



TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY

Mr James Ball

AGAINST AN ENFORCEMENT NOTICE SERVED BY

South Cambridgeshire District Council

LAND AT

**To the south of Chear Fen Boat Club, Twentypence Road, Cottenham,
Cambridgeshire, CB6 8PX**

STATEMENT OF CASE BY THE LOCAL PLANNING AUTHORITY

Planning Inspectorate References: APP/W0530/C/24/3349303

Local Planning Authority Reference: EN/00309/22

APPEAL STATEMENT

1.0 Introduction

- 1.1 This appeal is made against a planning enforcement notice, issued under Section 172 of the Town and Country Planning Act 1990 (as amended) for an alleged breach of planning control, namely, without planning permission, without planning permission, the material change of use of the land for the stationing of caravans for residential occupation.
- 1.2 The enforcement notice was served because of an enforcement investigation which culminated in authorisation to serve the enforcement notice under delegated powers on 18th July 2024.

2.0 Appeal Premises

- 2.1 The site is located upon land which is directly south of the Chear Fen Boat Club, Twentypence Road within Cottenham. The River Great Ouse forms the northern boundary of the site and the B1049 (Twenty Pence Road) forms the western boundary of the site. The eastern and southern boundaries are defined by established mature hedgerows/trees.

3.0 Relevant Planning Policies

- 3.1 In October 2018 the South Cambridgeshire Local Plan 2018 was adopted by Council. The document and policies contained therein are material considerations to be considered when assessing the acceptability of development proposals. The following national and local policies are of relevance:

National Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
National Design Guide 2021 (NDG)

South Cambridgeshire Local Plan 2018

S/3 Presumption in Favour of Sustainable Development
S/7 Development Frameworks
HQ/1 Design Principles
H/20 Provision for Gypsies and Travellers and Travelling Showpeople
H/22 Proposals for Gypsies, Travellers and Travelling Showpeople Sites on Unallocated
Land Outside Development Frameworks
H/23 Design of Gypsy and Traveller Sites, and Travelling Showpeople Sites
NH/4 Biodiversity
CC/8 Sustainable Drainage Systems
CC/9 Managing Flood Risk
SC/10 Noise Pollution
SC/11 Contaminated Land
TI/2 Planning for Sustainable Travel
TI/3 Parking Provision

South Cambridgeshire Supplementary Planning Documents (SPD)

South Cambridgeshire District Design Guide SPD (2010)
Greater Cambridge Sustainable Design and Construction SPD (2020)

Biodiversity SPD – Adopted 2022
Trees and Development Sites SPD – Adopted January 2009
Landscape and new development SPD – Adopted March 2010
Cottenham Neighbourhood Plan (2021)

Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021)
(“MWLP”)

Policy 16

The full wording of the above policies has been provided to the Planning Inspectorate with the Councils questionnaire submission.

4.0 Relevant Planning History

- 4.1 In May 2016, a Certificate of Lawful Existing Use or Development was sought. The Council approved a certificate for the stationing of one mobile home on the land; the boundary for the CLEUD was drawn tightly around the location of the mobile home, and there was no determination as to the wider parcel of land. The application was validated 2nd June 2016 and the decision was issued 11th October 2022. [S/1346/16/LD | Certificate of lawful development for the standing of a mobile home | Land To The East Of Chear Fen Boat Club Twentypence Road Cottenham \(greatercambridgeplanning.org\)](#)
- 4.2 The site was subsequently purchased by the Steven and Jeanette Tidd. In 2020, a new mobile home was sited on the land, with what appeared to be a small amount of hardcore imported to site it on. An enforcement investigation was carried out, which culminated with the service of an enforcement notice in 2021. The enforcement notice was appealed, and in 2022, the notice was withdrawn, and the mobile homes were removed from the site and the enforcement file closed.
- 4.3 Later in 2022, the site was purchased by Mr Price & Mr Ball. A Certificate of lawfulness under S192 for the stationing of 2 mobile homes for residential purposes was submitted. The application was validated 29th March 2022 and refused 5th September 2022, with the appeal held in abeyance. [22/01574/CL2PD | Certificate of lawfulness under S192 for the stationing of 2 mobile homes for residential purposes. | Land To The South Of Chear Fen Boat Club Twentypence Road Cottenham Cambridgeshire \(greatercambridgeplanning.org\)](#)
- 4.4 Planning application 22/01703/FUL was submitted for the Change of use of land through intensification to the stationing of caravans for residential purposes, nine dayrooms and the formation of hardstanding ancillary to that use. The application was validated 17th May 2022 and refused 5th September 2022; the appeal has been held in abeyance. [22/01703/FUL | Change of use of land through intensification to the stationing of caravans for residential purposes, nine dayrooms and the formation of hardstanding ancillary to that use. | Land To The South Of Chear Fen Boat Club Twentypence Road Cottenham Cambridgeshire \(greatercambridgeplanning.org\)](#)
- 4.5 An enforcement investigation commenced following reports that development was being carried out on the land without planning permission in place, including the importation of material, laying of hardstanding, and siting of caravans/mobile homes. The result of that investigation is the enforcement notice appeal to which this statement relates.

