

ENGLAND AND WALES / JUDGMENT

Blackpool Borough Council v Alice Ester Beale & Ors

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Blackpool BC v Beale & others – Approved Judgment Neutral Citation Number: [2026] EWHC 2237 (KB) IN THE HIGH COURT OF JUSTICE KING’S BENCH DIVISION MANCHESTER DISTRICT
REGISTRY Case No: KB-2026-MAN-000196 Manchester Civil Justice Centre Date: 28 August 2026
Before: HHJ Stephen Davies sitting as a High Court Judge IN THE MATTER OF AN INJUNCTION
PURSUANT TO SECTION 187B OF THE TOWN AND COUNTRY PLANNING ACT 1990 Between:
BLACKPOOL BOROUGH COUNCIL Claimant

- and -

(1) ALICE ESTER BEALE

(2) LAURENCE BOSWELL

(3) OTHEYBOY BOSWELL JONES

(4) PERSONS UNKNOWN Defendants

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- ----- Mr Fraser-Urquhart KC (instructed by DWF Law LLP Solicitors, London) for the Claimant Charles King (instructed by Couchman Hanson Solicitors, Crowthorne) for the First to Third Defendants Hearing dates: 10, 11, 14 August 2026

- ----- APPROVED JUDGMENT Remote hand-down This judgment was handed down remotely at 10am on 28 August 2026 by circulation to the parties or their representatives by email and by release to The National Archives. I direct that pursuant to CPR PD 39A paragraph 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic. His Honour Judge Stephen Davies Blackpool BC v Beale & others – Approved Judgment HHJ Stephen Davies Contents Introduction and summary of decision The Site The witnesses The relevant legal principles Relevant planning policy Relevant chronology and fact finding The issues Prospects of planning permission being obtained for the existing development and/or the proposed development? Serious planning harm? Human rights considerations and the PSSED What in all the circumstances is the appropriate remedy? An injunction against persons unknown? Introduction and summary of decision 1. 2. 3. 4. 5. 6. 7. The Claimant (the Council) is the local planning authority (LPA) for the Blackpool area. The First Defendant,

Ms Alice Ester Beale, the Second Defendant, Mr Laurence Boswell, and the Third Defendant, Mr Otheyboy Boswell-Jones are the freehold owners of land in the Marton Moss area of Blackpool (the Site). I refer to them as the Defendants. (Where I discuss the other classes of defendant, referred to as the unknown Defendants, I refer to them separately as such.) At the trial of this claim the Council seeks a permanent injunction under section 187B of the Town and Country Planning Act 1990 (the TCPA) in respect of established breaches of planning control in relation to the Site. In short, it seeks an order requiring Ms Beale and Mr Boswell-Jones and their families to leave the Site and not return to it, and to reinstate the Site to the condition it was in before they began to prepare it for their eventual occupation. It also seeks appropriate relief against Mr Boswell and the unknown Defendants. The Defendants are all Romani Gypsy travellers and are also all members (in Ms Beale's case, by marriage) of the extended Boswell family, which has a long-established and close connection with the Blackpool area. On 15 May 26, at a without notice hearing, I granted a limited (in time and scope) injunction against all Defendants. On the injunction return date, 5 June 26, when Ms Beale and Mr Boswell-Jones attended in person, I granted a further injunction to trial in slightly modified form, and I also gave directions for this expedited trial. At trial the Council was represented by the same solicitor and counsel team as had appeared at the previous two hearings, with Mr Fraser-Urquhart KC appearing as counsel. In the meantime, the Defendants had instructed solicitors, produced witness statements and appeared at trial represented by counsel, Mr King. I am grateful to all of the legal representatives for their assistance. Ms Beale and Mr Boswell-Jones, supported by Mr Boswell, adopted the primary position that no injunction should be ordered but they also, realistically, adopted the secondary position that any injunction that might be made should not take effect until the final determination of their planning application, made on 1 June 26, by which they seek to obtain permission to develop and use the Site for four permanent caravan pitches. Blackpool BC v Beale & others – Approved Judgment 8. 9. 10. 11. 12. 13. 14. 15. In contrast, the Council submitted that it was entitled to an injunction in the terms sought and that the Defendants should be ordered to vacate the Site within 14 days of the injunction being granted. Having considered the evidence and the submissions I am satisfied that: (a) the Council is entitled to an injunction in substantially the terms sought as against the First and Third Defendants, save that they should have 21 days to leave the Site; (b) I will accept an undertaking in modified terms against the Second Defendant, otherwise I will grant an injunction in those terms; (c) I am not satisfied on the evidence that there is any basis for a continuation of the injunction against the Unknown Defendants. I will deal with the terms of the order, including all consequential matters, once this judgment is handed down. The Site The Site lies on the north-east corner of the junction between School Road (running west-east) and Midgeland Road (running north-west to south-east). This junction lies at the easterly edge of the Blackpool conurbation, within an intermediate area of semi-rural land between the built-up area of Blackpool to the west and north and the more rural area of the Marton Moss to the east and south. This intermediate area was historically used predominantly for agricultural purposes, particularly market gardening, and despite development over the years remains semi-rural in character. In a recent

