**APPEAL BY ANDREW CASH**

**AGAINST THE SERVICE OF AN ENFORCEMENT NOTICE BY**

**ASHFIELD DISTRICT COUNCIL**

WITHOUT PLANNING PERMISSION, UNAUTHORISED CHANGE OF USE OF LAND TO A MIXED USE INCLUDING THE SITING OF A MOBILE HOME/CARAVAN FOR RESIDENTIAL USE AND COMMERCIAL STORAGE USE (INCLUDING THE PARKING OF COMMERCIAL VEHICLES, PLANT AND MACHINERY), THE LAYING OF HARDCORE AND ERECTION OF A FRONT BOUNDARY WALL AND GATES TO FACILITATE THE USE.

**LAND ON THE WEST SIDE OF BRICKYARD, BRICKYARD DRIVE, HUCKNALL, NOTTINGHAM, NG15 7PG**

LPA REF:

OUR REF: 24/AC/BRICKYARD

**STATEMENT OF CASE PREPARED ON BEHALF OF THE APPELLANT BY**

**PHILIP BROWN BA (HONS) URBAN & REGIONAL PLANNING**

* 1. **INTRODUCTION**
  2. This Statement has been prepared by Philip Brown. I hold a Bachelor of

Arts degree with honours in the subject of Urban and Regional Planning. I

have more than 40 years’ experience of planning matters in local

government and private practice.

* 1. I am Managing Director of Philip Brown Associates Limited, and specialise

in assisting Gypsies and Travellers to obtain planning permission for

caravan sites and related development. I frequently appear at planning

hearings and inquiries to give expert evidence on planning matters. I have

obtained planning permission for well in excess of 350 caravan sites,

throughout England and Wales, mainly on appeal.

* 1. This statement is divided into four parts: firstly I describe the site and its

surroundings; secondly I give a resume of relevant planning policies;

thirdly I summarise the planning history of the appeal site; and fourthly I

set out the case on behalf of the appellants.

**2.0 SITE DESCRIPTION**

2.1 The appeal site comprises 0.0 hectare of land located along the western

side of Brickyard, on the eastern side of Hucknall. Brickyard is an unmade

cul-de-sac accessed from Brickyard Drive, via a level crossing over the

railway line.

2.2 The eastern side of Brickyard is characterised by fairly continuous, two-

storey, residential development with a relatively consistent building line.

The eastern side of Brickyard is more open in character, with a mixture of

single-storey and two-storey dwellings, garages and domestic

outbuildings.

2.3 The appeal site adjoins a row of garages to the north, beyond which is a

recently built bungalow and garage. The site adjoins a small paddock to

the south, beyond which is a recently approved bungalow. On the

opposite side of Brickyard is the entrance to a haulage depot situated to

the rear of the houses along the frontage.

2.4 The appeal site is partly hard-surfaced, including the front part of the site

where concrete foundations have been laid for a house approved in May

2019. The rear part of the hard-standing is occupied by a mobile home

used for residential purposes. The rear half of the appeal site is laid to

grass.

2.5 There are a number of properties, including recently constructed

dwellings, having brick walls along their boundaries with Brickyard, as

shown on the Google Street View imagery attached at **Appendix PBA 1**.

**3.0 PLANNING POLICY**

**Local Planning Policies**

3.1 The Ashfield Local Plan Review (ALPR) was adopted in November 2002,

with the Plan covering the period up to 2011. In 2007, in line with the

Planning and Compulsory Purchase Act 2004, the Council applied to the

Secretary of State, through the Government Office for the East

Midland’s, to ‘save’ the majority of Local Plan policies until relevant

Local Development Framework policies were adopted to replace them.

3.2 Under the National Planning Policy Framework 2023 (NPPF), paragraph

225, due weight can be given to relevant policies in the Ashfield Local

Plan Review, 2002, according to their degree of consistency with the

National Planning Policy Framework. The closer the policies in the Plan

are to the policies in the Framework, the greater the weight that may

be given.

3.3 The ALPR seeks to concentrate most development within the main

urban areas. Policy ST2 states that development will be concentrated

within the main urban areas of Hucknall, Kirkby-in-Ashfield and Sutton-in-

Ashfield as shown on the Proposals Map. The appeal site is shown as lying

within the urban area of Hucknall on the Local Plan Proposals Map.

