

In the Nottingham County Court

CLAIM NUMBER: M00NG564

Filed on behalf of the Claimant

Newark and Sherwood District Claimant

Statement no: 4

Exhibits: RM/S4/ACDL, RM/S4/COSP,
RM/SA/DELREPORT, RM/S4/
DDL, RM/S4/PJRL, .

Made:

NEWARK AND SHERWOOD DISTRICT CLAIMANT

(Claimant)

-V-

BSS Investments LTD

(First Defendant)

-and-

John Sheridan

(Second Defendant)

-and-

John Flynn

(Third Defendant)

-and-

**PERSONS UNKNOWN RESIDENTIALLY OCCUPYING OR UNDERTAKING ANY BUILDING OR
ENGINEERING OPERATION ON THE LAND KNOWN AS LAND AT THE SOUTH EAST SIDE OF
MOORHOUSE ROAD IN WESTON NOTTINGHAMSHIRE**

(Fourth Defendant)

WITNESS STATEMENT OF RICHARD MARSHALL

I, **RICHARD MARSHALL** c/o Newark and Sherwood District Claimant, Castle House, Great North Road, Newark Nottinghamshire NG24 1BY will say as follows:

1. I am employed by Newark and Sherwood District Claimant ("the Claimant") as a Principal Planning Officer within the Planning Enforcement Team. I have been employed in this role since February 2020 and prior to that I was employed by the Claimant as a Planning Officer, also within the enforcement team. I have worked for the Claimant since 2014. I have held similar roles at other local planning authorities since 2004. I hold a Masters Degree in Urban Planning and I am a Chartered Member of the Royal Town Planning Institute (RTPI) and currently a member of the management committee for the National Association of Planning Enforcement Officers (NAPE).

2. This is the 4th statement I have made in these proceedings being an application for an Injunction pursuant to s187B Town and Country Planning Act 1990 in respect of LAND KNOWN AS LAND AT THE SOUTH EAST SIDE OF MOORHOUSE ROAD IN WESTON NOTTINGHAMSHIRE (“the Land”) in relation to breaches of planning control.

Previous Injunction Proceedings

3. On 25/04/2025 the Court made an interim injunction order prohibiting any further development or works on the Land.
4. On 07/05/2025 the Court made an Injunction Order prohibiting any further development or works on the Land. In addition, the named Defendants were required to provide, to the Claimant, a list of names of very occupant of the Land.
5. On the 11/05/2026 an initial hearing was held to consider the Claimants application for Mandatory Relief against the Defendants. That hearing was adjourned owing to insufficient court time having been allocated to hear the matter.

Appeal

6. On the 18/06/2026 the Claimant received a letter from the Secretary of State in response to its application for costs against the Second Defendant in relation to the appeal against the enforcement notice. The letter confirms that the Secretary of State has allowed the Claimants application for costs against the Second Defendant following the dismissal of the enforcement appeal concerning the Land. The decision concludes that the Second Defendant acted unreasonably by failing to engage with his agent or the Planning Inspectorate, failing to submit required appeal documentation, and not withdrawing the appeal despite no longer progressing it, which caused the Claimant unnecessary and wasted expense after it had prepared its case. The formal decision is that a full award of costs is justified on the grounds of unreasonable behaviour, and the Secretary of State has ordered the Second Defendant to pay the Claimants full costs of the appeal proceedings. I exhibit a copy of the letter as “RM/S4/ACDL”.
- 7.

Current Status of the Land

8. The period for compliance with the planning enforcement notice expired on 04/10/2025. Therefore, any use of the Land after this date for residential purposes is a breach of the enforcement notice and listed as an offence under s179(2) of the Town and Country Planning Act 1990.
9. On the 09/06/2026 myself and my colleague Richard Andrew attended the Land to serve the Court Order (dated the 20th of May 2026). We entered the Land from the south of the site from the access off Moorehouse Road. The condition of the Land was largely unchanged from my previous attendances on the site. I noted that the hard surfaced access road/ track running through the centre of the Land, made of crushed stone, remained. I counted 40 pitches on the Land which were demarcated by a mixture of timber post and rail fencing and close boarded timber style fencing.
10. I counted 11 caravans on the Land. I saw that all of the caravans were significantly damaged with the majority of windows and doors having been smashed and the interiors of the caravans having been made uninhabitable. In my opinion, from my observations, none of the caravans appeared to be occupied and I saw no evidence to suggest anyone was living there.
11. Also on the Land I saw a dilapidated portable building and portable toilets.
12. At both the northern and southern entrances to the Land, I saw the metal signs erected providing details of the interim injunction relating to the Land.
13. During my visit to the Land, I did not see any people on the Land and there was no evidence of anyone living on the Land or having lived on the Land recently. This is a direct conflict with the claims made by the Defendants legal representatives at the previous hearing, who commented on multiple occasions that the Second and Third Defendants are currently living on the Land.
14. Whilst on site, Mr Andrew and I proceeded to affix a copy of the Court Order to the wooden fences of plots 1-40 inclusive. Copies were also affixed to both entrances of the site, both toilet buildings as well as each caravan that was present on site. I took photos of each Order that was affixed and exhibit them as **"RM/S4/COSP"**.

15. On the 27/04/2026 the Claimant received applications for planning permission to change the use of the Land to a gypsy /traveller site and associated additions including mobile homes, caravans and day rooms. Each of the applications that have been submitted is for a single plot, although the overall site plan submitted indicates the partition of the wider site into individual plots in a system as has already been established on the Land by post and rail fencing.

Application Reference	Applicant	Address (Plot number)
26/00604/FUL	Mr John Flynn	Land South Of Weston Road, Egmonton
26/00614/FUL	Mr Kathleen Flynn	Plot 2 Land Southeast of Moorhouse Road, Egmonton
26/00615/FUL	Michael Flynn	Plot 3, Land on the Southeast of Moorhouse Road, Egmonton
26/00616/FUL	Mr James Ward	Plot 12 Land Southeast of Moorhouse Road, Egmonton
26/00617/FUL	Denis Sheridan	Plot 17, Land Southeast of Moorhouse Road, Egmonton
26/00618/FUL	Mrs Stephanie Edwards	Plot 41 & 42 Land Southeast of Moorhouse Road, Egmonton
26/00619/FUL	Mr Mary Flynn	Plot 18 Land Southeast of Moorhouse Road, Egmonton
26/00620/FUL	Mr Bernie McDonagh	Plot 22 Land Southeast of Moorhouse Road, Egmonton
26/00621/FUL	Mr Bernie McDonagh	Plot 25 Land Southeast of Moorhouse Road, Egmonton
26/00622/FUL	Mrs Mary Maughan	Plot 28 Land Southeast of Moorhouse Road, Egmonton
26/00623/FUL	Mr James Maughan	Plot 26 Land Southeast of Moorhouse Road, Egmonton

16. Within each of the applications, the applicants have relied on an argument that the Claimant cannot demonstrate a 5 year land supply for the provision of sites for Gypsy and Travellers and has contended that on balance the applications should be approved owing to this lack of supply and the argued acceptability of the local of the site in a Planning Policy context.

17. It was noted within the reasons for issuing the enforcement notice that the Claimant, at that time, did not have a 5-year land supply for Gypsy and Travellers. However, the overall pitch requirement emerging through the Amended Allocations & Development Management DPD is 169 pitches up to 2033, of which 134 are required to meet the

needs of Travellers meeting the definition provided in Annex 1 to the Planning Policy for Traveller Sites. This derives from the Gypsy and Traveller Accommodation Assessment (February 2020).

18. The Claimant is now at the point where the examination of the Amended DPD is very advanced, with consultation on proposed main modifications having been carried out and the Inspectors draft report now waited for fact checking. Applying paragraph 49 of the NPPF the view of the Claimant is that its emerging Traveller strategy can now be afforded substantial weight for decision-making purposes. With delivery from emerging site allocations is projected forwards then this contributes towards a level of supply that would exceed the Claimant's overall pitch requirements.
19. Further, personal information has also been submitted relating to the age, vulnerability and health of several of the perspective residents.
20. S70C of the Planning Act gives a power to local planning authorities to decline to determine a retrospective application for planning permission for development that would involve granting, whether in relation to the whole or any part of the Land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.
21. Having reviewed the applications, the Claimant noted that formal enforcement action had already been taken in respect of the unauthorised residential use of the Land and associated operational development. The Enforcement Notice was served, registered and subject to appeal, giving the Landowner the opportunity to challenge both the notice and the planning merits. That appeal was dismissed following the Defendant's failure to comply with the appeal timetable, and the Enforcement Notice has taken effect.
22. The applications sought permission for development and use that falls within the scope of the Enforcement Notice. Personal circumstances, including health, vulnerability and children, have been considered and taken into account; however,

the Land is currently unoccupied, and no material change in planning circumstances has been identified. The Claimant has also had regard to the Traveller pitch supply position, the advanced stage of the Amended Allocations and Development Management DPD, and the current five-year supply position.

23. In these circumstances, the Claimant concluded that determining the applications would risk reopening matters already subject to an extant Enforcement Notice and delaying compliance with it. Therefore, having weighed the relevant planning, equality and human rights considerations, including the best interests of children, the Claimant considers it reasonable, necessary and proportionate to exercise its power under Section 70C of the Town and Country Planning Act 1990 to decline to determine the applications.

24. In reaching the decision to exercise the section 70C power, the Claimant has had due regard to its duties under section 149 of the Equality Act 2010 (the Public Sector Equality Duty), including the need to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations. The Claimant has also considered the rights engaged under the Human Rights Act 1998, including Article 8 (respect for private and family life and home). Where the application and supporting information identifies children who may be affected, the Claimant has treated the best interests of children as a primary consideration.

25. In reaching this conclusion to decline to determine the planning applications, the Claimant considered the matter within a delegated report, which I exhibit as **"RM/SA/DELREPORT"**.

26. The applicants for the planning applications, including the Second and Third Defendants, were notified of the Claimants decision by letter dated the 07/05/2026. I exhibit a copy of this letter as **"RM/S4/DDL"**.

27. On the 12/06/2026 the Claimants received a Letter before Claim from the Defendants legal representative. The letter informed the Claimants of the intention of the Defendants to challenge the decision of the Claimants to decline to determine the planning applications that have been submitted. I exhibit a copy of the letter received a **"RM/S4/PJRL"**.

28. Within paragraph 18. of the letter it is stated that that the Defendant's are living on the Land. I am confused by this statement given that I have attended the site on multiple occasions since October 2025 and on none of these occasions have I either seen any persons, or any evidence of people living on the Land.

Comments on the Defendants evidence bundle

29. Having reviewed the evidence submitted by the Defendant I make the following comments and observations:

Statement in the name of Mr Denis Sheridan

30. I refer to the witness statement in the name of Mr Denis Sheridan. I note that Mr Sheridan claims to not be able to read or write.

31. Within the statement Mr Sheridan refers to his previous place of residence, Longbow Carvan Park, but does not provide details of his current place of residence.

32. According to the records held by the Claimant Mr Sheridan has never presented himself as homeless to the Claimant.

Statement in the name of Mr James Maughan

33. I refer to the witness statement in the name of Mr James Maughan, whom I note also has not provided details of his current place of residence.

34. According to the Claimant's records, Maughan has not recently presented himself as homeless to the Claimant.

Statement in the name of Mrs Mary Maughan

35. I refer to the witness statement in the name of Mrs Mary Maughan, who claims to not be able to read or write.

36. I am confused by the contents of paragraph 7 of Mrs Maughan's statement as she comments about the possibility of being removed from the Land. However, as shown

within exhibit “**RM/S4/COSP**”, when I recently inspected the Land there was no caravans or sign of persons living on that plot. This is the same as on each occasion that I have inspected the Land. I note that Mrs Maughan has provided no alternative details of a current place of residence.

37. Despite the comment made about seeking help from local authorities for housing, I am aware that Mrs Maughan has never presented herself as homeless to the Claimant.

38. I also note that the statement is not completed or signed correctly.

Statement in the name of Mindaugas Kuzas

39. I note that the First Defendant claims to have transferred his ownership of the Land to the Second and Third Defendants on the 22nd April 2025. However, the transfer of the ownership was not submitted to the Land Registry until the 02/04/2026.

Statement in the name of Bernie McDonagh

40. I note that the statement is not signed.

41. The statement contains comments concerning alleged unique circumstances; however, details of these circumstances are not provided. Details are given of personal conditions of the alleged occupants of the plot. These details have previously been considered by the Claimant within the equality report as set out within exhibit “**RM/SA/DELREPORT**”.

