



TOWN AND COUNTRY PLANNING ACT 1990 (as amended) [hereinafter “the Act”]

STATEMENT OF CASE

NOTE: This appeal statement and its appendices are available on request. While the Council offices at Rochford District Council, South Street, Rochford, Essex SS4 1BW are closed to the public, please contact planning.enforcement@rochford.gov.uk to request a copy of the documents.

Appellant: Mr Aarun Archer

Site address: Land at The Yard, Murrels Lane, Hockley, Essex, SS5 6AB

RDC planning enforcement case reference: 18/00151/COU_C

Appeal reference: APP/B1550/C/19/3237992

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1. The Appeal Subject

- 1.1 The appeal is made under section 174 of the Town and Country Planning Act (as amended).
- 1.2 The appeal site is known as Land at The Yard, Murrels Lane, Hockley, Essex SS5 6AB.
- 1.3 The enforcement notice dated 28th August 2019 was served on the appellant for the following breaches of planning control as described at section 3 of the notice:

Without planning permission,

1. The material change of land and buildings from a general industrial (Class B2) use to a mixed use of general industrial (Class B2) use and the siting of a mobile home (marked MH on the attached plan) and its use for human habitation.
 2. The erection of a steel palisade fence and double gates with a barbed and razor wire top trim. (Marked A to B on the attached plan).
- 1.4 The appeal is to be considered by the public inquiry procedure. The appellant has appealed the enforcement notice on the following grounds pursuant to section 174(2) of the Act:
Ground (a) - that planning permission should be granted for what is alleged in the Enforcement Notice.

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

Ground (g) – that the time given to comply with the notice is too short.

2. Appeal site and its location

- 2.1.1 The appeal site is located within the district's Metropolitan Green Belt (MGB) as identified in the Council's Allocations plan 2014. The Metropolitan Green Belt (MGB) designation extends throughout Rochford District and joins Green Belt designated land contained within the neighbouring Basildon, Castle Point, Chelmsford and Southend on Sea administrative districts, serving to contain the towns and villages as well as the growth of urban London. The vast majority of the designated green belt in Rochford remains undeveloped.
- 2.1.2 The character of the Murrels Lane area is that of sporadic plot land residential development with some vacant plots, stables for livery use and horse grazing land and other equestrian uses. The extent of the appeal site is shown on the enforcement notice plan. Furthermore, an annotated aerial image showing the site in context and extract from the Council's Allocations Plan 2014 showing the green belt designation is appended at **RDC1**.
- 2.2 Within the appeal site are commercial uses (mostly B8 industrial use class) occurring in:
 - Units 1 - Lewis Downes
 - Unit 2 - Elenora Rzeczycka
 - Unit 3 - Aarun Archer
 - Unit 4 - BSH Resin Ltd

- Yard 5 - Aaron Archer
- Yard 7 - Scott Windsor
- Yard 8 - Aaron Archer

2.3 Sharing a boundary with the appeal site to the East is a residential dwelling, High Trees. The south and western boundaries abut to undeveloped open fields. North of the site are former agriculture barns converted to use for storage and distribution purposes.

2.4 The appeal site is owned by Aaron Archer, the appellant, as per title absolute shown on the land registry title EX622506, see RDC2. The appellant resides on the site with Deanna Macmanus. Together they are registered with Rochford District Council as persons responsible for paying council tax, see appended report at RDC3.

2.5 The appeal relates to the siting of a mobile home of which the unit of accommodation is considered to be a caravan as legally defined by Section 29 (1) of the Caravan Sites and Control of Development Act 1960.

