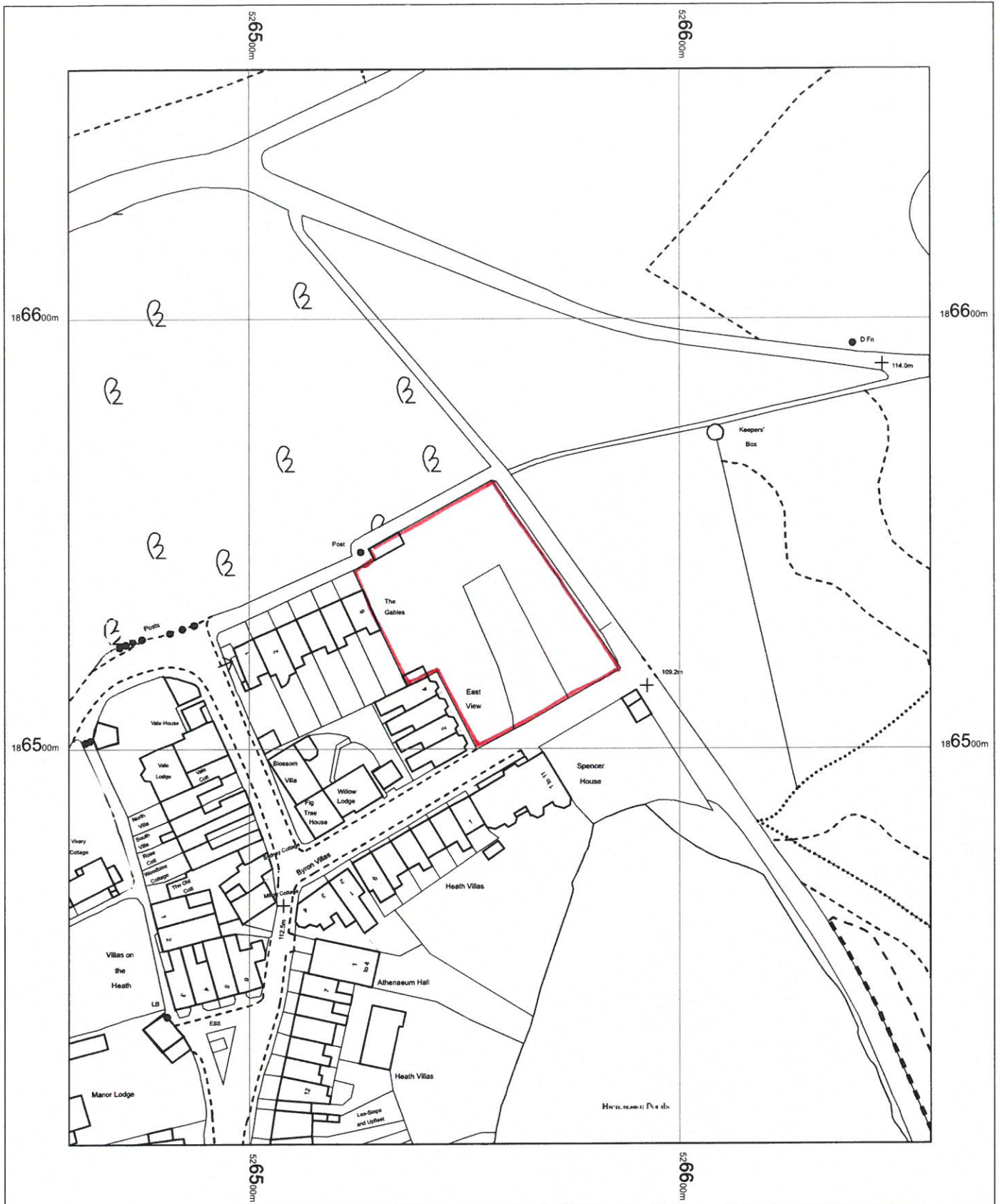


LIST OF APPENDICES

1. Site plan
2. Council's putative decision letter dated 20.7.18
3. Council officers' delegated report on CLOPUD application ref 2017/4346/P
4. Council's proof of evidence for public inquiry on application ref PW9702255
5. Appeal decision letter for above dated 7.5.98
6. Enforcement landuse survey plans and lists of residents 7.10.05
7. Council officers' delegated report on enforcement case ref EN04/0265
8. Council officer's letter to Abbotts dated 7.3.06
9. Landuse survey plans and list of residents July 2010 (revised March 2011)
10. Council officer notes on CLEUD application 8.12.11
11. Emails to and from agents for CLEUD application dated 20.1.12 and 22.2.12
12. Landuse survey plan, notes and list of residents November 2017
13. Emails from appellant's agent dated 23.1.18 and 29.1.18
14. Council tax and business rates records, given in emails dated September 2018
15. London Borough of Camden Local Plan 2017 (para 3.286 of policy H11)
16. 'Planning policy for traveller sites' (revised August 2015) - extract with Annex 1
17. Circular 04/2007 on travelling showpeople (extract with Preface and Definition)
18. Caravan Sites and Control of Development Act 1960 (relevant extracts)

APPENDIX 1

Site plan



Fairground Site Vale of Health
London NW3 1AU

OS MasterMap 1250/2500/10000 scale
09 February 2017, ID: CM-00598037
www.centremapslive.co.uk

1:1250 scale print at A4, Centre: 526558 E, 186533 N

©Crown Copyright and database rights 2016 OS
100019980



APPENDIX 2

Council's putative decision letter dated 20.7.18

EJ Planning Ltd.
PO Box 310
Malvern
WR14 9FF

Application Ref: **2017/4346/P**
Please ask for: **Charles Thuaire**
Telephone: 020 7974 **5867**

20 July 2018

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990, Section 191 and 192

NOTIFICATION OF DECISION WHEN AN APPEAL HAS BEEN MADE

Refusal of Certificate of Lawfulness (Proposed)

Address:

**North Fairground Site
Vale of Health
London NW3 1AU**

Proposal:

Use as a site for seven static caravans for residential occupation

Drawing Nos: site location plan, planning statement (revised version received 3.10.17) by EJ Planning Ltd.

The Council has considered your application and, had an appeal not been made to the Secretary of State, would have refused a Certificate of Lawfulness for the following reason:

Reason(s) for Refusal

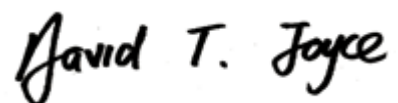
- 1 It is considered that the proposed use of the site for 7 static caravans for residential occupation would constitute a material change of use from the current lawful mixed use of the site comprising a 'showpersons site' use and a residential caravan site use. Therefore this material change of use would constitute 'development' requiring planning permission as defined by the Town and Country Planning Act 1990.



You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

A handwritten signature in black ink that reads "David T. Joyce". The signature is written in a cursive, slightly slanted style.

David Joyce
Director of Regeneration and Planning

APPENDIX 3

Council officers' delegated report on CLOPUD application ref 2017/4346/P

Delegated Report		Analysis sheet	Expiry Date:	25/09/2017
		N/A	Consultation Expiry Date:	n/a
Officer			Application Number(s)	
Charles Thuaire			2017/4346/P	
Application Address			Drawing Numbers	
North Fairground Site Vale of Health London NW3 1AU			See decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Use as a site for seven static caravans for residential occupation				
Recommendation(s):		Would have refused Certificate if an appeal had not been lodged		
Application Type:		Certificate of Lawfulness (Proposed)		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	61	No. of objections	61
Summary of consultation responses:	<p>No formal public consultation by press advert or site notice</p> <p><u>Objections from 61 Camden residents (including 28 in Hampstead village and 8 in Vale of Health)-</u></p> <p>Support objections made by H&HS (see below); MOL (Metropolitan Open Land) must not be built upon, this is attempt to avoid a planning application for bungalows which will be unacceptable on MOL; sets disastrous precedent for other MOL sites adjoining heath; ‘back door’ device to avoid normal process of getting permission for mobile homes, ‘stepping stone’ to get permission for larger constructions in future; deception to pretend bungalows are caravans as they are permanent structures; sensitive site bordering Heath; causes harm to heath, green space, trees and pond; loss of peace and seclusion of heath; intensification, increased traffic, air and noise pollution from permanent residences, flooding; change in appearance, visually out of character; constitutes material change of use from existing mixed use of temporary residences for travelling showpeople and of storage and maintenance of equipment, the occupation and usage of which vary according to season; proposed use for 12 permanent bungalows with driveways and parking is materially different and will alter appearance of whole site, alter extent and type of activity throughout year, and increase volume of regular traffic with residents’ cars; proposed use contrary to Camden Local Plan and its para 3.244 (<i>note that this ref is incorrect</i>); no permanent residents allowed; highlight errors in planning statement referring to 12 and 7 caravans (<i>this has since been corrected</i>).</p>					
CAAC/Local groups* comments: *Please Specify	<p><u>Heath and Hampstead Society (H&HS) objects-</u> MOL (Metropolitan Open Land) must not be built upon, this is attempt to avoid a planning application for bungalows which will be unacceptable on MOL; sensitive site bordering Heath; constitutes material change of use from existing mixed use of temporary residences for travelling showpeople and of storage and maintenance of equipment, occupation and usage of which vary according to season; proposed use is materially different and will alter appearance of whole site, alter extent and type of activity throughout year, and increase volume of regular traffic with residents’ cars; will set disastrous precedent for other MOL sites adjoining heath; counsel advice submitted with corrections on 7.9.17 (which refers to issues of material change of use, off-site effects and intensification)</p> <p><u>Vale of Health Society objects-</u> endorse objections by H&HS and above-mentioned legal advice; blatant attempt to develop MOL site without getting planning permission; they submitted evidence for last CLEUD application in 2010 that it was a showmans site; this continues to be the case with fairground equipment</p>					

storage and repair, temporary caravan accommodation, fairworkers for Winter Wonderland occupying site; other items and small rides brought on site in connection with bank holiday fairs; use of other residential caravans is intermittent and informal with basic facilities.

Camden Resident Association objects- compromises amenity of residents, violates sustainability considerations, cannot be allowed on MOL without exceptional circumstances, violates Local Plan, clearly a material change of use.

Hampstead Neighbourhood Forum objects- clearly a material change of use from current mixed use, permanent residences on MOL are contrary to NPPF, London Plan and Local Plan.

Redington Froggnal Association objects- harms biodiversity on Site of Metropolitan Importance for Nature Conservation; harms Conservation Area and nearby listed buildings.

Hampstead Garden Suburb Residents Association objects- site has long been a mixed use site with the principles of mobility and ability to easily change the onsite mix; proposed use by permanent bungalows with parking is a major change; this is attempt to avoid a planning application which will set precedent for other MOL sites.

City of London Corporation objects- insufficient justification or evidence submitted to support the case that the use of the site for seven static caravans would be 'lawful'; the application would result in a material change in use of the site that would require the submission of a full planning application; applicant makes a number of assumptions that are either not supported with facts and conclusive evidence, or are not relevant to their application; City accepts that the site has a mixed use which is 'Sui Generis' and proposed use would result in a material change in use of the site that would require the submission of a full planning application.

Site Description

1.1 The north and south fairground sites consist of 2 large open sites, opposite each other on the eastern edge of the Vale of Health village bordering Hampstead Heath. They were formerly used for fairground purposes since before the war, and originally in the same ownership. The south site was sold off in 1979, has been vacant and overgrown since, and only recently has had unauthorised structures erected on it which are now subject to enforcement notices.

1.2 The north site is owned and used by the Abbott family since the 1950s, who live in caravans and use it for their business as 'showpeople' in connection with travelling fairs. There are also other caravans used by unrelated residents and other fairground workers. The site contains a number of different caravans, mobile homes, car and lorry parking, trailer and equipment storage, plus some toilet and store sheds, in varying degrees of occupation throughout the year. The site is approx. 2214 sqm in size. It has rough hard surfacing and a metal fenced boundary with one gated vehicular access from the culdesac roadway of Vale of Health, opposite the south fairground site. It is connected to mains electricity, water and sewerage. The history of usage is discussed more in the Assessment section below.

1.3 The site is on the eastern edge of the Vale of Health and directly borders Hampstead Heath on its north and east sides. On its west side is 1-4 East View, four 3 storey cottages facing the site, and the flank wall of 6 The Gables, a 4 storey terrace. Further north the heath rises uphill while further south of the 'south fairground site' is Hampstead Ponds.

1.4 The site is located in Hampstead conservation area, and designated Metropolitan Open Land (MOL) and Private Open Space (POS).

Relevant History

12.9.97- Planning permission refused for redevelopment by block of 15 flats plus carparking, ref PW9702255. Appeal (heard at public inquiry) dismissed on 7.5.98.

12.9.97- Planning permission refused for redevelopment by 8 houses and block of 8 flats plus carparking, ref PW9702438.

28.5.10- Application submitted by current owners (Abbotts) for Certificate of Lawfulness for existing use (CLEUD) as a residential caravan site, ref 2010/2845/P.

Later withdrawn by agents 23.2.12, as officers could not support the application.

31.7.17- Application submitted for Certificate of Lawfulness for proposed use as a residential caravan site.

21.3.18- Appeal submitted against non-determination of current application.

Relevant policies

The application is purely a determination and assessment on the basis of whether the proposed use constitutes a material change of use from the existing use of the site which would require planning permission. An assessment of its planning merits as to its acceptability under current policies is therefore not relevant or possible here.

Assessment

1. Proposal

1.1 The application is to ascertain whether the proposed use for seven static caravans for residential habitation here would constitute a material change of use such that it would require planning permission. The agent argues that there is no change of use and therefore the proposed use is “lawful development”.

1.2 The planning statement originally erroneously referred to 12 caravans in its conclusion and was corrected in October to refer to only 7 caravans. The statement includes an illustrative layout of the new use, showing 7 large rectangular pitched roof structures arranged around a central access driveway with individual carspaces; it also gives as examples 2 images of types of mobile homes that could be used here.

1.3 The applicants are Knightsbridge Parks LLP who have an option to buy the site from the Abbotts and use it for mobile homes. As this option expired at the end of March 2018, they submitted an appeal against non-determination to keep this option alive.

1.4 The grounds of the appeal are solely against the non-determination of the application by the Local Planning Authority. The appellant’s case is set out in the supporting statement that accompanied the application.

1.5 It should be noted that the site’s usage and the various applications for its use, notably the 1997 ones for redevelopment, the withdrawn Certificate of Lawfulness for existing use and the current one for a proposed use, have attracted much interest and concern from local people and groups who have also provided evidence on the site’s usage.

1.6 The issues to consider here are to establish what the current and lawful use of the site is, based on the last 10 years of usage, and whether the proposed use for 7 residential static caravans is materially different from that.

2. Background history and existing use

2.1 The use of the site has fluctuated over time in terms of numbers and types of people and structures accommodated here. The 1997 appeal decision is a useful starting point in establishing the original use. It confirmed that the established and lawful use of the site was as a 'showpersons site' as defined by Circular 22/91 (since superseded by 04/07) with mixed residential/storage and 'winter quarters'. The Circular advised that such sites are 'Sui Generis' with a mix of winter caravan and equipment storage, summer fairground use and some older members, dependents and children living there all year. The Inspector agreed that the lawful use was probably as winter quarters as described in the Circular on travelling showpeople.

2.2 At the time of the last Certificate application in 2011, it was noted by the case officer that one of the joint applicants, Charlie Abbott (now deceased), lived and ran it as a showpersons'/ caravan site from 1980, with no restrictions on who actually lived there. Thus at one stage in 2003, the site use intensified when various caravans, unrelated to the owners and showpeople, moved onto the site; however, following complaints and enforcement investigations, they later moved off the site. Nevertheless over time, other caravans moved on and stayed there with residents unrelated to the established fairground use. In 2006, following enforcement investigations, it was concluded that it was a showpersons' site with fluctuating numbers of travelling showpeople or related to fairgrounds or part-time workers (eg. a mechanic). In 2011, following a site visit interview with the applicant and his son, it was noted that they considered the site to be a primarily showpersons' site with other residents living there who either were employed at fairs or who had other jobs but also helped out at fairs; it was not solely a residential caravan site. Both Charlie Abbott and his son Charles senior and wife were retired and lived there, along with his sister and daughter; the 2 grandsons Charles junior and Cy were members of the Showman's Guild and used the site as their base during and between fairs.

2.3 More detail on history and evidence of usage in relation to assessment of the 2010 Certificate is summarised in officer's notes dated 8.12.11 (*attached in appendix 2*).

Landuse survey 2010

2.4 A land use survey was carried out in July 2010 (later revised in March 2011) for the last Certificate application, and was accepted as accurate by the last agents. *This is attached as a coloured site plan in appendix 1*. It shows the following ratio of uses:

16 residents: 7 showpeople or related to them; 5 people work in fairs or help out; 4 unrelated; 5 empty caravans.

30 mobile items used by: 7 retired dependent Abbotts; 4 active showpeople, 5 fairground equipment/stores (9) = 16;

5 fairworkers/helpers; 4 unrelated people, 3 unrelated empty caravans (7) = 12.

2.5 The balance of probability test was how it had been used over the last 10 years, based on a measure of numbers of residents and numbers of caravans or units on the site.

2.6 Officers concluded, in their email to the agents dated 20.1.12 (*attached in appendix 3*), that the site was 'most probably a mixed use of (a) showpersons' site with numerous dependents and some fair workers (total 12) and (b) of other unrelated residents or empty uses (total 7), rather than a predominantly residential caravan site with ancillary showpersons' site as winter quarters and storage'.

2.7 The application was later withdrawn, as officers could not agree with the applicants that the site was purely a residential use and therefore it would be refused.

Landuse survey 2017

2.8 Following receipt of the current application, another land use survey was carried out in November 2017. *This is attached as a coloured site plan in appendix 4*. It shows the following-

22 residents: 8 showpeople or related to them (3 temporarily away in November); 5 people work in

fairs (4 temporarily for Winter Wonderland in November) or help out; 9 unrelated or empty caravans. 38 mobile items used by: 1 retired dependent Abbott; 4 active showpeople, 20 fairground equipment/stores = 25; (note that this is based on the survey in Nov and additional showpersons' caravans would be present at other times on the plots of Charles junior and Cy) 3 fairworkers; 9 unrelated/empty caravans plus Landrover = 13.

2.9 This has been accepted as accurate by the current agent (email dated 29.1.18- *attached in appendix 5*). Moreover the agent in his planning statement does not disagree with the Council's previous conclusion in 2011 that the site's lawful use is one of a mixed use comprising caravans for residential occupation, some for showpeople, and storage of fairground equipment.

2.10 As part of a site visit interview with one of the owners (Charles Abbott junior), the following was noted regarding the current use. Charles senior and wife still live there as retired dependants. Charles junior and Cy, as showpeople and registered members of the Showmans Guild, live on the site approx. 3 months a year in Jan to March before going elsewhere to run fairs until November. Some fairground workers resident on the site also work during winter months at Hyde Park Winter Wonderland fair. The Abbotts have apparently also recently bought a plot in Royston to store big equipment as the Vale of Health site is too small and inconvenient to accommodate this (as shown previously on the 2011 survey plan). The site visit noted the storage of 3 sets of rides, a bouncy castle, a teacup ride, 2 food trailers and a falafel stall (the latter is operated by someone else not resident at the site). It was also noted (as recorded on the survey) that during the absence of Cy Abbott, part of his plot was occupied by other fair worker caravans and storage. In addition to the Abbott brothers, their sister Charlotte and her husband, forming a separate showpersons' family (the Hayes), now occupy the northeast corner of the site. This is a new element since the last survey in 2011.

2.11 Officers consider that the usage of the site has not materially changed since the time of the last survey in 2011. Indeed it could be argued that since 2011 the use of the site by active showpeople has actually intensified since the loss of some retired dependents and the arrival of the Hayes family who are a separate showpersons' unit. It is acknowledged that the precise usage in terms of numbers of residents and mobile units fluctuates over the year so that fairworkers and showpeople come and go at different times and reuse each other's plots, thus the landuse surveys can only be indicative at any one point in time. According to local objections, the site becomes more intensively occupied by other fairground worker caravans and equipment at different seasons through the year, notably during the operation of Winter Wonderland at Hyde Park and the 3 bank holiday fairs on the Heath.

