



Appeal Decisions

Inquiry Held on 1 – 3, 8 – 10, 14 – 16 and 21 – 23 May 2019; 12 – 13 June 2019; and 5 September 2019.

Site visit made on 1 May 2019

by J A Murray LLB (Hons), Dip.Plan Env, DMS, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22 November 2019

Appeal A: APP/L1765/C/10/2138144

Land at Plot 1, Carousel Park, Basingstoke Road, Micheldever, Winchester, Hampshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr M Wall against an enforcement notice issued by Winchester City Council.
 - The enforcement notice was issued on 6 September 2010.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land from use as a Travelling Showperson's site to use for siting of caravans/residential mobile homes for occupation by persons who are not Travelling Showpersons and the storage of vehicles, equipment and materials in association with the operation of businesses unrelated to that of travelling showpeople.
 - The requirements of the notice are:
 - (i) Permanently cease the use of the Land for the siting of residential caravans/mobile homes for occupation by persons who are not travelling showpeople (as defined within Paragraph 15 of Circular 04/2007: Planning for Travelling Showpeople);
 - (ii) Permanently remove from the Land all caravans/mobile homes, which are shown on the attached plan¹ in their approximate position marked with an "X"; and
 - (iii) Permanently remove from the Land all sheds, areas of hardstanding, dividing walls and fences within each individual plot and any other domestic and business items and equipment unrelated to the occupation of the site by travelling showpeople and their dependents.
 - The period for compliance with the requirements is 3 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/L1765/C/10/2138149

Land at Plot 2, Carousel Park, Basingstoke Road, Micheldever, Winchester, Hampshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr M Black against an enforcement notice issued by Winchester City Council.
- The enforcement notice was issued on 6 September 2010.
- The breach of planning control as alleged in the notice is as per the notice in appeal A.

¹ I.e. the plan attached to the enforcement notice.

- The requirements of the notice are:
 - (i) As per the notice in appeal A;
 - (ii) As per the notice in appeal A; and
 - (iii) Permanently remove from the Land all sheds, buildings, areas of hardstanding, dividing walls and fences and any other domestic and business items and equipment unrelated to the occupation of the site by travelling showpeople and their dependents [apart from those fences specifically granted planning permission under reference number 05/01605/FUL (Retrospective planning permission for the erection of fences) and 06/00441/FUL (construction of a garage workshop for the servicing and repair of travelling showman vehicles and equipment).]
 - The period for compliance with the requirements is 3 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g).
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Appeal C: APP/L1765/C/10/2138150

Land at Plot 3, Carousel Park, Basingstoke Road, Micheldever, Winchester, Hampshire

- 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 S Wall against an enforcement notice issued by Winchester City Council.
 - The enforcement notice was issued on 6 September 2010.
 - The breach of planning control as alleged in the notice is as per the notice in appeal A.
 - The requirements of the notice are:
 - (i) As per the notice in appeal A;
 - (ii) As per the notice in appeal A; and
 - (iii) Permanently remove from the Land all sheds, buildings, dividing walls and fences, vehicles and all other domestic and business items apart from those specifically granted planning permission under reference numbers[sic] 05/01605/FUL (Retrospective planning permission for the erection of fences).
 - The period for compliance with the requirements is 3 months after the notice takes effect
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g).
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Appeal D: APP/L1765/C/10/2138152

Land at Plot 7, Carousel Park, Basingstoke Road, Micheldever, Winchester, Hampshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr D Birch against an enforcement notice issued by Winchester City Council.
 - The enforcement notice was issued on 6 September 2010.
 - The breach of planning control as alleged in the notice is as per the notice in appeal A.
 - The requirements of the notice are as per requirements (i) to (iii) of the notice in appeal A.
 - The period for compliance with the requirements is 3 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Appeal E: APP/L1765/C/10/2138153

Land at Plot 8, Carousel Park, Basingstoke Road, Micheldever, Winchester, Hampshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr D Carter against an enforcement notice issued by Winchester City Council.
 - The enforcement notice was issued on 6 September 2010.
 - The breach of planning control as alleged in the notice is as per the notice in appeal A.
 - The requirements of the notice are as per requirements (i) to (iii) of the notice in appeal A.
 - The period for compliance with the requirements is 3 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g).
 - This decision supersedes that issued on 9 December 2011. That decision on the appeal was remitted for re-hearing and determination by order of the High Court.
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Appeal F: APP/L1765/C/10/2138155

Land at Plot 9, Carousel Park, Basingstoke Road, Micheldever, Winchester, Hampshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr M James against an enforcement notice issued by Winchester City Council.
 - The enforcement notice was issued on 6 September 2010.
 - The breach of planning control as alleged in the notice is as per the notice in appeal A.
 - The requirements of the notice are as per requirements (i) to (iii) of the notice in appeal A.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g).
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Decisions

Appeals A, B, C, E, & F: APP/L1765/C/10/2138144, 2138149, 2138150, 2138153 & 2138155

1. The appeals are allowed, and the enforcement notices are quashed.

Appeal D: APP/L1765/C/10/2138152

2. It is directed that the enforcement notice be:

- (a) corrected by deleting "vehicles," from the allegation set out in section 3 of the notice;
- (b) varied in section 5 by deleting requirements (ii) and (iii) and substituting a new requirement (ii) as follows:

"Permanently remove from the Land the building/structure shown hatched black within the red outline on the attached plan and permanently remove the fence/wall shown within the red outline and running between points '5' and '6' on the attached plan";

- (c) varied in section 6, by substituting “12 months” as the period for compliance; and
 - (d) varied by deleting the plan attached to the notice and substituting the new plan attached to this decision.
3. Subject to this correction and these variations appeal D is dismissed, and the enforcement notice is upheld.

Procedural/preliminary matters

4. These appeals involve the redetermination of enforcement appeals dismissed by another Inspector on 9 December 2011, the matter having been remitted to the Secretary of State for rehearing and determination by Order of the High Court (HC) on 1 February 2013². An appeal against the decision of the HC was dismissed by the Court of Appeal (CA) on 17 March 2015³. This decision on appeals A – F supersedes that issued on 9 December 2011.
5. Another Inspector was appointed to re-determine the appeals and she opened the inquiry in June 2016. That Inspector (the previous Inspector) then sat for 10 days over a lengthy period, last adjourning on 28 June 2018 but, for personal reasons, she was unable to continue. The matter was therefore transferred to me and whilst much evidence had already been heard before my involvement, I started afresh. Much of the evidence had been amended and supplemented over the years and, following a pre-inquiry meeting on 17 October 2018, the parties submitted revised and consolidated proofs of evidence and core documents (CDs). I did not consider earlier evidence, unless it was specifically drawn to my attention and I was not bound by any preliminary views expressed by the previous Inspector. This approach was set out in my pre-inquiry note of 26 April 2019.
6. The grounds of appeal initially included ground (d), but this was withdrawn during the 2011 inquiry. Before my inquiry opened the appellants in appeals A and E sought to add ground (e). However, they accepted during the inquiry, and in closing, that I had no power to consider that new ground at this stage.⁴
7. All evidence was taken under oath or affirmation, except during the ‘round table’ sessions concerning gypsy and traveller need and housing land supply.

The allegation

8. The terms of the allegation are crucial to the determination of grounds (b), (c), (a) and indeed (f).
9. In appendix 36 of Mr March’s proof, the Council set out suggested corrections to the allegations. However, having regard to the appellants’ testimony, Mr March revised these during his evidence in chief and the Council’s final suggestions were detailed in Mr Ward’s closing submissions.⁵ In particular, the

² *Winchester CC v SSCLG & Mr M Wall, Mr M Black, Mrs S Wall, Mr D Birch, Mr D Carter and Mr M James* [2013] EWHC 101 (Admin).

³ *Mr M Wall, Mr M Black, Mrs S Wall, Mr D Birch, Mr D Carter and Mr M James v Winchester CC & SSCLG* [2015] EWCA Civ 563 2015 WL 1134428.

⁴ The reasons for this are clearly stated on pages 1 and 2 of the Council’s closing submissions (inquiry document (ID) 32).

⁵ ID32, pages 3 and 4.

Council conceded that it was only in relation to Plot 7 (Appeal D) that the evidence indicated a mixed business element in the breach. The suggested corrections were presented as 2 options.

10. The Council's **Option 1** is that, save for Plot 7 (appeal D), the allegation should be amended to:

"without planning permission, the material change of use of the Land from use as a Travelling Showpersons' site to a use for the siting of caravans for residential use."

11. In respect of Plot 7, the Council's suggested allegation is:

"without planning permission, the material change of use of the Land from use as a Travelling Showpersons' site to a mixed use comprising the siting of caravans for residential use and the storage of business materials equipment and vehicles."

12. The Council contended in closing that its suggested wording merely "simplifies" the breach and "adds further clarity that the breach is concerned with land use and not the identity of the occupiers per se." That contention was controversial, as the appellants say the Council's "principal focus in this case has always, until recently, been on the identity of residents, not the physical use of the land."⁶ In addition to the words of the allegation in the notices, the reasons for issuing them referred to the Council's belief that "a large number of persons occupying the site are gypsies and travellers." Furthermore, the requirements sought the cessation of use for siting of caravans "for occupation by persons who are not travelling showpeople (as defined in Paragraph 15 of Circular 04/2007..."

13. The Council did suggest amending the allegation some time ago, albeit after the HC and CA rulings. The proposed wording was different to that now suggested, but also involved deletion of the words "for occupation by persons who are not Travelling Showpersons...". It is apparent from the HC judgement in this case that Mr Ward's submissions to the court on behalf of the Council stressed the functional significance of the words "travelling showpeople." However, in an email to the appellants dated 5 April 2016⁷, whilst expressing the view that the breach alleged in the notices "remains correct", the Council said it would be likely to ask the Inspector to amend it:

"...so the breach reads..."to a use for the siting of caravans/mobile homes and the storage of vehicles, equipment and materials, etc..." This is simply because the emphasis throughout these appeals and Court proceedings appears to have been on the nature of the occupiers of the site as opposed to use of the site and this change of wording would help make this clear.

