTAA's; and all provision within the Authority's area is focused on a public site when C01/2006 seeks to promote more private site provision in appropriate locations through the planning system (para.12(h)). Far from achieving this latter objective, the Council's stance effectively prevents any gypsy from seeking to establish a private site in the Corby area.
29. Moreover, the recently opened Dunlop Close site is full and already has a waiting list of 7 and I understand that it is occupied exclusively by Romani

Gypsies. Whilst the Council said that it had been open for gypsies of any background to apply for pitches on this site, it is commonly known that there is tension between Irish and Romani gypsies such that the dominant group tends to force the other out and I do not find it surprising that, despite the site being open to both groups, it is exclusively occupied by only one. In this respect I note separation has been maintained between new age travellers and gypsies on two physically separate sites.

30. The Council points to 6 unused residential pitches identified in the GTAA as available in Kettering but I have no information as to whether these are still available or whether they would ever have been available to the three families on the appeal site. Moreover, with 7 families on the waiting list for Dunlop Road, three on the appeal site and another family nearby benefiting only from a temporary planning permission there is clearly currently an outstanding need for more than 6 pitches. I recognise that these families might well have been accounted for in the GTAA and it might be that provision will be made over a wider area that will include them but that does not mean there is no current need.
31. The families on the appeal site in particular have an immediate need for a permanent site. They did not move onto the appeal site from any authorised site but rather had been moving about from place to place, although latterly Myles Doran and his family had doubled up on a pitch in Broughton. Their need is immediate and clear and is more acute when one takes into account the vulnerability and educational needs of the children. The Council was unable to suggest where they might go and notwithstanding the Council's commendable actions to meet the GTAA need and RSS minimum requirement, the likelihood is that if the enforcement notice is upheld these families will be forced back onto the road.

The balance of considerations

32. In considering whether this site is suitable as a gypsy caravan site having specific regard to its location, it is clear that it cannot meet policy requirements which seek to prevent development within the countryside, which do not allow for any visual intrusion and which require the landscape character to be enhanced. But to impose such requirements in an inflexible manner would, in effect, prevent any gypsy caravan site from being located in the countryside or within an SLA. That would be entirely contrary to C01/2006 whose introduction was found to be necessary because evidence showed that previous advice had failed to deliver adequate sites over the preceding 10 years. The intention of the Circular was to increase significantly the number of sites in appropriate locations over 3-5 years with sites in rural areas and the countryside acceptable in principle and local landscape designations not to be used in themselves to refuse permission.
33. In looking at the effect of the development on the character and appearance of the countryside and SLA, I have found that whilst there would inevitably be some harm by the very nature of introducing development where there previously was none, the degree of harm would be very limited having regard to the proximity of the site to other isolated developments and to a nearby settlement, and to its relatively discreet position with good screening which would restrict the level of visual intrusion. I have also found the site to

perform well in terms of sustainability taking into account the acceptability in principle of gypsy sites in rural locations and the considerations set out in C01/2006. Nonetheless, I find the appeal site to be unsuitable for residential use given its very close proximity to the sewage treatment works where I consider there would be a strong likelihood of conflict between these two incompatible uses arising from the emission of odours. In reaching this conclusion it seems to me that other sites might be found which would perform equally well in relation to countryside, SLA and sustainability considerations but which are not located so close to an unneighbourly use.