42. The statement makes no reference to the current place of abode.

43. The statement makes mention of their unstable accommodation circumstances, but I am aware that Mrs McDonagh has not recently presented herself as homeless to the Claimant.

44. Within the statement there is reference to being unaware of the presence of the planning enforcement notice. I am confused by this comment given that, as detailed within my statement dated the 24/04/2025, when the planning enforcement notice

was issued by the Claimant on the 24/04/2025, a copy of the enforcement notice was served on the plot. I can also confirm that a copy of the Enforcement Notice is contained within the planning enforcement register that is available to view any time on the Claimants website.

Statement in the name of John Ward

45. I note that the statement is unsigned.

46. Within the statement is the comment that they are the occupant of Plot 12 on the Land. I am confused by this comment given that when I have previously inspected the Land there was nobody occupying the Plot, as shown within exhibit "**RM/S4/COSP**".

47. According to records held by the Claimant, Mr Ward has never presented himself as homeless to the Claimant.

48. Details are given of personal conditions of the alleged occupants of the plot. These details have previously been considered by the Claimant within the report as set out within exhibit "**RM/SA/DELREPORT**".

49. Within the statement there is reference to being unaware of the presence of the planning enforcement notice. I am confused by this comment given that when the planning enforcement notice was issued by the Claimant on the 24/04/2025, a copy of the enforcement notice was served on the plot. I can also confirm that a copy of the Enforcement Notice is contained within the planning enforcement register that is available to view any time on the Claimants website.

Statement in the name of Michael Flynn

50. I note that the statement is unsigned.

51. I note the comment requesting to be allowed to remain on the Land. I am confused by this comment as when I have previously attended the site there has been no one living on Plot 3 and no evidence of any recent occupation of this, or any other, plot as shown within exhibit "**RM/S4/COSP**".

52. According to records held by the Claimant, Mr Flynn has never presented himself as homeless to the Claimant.

53. The statement refers to being unaware of the presence of the planning enforcement notice. I am confused by this comment given that when the planning enforcement notice was issued by the Claimant on the 24/04/2025, a copy of the enforcement notice served on the plot. I can also confirm that a copy of the Enforcement Notice is contained within the planning enforcement register that is available to view any time on the Claimants website.

Statement in the name of Mary Flynn

54. I note that the statement is unsigned.

55. Within the statement is the comment that they are the occupant of Plot 18 on the Land. I am confused by this comment given that when I have previously inspected the Land there was nobody occupying the Plot, as shown within exhibit "**RM/S4/COSP**". This has consistently been the case whenever I have attended the site.

56. I note that no details have been provided as to any other place that they are currently residing.

57. According to records held by the Claimant, Mrs Flynn Sheridan has never presented herself as homeless to the Claimant.

58. Details are given of personal conditions of the alleged occupants of the plot. These details have previously been considered by the Claimant within the report as set out within exhibit "**RM/SA/DELREPORT**".

59. Within the statement there is reference to being unaware of the presence of the planning enforcement notice. I am confused by this comment given that when the planning enforcement notice was issued by the Claimant on the 24/04/2025, a copy of the enforcement notice was served on the plot. I can also confirm that a copy of

the Enforcement Notice is contained within the planning enforcement register that is available to view any time on the Claimants website.

Conclusion

60. It is evident that there continues to be a breach of the planning enforcement notice as the Land, has not been returned to its original state.
61. Contrary to the submissions made by the Defendants legal representative at the previous hearing, and as commented within a number of the witness statements supplied as part of the previous hearing, there does not appear to be anyone residing on the Land.
62. As part of this matter the Claimant has had due regard to its duties under section 149 of the Equality Act 2010 (the Public Sector Equality Duty), including the need to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations. The Claimant has also considered the rights engaged under the Human Rights Act 1998, including Article 8 (respect for private and family life and home). Where the application and supporting information identifies children who may be affected, the Claimant has treated the best interests of children as a primary consideration.
63. Many of the statements refer to the Defendants housing needs, however I am aware that none of the Defendants have recently presented themselves as homeless to the Council.
64. I note the First Defendant requests to be discharged from the proceedings. It is surprising that if the 1st Defendant is eager to release itself from the proceedings that they waited until 02/04/2026 before applying to the Land Registry to switch the legal title. However, given that legal title transfer has not been completed, the First Defendant remains the legal owner and so should not be removed from proceedings.
65. In all of the circumstances, and for the reasons set out above the Claimant considers an Injunction a proportionate and reasonable measure in order to bring about

compliance with planning control and to prevent further planning breaches on the Land.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed: 

Dated: 23/06/2026

**IN THE NOTTINGHAM COUNTY COURT
BETWEEN
NEWARK AND SHERWOOD DISTRICT COUNCIL**

(Claimant)

-V-

BSS Investments LTD

(First Defendant)

-and-

John Sheridan

(Second Defendant)

-and-

John Flynn

(Third Defendant)

-and-

**PERSONS UNKNOWN RESIDENTIALLY OCCUPYING OR UNDERTAKING
OPERATIONAL DEVELOPMENT ON THE LAND KNOWN AS LAND AT THE SOUTH EAST
SIDE OF MOORHOUSE ROAD IN WESTON NOTTINGHAMSHIRE**

(Fourth Defendant)

EXHIBIT RM/S4/ACDL OF Richard Marshall

I, Richard Marshall, refer to a true copy of the exhibit, namely the letter issued by the Planning Inspectorate to award the Claimant with costs in relation to a planning appeal made by the Defendant referred to in my statement dated 23/06/2026 and marked "RM/S4/ACDL".

Signed:



Dated: 23/06/2026



Planning Inspectorate

c/o QUADIENT
69 Buckingham Avenue
Slough
SL1 4PN

Direct Line: 0303 444 5601
Customer Services: 0303 444 5000

Richard Marshall
Senior Planner (Enforcement)
Newark & Sherwood DC
Castle House
Great North Road
Newark
NG24 1BY

Your Ref: 25/00011/ENFNOT
Our Ref: APP/B3030/C/25/3364678
Date: 18 June 2026

Dear Sir

LOCAL GOVERNMENT ACT 1972 – SECTION 250(5)
TOWN & COUNTRY PLANNING ACT 1990 – SECTIONS 174 & 322
LAND ON THE SOUTH EAST SIDE OF MOORHOUSE ROAD, WESTON, NG22 0HH:
APPEAL BY MR JOHN SHERIDAN: APPLICATION FOR COSTS

1. I am directed by the Secretary of State for Housing, Communities and Local Government to refer to the Planning Inspectorate's letter of 3 October 2025. This confirmed the Secretary of State's dismissal of the appeal by Mr John Sheridan against the issue of an enforcement notice, dated 24 April 2025, by Newark & Sherwood District Council. The notice alleged a breach of planning control on land described above namely:

"Without planning permission, 'development' consisting of the making of a material change of use of the land from agriculture to use as a caravan site, including the stationing of caravans and mobile homes and their use for residential purposes; and associated operational development (including but not limited to the laying of hard surface, the erection of means of enclosures, and domestic paraphernalia)"

2. With apologies for the delay, this letter deals with the Council's application for an award of costs against the appellant as made in correspondence of 9 October 2025. The Inspectorate copied the costs application to the appellant for comment but despite a reminder and an extension of time for the appellant to respond no comments were received. The Inspectorate informed the parties that the costs application would be determined on the evidence available.

Summary of decision

3. The formal decision is set out in paragraphs 14 and 15 below. The application succeeds and a full award of costs is being made.

www.planningportal.gov.uk/planninginspectorate



Basis for dealing with the costs application

4. In planning and enforcement appeals the parties are normally expected to meet their own expenses irrespective of the outcome. Costs are awarded only on the grounds of "unreasonable" behaviour resulting in unnecessary or wasted expense.
5. Section 322 of the Town and Country Planning Act 1990 enables the Secretary of State to award appeal costs against any party, irrespective of procedural method, where it is found that one of the parties to the appeal has behaved unreasonably and the expense incurred by any of the other parties is wasted as a result.
6. The application for costs has been considered by reference to the Government's Planning Practice Guidance (PPG) on awards of costs (as published on the Gov.uk website under "Appeals"), the appeal papers, the correspondence on costs and all the relevant circumstances.

Background for the decision

7. All the available evidence has been carefully considered. The decisive issue is whether or not the appellant acted unreasonably, resulting in unnecessary or wasted expense, by failing to prosecute the appeal in a reasonable manner, culminating in the Secretary of State's dismissal of the appeal. The guidance at paragraph 052 of the PPG is considered particularly relevant.
8. The sequence of the events which led to the dismissal of the appeal have been examined. The appeal was submitted, on behalf of the appellant, by Mr Thomas Cochrane (of Planning Services UK) on 26 April 2025. Whilst the written representations procedure was requested, the Inspectorate decided an inquiry was necessary in accordance with the published criteria for appeal procedures. The Inspectorate's 'start' letters sent on 28 May 2025 confirmed an inquiry date of 10 September 2025 and set out the timetable for the submission of the appeal documents. The letters also drew attention to the published guidance regarding costs awards. On 15 July 2025, the Inspectorate confirmed a revised timetable for the submission of appeal documentation and a new inquiry date of 4 November 2025. On 22 July 2025, the Inspectorate emailed both parties requesting them to mutually agree a suitable date for a Case Management Conference (CMC) to take place prior to the inquiry. Mr Cochrane replied on the same day to explain he was having significant difficulty making contact with the appellant, and if the situation continued he may have to withdraw his services. As of 16 September 2025, it appeared Mr Cochrane could still not establish contact with the appellant, and also no statement of case on behalf of the appellant had been submitted by the specified deadline. On the same day, the Inspectorate issued a formal warning letter to Mr Cochrane by email. The letter requested a statement of case to be submitted, together with confirmation of engagement with the Council to agree a date for the CMC. The letter went on to state:

If we do not receive the requested information within 7 days from the date of this letter, the Planning Inspectorate on behalf of the Secretary of State gives notice that your appeal will be dismissed using powers under s176(3), s174(5) of the Town and Country Planning Act (1990) (as amended) and s119 of the Levelling Up and Regeneration Act 2023, without considering any ground of appeal not supported by the facts.

Mr Cochrane replied on the same day, confirming that he had again written to the appellant, and if no response was received by 19 September 2025, they would be terminating their services. As of 23 September 2025, there was no response, and a copy of the warning letter was sent by post to the appellant and a further 7 days to submit the information was provided. No response was received, and on 3 October 2025 a further letter was sent to the appellant, again by post, notifying him that the Secretary of State was formally dismissing the appeal in accordance with the legislation quoted in the warning letter as set out above.

Conclusions

9. The Secretary of State takes the view that an appellant's right of appeal, to protect their interest in land/premises, has to be balanced against the expectation that all parties should act responsibly and not cause others to incur unnecessary wasted expense in the appeal process.

10. The appellant employed the professional services of an agent (Mr Cochrane) to submit the appeal on his behalf. However, the Secretary of State takes the view that, following the submission of the appeal, the appellant should have engaged with the agent to provide necessary instructions and information, for example pertaining to the contents of the statement of case. It is clear that Mr Cochrane was unable to contact the appellant for a number of weeks, despite repeated attempts. As a result, Mr Cochrane was not able to progress the appeal on behalf of the appellant and the Secretary of State finds it understandable that he ultimately terminated his services. The Planning Inspectorate then attempted to communicate with the appellant directly, and despite repeated attempts, no contact was established. In the absence of sufficient information in the context of section 174(4) of the Act, the Secretary of State had no alternative but to dismiss the appeal. It is noted that by the time the appeal was dismissed the Council had submitted their statement of case and were preparing proofs of evidence.

11. The view is taken that having made the appeal the appellant should have been prepared, barring any material change in the planning circumstances, to proceed with it, whether or not he was professionally represented. The onus to either engage with his agent, or directly with the Planning Inspectorate, rests with the appellant. Furthermore, it was open to the appellant to withdraw the appeal at any stage in the proceedings if he was no longer interested in pursuing it, minimising any further expense for both parties.

12. The conclusion drawn from the available evidence is that, having made the appeal, the appellant failed to pursue it in a co-operative manner, directly leading to its dismissal. This amounted to unreasonable behaviour with the result that the Council have been put to unnecessary or wasted expense in the appeal proceedings. A full award of costs is therefore being made.

13. For the avoidance of doubt, the Secretary of State does not determine the amount payable where an award of costs is being made. That will be for the parties to resolve by agreement on the evidence of expense actually incurred or, failing that, in the context of an application to the Senior Courts Costs Office for detailed assessment.