...

The appeal was in part under ground (b) i.e. that there was no breach of planning control. This was largely based on the argument that the appellants were traveling showpeople. However, as the breach of planning control

⁶ ID 33, paragraph 2.

⁷ Mr March's appendix 2.

relates to the use of the land not to occupancy I would be grateful if you would please clarify whether you maintain the ground (b) appeal.”

14. The fact that the proposed amendment to the allegations was linked to the suggestion that ground (b) might not be pursued indicates that there was some significance to it beyond mere clarification. It is also worth noting that, rather than providing clarity, the allegation proposed in that 2016 email was flawed, as it identified no purpose for the siting of caravans/mobile homes.
15. In Mr March’s proof for my inquiry and in Mr Ward’s opening submissions for the Council, my attention was drawn to the fact that, at the outset of, and during the previous remitted inquiry, the previous Inspector also suggested amending the notices in line with what is now the Council’s Option 1. Nevertheless, in determining whether the Council’s proposed amendments are necessary or appropriate, I start by considering what the HC and CA have said in relation to this case. When remitting the matter for redetermination, the HC stated that the enforcement notices had been issued “because it was thought that the site was being occupied by gypsies and travellers who were not traveling showpeople” and the notices alleged that this was a material change of use. However, the HC said the Inspector made “no findings in respect of the ...limb of ground (b), which was that the occupants were in fact travelling showpeople.”
16. The CA dismissed the appeal against the HC decision. In the leading judgement, Sullivan LJ considered the CA ruling in *Wilson v West Sussex County Council* (1963) 14 P&CR 301, the Lands Tribunal judgement in *Williamson and Stevens v Cambridge CC* (1997) 34 P&CR 117 and that of Hodgson J in *Waverly DC v SSE* [1982] JPL 105.
17. In *Wilson*, the CA held that, where the erection of a cottage was permitted for occupation by a person engaged in agriculture and it was first occupied by such a person, its later occupation by someone not engaged in agriculture would be a change of use. (It would then be a question of fact whether that change was material). The Lands Tribunal followed this in *Williamson*, in which it held that, where land had deemed planning permission “as a site for caravans occupied by gypsies”, the words “occupied by gypsies” had a functional significance. They were to be construed as limiting the use to one as occupation by gypsies and whether occupation was by gypsies as defined would have to be determined on the particular facts at the time. In *Waverly*, the court found that, where planning permission was granted for the use of an old brickworks “as a depot for cattle transport lorries”, the word “cattle” had just as functional a meaning as “agricultural” and the phrase “for the use of gypsies”. In Sullivan LJ’s words, Hodgson J concluded that “use as a general haulage depot did not fall within the permitted use as a depot for cattle lorries.”
18. Applying these principles to the present case, Sullivan LJ noted that the enforcement notices alleged a material change of use to a use for the siting of caravans/residential mobile homes for occupation by persons who are not Travelling Showpersons. He said that planning permission Ref 02/01022/FUL (the 2003 permission⁸):

⁸ Although the CA judgement noted some doubt as to whether the 2003 permission was implemented, it is now common ground that it was. (See the Statement of Common Ground (ID30), paragraph 23.

"...was for a change of use of agricultural land to travelling showpeoples' site. It permitted that change of use and no other. It did not permit a change of use to a use for the stationing of caravans for residential purposes by persons who were not travelling showpeople. Since there was no occupancy condition use of the site by occupiers who were not travelling showpeople was not prohibited. *Whether the site was being used by non-travelling showpeople and, if so, whether that use was a material change of use from an initial use by travelling showpeople, were matters of fact and degree, which the Inspector should have determined* (my emphasis), but did not, because he misunderstood the effect of the decision in *I'm Your Man*.

...the appellant's appeal...must be remitted to the Inspector so that he can consider ... whether the alleged change of use has taken place (my emphasis) and, if so, whether that alleged change of use amounts to a material change of use."

19. In opening for the Council, Mr Ward said that, throughout the appeals and Court proceedings, the "appellants had wrongly focused on the nature of the occupiers of the site as opposed to the use of the land". He said the proposed amended wording would "help clarify the issue and avoid the same erroneous approach to the breach being continued during the course of the remitted inquiry." I do not say the following point necessarily makes it impossible for me to find that corrections to the allegations are necessary, but neither the HC nor the CA suggested that changes along the lines proposed in Option 1 are needed or appropriate. Although this was not the central issue before the HC and CA, both rulings suggest it was not incorrect to allege "occupation by persons who are not Travelling Showpersons", given the functional significance of those words.

20. The Council drew my attention in closing to *Newbury DC v SSE and Another* [1988] JPL 185⁹; (1989) 57 P&CR. In that case, Kennedy J said that, when a matter went back before the Secretary of State:

"...he was in a position to review the whole of the matter. Whether in fact...it would be appropriate to make any alteration other than that which has already been canvassed... by each of the parties...is a matter to which no doubt he will give very careful consideration. It seems to me plain that when a court has detected an error of law and the error of law is pointed out, the Secretary of State on reconsidering the position in the light of what has been said about the matter by the court, may come to the conclusion that other alterations have to be made to his decision in the light of the court's expression of view as to the error of law. He cannot be restricted to simply correcting the error of law on the face of the document, but *if he makes changes which go further than those which are called for as a result of the expression of view which has been tendered by the court, and does so without reference to compelling new material, it stands to reason that there may be further litigation arising out of his revised decision.* (My emphasis)

21. In this case, the HC and CA found the first Inspector had erred in law by concluding that the 2003 permission was for the use of the land as a residential

⁹ Incorrectly cited in the Council's closing as [1988] JPL 248.

caravan site, with no restrictions on the occupation of the land, relying upon the principle in *I'm Your Man Ltd. v SSE* (1999) 77 P&CR 251. This does not indicate that the allegation should be altered in line with Option 1; indeed, both the HC and CA stated that, on remission, the Inspector should consider whether the change of use alleged in the notice has taken place. In the words of Sullivan LJ, "whether the site was being used by non-travelling showpeople" was a matter "of fact and degree, which the Inspector should have determined." This necessitates a focus on the identity of the occupiers when the notices were issued.

22. I have considered the Council's submissions carefully and had regard to the preliminary views of the previous Inspector. The notices could have been originally drafted in line with Option 1. However, in the light of the HC and CA rulings in this case, and the judgement in *Newbury*, that does not compel or persuade me that they should now be amended along those lines. I reach that conclusion even if such amendment would not strictly cause injustice.
23. That said, even though the Council could have waited nearly 10 years to issue a change of use notice anyway, it is now more than 9 years since the notices were issued and the original drafting of the allegations inevitably led to a focus on the identity and status of the occupiers and what was needed to establish that. Mr Ward said in closing for the Council, "...the 2003 permission has granted a land use as a TSP site. That is different from simply considering whether an occupier of the land is a travelling showperson."¹⁰ Nevertheless, the notices alleged occupation by persons who are not travelling showpeople. Notwithstanding the Council's first suggested amendment in an email sent in 2016, more than a year after the CA judgement, amending the notices as now requested would do more than simply "clarify" the issues; it would shift the focus of consideration away from the identity and status of the occupants at a very late stage.
24. In closing, Mr Rudd did not pursue the injustice point with equal vigour in relation to all the appeals, but I am satisfied that some injustice would be caused for all the appellants in shifting the focus so long after the notices were issued, the appeals were first considered, and the HC and CA rulings were made. A change of use can be enforced against up to 10 years after the date of the breach. However, that does not mean that changing the allegation would not cause injustice; the passage of time would still present problems for the appellants in recalling the detail of matters which did not appear to be the focus of attention for many years. The injustice would be particularly acute in relation to appeal D, where Mr Birch did not to pursue ground (a) at the remitted appeal stage. Mr Green explained in evidence that this was because the fee for ground (a) had been refunded to him by mistake and, having reconsidered the matter on advice and being confident that his status was that of a showperson, he saw no need for ground (a).

Conclusions on the allegation

25. For the reasons given, I reject the Council's Option 1. In that event, its **Option 2**, was that the allegation in relation to Plot 7 (appeal D) should remain unchanged but, in the other appeals, it should be amended to:

¹⁰ ID32, page 11.

“without planning permission, the material change of use of the Land from use as a Travelling Showperson’s site to use for siting of caravans/residential mobile homes for occupation by persons who are not Travelling Showpersons.”

26. This just flows from the Council’s acceptance that, as a matter of fact, Plots 1, 2, 3, 8 and 9 were not being used for the alleged storage purposes when the notices were issued. This change is uncontroversial, appropriate and can be made without causing injustice. Accordingly, in appeals A, B, C, E and F, I will correct the notices in line with Option 2 but will not alter the allegation in appeal D, save as indicated later in my decision.

Ground (b) (All appeals)

27. The Council accepted in closing¹¹ that if I chose Option 2 above, I would be solely concerned with whether the occupiers, at the date of issue of the notices, were travelling showpeople. In the light of this and the points raised by me in my pre-inquiry note of 26 April 2019 and when opening the inquiry:

- i. to succeed on appeals A, B, C, E and F, the appellants must prove on the balance of probability that, as at the date of issue of the notice, the use of the land had not changed from use as a Travelling Showperson’s site to use for siting of caravans/residential mobile homes for occupation by persons who are not Travelling Showpersons; and
- ii. to succeed on appeal D, the appellant must prove on the balance of probability that, as at the date of issue of the notice, the use of the land had not changed from use as a Travelling Showperson’s site to use for siting of caravans/residential mobile homes for occupation by persons who are not Travelling Showpersons and the storage of vehicles, equipment and materials in association with the operation of businesses unrelated to that of travelling showpeople.

Who are Travelling Showpeople?