2.12 In terms of numbers of people occupying the site at the time of the survey in November, about 10 people were involved with fairground use and 9 were unrelated residents. Although there is one caravan used for retired dependants (C. Abbott senior and wife) that will remain occupied throughout the year, there is no evidence to suggest that, during summer months when fairs are being run elsewhere, the site will become empty of fairground-related caravans and equipment.

2.13 In terms of site area occupation, the survey plan clearly and graphically demonstrates by colour notation that the site has a genuine mixed use, with well over half of the site being used by 2 showpeoples' families, several fairworkers, and their storage of equipment and fairground facilities (rides and food stalls). The remaining third of the site is occupied by a number of unrelated residents' caravans, used casually through the year (although it was noted that 2 of these residents may sometimes help out at fairs). The number of 9 such residential caravans is broadly unchanged from 2011 when 7 were evident at the survey.

2.14 It is also noted that the 2017 survey plan also shows a large number (over 12) of equipment and stores for showpeople and fairground workers rather than just their residential caravans. The areas of site occupied by these items are probably the same as the fewer but larger items of equipment identified in July 2010 (annotated 'winter equipment storage Nov-Mar'), even though they were temporarily not there during the summer.

2.15 The Camden Local Plan 2017 (in para 3.287 of the chapter on Accommodation for travellers)

advises that the private North Fairground Site provides 5 plots for travelling show people.

2.16 As explained both in the agent's statement and in Camden's Local Plan (in para 3.286 of the chapter on Accommodation for travellers), the Government's 'Planning policy for traveller sites' (revised August 2015) sets out definitions. It states that 'travelling showpeople' means 'Members of a group organised for the purposes of holding fairs, circuses or shows...'; sites or pitches for these people are described as 'mixed-use plots...which may/will need to incorporate space or to be split to allow for the storage of equipment'.

2.17 In conclusion, on the basis of the evidence from both 2011 and 2017, it is considered that the site still has a mixed use of (a) showpersons' site with some dependents and some fair workers and of (b) other unrelated residents, rather than a predominantly residential caravan site with ancillary showpersons' site as winter quarters and storage. It is also considered that it is reasonable to assume, without any clear evidence to prove the contrary, that this mixed use ('Sui Generis') has probably subsisted for over 10 years since 2006 (the time of the last enforcement investigation) and is thus now lawful. The agent has agreed (by email dated 23.1.18- *attached in appendix 5*) that 'the site has a mixed use and that this mixed use has been established for more than ten years'.

3. Proposed use

3.1 The applicant argues that the proposed use of the site for 7 caravans in residential use will not amount to a material change of use requiring planning permission. The argument used is that occupation of a site by a showperson would not make a difference in characteristics to occupation by a person in any other profession. Thus the caravans could all be occupied by unrelated people with different jobs and situations, who may also need to store vehicles. Some of these residents could of course include showpeople. Furthermore the stated intention is to reduce the scale of use and remove the equipment storage. Consequently it is argued that no permission would be required to change use of all caravans to an entirely residential usage. It is noted that the agent does not refer to a proposed use for Class C3 purposes, and it is assumed that this is also a Sui Generis use.

3.2 It should be noted that the definition of a 'caravan' (as provided by the agent in his email dated 23.1.18) is very broad and does not just include traditional caravans with wheels, as are currently evident on the site. The definition of a caravan is contained in the Caravan Sites and Control of Development Act 1960 (as extended by the Caravan Sites Act 1968) and includes- 'Any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted...'. It also includes- 'A structure designed or adapted for human habitation which is (a) composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and (b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer)...'. There are also restrictions on dimensions of the 'caravans'.

3.3 Thus the residential caravans that could be used on the site could include large mobile homes that are transported by lorry and assembled on site. The images given by the agent in his statement resemble prefabricated bungalows with no wheels evident. These images and the illustrative site plan, although only examples of possible designs and arrangements here, clearly indicate the type of accommodation and layout as a mobile home park that the applicant intends to operate here, on the basis of the legal definition of a caravan.

3.4 It is accepted that residential caravans on this site can include a wide variety of 'mobile' structures as defined in the legislation. It is also acknowledged that there is currently no control over the type, size and number of caravans on this site, so the existing type, size, number and disposition of such structures could change here and the showpeople could live in larger and fewer mobile homes. However officers disagree that the change from the currently mixed use to an entirely residential use would not be materially different.

3.5 As noted above, it is considered that the showpersons' use is an integral part of the overall mixed

use of the site and is not an ancillary element to a primary residential use here. The site has clearly changed in usage over 20 years, in that it was originally a complete 'showpersons site' in 1997 but over time more unrelated caravans have moved onto the site and the fairground use has dwindled, so that by 2011 and continuing to 2017, it was considered to be more of a mixed use comprising both showpeople, other fairworkers and unrelated residents. The surveys show that it is not just in a residential use.

3.6 The showpeople, of which there are now 2 separate families on site, comprise a tightly knit and related community of residents who live here, primarily as winter quarters although some (notably the retired dependants and children) may live all year round. However they also use it as a base for their fairground operations elsewhere by storing and maintaining equipment, fairground rides, food stalls, etc. The same applies to a lesser extent for the other fairground workers and helpers here, who also may need to store equipment here. The 2017 survey showed that in winter there was a high proportion of equipment etc here, which is integral to the overall use. It is accepted that in summer months this would be temporarily moved offsite and many of the showpeople and fairworkers would be living elsewhere. Nevertheless this is an inherent part of the essential seasonal nature and character of a showpersons site which varies in its intensity and mix of usage throughout the year.

3.7 It is also considered that the site still has a mixed use character and appearance. Although in 2017 the southeastern corner appears entirely residential with a regular row of parked caravans, the other areas have a fluctuating mobile and adhoc mix of permanent and temporary caravans for showpeople and fairworkers, storage, equipment, rides and refreshment trailers.

3.8 It is concluded that existing usage of most of the site thus clearly accords with the statutory definition of 'travelling showpeople sites' which include a mixture of residential caravans and storage for their specific function of running fairs there or elsewhere.

3.9 In contrast, the proposed use for 7 static caravans solely in residential use over the entire site, as illustrated in the planning statement, would involve fewer and larger mobile homes that could and would be occupied on a permanent basis by unrelated residents who will have different jobs and lifestyles. There is no guarantee that any of them will be occupied by showpeople or fairground workers. There would be no space necessarily available for extensive equipment storage and repair, although some homes may want domestic stores and generators. The residents could be permanently living here so that the intensity of use does not fluctuate throughout the year as it currently does depending on fair seasons.

3.10 It could be argued that there may be a less intensive use by 7 homes compared to the current use in winter months when all showpeople and fairworkers are present on the site and all the unrelated caravans were fully occupied. However showpeople's work is of a peripatetic nature and they are often away during the summer months, with the result that there is likely to be a more intensive use in summer months by the proposed permanent homes compared to the current use's operation in that season. Overall there would be a regular and consistent pattern of usage and activity throughout the day and year by new residents, their school children, cars, deliveries and other activities associated with permanent domestic living. This may result in more regular traffic movements from residents using cars throughout the day, week and year, as opposed to the current sporadic and irregular vehicular movements of caravans, lorries and trailers which vary throughout the day and season. It is noted that the courts have held that the change of use of a site from use as a seasonal caravan site to use for permanent residential purposes constitutes a material change of use, in part due to the likely traffic effects that permanent residential accommodation generates. Although there are currently 9 unrelated residential caravans on site, these are small and vacant for some or much of the year and they only occupy part of a much larger site used for other purposes.

3.11 The agent claims that no permission would be required for removal of fairground equipment and storage and cessation of this element of the mixed use, which would result in an entirely residential caravan site. Although it is true that loss of these items would not require permission in themselves, it would result in a change in the overall nature and usage of this site as a true 'showpersons site' with a mix of activities.

3.12 It is thus considered that there would be a material change of use from the current mixed use for showpeople and other fairground workers with their storage needs, plus unrelated residents, to an entirely residential occupation on a permanent basis.

3.13 It is also considered that not only the precise use of the site would change to an entirely residential one but also the character and appearance of the site would change. The site currently has an open character resembling a hard surfaced yard with various caravans, vehicles and stored equipment, much of which moves around on and off the site through the year and seasons. Indeed, probably for that reason, it was designated as MOL and POS. The site was also described in 1997 as appearing 'semi-vacant' according to officer reports; this can continue to be the case now in summer months when activities move away to other functioning fairgrounds and the site appears quiet and underused. However it is considered that a static residential caravan site with access driveway and private gardens, as envisaged by the applicants on their illustrative layout plan, would change this character by becoming less open and more urbanised with regularly-arranged large mobile homes permanently positioned here, which could give the impression of a suburban housing estate. A side effect of this intensification is that it could have a harmful impact on the openness of the MOL and POS.

3.14 Furthermore there would be no control within a Certificate of Proposed Use over the actual disposition and size of the 7 'caravans'. Although shown as large mobile homes on the submitted plan, there could also be 7 much smaller traditional caravans arranged in a more spacious layout or even concentrated in one side to reserve part of the site as open space, which would result in a less intensive use of the site than currently existing. Nevertheless, whatever permutations are involved, the character of the site will become one of a purely residential caravan park.

4. Conclusion

4.1 It is considered that the proposed use of the site for 7 static residential caravans would be materially different from the current lawful mixed use of the site comprising a 'showpersons site' and a residential caravan site. Accordingly this material change of use would constitute 'development' requiring planning permission and thus a Certificate of Lawfulness for a Proposed Use cannot be granted.

Attachments to report-

- Appendix 1- land use survey dated July 2010 (revised March 2011)
- Appendix 2- officer's notes dated December 2011
- Appendix 3- email to agents dated 20.1.12
- Appendix 4- land use survey dated November 2017
- Appendix 5- agent's correspondence in January 2018

APPENDIX 4

Council's proof of evidence for public inquiry on application ref PW9702255

17.2.98

L O N D O N B O R O U G H O F C A M D E N

P L A N N I N G S E R V I C E S

P A R T O F T H E E N V I R O N M E N T D E P A R T M E N T

APPEAL by
C and P ABBOTT et al.
NORTH FAIRGROUND SITE,
VALE OF HEALTH NW3

PROOF OF EVIDENCE

CHARLES THUAIRE BA (Hons), Dip. TP, MRTPI

Inspectorate Ref: APP/x5210/A/97/283311
LBC Ref: PW9702255



LONDON BOROUGH OF CAMDEN

TOWN AND COUNTRY PLANNING ACT 1990

Public Inquiry 17.2.98

SITE:

North fairground site, Vale of Health, London NW3

APPELLANTS:

C & P Abbott, M Biddall, V Miller, Vale Amusements North

SUBJECT OF APPEAL:

Appeal against non-determination of planning application dated 9.5.97 for erection of a 4 storey block of 15 self-contained flats with basement car parking for 15 cars on the northern half of the site, and change of use of the southern half to public open space.

COUNCIL REF:

PW9702255

DoE REF:

APP/x5210/A/97/283311

PROOF OF EVIDENCE

Witness:

I am Charles Edouard Marcel Thuaire. I hold a BA (Hons) in Geography and a Diploma in Town Planning, and I am a Member of the Royal Town Planning Institute. I have worked for the Council's Planning Service of the Environment Department for over 10 years on a variety of development control, local plan & implementation, and policy issues. For the last 4 years, I have been Senior Planner in the Northwest Area Team doing solely development control work on applications and appeals.

Contents:

1. Introduction and scope of evidence
2. Description of site & surroundings
3. Development plan
4. History of appeal site
5. Assessment:
 - A) planning use of site
 - B) principle of development on designated open space
 - C) detailed issues
6. Conclusion

1. INTRODUCTION

(a) Description of 1997 planning applications

- 1.1 On 24.3.97, an application for housing on the north site was submitted by the owners of the site, the Abbott family, and using local architect Peter Thomson as agent (ref PW9702255, referred to below as the "Abbott scheme"). It was for the erection of a 4 storey block of flats adjoining the eastern flank wall of The Gables. The block contained basement car parking, an open ground floor, and supported above this on columns, a 3 storey element containing twelve 4 person flats and three 6 person flats. There would be 2 staircase entrances from the ground floor and a ramp down to the basement carpark. The layout of the block is effectively articulated into 3 linked sections, the western section matching the height and depth of The Gables houses. The facades have pitched roofs and almost fully glazed gabled bays. The southern part of the north fairground site was proposed to be laid out as public open space. However no details were shown regarding the layout, boundary or treatment of this open space, nor the route across this open space for vehicular/pedestrian access to the flats that would be required. Similarly the layout of the flat floorplans and the design of the block's facades is very sketchy and unclear.
- 1.2 For the above reasons, the application was deemed incomplete until further details were provided, in particular sections, elevations at scale of 1:50 and contextual plans showing its relationship with surrounding houses. Additional information was subsequently provided and the application was registered as complete on 9.5.97. The plans on which the decision was taken are H6/01 (location plan), 02 (site plan), 03 (basement floorplan), 04 (ground floorplan), 05 (1st,2nd,3rd floorplans), 06 (north and east elevations), 07 (south elevation), 08 (elevation and section AA), 09 (composite elevations).
- 1.3 It should be noted that the drawings are still lacking in essential detail required for the proper consideration of applications, as explained by Joanna Parker in her Proof of Evidence. Nevertheless it was decided at that time to accept the plans and application as "complete" on the grounds that the proposal was unacceptable in principle and therefore it was considered inappropriate to negotiate on further detail or subsequent amendments. This issue of unacceptability is discussed in detail in my section 5B "Assessment" below.
- 1.4 On 13.5.97, an application for housing on the north site was also submitted by Fairview Homes (who had an option to purchase the site) using different agents (ref PW9702438).

This was for the erection of eight 4 storey houses in 3 separate blocks adjoining the flank wall of The Gables and on the eastern edge of the site, a 4 storey block of 8 flats on the northwest corner of the site in the form of a rotunda, and a carpark adjoining East View cottages.

(b) Consultation

- 1.5 A full programme of consultation was carried out for both applications, which both attracted substantial opposition from local residents, amenity societies and public bodies. The process of consultation and summary of responses received has already been discussed in paras 3.7 - 3.10 of my Statement of Case. Copies of the responses specific to the Abbott scheme are contained in Appendix 23.
- 1.6 On 9.7.97, P.Thomson lodged an appeal against non-determination of the Abbott scheme.

(c) Decision

- 1.7 On 11.9.97, the Environment Development Control SubCommittee considered a report which recommended refusal of permission for both applications submitted (see Appendix 24 for copy of report). With reference to the Abbott scheme, the Council stated in its decision letter of 12.9.97 that, had an appeal against non-determination not been received, it would have refused planning permission for the following reasons:
1. The proposal involves development on Private Open Space and Metropolitan Open Land, contrary to policies LE8, LE9, EN66, EN68 to protect such open space as contained in the London Borough of Camden Borough Plan and draft Unitary Development Plan.
 2. The proposal would be detrimental to the setting and character of Hampstead Heath, contrary to policies LE8, EN66, HR4 contained in the London Borough of Camden Borough Plan and draft Unitary Development Plan.
 3. The proposed development would result in a total density in excess of that indicated as appropriate in the London Borough of Camden Borough Plan and draft Unitary Development Plan.
 4. It is considered that the proposed scheme is excessively bulky and large in relation to the character of the area generally and is thus considered to be overdevelopment of the site.
 5. It is considered that the proposal is inappropriate in terms of detailed design, height, layout and massing, as well as its ground floor layout, and as such would be detrimental to the special character and appearance of this part of Hampstead Village conservation area.

6. The proposal does not contain sufficient family sized dwellings, contrary to policy HG20 contained in the draft LBC Unitary Development Plan.
 7. The proposal does not meet Development Standards contained in the draft LBC Unitary Development Plan in relation to car parking and servicing.
- 1.8 By decision letter dated 13.9.97, the Council also refused planning permission for the Fairview scheme for broadly similar reasons as above. The developers have not appealed.

(d) Scope of my evidence

- 1.9 I shall first describe the following matters relevant to the site and proposal: the site and its surroundings and their relevant planning designations; the status of the development plans for the Borough; the history of the site and previous planning decisions. I shall then assess the scheme by discussing the following: the site's lawful use; the reasons for refusal (as set out in para 1.7 above) concerning loss of open space (reason for refusal No 1), density (reason No 3), housing mix (reason No 6), carparking (reason No 7). I also raise some additional issues relating to amenity space and geology. I then conclude my assessment of the scheme on the basis of these issues.
- 1.10 Joanna Parker will separately deal with in her Proof of Evidence the other reasons for refusal, concerning the impact of the scheme on the setting of the Heath (reason No 2), its bulk (reason No 4), and its detailed design, form and impact on Hampstead Village conservation area (reason No 5).

2. DESCRIPTION OF SITE & SURROUNDINGS

(a) Site

- 2.1 The north and south fairground sites consist of two open and semi-vacant sites on the eastern edge of the Vale of Health settlement, overlooking the Heath (see OS map, Appendix 1). The south site is vacant and overgrown (although self-sown vegetation was cleared in November 97) and surrounded by chainlink and corrugated iron fencing. The site is owned by an unknown private developer.
- 2.2 The north site is approximately 2214 square metres in size, almost 3 times the size of the south site, and is owned by the Abbott family. They live on the site in caravans and use it for storage and maintenance of fairground equipment as well as occasional fairground purposes on 3 Bank Holidays a year. The appellants will no doubt further elaborate on their exact useage of the site and the equipment/structures positioned there. According to Peter Thomson's letter dated 26.3.97, the site had at that time 10 caravans, 8 lorries, 4 trailers, 7 fairground stalls and rides, 2 refreshment kiosks, an oil tank on wheels, generator trucks, 10 cars, 3 WC's and a urinal connected to sewage. The site is connected to mains electricity, water and sewage, and telephones. At the time of my visit in August 97, the site was quite empty looking, presumably due to the fairground equipment and vehicles being used elsewhere on the Heath for the August Bank Holiday weekend fair. The site is covered mostly by a gravel hardstanding and bounded by a metal balustrade fence interspersed by corrugated iron sheds. As a whole, the site gives the impression of being rather untidy in the context of the adjoining Heath and Vale of Health village.

(b) Surroundings

- 2.3 The western side of the "north fairground site" is bounded by 1-4 East View, four 3 storey cottages immediately facing the site, and the flank wall of 6 The Gables, a 4 storey terrace on the northern edge of the village. To the south is the "south fairground site", adjoining a modern 6 storey block of flats built in the 1960's called Spencer House. South of the latter sites lie the Hampstead ponds; north and east of the appeal site lies Hampstead Heath which is wooded at this point and rises uphill from the site.
- 2.4 The site lies on the north eastern edge of the Vale of Health, a small hamlet of mainly Victorian terraced and semi-detached cottages and houses enclosed by the Heath on all sides. It is accessed by one road southwest of the hamlet which links it to Hampstead village.

(c) **Planning designations**

- 2.5 The lawful use of the site in planning terms is a "showpeople's site", as defined by Circular 22/91 on "Travelling Showpeople" (copy in Appendix 20), which is a "sui generis" use as defined by the Town and Country Planning Use Classes Order 1987. This classification of use is based on the established history of fairground use with associated residential and storage on this site since before the war (see History section 4 below). The authorised use is further discussed in my section 5A "Assessment" below.
- 2.6 The site is designated as Private Open Space in Camden's Borough Plan 1987 and draft Unitary Development Plan 1993. This designation for the site is due to its open character and its relationship with the Heath as a "soft edge" to the village. Such a designation means that a site does not necessarily need to be publicly accessible nor have a landscaped appearance or recreational use. This issue is further discussed in the Assessment section below. The gardens of Spencer House, Heathurst/Faircroft and Manor Cottage are also designated as Private Open Space. The south fairground site is not so classified and guidelines were prepared in 1980 for its residential development (see History section 4 and para 5.26 below).
- 2.7 The site is designated as Metropolitan Open Land. The latter designation covers the whole of Hampstead Heath and all adjoining private/public open spaces and also covers the whole of the built-up area of Vale of Health and other outlying settlements outside Hampstead village.
- 2.8 The site lies within the Vale of Health part of the Hampstead Village Conservation Area which was designated by Camden on 29.1.68 (see map in Appendix 7). However no specific policies for its preservation or enhancement have been prepared or adopted for this area. It is characterised by a high density core of residential and commercial buildings in the nucleus of Hampstead village centre, surrounded by lower density housing and spacious gardens, and bounded by Hampstead Heath on its north and east sides. The "Vale of Health" part of this conservation area is unique in that it consists of a small separate community of Victorian houses arranged in the form of a close-knit village to the northeast of the main Hampstead centre, completely detached from it and surrounded by Hampstead Heath on all sides.
- 2.9 Finally the site also lies within the Hampstead & Highgate Ridge Area of Special Character as defined in the Greater London Development Plan 1976 and Camden's draft Unitary Development Plan 1993. The latter Plan states that Areas of Special Character are those areas which-

"make a contribution to the attractiveness and variety of townscape and environment within London as a whole... They require special policies for the preservation of that special character and where conservation area designation would not afford sufficient protection."