FORMAL DECISION ON THE COUNCIL'S APPLICATION FOR COSTS

14. For the reasons given above, the Secretary of State has decided that a full award of costs against the appellant, on grounds of "unreasonable" behaviour resulting in "wasted" or "unnecessary" expense is justified in the particular circumstances.

COSTS ORDER

15. Accordingly, the Secretary of State for Housing, Communities and Local Government, in exercise of his powers under section 250(5) of the Local Government Act 1972, and sections 174 and 322 of the Town and Country Planning Act 1990 (as amended), and all other powers enabling him in that behalf, **HEREBY ORDERS** that Mr John Sheridan shall pay to Newark & Sherwood District Council, their costs of the appeal proceedings before the Secretary of State; such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in paragraph 1 of this letter.

16. The Council are now invited to submit to the appellant details of those costs with a view to reaching an agreement on the amount. A copy of this letter has been sent to him.

Yours faithfully

E. R. Humphrey

ELIZABETH HUMPHREY
Authorised by the Secretary of State
to sign in that behalf

**IN THE NOTTINGHAM COUNTY COURT
BETWEEN
NEWARK AND SHERWOOD DISTRICT COUNCIL**

(Claimant)

-V-

BSS Investments LTD

(First Defendant)

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John Sheridan

(Second Defendant)

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John Flynn

(Third Defendant)

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OPERATIONAL DEVELOPMENT ON THE LAND KNOWN AS LAND AT THE SOUTH EAST
SIDE OF MOORHOUSE ROAD IN WESTON NOTTINGHAMSHIRE**

(Fourth Defendant)

EXHIBIT RM/S4/COSP OF Richard Marshall

**I, Richard Marshall, refer to a true copy of the exhibit, namely copies of
photographs taken on 09/06/2026 showing the Land referred to in my statement
dated 23/06/2026 and marked "RM/S4/COSP".**

Signed: 

Dated: 23/06/2026

Weston Site, Moorhouse Road – Site Visit 09.06.2026

Site entrance – Weston Road (North of site)



Image of existing Injunction signage at Weston Road (North) Site Entrance



Toilet block – Northern end of site



Caravan located near toilet block at Weston Road (North) Entrance



Plot 1



Plot 2



Plot 3



Plot 4



Plot 5



Plot 6



Plot 7

Photo not saved

Plot 8



Plot 9



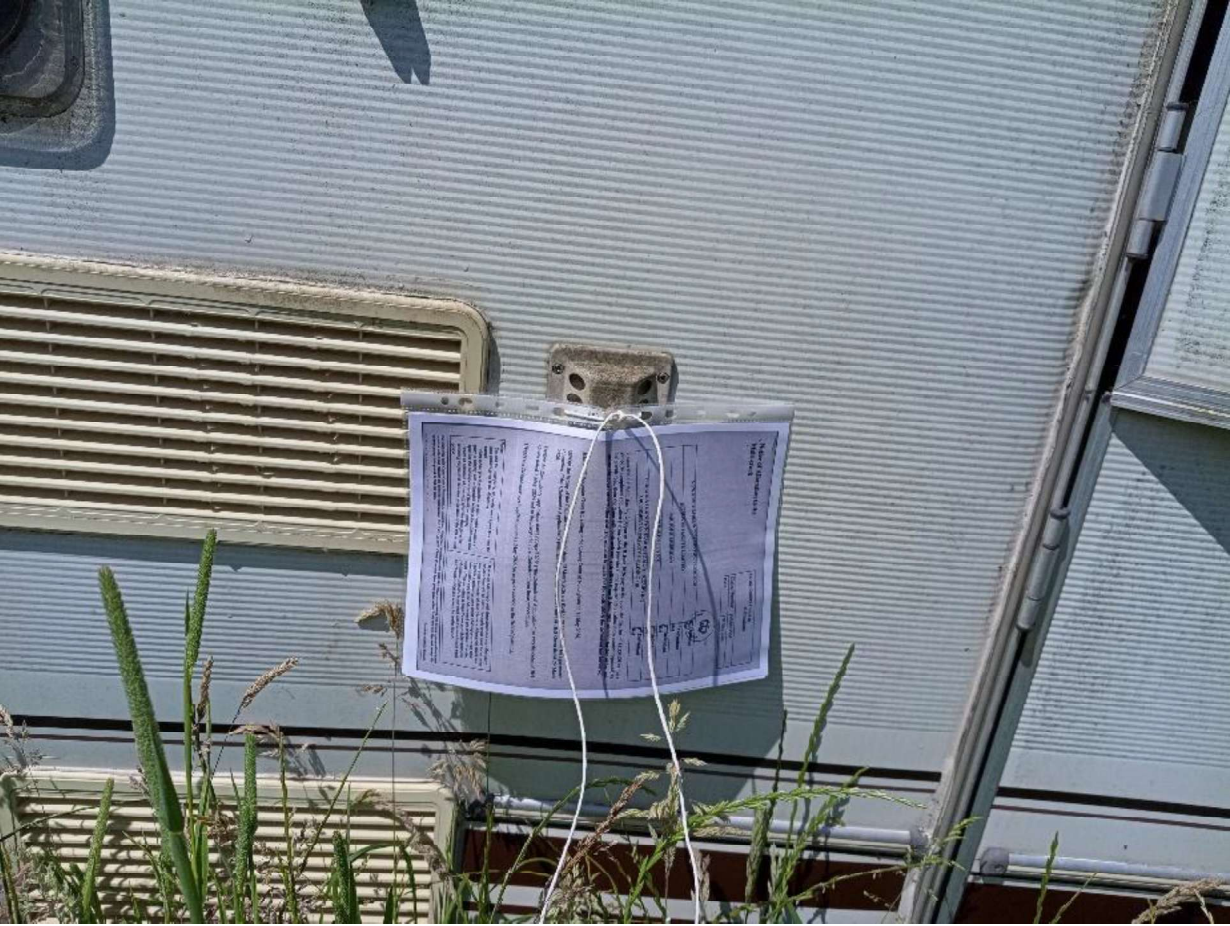
Plot 9 - Caravan



Plot 10



Plot 10 - Caravan



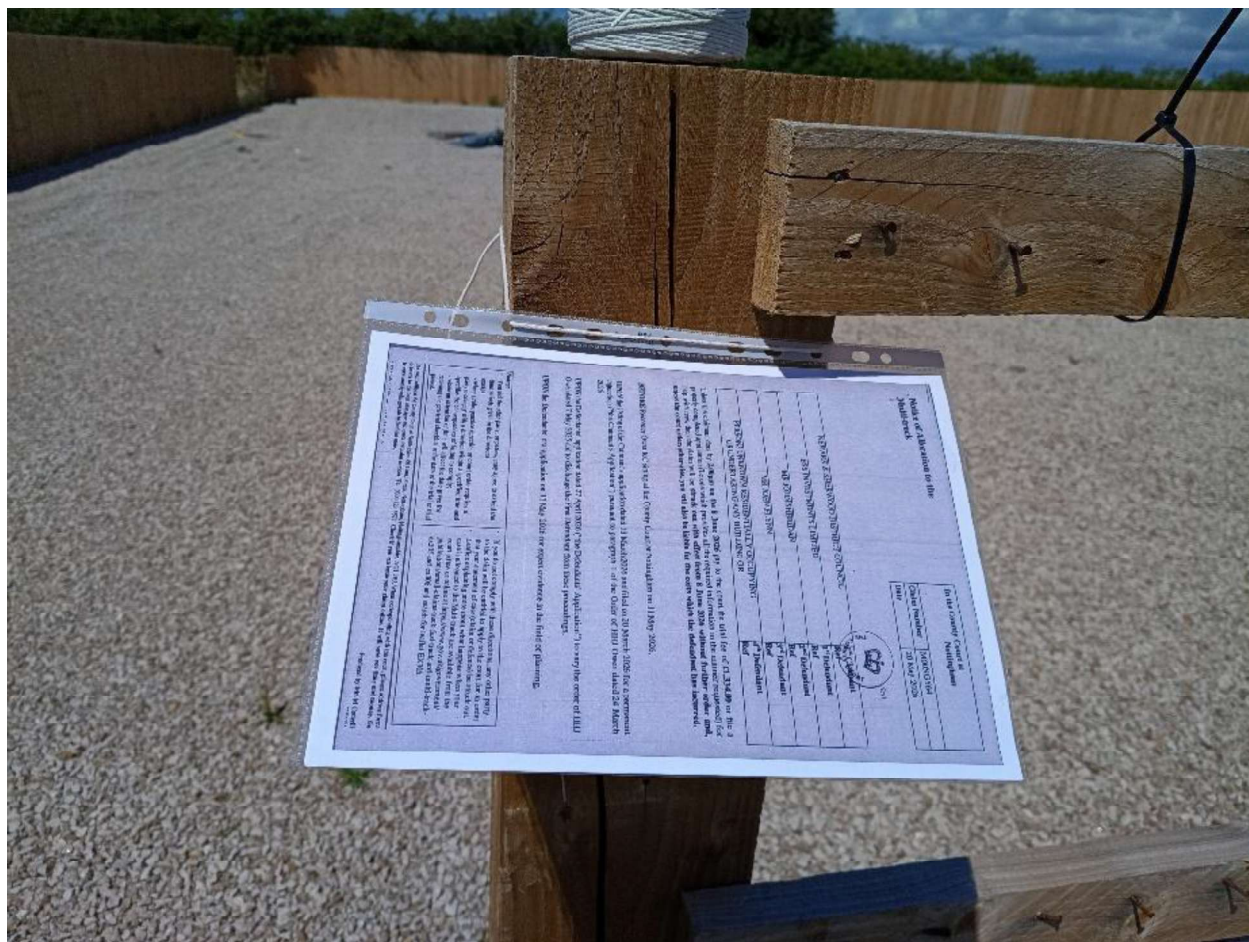
Plot 11



Plot 11 - Caravan



Plot 12

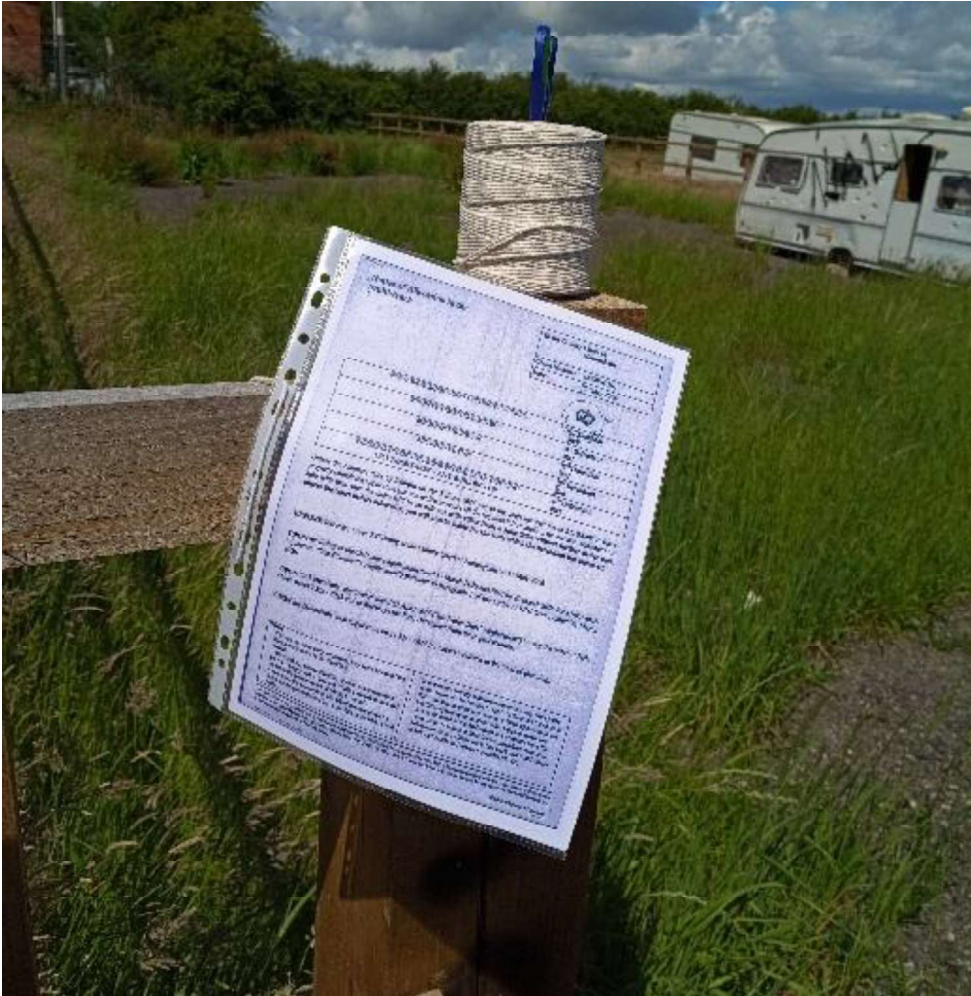


Plot 13



[illegible]

Plot 15



Plot 15 - Caravan



Plot 16



Plot 17



[illegible]

A gravel driveway leads through a wooden fence line under a cloudy sky. The fence is made of light-colored wood and runs along the left side of the path. Tall grass and some green plants are growing along the fence. In the background, a white vehicle is visible behind the fence. The sky is blue with large, white, fluffy clouds.