28. It is necessary to determine the essential characteristics of a Travelling Showperson (showperson) at the time the notices were issued (6 September 2010). Whilst the HC and CA decisions in this case provide considerable guidance in relation to the nature of showpersons’ sites, they say less about the essential characteristics of showpeople themselves. For the reasons already given, having decided that I should only amend the allegation in line with the Council’s Option 2, rather than Option 1, I will focus on the status of the occupiers, rather than whether the land was being used in the way one might normally expect showpersons’ sites to be used.

29. The HC referred to Government guidance in Circular 22/91, Circular 04/2007 and Planning Policy for Traveller Sites (PPTS) 2012. Circular 22/91 was in force when the 2003 permission was granted and 04/2007 was current when the enforcement notices were issued, and when the first Inspector made his decision. The 2012 PPTS had been published when the HC made its decision, though its definition of travelling showpeople was the same as in Circular

¹¹ Ibid, page 16.

04/2007. However, Circulars 22/91 and 04/2007 must be most relevant to my consideration of the position as at the date of the notices and indeed 04/2007 is specifically cited in the notice requirements. PPTS was further revised in 2015 and that revision has a more restrictive definition of showpeople. The HC said that none of the policy documents published before the judgement could be used to change or even interpret the terms of the 2003 permission, but they did point to certain conclusions, including that "travelling showpeople are a distinct group, which does not include gypsies and travellers."

30. Circular 22/91¹² described the nature of Travelling showpeople's (showpeople) sites. In terms of defining travelling showpeople themselves, unlike in subsequent guidance, there was no section explicitly headed "definition". However, it did say:

"2. Showpeople are self-employed business people who travel the country holding fairs, chiefly during the summer months...

3. Most showpeople are members of the Showmen's Guild of Great Britain... showpeople are specifically excluded from the definition of gypsies under the Caravan Sites Act 1968..."

31. Though this related more to the nature of showpeople's sites, paragraph 2 of Circular 22/91 also said "...increasingly showpeople's quarters need to be occupied by some members of the family permanently; older family members will stay on for most of the year..." When cross examined, Mr March accepted for the Council that this allowed for retired showpeople to come within the definition 22/91. He said older people would normally remain part of a family group which included working showpeople, but he could see that this would not always be the case.

32. Circular 04/2007¹³ also described the nature of showpeople's sites, but said:

"1. Showpeople are members of a community that consists of self-employed business people who travel the country, often with their families, holding fairs. Many of these families have been taking part in this lifestyle for generations...

2. Most showpeople are members of the Showmen's Guild of Great Britain...

3. Some showpeople do not operate funfairs, but instead hold circuses...

6. The traditional pattern of showpeople's travelling is changing and the community has generally become more settled. For example, a reduction in the number of large scale traditional fairs has lead[sic] to a diversification of showpeople's activities involving more localised travelling...

7...the ability to travel remains an inherent part of the way of life of travelling showpeople and the way in which they earn their living. Some communities of travelling showpeople live in extended family groups and often travel as such...

¹² Core Document (CD) 18.

¹³ CD17.

9...(a) Travelling showpeople do not in general share the same culture or traditions as Gypsies and Travellers;...”

33. Having said all that in the “preface” and “introduction” section, for the purposes of Circular 04/2007, paragraph 15 provides the following explicit definition of “travelling showpeople”:

“Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family’s or dependants’ more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily or permanently but excludes Gypsies and travellers as defined in ODPM Circular 1/2006.”

This is the definition referred to in the enforcement notice requirements and it explicitly includes retired showpeople and those who have ceased to travel through ill health or other specified reasons.

34. In closing for the Council, Mr Ward said that determining whether the occupiers of the site are showpeople will require consideration of whether their evidence has demonstrated that they “earnt a sufficient means of income to earn a living to support them and their dependents through the business of being a showperson.”
35. The references in Circulars 22/91 and 04/2007 to “self-employed business people” and their “pattern of trading” indicate that the holding of fairs must be for a business/economic purpose; engaging in this activity as a mere hobby would be insufficient to make someone a showperson. Paragraph 7 of 04/2007 refers to travel remaining “an inherent part of the way of life of travelling showpeople and the way in which they earn their living.” However, this is insufficient to support the Council’s contention that holding or attending fairs alone must provide a sufficient income to support a person and their dependents. That is certainly not part of the specific definition in 04/2007 and of course retired showpersons are included in that definition.
36. The memo instructing the Head of Legal Services to serve the enforcement notices had suggested that occupiers would need to be able to demonstrate that the “majority” of their income was derived from attending fairs.¹⁴ In chief, Mr March said he would not necessarily stand by that “majority of income test”, but there would need to be a significant number of fairs – probably 15 – 20 per year on the basis that a fair is 1 day. He said that, to be a showperson, you did not need to work exclusively as a showperson, but it is necessary to look at how people earn their living and a very low level of showperson activity would be insufficient. In Mr March’s opinion, if someone had a significant amount of non-showperson employment, it would be a matter of fact and degree whether they were a showperson.
37. However, when cross examined, Mr March said that you do not have to be making a living through fairs to *be* a showperson, but you have to do so in order to be *using the land* as a showpersons’ site. He reiterated this when re-examined. In the context of the allegations and the HC and CA rulings, I am

¹⁴ CD2, page 43 (internal page 7).

looking at whether the occupiers are showpeople, rather than how they are using the site. Furthermore, although paragraph 9(b) of Circular 04/2007 also indicates that sites for travelling showpeople normally need to “enable the effective storage and repair of significant amounts of equipment” there is nothing to suggest that someone must own or operate large rides or equipment to be a showperson. Similarly, there was nothing in Circular 22/91 or in the HC and CA judgements in this case to suggest that the ownership or operation of large rides or equipment is a prerequisite to showperson status. There is still nothing to that effect in PPTS.

38. For the appellants, Mr Green said that, if someone does other work, in addition to attending fairs, it is a matter of fact and degree whether they are a showperson and the amount of money a person earns from an activity can be unrelated to the amount of activity; it is about the work, not the income. Furthermore, the lack of fairs in the winter makes it inevitable that showpeople do other things and this was emphasised by several of the site occupants. It is also reflected in Circular 04/2007’s recognition that the number of large-scale traditional fairs has reduced.
39. None of the Government policy/guidance referred to amounts to a definitive statement of the law, but I have regard to it in determining who can reasonably be described as a showperson. Bringing all this together, in determining whether the occupants were showpeople when the notices were issued, I shall consider whether they were members of a community or group who travelled the country in the business of holding fairs¹⁵, whether or not they had other, additional employment or income.
40. Determining whether the occupants were showpeople at the relevant time involves a fact and degree judgement not dependent on a specific amount or proportion of income being derived from showperson activity or attendance at a specific number of fairs. Identifying a minimum number of fairs would be arbitrary and would take no account of the size or duration of the fair. Membership of the Showmen’s Guild of Great Britain (the Guild) is indicative of being a showperson, but it is not a prerequisite. Although the position has been altered in the 2015 PPTS, it is also clear that, when the notices were issued, it was accepted as a matter of policy that retired showpeople were still showpeople, as were those who had stopped working temporarily, because of educational or health needs or old age.

Are the appellants Travelling Showpeople?

Appeal A (Plot 1)

41. I heard evidence from Michael Wall, who is now in his early forties. He left the appeal site sometime after 2017 but moved onto Plot 1 in 2009 and was living there when the enforcement notice was issued in 2010. Mr Wall described himself in his written statements as a travelling showman. He said his uncle, Felix Wall, lives on Plot 3, that they are all friends and family on the site and have worked and travelled together in the past. In this regard he also specifically mentioned Maurice Black in oral evidence, as he used to work for ‘Black & Wall Amusements’ on the ‘Waltzer’, spinning the cars and warning the

¹⁵ None of the evidence relates to circuses or other shows.

girls "the louder you scream, the faster it goes." Mr Black separately confirmed Mr Wall's involvement.

42. Mr Wall's statement says he used to operate a bouncy castle and still does from time to time, travelling with Mason's Funfair at least 4 or 5 times per year and sometimes up to 10. A letter from Masons dated 4 March 2011 confirmed Mr Wall "travels a joint and a Juvenile ride through the traveling[sic] season, with Mason Funfair. He has travel[sic] with us for quite a few seasons." Mr Wall explained that "a joint" is a stand which can be used for different things, such as a coconut shy, and what he was paid depended on what was taken on the stand. When he was not working at fairs Mr Wall said he did "odd jobs here and there to get by, mostly landscaping work."
43. In his 2017 statement, Mr Wall said he was born a Gypsy but works in fairs and goes travelling with fairs. In oral evidence Mr Wall said he was a "Gypsy that does fairs" and that he did go to fairs in 2010 and before. Being an ethnic Gypsy does not exclude him from the definition of a showperson.
44. In terms of fairs attended, Mr Wall specifically mentioned Dorset Steam Fair, which was where he borrowed a 'juvenile' ride, namely a ladybird ride for children. This was owned by a good friend and kept at his yard, which was Mason's yard in Reading. That friend is a showperson who lives, and stores his equipment, at Mason's yard. Indeed, Mr Wall also lived there years ago and used to repair a lot of his friend's equipment. He gave the owner half of what he earned from the juvenile ride.
45. Mr Wall explained that, like many showpeople, he never owned any large rides, but did have a bouncy castle and dart board in 2010 and before, which were kept in a shed on Carousel Park. The bouncy castle came with its own petrol pump and was transported in the back of a transit van. The dart board would just be set up on a wooden framework with an awning at the back and cuddly toys were offered as prizes. As a young person, he also used to make money at fairs guessing people's ages for a pound.
46. Mr Wall said he used to travel with Mason's Funfair 8 or 9 times a year, and probably more, when he also helped set up the big rides and work on them as a mechanic. Sometimes he would just take his dart board stand to a fete, but if it was a bigger venue, he would bring his bouncy castle. He said that he could not really remember the details, but probably only did about 3 fairs in 2008 earning not more than £1000 per fair, but that £1000 was a lot to him, adding "a big pot of stew lasts us a long time."
47. He said that he was not sure but did maybe 4 or 5 fairs in 2009. He could not remember them all, but mentioned the 'Bedford Gathering', the Great Dorset Steam Fair and Burghfield, as well as 4 or 5 fetes, including at Mortimer. A receipt was produced for the Bedford Gathering for 2007, but not 2009. Receipts were also produced for a "juvenile" at St Matthews Fair in 2008 and The Great Dorset Steam Fair in 2010. Mr Wall said he did not have other paperwork but, in spring and summer he was probably out "every other weekend." He said there are not large fairs to attend every weekend anyway.
48. Mr Wall explained that 2010 itself was a very bad year for him for personal and health-related reasons. He could not remember many details but said he did very little work that year.