5.0 Enforcement Notice subject of the appeal

- 5.1 On 18th July 2024, an enforcement notice was issued and served to take effect on 18th August 2024 in respect of an unauthorised breach of planning control. The matters which appear to constitute the breach of planning control are:

“Without planning permission, the material change in use of the land for the stationing of caravans for residential occupation.”

- 5.2 The reasons for serving the notice are as follows:

“The alleged breach of planning control has occurred within the last 10 years.

The site is located outside of the development framework boundary of Cottenham. The development results in the encroachment into the open countryside and incremental growth in an unsustainable location. To access local services/facilities the future occupiers of the site will have to travel a significant distance via a car. The development represents encroachment of the open countryside, incremental growth in an unsustainable location and a need to travel, particularly by car. The development is therefore contrary to Policies S/3, S/7 H/22 & TI/2 of the South Cambridgeshire Local Plan 2018 and fails to comply with the provisions of the National Planning Policy Framework.

The development results in a significant urbanisation of the site in a rural setting. The urbanisation of the site fails to appropriately relate to its setting and significantly harms the character of the site and the wider surrounding area. Accordingly, given the development is located outside of the development framework of Cottenham, the development contravenes Policies S/7, H22 & HQ/1, of the South Cambridgeshire Local Plan 2018 and fails to comply with the provisions of the National Planning Policy Framework and therefore allows a form of development that is not sustainable.

The development does not accord with Policy 16 of the Cambridgeshire and Peterborough Minerals and Waste Local Plan nor paragraph 187 of the NPPF because it has not been demonstrated that the Mitchell Hill Quarry will not result in unacceptable amenity issues or adverse impacts to human health for the occupiers or the users of the development; dust and noise are of particular concern. In the absence of contrary evidence, the proposed development appears to be incompatible with the adjacent quarry.

In the absence of a statement demonstrating safeguarding of the Sand and Gravel Mineral Safeguarding Area, the development is contrary to Policy 5 of the Cambridgeshire and Peterborough Minerals and Waste Local Plan (June 2021).

In the absence of submission of a biodiversity statement outlining the mitigation methods of the impact the development has upon the local wildlife or existing planting, the development is contrary to Policy NH/4 of the South Cambridgeshire Local Plan.

The land appears to be contaminated. In the absence of an assessment of the extent of contamination and any possible risks, the development is contrary to Policy SC/11 of the South Cambridgeshire Local Plan.

The development partly falls within Flood Zone 3. At present the flood risk of part of the site means the safety of people and ability of people to reach places of safety or access by emergency services is compromised. The development is therefore contrary to Policies CC/8 & CC/9 of the South Cambridgeshire Local Plan and Section 14 of the NPPF.

The development leads to the creation of an access on a stretch of classified highway where the principal function is that of carrying traffic freely and safely between centres of population. The vehicular movements associated with the use of the access in respect of the stationing of caravans for residential purposes, nine dayrooms and the formation of hardstanding ancillary to that use leads to conflict and interference with the passage of through vehicles to the detriment of the principle function and introduces a point of possible traffic conflict, being detrimental to highway safety. The development is therefore contrary to Policy TI/2 of the South Cambridgeshire Local Plan and Section 9 of the NPPF.

The purposes of the notice is to remedy the breach of planning control. The Council considers there are no steps short of those required which can be taken to remedy the breach of planning control.