In this case, Hampstead Heath consists of varied woodland and grassland with ponds surrounded by development, on a high ridge between the hills of Highgate and Hampstead. It is considered that this is a unique feature in London and the relationship of natural country to its fringe in a highly built-up urban environment requires special policies for retention of this character.

2.10 These 4 designations are shown on the UDP proposals map extract in Appendix 8.

3. DEVELOPMENT PLAN

- 3.1 The statutory Development Plan is the Borough Plan read in conjunction with the 1976 Greater London Development Plan ("GLDP"). The latter is now somewhat outdated and has little weight in relation to the latest UDP policies (see below). The Borough Plan, which was adopted in 1987, consists of a Written Statement, Proposals Map and Open Space Map supported by a number of non-statutory documents, including the Environmental Code (published in 1979) which gives general design guidance on a number of issues.
- 3.2 In November 1993 the Council formally placed on deposit for consultation its draft Unitary Development Plan ("UDP"). This had been prepared in the light of strategic guidance contained in the DoE Regional Planning Guidance ("RPG"), published in final form in May 1996. The Inquiry into objections received to the UDP commenced on 7th March 1995 and closed on 21st December 1995. The Inspector's report on the Public Inquiry into objections to the deposit draft Unitary Development Plan was published in January 1997. Over the coming months, the Council will be considering the report's findings and preparing modifications to the draft UDP which will then be formally agreed at Committee and published for statutory consultation. In the meantime, the Inspector's report constitutes a material planning consideration to be taken into account alongside the Council's draft UDP policies and the policies contained within the statutory Borough Plan. The Inspector's comments and recommendations are summarised in the analysis of appropriate UDP policies in the Assessment sections below, and copied in Appendix 19. At present, for the purposes of applications and appeals, the Council attaches equal weight to both the Borough Plan and the draft UDP (read in conjunction with the Inspector's report), on account of the latter's advanced stage of preparation. It is intended that in due course the adopted UDP will replace both the Borough Plan and GLDP documents.
- 3.3 The UDP is accompanied by a non-statutory document, the Supplementary Planning Guidance ("SPG"), which will replace the Environmental Code. This has also been subject to public consultation and it gives more specific design guidance on a number of issues.
- 3.4 The most relevant policies and standards for this case are contained in the following documents. They are referred to later in the Assessment sections of both Proofs of Evidence and copies are contained in Appendices 13,14,15,17,18.
- (a) **GLDP**
Chapter 3 on Housing (section on density)
Chapter 6 on Urban landscape (section on Areas of Special character)
Chapter 9 on Open space (section on Private Open Space)

- (b) **Borough Plan**
 - Chapter 2 on Housing (policies on density and family sized units)
 - Chapter 5 on Urban design (policies on design, bulk, conservation areas, areas of special character, and use of open space).
 - Chapter 7 on Leisure (policies on Metropolitan Open Land and open space).
 - Chapter 11 on Policy Implementation (policies on Fringes of Heath).

- (c) **Environmental Code**
 - Section 14 on Design
 - Sections 42,43 on Parking design and ramps

- (d) **Draft UDP**
 - Chapter 2 on Environment (policies on environmental quality, unstable land, design, bulk, site layout and coverage, views, landscape, conservation areas, Metropolitan Open Land, designated open space).
 - Chapter 4 on Housing (policies on density, housing mix).
 - Chapter 12 on Areas of Special Character (policies on Hampstead and Highgate ridge).
 - Chapter 13 on Development Standards (sections 1,9,10 on density, carparking and servicing).

- (e) **SPG**
 - Chapter 1 on Principles of Good Design.

4. HISTORY

(a) Pre-application history

- 4.1 The Vale of Health started becoming developed in the 1770's following the draining of marshland here and various cottages and dwellings were built here. By 1851 it was a small hamlet with cottages providing teamaking facilities for visitors on summer weekends and bank holidays. In 1864, the Suburban Hotel was built next to the pond which had tea gardens on the adjoining land (now the south fairground site). This hotel, later renamed the Vale of Health Tavern, was demolished in 1964 and replaced by the 6 storey block of flats, Spencer House.
- 4.2 In 1920, the tavern and tea gardens was sold to Fred Gray who also ran a fair on both north and south fairground sites. The family also owned Nos 1-4 East View cottages on the western boundary of the north fairground site, which, according to the 1896 Hampstead Street Directory (copy in Appendix), also had tea gardens. Nevertheless this ownership and use of both open sites for primarily fairground purposes (with associated residential and storage use) continued until after the Second World War. According to the appellants, the north fairground site and No 4 East View cottages are now owned by the appellants Charlie Abbott, his wife and 2 aunts, who have continued until today the fairground use here and who live at No 4 and in caravans on the site. According to Council files, the southern site ceased to be in use for fairground purposes by 1977 and was sold by Mrs Bond in 1979 to private developers for the purposes of residential development.
- 4.3 It is clear therefore that both north and south sites remained as open fairground sites from well before the war until the 1970's. This shown on Ordnance Survey maps from 1866 to 1952 (see Appendix): the 1866 one shows the site as a landscaped part of the heath, the 1894 one shows it cleared with a definite boundary, the 1915 and 1934 ones show a row of 4 structures next to the Gables and north of East View cottages and also 2 separate buildings on the north fairground site, the 1952 one shows the whole site had been cleared after the war.
- 4.4 However the issue of what the above-mentioned structures exactly were is less clear. This matter was considered by the DoE Inspector at a public inquiry in 1988 (see para 4.5 below) at which photographic and documentary evidence proved to be inconclusive. An aerial photo dated 1937, used at this Inquiry, shows the fairground and associated single storey structures on both sites (see Appendix). The Secretary of State concluded on the balance of probabilities that there had been a complex of 4 cottages and additional timber structures before the war; that although the cottages were

originally in residential use, they later became used as tea gardens until the war; that the buildings suffered minor war damage by bomb blasts and were subsequently demolished. Therefore it is concluded that there have been no residential dwellings on the fairground site since the war and on the appointed day of 1st July 1948. As the Inspector stated in the appeal decision of 25.3.88,

"any residential use which may once have subsisted at the appeal site has long since been abandoned".

(b) Planning history of north fairground site

- 4.5 On 17.2.86, the owners of the north site applied for a Section 53 determination that planning permission was not required for rebuilding cottages following war damage. On 1.9.86, the Council issued a Section 53 determination that this proposal constituted development requiring planning permission for the reason that the evidence available did not demonstrate, beyond doubt, exactly what was on the site before demolition (copy in Appendix 22).
- 4.6 On 25.3.88, an appeal against the above determination was allowed by the Secretary of State. Documentary evidence proved that 4 cottages did exist, had suffered war damage, and could be rebuilt on part of the site, under the provisions of the Town and Country Planning General Development Order 1977 (Class XI referring to war damaged buildings). However the decision noted that the works could only be implemented under the provisions of the GDO then in force and that, if the decision was not acted upon promptly, any developer was advised to first check that the statutory provisions had not changed in the meantime (copy of decision in Appendix 22). It should be noted here that both the later GDO (adopted on 5.12.88) and the current one (General Permitted Development Order 1995) excluded reference to war damage. Therefore the decision would no longer be valid, even had it not been quashed as explained below.
- 4.7 An appeal by Camden was made to the High Court against the above decision on a point of law, ie. that the cottages had not suffered war damage necessitating demolition but rather dilapidation and disrepair, for instance with windows broken, and that the GDO did not entitle owners to rebuild such structures some 40 years after their demolition. The High Court agreed with the Council's position, quashed the decision letter and dismissed the appeal. Furthermore on 27.7.88, the Court of Appeal dismissed the appeal by the appellants against this decision (see Appendix 22).
- 4.8 On 27.6.90, an application for both north and south fairground sites was submitted proposing 10 dwellings and 11 garages and transfer of the southern part to the City

Corporation as public open space. This involved lengthy discussions with officers and attracted numerous objections from local people. The application was later withdrawn by the developers.

(c) Planning history of south fairground site

- 4.9 With reference to the south fairground site, the imminent sale of this site to private developers in 1979 (see para 4.2 above) prompted the Council on 24.7.80 to adopt design guidelines for its residential development, as this site was not identified as a Private Open Space in the District Plan (the local plan in force at that time). The guidelines note that the northern site is designated as open space and that Council policy is to retain as such (copy in Appendix 21).
- 4.10 On 28.10.85, planning permission was granted on appeal for a 5 storey block of flats on this site. On 9.9.91, planning permission was granted for a similar scheme to this one. By 9.9.96, no works had been started on site to implement this scheme thus the planning permission had expired. The site remains vacant and overgrown.

5. ASSESSMENT

Introduction

5.1 This scheme on appeal was refused on several grounds:

(a) The loss of designated open space is the fundamental reason for the scheme's unacceptability as it contravenes policies in both the Borough Plan and draft UDP.

(b) The secondary reasons for refusal concern the scheme's bulk, design and layout and its impact on Hampstead Heath and Hampstead Village Conservation Area. These issues of urban design will be dealt with in Joanna Parker's Proof of Evidence.

(c) Finally there are some subsidiary reasons for refusal relating to detailed aspects of the scheme (density, housing mix, carparking)- I consider that the scheme could be revised to satisfactorily address the latter 2 issues but it was felt inappropriate to request revisions to the application in this case due to the fundamental objection on loss of open space.

(d) Additional matters relating to geology of the site and the appellants' proposed open space are also discussed at the end of this Proof of Evidence as they represent concerns of the Council although they do not warrant reasons for refusal.

A. PLANNING USE OF SITE

5.2 The lawful use of the site should be first addressed here, as the appellants maintain in their statement that the site has established residential use by virtue of them living in No 4 East View and the caravans.

5.3 The history of the site as discussed above shows that both residential and recreational uses have been evident here before the War. However the appeal decision of 1988 is crucial in establishing that any residential use had been abandoned by the time of the Second World War and that the site was open containing a fairground. The planning use of the site can only be based on the uses evident on the appointed day of 1st July 1948. Although Nos 1-4 East View with their tea gardens (noted in the 1896 street directory in Appendix) may have been functionally and historically linked to the site before this time, I consider that these cottages as buildings are physically distinct from the fairground site: moreover, since the War, they have been solely used as living accommodation whereas the fairground site is characterised as a mix of residential caravans, vehicle and

equipment storage, and recreational activity. The fact that No 4 is owned and occupied by the same owners of the open site and that it shares the same water supply does not mean that the cottage's prime residential use stretches to cover the fairground site as well. I consider that the latter site should be separately considered from the adjoining cottages in landuse terms, and that it has a mixed use as described above, rather than a predominantly residential use. Furthermore the fact that they stay in caravans on the site cannot justify an intensification of the residential accommodation to the exclusion of other uses on the site, ie. a change of use to residential use, which is what the appellants are effectively seeking to do.

- 5.4 The established and lawful use of the site is as a "Showpeoples' site", as defined by the DoE Circular 22/91 (copy in Appendix 20). This defines showpeople as-

"self-employed business people who travel the country holding fairs chiefly during the summer months. Although their work is of a peripatetic nature, they require secure permanent bases for the storage of their equipment and more particularly for residential purposes. Such bases are most intensively occupied during the winter... increasingly showpeoples' quarters need to be occupied by some members of the people permanently; older family members will stay on for most of the year.."

- 5.5 Furthermore the Circular states that the

"nature of showpeoples' sites is unusual in planning terms. The sites illustrate the showpeoples' characteristic self-sufficiency by combining residential, storage and maintenance uses. Typically a site comprises areas set aside for the showpeoples' accommodation- usually caravans and mobile homes- and areas where vehicles and fairground site equipment can be stored, repaired and tested. This means that the sites do not fit easily into existing land-use categories."

- 5.6 The appeal site is a classic example of this landuse: the appellants are members of the Showmen's Guild of Great Britain and have used the site continuously since the war for this purpose. In particular the site has had a mixed use incorporating living accommodation, equipment repair and storage, and occasional fairground use, where no one particular use dominates. The appellants primarily use the site as "winter quarters" (as described in the Circular, quoted in para 5.4 above) and they use both the site and (the adjoining Heath) for fairground purposes on 3 Bank Holidays a year. The Circular highlights the fact that such uses do not fall within any particular Use Class as defined by the Town and Country Planning Use Classes Order 1987, and consequently this site can be defined as having a "sui generis" use.

*regular use
at weekends
since 20 yrs ago.*



absolve (not the Heath)

B. PRINCIPLE OF DEVELOPMENT ON DESIGNATED OPEN SPACE

5.7 The site has been designated as open space in several ways:

(a) Firstly, the site, along with the south fairground site, is included within the area of Metropolitan Open Land as defined in the 1976 Greater London Development Plan and the above-mentioned Camden plans. Policies aim to protect such land from inappropriate development.

(b) Secondly, the site is designated as Private Open Space in the 1962 London County Council Initial Development Plan, as principal Private Open Space in the London Borough of Camden 1979 District Plan and 1987 Borough Plan, and as Private Open Space in Camden's 1993 deposit draft Unitary Development Plan. Policies aim to protect such open space from development. Map extracts of these plans are shown in Appendices 9-12.

(c) Finally, planning guidelines adopted by the Planning and Communications Committee in 1980 for the southern site gave design guidance for residential development here but confirmed that in contrast the northern site should be retained as open space (copy in Appendix 21).

5.8 Accordingly the proposal was refused permission for the reason that-

The proposal involves development on Private Open Space and Metropolitan Open Land, contrary to policies LE8, LE9, EN66, EN68 to protect such open space as contained in the London Borough of Camden Borough Plan and draft Unitary Development Plan.

These open space designations are discussed in more detail in turn below.

5.9 It is thus clear that the principle of retaining the site as an open space has been consistently established by the statutory planning framework since the war. It should be noted that the revised PPG1 states that-

"where an adopted or approved development plan contains relevant policies, section 54A (of the Town and Country Planning Act 1990) requires that an application shall be determined in accordance with the plan unless material considerations indicate otherwise. Conversely applications which are not in accordance with relevant policies in the plan should not be allowed unless material considerations justify granting a planning permission".

In this case, the Council considers that there are no material reasons to justify a departure from the adopted Local Plan.

(a) Metropolitan Open Land

5.10 The Greater London Development Plan in para 9.8 introduces the concept of Metropolitan Open Land ("MOL") which can provide useful and attractive breaks in the built-up area and which is of significance for Greater London as a whole. It states that it will be an objective of planning authorities to conserve and protect it and that it needs to be safeguarded just as much as the Green Belt. The Urban Landscape Diagram referred to in the GLDP shows the extent of such MOL (extract in Appendix 13). In this context, it should be noted that the inclusion of this fairground site as MOL does not mean that it should form an extension to the Heath as public open space or that it should be visually attractive. This designation should be regarded in the same way as a Green Belt which can include landuses of an open character such as golfcourses, allotments, cemeteries and scrapyards.

5.11 The 1996 RPG strategic guidance reinforces this designation by advising London Boroughs to show MOL boundaries on their UDP Proposals maps and to apply to MOL the same principles of control over development in the Green Belt. It states in para 7.8 that-

" there is a presumption against inappropriate development including development which would be harmful to the open character of the land. Such development should only be allowed in very special circumstances ".

5.12 Borough Plan policy LE8 resists development detrimental to the character of this MOL as defined in the GLDP. The draft UDP policy EN66 confirms and expands this policy by not permitting development which is

"detrimental to the character, integrity, nature conservation interest, appearance and setting of MOL".

More specifically this latter policy only allows development here which is essential to the use of the land as open space, and which conserves the open nature and character of the area. It then lists uses that may be considered acceptable (based on the list in para 9.9 of the GLDP), including such items as private open space, playing fields, horticulture, allotments, nature conservation, reservoirs, and informal open air recreation and tourism where this cannot be adequately provided in developed areas. The UDP also defines MOL in the Glossary (see Appendix 17) as being

"open land within the built-up area which has a wider than Borough significance and which receives the same presumption against development as the Green Belt".

5.13 The Inspector's report on the UDP Inquiry supports this designation and the general aims of the policy; however he recommends that the policy be reworded and that the list of appropriate uses be modified to reflect more closely the guidance in the 1996 RPG3. The proposed policy now reads that

"there will be a general presumption against inappropriate development in MOL, which will only be permitted in very special circumstances".

The list of appropriate uses now refers to, for instance, outdoor recreational facilities including arts and cultural activities, open air tourist facilities, and camping and caravanning sites (see Appendix 19 for full wording).

5.14 It is considered that the proposal completely conflicts with these policies on MOL. Although it involves donation of half of the site to the Heath, the remainder of the site will be built upon for a dense residential use which does not conserve the open character of the Heath nor is an essential use for the open space. With reference to "open air recreation and tourism" in the above lists of acceptable uses, the current use of the site as fairground clearly complies with this category and is appropriate to the MOL. As an alternative to this use, it could be argued that this site could also contain, for instance, toilets, tearooms, or carparking as being essential or ancillary to the recreational use of the Heath. However the policies are absolutely clear in that no unrelated commercial or residential development would be acceptable here.

(b) Private open space

5.15 The GLDP states in para 9.7 that it is important to ensure that Private Open Space is not lost to other uses without good cause. It advises Councils to safeguard such open space,

"particularly in circumstances where it also has a strategic role as part of the system of Metropolitan Open Land."

It is considered that the latter qualification is particularly relevant in this case as the site adjoins the Heath and is important as a buffer zone in terms of preserving its visual character and openness.

5.16 The 1996 RPG also refers to other open spaces which can be valuable in providing breaks in the built-up area and providing space for recreation for residents. It highlights in para 7.18 that-

"there is also green space where public access is restricted or not formally established but which contributes to local amenity or meets, or is capable of meeting, recreational needs. Such spaces are valuable and Boroughs should consider whether they should be protected."

5.17 Borough Plan policy LE9 states that

"the Council will generally resist the loss of valuable private open space".

5.18 Draft UDP policy EN68 repeats this in stronger terms by not permitting, save in exceptional circumstances, proposals that would result in loss of private and public open space. The justification to the latter policy explains further that "the exceptional circumstances" quoted here only apply where development proposals are ancillary to the open space use of the land and where equivalent open space provision is made elsewhere in the locality to replace that lost. Finally the UDP Glossary, as redrafted for the UDP Inquiry, defines Private Open Space as:

"urban green space, designated by the Council, as defined by LPAC where public access is generally not formally established, but which fulfils or is capable of fulfilling a recreational or non-recreational role (eg. amenity, ecological, educational, social or cultural)..."

This revised definition (full version in Appendix 19) was endorsed by the Inspector.

5.19 The Inspector at the UDP Inquiry supported the content and objectives of policy EN68 but recommended its redrafting as follows:

"The Council will not permit development of public or private open space identified in the Schedule of Open Land Proposals and on the Proposals Map, unless:
(i) the proposal is for development ancillary to the use of the land as public or private open space, or
(ii) on private open space, it is for development ancillary to a use taking place on land of which open space concerned forms part, and for which there is a demonstrable need that cannot reasonably be satisfied elsewhere.

In either case, the development must be sufficiently small in scale to enable the open character of the land to be retained".

5.20 It is considered that again the scheme completely conflicts with these policies to protect such designated open space,

and does not satisfy any of the criteria for exceptions listed either in the original policy or the Inspector's redrafted one: the residential proposal cannot be regarded as an ancillary use of the Heath or the fairground site, there is no demonstrable need for it to be located here, it does not retain the open character of the site, and it does not offer an equivalent acreage of open space in Hampstead to replace that lost.