49. Mr Wall is not a Guild member now and was not in 2010. His evidence of working at fairs at and before the notice was issued was not as extensive or detailed as it might have been, and the documentary evidence was sparse. Nevertheless, I have no reason to believe Mr Wall's sworn evidence was less than truthful and he spoke with authority about the 'show business', which is part of his extended family heritage.

Conclusions on appeal A ground (b)

50. The evidence clearly indicates that, at the relevant time, Mr Wall was a member of a community or group who travelled the country in the business of holding fairs. Although the income he derived from this was very modest and he supplemented it with landscaping work, his fair-related activities were much more than just a hobby and travelling to fairs had always been an inherent part of his way of life and the way in which he earned his living. I am satisfied as a matter of fact and degree on the balance of probability that Michael Wall was a travelling showperson when the notice was issued. The fact that Mr Wall says he was born a Gypsy does not change that view. Furthermore, having regard to the definition in Circular 07/2007, failing to travel to a significant number of fairs in 2010, because of health-related issues, does not alter that conclusion. As Mr Ward said in oral closing submissions, Mr Wall was not really earning a living at all that year.

51. For the appellant, Mr Green also pointed out that, when the notice was issued, Plot 1 had been sub-divided into Plot 1 (owned by Michael Wall), Plot 1A (owned by Mr Darren Loveridge¹⁶) and Plot 2C (owned by Beverley Black/the Black family). The appellant therefore suggests there were 3 planning units, meaning the notice was defective and should be quashed on that basis alone.

52. However, I need not determine the planning unit issue, as it is only relevant to the assessment of whether a change of use is material. Success on ground (b) avoids the need to consider materiality. In any event, if there were indeed 3 separate planning units, it might be possible to amend the red line area on the notice plan without causing injustice. However, on the evidence of Mr Green and Freddie Loveridge, Plots 1A and 2C were unoccupied and unused when the notice was issued. That is not contradicted by the Council and so, when the notice was issued, no part of Plot 1, as defined on the notice, was in use for the siting of caravans/residential mobile homes for occupation by persons who were not Travelling Showpersons.

53. For the reasons given, appeal A succeeds on ground (b). I will quash the notice and no other grounds fall to be considered.

Appeal B (Plot 2)

54. When the notice was served, Plot 2 had been subdivided in accordance with a planning permission granted in October 2005.¹⁷ Plot 2A was occupied by Maurice Black and his wife. Plot 2B was occupied by their son, Randolph Black, and his family. I heard evidence from Maurice Black, who is now in his late 60s and was about to turn 60 when the notice was issued. Mr Black gave oral

¹⁶ Freddie Loveridge said he bought 1A from his brother Darren in 2012, when it was empty and had never been used by Darren.

¹⁷ CD9.

evidence for about 4.5 hours and provided a lot of detail including many entertaining tales, which I cannot recount here.

55. Mr Black explained that when he purchased Plots 2 and 3 in 2004, like many showpeople, he was a "non-guild showman." He had been travelling and building up fun fairs with his partner Felix Wall for some 30 years, and his written evidence included a copy of his daughter's birth certificate from 1988, which recorded his occupation as "Showman." Mr Black's wife and Mr Wall's wife are sisters and their family are showpeople. Though Mr Black was brought up as a Romany Gypsy, his great grandparents were showpeople and he produced a newspaper article concerning them. He said he identifies as a showperson, but many Romany Gypsies started funfairs.
56. The Council insisted Mr Black become a Guild member to live on the site. As the Guild rules control which fairs you can attend, he and his partner Felix Wall, then calling themselves 'Black & Wall Amusements', then travelled for a couple of years with Guild fairs in Hampshire, Wiltshire and the Isle of Wight, opening with Walls Amusements¹⁸, Matthews Funfairs, Charles Coles Amusements and Patrick Burton and J Stokes, who are all well-known showman. Mr Wall said that, when he moved to Carousel Park, he brought: 2 or 3 juvenile rides (including a jeep ride seen in photographs); a hoopla stall; a bouncy castle; a kiosk/catering van; and a couple of box vans. Shortly after arriving, he acquired a 'Roundup', as well as a 'Trabant' to renovate.
57. Unfortunately, Mr Black became seriously ill in 2006 and travelled very little in that year or in 2007. In oral evidence, he said he then started doing some fairs again. However, a response to a Planning Contravention Notice (PCN) in June 2010¹⁹ indicated that he only attended 5 fairs in 2009 and subsequently was only doing 1 or 2 events per year. Mr Black's 2017 statement merely referred to attendance at "a number of showman fairs" in 2010. In oral evidence, Mr Black said he was no longer the same man because of his illness.
58. Mr Black's 2011 statement said that, for the last 3 years, he had been providing amusements for 2 major holiday camp owners. He no longer operated any large rides personally but brought other people in if he needed them. In oral evidence, Mr Black said he still organised fairs, but was "a back-seat driver" and he agreed that he could be described as a "broker or agent", albeit for a "minute" income, such that he was living mainly on savings and family help.
59. In his 2017 statement, Mr Black said that, as well as travelling to a number of fairs in 2010, he was storing rides in the shed on his plot, including a train set, a car ride (a set of jeeps) and 2 children's rides. In addition, he had a 'Roundup' ride which he was repairing on his plot, until he sold it in 2007. He also had a 'Paratrooper' at Carousel Park, until around 2010/11, and a 'Trabant' ride, which he scrapped in 2006/7 or possibly a bit later. Mr Black had owned many other large rides and operated them with Felix Wall over the years, including a 'Waltzer', 'Chair plane ride', 'Rib tickler', 'Speedway' and 'Skid ride'. He said that other residents of Carousel Park had also opened at fairs with them, including Michael Wall, Danny Carter (junior) and Derek Birch. They had

¹⁸ Not connected to Felix Wall.

¹⁹ Mr March's appendix 22.

all helped with his rides many times over the years, if he was stuck, and they would also come and open with their "smaller stuff."

60. Other documentary evidence produced by Mr Black and spanning the period 2004 - 2010 included: insurance certificates for rides and a refreshment stall; inspection certificates for rides; log books for vehicles referring to "Black Wall Amusements", and which Mr Black explained he used to transport "side show stuff, such as hooplas and "swag", which is prizes"; a receipt for the sale of the "Roundup (Meteorite)" in 2007; Guild membership cards; a cover note referring to him as a "showman"; and a July 2010 letter from an insurance broker specialising in the entertainment and leisure industry confirming that Mr Black "is a Showman" and that they had dealt with him as such for many years. There are also fair-related photographs dating back to the 1980s. The documentary evidence provided does not constitute a wholly comprehensive or continuous record, but it is entirely consistent with and supportive of Mr Black's testimony.
61. An April 2008 photograph²⁰ shows a roundabout "toy set" on a trailer on Mr Black's plot. Photographs²¹ taken in November 2009 show other fairground equipment on Plot 5, which is not the subject of a notice. Mr Black said this was his equipment, but he was still very ill at the time and Mr Wilkins, who occupied Plot 5, used to take those rides out for him. The Aerial Imagery Statement of Common Ground (SOCG) includes an image from May 2008, in which Mr Black said it was obvious to him that there was fairground equipment on Plots 2 and 5. Sometime between May 2008 and May 2010, when another photograph was taken²², Mr Black built a workshop on his plot for the servicing and repair of fairground equipment in accordance with a planning permission granted for that purpose in 2006.²³
62. In his 2017 statement, Mr Black said he retired from the showman business when he turned 65, which would have been in 2016. He still works in fairs with friends and colleagues when needed but must attend medical appointments. Mr Black remains a member of the Guild and whilst his 2010 membership card said, "no equipment operated", he explained this did not mean he did not have any equipment at that time; he just did not declare it. I do not know the relevant Guild rules, but Mr Black said you can declare equipment in the name of the "lessee" you are going to the fair with and then do not have to pay the Guild for it. He said the lessee usually owns the big rides and everything else at the fair is owned by people renting ground from the lessee. However, Mr Black said they are all showmen, even if just bringing a bouncy castle or coconut shy. Whether or not they are in the Guild, they are "operating stuff" and indeed he said even a fortune teller can be a showman. However, you can only join the Guild if you are from a known showman family.
63. Mr Black said that his son Randolph left the site sometime between 2011 and 2017. When the notice was served, Randolph was living on Plot 2B and used to help Mr Black with fairs when needed but did building work between venues. Mr Black explained that every showperson in Britain does other jobs in the

²⁰ Mr March's appendix 12.

²¹ Mr March's appendix 16.

²² Mr March's appendix 21.

²³ CD11.

winter. He said years ago, many used to deliver coal, now many lay tarmac or block paving, or open empty shops. In any event, though he no longer works as a showperson, the response to the PCN in June 2010 indicated that Randolph did about 18 fairs per year at that stage.

64. When I asked Mr March whether it was the Council's case that Maurice Black was not a showman he said: "That's why we are focusing on the use. Mr Black's evidence is that he was a broker." Mr March reached the conclusion that Mr Black was not earning his living as a showperson. I have concluded that that, whilst a person must be attending fairs on a business footing, there is no specific income test and doing other additional work does not prevent someone being a showperson. In any event, the policy definition of showpeople at the time allowed for them to cease travelling temporarily or permanently on the grounds of their health needs or old age. To exclude Mr Black, a Guild member, from that definition because, despite his illness and age, he only did a small number of fairs and earned a small additional income from acting as a fairground ride 'broker', would be perverse. Furthermore, being an ethnic Gypsy does not exclude Mr Black from the definition of a showperson.