determination, rejecting the Defendants' appeal against an enforcement notice served on them by the Council (which is discussed in more detail below) the planning inspector described the junction where the Site is located as "a key junction regarded as a gateway to Marton Moss". He described the Site as "located in an area of now diminished market gardening activity that retains ranges of glasshouses and small-holdings but has seen regular plots redeveloped and new residential, equine and other commercial and animal-based enterprises introduced. The area is characterised by a network of rural lanes serving loosely dispersed properties amongst generous areas of mainly hedged paddocks, open fields and large gardens that give rise to a predominant open and rural character". The Site is designated as open land in the Blackpool Local Plan 2012-2027 and also lies within the Marton Moss Conservation Area and the Marton Moss Neighbourhood Plan 2020-2030. These policies are discussed in more detail below. A Google maps photo from April 19 shows the Site as an undeveloped area of fairly rough grassed land with some small trees and shrubs in places and an old concrete post and link boundary fence. According to Mr Walker and Ms Parker it has had a long-established use for grazing horses. According to Mr Boswell-Jones its use has been more chequered. Thus, he has exhibited photographs which he says show existing foundations and drainage on the Site. As against that the planning inspector referred to OS mapping from 1971 which show evidence of market gardening on adjacent sites, but not on this Site. Mr Boswell-Jones says that the Site was not level and of use only for rough grazing. He has also referred to evidence of fly-tipping on the land and also that when the Defendants acquired it the Site was being used for advertising sheds. In reality, none of this matters very much. No-one suggests that the Site was a pristine natural wilderness. However, that does not alter the fact that the Site was, I find, an area of open land, mainly rough grass with some trees and shrubs and a slightly scruffy abandoned appearance, but at all relevant times it was not developed in any material way and, if there had ever been any market gardening on the Site, which on the basis of the reference to old OS maps I very much doubt, that had long ceased. The witnesses Blackpool BC v Beale & others – Approved Judgment 16. 17. This is a case which does not turn to any real extent on the credibility of the witnesses. In general terms the Council's witnesses came across as reliable witnesses and professional and reasonable people. My main reservation was what appeared to be a lack of awareness of what was required in terms of compliance with the public sector equality duty – the PSED as explained in more detail below. I am satisfied that this was due to a lack of real awareness as to what was required of them as well as the urgency of seeking an interim injunction and a failure to appreciate the need to review compliance with the PSED in the run-up to the trial, rather than any lack of concern for the interests of the Defendants and their families. That said, it did seem to me that the Council's witnesses were rather more focussed on the planning and enforcement consequences of the Defendants' actions than on the consequences to Ms Beale and Mr Boswell-Jones and their families if they were required to leave the Site. It appears that they had a fairly generalised belief that the families would be able to find reasonable places to pitch their caravans, either in the locality or elsewhere, if they were ordered to leave the Site.

18. Mr Craig Walker and Mr Ryan Unsworth are both planning enforcement officers with the Council. Mr Walker is the case officer responsible for the Site. He provided the principal witness statement and gave evidence.
19. Mr Unsworth was involved for a limited period in April 26 when there was a need to visit the Site whilst Mr Walker was on leave. They both gave evidence in their witness statements as to what they observed on their visits to the Site on various occasions and Mr Walker also gave evidence of some discussions he had had with Ms Beale and Boswell-Jones and others.
21.
20. Mr Unsworth was on leave and was not called, but his witness statement was admitted as a Civil Evidence Act statement. There was nothing of real significance in his evidence. The photographs he took and exhibited were self-explanatory. There was a dispute of recollection between Mr Walker and Mr Boswell-Jones as to whether or not Mr Walker had previously given the impression of being supportive of the Defendants levelling the Site and laying hardcore and also of the prospects of their obtaining planning permission, which I resolve in Mr Walker's favour.
22. Ms Susan Parker is the head of development management with the Council, with 22 years of experience working for various planning authorities. The stated purpose of her witness statement was to "consider the planning harm arising from the breach of planning control and the need for a final injunction". Given that no permission was sought or obtained to rely on her evidence as expert planning evidence, I do not consider that I can or should have regard to her evidence insofar as it amounted to statements of her opinion on matters of planning judgment, but I am entitled to have regard to what she says in relation to relevant policy and also to what she says which is properly to be regarded as factual evidence. In many respects what she says echoes what has already been the subject of determination by the planning inspector in December 2025, which determination has not been the subject of any appeal on a point of law under s.289 TCPA.
23. Ms Dawn Goodall is the head of legal services with the Council. The principal relevance of her evidence is that she stated that in seeking a permanent injunction the Council has had regard to the impact of such a step upon the human rights of the Defendants and the interests of the children. She explained why in her witness statement at par. 23, about which she was cross-examined. I will refer later to her evidence in that regard but, in short, I was not persuaded about the Council's compliance with the PSED. All three Defendants explained in their witness statements that, due to their life experiences as people of Romani Gypsy heritage and ethnicity, they have suffered disadvantages included a lack of access to education which has led to their having difficulties in reading and writing. They have had to rely on 24. Blackpool BC v Beale & others – Approved Judgment their lawyers to prepare their witness statements. In the circumstances, I suggested that their solicitor could sit by them in court to ensure that they were directed to the relevant parts of the trial bundle and that the relevant sections could be read out to them if necessary before they answered questions about them. Mr Fraser-Urquhart KC helpfully tailored his cross-examination to

ensure that this could happen and that they were not disadvantaged in giving evidence by the taking of these special measures.