- 5.21 The Inspector also recommended that additional work be carried out on open space deficiency in the Borough, ie. that the UDP include a development standard for open space provision and a list of wards where LPAC has identified deficiencies, and that the Schedule of Open Land be reviewed and modified in the light of these tabulations.
- 5.22 In accordance with these recommendations, the Council is currently applying Table 7.1 of RPG3's Hierarchy of Public Open Space to the Borough; it will also produce a crude deficiency map and a list of deficient wards as a result of this exercise. A more refined deficiency analysis will be undertaken in the future review of the UDP.
- 5.23 The Council recognises that the site, on account of its proximity to the Heath, is not in an area of deficiency and that its designation as Private Open Space would not be a proposal to remedy such a deficiency. However it is considered that the site accords with the Glossary definition of private open space by being "*capable of fulfilling a recreational or non-recreational role (eg. amenity, ecological, educational, social or cultural)*". Ancillary development required for its function as Private Open Space could enhance the site in either recreational use or visual terms as an adjunct to the Heath. Furthermore PPG17 on Sport and Recreation in para 25 supports this view that open space is worthy of protection-

"once built upon, open space is likely to be lost to the community for ever; planning decisions resulting in the development of open space should therefore take into account the long-term impact of the loss of such space."

- 5.24 Draft UDP policy EN72 resists development which is detrimental to the integrity, appearance and setting of public and private open space. The Inspector recommended its redrafting, in particular by referring to the detrimental effect of a development's height, scale and massing or the effect of a use intruding on the public enjoyment of such spaces. It is considered that the proposed scheme would be detrimental to the rural character and setting of the Heath by reason of its bulk and massing and would also be detrimental to the recreational use of the Heath and the private open space by removing the fairground activity.
- 5.25 Following on from the above discussion of this site's role in

open space terms, it is important to emphasise that this site contributes to the setting of the Heath in both visual and recreational terms. Furthermore the site could, if desired, be used to enlarge the Heath's acreage in the same way that the Heath has historically evolved and expanded elsewhere on its fringes through the purchase of open land for public use.

5.26 It is considered that the site fulfils a number of roles in this location:

(a) It provides space for informal open air recreation and tourist facilities on the periphery of the Heath, thus relieving pressure for such uses on the Heath itself and yet meeting the needs of local residents and visitors. This accords with the aims of policies for Metropolitan Open Land.

(b) The site provides a soft "edge" between the close knit village-like community of the Vale of Health and the vast open rural area of the Heath. The site forms a valuable part of the Heath's setting. Development here, enlarging the existing built-up area, would encroach on views into and out of the Heath woodland adjoining the site and would increase the Heath's visual enclosure and the awareness of built-up surroundings to people enjoying the rural seclusion of the Heath. The issue of the Heath's setting and the site's visual role in preserving this is further considered in Joanna Parker's Proof of Evidence.

(c) Finally, from a historical point of view, as discussed in the above History section, the site has always been unbuilt space and traditionally viewed as an important visual edge to the Heath. Although the present edge of the Vale of Health is somewhat ragged and unkempt on its eastern side, the Heath's setting is not preserved or enhanced by having buildings developed in front of it, nor should its current poor appearance be used to justify unacceptable development.

5.27 Finally reference should be made to the inclusion of the north fairground site in the UDP Schedule of existing Private Open Space (UDP Appendix PR2, site 102- see copy in Appendix 17), to which the Inspector made no objection. The comments in this Schedule state that the site should not be used for residential, storage or commercial purposes other than 3 Bank Holidays a year when it may be used as a small scale fairground. I am unclear as to the origin of this restriction which does not come from the Borough Plan and I consider that it does not have any legal basis, in the light of the above discussion on planning uses of the site. The lawful and established use of the site, as discussed in paras 5.4 - 5.5 above, is as a "showpeoples' site" with associated occasional fairground use, incorporating a mix of recreational, residential, commercial and storage uses. I am also unaware of any planning or other restrictions on the duration or frequency of fairs that can take place here.

5.28 The appellants refer to the fact that they had no opportunity to object to their site being included on such a schedule of open spaces. It is considered that ample opportunity has been given and that the Council has fulfilled its requirements for publicity under the Town and Country (Development Plan) Regulations 1991, with respect to the UDP. The site has been designated as private open space in 2 previously adopted Plans which both underwent considerable consultation. Consultation on the draft UDP took place in 1992 in the form of public meetings, exhibitions, press releases, letters to local groups, posters, articles in the "Camden Citizen", copies in libraries and community centres, as well as statutory advertisements in the local press. No objections were made to the site's designation as open space.

(c) Planning guidelines for south site

5.29 The Council on 24.7.80 adopted design guidelines which would act as a framework for residential development of the south fairground site, as a result of its imminent sale at that time. This guideline suggested that any development should be low rise to retain views from the south and to maintain the feeling of openness from the north. It also mentioned that the northern site, not on offer, was included in the District Plan open space map and that Council policy was to retain it as open space. Planning permission was subsequently granted in 1985 and 1991 for a residential block of flats on the south site.

5.30 The private gardens of adjoining houses (eg. Heath Villas, Athenaeum Hall) backing onto the pond are also designated as Private Open Space. The Inspector at the UDP Inquiry agreed with the Council's proposals to enlarge this designated area to include the adjoining gardens of Spencer House and also the proposed gardens around the footprint of the block granted planning permission in 1991 on the south site (see Appendix 19). Although this permission was still valid at the time of the Inquiry, it has now expired since September 1996, and the Council may, as part of a future review of the UDP, reconsider its position on development of this site and may extend the designation of Private Open Space to the whole of this site, in order to be consistent with other similar open sites and gardens in the Vale of Health.

C. DETAILED ISSUES

(a) Density

5.31 The third reason for refusal of the proposal was that-

The proposed development would result in a total density in excess of that indicated as appropriate in the London Borough of Camden Borough Plan and draft Unitary Development Plan.

- 5.32 The proposal involves twelve 4 person 2 bedroom flats and three 6 person 3 bedroom flats, deduced from the floorplans which are very sketchy. the site area has been recalculated to be 2214 sqm (0.55 acres); the addition of half of the adjoining roadway to the southwest does not make any difference to this figure. The adjoining public open space cannot be used for the purposes of density calculations. The scheme has a total of .48 habitable rooms giving a density of 87 HRA- I accept that therefore the figure of 87 quoted in P.Thomson's statement is correct. However I consider that flat 3 on the floorplans (repeated on all 3 storeys) has an extremely large living area which could be split into 2 average sized rooms so that the flat could be regarded as having 4, not 3, habitable rooms. On the basis of this assumption, the density figure is recalculated to be 92 HRA- the figure quoted in the Council's Statement of Case.
- 5.33 The Borough Plan in policy HG21 states that the density range for new development shall be 70-100 HRA, with 140 HRA used for non-family accomodation. This is based on the GLDP recommendations for density (see Appendix 13). Policy HG23 allows densities to exceed this maximum as an exception where for instance the site is within walking distance of public open space and where the need for compatibility with the existing character and scale of adjoining development dictates a higher density. Furthermore policy HG25 states that in conservation areas and the fringes of the heath, design policies will determine the scale of development.
- 5.34 The draft UDP in policy HG13 states the same exceptions to the density ranges. The development standard DS1 however states a lower range for the Hampstead & Highgate area, 40-70 HRA for both family and non-family accomodation. The Inspector in his report on the UDP Inquiry supported policy HG13 with the Council's latest proposed modifications and with some minor additions and agreed that it should relate to the Development Standard. He also supported the density figures in DS1 and their inclusion as a standard in the UDP rather than as SPG.

5.35 The proposed density of 87 HRA falls within the Borough Plan density range but outside that of the draft UDP. It is accepted that adjoining properties have similar or higher densities - P.Thomson quotes 238 HRA for East View and 135 HRA for The Gables, although I have not been able to verify these figures. However the density for Spencer House cannot be used as a "yardstick" as he suggests, as this 1960's block of flats is unacceptably large and bulky in townscape terms and should not set a precedent for future developments. I also accept that the site is fully accessible to adjoining public open space (the Heath). I therefore concur that the scheme can be regarded to comply with exception (b) listed in Borough Plan policy HG23 and UDP policy HG13. However the scale, form, bulk and massing of the scheme is unacceptable, as will be explained in Joanna Parker's Proof of Evidence, and it is considered that the scheme is too bulky in relation to the general townscape character of this area. Thus it is considered that the scheme does not accord with the other exceptions listed in the above 2 policies and with Borough Plan policy HG25.

5.36 It should be remembered that density alone cannot be used a sole reason for refusal- it is a theoretical tool used to highlight the acceptability or otherwise of other aspects of the development. In this case, it is considered that more important is the harm flowing from this high density figure: for instance, the excessive bulk and height of the scheme detrimental to the townscape character, and the large number of flats generating substantial vehicular traffic and leading to potential congestion of the local road network. As DS1 of the UDP states,

"density standards...will not be used in isolation but in conjunction with townscape and amenity considerations".

5.37 Also it should be borne in mind that the density figure of 87 HRA has been calculated on the basis of the whole site being used for private housing and private gardens. In reality, the application proposed the southern half of the site for public open space to be donated to the Heath. The proposed modification in the appellants' statement still suggests that this area will be used for public recreational or social facilities. In either case, if one assumes that the block of flats would stand alone with a very small area of private amenity space attached near the carpark entrance and that consequently the area of public open space was 875 sqm, it is calculated that the density would be almost twice the figure quoted above, ie. the exclusion of this open space would result in a new figure of 145 HRA. This more realistic density figure is well in excess of the maxima of 70 and 100 quoted for family accommodation in the Borough Plan and UDP policies respectively.

(b) **Housing mix**

5.38 The sixth reason for refusal of the proposal was that-

The proposal does not contain sufficient family sized dwellings, contrary to policy HG20 contained in the draft LBC Unitary Development Plan.

- 5.39 Borough Plan policy HG30 seeks to provide family sized accommodation in all new housing developments, family sized units defined as having 4 bedspaces in 2 or more bedrooms. Policy HG31 encourages development schemes to have family sized accommodation where there is access to amenity space. Policy HG32 requires all new development schemes to provide some family sized dwellings, but no minimum amount is specified. Draft UDP policy HG20, as amended at the Inquiry, is similar but encourages schemes to have 50% or more of accommodation suitable for families or larger households; it also defines such accommodation as having 4 bedspaces in 3 or more bedrooms. The Inspector agreed with this policy and the definition of family sized units but he recommended that the policy be amended to say the Council would "welcome" rather than "encourage" schemes to have 50% of accommodation suitable for families (see Appendix 19).
- 5.40 In this case, it is considered that the location of the block next to the Heath and the proposed layout on this site, which could include private gardens or public open space, would make the scheme appropriate for including a substantial proportion of family accommodation- I would suggest that at least a third of the total units should be so sized. Although the scheme appears to comply with Borough Plan policy on family sized units, by having 2 bedroom units, it does not comply with the new UDP policy. The Council considers that the draft UDP policies have an equal if not greater weight to the adopted plan policies, due to the advanced stage of preparation of the UDP; this is especially so in this case where the Inspector does not object to the UDP definition of family sized units. Consequently it is considered that the scheme does not contain sufficient family sized units as defined by the UDP: there would be only three 6 person/3 bedroom units out of total of 15 units, ie. 20% of the total accommodation. This is both well below the figure of 50%, encouraged in UDP policy HG20, and also below a lower figure such as 33% that I would expect to be reasonable for this site. I consider that the scheme could be easily amended to adjust the size and mix of units more in accordance with the aims of this UDP policy.

(c) **Carparking/servicing standards**

5.41 The final reason for refusal of the proposal was that-

The proposal does not meet Development Standards contained in the draft LBC Unitary Development Plan in relation to car parking and servicing.

5.42 Development Standards 9 and 10 of the UDP give detailed design standards for these issues. Although the Inspector did not disagree with these standards, he thought that they were too detailed for inclusion in the UDP and that they should be transferred to the SPG.

5.43 Traffic officers are concerned that the scheme does not meet minimum standards relating to basement carpark and ramped access design (see memo in Appendix 23). No objections are raised to the quantity or layout of carspaces provided. The specific problems are as follows: the basement headroom is 2.0m rather than the minimum 2.5m; as far as can be deduced from the drawings, the minimum standard for gradients (1:7 to 10) is not met; the radius of the ramp is too small; the ramp should be widened to allow for 2 way traffic or an electronic detection and signalling system should be installed; the ramp should also incorporate kerb requirements of DS9. Finally there is no indication of the access arrangement from the public highway to the ramp, or of servicing arrangements for refuse collection. However it is considered that the scheme could be amended to incorporate these design details.

(d) **Amenity space**

5.44 As already indicated, the submitted plans are very sketchy and in particular no details are given for the intentions of both the ground floor of the new building and the proposed open space. It is not clear whether the ground floor and any adjoining space will be used for additional carparking or private amenity space for the new residents of the block. With regard to the open space element, the applicants intend to transfer this to the City Corporation for management purposes as part of the Heath but no details are given on its landscape treatment, boundaries or access. However it is accepted that the agent wished to enter into discussions regarding the public use and landscaping of this open space, had the Council given him the opportunity to do so if the residential scheme had been acceptable in principle.

5.45 Although the proposal for donating half of this site as public open space is welcomed in principle, both officers of the Council and the City Corporation have doubts as to the usefulness of this part of the site to be used as an adjunct to the Heath, bearing in mind its proposed size and position

bordered closely by buildings on 2 sides, and they consider that it would not be conducive to public use or beneficial to the Heath. Furthermore any proposed roadway across the open space, which would be required to provide vehicular access from the public highway to the carpark, would further negate the usefulness and amenity value of this open space.

(e) **Geology**

5.46 A final consideration concerns the issue of development in unstable land, although it does not form a reason for refusal. The site lies within an area adjoining the Heath apparently notorious for its unstable geological/subsoil conditions and a history of local subsidences: in particular, local residents report that this site has a watercourse under it. No information has been provided with the application, as required by UDP policy EN12 regarding unstable land (see Appendix 17), to satisfy the Council that measures can be taken to overcome these problems and to protect adjoining properties. However, as with other detailed aspects of the scheme, the Council did not press for this information as it considered that the principle of development on open space was unacceptable in the first place.

5.47 In relation to the 2 matters of amenity space and geology discussed above, the Council requests that the following additional information should be provided to enable the Inspector to consider the detail of the application:

- foundation design of proposed block and its basement.
- engineer's method statement showing how adjoining properties would be protected from potential subsidence.
- details of use of ground floor of proposed block.
- details of location of proposed access by vehicles and pedestrians to the block.
- details of any proposed ancillary garden or service area.
- details of location of proposed "public open space", its landscaping, means of enclosure and access.
- statement of intent regarding applicant's proposed management and maintenance of proposed public open space or its transfer to the City Corporation of London.

5.48 Joanna Parker also refers in her statement to the need for additional information relating to architectural and landscaping detail.

6. CONCLUSION

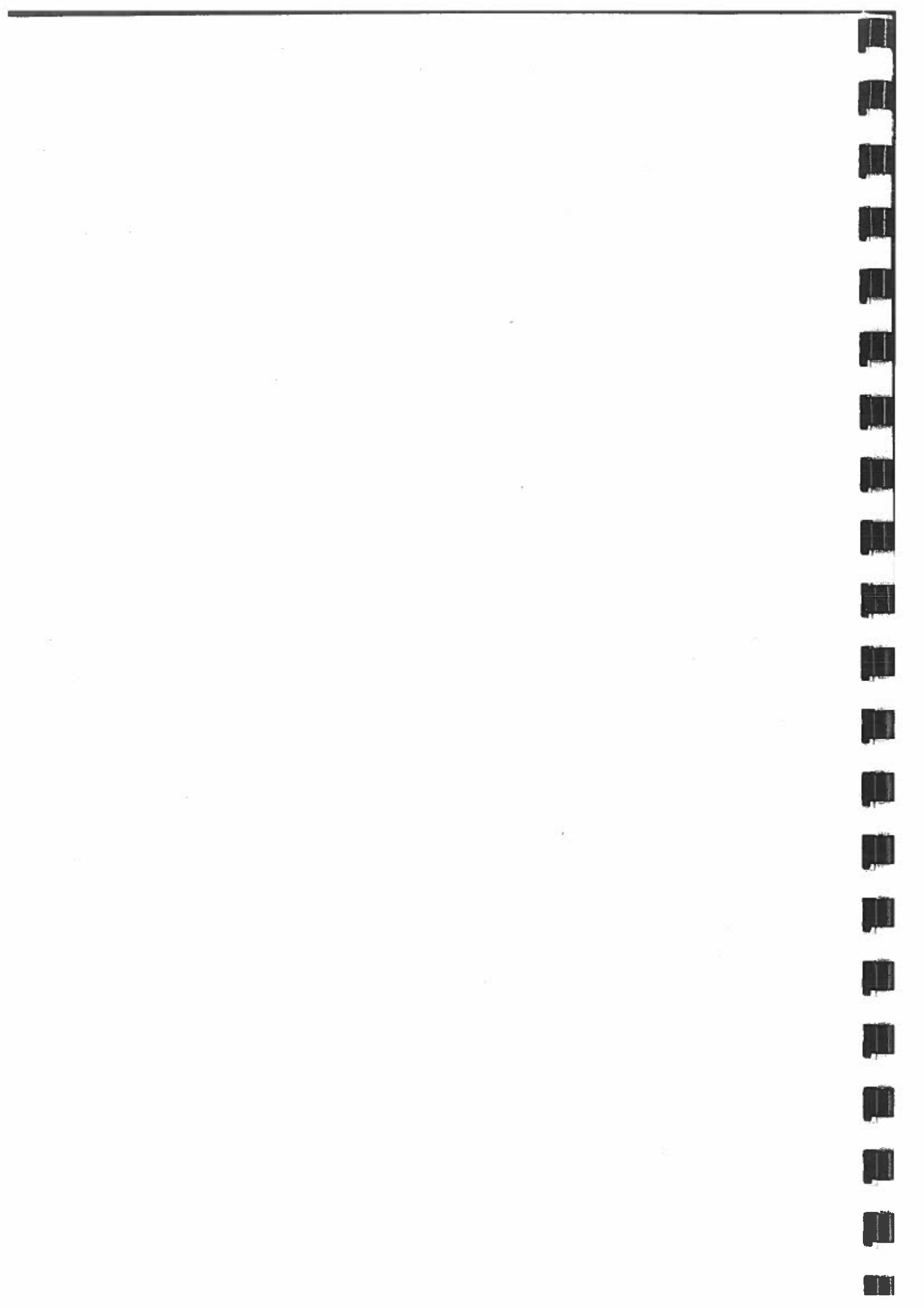
- 6.1 Given the consistent and extensive statutory open space designations for this site, the support by the Inspector at the UDP Inquiry for open space policies, and the amenity value of the site contributing to the visual setting and recreational use of the Heath, the site should be protected from residential development. It is thus considered that the application should accordingly be refused permission on this ground in principle.
- 6.2 In addition to the above reason, there are numerous detailed objections relating to form, design, bulk, site layout, density, housing mix, access and carparking. Joanna Parker in her Proof of Evidence concludes that the scheme would neither preserve nor enhance the character and appearance of this part of the Hampstead Village conservation area or the setting of the Heath. Although certain details of the scheme could have been amended or clarified to comply with detailed policies and standards, the Council considered at that time that there was no realistic prospect of negotiating an acceptable scheme due to the overwhelming unacceptability of the proposal on landuse grounds.
- 6.3 For the reasons given above, the Inspector is requested to uphold the Council's recommendation and to refuse planning permission.