Conclusions on appeal B ground (b)

65. I found Mr Black to be a convincing witness who gave the kind of detailed evidence that only a showperson could give. Although he acknowledged that his son Randolph did building work as well, there is nothing to contradict Mr Black's evidence that Randolph was helping at fairs when the notice was served. A PCN response referred to his attendance at 18 fairs per year and I am satisfied this was an inherent part of his way of life and the way in which he earned his living.
66. For all the reasons given and having regard to the factors summarised at paragraphs 39 and 40 above, I am satisfied on the balance of probability that, when the notice was issued, Plot 2 was not in use for the siting of caravans/residential mobile homes for occupation by persons who were not Travelling Showpersons. Appeal B therefore succeeds on ground (b). I will quash the notice and no other grounds fall to be considered.

Appeal C (Plot 3)

67. I heard evidence from Felix Wall, who occupies Plot 3 and was living there with his wife Susan when the notice was issued, having moved onto Carousel Park with Maurice Black in 2004. Felix Wall confirmed what Mr Maurice Black had said about his working at fairs with him for over 30 years, his involvement with 'Black & Wall Amusements', and the fact that Mrs Black and Mrs Wall are sisters. Although Felix Wall is from a Romany Gypsy background, he says he started working at fairs when he got married, his wife having been a travelling showperson all her life. Mr Black said he regarded Felix Wall as a showperson.
68. In his 2011 statement Felix Wall said he had retired by then, but still helped with fairs from time to time. However, he said that when the notice was issued in 2010, as well as his mobile home, he kept his showman's equipment, including a hoopla coconut shy and some children's rides, on the site. These were sometimes on his plot and sometimes on Mr Black's plot, or even on Plot 5, but it did not matter, as they were "family". Indeed, Mr Wall said the rides were partly his and partly Mr Black's, but he described Maurice Black as

the “Kingpin.” He said Mrs Wall had a hoopla, darts stall and a catering/fish and chip van, which I can see in some of the photographs, and she sometimes went to fairs on her own.

69. The response to a PCN given by Green Planning Solutions (GPS) in June 2010 indicated that “Suzanne[sic] Wall” was the title holder of Plot 3. The response did not mention Mr Wall’s activities as a showperson but said Mrs Wall had been active with Maurice Black and Mark Wilkins at fairs until that year, when she turned 60. Mr Wall said in oral evidence that he thought she had stopped around 2011, but his memory for dates was not good. He could not explain why the responses to the PCN did not mention their fairground equipment. He assumed it was because he had not been asked, but he recalled having a mini carousel with a dog and a horse, in 2010, though it may have been kept elsewhere on Carousel Park than on Plot 3.
70. Mr Green later candidly indicated when cross-examined that his practice’s overall response to the 2010 PCN was “not a great piece of work”. Apart from anything else, they had not noticed that the description of the breach of planning control had changed since the previous PCN which related to non-compliance with a section 106 agreement. This limited the scope and usefulness of the responses.

Conclusions on appeal C ground (b)

71. Notwithstanding the lack of detail in the PCN response, I have no reason to doubt Mr Wall’s account of his and Mrs Wall’s travelling showperson activities over many years, as corroborated by Maurice Black. Indeed, that account was not seriously challenged by the Council who focused more on the question of what equipment was kept on the site and the lack of evidence that Mr Wall was earning sufficient income as a showperson when the notice was issued. However, leaving aside what I have already said about there being no specific income threshold, Mrs Wall turned 60 before the notice was issued. Mr Wall was not far behind and their health has declined seriously since then. Retirement or cessation of travelling for health reasons did not prevent them falling within the definition of travelling showpersons.
72. For the reasons given, and having regard to the factors already outlined, I am satisfied on the balance of probability that, when the notice was issued, Plot 3 was not in use for the siting of caravans/residential mobile homes for occupation by persons who were not Travelling Showpersons. Appeal C therefore succeeds on ground (b). I will quash the notice and no other grounds fall to be considered.

Appeal D (Plot 7)

73. I heard evidence from Mr Derek Birch who occupied Plot 7 when the notice was issued and still lives there now. He said he moved onto the site with a “showman’s waggon” sometime in 2004, having previously lived for maybe 2 years on a showpersons’ site at Firgrove Lane, Boarhunt, from where he worked on fairs.
74. Mr Birch acknowledged during cross-examination that he first became a member of the Guild in 2005, having applied at the end of 2004. This was because, at the time, the Council required occupants of Carousel Park to be

Guild members. However, like Mr Black, he said that you do not have to be a member of the Guild to be a showperson and he had always worked at fairs since he was a boy and "travelled up and down" with Patrick Burton, a prominent showman, who proposed Mr Birch for membership of the Guild. Mr Birch's ancestors were travelling showpeople who travelled with Sam McKeowen; Charlotte Ann Birch being the mother of boxer Joe Beckett who fought in the boxing booths. Mr Birch produced his 2018 – 2019 Guild membership card at the inquiry.

75. In his 2017 statement, Mr Birch said that, when the notice was issued, he was an "operating member" of the Guild and he kept 3 or 4 juvenile rides at the appeal site. However, whilst the 2005 membership card indicated that he operated a hoopla, subsequent cards, including for 2010 – 2011, were endorsed with the words "no equipment operated". I have in mind Mr Maurice Black's evidence regarding the significance or otherwise of such an endorsement on a Guild membership card but, when giving evidence in chief, Mr Birch said that, in 2010, he was not sure what to do. He stopped operating, but kept the rides for some time, as he thought he might operate again.
76. Mr Birch's 2011 statement indicated that he was semi-retired, mainly due to declining in health, which is consistent with the response to the PCN in 2010. When cross-examined he confirmed that he was semi-retired after 2005 and partly living off savings as well as doing "a bit" for his son in his landscape gardening and compost sales business. However, he said he still helped at fairs when needed and used to operate a hoopla stand for a short while in 2005. He remained a Guild member and could go back to the work tomorrow on that basis.
77. In oral evidence, Mr Birch said he had so many rides over the years, it was difficult to remember but, leaving aside the hoopla stall, the only ride he could describe having in 2010 was a "merry-go-round". He could not recall when he got rid of his rides but, on a May 2008 aerial photograph, Mr Birch identified what he was certain was a juvenile ride near the southern fence. I am satisfied of that, although Mr Birch could not see that ride on the next available aerial photograph, which was dated September 2011.
78. In closing, the Council said that Mr Birch had not produced enough evidence to show that he was earning his living as a showperson when the notice was issued. I accept that contention. Nevertheless, on the balance of probability and as a matter of fact and degree, the evidence indicates that Mr Birch was a retired showperson, or had ceased working as a showperson, either temporarily or permanently due to ill-health at that stage. As such, he still fell within the definition of a showperson at the time.
79. However, from 2004 to date, Plot 7 has also been occupied by Mr Birch's son, also called Derek. Mr Birch junior did not give evidence, but his father says he is now 39 years old and, since moving onto the site, he married and his wife and 3 children, aged between 6 and 7 also now live on the Plot. Mr Birch said in oral evidence that, although his son used to help him at the fairs, he was already running his landscape gardening business when he came to Carousel Park.
80. During re-examination, Mr Birch said that his son helped him at fairs until he was about 18 or 19. However, that would have been several years before they

came to Carousel Park and it appears that Mr Birch junior was solely engaged in his landscape gardening business when the notice was issued. The 2010 PCN replies made no reference to him working as a showperson. Notwithstanding his family background, there is no evidence to indicate that Derek Birch junior was a showperson when the enforcement notice was issued. The site was therefore being used in part for the siting of caravans/residential mobile homes for occupation by persons who are not Travelling Showpersons.

81. Although the allegations in the other notices are subject to certain agreed corrections, that relating to Plot 7 still alleges that, in addition, the Plot is used for the storage of vehicles, equipment and materials in association with the operation of businesses unrelated to that of travelling showpeople. I drew the parties' attention to *Crawley BC v Hickmett Ltd* [1998] JPL 210²⁴ and, having regard to that judgement, I have seen no evidence that business vehicles have been stored, as opposed to merely parked on Plot 7.
82. However, during cross-examination, Mr Birch's attention was drawn to the Aerial Imagery SOCG. He said that the black objects seen to the rear of Plot 7 in the June 2005 photograph were probably his son's pallets of compost. Similar objects can also be seen within the partially fenced off area to the rear of the Plot in aerial images from May 2008, September 2011 and possibly subsequent images. I saw pallets of compost in that area during my site inspection and Mr March recalled seeing these during his visits, along with a forklift truck, and racks used in connection with these. Indeed, Mr Birch did not deny that part of the site was being used in this way when the notice was issued.

Conclusions on appeal D ground (b)

83. Whilst Derek Birch senior was a showperson when the notice was issued, Plot 7 was also being used for the siting of caravans/residential mobile homes for occupation by his adult son, who was not a showperson. It was also being used to store equipment and materials in association with his son's landscape gardening and compost sales business, a business unrelated to that of travelling showpeople.
84. Accordingly, the appeal on ground (b) must fail, save to the extent that vehicles were not being stored. However, that reference to the storage of vehicles can be deleted from the allegation, so that it correctly describes the breach. It was agreed that such a correction could be made without causing injustice. I will later consider ground (c) in relation to Plot 7.

Appeal E (Plot 8)

85. I heard from Danny Carter junior, who occupied Plot 8 when the notice was issued and still lives there now with his wife and 5 children. In oral evidence he said that he believed he moved onto the site in about 2008. Plot 8 is now subdivided into 3 and the part occupied by Mr Carter is known as Plot 8B.
86. In his 2011 statement, Mr Carter said that he was a showperson, who had been in the showbusiness all his life and he owned and operated an old-fashioned coconut shy, attending approximately 15 fairs or car boot sales

²⁴ ID35.

during the summer season. This is broadly consistent with the 2010 PCN response, though this added that Mr Carter had only attended 6 fairs in 2009, due to the economic downturn.