3. Relevant Planning History

3.1 Planning Applications History

00/00750/LDC

Sub Units 1 - 4, & 6 Establish Lawfulness of Use of Land and Buildings as Auto Recovery, Salvage, Repairs and Servicing and Painting. **Granted**

00/00751/LDC

Sub Unit 5 Establish Lawfulness of Use of Building as a Fencing Business – **Granted**

06/00260/OUT

Demolish Vehicle Salvage Facility and Construct Two Detached Houses. – **Refused**

10/00203/OUT

Demolish and Remove Existing Commercial Premises and Construct Four Detached Properties. **Application invalid and returned requiring additional information.**

3.2 Planning Enforcement History

00/00028/COU_A

Unauthorised Business Use and Associated Development – **Closed**

16/00052/COU_C

Use of site for residential purposes and siting for mobile chalet and caravans - **Closed**

18/000151/COU_C

Residential Use on the Site – **Pending and associated with this appeal.**

4. Planning Policy background

4.1 The Council's Development Plan currently comprises the Rochford District Core Strategy adopted December 2011; The Development Management Plan (December 2014) and the Allocations Plan (February 2014). Relevant planning policies to this appeal are:

Rochford District Council Development Management Plan 2014

- Policy DM1 Design of new development

Rochford District Council Core Strategy 2011

- Policy GB1 Green Belt Protection
- Policy GB2 Rural Diversification and Recreational Uses
- Policy CP1 Design

4.2 Furthermore, the Council refers to the

- National Planning Policy Framework paragraph 127 and paragraphs 133 to 147.
- The ministerial statement of 31 August 2015 on Green Belt Protection and Intentional Unauthorised Development HLWS404

4.3 The Development Plan expressly recognises the need to protect the character and openness of the Metropolitan Green Belt. The Council will submit that there are no very special circumstances that would outweigh the degree of harm arising from the development in all respects.

4.4 The Council's development plan consists of seven policy documents adopted between 2011 and 2015.

4.5 All the above policies remain extant.

5. Response to Ground (a) appeal

5.1 The appellant submits their appeal on ground (a); that, in respect of the breach described on the enforcement notice; planning permission should be granted.

5.2 Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that in determining whether planning permission should be granted the decision must be taken in accordance with the development plan unless there are material considerations, where presented to the Local Planning Authority, that indicate otherwise.

5.3 The appellant seeks planning permission for the material change of use of land and buildings from a general industrial (Class B2) use to a mixed use of general industrial (Class B2) use and the siting of a mobile home and its use for human habitation. Together with the erection of a steel palisade fence and double gates with a barbed and razor wire top trim. Turning to the first

element of the matter at hand, pertaining to the change of use of the land for the siting of a mobile home for use as permanent residential accommodation. The first question to consider is whether such development would as a matter of principle constitute inappropriate development conflicting with the purposes of the green belt.

- 5.4 As set out at Policy GB1 'Green Belt Protection' of the Rochford District Council Core Strategy 2011, the Council will direct development away from Green Belt as far as practicable. The application site lies within the Green Belt which necessitates that the application needs to be assessed against the guidance at Chapter 13 '*protecting green belt land*' of the National Planning Policy Framework 2019 and the Council's Local Development Framework's Green Belt policies. There is a presumption against inappropriate development in the Green Belt, which is by definition harmful to the Green Belt and should not be approved except in very special circumstances.
- 5.5 Paragraph 143 of the National Planning Policy Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 indicates that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 5.6 Paragraph 146 of the NPPF provides that some forms of development may be acceptable in the Green Belt providing it preserves its openness and does not conflict with the purposes of including land within it. Material changes in the use of land (such as for outdoor sport or recreation, or cemeteries and burial grounds) is one such form of development. The siting of a mobile home for permanent residential accommodation in this location is an inappropriate form of development in the Green Belt and is not supported by the NPPF or any Development Plan policies. Paragraph 146 does not expressly refer to visual impact as a necessary part of the analysis, instead it emphasises preserving openness. Established case law serves to confirm that openness is a matter of planning judgement, not law. It is the Council's case that the palisade fence and the siting of the mobile home do not preserve the openness.
- 5.7 The appellant accepts that the development they are seeking planning consent for is inappropriate development in the Green Belt. The NPPF requires submission of very special circumstances to be presented such that if on consideration they outweigh the core principles and purposes of the Green Belt then planning permission can be granted. Very Special Circumstances are a matter of planning judgment for the local planning authority or the planning inspector. The appellant on their appeal questionnaire submits six points which cumulatively they assert amounts to very special circumstances. The Council disagrees. Those six points are:
- (1) That, there is little to no harm to the character and appearance arising from the development
 - (2) Reference will be made to the case of Turner in relation to the reduced impact on openness of movable items.
 - (3) Additional units of housing supply
 - (4) The lack of a five-year housing land supply
 - (5) Failure of policy
 - (6) The security of the premises.