Toilet block near South-West entrance to the site



Signs at South-West entrance to site



Site – looking south to north



Plot 21



Plot 21 - Caravan 1



Plot 21 – Caravan 2



A photograph of a wooden fence post in a grassy field. A spool of white thread sits on top of the post. A white paper with text and a logo is attached to the post with a metal fastener. The background shows green trees and a blue sky with clouds.



Plot 22 – Caravan



Plot 23



Plot 24



Plot 24 – Caravan



Plot 25



Plot 26



Plot 27



Plot 28



Plot 29



Notice of Allocation to the Multi-track

NEWARK & BIERWOOD DISTRICT COUNCIL
BIS INVESTMENTS LIMITED
MR JOHN SUBRIAN
MR JOHN FLYNN
PERSONS UNKNOWN/RESIDENTIALLY OCCUPYING
OR UNIDENTIFIED ANY BUILDING OR

In the County Court at Nottingham
Case Number: 18N00064
Date: 10 May 2025

Unless the claimant does by 2.00pm on the 8 June 2025 pay to the court the trial fee of £1,000.00 or file a properly completed application for one which provides all the required information to the court (as required) for help with fees, then the claim will be struck out with effect from 8 June 2025 without further order and, unless the court orders otherwise you will also be liable for the costs which the defendant has incurred.

BEFORE Recorder Owen KC sitting at the County Court at Nottingham on 11 May 2025.
UPON the listing of the Claimant's application dated 13 March 2025 and filed on 20 March 2025 for a permanent injunction ("the Claimant's Application") pursuant to paragraph 1 of the Order of HHJ Owen dated 24 March 2025.
UPON the Defendants' application dated 27 April 2025 ("the Defendants' Application") to vary the order of HHJ Owen dated 1 May 2025 and to discharge the first defendant from those proceedings.

UPON the Defendants' oral application on 11 May 2025 for expert evidence in the field of planning.

Notes:
You and the other party or parties, may agree to extend the time periods given in the directions.
- where a rule, practice direction or court order requires a party to comply with a direction within a specified time and specifies the consequences of failing to comply.
- where an extension of time will affect the date given for making the pre-trial checklist or the date of the trial or trial period.

If you do not comply with these directions any other party to the claim will be entitled to apply to the court for an order that you pay the costs of the claim (or costs) by such time. Further explanation of what you should do is available on the court website or on the court website. You should also refer to the public access to the court website for further information. EX302 and EX303 and search for EX302.

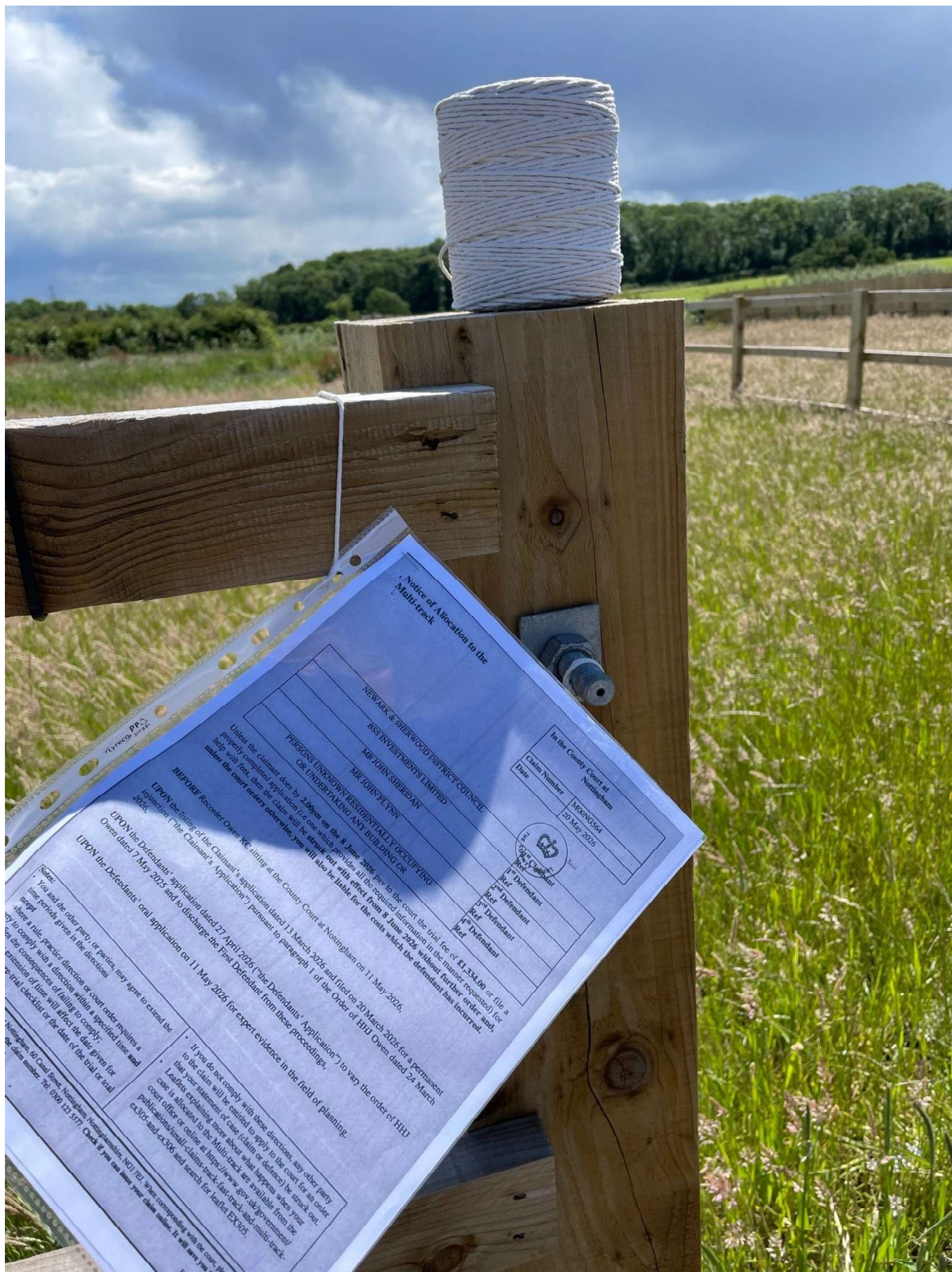
The court office at the County Court at Nottingham, 1st Court Room, Nottingham, Nottinghamshire NG2 7BJ. When communicating with the court please refer to the case number: 18N00064. Check if you are using your online account, it will show the date and time you can contact the court.