87. The PCN response did not list equipment, but Mr Carter said he was not good at reading and writing and Mr Green conceded that his company could have done a more thorough job in responding on the appellants' behalf. In his 2017 statement, Mr Carter said he owned a coconut shy and a bouncy castle and indeed he used to have 2 bouncy castles. In oral evidence, he confirmed that when he moved onto the site in 2008 and up to when the notice was issued in 2010, he always had the coconut shy and 1 or 2 bouncy castles and he kept this equipment in a shed at the back of his Plot.
88. Documentary evidence is sparse. However, it includes receipts for stands (20 ft, 30, ft and 45 ft) at St Matthews Fair at Sedgemoor, Somerset in September 2009, The Great Dorset Steam Fair on 28 August 2010 and the May and October Stow Fairs, albeit in unspecified years. Mr Carter explained that these would have related to his coconut shy or up to 2 bouncy castles and would usually be for a weekend.
89. Mr Carter said he had opened this "side show" with Black & Wall Amusements on numerous occasions and Mr Black also referred to his involvement. In oral evidence, Mr Carter referred to Mr Black as "uncle Maurice" and said he last opened with Black & Wall Amusements 5 or 6 years ago. He said he had opened at many fairs and car boot sales, or worked the bumper cars, including at Wycombe, Basingstoke, Golden Common, Twyford and Blandford and would be going to Enfield in May 2019. He also helps Susan Peak, another well known showperson, who he thinks of as an "aunt."
90. In his 2011 statement and oral evidence, Mr Carter said that, when not opening with his coconut shy, he did odd jobs and building work to support his family, as well as repairing rides, but this did not mean he was not a showman and he had travelled with and worked on fairs from the age of 5 or 6. When cross examined he said that he had lived on loads of showperson sites in the past, including at Wykeham and Chichester, though he had never had a permanent plot before.
91. Mr Carter's 2017 statement indicated that he also had some junior rides, back in 2010 and then that he would "rent" junior rides, which he operated "on and off when there is demand or a big show going on". When cross examined, he said that he would more often borrow rather than rent junior rides and he might do this if there was already a bouncy castle at the fair in question and he would split the takings with the ride owner. He also said that he did work for other travelling showperson families when needed. In his 2019 statement²⁵, Mr Carter confirmed that he used to have 2 bouncy castles and said he had junior rides back in 2010. However, in oral evidence, he conceded he could not really remember if he had the junior rides then. I conclude that he probably did not have any junior rides when the notice was issued, but I accept that he borrowed some from time to time.

²⁵ ID9.

92. Mr Carter said his main source of income in the summer is the fairs and car boot sales whereas, in the winter, it is from odd jobs and building work. He said this is true of all showmen and if you go onto any yard in England, you will find roofers, welders, landscapers and so on. Mr Carter has never been a member of the Guild because you must pay for membership and then cannot open within so many miles of another Guild member. Like the other witnesses I heard, Mr Carter said this did not mean he was not a showman. He described himself as a "small time fair person" and he had never been turned away from a fair because he is not a Guild member.
93. Mr Carter said he had never owned any big rides, which are a lot more trouble, in terms of maintenance etc, but his family is known world-wide for Carter's Steam Fair and indeed he is known world-wide as a showman. Mr Carter said that, if you have earned money just pushing dodgems out of the way all your life, you are still a showperson, even if have never owned a ride. I do not need to agree with that contention, as Mr Carter's showperson activities have been much more significant than that, but I have accepted that you do not necessarily have to own or operate large rides to be a showperson. When cross examined, Mr Carter said that, with a bouncy castle or coconut shy, he could earn £300 - £400 per day, maybe more, but it varied from one year to the next, depending on the weather and the number of people attending the fairs; even his aunt could not predict this and she is a fortune teller.
94. In his December 2017 statement, Mr Carter said that he had bought 2 properties in Basingstoke in June 2011 and March 2016, which he then renovated and sold on in 2016 and 2017 respectively. However, that is not directly relevant to or determinative of whether he was a showperson in September 2010. The entry for D & C Carter Property Maintenance on 'Checktrade.com' refers to "over 25 years of experience". This could not be true of Mr Carter because, even by the time of my inquiry, he was only 40 years old. However, his brother is also involved in the business and, in any event, none of the customer reviews dates from before 2011²⁶, though Mr Carter accepted that he had always done "odd jobs" before that.
95. Mr Carter was very guarded when asked extensive and detailed questions about his earnings and tax affairs. However, most of those questions related to the period after the notice was issued and concerned his property redevelopment projects and the activities of D & C Carter Property Maintenance. They did not directly relate to the issue of whether Mr Carter was a showperson when the notice was issued, and he confirmed that he did not own any properties for business purposes between 2008 and 2015. Mr Carter's reticence in relation to his financial affairs does not seriously undermine his credibility in connection with his account of his showperson activities up to September 2010.
96. Although Mr Carter's showperson activity appears to have been limited when the notice was issued and he did other work as well, having regard to the factors already outlined, I am satisfied as a matter of fact and degree that he probably was a showperson at that time, albeit a self-confessed "small time fair person."

²⁶ Mr March's appendix 30.

97. Mr Carter says his wife is a Romany Gypsy and he bought Plot 8 with his brothers in law, Joe and Jim Ripley. Over time, Plot 8 has been subdivided into 3. In closing for the Council, Mr Ward said that, when the notice was issued, there was no physical separation of the plot by internal fencing. This would appear to be incorrect. Although Mr Green's proof described Plot 8 as "one large plot" when the notice was issued, it also acknowledges that the subdivision had begun "with an internal wall running almost the entire length of the plot." Mr March's evidence is that, what became Plot 8B was separated from the rest of the Plot by a timber fence and concrete posts by November 2009 and indeed that fence can be seen in a photograph taken at that time. It would appear Plot 8 had been divided into at least 2 parts by September 2010.²⁷
98. Jim and Joe Ripley did not give evidence, but their signed statements²⁸ from April and May 2019 confirm that they helped their sister and Mr Carter to buy Plot 8. They said it was subsequently split it into 3, but they did not say when. Jim said "I have been using my part as a place to pull onto when I am in the area to visit family or for work." Joe's statement said the same but added "for a few months at a time."
99. These statements were made in 2019, so it is not clear whether the description of their pattern of use applied to the period when the notice was issued in 2010. Neither Jim or Joe were available to clarify the position, but Mr Carter explained that they both have permanent pitches elsewhere. He said they use this site more as a "transit pitch", pulling onto it for "a few days or maybe a couple of weeks if they've found work in the area." When cross-examined about the position back in 2008, Mr Carter ventured that Jim and Joe would have been "in and out" from 2008, but he was vague on this point and he was not sure whether they had ever missed a year. In any event, he said they would generally come onto the site just once or twice a year. Notwithstanding Mr Carter's use of the term "transit pitch", there is no evidence that anyone other than the Ripleys or Mr Carter had used Plot 8 between 2008 and September 2010.
100. Responses to PCNs given in December 2009 and June 2010²⁹ refer to Jim and Joe Ripley as owners together with Danny Carter. However, they say nothing about any actual occupation or use of the Plot by the Ripley's and they state their address as being in Lancing, West Sussex. A photograph taken on 18 November 2009 shows 2 caravans to the south of the dividing fence on Plot 8 but, in his proof, Mr March said that apart from the area occupied by Mr Carter, the remainder of Plot 8 "only contained a few touring caravans, which are believed to have only been stored on the land."³⁰
101. The notes made by the Council's Principal Enforcement Officer following a visit on 17 April 2008 only refer to Mr Carter at Plot 8 and photographs taken on 21 April 2008 do not even show Plot 8.³¹ The July 2010 enforcement report³² makes no reference to occupation of Plot 8 by anyone other than Mr

²⁷ Mr March's proof, paragraph 14.49 and appendix 16.

²⁸ ID 14 and 15.

²⁹ Mr March's appendices 18 and 22.

³⁰ Mr March's proof, paragraph 15.42.

³¹ Mr March's appendix 12.

³² CD2.

and Mrs Carter and their children. Mr Green said he first saw a caravan on the Ripleys' part of the plot just 14 weeks before he gave evidence at my inquiry and his evidence was that the Ripleys were not in occupation when the notice was issued.

Conclusions on appeal E ground (b)

102. There is no evidence to suggest that Jim and Joe Ripley were showpersons when the notice was issued and the burden of proof falls on the appellant. Nevertheless, despite Mr Carter's indefinite statement that they would have been "in and out" from 2008, considered in the round, the evidence indicates that Jim and Joe Ripley had probably not taken up residential occupation of the site, even as a "transit site" when the notice was issued.
103. Leaving aside the question of whether occupation by them for up to a couple of weeks, once or twice a year would have resulted in a material change of use, the evidence concerning the Ripleys' use does not indicate on the balance of probability, that the site was being used for the siting of residential caravans/mobile homes by people who were not travelling showpersons. Accordingly, having already decided that Mr Carter was a showperson, appeal E must succeed on ground (b). I will quash the notice and no other grounds fall to be considered.

Appeal F (Plot 9)

104. GPS's response to the PCN in June 2010 indicated that Plot 9 had been occupied by Maurice and Mary James for about 18 months. They left the site before the redetermination inquiry was convened and did not give evidence at my inquiry. However, Mr Maurice James signed a witness statement in October 2011, in which he said that he and his wife, who is the daughter of Felix Wall, were then both aged 21 and had been living on the site since they got married in 2009. The PCN response also indicated that Mary was the niece of Maurice Black. I have already found that both Maurice Black and Felix Wall were showman and operated as 'Black & Wall Amusements'.
105. Mr James's statement said that, whilst he was from a Romany Gypsy background, he was a travelling showperson and he and his wife operated a hoopla stand. He explained that, as this stand was only small, they always went with 'Black & Wall Amusements' and he looked after the hoopla, while Mary helped her father and Mr Black with their "sideshow". He said they went out about 12 times per year and, "in between" he worked "as a handy man to make ends meet." The June 2010 PCN response had only mentioned a hot dog kiosk which Mr James operated, attending around 10 fairs/events a year, but Mr Green accepted his practice had not done a thorough job in responding to the PCN.