3.4 Policy ST1 states that development will be permitted where:

a) it will not conflict with other policies in this Local Plan,

b) it will not adversely affect the character, quality, amenity or safety of

the environment,

c) it will not adversely affect highway safety, or the capacity of the

transport system,

d) it will not prejudice the comprehensive development of an area,

e) it will not conflict with an adjoining or nearby land use.

3.5 Policy HG1 provides that residential development will be permitted on the

sites listed under the policy and, as shown on the Proposals Map. The

appeal site lies within housing allocation No. Hh “The Brickyard” (0.7

hectare).

3.6 Policy HG2 states that: “in the main urban areas and named settlements,

residential development on land not allocated or safeguarded for other

purposes will be permitted.”

3.7 Policy HG5 provides that residential development will be permitted

where:

a) the amenity of neighbouring properties is protected,

b) the design and layout of dwellings minimises potential overlooking and

provides a reasonable degree of privacy and security,

c) adequate private garden space is provided,

d) boundary treatment provides an adequate standard of privacy and

visual amenity,

e) access for vehicles, pedestrians and cyclists and public transport where

appropriate, is safe and convenient and integrated with existing

provision,

f) parking and facilities are provided in accordance with Council standards,

as outlined in Appendix 7,

g) its design is acceptable in terms of appearance, scale and siting, and

h) landscaping complements and enhances its appearance.

3.8 Policy HG9 sets out the Council’s locally specific criteria for the

assessment of proposals for new gypsy and traveller sites. Outside the

Green Belt, proposals for Gypsy caravan sites and sites for Travelling

Showpeople will be permitted where:-

a) The need for a site is established,

b) The site is reasonably accessible to community services and

facilities,

c) The site is located so as to minimise the potential for noise and

other disturbance that may result from the use of the site for

business activities,

d) The site does not adversely affect the visual amenities of the area,

and

e) Adequate landscaping measures are included.

**Government Advice**

3.9 The NPPF is intended to reinforce the importance of up-to-date plans and

requires that due weight should be given to relevant policies in existing

plans according to their degree of consistency with the NPPF. In assessing

and determining development proposals, local planning authorities

should apply the presumption in favour of sustainable development

(paragraph 11).

3.10 *Planning policy for traveller sites* (PPTS) sets out the Government’s aims in

respect of traveller sites which include, *inter alia*, local authorities

developing fair and effective strategies to meet need through the

identification of land for sites; protecting Green Belt from inappropriate

development; promoting more private traveller site provision while

recognising that there will always be those travellers who cannot provide

their own sites; and to increase the number of traveller sites in

appropriate locations with planning permission, to address under

provision and maintain an appropriate level of supply.

3.11 Local planning authorities are required to use a robust evidence base to

establish accommodation needs to inform the preparation of local plans

and make planning decisions (*Policy A*). In producing their local plans,

local planning authorities should, *inter alia*, set pitch targets; identify and

maintain a rolling 5-year supply of specific deliverable sites; and relate the

number of pitches to the circumstances of the specific size and location of

the site and the surrounding population’s size and density.

3.12 Paragraph 11 provides that criteria should be set to guide land supply

allocations where there is identified need. Where there is no identified

need, criteria-based policies should be included to provide a basis for

decisions in case applications nevertheless come forward. Criteria based

policies should be fair and should facilitate the traditional and nomadic

life of travellers while respecting the interests of the settled community.

3.13 Paragraph 13 sets out the wider sustainability benefits of providing

permanent residential sites for gypsies and travellers which should be

taken into account in plan-making and development control (*Policy B*).

**4.0 PLANNING HISTORY**

4.1 Outline planning permission was granted on 8 May 2019, under

application No. V/2019/0013, for the erection of a single dwelling on the

front part of the appeal site. Applications to discharge the reserved

matters were approved on 6 January 2020 and 5 March 2020, under

application numbers V/2019/0652 and V/2020/0352, respectively. A copy

of the approved Site Layout Plan is attached at **Appendix PBA 2**.

