



Appeal Decision

Hearing held on 1 February 2012

Site visit made on 1 February 2012

by James Ellis LLB (Hons) Solicitor

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

Decision date: 8 March 2012

Appeal Ref: APP/X1925/C/11/2162956

Land at 1 Pulmore Water, St Alban's Road, Codicote, Hitchen, Hertfordshire SG4 8SP

- 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 Act").
- The appeal is made by Mr John Connors against an enforcement notice issued by North Hertfordshire District Council.
- The Council's reference is 11/00091/ENF.
- The notice was issued on 20 September 2011.
- The breach of planning control as alleged in the notice is without planning permission the material change in the use of the land to a mixed use as a residential mobile home (including static and park homes) and caravan site and the storage of vehicles, machinery and equipment including associated works such as hard surfacing, enclosures, containers, external lighting and other services.
- The requirements of the notice are:
 - (i) Cease the mixed use of the land edged in red for residential and business purposes, and cease the use of the land edged in red for the storage of vehicles, machinery and equipment.
 - (ii) Remove all the mobile homes and caravans (including static and park homes) located on the land edged in red, remove all hard standing on the land edged in red, remove all containers, external lighting, other services, other materials and equipment located on the land edged in red associated with the unauthorised development.
- The periods for compliance with the requirements are 28 days in respect of step (i), and 3 months in respect of step (ii).
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Act.

Summary of decision: the appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice as corrected and varied is upheld as set out below in the Formal Decision

The enforcement notice

1. To my mind, the alleged breach of control set out in paragraph 3 (a) of the enforcement notice lacks clarity. I therefore consider it appropriate that the paragraph should be reworded for the avoidance of doubt, as follows: 'Without planning permission the material change of the use of the land to mixed use as a residential caravan site, and for the storage of vehicles, containers, machinery and equipment (including associated works such as hard surfacing, enclosures, external lighting and other services).' Such a change would also have a knock on effect on the requirements of the notice, as set out in paragraph 5 of the notice, leading to consequential amendments. After discussing this point with the parties at the hearing, I believe that the required

correction and variations can be made without causing injustice to the parties. I shall therefore use my powers under section 176(1) of the Act to correct and vary the notice accordingly.

Procedural matter

2. In his Enforcement Notice Appeal Form, the appellant appealed under grounds (a) and (g) of section 174(2) of the Act. However, at the hearing I was asked if I would also consider an appeal on ground (f). The appellant considered that the requirements of the enforcement notice were excessive in that they required the removal of hard standing which he contended has been in place for more than four years before the enforcement notice was issued. The Council raised no objection to me considering an appeal on ground (f). I shall therefore do so.

Background

3. The appeal site lies on the western side of St Albans Road beyond a caravan park (No 1 Pulmore Water) owned by the appellant, and two residential properties. To the north of the site is Codicote Quarry and to its west and south is open agricultural land. The site is outside a settlement boundary for the purposes of planning policies and is within the Hertfordshire Green Belt. The site is accessed through the appellant's caravan park. It has high hedges along its western and southern boundaries, and also that part of its eastern boundary where it abuts the neighbouring residential properties. There is a high earth embankment along its northern boundary with the quarry. The site cannot be seen from public vantage points, and it is effectively screened by planting in terms of views from the neighbouring residential properties.
4. To the north of No 1 Pulmore Water are No 3 Pulmore Water (owned by the appellant's son, John junior) and Wexford Park, formerly No 2 Pulmore Water, owned by the appellant's mother and sister. Part of No 1 Pulmore Water, together with No 3 Pulmore Water and part of Wexford Park, is the only authorised gypsy/traveller site in North Hertfordshire with six permitted pitches. However, both Wexford Park and No 1 Pulmore Water have been extended westwards. At Wexford Park, there are six unauthorised pitches. A planning application to regularise the situation is due to be determined by the Council. I was advised that the application is likely to receive an officer recommendation for approval.
5. The extended site at No 1 Pulmore Water (but not including the appeal site) now contains the appellant's bungalow, a day room, and 19 mobile homes. I was advised that the mobile homes are generally occupied by persons other than gypsies/travellers as defined in paragraph 15 of Circular 01/2006: Planning for Gypsy and Traveller Sites. At the time of my site visit, a number of the mobile homes were vacant.
6. The appeal site was formerly part of the adjacent quarry but has, apparently, never been used for the extraction of minerals. On my site visit, I saw that the northern half of the site has largely been hard surfaced, whereas the southern half of the site, which is separated from the northern half by a conifer hedge, is part hard surfaced and part laid to grass. The northern half of the site had one large twin-unit mobile home and four other static caravans stationed upon it. There was also a stand available for an additional static caravan. No touring caravans were on the site at the time of my visit, although there is evidence

before me that there had been on previous occasions. Various vehicles, a container, items of machinery and equipment, and materials used in connection with the appellant's business were stored on the southern half of the site.