In the absence of a fully written, explanatory statement the Council extracts these points from the paragraph within the appeal questionnaire and responds to them without further clarification from the appellant on how they formulate the view that the adopted policies fail and how the habitation of the mobile home would contribute to the housing supply. The council reserves the right to expand further if additional detail is required upon receipt of the appellant's statement.

- 5.8 In a Green Belt context openness at its simplest is an absence of built forms and structures. In some circumstances other features of appreciable physical substance can impact on the Green Belt's openness, such as parked vehicles for example, if they are substantial in size and/or number and are permanently or frequently in the same place. It is the Council's view that a substantial feature will have an impact on openness even if it cannot easily be seen. Therefore, the palisade fence although it may obscure the mobile home from obvious view if stood outside the site, the fact remains that the mobile home constitutes inappropriate development and fails to preserve openness.
- 5.9 As already highlighted, the appellant has not submitted substantial information expanding on their grounds of appeal. An internet search for 'Turner case' produces several cases from different years therefore the Council at this instance is unable to comment or provide an analysis of this case and how it applies to the appeal site. The Council will provide commentary on this in the final comments if further details are submitted with the appellants statement of case.
- 5.10 The siting of a mobile home in this location and the choice of material and finish of the palisade fence and barbed wire trim is not considered visually attractive form of development and does not contribute positively to the character of the area as required by paragraph 130 of the NPPF that states "permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions..." Policy CP1 of the Rochford Core Strategy 2011 and Policy DM1 of Rochford Development Management Plan 2014, requires development to positively contribute to the surrounding area. Furthermore, the mobile home used for permanent human habitation and the steel fence are uncharacteristic of the site which comprises commercial buildings and uses.
- 5.11 Policy GB2 which is linked to Policy DM12 'Rural Diversification' reads that residential development is not an accepted form of diversification. The stationing of the mobile home for human habitation has an undue impact on the openness of the Green Belt and character of the locality. Additionally, this use introduces activity on the site and traffic movements outside the regularised hours of working for the commercial uses of the units on the site.

Other considerations

- 5.12 Government guidance suggests that the assessment of needs for caravans/mobile homes should include people of any race or origin and those with a preference for this type of accommodation. There is a requirement to consider caravans and mobile homes beyond what is addressed for Travellers, who are covered under the Government guidance Planning Policy for Traveller Sites 2015 (PPTS). This required assessment may also include the needs of some Travellers who no longer fall under the definition of Travellers under PPTS 2015. Those needs can be met by residential park home sites. Throughout the District there are several licenced park home

sites that were historically used as holiday accommodation. These sites have incrementally become permanently residential and now regarded as an integral part of the housing market.

5.13 The 2016 Strategic Housing Market Assessment did not cover non-traveller mobile homes and caravans. However, the Council consider that for those members of the community who prefer to reside within these types of homes, that need can be met by those existing residential park home sites within the district without the need for further individual sites incrementally eroding the Green Belt.

5.14 Policy H5 (Dwelling Types) of The Core Strategy seeks to ensure equal opportunities within new developments through providing a mix of housing that meet a variety of needs. It addresses the need for the appropriate mix of house types on larger sites, but there is no specific mention regarding individual non-Traveller mobile homes and caravans.

5.15 In reference to the Council's case set out in the paragraphs above, it is the Council's opinion that the appellant's six points raised in their appeal questionnaire fail to outweigh the facts presents so far. Those six points are addressed in the paragraphs below.

5.16 Point 1 - **That, there is little to no harm to the character and appearance arising from the development**

Frontages to plots of land on Murrels Lane are enclosed by means of vegetation and the palisade fence and gate are situated upon an area of land which was once comprised a well-established inconsistent hedge and trees. The trees and the hedge have been removed degrading the appearance of the land. One of the five purposes of the Green Belt, outlined at paragraph 134 of the NPPF, is that it should assist in safeguarding the countryside from encroachment.