Printed by the County Court at Nottingham

Plot 30



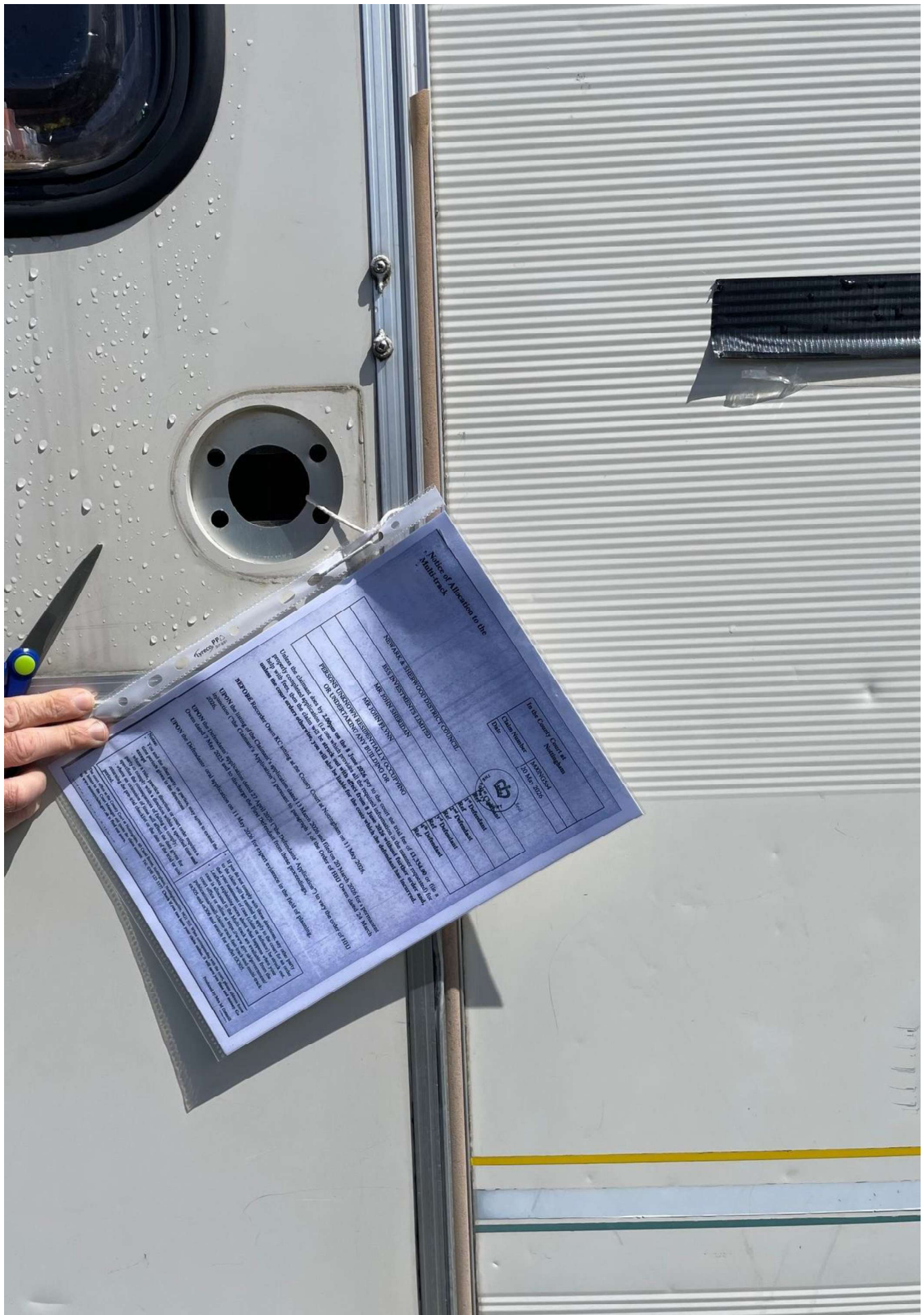
Plot 31



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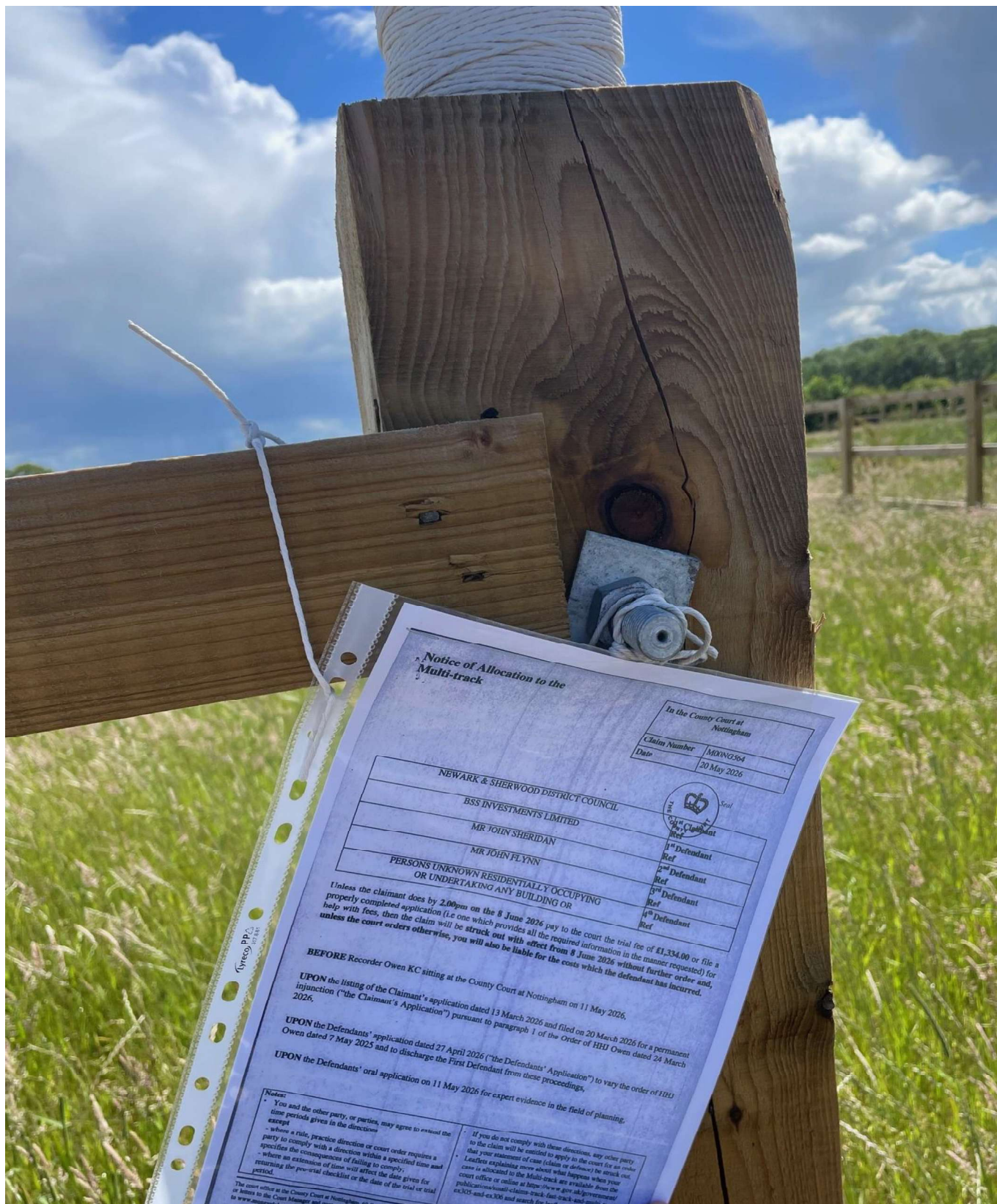


Plot 33 – Caravan









Plot 36



Plot 37



Plot 38



Plot 39



Plot 40





**IN THE NOTTINGHAM COUNTY COURT
BETWEEN
NEWARK AND SHERWOOD DISTRICT COUNCIL**

(Claimant)

-v-

BSS Investments LTD

(First Defendant)

-and-

John Sheridan

(Second Defendant)

-and-

John Flynn

(Third Defendant)

-and-

**PERSONS UNKNOWN RESIDENTIALLY OCCUPYING OR UNDERTAKING
OPERATIONAL DEVELOPMENT ON THE LAND KNOWN AS LAND AT THE SOUTH EAST
SIDE OF MOORHOUSE ROAD IN WESTON NOTTINGHAMSHIRE**

(Fourth Defendant)

EXHIBIT RM/SA/DELREPORT OF Richard Marshall

I, Richard Marshall, refer to a true copy of the exhibit, namely the delegated report in which the Claimant considered the decision to decline to determine the Defendants planning applications referred to in my statement dated 23/06/2026 and marked "RM/SA/DELREPORT".

Signed:



Dated: 23/06/2026



Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Richard Marshall, Senior Planner (enforcement).

Report Summary			
Application No.s and Applicants	Application Reference	Applicant	Address (Plot number)
	26/00604/FUL	Mr John Flynn	Land South Of Weston Road, Eglington
	26/00614/FUL	Mr Kathleen Flynn	Plot 2 Land Southeast of Moorhouse Road, Eglington
	26/00615/FUL	Michael Flynn	Plot 3, Land on the Southeast of Moorhouse Road, Eglington
	26/00616/FUL	Mr James Ward	Plot 12 Land Southeast of Moorhouse Road, Eglington
	26/00617/FUL	Denis Sheridan	Plot 17, Land Southeast of Moorhouse Road, Eglington
	26/00618/FUL	Mrs Stephanie Edwards	Plot 41 & 42 Land Southeast of Moorhouse Road, Eglington
	26/00619/FUL	Mr Mary flynn	Plot 18 Land Southeast of Moorhouse Road, Eglington
	26/00620/FUL	Mr Bernie McDonagh	Plot 22 Land Southeast of Moorhouse Road, Eglington
	26/00621/FUL	Mr Bernie McDonagh	Plot 25 Land Southeast of Moorhouse Road, Eglington
	26/00622/FUL	Mrs Mary Maughan	Plot 28 Land Southeast of Moorhouse Road, Eglington
	26/00623/FUL	Mr James Maughan	Plot 26 Land Southeast of Moorhouse Road, Eglington
Proposal	Material change of use of land to a gypsy /traveller site for stationing 1 static caravan , no more than one mobile home together with laying of hardstanding and erection of day room.		
Location	Plots 2, 3, 12, 17, 18, 22, 25, 26, 28, 41, 42 Land Southeast of Moorhouse Road, Eglington		
		Agent	Mr Muhammad Choudhry
Received	24/04/2026 27/04/2026	– Target Date / Extension of Time	N/A

Recommendation	TO DECLINE TO DETERMINE AN APPLICATION FOR PLANNING PERMISISON UNDER S70C OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
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1.0 **Summary**

1.1 The Authority served a Planning Enforcement Notice (EN) on the land in 2025 (reference 25/00121/ENFA) which requires the landowner, or any person occupying the land, or with an interest in the land to:

- Cease the use of the land as a caravan site and remove all caravans and mobile homes from the land.
- Remove from the land any operational development that facilitates the material change of use of the land (including but not limited to all hard standing, means of enclosure, structures, buildings and ground works) and all domestic paraphernalia, so as to restore the land to its condition before the development took place.

1.1.1 The EN was served upon the owners of the site (BSS Investments Limited), Mr John Sheridan and Mr John Flynn. In addition the EN was also issued upon persons unknown, including any owner or occupier of the site by being affixed to both entrances of the site.

1.1.2 In addition the EN was placed upon the land charges register and within the planning enforcement register, which is available to view online via the Councils website.

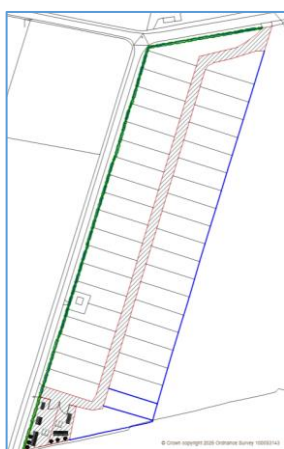
1.2 In addition the Council were granted an injunction to require no further development takes place on the land and to restrict those persons occupying the land.

1.3 An appeal against the EN, which included Grounds (a), (b) & (c) was subsequently made to the Planning Inspectorate, which was scheduled to be heard as part of an Inquiry in November 2025.

1.4 Throughout the appeal process, the Council diligently submitted all required details and information, including statements of case and consultation responses. Furthermore, we, together with various consultants, had been arduously drafting the Council's formal proof of evidence for the appeal hearing.

1.5 During the appeal process the Council was informed by the Planning Inspectorate that the appellant (the recipient of the notice) failed to meet all deadlines for the submission of information as dictated by the appeals process. Moreover, the Planning Inspectorate has been unable to make contact with the appellants regarding these omissions. Consequently, final letters were sent to the appellants on 16th and 23rd September 2025, making final demands for the missing information and notifying them that the required information should be submitted by no later than 30th September, or the appeal would be dismissed.

- 1.6 On the 3rd October 2025, the Council was notified that no further information had been submitted. As a result, the appeal had been dismissed. This means that the Enforcement Notice issued on 24th April 2025 takes effect. Therefore, the land can no longer be used as a caravan or GRT site, and all developments on the land, including caravans, fences, and hard standing, must now be removed, with a final compliance date of the 1st January 2026.
- 1.7 No action has been taken to comply with the EN and the Council are therefore pursuing further formal planning enforcement action in this regard.
- 1.8 In the meantime, the site has been inspected on numerous occasions, during which it has been noted that the land is not occupied by any persons and is not being used for any purpose.
- 1.9 Parties have now applied for planning permission to change the use of the land to a gypsy /traveller site and associated additions including mobile homes, caravans and day rooms. Each of the applications that have been submitted is for a single plot, although the overall site plan submitted indicates the partition of the wider site into individual plots in a system as has already been established on the land by post and rail fencing.



Proposed site layout plan of application 26/00618/FUL (indicative of plans submitted on the other applications being considered).

- 1.10 Within each of the applications, the applicants have forwarded an argument that the Council cannot demonstrate a 5 year land supply for the provision of sites for Gypsy and Travellers and has contended that on balance the applications should be approved owing to this lack of supply and the argued acceptability of the local of the site in a Planning Policy context.
- 1.11 Further, personal information has also been submitted relating the age, vulnerability and health of several of the perspective residents.

- 1.12 It should be noted that the appeal against the planning enforcement notice was previously dismissed owing to the appellant failing to supply sufficient information within the appeal timeframe, and therefore the planning related merits of this case have not been tested previously, either as part of a formal planning application or by an appeal Inspector.
- 1.13 S70C of the Planning Act gives a power to local planning authorities to decline to determine a retrospective application for planning permission for development that would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.

2.0 Site description

- 2.1. The site relates to approximately 3 hectares of relatively flat land within the open countryside between the villages of Egmanton (to the west), Moorhouse (to the south) and Weston (to the east) ("the Site"). The site comprises of one large field and the boundaries are demarcated by a mixture of hedgerows, post and rail fencing and gates. Within the site stands an electricity substation that is not part of the site.
- 2.2. To the northern edge of the site is Weston Road and to the west is Moorhouse Road. Also to the West of the site is the nearest residential property to the appeal site, Partridge Farm (formally known as Gypsy Lodge Farm).
- 2.3. The site is currently accessed by two separate field gates with one entrance from Weston Road and one entrance from Moorhouse Road.
- 2.4. The site is currently partitioned into approx. 42 individual plots by post and railing fencing. Also on site is a collection of abandoned and damaged caravans, vehicles and portable buildings. There is also evidence of drainage and power having been installed to several of the plots. In addition, a roadway has been established along the centre of the site using crushed aggregates, along with areas of hard standing within many of the individual plots.

3.0 The Proposal

- 3.1 The applications seek permission for the material change of use of land to a gypsy /traveller site for stationing, on each of the listed plots, of 1 static caravan, no more than one mobile home together with laying of hardstanding and erection of day room.
- 3.2 As previously set out, the subdivision of the site will roughly accord with the current layout of the site and all applications fall within the bounds of the red line outlined on the EN.
- 3.3 It is considered that the proposals raise no new issues from what was considered when the planning enforcement notice was issued and for this reason the applications should be declined to be determined using S70C of the Town and Country Planning Act 1990.

4.0 Planning History

- 4.1 There is no relevant planning history other than the enforcement notice (25/00121/ENFA) and appeal (APP/B3030/C/25/3364678) referred to above.

5.0 Planning Policy Framework

5.1. Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 3 - Rural Areas

Spatial Policy 7 - Sustainable Transport

Core Policy 4 - Gypsies and Travellers – New Pitch Provision

Core Policy 5 - Criteria for Considering Sites for Gypsies and Travellers and Travelling Showpeople)

Core Policy 9 - Sustainable Design

Core Policy 13 - Landscape Character

DM5 (Design) and DM8 (Development in the Open Countryside) of the Allocations and Development Management DPD (2013) which together form the relevant parts of the Development Plan.

5.2. Allocations & Development Management DPD (2013)

DM5 – Design

DM8 – Development in the Open Countryside

The [Draft Amended Allocations & Development Management DPD](#) was submitted to the Secretary of State on the 18th January 2024. Following the close of the hearing sessions as part of the Examination in Public the Inspector has agreed a schedule of 'main modifications' to the submission DPD. The purpose of these main modifications is to resolve soundness and legal compliance issues which the Inspector has identified. Alongside this the Council has separately identified a range of minor modifications and points of clarification it wishes to make to the submission DPD. Consultation on the main modifications and minor modifications / points of clarification took place between Tuesday 16 September and Tuesday 28 October 2025. The next stage in the Examination process will be the Inspector issuing their draft report.