7. The appellant has 'given' the appeal site to his son Larry who occupies the twin-unit mobile home on the site with his wife, Kathleen, and their children Bridget (aged 7 years), John (5) and Kathleen (2). Larry has lived at Pulmore Water all his life, although in recent years the family has travelled extensively so that Larry can find work as a ground worker. The family have returned to Pulmore Water in winter months. The Council accept that Larry and Kathleen fall within the definition of 'gypsies and travellers' for the purposes of paragraph 15 of Circular 01/2006: Planning for Gypsy and Traveller Sites. I concur with that view. It is intended that the appeal site will be a settled base where Larry and Kathleen can bring up their children. Another mobile home would be occupied by the Appellant's son Patrick and his family. I understand that Patrick and his wife also have school age children. Patrick was also brought up at Pulmore Water and has subsequently travelled. Two further mobile homes would be occupied by nephews of the appellant who are due to get married this year and currently live on a site in Harlow where there are no vacancies.
8. The Council and the appellant are agreed that the proposal is inappropriate development within the Green Belt for the purposes of Planning Policy Guidance Note 2: Green Belts ("PPG2"), which is followed by Environmental Policy 2 of the North Hertfordshire District Local Plan No 2 with Alterations, adopted in 1996. By definition, such development is harmful to the Green Belt. In view of the presumption against inappropriate development (referred to in paragraph 3.2 of PPG2), I must give substantial weight to the harm to the Green Belt arising from the inappropriateness of the development.
9. At the hearing, I sought the view of the parties on the draft National Planning Policy Framework ("the NPPF"). After noting those views, I give little weight to the NPPF because it is in draft form, and its policies may be subject to change.

The ground (a) appeal

Main issues

10. This ground of appeal is that planning permission should be granted for those matters referred to in the enforcement notice. The main issues are: the effect of the development on the openness of the Green Belt; and whether the harm by reason of the development being inappropriate development in the Green Belt, and any other harm, if found, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt - openness

11. Openness of the Green Belt is referred to in paragraph 1.4 of PPG2 as its most important attribute. The appellant explained that he had placed hard surfacing on the appeal site prior to 2006 in order to store vehicles and machinery etc. used in connection with his business. Reference was made to an aerial photograph said to be taken on 1 January 2006. To my eyes, the photograph does suggest that some of the appeal site was covered with hard surfacing at

the time the photograph was taken. However, the Council questioned the date of the photograph because of the greenness of vegetation shown on it. Given the nature of the vegetation, I think that it is at least arguable that the photograph was taken at a different time. Given a lack of detailed evidence, such as statutory declarations, to support the appellant's claim, I am not satisfied from the information before me that hard surfacing of the appeal site had taken place prior to four years before the enforcement notice was served.

12. I note that some topsoil has been placed over hard surfacing at the southern end of the appeal site and that this has, in part, been grassed over. However, the laying of the hard surfacing and the stationing of some five/six static caravans on the appeal site, together with associated touring caravans, and the storage of vehicles, a container, machinery and equipment has led to a reduction in the openness of the Green Belt. In my opinion, the reduction of openness has resulted in material harm to the Green Belt, in addition to the substantial weight which I must give to the harm arising from inappropriateness.
13. I must now give consideration as to whether the harm that has been identified would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. Here, the appellant has sought reliance on a number of considerations in support of the use of the appeal site as a residential caravan site, but these do not extend to the storage element of the mixed use identified in the alleged breach of control.