Charles Thuaire.

cemt/docs/prooffair
27.1.98

APPENDICES

1. current OS site plan (scale 1:1250).
 2. old OS plan extracts (1814,1866,1894,1915,1934,1952).
 3. aerial photograph of Vale of Health (1991).
 4. photographs of views of site, plus location map.
 5. 1896 Hampstead street directory.
 6. Hampstead & Highgate Newspaper cutting 14.6.85.
 7. Conservation Area map extract, showing Vale of Health.
 8. planning designations of site, shown on draft UDP proposals map
 9. London County Council I.D.P. 1962 open space map extract.
 10. L.B.C. District Plan 1979 open space map extract.
 11. L.B.C. Borough Plan open space map extract.
 12. L.B.C. draft UDP proposals map extract.
 13. Greater London Development Plan 1976 written statement and urban landscape diagram extracts.
 14. Borough Plan 1987 written statement extracts.
 15. Environmental Code 1979 extracts.
 16. Policies for Fringes of the Heath document 1981 (extract).
 17. Deposit draft Unitary Development Plan 1993 (incorporating proposed changes at the Inquiry (1996)) written statement extracts.
 18. Supplementary Planning Guidance 1993 extracts.
 19. Inspector's report on UDP Public Inquiry 1996 (extracts).
 20. Circular 22/91 (Travelling Showpeople).
 21. Planning & Communications Committee design guidelines for south fairground site 24.7.80.
 22. planning decisions on north site: 1.9.86, 25.3.88, 27.7.88.
 23. responses to consultation exercise for Abbott scheme.
 24. application report to Development Control Subcommittee on 11.9.97.
 25. map of existing block structure in Vale of Health compared to proposed development.
-



APPENDIX 5

Appeal decision letter for above dated 7.5.98



The Planning Inspectorate

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0117 - 987 8927
Switchboard 0117 - 987 8000
Fax No 0117 - 987 8139
GTN 1374 - 8927
E-mail ENQUIRIES.PINS@GTNET.GOV.UK

Peter Thomson Associates
125A Lansdowne Way
London SW8 2NP

Your Ref:

Our Ref:
T/APP/X5210/A/97/283311/P4

Date: 07 MAY 1998

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY C & P ABBOTT, MATILDA BIDDALL, VIOLET MILLER, AND VALE
AMUSEMENTS NORTH
APPLICATION NO: PW9702255

1. I have been appointed by the Secretary of State for the Environment to determine this appeal against the failure of the Council of the London Borough of Camden to give within the prescribed period notice of its decision in respect of an application for 15 appartement residential units, with ancillary basement car parking, and the creation of an area of public open space at the north fairground site, Vale of Health. I held a local inquiry into the appeal on 17th and 18th February 1998. At the inquiry an application was made by the Council for an award of costs against the appellants. This is the subject of a separate letter.
2. The appeal relates to a site of about 2,214 sq. metres on the edge of the Vale of Health, a small group of about 90 dwellings which is enclosed by Hampstead Heath, an extensive area of public open space administered by the Corporation of London. The site, which is hardsurfaced, is currently used for the storage and maintenance of fairground equipment. It also contains a number of residential caravans and several small structures. A small fair is held on the site several times per year. The site is served by mains electricity, water and sewage, and telephone. It is bounded to the west by 1-4 East View, a terrace of four three-storey cottages, and by the flank wall of 6 The Gables, the end property in a four-storey terrace. To the south is a vacant site, the south fairground site, and a six-storey block of flats which was erected in the 1960s called Spencer House. To the north and east of the site is Hampstead Heath. A number of footpaths across the Heath pass close to the site, including ones leading to the nearby ponds. The site is within the Hampstead Heath Conservation Area.
3. The appeal concerns your clients' proposal to erect a four-storey block of flats on the site, adjoining the eastern flank wall of The Gables. The application drawing shows that the building would have a basement car park and an open ground floor, and above this would be three floors containing 12 four-person flats and three six-person flats. Vehicular access to the site would be from its southern end through the Vale of Health. In response to criticism of the scheme you have proposed that the basement car park should be omitted and that

parking is provided at ground level under the block. In addition, you propose that space be provided under the building for some form of community use, such as a creche.

4. At the inquiry you clarified, at my request, the extent of the public open space which would be provided in the scheme and offered to the City Corporation, although that body has expressed no interest in acquiring this land. While you have previously suggested that up to half of the site would be donated to the City Corporation, you have made clear that this would in fact be the area of roadway at the southern end of the site which adjoins the south fairground site. This roadway appears to be in use already as an informal pedestrian access to the Heath.
5. Planning permission has been granted in the past for residential development on the south fairground site. However, that permission has now expired.
6. Section 54A of the 1990 Act requires that planning applications and appeals should be determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise. In the present case the development plan is the Borough Plan, which was adopted in 1987, and the Greater London Development Plan (1976), although the latter is now somewhat dated and must carry little weight.
7. The Council is in the process of preparing a Unitary Development Plan (UDP), which will eventually become the development plan. This was placed on deposit in 1993, and objections to the UDP were the subject of a public inquiry in 1995. The Inspector's report into the inquiry was published in 1997. Although the UDP has not yet been adopted, I consider that in accordance with the advice in Planning Policy Guidance Note 1 (PPG1), it must be given considerable weight in view of its advanced stage.
8. Following the lodging of the appeal, the Council resolved that if it were still able to determine the appeal, planning permission would have been refused for the reasons that:
 - (a) The proposal involves development on Private Open Space and Metropolitan Open Land, contrary to policies LE8, LE9, EN66, EN68 to protect such open space as contained in the London Borough of Camden Borough Plan and draft Unitary Development Plan.
 - (b) The proposal would be detrimental to the setting and character of Hampstead Heath, contrary to policies LE8, EN66, HR4 contained in the London Borough of Camden Borough Plan and draft Unitary Development Plan.
 - (c) The proposed development would result in a total density in excess of that indicated as appropriate in the London Borough of Camden Borough Plan and draft Unitary Development Plan.
 - (d) It is considered that the proposed scheme is excessively bulky and large in relation to the character of the area generally and is thus considered to be overdevelopment of the site.
 - (e) It is considered that the proposal is inappropriate in terms of its detailed design, height, layout and massing, as well as its ground floor layout, and as such would be detrimental to the special character and appearance of this part of the Hampstead Village Conservation Area.

(f) The proposal does not contain sufficient family-sized dwellings, contrary to policy HG20 contained in the draft London Borough of Camden Unitary Development Plan.

(g) The proposal does not meet Development Control Standards contained in the draft Unitary Development Plan in relation to car parking and servicing.

9. Before I identify my view of the principal issues in this case, I feel it necessary to deal with a legal matter that arises from a principal plank of your case. The Borough Plan and the UDP apply a number of designations to the site, identifying it as being within Metropolitan Open Land and the Hampstead & Highgate Ridge Area of Special Character and comprising Private Open Space. As I understand the argument that you advanced at the inquiry, you believe that these designations should not prejudice the development of the site for residential purposes because they postdate the existing residential use of the site. Moreover, you suggest that the Council has failed to consult local residents such as your clients about the designations proposed in the UDP.

10. In my view your approach stems from a misunderstanding of the planning process. Designations within development plans do not alter current uses on a site but set out the policies which will be applied when applications for planning permission are made. Accordingly, your clients are able to continue any lawful use of the site. In that regard I share the Council's view that the evidence of the history of the site would appear to indicate that the lawful use is probably as winter quarters, as described in Circular 22/91 on travelling showpeople. This is a "sui generis" use which does not fall within any particular Use Class defined in the Town and Country Planning (Use Classes) Order 1987.

11. I do not accept that the Council has failed to carry out its duty to undertake public consultation on the UDP. The statutory procedures all appear to have undertaken, and there is no requirement for the Council to consult individual landowners as you seem to believe.

12. You expressed particular concern about the comment about the site in Appendix PR2 of the UDP, which identifies individual private open spaces. This states that the "site should not be used for residential purposes or used for the storage of trucks, lorries, caravans or trailers or used for commercial purposes other than three bank holidays each year when it may be used as a small scale fairground. Part of site MOL1". While I understand your concern, it is clear from the evidence given by the Council that no reliance is placed on this comment, which does not form part of policy C7. Moreover, the Council indicated that the desirability of retaining the comment will be carefully considered before the eventual adoption of the UDP. Accordingly, I do not regard the comment as being relevant to my determination of the appeal.

13. From my consideration of the matters raised at the inquiry, it is my opinion that the principal issues in this case are:

(a) whether the proposal would conflict with the designation of the site as Metropolitan Open Land and Private Open Space.

(b) the impact of the scheme on the Area of Special Character and the Hampstead Village Conservation Area.

(c) whether the proposal would result in the overdevelopment of the site.

- (d) whether the proposal would have an acceptable housing mix.
- (e) whether the proposal would prejudice the free flow of traffic.
- (f) whether the site is unsuitable for development for geological reasons.

14. With regard to the first issue, the designation of the site as Metropolitan Open Land goes back to the Greater London Development Plan, while the designation as Private Open Space is even older as the site is so indicated in the London County Council Initial Development Plan of 1962. Government Guidance makes clear that within Metropolitan Open Land there is the same presumption against development that applies in the Green Belt. Residential development is not within the list of appropriate uses given in guidance, and accordingly the proposal fundamentally conflicts with Metropolitan Open Land policy. The limited residential use of the site by the present occupiers does not in my opinion provide the very special circumstances needed to justify the redevelopment of the site as an exception to the policy, as you seem to suggest. Moreover, in my view the somewhat untidy appearance of the site does not preclude its valuable role as part of Metropolitan Open Land.

15. Similarly, the purpose of the designation of areas as Private Open Space is to protect the character of sites for which there is no public access, but whose open nature provides a public benefit. The occasional use of the site as a fairground accords with both Metropolitan Open Land policy and the Private Open Space designation. Moreover, I share the Council's view that the existing low intensity of its current use enables the site to provide a soft edge to the Heath and a transition to the built form of the dwellings in the Vale of Health. However, the erection of more substantial structures on the site, as you propose, would clearly not accord with the objectives of planning policies on this matter as it would inevitably alter its present open character. The scheme goes far beyond the ancillary type of development which might be acceptable.

16. Turning to the second issue, the Council considers that the development of this effectively open site would harm the setting and character of this part of the Conservation Area and adversely affect the Area of Special Character, whose principal feature is of course the Heath. Particular concern is expressed about the four-storey height of the proposed building, its proximity to public footpaths around the site, and the uncertainty about the use of the ground floor. A number of detailed criticisms are made of the proposed elevational treatment of the building. The Council is supported in this view by local residents and amenity societies.

17. I share these concerns. As the appeal site is currently undeveloped, in the sense of having no significant buildings upon it, the eastern edge of the Vale of Health is effectively set by Spencer House, East View and the flank wall of The Gables. In my view development beyond this line would inevitably intrude into a variety of views both into and out of the Vale of Health. It would thereby harm the setting of the Conservation Area and the character of this part of the Heath, whose protection is a major objective of the Borough Plan and the UDP. The substantial height and bulk of the proposal would increase that harm. While some of these views are partially restricted by topography and planting within the Heath, as you suggest, the impact of the building would nevertheless remain.

18. Moreover, the general character of the Vale of Health is one of dwellings on relatively narrow plots, usually two or three storeys in height. Accordingly, a four-storey block of flats

occupying a single large site would appear out of place. While I have noted the substantial bulk of Spencer House, that is widely agreed not to be an example of the type of sensitive development which could reasonably be expected on a site as significant as this. In addition, the proposed elevational treatment of the building would not in my view be sympathetic to the predominantly Victorian character of the Vale of the Health. Therefore, in my opinion the proposal would have an unacceptable impact on both the Conservation Area and the Area of Special Character.

19. Moving to the third issue, the Borough Plan sets a density standard of 70-100 habitable rooms per acre (hra), but this is reduced in the UDP to 40-70 hra. The calculations made at the inquiry after you had clarified the area of the site to become public open space suggest that the proposal would be above this figure (the Council gives a figure of 84.2 hra and you believe that it would be 89 hra). However, in both the Borough Plan and the UDP higher density figures are regarded as being acceptable for sites close to public open space (policies HG23 and HG13 of the Borough Plan and UDP respectively). This is clearly such a site, because of the close proximity of the Heath. Therefore, I do not regard the density of the scheme as unreasonable.

20. As regards the fourth issue, Borough Plan policies HG30-32 and UDP policy HG20 seek to provide family-sized accommodation in all new housing developments. UDP policy HG20 encourages such schemes to comprise at least 50% of units that are suitable for families or larger households, ie. having four bedspaces in three or more bedrooms. In the present case the Council suggests that at least one-third of the units should be of this size. As only three of the 16 flats in the present proposal would have three bedrooms, the development would not accord with current planning policies on this issue. Nevertheless, as it would appear to be a relatively easy matter to adjust the housing mix, this does not seem to be as significant an objection to the scheme as other matters raised by the Council.

21. In considering the question of parking, I have noted that the Council accepts that the scheme as submitted would provide sufficient parking spaces to meet its standards but raises concern about the layout of the proposed basement parking area. The deletion of this element of the scheme, as you now propose, should deal with this matter, and it would appear to be possible to provide an appropriate number of parking spaces at ground level under the building. My major concern on this issue is that the application does not make clear how much of the site will be taken up by vehicle circulation, and the impact of this provision on the open space left for the use of occupants of the scheme. However, this could be the subject of a planning condition.

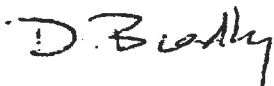
22. Local residents drew my attention at the inquiry to the extent of on-street parking on the narrow streets of the Vale of Health and the resulting difficulties experienced by motorists. However, I am not persuaded that your proposal would exacerbate these problems, since it would seem to be possible to make provision for parking within the site for the vehicles associated with the development. The period of construction of any building would inevitably generate some additional activity, but this would be balanced by the loss of traffic associated with the movement of the large vehicles currently used by your clients to carry fairground equipment to and from the site. Moreover, conditions could be imposed on the hours of construction work, the times of deliveries of building materials and the storage of such materials within the site to protect the amenity of local residents in this period. Therefore, I do not regard this as a determining issue in the appeal.

23. Turning to the final issue, Planning Policy Guidance Note 14 makes clear that the stability of the ground in so far as it affects land use is a material consideration which should be taken into account when deciding a planning application, and that it is not the responsibility of the local authority to investigate the ground conditions of any particular development site unless it proposes to develop it. In the present case substantial evidence was given by local residents to suggest that the site is in an area with unstable geological/subsoil conditions, and that it is also crossed by a watercourse, and is therefore unsuitable for development. Although I have noted the absence of problems of stability resulting from the present use of the site, the construction of a substantial building must raise additional considerations. Accordingly this must be a further concern about the proposal.

24. Therefore, to summarise, I consider that the scheme would conflict with the policies of the development plan and the emerging UDP which are designed to protect Metropolitan Open Land, Private Open Space, the Conservation Area and the Area of Special Character. Moreover, I am also concerned at the desirability of developing a site with a significant likelihood of geological problems. Accordingly, while I believe that the issues of housing mix, density and car parking can be resolved, I have concluded that the appeal should not be allowed. I have taken into account all the other matters raised at the inquiry and in the representations, including your clients' long history on the site and their offer to donate land for use as public open space. I have also noted the correspondence since the inquiry about the ownership of this land. However, these matters do not outweigh the considerations that have led to my decision

25. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal, and refuse planning permission for the development described in paragraph 1.

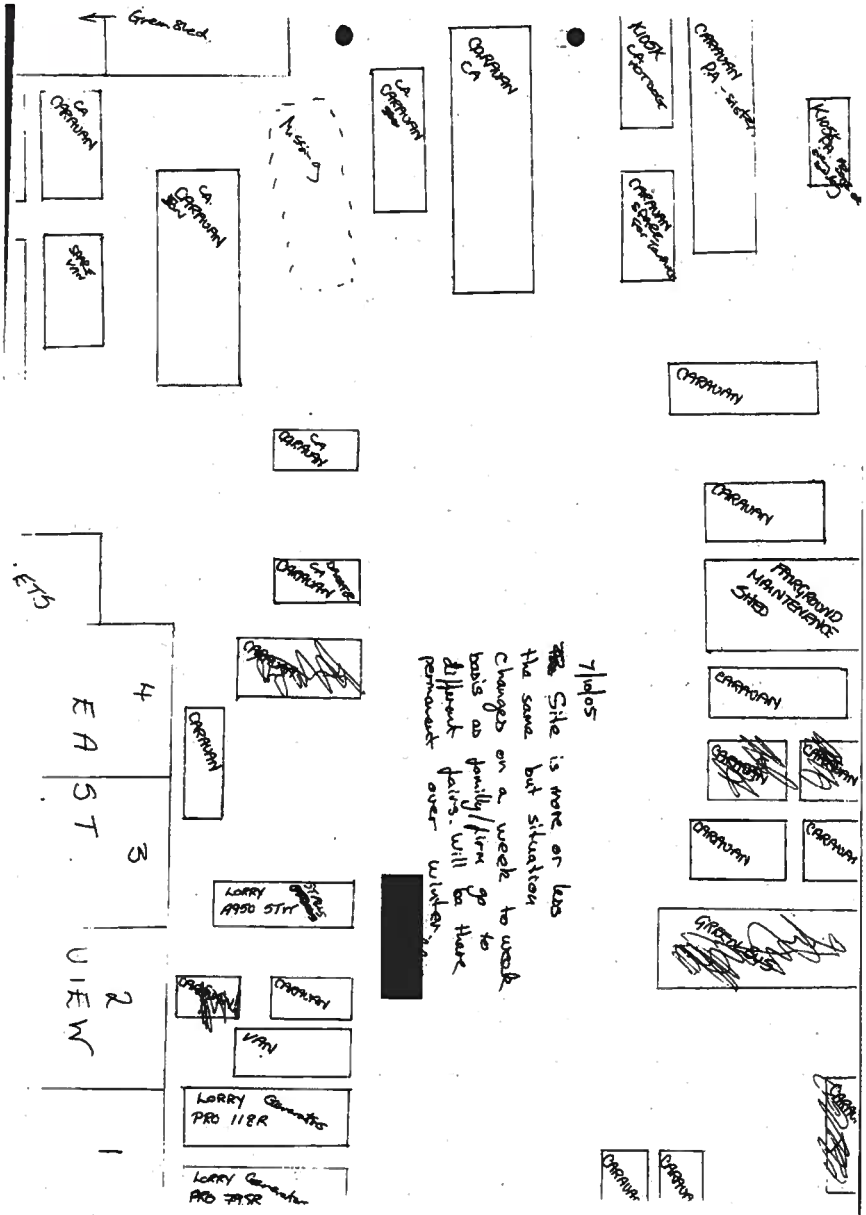
Yours faithfully



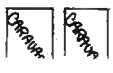
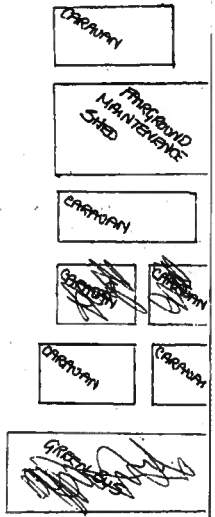
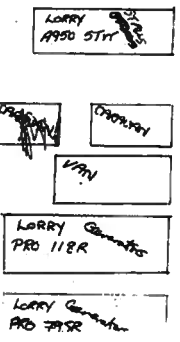
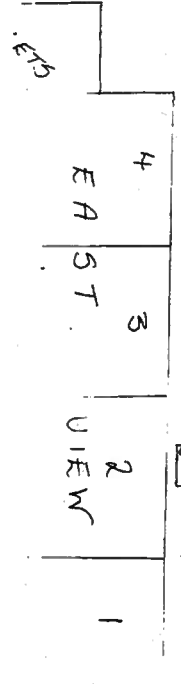
DENNIS BRADLEY BSc (Econ) DipTP MRTPI
Inspector

APPENDIX 6

Enforcement landuse survey plan and list of residents 7.10.05; subsequent coloured survey plan and typed up list of residents 2005



7/10/05
 Site is more or less the same but situation changes on a week to week basis as family/firm go to different parts. Will be there permanent over winter.



SITE RESIDENTS PAVING

① HENRIK CLARK - MECHANIC.

② ~~HEDALE GARDNER~~
SEASIDEVIEW

~~SPORTS INJURIES~~
THERAPIST.

③ ~~DEAN McRAG~~
SEASIDEVIEW.

~~GARDNER~~

④ ~~ROBBIE~~
SEASIDEVIEW.

~~CARPENTER~~ DANCER

⑤ ~~PETER JENSEN~~
SEASIDEVIEW.

MUSICIAN / REPAIRS
SEEKING PAID WORK

⑥ ~~BB~~

~~MEMBER~~

⑦ ~~TIM~~
SEASIDEVIEW

~~MEMBER~~

7/10/05.