4.2 Temporary planning permission was refused on 25 November 2020, under

application No. V/2020/0371, for the siting of a mobile home for

residential purposes. A copy of the Planning Officer’s report is attached at

**Appendix PBA 3**.

4.3 The Council issued an enforcement notice on 19 June 2024 alleging,

without planning permission, unauthorised change of use of land to a

mixed use including the siting of a mobile home/caravan for residential

use and commercial storage (including the parking of commercial vehicles,

plant and machinery), the laying of hardcore and erection of a front

boundary wall and gates to facilitate the use.

4.4 The Council’s reasons for issuing the notice are stated to be:

*“It is considered by the Council that the mobile home is harmful to the*

*visual amenity of the residential area and out of character with the local*

*vernacular of the area by reason of its design and siting. The hard*

*surfacing is visually dominant in the area and the site lacks landscaping*

*and biodiversity provision. The commercial use is detrimental to the visual*

*qualities of the area and results in undue noise and disturbance in a*

*residential area. The boundary wall and gates are visually detrimental in*

*the street scene and impact on highway safety due to a lack of visibility in*

*both directions on the highway. For these reasons the unauthorised use*

*and operational development is contrary to Sections 9, 12 and 15 of the*

*National Planning Policy Framework (December 2023) and Policy ST1(a),*

*(b), (c) and (e) and HG5 (a), (c), (d), (e), (g) and (f) of the Ashfield Local*

*Plan Review (ALPR) 2002.”*

**5.0 CASE ON BEHALF OF THE APPELLANT**

**Preliminary Matters**

5.1 The National Planning Policy Framework (NPPF) puts the presumption in

favour of sustainable development at the heart of both plan-making and

decision-taking. For decision-taking this means approving development

proposals that accord with the development plan without delay; or, if the

policies which are most important for determining the application are

out-of-date, granting planning permission unless, *inter alia*, any adverse

impacts of doing so would significantly and demonstrably outweigh the

benefits, when assessed against the policies in the Framework taken as a

whole; or the application of policies in the Framework that protect areas

or assets of particular importance provides a clear reason for refusing the

development proposed.

5.2 In the latter regard, the appeal site is not located within the Green Belt, or

within a SPA, SSSI, Conservation Area, local greenspace, Area of

Outstanding Natural Beauty or National Park. Furthermore, the proposed

caravan site is not located within an area shown on the Environment

Agency’s flood maps as being at high risk from flooding.

**Relevant Planning Policies**

5.3 The appeal site is shown as lying within the settlement boundary of

Hucknall on the Local Plan Proposals Map, where development is subject

to Policy ST2 and HG1. The site is clearly an acceptable site in principle for

residential development: whether it be for conventional, bricks and

mortar, housing or residential caravans. Paragraph 5.84 of the Local Plan

makes clear that: “*Because caravans and mobile homes (excluding gypsy*

*sites) can have significant effect on the environment and amenity of an*

*area, their location should generally be treated in the same way as*

*permanent buildings*” and “*Proposals for the location of caravans and*

*mobile homes in general will be considered within the context of policy*

*HG5*”.

5.4 Policy HG1 Hh allows for the development of up to 24 dwellings on the

allocated site but, since its allocation in 2002, no comprehensive scheme

has come forward for its development. The lack of a comprehensive

scheme has resulted from the difficulty of up-grading the highway to serve

a comprehensive development of the allocated area and, of improving

access across the railway.

5.5 The appellant is an Irish Traveller for whom living in a caravan is part of his

traditional way of life. The Council, in first instance, and Inspector have a

duty to facilitate the gypsy/traveller way of life.

5.6 Gypsy and traveller sites are addressed in Policy HG9 which states that,

outside the Green Belt, proposals “*will be*” permitted provided that five

criteria are met. Those that are relevant to the appeal proposals are: a)

that the need for a site is established; b) that the site is reasonably

accessible to community services and facilities; d) that the site does not

adversely affect the visual amenities of the area; and, e) that adequate

landscaping measures are included.