Other considerations- the need for, and provision of, gypsy and traveller sites

14. Circular 01/2006 refers to the national need for further provision of sites for gypsies and travellers and seeks to address under-provision. Following an earlier announcement that he intends to revoke the Circular, the Secretary of State has published a consultation document in which he explains that the current planning policy for traveller sites does not work and that a new approach is needed. Whilst the current Circular is yet to be revoked, the consultation document gives a clear indication as to the Government's intended direction and is thus a material consideration. That said, because the consultation document may prompt amendment to the draft guidance and because the Circular remains in place, the Circular is an important consideration in my determination of this appeal.
15. A Gypsy and Traveller Accommodation Assessment for North Hertfordshire together with the neighbouring districts of Broxbourne, East Hertfordshire, Stevenage and Welwyn Hatfield ("the GTAA") was published in 2006. The Council suggested that the GTAA benchmarked 3 additional pitches for the North Hertfordshire District based on growth of the existing site at Pulmore Waters. However, the GTAA concluded that 35 additional residential pitches, as well as 10 transit pitches, would be required to be provided across the various districts in the 5 year period 2006 -2011, without stating where the sites should be provided.
16. Policy H3 of the East of England Plan ("the RSS") states that the Council should make a provision for an additional 15 pitches by 2011. The Secretary of State revoked the provisions for Regional Spatial Strategies in 2010. However, the revocation has been quashed by the High Court in the case of *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government and*

Winchester City Council [2010] EWHC 2866. The Secretary of State intends to abolish the Regional Spatial Strategies through the Localism Act. I give some weight to this. Nevertheless, for the time being, the RSS is still part of the Development Plan and I accord due weight to it.

17. To my mind, an estimation of need based solely on growth of the existing site at Pulmore Waters is not particularly robust and I am not persuaded that it should outweigh Policy H3 of the RSS which, after all, is part of the Development Plan. I appreciate that the RSS figure of 15 pitches took into account regional as well as local need, but it nevertheless forms the most reliable evidence before me on need.
18. Since 2006, the Council has not approved any gypsy/traveller sites, although permission for 6 pitches on the unauthorised site at Wexford Park would reduce the RSS requirement down to 9.
19. At the hearing, the Council submitted its Local Development Scheme Timetable for producing policy documents. This indicates that the Council's Core Strategy will be formally submitted to the Secretary of State in July 2013, with a view to adoption in July 2014. In terms of land allocations, including gypsy/traveller sites, it is intended that a Development Plan Document will be submitted to the Secretary of State in February 2015, leading to adoption in December 2015. In my experience the provision of sites, following adoption of an allocations DPD, is likely to take some 12 to 18 months. I therefore consider it unlikely that sites will come on stream until the end of 2016 or some time in 2017. The Council accepted that sites were likely to be in the Green Belt and reference was made to the possibility of sites being allocated, along with other new development, in that part of the Green Belt adjoining the built up area of Stevenage, with the boundary of the Green Belt being redrawn to exclude allocated land.
20. In terms of alternative sites, there are no authorised gypsy/traveller sites in North Hertfordshire apart from Pulmore Water. The Council suggested that the appellant's existing caravan site at 1 Pulmore Water could be used to provide for the needs of Larry and Patrick Connors and their families, and other gypsies/travellers. Here, the appellant contends that westward extension of the existing caravan site has been in existence for more than 10 years and has a lawful use, with occupation of the caravans open to persons other than gypsies and travellers. This is disputed by the Council. I find the limited evidence before me concerning a possible lawful use to be inconclusive. However, if the use of the existing site was to be rationalised leading to the creation of further gypsy/ traveller pitches, this would necessarily involve redevelopment to allow for the possible stationing of larger static caravans, touring caravans and vehicles etc. There would also inevitably have to be the displacement of at least some of the occupiers of the existing caravans.
21. Against this background, I believe that there is no guarantee that the existing site could be used for the provision of further pitches and, even if it could, I consider it unlikely that pitches would come forward in the immediate future. I therefore give limited weight to the provision of further pitches on the existing caravan site as a means of meeting need, at least in the short term. It will be some time before sites come on stream following adoption by the Council of its DPD. From all the evidence before me, I can only conclude that there remains a need at the present time for gypsy and traveller sites in the

district which is not likely to be met in the near future. This weighs heavily in favour of the proposed use of the appeal site as a residential caravan site.