Only Henrik Clark and James McGuigan are left ^{similar numbers} ~~out~~ of new residents have taken their place but will only be there for a few days as site is used as a staging post/amusement park. Land has been in family and used as staging post/amusement park since 19 ~~19~~ will and land registry document copies to support this.

SITE: RESIDENTS HB

- ① ~~SIMON MILLER (POK) MUSICIAN / GARTH CIRCUS~~
~~5 EASTVIEW~~
- ② ~~NICK HOLDEN SINGER / ARTIST / PERFORMER~~
~~5 EASTVIEW~~
- ③ ~~DOMINIC SCHNITZ ARTIST / PRODUCER~~
~~5 EASTVIEW~~
- ④ ~~ANNE WIGGLESWORTH SEEKING WORK~~
~~5 EASTVIEW CIRCUS PERFORMANCE ARTIST~~
- ⑤ ~~JAMES MCGUIGAN GATEKEEPER -~~
~~5 EASTVIEW GARTH CIRCUS / ARTIST~~
- ⑥ ~~D WILSON - COOP ARTIST / MUSICIAN~~
~~5 EASTVIEW~~
- ⑦ ~~ADRIAN MONTES PROMOTER -~~
~~5 EASTVIEW LOOKING FOR WORK~~
- ⑧ ~~DIANA WEST HEALTH THERAPIST~~
~~5 EASTVIEW SEEKING WORK~~

2005



NORTH FAIRGROUND SITE

SURVEY OCT 2005

(UPDATED FROM APR 2004)

- ABBOTT CARAVANS
- STORES/EQUIPMENT etc.
- OTHER RESIDENTS

ALL CARAVANS UNLESS OTHERWISE STATED

CA = CHARLIE ABBOTT

PA = PAULINE ABBOTT (SISTER)

RESIDENTS/CARAVANS MOVED OFF BY OCT 2005.

Caravan Residents on north fairground site

Planning Contravention Notice 2004

Response by Mr Charles Abbott - 5th August 2004, updated Oct 2005

Site residents paying Mr Abbott, through housing benefit-

1. Simon Miller, (pok) musician/Earth Circus
2. Nick Holden, singer/artist/performer
3. Dominic Schnell, artist/producer
4. Anne Wigglesworth, seeking work/circus performer
5. James McGuigan, gatekeeper/Earth Circus/artist - *remains in 2005 survey*
6. D. Wilson-Coop, artist/musician
7. Adrian Montes, promoter- looking for work
8. Diane West, health therapist- seeking work.

Site residents paying and staying on site and paying themselves-

9. Henrik Clark, mechanic - *remains in 2005 survey*
10. Heather Gardiner, sports injuries therapist
11. Dean McKay, gardener
12. Robbie, carpenter/dancer
13. Peter Jensen, musician/repairs- seeking paid work
14. Ed, welder
15. Tim, gardener

Numbers of caravans on plan in 2004 = 8 Abbotts, 9 unknown.

List of residents in PCN = 4 circus performers, 4 artist/musician/dancer; 1 mechanic; 6 others who seem unrelated to fairs

APPENDIX 7

Council officers' delegated report on enforcement case ref EN04/0265



Enforcement Delegated Report

Receipt Date:

16/03/2004

Officer

John Nicholls

Enforcement Case Number(s)

EN04/0265

Argyle Street
London WC1H 8ND

Breach Address

Fairground Site
Vale Of Health
London
NW3 1AU

Photo & Other Material

Fax 020 7974 1975
env.devcon@camden.gov.uk
www.camden.gov.uk/planning

Area Team Signature

Date

26/10/05

Alleged Breach

Intensification of use of site, including more caravans.

Recommendation(s):

No breach

OFFICERS' REPORT

1.0 SITE

1.1 The site is located to the north side of Byron Villas, adjacent to East View Cottages. The site faces directly onto a wooded part of Hampstead Heath.

2.0 ALLEGED BREACH

2.1 Intensification of use of site, including more caravans.

3.0 RELEVANT PLANNING HISTORY

3.1 At a site visit undertaken on 16th April 2004, photos were taken. There are approximately x15 caravans, 5-6 cars, x3 larger vans/small lorries, x1 double decker bus, and several pieces of fairground equipment including kiosks and one ride.

From Charles' letter, the travelling people seem to have a right to use the site for the storage of caravans and mobile homes for show people and their families and fairground equipment during winter months. However, from the complainants letter dated 7th November 2003, that the site is being rented to the people on it on a month to month basis.

If we were to serve PCN's etc, who do you serve them on, individual caravans? That may have gone within 21 days of the required paperwork being returned??

3.2 A PCN was served on 13h July 2004, with Mr Abbot coming into the office on 5th August 2004 to dictate his replies to me. He brought in a hand drawn plan of the



Director
Peter Bishop

vehicles on site, marking which were there on a permanent basis and which were regular movers to fairs around the UK. He also marked on the plan those vans which belonged to his family and which were lived in by other people who either work on the fair, or have links with his family or the fair in general, be it acrobats, or actors.

- 3.3 He also gave a list of those people living on the site at that time, and names of the owners.
- 3.4 Eventually, I managed to type these notes up and send him a copy, asking him to make any amendments and sign the document so as to show he agreed and was happy with the answers. I also asked that he make any amendments to the caravan plan, and to the list of people staying on the site now if they had changed since August 2004. This was in October 2005.
- 3.5 Mr Abbott came into the office with his alterations, but I was on leave and Gary took the information from him. He has removed all but Henrik Clark from the list of people staying from Aug 2004, on the paying list and removed all but James Mcguigan from those on the paying by Housing Benefits list. He says that similar numbers of new residents have replaced those on the list, but many staying for short periods of time and not over longer periods.
- 3.6 Mr Abbott also handed over a copy of a will of one of his ancestors, Frederick McGrath otherwise known as Frederick Gray dated 6th Feb 1935, with probate dated May 1941. One of the clauses of the will leaves the land in front of East View to his Trustees, to have use of and enjoyment for his wife and sons Alfred and Frederick, and their children.

4.0 ASSESSMENT

- 4.1 There has been an intensification of use on the site when comparing the aerial photos on Magic between 1999 and 2002. There appears to be more vans on the site, but this could be dependant on the time of year they were taken.
- During the summer months several members of Mr Abbotts family are away at fairs, usually during the three main traditional festivals of Whitsun, May and August Bank Holidays. This would account for a lack of vans on site during these periods. There are other fairs that are attended during the summer, and therefore these vans are on the road for much of this period of time.
- 4.3 Not all of the people who live on site are travelling show people, nor are they members of the Showmans Guild of Great Britain as mentioned in Circular 22/91 on travelling showpeople. This is a specific requirement. Those that are, include Mr Charles Abbott and his sons, daughters and their families. Mr Abbott was a licensed safety officer with the Guild and could carry out Code of Conduct safety checks on rides all over the country, and could be asked to investigate accidents on rides. He doesn't do this now, but does get the odd call to ask for his presence somewhere. He makes sure that no breaches of the code of conduct occur on his site.
- 4.4 There are 32 vehicles shown on the plan, either caravans that move, that are fixed, trucks, kiosks, sheds. Some of these are now very old, and unused, but are

salvaged for parts for working equipment. Occasionally, when fairs are on Hampstead Heath he will accommodate vans etc from people he knows for a long weekend, and they pay him rent to stay there during that time, or they exchange services or goods rather than cash.

4.5 The site seems to have been used as a travelling showpeoples site since the mid 19th Century, however, the will provided shows that even in 1935 the site was used as such, with items being bequathed in the will such as a set of dodgems, a scenic railway, and traction engines. Mr abbott says that this will has been in the family possession since then, although how the names relate to the current surname of Abbott I don't know, but more importantly the point is that the use has not changed since at least 1935 prior to the existence of any planning legislation.

4.6 He says that [REDACTED] and [REDACTED] are the joint owners of the site.

5.0 RECOMMENDATION

5.1 There does not seem to be a breach of planning control. Intend to close the case. Also propose to re-visit the site in order to re-photograph the vans etc on site, and see if there can be a clean up of parts adjacent to the properties in East View not owned by Charles Abbott and lived in by people related to the site.

APPENDIX 8

Council officer's letter to Abbotts dated 7.3.06



**Development Control
Planning Services**
London Borough of Camden
Town Hall
Argyle Street
London WC1H 8ND
Tel 020 7278 4444
Fax 020 7974 1975
env.devoan@camden.gov.uk
www.camden.gov.uk/planning

Mr Abbott
Vale Amusements North
Northern Fairground Park
Vale of Health
London
NW3 1AT

Date: 7th March 2006
Our Ref: EN04/0265
Enquiries to: John Nicholls
Telephone No: 020 7974 2843

Dear Mr Abbott,

**Town and Country Planning Act 1990
North Fairground Site, Vale of Health, Hampstead, London, NW3**

I refer to the enforcement file opened with regard to the allegation over the unauthorised use of the above mentioned site.

Following the site visit conducted on 28th February 2006 with Ian Dixon from Environmental Health, I am satisfied that the site is being used as it was intended, a Travelling Show people's site as defined in Central Government Circular 22/91. Therefore, as there does not seem to be a breach of planning control, I intend to close my enforcement file accordingly.

Thank you for your assistance with this matter.

Yours sincerely,

John Nicholls
Planning Enforcement Officer, Appeals and Enforcement Team
Culture and Environment Directorate

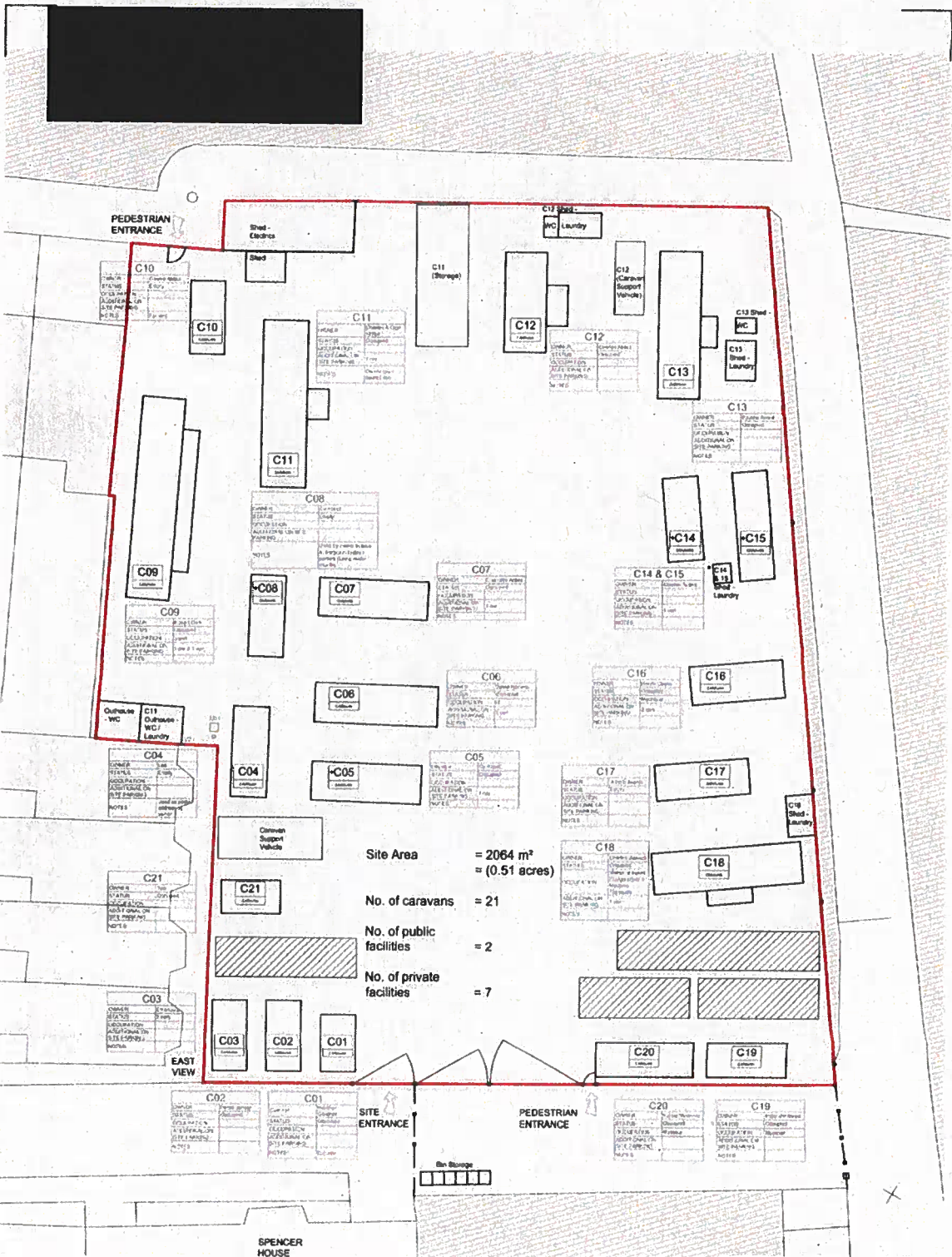
CC – Ian Dixon, Environmental Health, London Borough of Camden



Director
Peter Bishop

APPENDIX 9

Applicant's landuse survey plan 2011; Council's coloured landuse survey plan and typed up list of residents March 2011

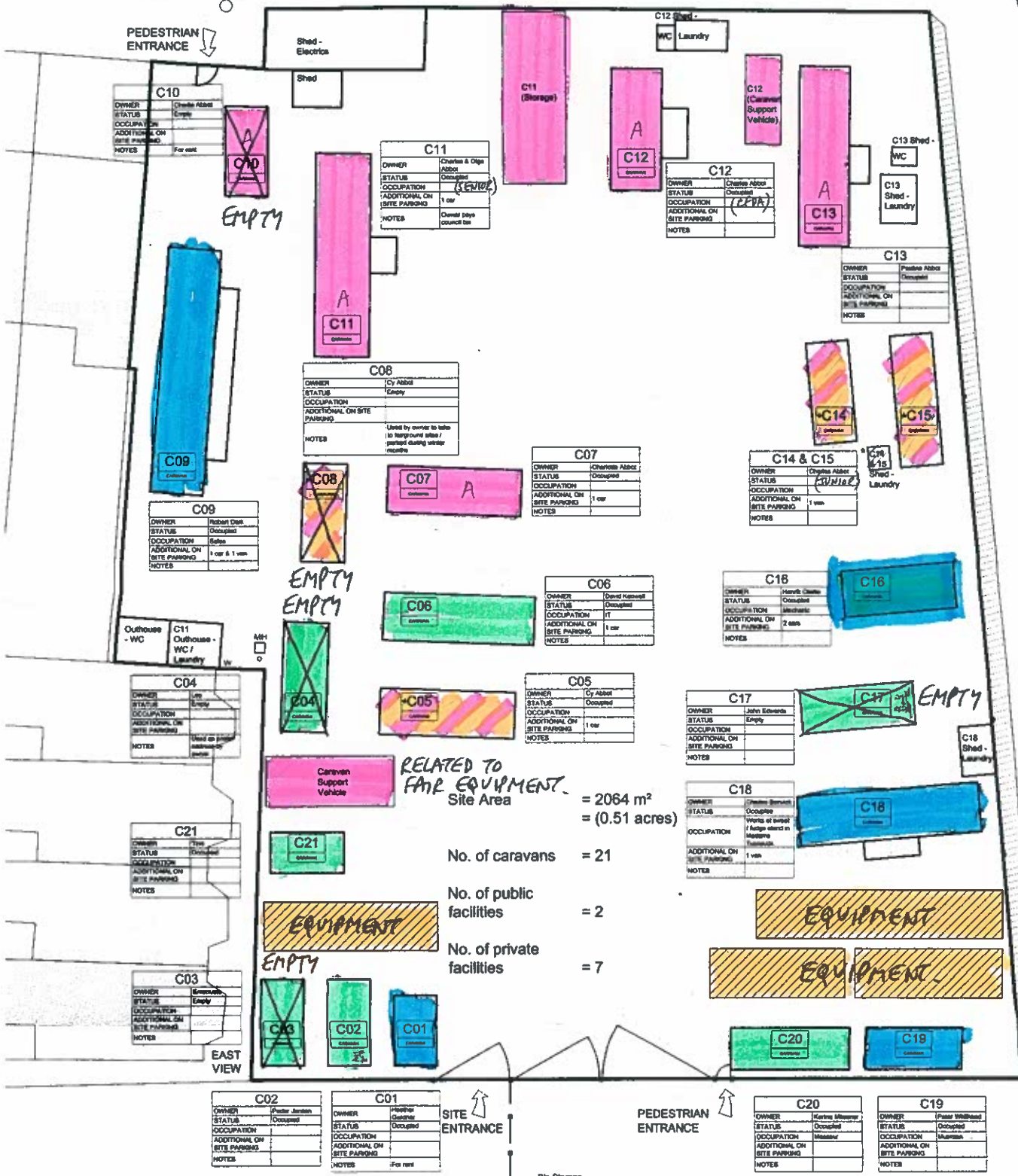
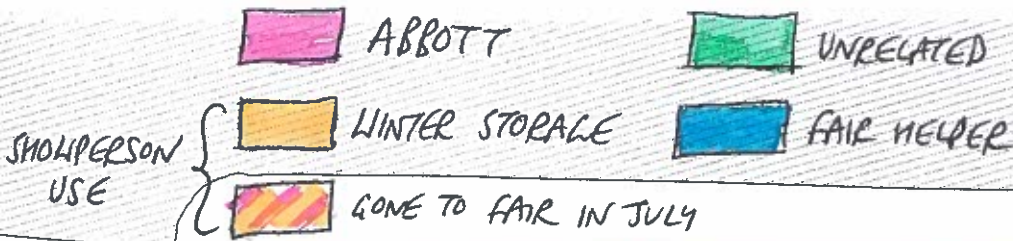


Site Area = 2064 m²
 = (0.51 acres)
 No. of caravans = 21
 No. of public facilities = 2
 No. of private facilities = 7

Notes:
 Caravans and sheds marked with * are based at the site during the winter months only.
 Facilities include wc's and laundry.

Key:
 Winter Equipment Storage (Nov. - Mar.)

PLANNING			
VALE OF HEALTH			
Site Plan			
1:200 @ A3	001-01		
FEB. 2013	704		



RELATED TO FAIR EQUIPMENT Site Area = 2064 m² = (0.51 acres)

No. of caravans = 21

No. of public facilities = 2

No. of private facilities = 7

(BASED ON SURVEY IN JULY 2010 + SUBSEQUENT INFORMATION)



Notes: Caravans and sheds marked with * are based at the site during the winter months only. Facilities include wc's and laundry.

Key: Winter Equipment Storage (Nov. - Mar.)

NORTH FAIRGROUND SITE

PLANNING

DO NOT SCALE FROM THIS DRAWING - Verify all dimensions on site

VALE OF HEALTH

Site Plan

1:200 @ A3

FEB. 2010

001-01

REVISED MARCH 2011

Caravan Residents on north fairground site

Survey plan information March 2011

from plan of agents Feb 2010, later updated, and from interview with Charlie Abbott July 2010

key: number of caravan. Name- occupation

A= Abbott showperson or dependant, U= unrelated resident, *empty*= vacant caravan

C01. Heather Gardner- helps out at fairs

C02. Pedar Jensen- ?(unemployed) U

C03. Emanuela- ? U *empty*

C04. Leo- film company U *empty*

C05. Cy A- away at fair

C06. David Kadwell- IT U

C07. Charlotte A- carer

C08. Cy A- away at fair

C09. Robert Dark- sales at fairs and markets

C10. Charlie A- empty

C11. Charles senior and Olga A- retired

C11a. ditto- storage

C12. Charlie A- retired

C12a. ditto- storage

C13. Pauline A- retired

C14. Charles junior A- away at fair

C15. Charles junior A- away at fair

C16. Henrik Clarke- mechanic (maintains fair equipment)

C17. John Edwards- works at London Zoo fairground and fetes U *empty*

C18. Charles Barwick- sweet stall at fairs and Madame Tussauds

C19. Peter Whitehead- musician, helps out at fairs

C20. Karina Mesener- masseur, helps out when needed U

C21. Timi- ? U

+ Unnumbered Abbott caravan support vehicle

Numbers of caravans = 9 Abbotts (4 active), 3 storage/support for Abbotts, 5 fair helpers (with Abbotts), 7 unrelated/unknown

APPENDIX 10

Council officer notes on CLEUD application 8.12.11

Vale of Health North Fairground site

Certificate of Lawfulness application for residential caravan site- 2010/2845/P

History and evidence

Fairground site since before war, declined in use since and more recently since 1980's. Currently no fairs on site and only 2 fulltime showmen living there. Charlie Abbott (CA) (now deceased, one of 3 joint applicants) lived and ran it as a showpersons'/ caravan site from 1980 to 2011, with no restrictions on who actually lived there.