5.3 The enforcement notice required the following steps to be carried out

- I. Permanently cease the use of the Land for the stationing of caravans for residential occupation.
- II. Permanently remove all caravans, non-agricultural equipment, vehicles, and other domestic items from the Land, which facilitate the material change of use of the Land.
- III. Permanently remove all sheds, outbuildings and other domestic structures and paraphernalia from the Land, which facilitate the material change of use of the Land.
- IV. Permanently remove all fencing from the Land that have been erected to subdivide the land, including all associated fixings fittings and detritus therefrom, which facilitate the material change of use of the Land.
- V. Permanently remove all hardstandings facilitating the material change of use of the land and restore the ground levels to its previous condition.
- VI. Permanently remove all earth bunds facilitating the material change of use of the Land and restore the ground levels to its previous condition.

The works notice requires the steps to be carried out within three months following the date that the notice takes effect.

6. Appeal on grounds (b) (c) (d) (f) and (g)

Ground (b) - that the alleged breach has not occurred.

- 6.1. The principle point that the appellant sets out in their grounds of appeal is that because of the Council's decision to issue a Certificate of Lawfulness in 2016 (ref S/1346/16/LD, "2016 CLEUD"), the Council has provided a view on the lawful use of the entire parcel of land now used by the appellants. This is an incorrect interpretation of the purpose of a Certificate of Lawfulness of Existing Use or Development (CLEUD). The 2016 CLEUD was issued by the Council pursuant to s.191 of the Town and Country Planning Act 1990. This enables any person to ascertain whether any existing use of buildings or other land is lawful at that time, by making an application for the purpose to the local planning authority specifying the land and describing the use. The use is lawful if no enforcement action may then be taken in respect of it. It is clear that the 2016 CLUED issued by the Council only applies to that area of land marked with a thick black line on the plan attached to the decision; the extent of the 2016 CLUED is geographically limited by the second schedule issued with the decision, and it makes no comment on the lawfulness of the wider use of the Land. The effect of the 2016 CLUED is simply to declare definitively, at the point in time that the certificate refers to, that a specific use of a small section of land was lawful. The decision is also limited to the siting of one mobile home for residential use, in the area defined on the plan; it does not declare as lawful any materially different use, and any change to the character of the use that amounts to a material change of use would require planning permission.
- 6.2. The Council considers that, at the time the development subject to this notice was carried out, the use of the land for the stationing of a single mobile home had effectively been abandoned. The original owner had allowed their mobile home to become dilapidated prior to it being removed from the site. Furthermore, when the site in the ownership of the second owners, the Council took enforcement action against them for the siting of a new mobile home. Following this action, the file was shut when the development was removed from the land. Following the successful remedy of the breach, the owner sold the land to the current owners. If the Inspector does not consider the use to be abandoned between the first and second owners, it was clearly the intention of the second owner to cease the use of the land completely and definitely at that time, in order to prevent further formal enforcement action being taken and comply with the Council's direction. The current breaches of planning control which are the subject of the appeals have been separately carried out by the third (current) owners. This is clear when comparing photographs of the site in 2021 and 2022 (see appendix A)
- 6.3. Should the Inspector be minded to take a different view on abandonment, it is in any event clear that a change in the character of the use of the site, and a material change of use of the land, has occurred. At the time that the Council issued the CLEUD in 2016, the site was typified by the use of a modest mobile home. Supporting evidence submitted alongside the 2016 CLEUD (appendix B) indicated that the wider site had likely been utilised for a mixed use including low-level agricultural activities, with significant parcels of the land left as grass/trees. Access to the site was via what appeared to be a dirt-track. This is supported by the Google Earth imagery submitted in appendix C. Both the Google Earth imagery and recent photographs of the site (appendix D) show a significant change in the character of the site. Roads and plots have been laid out with the use of hardstanding, and a much larger area of the site has been developed, giving the appearance of a formalised caravan park, rather than the much softer, agricultural feel when part of the site was occupied by a single mobile home. The change in character goes far beyond even a description of "intensification" of the site – the character of the site, the level and type of activity, noise, disturbance

and other impacts from the site would be substantially different when comparing the use under the original owners (see 2016 CLEUD) and the present site.