34. I conclude that the appeal site is not suitable as a permanent gypsy caravan site because of its proximity to the sewage treatment works. The Council suggests that the personal circumstances of the families should be given limited weight because they chose to purchase and move onto the appeal site without consulting the Local Planning Authority contrary to the advice in C01/2006 and because the families could have applied for pitches at the Dunlop Close site when it became available but chose not to do so. That might well be the case but the fact remains that these families with young children came from a roadside/unauthorised camping existence to the appeal site and would be forced back onto the road if the enforcement notice were to be upheld. I do not condone lack of consultation before moving onto the site but it does not seem to me that positive assistance in identifying a suitable private site would have been forthcoming given the Council's rigid stance that since the GTAA need/RSS requirement would be met no need could be established – a necessary requirement for the grant of permission in applying CSS policy 17.
35. Furthermore the pitches at Dunlop Close are clearly popular as they were immediately filled with a waiting list of 7 for a total of 6 pitches. As the 3 families on the appeal site did not apply, there is no knowing whether they would have been assigned pitches on this site or not, but had they been they would have displaced other families who would now still be in need. As it stands, there is an absence of existing provision which is suitable and available for these families. In these circumstances and having regard to the intention of the Circular to help to avoid gypsies becoming homeless through eviction from unauthorised sites without an alternative to move to, I consider harm in the short term arising from the unsuitability of the site because of its proximity to the sewage treatment works to be outweighed by the families' needs so as to warrant the grant of a personal temporary planning permission.
36. Any temporary period granted should be sufficient to enable planning circumstances to change and in this respect the Council anticipates that its site allocations DPD should be adopted in March 2011. With an allowance for slippage and to enable sites to come forward following that date I consider a period of 4 years to be appropriate. This would, in addition, enable the Council and the Appellant to enter into a positive dialogue should the families wish to seek an alternative site before specific sites are identified through the DPD process. Whilst my decision results in interference with the families' home and Article 8 of the European Convention on Human Rights is engaged, the response is proportionate taking into account the conflicting matters of private and public interest such that there is no violation of those rights.
37. I shall allow the appeals. I shall correct the allegation in the enforcement notice in order to clarify the terms of the deemed planning application but

there will be no need to correct the requirements because in allowing the appeal the notice will be quashed. There will be no need for me to consider the appeal on ground (g).

38. The terms of the deemed planning application are derived from the matters stated in the enforcement notice as constituting a breach of planning control – that is the matters that have already occurred. Whilst I am able to grant permission in respect of those matters in whole or in part, I do not have the power to widen the scope of the deemed application to include any future development requiring planning permission that might be envisaged such as the provision of amenity buildings to be erected in connection with the use. To that extent the permission granted in relation to Appeal A will differ from that granted under Appeal B. The planning permission granted on Appeal A is for the development already carried out. Conditions attached to that permission will thus come into effect immediately unless that permission is superseded by the implementation of the permission granted under Appeal B.

Conditions

39. In addition to limiting the period of the permissions and the occupiers of the site; conditions restricting the number of caravans and the size of vehicles, preventing commercial activities other than horse keeping, and requiring details of the access, drainage arrangements, materials for the amenity blocks (Appeal B) and external lighting are necessary to limit the impact on the rural area. Whilst the permissions are temporary and a good degree of screening exists, I consider there is a need to require a landscape scheme albeit that it should be limited in extent to reflect the limited period of occupation. It might, for example be necessary to supplement the existing hedgerow where disturbed by the provision of sight lines. Appeal A will require the submission of a site layout to ensure visual impact is minimised.

Decision

Appeal A: APP/U2805/C/09/2097945

40. I direct that the enforcement notice be corrected by the deletion from the third paragraph of the words "Without planning permission, change the use of the land from a grass paddock used for grazing horses to land for the stationing of caravans" and the substitution therefor of the words "Without planning permission, the change of use of the land from use for the keeping of horses to a mixed use for the keeping of horses and as a residential gypsy caravan site."
41. Subject to this correction I allow the appeal, and direct that the enforcement notice be quashed. I 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 change of use of the land from use for the keeping of horses to a mixed use for the keeping of horses and as a residential gypsy caravan site on land at Ashley Road, Middleton, Market Harborough LE16 8YP subject to the following conditions:
- 1) The residential occupation of the site hereby permitted shall be carried on only by James and Mary Nolan, Johnny and Eileen Doran, and Myles Doran and Lizzy Purcell and their resident dependants and shall be for a limited period being the period of 4 years from the date of this decision, or the

period during which they occupy the site, whichever is the shorter. When the land ceases to be occupied by those named or at the end of the 4 year period, whichever is the earlier, the use hereby permitted shall cease and all caravans, structures, hard surfaces, cesspits or septic tanks, materials and equipment brought on to the land in connection with the use shall be removed. Within 3 months of that time the land shall be restored to its condition before the use commenced.