1997- public inquiry on residential redevelopment application by Abbott - Lawful use designated as 'showpersons site' as defined by Circular 22/91 (since replaced by Circular 04/07) with CA stating that it was used for mixed residential/storage and 'winter quarters'. Such sites are Sui Generis with mix of winter caravan and equipment storage, summer fairground use and some older members, dependents and children living there all year. Inspector agrees it is used as winter quarters.

Application submitted May 2010. Need evidence of usage since May 2000.

Meetings held with agents on 22.10.10, 7.3.11, 17.6.11.

Revised plans and additional declarations produced on 3/11- only 2 active showpeople live there and store fairground equipment; rest are permanent residents, either retired members of family or people unconnected to fairs.

Site visit interview with CA and son- discovered some discrepancies in his evidence which is not entirely reliable; he was not aware that he had seen or signed an affidavit in his name; had fair at Easter each year except in 2011; they considered it to be a primarily showpersons' site with other residents living there who either were employed at fairs or who had other jobs but also helped out at fairs; it is not just a residential caravan site.

Local evidence following consultation –

28 objections, petition of 16 signatures, 3 stat declarations
objections from City Corporation, Heath & Hamp Society, Vale of Health Soc.
Concern at longterm future use of site on MOL if Cert granted which may result in permanent dwellings or intensified caravan park.

2002- significant part of site used as fairground until then.

2003- intensification in use with spaces rented out to travellers and other caravan owners which prompted complaints; enforcement investigation (see below) where CA assured everyone that they were family members or fairground workers;

2005- unrelated residents moved out but others moved in, generally less caravans than before

More mixed use over years with more equipment in winter months.

Some stalls still here until 2010; repairs in 2009/10.

Photos of equipment stored here from 2000 to 2010;
equipment moved out in July 2010 at Barbara Coggar's (2nd applicant) request
day before my site visit!

Only 3-4 caravans permanently occupied over 10 years.

Planning Aid for London in advising CA concludes that, although diminished
since heyday in 1980's, it is still active showman's quarters and little evidence to
support claim as residential site for last 10 years.

Enforcement investigation started in 2003 after res complaints about new age
travellers moving in caravans, temporary as most moved out in 2005, site visit
shows many vehicles being used as wintering quarters by showpeople and many
lorries etc due to being offseason.

Case closed in 2006, conclusion that it was showpersons' site with fluctuating
numbers of travelling showpeople or related to fairgrounds or part-time workers
(eg. mechanic). No breach in planning control.

UDP Inquiry- Inspector comment, in relation to objection to site being designated
as MOL, that lawful use was showpersons' winter quarters and retained open
character.

Note that new LDF policy CS12 specifies site as only showpeoples' site in
borough and seeks to protect it.

Surveys- only clear evidence available is from plans with plots and names given-
Oct 2005 following enf case, Jul 2010 for site visit.

Oct 2005- 6 Abbott caravans, 11 others

Plus- 2 kiosks, 2 lorry generators, 3 lorries, 1 maintenance shed

Jul 2010- 21 caravans; 16 occupied (10 since 2000), 5 empty, 4 gone to fair:

9 Abbotts- 4 for showpeople (2 grandsons), 5 for retired 5 dependents (1 empty),
5 fairworkers/stallholders/helpers (3 since 2000),

7 unrelated/unknown (3 empty)

Plus- 4 areas of equipment storage plus smaller ones, 1 lorry workshop-

equipment includes funhouse, kiddy ride, shooting gallery, lorry and stall.

Ratio of uses (see coloured site plan):

16 residents (before CA death): 7 showpeople or related to them; 5 people work
in fairs or help out; 4 have other jobs; plus 5 empty caravans.

30 mobile items (on plan) used by: 7 retired dependent Abbotts; 4 active
showpeople, 5 fairground equipment/stores (9) = 16;

5 fairworkers/helpers; 4 unrelated people, 3 unrelated empty caravans (7) = 12.

Conclusion – balance of probability test as to how it has been used over last 10
years. How do we measure use - by nos of residents? nos of caravans or units?

area occupied by showpeople/storage? It can be either a mixed use of (a) showpersons' site with numerous dependents and some fair workers (total 12) and (b) of other unrelated residents or empty uses (total 7); or a predominantly residential caravan site with ancillary showpersons' site as winter quarters and storage.
I favour the former mix of uses which is not a residential caravan site.

CT 8.12.11

APPENDIX 11

Emails to and from agents for CLEUD application dated 20.1.12 and 22.2.12

Thuair, Charles

From: Thuair, Charles
Sent: 20 January 2012 19:51
To: 'Ian.Trehearne@blplaw.com'
Cc: Watson, Ed; Minty, Stuart; Bartlett, William
Subject: fairground site
Attachments: img-120193040-0001.pdf

Ian- please find attached my coloured-up site plan which shows the various uses of caravans and storage areas.

In my opinion, this quite graphically shows a clear mix of uses and occupancies (pl note that C16 should be in blue- my error in colouring!).

Based on this map and the evidence I have regarding nos of residents and nos of caravans or units, I calculate the following (all before Charlie Abbott's death):

16 residents: 7 showpeople or related to them; 5 people work in fairs or help out; 4 have other jobs; plus 5 empty caravans.

30 mobile items used by: 7 retired dependent Abbotts; 4 active showpeople, 5 fairground equipment/stores (9) = 16;
5 fairworkers/helpers; 4 unrelated people, 3 unrelated empty caravans (7) = 12.

In discussions with colleagues, I conclude that it is most probably a mixed use of (a) showpersons' site with numerous dependents and some fair workers (total 12) and (b) of other unrelated residents or empty uses (total 7), rather than a predominantly residential caravan site with ancillary showpersons' site as winter quarters and storage. On that basis, I will be recommending that the certificate application be refused.

I hope this helps. As agreed at your meeting with Ed Watson, I look forward to hearing from you in due course your deliberations as to whether you wish to withdraw the application in the light of this advice or whether you wish us to proceed with a determination.

Thankyou

Charles Thuair
Senior Planning Officer
Regeneration and Planning
Culture and Environment
London Borough of Camden

Telephone: 020 7974 5867
Fax: 020 7974 1680
Web: camden.gov.uk

Town Hall Extension
Argyle Street
London WC1H 8ND

Please consider the environment before printing this email.

ABBOTT UNRELATED
 WINTER STORAGE FAIR HELPER
 GONE TO FAIR IN JULY

SHOWPERSON USE



Notes:
 Caravans and sheds marked with * are based at the site during the winter months only.
 Facilities include wc's and laundry.

(BASED ON SURVEY IN JULY 2010 + SUBSEQUENT INFORMATION)

Key: Winter Equipment Storage (Nov. - Mar.)

NORTH FAIRGROUND SITE

PLANNING

DO NOT SCALE FROM THIS DRAWING - Verify all dimensions on site

VALE OF HEALTH
 Site Plan
 1:200 @ A3
 FEB. 2010

001-01	REVISED MARCH 2011
--------	--------------------

2010/2845/P



Berwin Leighton Paisner LLP
Adelphi House
London Bridge
London EC4R 9HA
Tel: +44 (0)20 3400 1000
Fax: +44 (0)20 3400 1111
DX92 London
www.blplaw.com

Date: 22 February 2012
Our ref:
Your ref:
DOI:
e-mail:

Charles Thuairé
Regeneration and Planning
Culture and Environment
London Borough of Camden
Town Hall Extension
Argyle Street
London WC1N 8ND

Dear Charles

Vale of Health Fairground

Dear Charles

I am writing following your earlier email.

Having now read the documents that you have sent us we have no difficulty in seeing why Camden has found it so difficult to take what seemed to us the simple step of granting the certificate. We recognize that our biggest problem is that the Abbott family seems to have provided evidence both for and against the proposition of lawfulness, resulting in an evidential trail which is hopelessly confused and which, because some at least of the evidence seems to come from our principal deponent, questions the credibility of our core submissions.

But there is no doubt that much of the evidence you received is itself contradictory, and tainted by over-eagerness to make the case and assertion after the event. For example the satellite photos drawn from the internet may conflict with the assertion that the site was used as a funfair in 2002. And of course in other cases we haven't been given the photos that form part of the evidence so it is difficult to follow it precisely.

I certainly think that the general picture of the run-down of the fair on the site over time is demonstrated.

Moreover if your annotated site plans are amended so that the categories are adjusted to include as fairground-related only those people and areas who are definitely involved in storing and operating equipment, and if all residential caravans are allocated to that use even if they are occupied by people who previously worked in fairs, the graphical position is significantly changed and the shrinking fairground connection is starkly illustrated.

I don't think we have any option but to withdraw the application. Camden does not have the basis to decide it in our favour, and we don't have any further evidence to offer which can make sense in detail of what has emerged. Please therefore accept this letter as a formal withdrawal of the Application for a Certificate of Lawfulness.

However as discussed most recently with Ed Watson, there is clearly something of an opportunity for trying to sort something out as the land itself is such a mess at the moment. This would probably only be possible on the basis of the new Localism Act provisions if there could be a Neighbourhood

Berwin Leighton Paisner LLP ("BLP") is a limited liability partnership registered in England and Wales (registered number OC315915) and is authorized and regulated by the Solicitors Regulation Authority. A list of members of BLP and of the non-members who are designated as partners is open to inspection at the above registered office. The term partner is used to refer to a member of BLP or an employee or consultant of BLP or an entity in the BLP group who is a lawyer and with equivalent training and qualifications as the members of BLP. In respect of Gibraltar BLP LLP, partner is used to refer to an employee or consultant who is qualified to practise under applicable Panamanian law.

To: Charles Thuatre
Date: 22 February 2012
Page: 2

Forum formed. I think it would be separate from the Heath and Hampstead Society and based probably on the Vale of Health Society, and Camden would have to be clear that in some sense they were representative for the Vale. I am naturally not sure under the circumstances how that might unfold, but it could produce a neighbourhood plan, which of course ought not to be just for further entrenchment of anti development controls.

I am copying this to Ed as well for completeness.

With kind regards

Yours sincerely



Ian Trehearne

CC: Ed Watson

irt21400485.1

APPENDIX 12

Council's coloured landuse survey plan, typed up list of residents and site
interview notes November 2017



- 1. ROBERT PARK
- 2. CHARLES + OLGA ABBOTT
- 3. CHARLES JUNIOR A.
- 4. C4 A
- 5. JOHN HAYES + CHARLOTTE + 3 CHILDREN
- 6. JOHN EDWARDS
- 7. HENRYK ELARK
- 8. W.H. WORKERS x 4
- = SHOW PEOPLE

RESIDENTS = 4 ABBOTTS (1 FULLTIME RETIRED)
4 HAYES

1 FAIRHELPER
4 FAIRWORKERS (TEMPORARY)
9 UNRELATED

- 4 ABBOTT } SHOW PEOPLE
- 4 HAYES }
- 14 EQUIPMENT/RIDES
- 5 STORAGE FOR FAIRS + RESIDENTS.

- 1/2 FAIR HELPER + VAN
- 4 FAIR WORKER (TEMPORARY AT WINTER WONDERLAND)
- 9 UNRELATED + LANDROVER OR EMPTY

NORTH FAIRGROUND
SITE SURVEY
NOV 2017
(10-11-17)

Caravan Residents on north fairground site

Survey plan information Nov 2017

from interview with Charles junior Abbott

underlined- showperson or dependant

1. Robert Dark- U (but sometimes helps out)
2. Charles senior and Olga A
 - 2a. ditto- storage
3. Charles junior A- away at fair
4. Cy A (x 2 caravans)- away at fair
5. John and Charlotte Hayes (x 4 caravans)
6. John Edwards- fair helper
7. Henrik Clarke- U (but sometimes helps out)

Numbers of caravans = 8 Abbotts/Hayes (7 active), 1 storage for Abbotts, 1 fair helper (with Abbotts), 2 unrelated (but can help out), 7 unrelated (empty or unknown)

Notes from interview with Charles junior Abbott (typed up from my handwritten ones)

1. Robert Dark- in same caravan as 2010- unrelated but may possibly help
 2. Charles and Olga- in same caravan as 2010- retired
 3. Charles junior- empty plot but lives there Jan-Mar, elsewhere rest of year (1 or 2 caravans?)
 4. Cy- empty plot for 2 caravans, temporarily used for box trailer
 5. John Hayes and Charlotte (nee Abbott) plus 2 daughters and son- separate showpersons family
 6. John Edwards- fair helper
 7. Henryk Clarke- mechanic in Kentish Town- unrelated but sometimes helps, plus landrover towtruck
 8. 2 caravans for helpers at Winter Wonderland (Hyde Park) Nov-Jan, used by Cy as his plot at other times
2 caravans for WW helpers soon to replace current fair equipment
- 6 caravans used casually by unrelated residents through year.

Fairgrounds run now Mar to Nov. Charles and Cy Abbott live here 3 months a year (Jan to Mar), elsewhere on other sites.

Recently bought plot in Royston to store big equipment but smaller rides may move there and indeed Charles may live there in future.

C&C do not work at WW Hyde Park.

Falafel stand operated by non-resident at South End Green fair and elsewhere.

'Funhouse' fairground ride previously next to it sold 5 years ago.

CT 10.11.17

APPENDIX 13

Emails from appellant's agent dated 23.1.18 and 29.1.18

Thuair, Charles

From: Ben Eiser <ben@ejplanning.co.uk>
Sent: 29 January 2018 14:22
To: Thuair, Charles
Subject: Re: fairground site

Dear Charles

Thank you for your email and the attachment.

The attachment reflects what we all saw and discussed at our meeting and I agree is representative of the positions of the different uses/units on the site.

From the photos I have seen this plan appears to be consistent with the survey undertaken in 2010 and the intervening years.

If you need anything further from me or wish to discuss anything please let me know.

regards

Ben Eiser

ben@ejplanning.co.uk

Tel: 07772582429

EJ Planning Ltd.

Town & Country Planning Consultants

PO Box 310

Malvern

WR14 9FF

www.ejplanning.co.uk

Company Registration No. 07193214 Registered Office: Beauchamp House 402/403
Stourport Road Kidderminster Worcestershire DY11 7BG

From: "Thuair, Charles" <Charles.Thuair@camden.gov.uk>

Date: Thursday, 25 January 2018 at 16:18

To: Ben Eiser <ben@ejplanning.co.uk>

Cc: "Bakall, Gary" <Gary.Bakall@camden.gov.uk>

Subject: RE: fairground site

Ben Eiser-

Thankyou.

As promised, I attach here my survey plan based on our site visit last November 2017 which graphically demonstrates the mix of various uses, items and occupants on this site. Please note that the precise position and size of the items are not absolutely correct or to scale and that the plan is merely a basic record of what is on site now, based on what I saw and what I was told by Charlie Abbott, in order to compare with a previous similar survey I carried out in 2010.

I hope this factual evidence can be agreed between ourselves as a matter of fact. However if there are any discrepancies or queries, please let me know.

thanks

Charles Thuaire
Senior Planner

Telephone: 020 7974 5867

From: Ben Eiser [mailto:ben@ejplanning.co.uk]
Sent: 23 January 2018 10:08
To: Thuaire, Charles <Charles.Thuaire@camden.gov.uk>
Subject: Re: fairground site

Dear Mr Thuaire

I refer to the above and to our recent discussions regarding this case.

As discussed the definition of a caravan is set out below;

The definition of a caravan and caravan site contained in the Caravan Sites and Control of Development Act 1960 section 29(1) as extended by the Caravan Sites Act 1968 section 13 is given below:

Any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include (a) any railway rolling stock which is for the time being on rails forming part of a railway system, or (b) any tent; and

(1968 amendment [amended 2006]);

A structure designed or adapted for human habitation which—

(a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and

(b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer), shall not be treated as not being (or as not having been) a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.

For the purposes of Part 1 of the Caravan Sites and Control of Development Act 1960, the expression “caravan” shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely—

- 1. (a) length (exclusive of any drawbar): 65.616 feet (20 metres);*
- 2. (b) width: 22.309 feet 6.8 metres);*
- 3. (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10.006 feet (3.05 metres).*

The act does not distinguish between the different types of caravans and on the site at present there are some small touring caravans and to the rear of the site some much larger units but they all fall within the definition of a caravan.

We appear to be in agreement that the site has a mixed use and that this mixed use has been established for more than ten years. The survey of the uses we discussed at our recent meeting, you were going to send copy of the plan prepared at that meeting, appeared to me to be consistent with that taken from your notes from the previous application in 2010.

We appear to be in disagreement as to whether there would be a material change of use if some elements of the mixed use would cease, this is clearly a point of interpretation and whilst I obviously respect your interpretation I would respectfully suggest that the conclusions of the Counsel's Advice provided by the neighbouring residents is not reliable on this point as this advice appears not to accept our point of agreement that the site is within a mixed use.

I am of course happy to discuss further and clearly it would be within both of our interests to agree as many points as we can so that the issues at appeal would be minimised and if you wish to discuss further please let me know.

regards

Ben Eiser

ben@ejplanning.co.uk

Tel: 07772582429

EJ Planning Ltd.

Town & Country Planning Consultants

PO Box 310

Malvern

WR14 9FF

www.ejplanning.co.uk

Company Registration No. 07193214 Registered Office: Beauchamp House 402/403
Stourport Road Kidderminster Worcestershire DY11 7BG

This e-mail may contain information which is confidential, legally privileged and/or copyright protected. This e-mail is intended for the addressee only. If you receive this in error, please contact the sender and delete the material from your computer.

Disclaimer

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd**, an innovator in Software as a Service (SaaS) for business. Providing a **safer** and **more useful** place for your human generated data. Specializing in; Security, archiving and compliance. To find out more [Click Here](#).

APPENDIX 14

Council tax and business rates records, given in emails dated September 2018

From: Parkes, Angela
Sent: 14 September 2018 15:59
To: Thuair, Charles <Charles.Thuair@camden.gov.uk>
Subject: RE: North fairground

Good afternoon

The property reference numbers I previously gave you for caravans 3 and 4 & 5 are correct. I have checked this again.

Caravan 3 is 5176745 this the information we hold and it also matches with valuation office records see below

CARAVAN 3, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU Last update on 09/09/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5176745	A		01/02/2014	No	

Caravan 4 & 5 is 5149321.

CARAVANS 4 & 5, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU Last update on 09/09/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5149321	A		05/05/2008	No	

Caravan 2 - 5148393 no longer exist – it has been remove from rating – effective date 17.3.2017. It was occupied by David Kadwell. It was on the fairground site - address details 'Caravan 2, Fairground Site, Vale of Health'.

We do not have any further information on the deleted caravans since they have been taken out of rating, neither do we have any plans.

We hold information that Mr C F D Abbot is the owner for caravan 4 & 5 and the owner details for caravan 3 is Mr C W Abbott.

There are no vacant caravans we only have two caravans listed for Council Tax and one for business rates as previously advised.

From: Thuair, Charles
Sent: 13 September 2018 11:47
To: Parkes, Angela <Angela.Parkes@camden.gov.uk>
Cc: Bartlett, William <William.Bartlett@camden.gov.uk>
Subject: RE: North fairground
Importance: High

Angela-
Thanks very much.

Can I check that your ref nos quoted are correct as they appear to be swapped around? The original list below shows 5176745 as caravan 3 and 5159321 as caravans 4 and 5.

Also Ann's original email to us on 22.8.16 (see attached) says 'there are 3 banded caravan pitches: 2, 3, 4/5'. Does caravan 2 ref 5148393 still exist? where was it and who was it occupied by? I note it was deleted from the tax register as late as March 2017, much later than the other deletions.

Do you have any more info on the other caravans of the 8 listed below?
Eg. which ones are vacant or owned by named people? which ones are used by others such as John Hayes, John Edwards and Henryk Clark, referred to as nos 5, 6 and 7 on my 2017 survey plan (attached here)? Do you have plans showing the location of any these caravans?