Other considerations – failure of policy

22. At the present time, the Council does not have an adopted policy concerning the provision of gypsy/traveller sites. It has failed to address need in the district within the 3-5 year time frame set down by Circular 01/2006 and has not complied with the requirement to maintain a 5 year supply of sites as required by Planning Policy Statement 3: Housing. Whilst the Council is making some progress on the likely provision of sites through an allocations DPD, it is likely to be some time before the DPD is adopted. This failure of policy carries considerable weight in favour of the proposed residential caravan site.

Other considerations - accommodation needs and personal circumstances

23. Members of the appellant's family need a settled base where their accommodation needs can be met in order that they can have a traditional gypsy/traveller lifestyle and culture. The appeal proposal would provide them with this. Also, the proposal would enable children from the family to benefit from regular education when they were not travelling. In my view, it is unlikely that a decision to dismiss the appeal would result in persons becoming homeless. This is because there are vacant units on the appellant's existing caravan site, albeit that they are not ideal in terms of family accommodation. Nevertheless, I conclude that there are personal circumstances which weigh in favour of the proposed caravan site.

Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

The storage use

24. As I have indicated, I must attach substantial weight to the harm to the Green Belt by reason of the development's inappropriateness. I have also found that the development has resulted in material harm to the openness of the Green Belt. No other considerations have been submitted in support of the storage element of the proposed mixed use so very special circumstances to justify that element do not exist, and I find that it is contrary to saved Environmental Policy 2 of the Local Plan and guidance contained in PPG2.

Residential caravan site - permanent planning permission

25. Here, there are a number of considerations in favour of this element of the proposal to be weighed against harm to the Green Belt. These are: the need for gypsy/traveller sites in the district and wider area; the failure of policy relating to gypsy/traveller sites; and the personal circumstances of members of the appellant's family.
26. In my judgement, however, the material considerations in favour of the development, even when added together, would not clearly outweigh the substantial harm caused by the proposal to the Green Belt. Very special circumstances to justify the development do not therefore exist. The proposal is therefore contrary to Environmental Policy 2 of the Local Plan and guidance contained in PPG2.

Residential caravan site - temporary planning permission

27. Circular 11/95: The Use of Conditions in Planning Permissions states that a temporary permission may be justified when it is expected that the planning circumstances will change in a particular way at the end of the temporary period. Circular 01/2006 indicates that, where there is an unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, decision makers should give consideration to granting temporary permission. Paragraph 46 of the Circular states that such circumstances may arise in a case where a local planning authority is preparing its sites allocation DPD, and that in such circumstances, authorities are expected to give substantial weight to the unmet need in considering whether a temporary planning permission is justified.
28. On the basis of the information available to me, I am satisfied that the planning circumstances are likely to change within the Council's area within the next four to five years as work on the Council's allocations DPD progresses and sites are subsequently brought forward following its adoption. I am also mindful that there are no alternative sites available. I therefore give substantial weight to unmet need in the context of a temporary permission. Personal circumstances also carry weight.
29. Even so, the harm caused by the residential caravan site to the Green Belt in the short to medium term must be taken into account. Although this element of the development is inappropriate within the Green Belt and has resulted in material harm to the Green Belt, the appeal site is 'contained'. It lies next to an existing caravan site and a quarry. I am mindful that the caravan site does not result in harm to the character and appearance of the area. In my judgement, the harm in this particular case would be clearly outweighed by the considerations weighing in favour of allowing the caravan site for a temporary period, pending the provision of sites following adoption of the allocations DPD. I am particularly mindful of outstanding need in this context.
30. After taking all matters into account, I consider that, in this particular case, it would be appropriate to grant temporary planning permission for the residential caravan site for five years. I have chosen the period of five years to reflect the time that it will take for sites to come forward following the adoption of the allocations DPD.

Human Rights

31. I appreciate that my decision results in an interference with the rights of members of the appellant's family in respect of private and family life and their home, and that Article 8 of the European Convention on Human Rights is engaged. However, I consider that my response is proportionate after taking into account the conflicting matters of public and private interests so that there is no violation of those rights.

Third party issues

32. Other issues raised by third parties include highway safety, the effect of the development on local services, possible pollution, and future restoration of the quarry. The local highway authority has not objected to the development. As I saw on my site visit, St Alban's Road is a busy road and carries heavy goods vehicles associated with Codicote Quarry. However, traffic was travelling at

speeds commensurate with road conditions and drivers were proceeding with appropriate caution. The visibility splays at the entrance to 1 Pulmore Water are acceptable. Having regard to this and the likely number of vehicle movements which would be generated by the development, I therefore find that the development should not have a material adverse impact on highway safety.