Conclusion on appeal F ground (b)

106. Whilst there is no evidence of large rides being kept on Plot 9 when the notice was served and even though Mr James had other income, I am satisfied on the balance of probability that he and Mrs James were showpeople. There is no evidence to the contrary.
107. By the time the notice was issued, Plot 9 had been divided into 3. Indeed, when a Council officer visited the site in April 2009, he saw that the plot was

already in the process of being sub-divided and it had been divided into 3 by the time a PCN was served in November 2009.³³ Whilst GPS responded to the 2010 PCN on behalf of Mr and Mrs James, a separate response³⁴ was provided by Miss J Clarke (or Clare?) and Mr M Moore, in May 2010. They said they occupied Plot 9B and the limited information provided indicated that they were not showpeople. However, Mr Green said in his proof³⁵, and in oral evidence that, whilst Mr and Mrs James occupied Plot 9A, Plots 9 and 9B were unoccupied when the notice was issued. Certificates of service³⁶ of the enforcement notice provide some support for this, as they indicate the presence of just 1 mobile home on Plot 9 at the time. I find that Plot 9 was only occupied by Mr and Mrs James when the notice was issued and in fact, in closing, the Council did not mention or rely on occupation of Plot 9 by anyone else.

108. Mr Green suggests that as Plot 9 comprised 3 planning units and 2 of them were unoccupied, the notice is incorrect and should be quashed. This is the same point that arose in relation to appeal A (Plot 1). As in that appeal, I need not determine the planning unit issue. On the evidence before me, when the notice was issued, no part of Plot 9, as defined on the notice, was in use for the siting of caravans/residential mobile homes for occupation by persons who were not Travelling Showpersons.

109. For the reasons given, appeal F succeeds on ground (b). I will quash the notice and no other grounds fall to be considered.

Ground (c) (Appeal D/Plot 7 only)

110. The appeal on ground (b) failed because I found that: (a) whilst Derek Birch senior was a showperson, Plot 7 was also occupied by his adult son, Derek junior, who was not a showperson when the notice was issued; and (b), though vehicles were not stored (and I am correcting the allegation accordingly), equipment and materials were being stored in association with a business unrelated to that of travelling showpeople.

111. To succeed on ground (c), the appellant must demonstrate, on the balance of probability, that the use of the site for siting of caravans/residential mobile homes for occupation by persons who are not travelling showpersons and the storage of equipment and materials in association with the operation of businesses unrelated to that of travelling showpeople does not constitute a breach of planning of planning control. The only relevant form of breach of planning control in this case would be a material change of use.

112. As the Planning Practise Guidance states, there is no statutory definition of 'material change of use.' However, it is linked to the significance of a change and the resulting impact on the use of land. Whether a change of use is material is a question of fact and degree, to be judged on the individual merits of a case. It is also clear that materiality must be assessed in relation to the

³³ Mr March's proof, paragraphs 14.57 – 14.58 and appendices 14 and 16.

³⁴ Mr March's appendix 23.

³⁵ At paragraphs 101 – 103.

³⁶ CD35, page 1080 – 1082.

appropriate planning unit, having regard to *Burdle and another v SSE and another* [1972] 3 All ER 240³⁷.

113. Based on the May 2008 aerial photograph and the plan attached to the enforcement notice, the rear part of Plot 7 had been partially fenced off when the notice was issued. However, there is no evidence that non-showperson related business and residential use was confined to a recognisably separate area of Plot 7. Neither party has suggested that Plot 7 comprised more than one planning unit and I am satisfied that it did not.
114. The lawful use of Plot 7 was as “a travelling showpeoples’ site” in accordance with the 2003 permission and it is common ground that this permission was implemented. In the CA judgement concerning this case, Sullivan LJ said that the “limitation of the use to a site for travelling showpeople is...a functional limitation on the 2003 planning permission...”. In the HC judgement, the deputy judge said that the government policy documents referred to could not be used to change or even interpret the terms of the planning permission. However, he said they point to several conclusions, including that: travelling showpeople “have their own particular planning needs”; “there is a distinction, significant in planning terms, between the use of the land for travelling showpeople and its use as a residential caravan site”; and use as a travelling showpeoples’ site is a “distinct and narrower use” than use as a residential caravan site.
115. Of course, use as a travelling showpersons’ site will include use for the siting of caravans for residential purposes. Furthermore, it is important to note that Mr Birch senior was a showperson, albeit that he had retired or ceased travelling due to ill health, when the notice was issued. Accordingly, Plot 7 was being used for the siting of caravans/residential mobile homes for occupation by persons who were travelling showpersons, in addition to those who were not, and as well as being used for the storage of equipment and materials in association with the operation of businesses unrelated to that of travelling showpeople. I have also accepted that travelling showpeople may, and indeed usually do, undertake other work in addition to travelling to fairs, without that affecting their status as showpeople. However, this does not necessarily mean that use of a showpersons’ site for business purposes unrelated to a showperson’s use will not involve a material change of use.
116. The difference in character between residential use by non-showpersons and residential use by showpersons, particularly retired showpeople, might not be obvious. There could be differences in the pattern of movement to and from the site. Similarly, the patterns and nature of vehicle movements and activity associated with a showperson’s business may differ from that associated with other businesses, such as a landscape gardening and compost sales business. Aerial photographs taken in June 2005, April 2007, May 2008 and September 2011, included in the Aerial Imagery SOCG, show significant amounts of stored materials, which Mr Birch identified as pallets of compost. Whilst it will only be apparent from within Carousel Park, this will have some impact on the visual appearance of the Plot, albeit limited, in comparison to stored fairground equipment. Similarly, non-showperson related business

³⁷ Mr Green’s appendix A(17)

activity will not involve the element of maintenance, repair and testing of fairground equipment which might normally be expected on a showperson's site.

117. On the evidence before me, the amenity or environmental impacts of the change of use and the general implications for the area may be very limited. However, in my pre-inquiry note, I drew the parties' attention to *R (oao) The Royal Borough of Kensington and Chelsea v (1) SSCLG (2) David Reis (3) Gianna Tong* [2016] EWHC 1785 (Admin) along with my own decision in appeal Ref APP/K5600/C16/3194394, in which I considered that judgement. In the *Kensington* judgement, the HC ruled that, among other things:

- the extent to which an existing use fulfils a proper planning purpose is relevant in deciding whether a change from that use would be material;
- the question of whether or not a planning policy addresses the planning consequences of the loss of an existing use is relevant to, but not determinative of that issue; and
- whether the loss of an existing use would have a significant planning consequence, even where there would be no amenity or environmental impact, is relevant to an assessment of whether a change from that use would represent a material change of use.

118. As the general SOCG³⁸ notes, Policy TR1 of the Winchester District: Gypsy, Traveller and Travelling Showpeople Development Plan Document, adopted February 2019³⁹ safeguards existing travelling showpersons' sites listed in that policy from alternative development, unless the site is no longer required to meet any identified traveller need. The same level of protection for showpersons' sites generally is also included in Policy CP5 of the Winchester District Local Plan Part 1 – Joint Core Strategy.⁴⁰

119. The general SOCG also records the parties' agreement that there is a lack of suitable, acceptable, affordable, alternative sites for showpeople within the District. Although there is disagreement over the precise figures, it is also apparent from the SOCG concerning need and Supply of Gypsy, Traveller and Travelling Showpeople accommodation⁴¹ that the need for showpersons' sites is more acute than the need for gypsy and traveller sites.

120. I also note the reference, at paragraph 15 of the CA judgement in this case, to the ruling of Sir Douglas Frank in *Williamson and Stevens v Cambridgeshire CC* [1997] 34 P&CR 117, where he said that use of a site for general caravans where it had planning permission "as a site for caravans occupied by gypsies" would be a material change of use, where the "County Council had gone out of its way to make specific provision for fulfilling a duty in relation to sites for gypsies..."

³⁸ ID30.

³⁹ CD32, page 992.

⁴⁰ CD19, page 365.

⁴¹ ID29.

Conclusions on appeal D ground (c)

121. I am satisfied that the existing lawful use of Plot 7 fulfils a proper planning purpose and that purpose is safeguarded by development plan policies. The change of use in this case would affect the capacity of Plot 7 to contribute to that purpose. As a matter of fact and degree, notwithstanding the limited amenity and environmental impacts, this change has significant planning consequences. I conclude that it represents a material change of use and therefore a breach of planning control. The appeal on ground (c) must therefore fail. Of course, this judgement merely concerns the threshold assessment of whether planning permission is required; I express no opinion on the merits or otherwise of granting planning permission, as there is no appeal on ground (a) and no deemed planning application.
122. The notice will therefore be upheld, subject to correction of the allegation to delete the reference to the storage of vehicles and subject to consideration of grounds (f) and (g).