We need as much info as possible to help our case at the forthcoming public inquiry about the past and current usage on this site.

thankyou

Charles Thuaire
Senior Planner

Telephone: 020 7974 5867



From: Parkes, Angela

Sent: 13 September 2018 11:12

To: Thuaire, Charles <Charles.Thuaire@camden.gov.uk>

Subject: RE: North fairground

Good morning

In response to your enquiry there are only 2 caravans listed for residential use.

5159321 - Caravan 3 is occupied by Mr Robert Dark

5176745 – Caravan 4 & 5 is occupied by Mrs Olga Abbot

We have the following listed for business rates -

00078000010008 - Showpersons site, Vale of Health – the persons liable are Mr Charles William Abbott, Mr CY Abbot, Ms Anne Woolley, Ms Barbara Carol Cogger.

The information listed on the email from Paul O'Neil regarding the 8 caravans still applies.

Angela Parkes
Council Tax Officer

Telephone: 020 7974 2748



From: Thuaire, Charles
Sent: 11 September 2018 13:31
To: O'Callaghan, Ann <Ann.O'Callaghan@camden.gov.uk>
Cc: Farnsworth, Robert <Robert.Farnsworth@Camden.gov.uk>; Bartlett, William <William.Bartlett@camden.gov.uk>
Subject: FW: North fairground
Importance: High

Hi Ann-

I understand from my colleague in the policy team, Rob Farnsworth, that you have been advising him about the status of various caravans on the North Fairground site.

We are preparing for a public inquiry next year regarding a Certificate of Lawfulness for an existing use of this site, where the issue is about what exactly is the use of the site and whether it is just a 'showpersons site', a purely residential site or a mixture of both.

Please can you provide us with more information, as requested below by the City of London, about the 8 caravans listed on the Council tax records below, in particular where the specific caravans are on the site and who occupy which ones. I would be grateful for the information as soon as possible as we need to prepare our statements by next week.

thankyou

Charles Thuaire
Senior Planner

Telephone: 020 7974 5867



From: Paul O'Neill <pauloneill@metropolispd.com>
Sent: 03 September 2018 18:26
To: McHugh, Karen <Karen.McHugh@cityoflondon.gov.uk>; Thuaire, Charles <Charles.Thuaire@camden.gov.uk>; Bartlett, William <William.Bartlett@camden.gov.uk>
Subject: RE: North fairground

Dear All

As mentioned, it would be very helpful if you could see what information is held on your system in respect of Council tax records for the site – I have attached the summary records available for public view, but it would be useful to have any supporting information that backs this up – whether that is specific caravans or locations identified, names on record – be that Abbott, Hayes, or other – and the last recorded payments.

Similarly, I have attached below the ratings records for the site which shows a rateable value confirmed as recently as 2017 – again any background information held would be useful, if available.

CARAVAN 1, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5135728	Deleted		10/04/2014	No	

CARAVAN 2, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5148393	Deleted		17/03/2017	Yes	

CARAVAN 3, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5176745	A		01/02/2014	No	

CARVAN 3, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5137449	Deleted		05/05/2008	No	

CARAVAN 5, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5142614	Deleted		01/06/2008	No	

CARAVANS 4 & 5, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5149321	A		05/05/2008	No	

CARAVAN 6, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5139839	Deleted		10/04/2014	No	

CARAVAN 7, FAIRGROUND SITE, VALE OF HEALTH, LONDON, NW3 1AU

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
5138267	Deleted		10/04/2014	No	

CARAVAN, AMUSEMENT PARK NORTH, VALE OF HEALTH, LONDON, NW3 1AT

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
00078054200011	Deleted			No	

CARAVAN, AMUSEMENT PARK NORTH, VALE OF HEALTH, LONDON, NW3 1AT

Last update on 26/08/2018

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
00078753420009	Deleted			No	

Summary valuation for

Showpersons Site, Vale Of Health, London, NW3 1AT

Current valuation

Other valuations

Description	Caravan & pitch and premises	Special category code	0485
Local authority reference	00078000010008	Effective date	1 April 2017
Transitional Relief certificate No ? issued			

The rateable value is rounded down to

£18,000

This is not the amount you will pay. The rateable value is used to calculate your rates bill.

This is the summary valuation.

If you're the owner or occupier, you can register or sign in and claim this property to:

- view the detailed valuation
- confirm your property details or tell us that something is incorrect (check)
- tell us that you disagree with the valuation (challenge)

[Register](#)

Already registered? [Sign in](#)

How the valuation was calculated

The Valuation Office Agency (VOA) puts similar properties into a group called a valuation scheme and:

- applies a range of values per m² (or unit) to the valuation scheme
- applies a base rate to individual properties in the scheme

The rateable value of this property is the sum of all the rates given to its different parts, rounded down to **£18,000**.

Kind regards

Paul O'Neill
Director

metropolis go
as
green

APPENDIX 15

London Borough of Camden Local Plan 2017 (para 3.286 of policy H11)

Accommodation for travellers

3.286

For planning purposes, the government's 'Planning policy for traveller sites' (revised August 2015) sets out definitions of travellers, gypsies and travellers, and travelling showpeople. In summary:

- 'Travellers' means 'travelling showpeople' and 'gypsies and travellers';
- 'Travelling showpeople' are members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such);
- 'Gypsies and travellers' are other persons of nomadic habit of life whatever their race or origin;
- in all cases, people are still included if they have ceased to travel temporarily, for example due to health or education needs.

3.287

There is an established community of travellers in Camden that has lived in the borough for over twenty years. The Council recognises that this community has longstanding connections with local social networks and services. The Council currently provides five travellers pitches in Camden (four at Carol Street and one at Castlehaven Road). There is also a private site providing a five plots for travelling show people (the North Fairground Site at the Vale of Health). The Council will protect these sites from change to alternative uses unless they are replaced by equivalent or improved sites, plots and/or pitches in suitable locations, or are demonstrably no longer needed. The Council will also seek to plan for the existing and future accommodation needs of Camden's established traveller community.

3.288

Providing suitable accommodation for the established traveller community will help us to deliver the Camden Plan objective of tackling inequality and creating sustainable and resilient neighbourhoods by relieving the community's overcrowding, improving travellers' health and wellbeing and improving potential for children and young people to take advantage of education and training opportunities. Providing suitable accommodation will also help us to ensure the right housing for Camden's diverse communities in line with the recommendations of the Equality Taskforce.

Policy H11 Accommodation for travellers

The Council will aim to secure a sufficient supply of pitches/ plots to meet the existing and future needs of Camden's established traveller community.

We will protect existing lawful sites, plots and pitches for travellers. The redevelopment of such sites will not be permitted unless they are replaced by equivalent or improved sites, pitches and/or plots in suitable locations, or are demonstrably no longer needed.

We will identify deliverable sites to meet or exceed Camden's projected need for seven additional pitches for the established traveller community by 2020/21 and seek to identify developable sites or broad locations to meet Camden's projected need for a further nine additional pitches by 2030/31.

APPENDIX 16

DCLG 'Planning policy for traveller sites' (revised August 2015) - extract with

Annex 1



Department for
Communities and
Local Government

Planning policy for traveller sites



© Crown copyright, 2015

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

August 2015

ISBN: 978-1-4098- 4670-3

Contents

Introduction	1
Using evidence	2
Policy A: Using evidence to plan positively and manage development	2
Plan-making	3
Policy B: Planning for traveller sites	3
Policy C: Sites in rural areas and the countryside	4
Policy D: Rural exception sites	5
Policy E: Traveller sites in Green Belt	5
Policy F: Mixed planning use traveller sites	5
Policy G: Major development projects	6
Decision-taking	6
Policy H: Determining planning applications for traveller sites	6
Policy I: Implementation	8
Annex 1: Glossary	9

Introduction

1. This document sets out the Government's planning policy for traveller¹ sites. It should be read in conjunction with the National Planning Policy Framework. Guidance on the Framework can be found at: <http://planningguidance.planningportal.gov.uk/>
2. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. This policy must be taken into account in the preparation of development plans, and is a material consideration in planning decisions.² Local planning authorities preparing plans for and taking decisions on traveller sites should also have regard to the policies in the National Planning Policy Framework so far as relevant.
3. The Government's overarching aim is to ensure 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.
4. To help achieve this, Government's aims in respect of traveller sites are:
 - a. that local planning authorities should make their own assessment of need for the purposes of planning
 - b. to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites
 - c. to encourage local planning authorities to plan for sites over a reasonable timescale
 - d. that plan-making and decision-taking should protect Green Belt from inappropriate development
 - e. to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites
 - f. that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective
 - g. for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies

¹ See Annex 1 for the definition of traveller for the purposes of this statement.

² Sections 19(2)(a) and 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990. In relation to neighbourhood plans, under section 38B and C and paragraph 8(2) of new Schedule 4B to the 2004 Act (inserted by the Localism Act 2011 section 116 and Schedules 9 and 10) the independent examiner will consider whether having regard to national policy is appropriate to make the plan.

Annex 1: Glossary

1. For the purposes of this planning policy “gypsies and travellers” means:

Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

2. In determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:
 - a) whether they previously led a nomadic habit of life
 - b) the reasons for ceasing their nomadic habit of life
 - c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

3. For the purposes of this planning policy, “travelling showpeople” means:

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

4. For the purposes of this planning policy, “travellers” means “gypsies and travellers” and “travelling showpeople” as defined above.
5. For the purposes of this planning policy, “pitch” means a pitch on a “gypsy and traveller” site and “plot” means a pitch on a “travelling showpeople” site (often called a “yard”). This terminology differentiates between residential pitches for “gypsies and travellers” and mixed-use plots for “travelling showpeople”, which may / will need to incorporate space or to be split to allow for the storage of equipment.

APPENDIX 17

DCLG Circular 04/2007 on travelling showpeople - extract with Preface and

Definition

PLANNING FOR TRAVELLING SHOWPEOPLE

CONTENTS

Preface	4
Introduction	5
Planning Process	7
– Accommodation Assessments	7
– Regional Spatial Strategy	7
– Development Plan Documents	8
– Community Involvement	9
Transitional Arrangements	10
Sites in Rural Areas and the Countryside	11
Major Development Projects	12
Applications	12
Sustainability	13
Enforcement	14
Appeals	14
Human Rights	15
Annex A – Select list of Organisations Representing travelling showpeople	16
Annex B – Other Relevant Guidance	19
Annex C – Good Practice – Criteria	20

Annex D – Guidance to Local planning authorities in Dealing with Planning Applications from travelling showpeople	21
Annex E – Guidance to travelling showpeople making Planning Applications	22
Annex F – Planning conditions and planning obligations	25

Planning for travelling showpeople's sites

PREFACE

1. Showpeople are members of a community that consists of self-employed business people who travel the country, often with their families, holding fairs. Many of these families have been taking part in this lifestyle for generations. Although their work is of a mobile nature, showpeople nevertheless require secure, permanent bases for the storage of their equipment and more particularly for residential purposes. Such bases are most occupied during the winter, when many showpeople will return there with their caravans, vehicles and fairground equipment. For this reason, these sites traditionally have been referred to as “winter quarters”, with individual pitches generally referred to by showpeople as plots. However, increasingly showpeople's quarters are occupied by some members of the family permanently. Older family members may stay on site for most of the year and there are plainly advantages in children living there all year to benefit from uninterrupted education.
2. Most showpeople are members of the Showmen's Guild of Great Britain and are required by the Guild to follow a strict code of practice regulating the use of their sites. Membership of the Guild provides showpeople with exemption from the site licensing requirements of the Caravan Sites and Control of Development Act 1960 when they are travelling for the purpose of their business, or where they only occupy quarters for some period between the beginning of October and the end of March in the following year. Travelling showpeople have the benefit of permitted development rights under Part 5 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 for certain development (when holding shows).
3. Some showpeople do not operate funfairs, but instead hold circuses. The development needs of this small sub-group are slightly different from those of other showpeople, as they are likely to require an enclosed space in which to rehearse and may also require space in which to exercise animals, such as horses. They are not likely to require space to maintain rides, meaning that these sites may be accommodated in rural areas more easily than other sites for travelling showpeople. Circus people are not likely to be members of the Showmen's Guild. Professional organisations for circus people are included in Annex A.
4. The nature of showpeople's sites is unusual in planning terms. The sites often combine residential, storage and maintenance uses. Typically a site comprises areas set aside for the showpeople's accommodation – usually caravans and mobile homes – and areas where vehicles and fairground equipment can be stored, repaired and occasionally tested. The area of land set aside for accommodation by one family unit and the area of land set aside for the storage and maintenance of their equipment would collectively form a plot. This means that the sites do not fit easily into existing land-use categories. The requirement for sites to be suitable both for accommodation and business uses is very important to the travelling showpeople's way of life as they find the principle of site-splitting unacceptable.

5. In recent years many showpeople have had to leave traditional sites which have been displaced by other forms of development. Some showpeople have had considerable difficulty in obtaining planning permission for alternative sites. This has led to overcrowding on some sites, and caused some showpeople to leave their home areas in attempts to find sites elsewhere.
6. The traditional pattern of showpeople's travelling is changing and the community has generally become more settled. For example, a reduction in the number of large scale traditional fairs has led to a diversification of showpeople's activities involving more localised travelling and the need for more permanent bases on which to live and maintain their equipment.
7. A more settled existence can prove beneficial to some travelling showpeople in terms of access to health and education services, and employment, and can contribute to greater integration within local communities. Nevertheless the ability to travel remains an inherent part of the way of life of travelling showpeople and the way in which they earn their living. Some communities of travelling showpeople live in extended family groups and often travel as such. This is a key feature of their traditional way of life that has an impact on planning for their accommodation needs.
8. The Government recognises that many travelling showpeople wish to find and buy their own sites to develop and manage. An increase in the number of approved private and local authority sites may alleviate the problems of overcrowding on sites reported by many travelling showpeople, and may also release plots on local authority sites for travelling showpeople in need of public provision.

INTRODUCTION

9. A new Circular is necessary because evidence shows that the advice set out in Circular 22/91 has failed to deliver adequate sites for travelling showpeople. Since the issue of Circular 22/91 there have been more applications for private showpeople sites, but this has not resulted in the necessary increase in provision. Although much of the material in this circular replicates that of *Planning for Gypsy and Traveller Caravan Sites Circular 01/06* and travelling showpeople's needs will be assessed under Gypsy and Traveller accommodation assessments (GTAAAs), it is the government's belief that the planning needs of travelling showpeople can be best met with a separate Circular, for the following reasons;
 - a) Travelling showpeople do not in general share the same culture or traditions as Gypsies and Travellers;
 - b) Sites for travelling showpeople are normally for mixed residential and business use, to enable the effective storage and repair of significant amounts of equipment.
 - c) The nature of travelling showpeople's business often means that equipment repairs and maintenance are necessary which can have a visual impact and can create noise in the immediate surrounding areas.
 - d) For clarity and ease and to ensure that all relevant guidance on planning for travelling showpeople is contained within one document.

10. This Circular should be seen in the context of the Government's key objective for planning for housing – to ensure that everyone has the opportunity of living in a decent home.
11. This Circular replaces Circular 22/91 in England and provides updated guidance on planning aspects for travelling showpeople and how local authorities and travelling showpeople can work together to achieve that aim. The policies in this Circular apply throughout England. Circular 22/91 still applies in Wales.
12. This Circular applies equally to the development of public sites by local authorities or registered social landlords (RSLs), to applications for planning permission from travelling showpeople themselves or from others wishing to develop land for use as a travelling showpeople's permanent site.
13. Regional Spatial Strategies (RSSs) strengthen planning at the regional level. Local Development Frameworks (LDFs) offer more flexibility to planners at the local level. Requirements for early community involvement will help to ensure plans better reflect community aspirations and can be implemented more effectively. Early consultation will enable communities and their local planning authorities to determine what the priorities for local development are. This will ensure that plans properly reflect the needs of all sectors of the community. Site-based decisions and allocations are made at this local level. The Housing Act 2004 requires local housing authorities to include travelling showpeople in their Gypsy and Traveller Accommodation Assessments (GTAAAs) and to take a strategic approach, including drawing up a strategy demonstrating how the accommodation needs of travelling showpeople will be met, as part of their wider housing strategies. The Development Plan Documents (DPDs) will identify the location of appropriate sites.
14. The Circular comes into effect immediately. Its main intentions are;
 - a) to increase the number of travelling showpeople's sites in suitable locations with planning permission in order to address current under-provision over the next 3 – 5 years, and to maintain an appropriate level of site provision through RSSs and LDFs;
 - b) to recognise, protect and facilitate the traditional way of life of travelling showpeople, creating sustainable, respectful and inclusive communities where travelling showpeople have fair access to suitable accommodation and services;
 - c) to underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
 - d) to ensure that DPDs include fair and achievable policies and to ensure that identified need is dealt with fairly and effectively;
 - e) to identify and make provision for the resultant land and accommodation requirements;
 - f) to help to avoid travelling showpeople becoming homeless through eviction from unauthorised sites without an alternative to move to.

Definition

15. For the purposes of this Circular, “travelling showpeople” means

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

17. For the purposes of this Circular “plot” means a pitch for travelling showpeople. A pitch can be defined as the area of land for which a site license is paid. The term “plot” has been chosen to reflect the term traditionally used by travelling showpeople and to differentiate between residential pitches for Gypsies and Travellers, and plots for travelling showpeople which may need to incorporate space or to be split to allow for the storage and maintenance of equipment.

PLANNING PROCESS

Accommodation Assessments

18. The assessment of travelling showpeople’s accommodation needs is an important part of the assessment of general accommodation needs. These needs should be assessed as part of Gypsy and Traveller Accommodation Assessments (GTAAAs). The planning process will begin by local authorities assessing travelling showpeople accommodation needs. The appropriate local office of the Showmen’s Guild of Great Britain, other trade organisations and other travelling showpeople may be able to provide local authorities with relevant information.
19. The data collected through the GTAA process will inform the preparation of Development Plan Documents (DPDs) through the process described below. One of the tests of soundness of a submission DPD at its examination will be whether it is founded on robust and credible evidence. The need identified by the GTAA will include travelling showpeople’s needs.
20. In the period immediately after the publication of the Circular, local authorities may have already carried out a GTAA without including travelling showpeople. In this case, local authorities should undertake assessments for travelling showpeople as soon as practicable. This may be done on a sub-regional basis.

Regional Spatial Strategy (RSS)

21. The information from GTAAAs on travelling showpeople’s need for sites will, as with other housing needs, be a key component in the overall assessment of need which informs the housing policies in the RSS. The RSS should identify the number of plots required (but not their location) for each local planning authority taking into account GTAAAs and a strategic view of needs across the region.
22. Regional Planning Bodies (RPBs) should maintain an up-to-date understanding of the likely strategic accommodation requirements of their areas over the lifespan of their RSSs, which should inform the preparation and review of RSSs. In allocating plot

APPENDIX 18

Caravan Sites and Control of Development Act 1960 - relevant extracts

Useful information from legislation regarding caravans

(courtesy of appellant's agent)

Caravan Sites and Control of Development Act 1960

Section 29(1), as extended by the Caravan Sites Act 1968 Section 13, gives a definition of a caravan and caravan site:

Any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include (a) any railway rolling stock which is for the time being on rails forming part of a railway system, or (b) any tent; and

(1968 amendment [amended 2006]);

A structure designed or adapted for human habitation which—

(a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and
(b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer), shall not be treated as not being (or as not having been) a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.

For the purposes of Part 1 of the Caravan Sites and Control of Development Act 1960, the expression “caravan” shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely—

1. (a) length (exclusive of any drawbar): 65.616 feet (20 metres);
2. (b) width: 22.309 feet 6.8 metres);
3. (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10.006 feet (3.05 metres).

First Schedule Section 10(1) refers to sites for travelling showmen regarding caravan site licences-

Subject to the provisions of paragraph 13 of this Schedule, a site licence shall not be required for the use of land as a caravan site by a travelling showman who is a member of an organisation of travelling showmen which holds for the time being a certificate granted under this paragraph and who is, at the time, travelling for the purposes of his business or who has taken up winter quarters on the land with his equipment for some period falling between the beginning of October in any year and the end of March in the following year.