33. In the past, children from families at Pulmore Water have had an effect on allocations at the local primary school. However, evidence was given that it was likely that many of the children of occupiers of the appeal site would attend Catholic schools. I therefore find that the use of the site as a caravan site should not have a material impact on the allocation of places at the primary school. There was no detailed information before me concerning the effect of the proposal on health facilities. The site is in an elevated position but there was no detailed evidence before me to demonstrate that the likelihood of drainage from the site leading to pollution. In any event, drainage can be dealt with by way of planning condition. In my experience, it is likely that the quarry will be the subject of a restoration scheme once its operations have ceased. However, I was not provided with any material about a restoration scheme and I am unable to ascertain how the development might affect this. I can, therefore, only give limited weight to the points raised by third parties.

Conditions

34. I have already referred to the issue of temporary permission and will impose an appropriate condition to deal with this and the restoration of the site at the end of the permission. The evidence before me is that at least some of the hard surfacing may have taken place in order to facilitate the storage use before the use as a caravan site commenced. However, as I have previously indicated, I am not satisfied that the hard surfacing took place more than four years before the enforcement notice was issued. Nevertheless, I think it reasonable for all the hard surfacing to remain whilst the appeal site is being used as a caravan site but that it should be removed once the caravan site use has ceased. I have worded the restoration condition to reflect this.
35. The Council suggested a number of other conditions and I have given due consideration to these. The appellant's case in connection with the caravan site use has been predicated upon occupation of the site by gypsies/travellers as defined in paragraph 15 of Circular 01/2006. I shall therefore impose a condition restricting occupancy of the site to such persons.
36. Other suggested conditions seek to prohibit commercial activities on the site, restrict the numbers of caravans on the site, and restrict the size of vehicles which may be brought onto the site. I consider all these conditions to be reasonable and necessary in order to minimise the impact of the proposal on the openness of the Green Belt. Further conditions would require the submission and implementation of a site development scheme (including reference to landscaping) and the submission of a maintenance schedule. I consider these conditions to be reasonable and necessary in the interests of good planning and to protect the residential amenity of the occupiers of the site. I consider the reference to landscaping in the site development condition and the maintenance condition to be appropriate even though the permission is temporary. This is because of the length of the temporary permission.

37. Lastly, the Council suggested a condition to bring external lighting under its control. I consider the condition to be reasonable and necessary in order to prevent light pollution. However, I believe it appropriate to include reference to lighting in the site development condition, rather than it being the subject of a separate condition.

Conclusion

38. For the reasons given above, I conclude that the appeal on ground (a) should be allowed in part, insofar as it relates to the use of the appeal site as a caravan site, and dismissed in part, insofar as it relates to the use of the site for storage purposes.

The ground (f) appeal

39. This ground of appeal is that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections. The appellant's argument here was that the requirement to remove the hard surfacing is excessive. I have already dealt with this when considering the ground (a) appeal, which succeeds in part. I have found it reasonable for the hard surfacing to remain in place whilst the appeal site is used as a residential caravan site for a temporary period, but have imposed a condition requiring the removal of the hard surfacing at the end of the period. Accordingly, it is not necessary for me to give further consideration to the ground (f) appeal.

The ground (g) appeal

40. The ground of appeal under section 174 (2) (g) of the Act is that the time period given to comply with the notice is too short. Although I have concluded that the ground (a) appeal should succeed insofar as it relates to the residential caravan site use, I need to consider this ground of appeal in relation to the storage use. The periods for compliance set out in the notice are 28 days and 3 months for steps (i) and (ii) respectively. The appellant suggested a compliance period of two years but this was in respect of the use of the site as a residential caravan site. In my view, the compliance periods set out in the notice are reasonable for the steps (insofar as they relate to the storage use) to be carried out. The appeal on ground (g) therefore fails.