Tests outlined through paragraph 49 of the NPPF determine the weight which can be afforded to emerging planning policy. The stage of examination which the Amended Allocations & Development Management DPD has reached represents an advanced stage of preparation. Turning to the other two tests, in agreeing these main modifications the Inspector has considered objections to the submission DPD and the degree of consistency with national planning policy. Through this process representors have been provided the opportunity to raise objections to proposed modifications

through the above consultation. Therefore, where content in the Submission DPD is either;

- Not subject to a proposed main modification;
- The modifications/clarifications identified are very minor in nature; or
- No objection has been raised against a proposed main modification

Then this emerging content, as modified where applicable, can now start to be given substantial weight as part of the decision-making process.

5.3. **Other Material Planning Considerations**

National Planning Policy Framework 2024 (updated 2025)

“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.”

Planning Practice Guidance (online resource)

Newark and Sherwood District Council Planning Enforcement Plan (PEP)

6.0 **Comments of the Business Manager – Planning Development / Appraisal**

6.1. The key issues are:

- The continued harmful impact of the development on the character and appearance of the area due to the size and scale of the development continuing to be considered to be an incongruous and intrusive feature in this isolated open countryside location. Further, the hard surfacing, caravans and other associated paraphernalia represents a harmful urbanising feature in the open undeveloped character of the landscape and significantly harms the visual and rural amenities of the area.
- The Human Rights of the applicants and the duty of the Council to have regard in its decision making to the Equality Act 2010 (the Public Sector Equality Duty).
- Public confidence in, and the overall integrity, of the planning system through the effective enforcement of the planning regulations.

6.2 The Town and Country Planning Act 1990 (as amended) provides local planning authorities with a power, under section 70C, to decline to determine a retrospective planning application in defined circumstances. In summary, where a pre-existing enforcement notice relates to the land, and granting permission would involve granting planning permission for any of the matters specified in that enforcement notice as constituting a breach of planning control, the authority may decline to determine the application. This provision has often been described as preventing

landowners taking “*two bites of the cherry*” when seeking planning permission for development already caught by an existing enforcement notice and thus delaying the enforcement process. This principle has recently been upheld by the Court of appeal in ***Moran v Medway Council*** [2026] EWCA Civ 484 in which the Court confirmed the broad discretion available to local planning authorities when deciding whether to exercise its section 70C power. Further, that there is an existing EN does not mean that the Council is obliged to exercise the power. The Council has a choice based upon the particular facts of the case.

- 6.3 It should be noted that the use of section 70C is a procedural step and is ordinarily distinct from deciding whether planning permission should be granted or refused on the planning merits.
- 6.4 In this case, the planning merits of the use of the site and associated development, have not been formally considered, either by the determination of a planning application or as part of the enforcement appeal (including the deemed planning application under Ground (a)), given that the appeal against the planning enforcement notice was dismissed by the Inspector due to the appellant failing to supply information as part of the appeal process.
- 6.5 That being said, Section 70C enables the Council to avoid unnecessary delay and repeat consideration, in particular where there is no material change in circumstances.

7.0 Impact of the development and any change in material considerations

- 7.1 In this case it is considered that there are no changes to the material considerations from when the enforcement notice was previously issued regarding the impact of the proposed development upon the isolated open countryside setting of the site. Indeed, given that development has now taken place on the site, it is possible to accurately perceive the detrimental impact of the proposal in this open countryside setting.
- 7.2 Moreover, the site remains some distance from any nearby settlement (Weston 2 miles – Moorehouse 1.5 miles and Egmonton 1.2 miles – Tuxford 5 miles), and therefore any occupiers of the site would need to travel (likely by car) to either of these locations in order to use everyday facilities.
- 7.3 It was noted within the reasons for issuing the enforcement notice that the Council, at that time, did not have a 5-year land supply for Gypsy and Travellers.
- 7.4 However, the overall pitch requirement emerging through the Amended Allocations & Development Management DPD is 169 pitches up to 2033, of which 134 are required to meet the needs of Travellers meeting the definition provided in Annex 1 to the Planning Policy for Traveller Sites. This derives from the Gypsy and Traveller Accommodation Assessment (February 2020).
- 7.5 We are now at the point where the examination of the Amended DPD is very advanced, with consultation on proposed main modifications having been carried out

and the Inspectors draft report now waited for fact checking. Applying paragraph 49 of the NPPF the view of the Authority is that its emerging Traveller strategy can now be afforded substantial weight for decision-making purposes.

- 7.6 With delivery from emerging site allocations is projected forwards then this contributes towards a level of supply that would exceed the District's overall pitch requirements.

Table 1 – Overall Supply (as at 21st November 2025)

Source	Pitches
Completions	9
Commitments	47
Site Allocations	120-132
Total	176-188

Forecast delivery from proposed allocations also contributes towards the establishment of a five-year land supply (7.4 years supply), see calculation below.

Table 2 - Traveller Pitch Completions (as at 21st November 2025)

Ref	Site	Five Year Period	Completed Pitches
18/02219/FUL	Land north of Crossways, off Main Street, Bathley	First	1
21/00027/FUL	Chestnut Lodge, Barnby	First	2
24/00548/FUL	Old Stable Yard, Winthorpe	Second	6
			9

Table 3 - Traveller Pitch Commitments (as at 21st November 2025)

Ref	Site	Permitted Pitches
21/02528/FUL	Shady Oaks, Eagle Road, Spalford	4
23/00963/FULM	Chestnut Lodge, Barnby	17*
23/00060/FUL	Appleby Lodge, Newark	8
22/01203/FULM	Oak Tree Stables, Besthorpe	8
25/00805/FULM	Land to the South East of Bullpit Road	10
		47

Table 4 – Delivery from Remaining Site Allocations within 2024-28

Ref	Site	Remaining Pitch Allocation	2024-28 Delivery
NUA/GRT/1	Park View, Tolney Lane, Newark	13	13
NUA/GRT/2	Sandhill Sconce, Tolney Lane, Newark	11	11
NUA/GRT/3	The Paddocks, Tolney Lane, Newark	3	2
NUA/GRT/4	Hirram's Paddock, Tolney Lane, Newark	7	4

NUA/GRT/5	Taylor's Paddock, Tolney Lane, Newark	1	0
NUA/GRT/6	Price's Paddock, Tolney Lane, Newark	1	0
NUA/GRT/7	Land at Shannon Falls, Tolney Lane, Newark	21	21
NUA/GRT/8	Church View, Tolney Lane, Newark	10	10
NUA/GRT/9	Riverside Park, Tolney Lane, Newark	9	0
NUA/GRT/10	Land at Chestnut Lodge, Barnby	2	2
NUA/GRT/11	Land at the Former Belvoir Ironworks, Newark	15-27	15
OB/GRT/1	Shannon Caravan Park, Wellow Road Ollerton	9	8
OB/GRT/2	The Paddock, Wellow Road, Ollerton	3	3
OB/GRT/3	The Stables, Wellow Road, Ollerton	4	2
OB/GRT/4	Dunromin, Wellow Road, Ollerton	4	4
OB/GRT/5	Greenwood, Wellow Road, Ollerton	1	0
OB/GRT/6	Land East of Newark Road, Ollerton	6	6
Total		120-132	101

Table 4 - Five Year Land Supply Statement as at 21st November 2025

First Five-Year Period (2019-23)	
Five Year Pitch Requirement	85
Completed Pitches within Period	3
Residual Requirement	82
Second Five-Year Period (2024-28)	
Five Year Pitch Requirement	24
Residual Requirement 2019-23	82
Completed Pitches within Period	6
Adjusted Requirement	100
Annualised Requirement	20
Supply	
Pitch Supply from Unimplemented Permissions	47
Pitch Supply from Allocated Sites	101
Total Supply	148
No. Years Supply	
Against Requirement	148/20= 7.4 years

- 7.6 Accordingly, the Council has set out a strategy which will address its overall requirement for Traveller pitches. Furthermore, it can also demonstrate a current five-year land supply. Notwithstanding this position, the pitch requirements does not represent an upper limit to the amount of development which can take place. Speculative windfall proposals will need to be able to satisfy the requirements of Core Policy 5 'Criteria for Considering Sites for Gypsies & Travellers and Travelling Showpeople' in the Amended Core Strategy.
- 7.7 It is therefore considered that there are no material considerations of sufficient potency to warrant further reconsideration. Indeed, the applicants had, through the appeal process for the EN, opportunity to have the planning merits for the proposed development considered. In this way, they had had their bite of the cherry. Consequently, Officers consider that the applicants have had their case to

retain the works thoroughly examined and would therefore not be disadvantaged by taking this action to decline to determine the new application.

7.8 Effect on the integrity of the planning enforcement process

- 7.9 With regard to maintaining and promoting the integrity of the planning enforcement regime, it must be noted that the initial material change of use, and associated development, were undertaken in breach of planning regulations and was therefore unauthorised. The owners of the land did not seek planning permission prior to undertaking the works, and nor did they subsequently submit an application for planning permission to be considered.
- 7.10 The Council was therefore required to follow the formal planning enforcement regime in issuing an enforcement notice. Not only this but the Council was also required to seek, and was granted, an injunction in order to prevent further related breaches of planning from taking place while the appeal against the enforcement notice was followed due course. The owners of the site subsequently failed to comply with the appeal timetable, despite the Council diligently submitting all required details and information, including statements of case and consultation responses and, together with various consultants, arduously drafting the Council's formal proof of evidence for the appeal hearing.
- 7.11 Despite the appeal being an opportunity to challenge the Council's decision to issue an enforcement notice, and thus have the planning merits considered as part of Ground (a) appeal, the appellant (the recipient of the notice) failed to meet all deadlines for the submission of information as dictated by the appeals process. This lack of engagement with the appeals process resulted in the appeal being dismissed by the Planning Inspectorate on the 3rd October 2025.
- 7.12 Due to the extent of work undertaken by officers and external consultants, the Council has sought Costs against the appellant. A claim which is outstanding at this time.
- 7.13 As a result of the appeal being dismissed, the Enforcement Notice issued on 24th April 2025 has taken effect and was required to be complied with in full by no later than 1st January 2026. To date compliance with the notice has not been achieved and this represents an ongoing criminal offence and further enforcement actions are being undertaken. To this end, the Council issued an application dated 24th March 2026 for mandatory relief to require the clearance of the site and compliance with the EN. The timing of the planning applications is revealing. They were submitted 3 weeks after the Council's application was issued. This strongly suggests that the planning applications were submitted in response to the injunctive proceedings to act as a defence to the application for mandatory relief.
- 7.14 Given that the full enforcement process has already been followed, and opportunity has exercised to appeal against the enforcement notice, it is considered that to consider the submitted applications, where opportunity has already been forfeited,

would cause significant harm to the integrity of the planning and enforcement regimes by allowing the owners of the site a 'second bite of the cherry' in terms of the planning process which will likely place significant delays in complying with the planning enforcement notice.

8.0 Implications

8.1. In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

8.2. Equality, Human Rights, and the best interests of children

8.3. In reaching the decision to exercise the section 70C power, the Council has had due regard to its duties under section 149 of the Equality Act 2010 (the Public Sector Equality Duty), including the need to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations. The Council has also considered the rights engaged under the Human Rights Act 1998, including Article 8 (respect for private and family life and home). Where the application and supporting information identifies children who may be affected, the Council has treated the best interests of children as a primary consideration.

8.4. It must be acknowledged that declining to determine the submitted applications may be disadvantageous to the applicants because it prevents the planning merits of the proposal being considered through the normal application process. In cases where personal circumstances are relied upon (including matters relating to vulnerability, health, and the needs of children), this may be perceived as limiting an opportunity to put those matters before the decision-maker within a planning balance.

8.5. However, the Council considers that exercising section 70C is appropriate and proportionate in the particular circumstances of this case. The applications seek planning permission for development and use that are within the scope of, and facilitated by, the breach identified by the previously issued EN, which is in effect and has not been complied with. The purpose of section 70C is to prevent unnecessary delay to the enforcement process and avoid repeat consideration of applications that would undermine effective enforcement.

8.6. The Council has also had regard to the site circumstances identified through inspection. The site is not currently occupied, and therefore a welfare assessment of individuals is not possible, which also reduces the likelihood of immediate adverse effects on children arising directly from the decision to decline to determine the planning applications under Section 70C. Nevertheless, the Council has considered the personal circumstances of the applicants as has been outlined within the information submitted as part of the planning applications and its responsibilities under Article 8. Moreover, I have read and reflected upon the half a dozen witness statements which have been relied upon by the defendants in the injunctive proceedings which sets out

the particular vulnerabilities and personal circumstances of the proposed occupiers together with the welfare reports (these witness statements, tellingly, confirm that nobody is currently living on the site). Therefore, I am confident that I have a firm grasp of the personal circumstances of the proposed occupiers and those people who are likely to be affected by the decision to decline. I recognise that by declining to determine the planning applications, the proposed site occupiers will be denied the opportunity to live on the site in the future albeit that nobody has been living there since September 2025. But it seems to me to be an appropriate response to the particular circumstances of this case and the protracted enforcement history.