5.7 National policy relating to gypsy and traveller sites is set out in Planning

policy for traveller sites (PPTS - December 2023). That document is aimed,

amongst other things, at ensuring fair and equal treatment for travellers

in a way that facilitates the traditional and nomadic way of life of

travellers while respecting the interests of the settled community. It

expects local planning authorities to increase the number of traveller

sites in appropriate locations and, enable gypsies and travellers to gain

access to education, health and welfare facilities.

**Locally Specific Criteria**

5.8 Criterion a) of Policy HG9 requires that “*The need for a site is established*”.

This requirement pre-dates PPTS (2023) and 3 previous iterations of

Government policy. Under “plan making”, paragraph 11 of PPTS makes

clear that, even where there is no identified need, criteria-based policies

should be included [in local plans] to provide a basis for decisions in case

applications nevertheless come forward. Under “decision-taking”,

paragraph 24(e) states that local planning authorities should determine

applications for sites from any travellers and not just those with local

connections. These provisions make clear that gypsies and travellers do

not have to prove a need for a site and, the lack of local connections is not

a material consideration which can count against applications for new

gypsy sites. Criterion a) of Policy HG9 is out-of-date and, is not consistent

with current Government policy. No weight should be given to this

criterion in the determination of this appeal.

**Accessibility to Local Services**

5.9 Criterion b) requires that sites have “reasonable” access to community

services and facilities. It does not define “reasonable” in terms of either

distance to services or modes of transport.

5.10 With regard to access to public transport, the appeal site is

approximately 0.6km from Butler’s Hill Tram Stop and approximately

1.4km away from both Hucknall Rail Station and a bus and coach station,

which provide services to Nottingham and other large urban areas.

5.11 The site is a shorter distance away from bus stops on Portland Road and

Nottingham Road. I consider that these modes of public transport would

be readily accessible from the site by either walking or cycling.

Furthermore, the site is within relatively short walking distance of the

services and facilities available within the centre of Hucknall, including

those located on the high street.

5.12 For these reasons, I consider that the appeal site would be a suitable

location for the development proposed having regard to accessibility to

community services and facilities, including public transport. Accordingly, I

find that there would be no conflict with criterion (b) of Policy HG9 or,

paragraph 114 of the Framework which advises that, in assessing

applications for development it should be ensured that appropriate

opportunities to promote sustainable transport modes can be, or have

been, taken up, given the development and its location.

**Effect on Character and Appearance of the Area**

5.13 Policy HG9 encourages the provision of gypsy/traveller caravan sites all

areas of the District outside of the Green Belt. As such, their character and

appearance cannot be intrinsically objectionable. The in-principle

acceptability of gypsy sites in non-Green Belt locations has a number of

inevitable consequences. Traveller sites have a number of characteristic

features which may be atypical in either urban or rural settings such as:

caravans, hardstandings, utility buildings, residential paraphernalia and

lighting. As a result, some degree of visual impact must be accepted and,

if an adequate supply of gypsy sites is to be provided, some degree of

visual harm must be acceptable:

5.14 The vast majority of traveller sites are located outside of existing

settlements where residential development, hard-surfacing and

residential paraphernalia are likely to have a far greater impact on the

character and appearance of their surroundings.

5.15 In this case, the appeal site lies within a generally residential area and

within an area of land expected to be capable of the development of up to

25 dwellings: requiring development in depth away from Brickyard, at a

density far greater than is currently experienced to the east of the railway.

Clearly, the Council does not consider these changes to the character and

appearance of Brickyard to be objectionable.

5.16 The Council has already granted planning permission for the erection of a

two-storey dwelling on the appeal site; pre-commencement conditions

have been discharged; and, the permission has been implemented by the

laying of concrete foundations. These have been temporarily covered until

the appellant is in a financial position to complete construction of the

dwelling.

5.17 During the works to start the approved development the appellant has

been living in a mobile home stationed on the appeal and, wishes to

remain living on the site in his mobile home until the house is completed.

Although outside of the red-line boundary of the house, Part 5A of

Schedule 2 of the GPDO allows for the use of land as a caravan site “*of*

*land which forms part of,* ***or adjoins****, land on which building or engineering*

*operations are being carried out (being operations for the carrying out of*

*which permission under* [the 1990 Planning Act] *has, if required, been*

*granted) if that use is for the accommodation of a person or persons*

*employed in connection with the said operations”.* As such,the initial

stationing of the caravan for residential purposes by the appellant,

anywhere within the appeal site, was lawful whilst he was employed in

carrying out development in accordance with his planning permission. The

current siting of the mobile home would facilitate completion of the

approved development.