Formal Decision

41. Following on from paragraph 1 above, I direct that the enforcement notice be corrected by the deletion of all the words after the word "residential" in the second sentence of paragraph 3 (a) of the notice (which refers to the alleged breach of control) and their substitution with the words "caravan site, and for the storage of vehicles, containers, machinery and equipment (including associated works such as hard surfacing, enclosures, lighting and other services)".
42. The appeal is allowed insofar as it relates to the use of the appeal site as a residential caravan site and planning permission is granted on the application deemed to have been made under section 177(5) of Act for the use of land at 1 Pulmore Water St Alban's Road, Codicote, Hitchin, Hertfordshire SG4 8SP, as shown on the plan attached to the notice, as a residential caravan site (including associated works such as hard surfacing, enclosures, lighting and services), subject to the following conditions:

- 1) The use hereby permitted shall be for a limited period being the period of five years from the date of this decision. At the end of this period the use hereby permitted shall cease; all caravans, buildings, structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed; and the land restored to its condition before the development took place. For the avoidance of doubt, the existing hard surfacing on the land shall be removed at the end of the five year period.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 3) There shall be no more than 6 pitches on the site and on each of the 6 pitches hereby approved no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 as amended and the Caravan Sites Act 1968 as amended, shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 4) No commercial activities shall take place on the land, including the storage of materials.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use (including, for the avoidance of doubt, the existing hard surfacing on the land) shall be removed within 28 days of the date of failure to meet any one the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for: (1) the internal layout of the site, including the siting of caravans, pitches, hardstandings, means of pitch division, parking and amenity areas together with details of the proposed occupants for the 6 pitches hereby permitted; (2) the landscaping of the site providing details of any additional hedge and shrub planting including numbers and densities; (3) the means of disposal of foul and surface water and the provision of any amenity blocks or similar facilities; and (4) the provision of external lighting to include the position, height and type of lights (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
 - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) the approved site development scheme shall have been carried out and completed in accordance with the approved timetable.

- 7) At the same time as the site development scheme required by condition 6 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of 2 years of the proposed planting commencing at the final phase of implementation as required by that condition; the schedule to make provision for the replacement of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or becomes seriously damaged or defective with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.
43. Given that I have corrected the wording of the breach of control set out in paragraph 3 (a) of the notice, I now need to vary the requirements of the notice, as set out in paragraph 5 to reflect this. I therefore direct that that the notice be varied as follows:
- (a) that all the words after the word "red" in the first line of the first requirement as set out in paragraph 5 (i) of the notice be deleted and substituted with the words "as a residential caravan site, and for the storage of vehicles, containers, machinery and equipment"; and
- (b) that all the wording of the second requirement as set out in paragraph 5 (ii) of the notice be deleted and substituted with the following words: "Remove from the land edged in red all residential caravans (including static and park homes) and all other caravans associated with the residential use of the land; all vehicles, containers, equipment and machinery stored on the land; and all hard surfacing, enclosures, lighting and other services associated with the unauthorised development.
44. The appeal is dismissed and the enforcement notice is upheld as corrected and varied insofar as it relates to the use of the appeal site for the storage of vehicles, containers, machinery and equipment, and planning permission is refused in respect of the use of land at 1 Pulmore Water St Alban's Road, Codicote, Hitchin, Hertfordshire SG4 8SP for the storage of vehicles, containers, machinery and equipment on the application deemed to have been made under section 177(5) of the Act.
45. I have not sought to vary the requirements of the notice to exclude that part of the development, namely use a residential caravan site, in respect of which a conditional permission is being granted as this could give rise to two inconsistent permissions, the conditional one being granted, and an unconditional one deemed to have been granted under section 173 (11) of the Act as a result of the variation cutting down the requirements. Reliance can be placed on section 180 of the Act to mitigate the effect of the notice so far as it is inconsistent with the permission.

James Ellis

Inspector

APPEARANCES

FOR THE APPELLANT:

Philip Brown BA (Hons), MRTPI	Managing Director, Philip Brown Associates
John Connors	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mary Caldwell	Planning and Conservation Manager, North Hertfordshire District Council
Chris Braybrooke	Senior Planning Compliance Officer, North Hertfordshire District Council
David Hill	Planning Policy and Projects Officer, North Hertfordshire District Council
Geraldine Goodwin	Revenues Section, North Hertfordshire District Council

INTERESTED PERSONS:

Cllr Tom Brindley	Ward Member, North Hertfordshire District Council
Cllr Jacque Grant	Codicote Parish Council
Lorraine Ellis	Clerk to Codicote Parish Council

DOCUMENTS

- 1 North Hertfordshire District Council Local Development Scheme Timetable – published February 2012
- 2 Caravan Count Information for North Hertfordshire