Ground (f) (Appeal D/Plot 7 only)

123. Given the nature of the requirements, the purpose of the notice in this case was clearly to remedy the breach of planning control. The issue on ground (f) is therefore whether the requirements of the notice exceed what is necessary to remedy the breach.
124. There was a discussion during the inquiry of whether the reference to paragraph 15 of Circular 04/2007 should be deleted, as it is no longer current. However, to simply delete it would result in a level of imprecision which would be inappropriate, where the consequences of non-compliance could be prosecution. It was accepted that I would need to avoid this. Substituting a reference to the current PPTS definition would cause injustice, as it is more restrictive and that would make the notice more onerous. The question of whether the site occupants were traveling showpersons, as at the date of the notice, was determined in the context of the 2003 permission and having regard to the guidance at the time. Having determined, on that basis, that Derek Birch senior was a travelling showperson, it would be wrong to vary the requirement now, as it could give rise to an argument that he should vacate the site because he does not meet the definition in the current PPTS.
125. Requirement (i), as originally drafted, is the minimum necessary to remedy the breach. If the siting of residential caravans for occupation by persons who are not travelling showpeople as defined in Circular 04/2007 ceases, that requirement will be satisfied. However, it does not apply to Derek Birch senior, as I have determined that he is a travelling showperson as so defined.
126. The Council accepted that requirement (ii) is not necessary to remedy the breach. As drafted, it would prevent residential use of the site by showpersons. In any event, requirement (ii) is also ineffective as there were no caravans/positions marked with an 'X' on the plan attached to the notice.
127. Regarding requirement (iii) the parties agreed that the reference to areas of hardstanding should be removed and it should refer to a new plan to identify dividing walls and fences and sheds to be removed. That new plan was appended to the general SOCG and I can substitute it.

128. To this extent, the appeal succeeds on ground (f) and I can make the necessary variations without causing injustice.

Ground (g) (Appeal D/Plot 7 only)

129. The notice required compliance within 3 months and this ground is that such a period falls short of what should reasonably be allowed. The appellant asks for 2 years to comply with the notice.

130. Although the notice will not require Derek Birch senior to vacate the site, it will require his son to leave, together with his wife and their 3 young children, who attend local schools. This constitutes a serious interference with the right to respect for private and family life, as enshrined in Article 8 of the European Convention on Human Rights (ECHR), which is enacted through the Human Rights Act 1998. In addition, Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children, and Article 8 must be viewed in that context.

131. However, Article 8 provides a qualified right and, in this case, there is a legal basis for the interference with it, which is necessary in a democratic society. The right must be balanced against the wider community/public interest of safeguarding the provision of showperson sites. Provided the interference is proportionate, it will not constitute a violation.

132. To extend the compliance period to 2 years, as requested, would be tantamount to the grant of a temporary planning permission, even though there is no deemed planning application. That cannot be justified in this case. However, Derek Birch junior and his wife and children have been settled on this site for many years, where they have enjoyed the support of their extended family and access to education and other facilities. Furthermore, Mr Birch junior operates his business from the site. Leaving it will involve considerable upheaval.

133. In all the circumstances, the period for compliance should be extended to 12 months to enable alternatives to be explored and to minimise the disruption. This is a proportionate response which balances the rights of the current site occupants with the wider public interest of safeguarding the provision of showperson's accommodation. I will vary the notice accordingly.

J A Murray

INSPECTOR



Plan

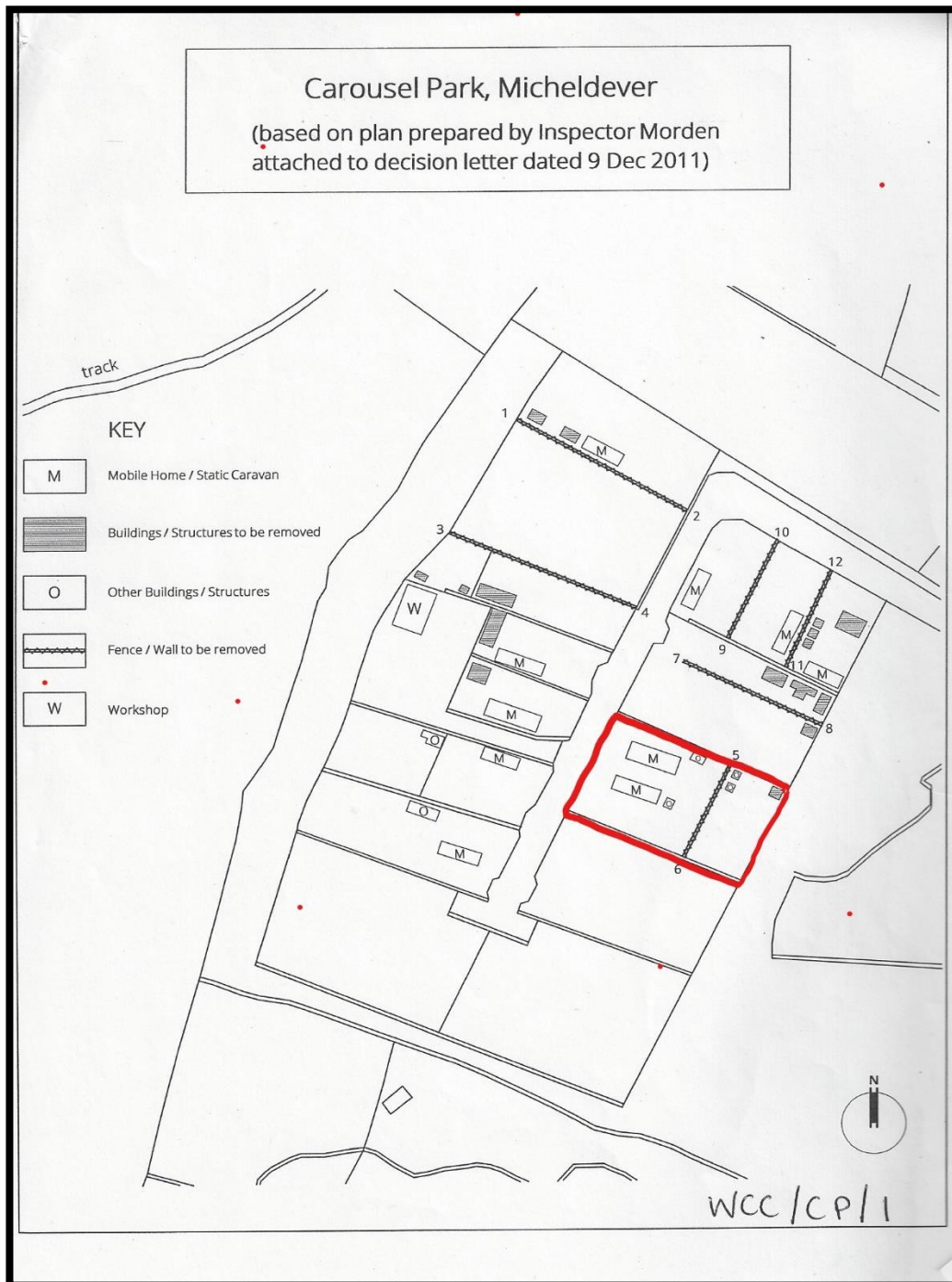
This is the plan referred to in my decision dated: 22 November 2019

by **J A Murray LLB (Hons), Dip.Plan Env, DMS, Solicitor**

Land at: Plot 7, Carousel Park, Basingstoke Road, Micheldever, Winchester, Hampshire

Reference: APP/L1765/C/10/2138152

Scale: DO NOT SCALE



APPEARANCES

FOR THE APPELLANT: Michael Rudd of counsel

He called	Matthew Green, Director of Green Planning Studio Ltd
	Derek Birch
	Danny Carter (junior)
	Felix Wall
	Maurice Black
	Stacey Stokes
	Patrick Stokes
	Miley Stevens
	Michael Wall
	Freddie Loveridge
	Danny Carter (senior)
	Anthony O'Donnell

FOR THE LOCAL PLANNING AUTHORITY: Trevor Ward of counsel

He called	Steve Jarman BSc, DipTP, PgC Sustainable Leadership, MRTPI, Senior Research Executive for Opinion Research Services
	Steven Opacic DipTP, MRTPI, Strategic Planning Project Officer for Winchester City Council
	Neil March BSc(Hons), DipTP, MRTPI, Associate Planner with Southern Planning Practice

INTERESTED PERSONS:

Stephen Godfrey, Ward Councillor for Wonston and Micheldever
John Botham, Micheldever Parish Councillor

DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Minutes missing from Mr Green's appendix C17
- 2 Appellants' opening submissions
- 3 Council's opening submissions
- 4 Appeal decision Ref App/J1915/C/17/3174557 re Wheelwrights

- 5 Farm
- 5 Hampshire County Council's Architect's 8 May 1986 consultation response re site at Whitely Lane
- 6 Hampshire County Council's 8 August 1984 resolution re site at Whitely Lane, Titchfield
- 7 Extract from Hampshire County Council's website re M27 Junction 9 and Parkway South roundabout improvements, Whitely
- 8 Aerial photograph missing from Mr Green's appendix A19
- 9 Signed statement of Danny Carter junior
- 10 Signed statement of Felix Wall
- 11 Planning permission Ref 18/01525/FUL re Land South of Ramblers, Aldermaston Road, Pamber End, Hampshire
- 12 Signed statement Patrick Stokes
- 13 Signed statement of Stacey Stokes
- 14 Signed statement of Jim Ripley
- 15 Signed statement Joe Ripley
- 16 Letter from NHS Hospitals NHS Foundation Trust 25 March 2019
- 17 Signed statement of Miley Stevens
- 18 Mr Black's logbook for the 'Round-Up'
- 19 Update to Mr Green's Gypsy and Traveller Need Statement
- 20 Signed statement of Danny Carter senior
- 21 Signed statement of Anthony O'Donnell (re Plot 2C)
- 22 Letter from the Council to Mr and Mrs Birch re Plot 7 dated 27 April 2005
- 23 Bundle of Companies House and Qutatis printouts concerning City Construction Ltd, RR Home Developments Ltd and Home Quest Roofing and Construction
- 24 Councillor Godfrey's statement
- 25 Parish Councillor Botham's statement
- 26 Mr Green's updated assessment of 5 Year Housing Land Supply

- 27 Mr Opacic's Supplementary Proof re 5 Year Housing Land Supply
- 28 Statement of Common Ground re Housing Land Availability
- 29 Statement of Common Ground re Gypsy Traveller and Travelling Showpeople Need and Supply
- 30 General Statement of Common Ground
- 31 Appellants' suggested occupancy conditions
- 32 Council's closing submissions
- 33 Appellants' closing submissions
- 34 Notice of resumption
- 35 Indexed bundle of authorities referred to in appellant's closing