- 8.7. In this instance, having weighed the relevant equality and human rights considerations, and treating the best interests of children as a primary consideration, the Council is satisfied that the decision to decline to determine is justified in order to uphold the integrity of the planning system and secure effective enforcement of planning control given that the site is currently unoccupied and has been since at least the attack in September 2025 (i.e. 8 months).

9.0 Conclusion

- 9.1. Whilst enforcement action is discretionary there were strong grounds to previously pursue enforcement action to prevent the material change of use of the site and the associated development in order to protect the open country location and to prevent unsustainable development.
- 9.2. The landowner previously had opportunity to challenge the Council's decision to take enforcement action and the appeal was dismissed. Further, I note that the site occupiers and appellant(s) to the EN were in receipt of professional advice during the appeal process.
- 9.3. The applicants have had their case to undertake development examined, the planning merits of the development were previously considered when the enforcement notice was issued, and it is not considered there has been a material change in circumstances since that decision (indeed any changes are likely to increase the reasons for the proposed development being unacceptable).
- 9.4. The current applications therefore represent an unnecessary delaying tactic which frustrates the effective enforcement of planning control. It is therefore now considered both reasonable and necessary that appropriate to utilise S70C and decline to determine the applications.
- 9.5. The landowner must comply with the enforcement notice. If this does not take place then the Authority will continue to take appropriate action to secure compliance with the enforcement notice.
- 9.6. The decision to decline to determine the submitted applications under Section 70C is because the application seeks planning permission for development that constitute

the same breach of planning control that is the subject of a previously issued planning enforcement notice, that has also been the subject of an appeal which was dismissed.

Officer		Authorised Officer	
Date	11.05.2026	Date	11/05/2026

Referral Needed in Accordance with the Scheme of Delegation ?	NO
Pre Commencement Conditions agreed with agent/applicant (if applicable)	N/A
Reply Idoxed	N/A
Extension of time agreed with agent/applicant (if applicable)	N/A
Reply Idoxed	N/A
CIL calculations done where required	N/A

In signing the above I have checked that the conditions and reasons shown within the report match those within the back office UNIFORM system.

**IN THE NOTTINGHAM COUNTY COURT
BETWEEN
NEWARK AND SHERWOOD DISTRICT COUNCIL**

(Claimant)

-V-

BSS Investments LTD

(First Defendant)

-and-

John Sheridan

(Second Defendant)

-and-

John Flynn

(Third Defendant)

-and-

**PERSONS UNKNOWN RESIDENTIALLY OCCUPYING OR UNDERTAKING
OPERATIONAL DEVELOPMENT ON THE LAND KNOWN AS LAND AT THE SOUTH EAST
SIDE OF MOORHOUSE ROAD IN WESTON NOTTINGHAMSHIRE**

(Fourth Defendant)

EXHIBIT RM/S4/DDL OF Richard Marshall

**I, Richard Marshall, refer to a true copy of the exhibit, namely copy of the
letter dated 07/05/2026 notifying the applicants of the Claimant's
planning application decision marked "RM/S4/DDL".**

Signed:



Dated: 23/06/2026

Mr Muhammad Choudhry
OASIS LAND MANAGEMENT LTD
6HatTech Business Centre
Beaconsfield Road
Hatfield
AL10 8FF

Telephone: 01636 655801

Email: richard.marshall@newark-sherwooddc.gov.uk

Our ref: 25/00121/ENFA

Mr Muhammad Choudhry

Date 7th May 2026

Town and Country Planning Act 1990

Proposal: Material change of use of land to a gypsy /traveller site for stationing of 1 static caravan , no more than one mobile home together with laying of hardstanding and erection of day room.

Site Address: Land on the Southeast of Moorhouse Road, Egmonton

Applicant: See below.

Application Reference: See below.

Application Reference	Applicant	Address (Plot number)
26/00604/FUL	Mr John Flynn	Land South Of Weston Road, Egmonton
26/00614/FUL	Mr Kathleen Flynn	Plot 2 Land Southeast of Moorhouse Road, Egmonton
26/00615/FUL	Michael Flynn	Plot 3, Land on the Southeast of Moorhouse Road, Egmonton
26/00616/FUL	Mr James Ward	Plot 12 Land Southeast of Moorhouse Road, Egmonton
26/00617/FUL	Denis Sheridan	Plot 17, Land Southeast of Moorhouse Road, Egmonton
26/00618/FUL	Mrs Stephanie Edwards	Plot 41 & 42 Land Southeast of Moorhouse Road, Egmonton
26/00619/FUL	Mr Mary flynn	Plot 18 Land Southeast of Moorhouse Road, Egmonton
26/00620/FUL	Mr Bernie McDonagh	Plot 22 Land Southeast of Moorhouse Road, Egmonton
26/00621/FUL	Mr Bernie McDonagh	Plot 25 Land Southeast of Moorhouse Road, Egmonton
26/00622/FUL	Mrs Mary Maughan	Plot 28 Land Southeast of Moorhouse Road, Egmonton
26/00623/FUL	Mr James Maughan	Plot 26 Land Southeast of Moorhouse Road, Egmonton

I write in relation to the above-mentioned applications that you have submitted for consideration and was received on the 24th and 27th of April 2026.

You will note the history of the site, including the issue of a planning enforcement notice (issued 24th April 2025), appeal against it (in which the notice was upheld – letter issued 3rd October 2025) and requirement for the use of the land as a caravan site to cease and for all caravans and mobile homes to be removed from the site (along with all operational development and domestic paraphernalia that facilitates the change of use).

I anticipate that you will be aware of Section 70C (Power to decline to determine retrospective application) of the Town and Country Planning Act 1990 which states:

“A local planning authority may decline to determine an application for planning permission for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.”

Given that the applications that have been submitted are clearly on land that relates to the pre-existing enforcement notice, the applications therefore overlap with the enforcement notice and Section 70C is engaged. We consider the small change in circumstances, submitted through the above applications, has not occurred to any significant extent and therefore this Authority (Newark and Sherwood District Council) will be declining to determine the above listed applications, as set out above. I would be grateful if you could make each of your clients aware of the Council's decision.

If you do not agree with our decision to decline to determine the applications, your clients do, have a right to challenge this by way of judicial review. In terms of compliance with the planning enforcement notice, you will be aware that compliance was required to be completed by no later than the 1st January 2026 and therefore the Council will continue to seek further redress in this regard. To discuss this further, please contact Richard Marshall on 01636 655801.

I trust that this clearly sets out the current decision for you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'OS', enclosed within a faint rectangular border.

Oliver Scott
Business Manager (Planning Development)

**IN THE NOTTINGHAM COUNTY COURT
BETWEEN
NEWARK AND SHERWOOD DISTRICT COUNCIL**

(Claimant)

-V-

BSS Investments LTD

(First Defendant)

-and-

John Sheridan

(Second Defendant)

-and-

John Flynn

(Third Defendant)

-and-

**PERSONS UNKNOWN RESIDENTIALLY OCCUPYING OR UNDERTAKING
OPERATIONAL DEVELOPMENT ON THE LAND KNOWN AS LAND AT THE SOUTH EAST
SIDE OF MOORHOUSE ROAD IN WESTON NOTTINGHAMSHIRE**

(Fourth Defendant)

EXHIBIT RM/S4/PJRL OF Richard Marshall

I, Richard Marshall, refer to a true copy of the exhibit, namely a Letter before Claim from the Defendants legal representative. The letter informed the Claimants of the intention of the Defendants to challenge the decision of the Claimants to decline to determine the planning applications that have been submitted, referred to in my statement dated 23/06/2026 and marked "RM/S4/PJRL".

Signed:



Dated: 23/06/2026



SRA Registration No: 652294
HatTech Business Centre
Beaconsfield Court
Beaconsfield Road
Hatfield, Hertfordshire
AL10 8FF
United Kingdom
Tel: 0207 164 6849,
Email: casework@brilliancesolicitors.co.uk
Principal: Mrs Tahseen Amir Choudhry

Planning & Development Team
Newark & Sherwood District Council
Castle House
Great North Road
Newark
NG24 1BY

By Post & E-mail: richard.marshall@newark-sherwooddc.gov.uk

Our Ref: 470.05.25

Your/Application Ref: 25/00121/ENFA

Date: 12 June 2026

Dear Mr. Marshall,

RE: Pre-Action Protocol regarding Land on the Southeast of Moorhouse Road, Egmantion – Planning Ref: 26/00604/FUL, 26/00614/FUL, 26/00615/FUL, 26/00616/FUL, 26/00617/FUL, 26/00618/FUL, 26/00619/FUL, 26/00620/FUL, 26/00621/FUL, 26/00622/FUL, 26/00623/FUL

We are instructed by Mr. John Flynn, Mrs. Kathleen Flynn, Mr. Michael Flynn, Mr. James Ward, Mr. Denis Sheridan, Mrs. Stephanie Edwards, Mrs. Mary Flynn, Mr. Bernie McDonagh (Plot 22), Mr. Bernie McDonagh (Plot 25), Mrs. Mary Maughan and Mr. James Maughan (“Claimants”) of Land on the Southeast of Moorhouse Road, Egmantion in their judicial review claim.

The Claimant wishes to challenge the decision by Newark & Sherwood District Council, Planning & Development Team (“Defendant”) decision to decline to determine the Claimant’s application for planning permission, dated 7 May 2026. This letter constitutes our client’s letter before claim in accordance with the Practice Direction – Pre-Action Protocol Conduct and Protocols in the Civil Procedure Rules 54.1(2) and Para 6(a)(b) (the Practice Directions).

1. Details of Matter Being Challenged

The proposed judicial review claim arises from the decision of Newark & Sherwood District Council’s dated 7 May 2026 to decline to determine the Claimant’s application for planning permission ref

25/00121/ENFA: for “***Material change of use of land to a gypsy/traveller site for stationing of 1 static caravan, no more than one mobile home together with laying of hardstanding and erection of day room***,” location, Land on the Southeast of Moorhouse Road, Egmonton.

2. Interested Parties

Claimant does not consider there to be any persons that would fall within the definition of ‘interested party’ for the purpose of CPR 54. However, if the Defendant considers there are such interested parties, please notify us with immediate effect so that this letter may be provide to them if appropriate.

3. Factual Background to the Claim

- a. On 22 April 2026, the planning applications (reference 26/00604/FUL, 26/00614/FUL, 26/00615/FUL, 26/00616/FUL, 26/00617/FUL, 26/00618/FUL, 26/00619/FUL, 26/00620/FUL, 26/00621/FUL, 26/00622/FUL, 26/00623/FUL) were submitted by their planning agent, OASIS LAND MANAGEMENT. This was for the Land on the Southeast of Moorhouse Road, Egmonton. Consequently, these were refused on the 7 May 2026 whereby the Council followed their requirements in paragraph 186 and 187 of the National Planning Policy Framework.
- b. Newark & Sherwood District Council issued an Enforcement Notice on the Land on the Southeast of Moorhouse Road, Egmonton, on 24 April 2025. The Enforcement Notice was issued by the Council due to ‘a breach of planning control’ for an unauthorized caravan site under Section 171A of the Town and Country Planning Act 1990. The enforcement notice took effect on the 29 May 2025 (reference 25/00121/ENFA)
- c. An enforcement appeal was submitted under Section 174 of the Town and Country Planning Act 1990 concerning the Notice on 26 April 2025. This was advanced by Mr Thomas Cochrane on behalf of Mr John Sheridan (reference APP/B3030/C/25/3364678). The appeal was dismissed on 3 October 2025.
- d. On 22 April 2026, the planning applications were submitted for the retention of a traveller caravan pitch on the Land on the Southeast of Moorhouse Road, Egmonton. This is a retrospective application under Section 73a of the Town and Country Planning Act 1990 for the change of use of land to Gypsy/Traveller caravan pitches, involving the stationing of caravans for residential purposes, laying of hardstanding and construction of an access driveway (reference

26/00604/FUL, 26/00614/FUL, 26/00615/FUL, 26/00616/FUL, 26/00617/FUL,
26/00618/FUL, 26/00619/FUL, 26/00620/FUL, 26/00621/FUL, 26/00622/FUL,
26/00623/FUL). These applications were submitted by Oasis Land Management Ltd on behalf
of the applicant. The decision was a decline to determine application was made on 7 May 2026.