The siting and scale of the fence adjacent to a highway and the materials used creates an industrial appearance which is not in keeping with other means of enclosure on Murrels Lane and Blountswood Road. This is significantly prominent as the fence is visible from public vantage points such as the highway.

The fence is significantly prominent and has resulted in a material change in character which has a negative effect on the semi-rural character of the area owing to the addition of the fencing. The fence represents an intrusion into the Green Belt contrary to paragraph 134 and is considered to have a significant tangible impact upon the openness of the Green Belt due to the amount of development, resulting in an urban feature which diminishes the generally semi-rural character of the locality.

5.17 Point 2 - **Reference will be made to the case of Turner in relation to the reduced impact on openness of movable items.**

The Council will await the appellant's statement of case which should provide an analysis on how the appellants seeks to apply this case to help their appeal.

5.18 Point 3 - **Additional units of housing supply**

The Council will await the appellant's statement of case which should provide an analysis on how the appellants seeks to apply this case to help their appeal.

5.19 Point 4 - **The lack of a five-year housing land supply**

The Council maintains an Annual Monitoring Report (AMR). This is a report containing a range of indicators on an annual basis which aids the Council in reviewing the effectiveness of its planning policies and helps to ensure that progress is being made towards achieving the objectives set out in the Local Plan. The Council has produced these reports since 2004.

The Council acknowledges that its latest published housing supply position statement (Chapter 4 of its Authority Monitoring Report 2018/19) calculates a figure of around 4.9 years' supply. Provisional analysis suggests the Council's housing supply for the period 2020-2025 is likely to be in the range of 4.5 to 5 years, including a 20% buffer as a result of the Council's housing delivery test performance.

The Council does not disagree that its housing supply does, or is likely to, fall below the 5 years required by national policy and that, subsequently, the presumption in favour of sustainable development would apply. However, the Council contends with reference to Paragraph 11 of the NPPF that the harm to the Green Belt caused by the proposed development which is, by its nature, inappropriate, would provide a clear reason for refusing the development proposed.

The Council accepts that the development would make a small contribution to identified housing need but does not consider that this contribution, being only a single dwelling, amounts to very special circumstances justifying harm to the Green Belt.

As part of its evidence, the Council will produce an up-to-date Housing delivery Action Plan, Housing delivery test figures and the 2019/20 annual monitoring figures which will be available by the date of the Public Inquiry. These figures are not available for publication at this stage. However, the position as per currently available documents is at RDC10 and RDC11.

5.20 Point 5 - **Failure of policy**

It is unclear which policies the appellants refer to and how the said policies have failed to meet their objectives. The Council will await the appellants full statement of case then provide comments within its final comments.

5.21 Point 6 - **The security of the premises.**

It is the Council's view that living on the site is a convenience not a necessity. There has not been a case put forward of how siting the mobile home on the site would be a security measure where there are leading site security measures that can be implemented. It has been noted that there are signs at the site stating the presence of 24hr security and close circuit television (CCTV) plus signs of dog presence on the site. The appellant has not provided details of the nature of the businesses on site and information pertaining to items of a particular high value or sensitivity within the commercial uses which will require a physical presence on the site. further to this it would be necessary for the appellant to demonstrate the value of residing on site over use of alarms, CCTV

etc. It remains the Council's view that the site like others in the vicinity can be served by other forms of security measures.

Human Rights and Equality Impact Assessment

5.22 Turning to the human rights of the appellant. Article 8 'the right to respect for private and family life, their home and correspondence' which protects the rights to private life, family life and home. Within this article, the right in respect to home does not give a right to housing. It is a right to enjoy an existing home peacefully. This means that public authorities should not stop people entering or living in any home without very good reason, and they should not enter without permission regardless of ownership. There are situations when public authorities can interfere with the right in respect for private and family life, home and correspondence. This is only allowed where the authority can show that its action is lawful, necessary and proportionate. Action is 'proportionate' when it is appropriate and no more than necessary to address the problem concerned. The rights have to be balanced against all other material considerations and this will be a planning judgment. The human rights were carefully considered however these did not outweigh the serious environmental harm resulting from the development in this case.