- 2) There shall be no more than 3 pitches on the site and no more than two 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 or mobile home) shall be stationed on any of the pitches at any time.
- 3) Save for activities in connection with the keeping of horses, no commercial activities shall take place on the land, including the storage of materials. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 4) 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 shall be submitted providing details of:
 - the position of all mobile homes and touring caravans, parking and access and all areas of hard surfacing;
 - the arrangement of the access into the site including its width, the position and design of any gates, surfacing, drainage and the provision of sight lines;
 - arrangements for the disposal of foul and surface water from the site
 - all external lighting; and
 - hard and soft landscape worksand the said scheme shall include a timetable for its implementation.
 - ii) if within 11 months of the date of this decision the 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 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.
- 5) Following the implementation of the scheme approved in accordance with condition 4, there shall be no change to any of the approved details.
- 6) Any planting comprised in the approved details of landscaping which within a period of 4 years from the date of this permission die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

Appeal B: APP/U2805/A/09/2099292

42. I allow the appeal, and grant planning permission for change of use for the stationing of caravans for 3 no. gypsy plots with utility/day rooms and hard-standing ancillary to that use and including retention of the existing use of the land for stabling horses on land at Ashley Road, Middleton, Market Harborough, LE16 8YP in accordance with the terms of the application, Ref 08/00373/DPA, dated 21 July 2008, and the plans submitted with it, subject to the following conditions:

- 1) The residential occupation of the site hereby permitted shall be carried on only by James and Mary Nolan, Johnny and Eileen Doran, and Myles Doran and Lizzy Purcell and their resident dependants and shall be for a limited period being the period of 4 years from the date of this decision, or the period during which they occupy the site, whichever is the shorter. When the land ceases to be occupied by those named or at the end of the 4 year period, whichever is the earlier, the use hereby permitted shall cease and all caravans, structures, hard surfaces, cesspits or septic tanks, materials and equipment brought on to the land in connection with the use shall be removed. Within 3 months of that time the land shall be restored to its condition before the use commenced.
- 2) There shall be no more than 3 pitches on the site and no more than two 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 or mobile home) shall be stationed on any of the pitches at any time.
- 3) Save for activities in connection with the keeping of horses, no commercial activities shall take place on the land, including the storage of materials. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 4) Construction of the utility/day rooms hereby approved shall not be commenced 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.
- 5) 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 shall be submitted providing details of:
 - the arrangement of the access into the site including its width, the position and design of any gates, surfacing, drainage and the provision of sight lines;
 - arrangements for the disposal of foul and surface water from the site
 - all external lighting;
 - hard and soft landscape works;
 - and including the site layout as shown on drawing number 08_185_002A.and the said scheme shall include a timetable for its implementation.

- ii) if within 11 months of the date of this decision the 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 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.
- 6) Following the implementation of the scheme approved in accordance with condition 5, there shall be no change to any of the approved details.
- 7) Any planting comprised in the approved details of landscaping which within a period of 4 years from the date of this permission die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

Bridget M Campbell

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr M Rudd	of Counsel, instructed by Mr M Green
He called	
Mr M Doran	Appellant's partner
Mr M Green	Partner in the firm of Green Planning Solutions LLP

FOR THE LOCAL PLANNING AUTHORITY:

Mr D Lintott	of Counsel, instructed by the Council
He called	
Mrs D Newbold	Planning Enforcement Officer
Mr C Nunn BA(Hons) MSc MRTPI	Senior Planning Officer

INTERESTED PERSONS:

Mr D Phillipson	Chair of Middleton Parish Council
Mr W Swaney	Chair of Ashley Parish Council
Mr J G Jones	United Nations Habitat, Advisory Group on forced evictions

DOCUMENTS

- 1 Statement of Common Ground
- 2 CTU note of visit 5 August 2008
- 3 Appeal decision APP/U2805/C/06/2017666
- 4 Signed witness statement of Myles Doran
- 5 Opening submissions for the Council
- 6 Documents submitted by Mr Jones
- 7 Appeal decision APP/B0800/A/05/1176223
- 8 Planning permission 00/00291/DPA
- 9 Distances agreed between the parties
- 10 Committee report for application 00/00291/DPA
- 11 E mail dated 9 September 2009 from P Burrell
- 12 Application for G & T Sites Grant
- 13 E mail from J Hurlstone dated 13 July 2009
- 14 G & T accommodation need
- 15 Secretary of State Direction relating to the Corby Borough Local
Plan
- 16 Planning Inspectorate suggested conditions in gypsy permissions
- 17 Closing submissions for the Council
- 18 Closing submissions for the Appellant