Ground (c) - that there has not been a breach of planning control

- 6.4. The grounds of appeal are unclear but are assumed to only contend that one element of the breach of planning control has not occurred, i.e. the stationing of a mobile home on the land subject to the 2016 CLEUD would be lawful. As outlined in 6.1-6.3, the certificate of lawfulness gave a definitive status to the lawful use of a very small parcel of the land for a specific purpose at that moment in time; since then, there has been both abandonment and the material change of use of the site as a whole. In addition, from comparing aerial photographs, it does not appear that a mobile home has been sited on the same parcel of land, due to the way the site has been developed and sub-divided, a result of the site being completed/redeveloped by the current owners.

Ground (d) - that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters

- 6.5. If the Inspector concludes that the previous lawful use of the land has been abandoned, there will be no fallback use under Section 57(4) of The Town and Country Planning Act as referenced by the appellant. In any event, the lawful use of the parcel of land as a whole has never been concluded by the Council; as outlined in 6.1, it is incorrect to rely on the 2016 CLEUD to state that one or more mobile homes could be sited on the wider parcel of land.
- 6.6. Turning to the hardstanding and earth bunds, works were carried out in June 2022 onwards which are clearly not exempt from enforcement action. Previous aerial photographs show that the site was accessed by an informal dirt track; this has been replaced by a new hardstanding, with multiple spurs delineating pitches on the caravan site. In addition, the photographs in appendix A clearly show significant earthworks being carried out on site, including the creation of bunds. The Council looks forward to having the opportunity to review any evidence that the appellant may submit on this basis, which it has so far not been provided with.

Ground (f) - that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

- 6.7. With respect to requirement (i), as outlined above, the appellant has not established that there is a lawful fallback for the siting of a mobile home. The use that previously comprised a single mobile home in a fixed position has clearly been abandoned when considering the history of the site; this ground is therefore not excessive.
- 6.8. Regarding requirement (v) and (vi) in so far as they relate to ground levels and previous condition, there are a range of photographs and aerial photographs that can be used to establish the previous ground condition, and should the inspector dismiss the appeals, the Council would be willing to hold a pragmatic conversation with the appellant to confirm a schedule of works that the Council consider would comply with the notice. The fact that the appellant has altered the

ground levels without survey and without permission, creating any 'uncertainty', shouldn't then be grounds to stymie effective enforcement action.

- 6.9. In relation to the hardstanding, it is clear from site photographs that extensive engineering works have been carried out by the current owners from June 2022, including the importation of hardcore and the laying of hardstanding. If the appellant has further evidence of previous hardstandings at the site then the Council will comment on this evidence through the appeal process, but given the scale of the 2022 works versus the previous lawful position, the requirements of the notice are considered proportionate.
- 6.10. Turning to the earth bunds in (vi), please see 6.8 above; there are clearly works that were undertaken within a timeframe which is enforceable. With reference to any works that may have otherwise been lawful at the time of the material change of use, the appellant does not expand on how it intends to rely on the Timberstore case; should it set this out in their appeal statement then the Council will consider and comment on any relevance through its proofs.

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

- 6.11. The material change of use and associated development has been carried out without the benefit of planning permission. Given the scale of works, the refused 2022 CLEUD, and the planning application (submitted in April 2022 but initially invalid) pertaining to development similar to that which was subsequently carried out on the site, it is difficult to perceive that the owners of the site and their representatives considered that planning permission was not required or that the use was lawful. They have nevertheless chosen to carry out the works at risk without planning permission, and for the reasons relating to the linked planning appeal, the works have resulted in an unacceptable impact. A period of 2 years for compliance, as requested by the appellant, fails to acknowledge the scale and harm of the breach. Whilst the Council accepts that the appellant will need to find alternative permanent accommodation, compliance with the notice should not be dependent on this; the material change of use and associated development could practically be completed in the timeframe set out in the notice.
- 6.12. It should be noted that whilst the appellant has referenced the supply of gypsy and traveller pitches within the area, through the linked planning application no evidence has been submitted to the Local Planning Authority to establish that this is a relevant consideration. Waiting to do so through the appeal process will undoubtedly incur additional cost and time.

7. Conclusions

- 7.1. The appellant does not have planning permission or a lawful use for the development which is the subject of the enforcement notice. The Council has set out its initial case in this statement but will supplement its case with proofs of evidence in due course.

APPENDICES

Appendix A – Photos of site in 2021 and 2022
Appendix B – Evidence submitted with CLEUD
Appendix C – Google Earth imagery
Appendix D – Photos of site in 2024