5.18 In the meantime, before completion of the dwelling, continued use of the

land for residential purposes would not change the character of the use of

the land and, would only have a temporary impact on the appearance of

the land.

5.19 Notwithstanding the above, the mobile home is situated along the

western side of Brickyard, where there is no established building line or,

local vernacular. There is, on the other hand, variety in the height and

scale of built development, and buildings of various shapes and sizes

dotted about the area. In this context, the proposed mobile home, set

back about 43 metres from Brickyard, would not appear prominent or

obtrusive in the landscape. It would only be visible from a short length of

Brickyard, through the gap between existing buildings along the road

frontage. In my opinion, the proposed development would not have an

unacceptable adverse effect on the character or appearance of the area. A

copy of a recent aerial photograph is attached at **Appendix PBA 4**.

5.20 Paragraph 26 of Policy H makes clear that soft landscaping can positively

enhance the environment, whereas sites should not be enclosed with so

much hard landscaping that the impression is given that the site and its

occupants are deliberately isolated from the rest of the community. This

infers that, firstly, sites do not have to be adequately screened from the

outset; secondly, that gypsy sites do not have to be hidden from view;

thirdly, that sites can be assimilated into their surroundings to a sufficient

degree using indigenous species; and fourthly, that it is to be expected

that gypsy sites will be more visible in the winter months, when the leaves

are off deciduous trees and shrubs.

5.21 In this case, the Council raises objection to the amount of hardstanding on

show but, actually, the existing permission incorporates very little soft

landscaping forward of the proposed dwelling and, there are other large

areas of hardstanding in the area, including a haulage yard opposite.

Notwithstanding this, if the front wall is reduced in height to one metre,

there would be opportunity for hedgerows to be planted behind the wall,

and to screen and soften the development site. In my opinion, I consider

that the landscape and visual impacts are within acceptable bounds,

in accordance with criteria (d) and (e) of Policy HG9.

5.22 There are no on-site business activities which would be likely to cause

disturbance to any neighbouring residents (criterion (c) of Policy HG9). As

with other gypsies and travellers, the appellant keeps his work vehicles at

home, but does not actually carry out any commercial uses on site. The

appellant has two work vehicles for his own use: a 7.5 tonne wagon; and a

3.5 tonne transit-type tipper van. The appellant is willing to accept a

condition on a planning permission which limits the number and weight of

vehicles kept on the land, and preventing commercial use including the

external storage of materials. Notwithstanding this, there are no

residential properties directly adjoining the appeal site and, there is a

haulage depot opposite. As such, use of the appeal site for the alleged

commercial purposes would be unlikely to either change the character of

the area or, cause undue disturbance to local residents.

5.23 In my opinion, the proposed development would comply fully with the

relevant criteria of Policy HG9 and, therefore, planning permission should

be granted in accordance with the presumption in favour of sustainable

development, unless there are material considerations which indicate

otherwise.

**Highway Safety**

5.24 Brickyard is an unmade road and its condition restricts traffic speeds to

well below 30mph. In an appeal decided in July 2021 (**Appendix PBA 5**),

the Inspector made the following findings:

*“14. Brickyard is an unadopted road and its surface is in poor condition in*

*places with a number of potholes evident. Although the road is*

*narrow in places, there are areas along its length where the width*

*increases, such that two vehicles can pass one another safely. The*

*majority of the existing properties on Brickyard are served by off-road*

*parking spaces to front driveways or on land opposite the dwellings.*

*However, at the time of my visit a number of vehicles were also*

*parked on the road itself.*

*15. Due to the nature of the road, including its geometry, the condition of*

*the surface, and its position relative to the level crossing, vehicle*

*speeds are likely to be low. As part of a traffic survey undertaken by*

*the appellant’s highways consultant for a seven day period in*

*December 2018, traffic flows and vehicle speeds on Brickyard were*

*recorded as low. Whilst that survey is now some years old, it is unlikely*

*that traffic flows on Brickyard would have changed significantly since*

*that time. The appellant also refers to ‘crashmap’ evidence which*

*suggests there have been no accidents on Brickyard or Brickyard Drive*

*for the period between 1999 and 2019 and this has not been*

*disputed by the Council. The evidence before me indicates that*

*Brickyard has accommodated vehicle and pedestrian movements*

*safely during this period.”*

5.25 There are only 5 dwellings served by Brickyard to the north of the appeal

site. A number of these already have tall walls adjoining Brickyard, as

shown on the Google Street View imagery attached at **Appendix PBA 1**.