5.23 Turning to the equality and diversity implications. The Equality Impact Assessment (EIA) completed prior to issuing the notice indicates that the decision to issue the Enforcement Notice will not have had an adverse impact on the occupiers of the land. A copy of the EIA can be found at RDC4.

5.24 The Council is confident that in all its actions relevant to this appeal site and its occupants the Human Rights of the appellant and partner have not been breached. Personal circumstances, hardship and Human Rights are not necessarily enough to outweigh the case against a residential caravan in the MGB.

5.25 Taking all the above matters into consideration the Council opines the ground a) appeal should fail.

6. Response to ground (d) appeal

6.1 Section 171B of the Town and County Planning Act 1990 (as amended) 'the Act' provides statutory time limits for when formal action can be taken by the Local Planning Authority as follows:

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.*
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.*
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.*
- (4) The preceding subsections do not prevent—*

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

- 6.2 Part (3) from the above section of the Act provides that where there has been a breach of planning control of this type, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. This means that if the change of use took place more than ten years before the date of the enforcement notice, and continued without material interruption thereafter, it will be immune from enforcement action and the use will be lawful.
- 6.3 On ground (d), it is for the Appellants to demonstrate, on the balance of probabilities, that the material change of use alleged in the enforcement notice has existed for a continuous period in excess of 10 years prior to the date of issue of the notices and continued actively throughout the following 10 year period. There can be no 'dormant' periods in the 10-year period. The appellants must show when the change of use first occurred and demonstrate that it had continued actively throughout the relevant period, to the extent that enforcement action could have been taken against it at any time. The relevant date for the purposes of this appeals is the 28th of August 2009.
- 6.4 The appellant declares that they will demonstrate that a mixed use of general industrial (class B2) use and the siting of a mobile home for residential use has taken place continuously in excess of 10 years. As such this change of use is lawful as per Section 171B(3) of the Town and Country Planning Act 1990 and therefore, the time for enforcement action has passed. The Council disagrees.
- 6.5 The Council's starting point in setting out its case under this ground of appeal is to consider the timeline between the 28th of August 2009 and 28th August 2019 (the date the enforcement notice was issued and served).
- 6.6 30th September 2009 – phone call to the LPA on-duty planning officer (Yvonne Dunn) from Innis Martin of Plan-It Architectural Design Consultants Ltd regarding a proposal to remove the scrap yard and develop the site for residential. The duty officer email response advising the introduction of a new residential use in the Green Belt would be inappropriate development is enclosed. During the discussion there was no mention of any existing residential use on the site, which in the Council's opinion would have been material to the consideration of this enquiry. Email copy is at RDC7.
- 6.7 1st April 2010 - planning application 10/00203/OUT was submitted. The proposal was to Demolish and Remove Existing Commercial Premises and Construct Four Detached Properties. The planning application form stated the existing use of the site was 'Industrial Scrap Yard and Motor Vehicle Maintenance'. The application form stated at Q.15 the existing use of the site was "Industrial Scrap Yard and Motor Vehicle Maintenance". Q.18 stated, "total existing residential units as zero". Submitted with the application was a supporting statement prepared by a company named Plan-it. The supporting statement described the site and the proposal and included photographs of the site; there is no mention within this statement of there being any residential use on the site. Upon receipt the application could not be formerly registered as it

required a full tree survey, ecological survey, and contamination report and section drawings for the proposed development. The additional details were not submitted, and the application was returned. It is the Council's view that there was no residential use on the site in 2010. If there had been the applicant would have included this within the supporting statement as this information would have been a material consideration for the proposal. A supporting letter from a neighbour was submitted in support of the proposed residential use on the site to replace the existing commercial uses.