4. Legal Basis to the Claim

1. A judicial review is a type of court proceedings in which a judge reviews the lawfulness of a decision or action made by a public body. In exercising such a discretionary power, it is posited that the Defendant has acted irrationally by failing to consider the planning merits of the Claimant's application, thereby prejudicing the Claimant's right to appeal the enforcement notice in which the land is subject to.
2. Section 70C of the Town and Country Planning Act 1990 confers upon a Local Authority power to decline the determine retrospective planning applications in the following terms:
 - a) A local planning authority may decline to determine an application for planning permission for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control."
 - b.) For the purposes of the operation of this section in relation to any particular application for planning permission, a "pre-existing enforcement notice" is an enforcement notice issued before the application was received by the local planning authority.
3. R (Moran) v Medway Council [2026] EWCA Civ 484 is a leading authority on section 70C of the Town and Country Planning Act 1990, confirming that local planning authorities have a broad discretion to decline to determine planning applications where they overlap with matters subject to a pre-existing enforcement notice. The Court of Appeal rejected arguments that section 70C applies only to retrospective applications or only where there is delay to enforcement, holding instead that its purpose is wider—namely, to prevent applicants from obtaining multiple determinations of the planning merits of the same breach ("two bites of the cherry").

The case clarifies that the power can apply even to prospective applications and even after enforcement action has been taken, and that the correct approach is to interpret the statutory wording according to its ordinary meaning while ensuring the authority's discretion is exercised lawfully. Accordingly, a decision will be unlawful if the authority misapplies section 70C by failing to consider whether the application raises a genuinely duplicative merits issue or by ignoring considerations so obviously material that it would be irrational to exclude them, thereby amounting to a misdirection in law and an unlawful exercise of discretion.

4. Section 70C of the 1990 Act was introduced through Section 123 (2) of the Localism Act 2011, alongside Section 174(2A) and (2B) relating to appeals against enforcement notices. The discretion afforded by Section 70C must be exercised in accordance with well-established public law principles. These include that the discretion must not be exercised in a manner that frustrates the statutory purpose behind the provision. As it was put by Lord Reid in Patfield v Minister of Agriculture, Fisheries and Food (1968) AC 997, 1030:

“Parliament must have conferred the discretion with the intention that it should be used to promote the policy and objects of the Act; the policy and objects of the Act must be determined by constructing the Act as a whole and construction is always a matter of law for the court. In a matter of this kind it is not possible to draw a hard and fast line, but if the Minister, by reason of his having misconducted the Act or for any other reason, so uses his discretion as to thwart or run counter to the policy and objects of the Act, then our law would be very defective if persons aggrieved were not entitled to the protection of the court.”

5. On the basis representation is made that the lawful basis on which the Council could decline to determine the Application are open to challenge for two reasons;
6. First, Section 70C of the 1990 Act is not even engaged by the Application. The power to decline determine an application only arises where the grant of planning permission would result in granting *“permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.”*
7. Second, even if we were to state that Section 70C is appropriately applied in this case, the Defendant have failed to exercise their discretion as to whether to decline to determine the Application.

8. As such the Claimant therefore claims that the decision of the Defendant to decline to determine their application for planning permission should be judicially reviewed on the grounds of procedural impropriety and a breach of Human Rights under Article 8 of the ECHR 1998.

Procedural impropriety and a breach of Human Rights

9. At the time of the application the Defendants had been made aware and confirmed by way of welfare reports that there are active grounds for provisions of the application of human rights of the Defendants. By failing to engage in a dialogue and address these claims of HR, the Defendant has flawed their decision by declining to determine the application. No evidence has been put forward to rebut that the HR of the Claimants, as the Defendant has made no attempts to make proper inquiries, prior to acting or in continuing to act.
10. As explained in R (on the application of Banghard) v Bedford Borough Council [2017] EWHC 2391 (Admin) [37], at that discretion must still be exercised rationally and consistently with the underlying purpose of the provision. Therefore, even where section 70C is engaged, failure to exercise the discretion it affords consistently with its statutory purpose will render the decision unlawful as in Padfield.
11. The underlying purpose of Section 70C of the 1990 Act is to prevent retrospective applications being used to delay enforcement action. In R. (Chesterton Commercial (Bucks) (Ltd) v Wokingham Borough Council [2018] EWHC 1795 (Admin), Martin Rodger QC, sitting as a Judge of the High Court, referred (at [69]) to the “statutory objective of stopping applicants who have undertaken development in breach of planning control from gaming the system by tactical appeals and retrospective applications.” This purpose is achieved by ensuring that an applicant cannot insist on two separate considerations of the planning merits of a development, or multiple “bites at the cherry”, by having a right to appeal the refusal of planning permission and also to appeal against an enforcement notice effectively on the same grounds. English law imposes minimum standard of procedural fairness based on principle of natural justice. The right to be given reasons for a decision is an integral element of procedural fairness.
12. The right to be heard is fundamental and the Defendant’s decision to decline to determine the Claimant’s planning application restricts our client’s right to be heard. The Claimant asserts that this exercise of discretion was not fairly or rationally exercised.

13. The Law states that Public Authorities are required to act in a way that respects the rights of individuals regardless of whether they are a British Citizen, a foreign national, an adult or a child and a claim for judicial review can be brought where an individual is a victim of alleged violation by public authority.
14. It is the Claimant's position that their human rights under Article 8 of the European Convention of Human Rights (ECHR) 1998 have been violated. This is as a result of the Defendants exercising its power in refusing to determine its planning application.
15. The Claimant and his family are gypsy traveler with the definition of the current relevant policy (PPTS). For the purposes of the planning system, the definition was changed in the revised PPTS. The new definition is set out in Annex 1 and states that: For the purposes of this planning policy "gypsies and travelers" 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 show people or circus people travelling together as such."***
16. 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."*
17. In Greenwich London Borough Council v Powell (1989), Lord Bridge of Harwich stated that a person could be a statutory Gypsy if he led a nomadic way of life seasonally. The definition was widened further by the decision in R v Shropshire County Council ex p Bungay (1990). The case concerned a Gypsy family that had not travelled for some 15 years in order to care for its elderly and infirm parents. Dismissing the claim, the judge held that a person could remain a Gypsy even if he or she did not travel, provided that their nomadism was held in abeyance and not abandoned.

18. The Claimant and his family are living on site because they have nowhere to live; and whilst the Defendant's Enforcement Notice claims there is no unmet need for gypsy and traveller pitches within the district, this has not been readily available to the Claimant as an alternative.
19. The Defendant has a statutory duty to take this into account when considering the planning application. However, by declining to determine the application, the Defendant failed to consider the personal circumstances of the Claimant and his family, amongst other planning considerations.
20. The Claimant and his family have a right to a culturally suitable accommodation which in their case is a gypsy/traveller site for stationing of 1 static caravan, no more than one mobile home together with laying of hardstanding and erection of day room for their use. The Claimant has been proactive in making a retrospective planning application.
21. In terms of planning merits, the Claimant has prospects of success as have been demonstrated in evidence by its planning agent, Mr Muhammad Choudhry. Furthermore, the Defendant has failed to consider whether their action in refusing to determine the planning acting was proportionate in the circumstances following the principles set down in the leading case of South Bucks District Council and another (Respondents) v. Porter (FC) Appellant 2003 2 AC. No such consideration has been made and therefore such considerations will need to be made by the Court for the Defendant to fulfil its duties under Article 8 and Article 1 of protocol one of the European Convention on Human Rights and Article 3.1 of the United Nations Convention on the Rights of the Child 1989. The Defendant have clearly deprived the Claimant of those rights when it refused to consider the Claimant's planning application.
22. The Claimant's site is not green belt land and not an area of Conservation and there would be no unacceptable adverse impact on landscape character. The site would not lead to the unacceptable loss, or significant adverse impact on landscape character and value, important heritage assets and their settings, nature conservation or biodiversity sites. Thereby, it clearly shows that it is different from what have been specified on the EN, which are the hard surfacing represents a harmful urbanising feature in the open undeveloped character of the landscape and significantly harms the visual and rural amenities of the area.
23. The Claimant's site is 2.4 miles from Tuxford Primary School, and Tuxford Academy secondary school. Tuxford Clinic and Medical Centre is also only 2.6 miles away from the site. There is a Coop and a Costcutter food store in Tuxford, similar distance from the site. Sutton

on Trent is also nearby 3.5 miles, with a wide range of services and facilities. The site is on a bus route. Hence, it clearly shows that it is different from what have been specified on the EN, which are the site is some distance from any nearby settlement and represents an unsustainable scale of development in this location.

24. The Claimant's site is away from other residential properties, therefore, there would be no adverse impact upon amenity of any nearby residents. The layouts of the site provides a suitable level of amenity for the proposed residents. The landscape in this area is typically flat comprising predominantly arable fields with defined hedgegrows borders. The site already benefits from established hedgegrows which would be retained so as to soften the impacts. The development as proposed is relatively low level and, there are existing native hedgegrows around the site and adequate space within each pitch to accommodate new planting and landscaping. With the imposition of a landscaping condition and a detailed landscaping scheme, it is considered that the site can be made acceptable in terms of its landscape impacts. Therefore, it clearly shows that it is different from what have been specified on the EN, which are the hard surfacing represents a harmful urbanising feature in the open undeveloped character of the landscape and significantly harms the visual and rural amenities of the area.
25. The Defendant's violation of the Claimant's human rights is not justified as the planning agent has provided details of the welfare circumstance of the Claimant to the Defendant through the full planning application and representations submitted by the Claimant's solicitors.
26. As a result of the Defendant's failure in determining the planning application, the Claimant and his family are at risk of homelessness with no alternative accommodation provided to them. Consequently, his right to a private and family life as entrenched in the ECHR has been violated by the Defendant's decision.

5. Conclusion:

Here, for planning permission to be refused, any harm must significantly and demonstrably outweigh the benefits of granting permission. Given's that the Claimant's site is well-screened, has a satisfactory access and would not adversely affect any neighbours' amenities, any harm is unlikely to outweigh the matters which weigh in favour of the scheme. For this reason, it would be unlawful for the Council to decline to determine the Application.



SRA Registration No: 652294
HatTech Business Centre
Beaconsfield Court
Beaconsfield Road
Hatfield, Hertfordshire
AL10 8FF
United Kingdom
Tel: 0207 164 6849,
Email: casework@brilliancesolicitors.co.uk
Principal: Mrs Tahseen Amir Choudhry

6. Remedy Required

The Claimant seeks of the Defendant a review of the decision to decline to determine the application for planning permission, ref: 26/00604/FUL, 26/00614/FUL, 26/00615/FUL, 26/00616/FUL, 26/00617/FUL, 26/00618/FUL, 26/00619/FUL, 26/00620/FUL, 26/00621/FUL, 26/00622/FUL, 26/00623/FUL and allow for the consideration of the planning merits of said application which are refused by virtue of powers conferred by S70 of the Town and Country Planning Act 1990.

Upon the issue of proceedings and subsequent outcome, the Claimant seeks an order that the Defendant erred in their decision to decline to determine and will make a subsequent application for a Costs Order against Newark & Sherwood District Council.

7. Alternative Dispute Resolution Proposals

Whilst our client is confident that it will succeed in its claim for judicial review, the preference remains to resolve this matter without recourse to the courts where possible.

However, upon receipt of a substantive response to this letter, the Claimant will then be in a better position to consider of any alternative dispute resolution method is appropriate to address any issue you raise.

8. Information Sought and Disclosure of Relevant & Necessary Documents

At this stage, the Claimant does not consider it necessary that any information be provided, however the Claimant reserves the right to request information upon the issue of a claim and during the litigation process.

9. Address for Reply and Service of Court Documents

Any further correspondences should be addressed to Brilliance Solicitors at HatTech Business Centre, Beaconsfield Road, Hatfield, Hertfordshire, AL10 8FF.

Alternatively, we accept service and correspondence by email of which the address for service is: casework@brilliancesolicitors.co.uk. Please quote reference: 470.05.25 in all correspondences.



SRA Registration No: 652294

HatTech Business Centre

Beaconsfield Court

Beaconsfield Road

Hatfield, Hertfordshire

AL10 8FF

United Kingdom

Tel: 0207 164 6849,

Email: casework@brilliancesolicitors.co.uk

Principal: Mrs Tahseen Amir Choudhry

10. Proposed Response Date

Please acknowledge receipt of this letter promptly and by no later than Tuesday 16 June 2026. We look forward to receiving a response no later than 14 days from the date of this letter, in line with the Civil Procedure Rules.

Yours faithfully,
Brilliance Solicitors