However, because of the low volume and speed of traffic along Brickyard,

this evidently has not resulted in any harm to highway safety.

**Other Material Considerations**

5.26 Other relevant matters for local planning authorities when considering

planning applications for traveller sites are set out in paragraph 24 of

PPTS as comprising:

1. the existing level of local provision and need for sites;
2. the availability (or lack) of alternative accommodation for the applicants;
3. other personal circumstances of the applicant;
4. the locally specific criteria used to guide the allocation of sites in plans or, which form the policy where there is no identified need for pitches/plots, used to assess applications that may come forward on unallocated sites; and,
5. determining applications for sites from any travellers and not just those with local connections.

I have already compared the proposed development against the Council’s

locally specific criteria and, the final matter simply means that a lack of

local connections will not be a matter which weighs against proposals for

new gypsy sites.

**Local Provision and Need**

5.27 A gypsy and traveller accommodation assessment (GTAA) was published

for Greater Nottingham in March 2021. At paragraph 3.24, the GTAA

records that there is one authorised site in Ashfield consisting of 4

permanent pitches, occupied by an extended family. There is said to be a

vacant pitch in the area at a different site. According to the GTAA, there

are a further 3 sites in Ashfield which have existing authorised used for

Travellers, with a total of 14 pitches. However, based on site visits and

local authority data, these sites are no longer available to Gypsies and

Travellers due to either being sold or are no longer occupied by Gypsy and

Traveller households. As such, they have not been included in the pitch

supply or need calculations. A copy of the GTAA is attached at **Appendix**

**PBA 6.**

5.28 The GTAA does not provide a list of existing sites against which to compare

planning records. However, I am familiar with the approved sites at 22A

Back Lane, Huthwaite (APP/W3005/C/17/3172500), occupied by an

extended family comprising 4 households, and Oak Tree Paddock, Pinxton

(planning permission No. V/2014/0533) occupied by a single Irish Traveller

family. These pitches are all occupied and, a planning application has

recently been refused for expansion of the Pinxton site for an extra 6

pitches.

5.29 In addition, there is an authorised site at 56 David Street, Kirkby-in-

Ashfield for 5 mobile homes and 1 tourer (V/2002/0304). The latest aerial

photograph available on Google Earth (2022) shows this site to be

occupied. The GTAA appears to under-estimate the number of existing

permanent pitches in the District and, consequently, can be expected to

under-estimate future needs. The GTAA only estimates a cultural need for

the provision of one additional pitch in the period 2020 – 2025 and, 4

pitches in the period 2020-2038.

5.30 Planning permission was granted on appeal in November 2023, post the

GTAA, for 3 permanent pitches (actually accommodating 4 households) at

Chesterfield Road, Huthwaite. A copy of the appeal decision is attached at

**Appendix PBA 7**. In granting planning permission, the Inspector made the

following conclusions on need and the availability of alternative sites:

*14. The Council place reliance on authorised sites excluded from consideration by the GTAA and in particular on a permission granted on appeal in 2012 for eight pitches at Park Lane. That 2012 permission is understood to be extant, although little development has taken place and the site is not presently occupied. The permission is soon to be affected by a permission for 38 dwellings pending the completion of a section 106 agreement. That permission, although not describing a Traveller site in the operative grant, is understood to allow for the retention of the Traveller site although no planning conditions require its sequential provision and there is no information before me as to whether it is affordable or available. Consequently, and consistently with the findings of the GTAA, the site cannot presently be treated as one that is available.*

*15. The GTAA does not account for the accommodation needs of the particular occupiers of this site, but it does anticipate a need of one additional pitch in the period to 2025, which is presently unmet. For the reasons suggested by the appellants, the needs anticipated by the GTAA, which has yet to go under examination, are if anything an underestimate. Thus in relation to this policy criterion I conclude that there is an established need for a site.*

5.31Apart from the appeal site (1 household), there is an unauthorised site at

Roberts Lane, Hucknall accommodating a single family (planning

application reference No. V/2022/0623, refused 20 February 2023). These

unauthorised sites are evidence of an immediate need for at least 2

permanent pitches in addition to future needs arising from household

growth.