- 6.8 2013 - Aerial image dated 9th July 2013 shows what could be two caravans on the site. One is sited by the site entrance and the other within the yard on the Western boundary.
- 6.9 2014 aerial photograph obtained from get mapping shows the site had been cleared, there are no caravans on the site in 2014.
- 6.10 In 2016 the Council received a call from a lady who refused to leave her details but said she was a nearby occupier. Stating a couple had started living on the site. The Council investigated the call and contacted the owner of the site Nigel Wood of N J Wood Ltd to arrange a visit. On the 16th June 2016 the Council visited the site and met a gentleman called Wayne Meredith. Mr Meredith gave the Council's planner officer access to the site. Mr Meredith said there was no one living on the site. Mr Meredith said there was a caravan for sale next door. This caravan was within a compound to the south east of the site.
- 6.11 The Council conducted a Land Registry search which showed Mr Archer purchased the site on the 30 June 2017, the price paid for the site was £300,000, title number EX622506 refers.
- 6.12 In 2018 a further anonymous caller, a gentleman, who said he lives on Murrels Lane called to provide the Council with the name of the occupier of the caravan a Mr Aaron Archer, he said that Mr Archer had been living on land to the rear of 3 Murrels Lane. This arrangement ceased in January 2016. It is circa that time that the appellant moved onto The Yard. This would mean Mr Archer and his partner has been residing on the site for 3 years and 7 months at the time of issuing the enforcement notice. Telephone logs appended at RDC5
- 6.13 A couple of attempts to visit the site were not successful. The site was locked on each visit. On one occasion officers called to a woman who was within the site. The woman began approaching the locked gate and then walked away out of view.
- 6.14 Officers wrote to Mr Archer advising that a site visit would be conducted on the 17th December 2018. On the day before the planned visit, a lady called the offices to say no one would be available but proposed the 17th January 2019 to meet their planning agent.
- 6.15 On the 17th January 2019 the Council visited the site. On the site were Mr Aarun Archer and his planning agent, Matthew Green. Mr Green stated that officers were not to speak to his client directly and all questions were to be directed to Mr Green. Mr Green was very abrupt and would not answer any quantifying questions about the investigation into the residential use, stating the detail was not relevant. Mr Green gestured with his hand towards a large single static caravan and stated "you are investigating a residential use. There has been a caravan on this site used for residential in excess of 10 years". Full details of this site visit are logged on the officer site visit notes at RDC6.

- 6.16 29th April 2019 – The Council’s customer services team received a call from Deanna Macmanus, partner of Mr Aaron Archer, regarding Council Tax. The information provided to the Council by Ms Macmanus, was that Mr Archer had been living on the site since Christmas Day 2014 and Ms Macmanus had moved onto the site on Xmas day 2018. Record appended at RDC3
- 6.17 All the details pertaining to ground d) were provided to the planning agent, Matthew Green as per his request, see letter appended at RDC7 dated 3rd October 2019. However, the appellant and his agent failed to furnish the Council with their counter evidence to prove a continued 10years existence of a caravan used for human habitation on the site. this information was also not submitted to support their ground d) appeal. Matters pertaining to this ground of appeal are a matter of fact judged on a degree of probability and may have been addressed outside the appeal process by invitation to submit a Lawful Development Certificate application therefore the Council will be submitting an application for costs for the appellant’s unreasonable behaviour of failing to co-operate with the Council by holding back information which may have eliminated time spent preparing for this appeal and public inquiry.
- 6.18 As a matter of fact and degree, the appellants’ claim that the site has been used for this purpose continuously since August 2009 is not supported by the balance of the evidence and conclude that on the balance of probabilities, a continuous 10 year use during the relevant period has not been demonstrated and the ground d) appeal should fail.

7. Response to ground (g) appeal

- 7.1 The appellant’s statement does not provide substantial information specific to this ground of appeal. However; the appeal questionnaire at section E regarding the ground (g) appeal sets the facts set out as follows; ‘The Notice allows a compliance period of 9 months for step 1, 10 months for steps 2 and 3, and 11 months for steps 4 and 5. The Appellant seeks a compliance period of 2 years steps 1, 2, 3 and 4 outlined at section 5 of the Notice’.
- 7.2 In the absence of justification for seeking an additional 13 months of compliance time, the Council is of the opinion that the additional time sought is unreasonable and would unnecessarily elongate the existence of an identified breach of planning control.
- 7.3 The steps of the notice are clear in that each step to be complied with has been awarded a timescale deemed adequate period to fully comply with that step. Step 1 requires the use of the land for the siting of mobile home for human habitation to cease. The 9 months allowed is considered long enough to seek either an appropriate site to station the caravan and relocate it or seeks other suitable accommodation elsewhere. An internet search of available properties both to buy and rent within a 3 mile radius of the appeal site via the property market website RightMove provides several properties which can meet the appellant’s housing need. The properties available for sale includes the earlier referenced caravan park sites. The search carried out was at an unspecified bedroom number and capped at £300,000. The cheapest mobile home at a caravan park site being advertised for £80,000. See RDC8 (rental properties) and RDC9 (sale properties).

- 7.4 The breach of planning controls should not be allowed to continue more than necessary. The residential use of the site can cease relatively quickly therefore the mobile home, domestic paraphernalia, pipework and palisade fence can also be removed in a similar fashion without causing unacceptable levels of disruption.
- 7.5 This breach of planning control is causing continuous harm to the Metropolitan Green Belt and any extended compliance period will only prolong this harm. Therefore, the compliance period is considered to be reasonable and proportionate. In the timescale stated on the notice; the appellant should be able to procure a new suitable site; obtain planning consent if needed.
- 7.6 On the 31st of August 2015, the Secretary of State issued a planning policy statement on Green Belt protection and intentional unauthorised development. This policy statement still applies and makes intentional unauthorised development a material consideration to be weighed in the determination of planning applications and appeals. At the core of this policy is that it is to be applied where there has been no opportunity to appropriately limit or mitigate the harm that has taken place. Development on the site occurred rapidly and the use of the site and development as described on the notice were intentional and implemented without consent and are therefore appropriately assessed under this ministerial statement.

8. Overall Conclusion

- 8.1 It is the Council's case that planning permission should be refused for this development and the appeals on ground (a) be dismissed. The development does not accord with the Council's development plan or national policy.
- 8.2 The appellant's statement fails to highlight any very special circumstances that outweigh the harm the development would cause to the Green Belt and any other harm in support of their ground (a) appeal. In the event that the appellant's ground (a) appeal is allowed and planning permission is granted for this development, the Council would request that planning conditions specifying that the consent granted should solely be for the appellant and their dependents and should they cease residing at the site the caravan and all domestic paraphernalia be removed.
- 8.3 As a matter of fact and degree, the appellants' claim that the site has been used for this purpose continuously since July 2009 is not supported by the balance of the evidence and conclude that on the balance of probabilities, a continuous 10 year use during the relevant period has not been demonstrated and the ground d) appeal should fail.
- 8.4 It remains the Council's view that the steps to be undertaken on both notices are not excessive and the timescale stipulated on both enforcement notices are sufficient for full compliance. Therefore, the appeal on ground g) must fail. It must however be noted that; in the event that the COVID19 pandemic remains a factor in everyone's daily life; the Council will accommodate an extension of time outside the appeal process if required. This will be in line with the Government advice at that time.

9. Appendices - SCHEDULE OF DOCUMENTS

As a minimum, the following documents will be submitted and referred to at the inquiry:

- RDC1 1. Aerial image
2. Extract o the Allocations Plan 2014 confirming designation of the land
- RDC2 Land registry search, title EX622506
- RDC3 Council Tax report confirming occupants of the site and dates registered with Rochford District Council.
- RDC4 Equality Impact Assessment
- RDC5 Telephone logs dated 30th November 2018 and 9th July 2019
- RDC6 Note of site inspection dated 17th January 2019
- RDC7 Letter to Mr Matthew Green, appellant's agent and bundle provided
- RDC8 Rightmove record of property for rent within a 3 mile radius from appeal site
- RDC9 Rightmove record of property for sale within a 3 mile radius from appeal site
- RDC10 Housing Land Supply extract from the Authority Monitoring Report 2018/19
- RDC11 Housing Delivery Test Action Plan 2019