**Alternative Sites**

5.32 In ***Doncaster MBC v. FSS & Angela Smith*** [2007] the Court decided that

to be a realistic alternative, accommodation has to be suitable,

affordable, available and acceptable. Notwithstanding this, there is no

requirement inplanning policy, or case law, for an appellant to prove that

no other sites are available or that particular needs could not be met

from another site (***SCDC v. SSCLG and Julie Brown [2008] EWCA Civ 1010***

***at paras 24,27-36***).

5.33 The Local Plan dates from 2002 and, therefore, pre-dates and fails to

reflect up-to-date Government advice. It does not set pitch targets; or,

identify and maintain a rolling 5-year supply of specific deliverable sites.

There has been a long-standing failure of the development plan to

adequately address gypsy and traveller accommodation needs.

5.34 There are no public gypsy sites in Ashfield. According to the GTAA, there

are 3 authorised private sites that are no longer considered to be available

for occupation by gypsies and travellers. Two of these I believe to be a

long-established traveller site at Hodgkinson Road, Kirkby-in-Ashfield and,

a more recently established site at Park Lane, Bentinck Town, Kirkby-in-

Ashfield approved on appeal in March 2012 (APP/W3005/A/11/2159674)

for 8 pitches. These sites, though they may be suitable, are not available

and, therefore, cannot be regarded as viable alternatives to the appeal

site.

**Personal Circumstances**

5.35 The appeal site is occupied by Andrew Cash and his family. Their personal

need for culturally appropriate accommodation and personal

circumstances will be evidenced by the appellant at the forthcoming

Hearing.

5.36 Recent case law, including the Supreme Court decision in the case of

*Zoumbas v.Secretary of State for the Home Department*, has established

that the best interests of the children must be at the forefront of the

decision-maker’s mind. In *Zoumbas* the Court found that the needs of the

children must be treated as a primary consideration, but not always the

only prime consideration; that when considering the cumulative effect of

other considerations, no other consideration could be treated as

inherently more significant; but that the best interests of the children

might point only marginally in one, rather than another, direction. The

likely outcome of a refusal of planning permission would be that families

would be forced to resort to roadside living, without access to regular

schooling or health-care. It is clearly in the children’s best interests for the

extended family to stay together, living on the appeal site, with

Coral getting the help she needs from Mary and Coralene.

**6.0 CONCLUSIONS**

6.1 The appeal proposals comply fully with the locational criteria contained

within PPTS and Policy HG9 of the adopted Local Plan. Planning

permission should therefore be granted in accordance with the

presumption in favour of the Development Plan unless there are material

considerations which indicate otherwise.

6.2 The unmet need for traveller sites, the lack of a five-year supply of specific

deliverable sites, the absence of alternative sites, the failure of the Council

to meet the unmet need through the development plan process, and the

personal accommodation needs of the appellant’s family all provide

significant support in favour of the appeal proposals.

6.3 In my opinion, the proposed development complies with relevant

Development Plan policies, and the only other material considerations all

weigh in favour of approval. **For the above reasons, the presumption in**

**favour of sustainable** **development should prevail, and I respectfully**

**request that this appeal be upheld.**

**6.0 LIST OF APPENDICES**

Appendix PBA 1 - Street View images of Brickyard

Appendix PBA 2 – Approved Site Layout Plan for the dwelling

Appendix PBA 3 – Planning Officer’s report -

Appendix PBA 4 – Aerial photograph of Brickyard

Appendix PBA 5 – Appeal decision – Brickyard, Hucknall

Appendix PBA 6 – Greater Nottingham GTAA (2021)

Appendix PBA 7 – Chesterfield Road, Huthwaite