25. Ms Alice Beale gave evidence about herself and her family, referring to her mental health conditions and her hernia condition, as well as the ADHD from which her youngest son suffers. She explained that she strongly wishes to be able to live at the Site in order to provide a stable home for her family, with the benefit of the supportive family network which she has in the Blackpool area, including her brother, her in-laws (the Boswell family), cousins and other relatives. She came across as largely honest and reliable, save that both in her witness statement and in her evidence she did not give a complete picture of the alternative options available to her and her family in the event that they were ordered to leave the Site.
26. Mr Laurence Boswell explained in his evidence that whilst he would like to live on the Site, which is why he has joined with the other Defendants in making the existing planning application, and whilst he is supportive of their position, he has never actually lived on the Site and does not intend to do so unless or until planning permission is obtained. On that basis, he is willing to give undertakings to the court in substantially the same terms as the existing interim injunction. 28.
27. Mr Otheyboy Boswell-Jones seemed to me to be the prime mover behind the actions taken by the Defendants. He is in his late 20's, married with two young children, and plainly a hardworking family man. My general view of him and his reliability as a witness is essentially the same as my view of Ms Beale. Neil Pike is the architect appointed to apply for planning permission on behalf of the Defendants. He provided a short witness statement which: (a) referred to the longevity of the Boswell family association with Blackpool; and (b) stated that in his view the "proposal as described in the planning application is not untypical of the locality which has several caravan sites in the Midgeland Road area". He did not however attend to give evidence, so that although I have admitted his evidence under the Civil Evidence Act the weight I can place on his opinion at (b) above is necessarily limited. The relevant legal principles 29. 30. 31. It is not disputed and well-established that in a case such as the present both the existing development on the Site and the further development as proposed by the Defendants require planning permission and that undertaking such development without planning permission is a breach of planning control. The Council as the LPA has standing to bring an application for an injunction to restrain any actual or apprehended breach of planning control, including an application for an injunction against persons whose identity is unknown. Thus, s. 187B TCPA provides that: "(1) Where a local planning authority consider it necessary or expedient for any actual or apprehended breach of planning control to be restrained by injunction, they may apply to the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Part.

- (2) On an application under subsection (1) the court may grant such an injunction as the court thinks appropriate for the purpose of restraining the breach.
- (3) Rules of court may provide for such an injunction to be issued against a person whose identity is unknown.” Blackpool BC v Beale & others – Approved Judgment 32. 33. The leading authority on section 187B of the Act is the decision of the House of Lords in South Buckinghamshire District Council v Porter & Others [2003] 2 A. C. 558 (South Bucks). In Ipswich Borough Council v Fairview Hotels (Ipswich) Limited [2022] EWHC 2868 (KB) (Ipswich) Holgate J set out at par. 93 the following principles and guidance which he distilled from the South Bucks judgment:
- (i) The need to enforce planning control in the general interest is a relevant consideration and in that context the planning history of the site may be important. The “degree and flagrancy” of the breach of planning may be critical. Where conventional enforcement measures have failed over a prolonged period the court may be more ready to grant an injunction. The court may be more reluctant where enforcement action has never been taken; (ii) On the other hand, there might be urgency in the situation sufficient to justify the avoidance of an anticipated breach of planning control; (iii) An anticipatory interim injunction may sometimes be preferable to a delayed permanent injunction, for example, where stopping a gypsy moving on to a site in the first place, may involve less hardship than moving him out after a long period of occupation; (iv) While it is not for the court to question the correctness of planning decisions which have been taken (e.g. decisions to refuse a planning permission or to dismiss an appeal), the court should come to a broad view as to the degree of environmental damage resulting from the breach and the urgency or otherwise of bringing it to an end;
- (v) The achievement of the legitimate aim of preserving the environment does not always outweigh countervailing rights (or factors). Injunctive relief is unlikely to be granted unless it is a “commensurate” remedy in the circumstances of the case; (vi) It is the court’s task to strike the balance between competing interests, weighing one against the other. In Ipswich Holgate J also explained that: (a) the normal method of taking action against a breach of planning control is by an enforcement notice issued under s. 172. TCPA; (b) that any party interested in the land may bring an appeal against the enforcement notice under s.174, which will normally be determined by a planning inspector; (c) the appeal will determine whether or not a breach of planning control has occurred but may also, if it has, whether planning permission should be granted for the development enforced against; and (d) the enforcement notice is suspended until the final determination of the appeal (pars. 85-86). At par. 88 Holgate J explained that although the decision on expediency is a matter for the LPA, the matters to which the LPA must have regard are relevant to the exercise of the court’s discretion on whether to grant an injunction. At par. 95 he noted that Lord Bingham had stated in South Bucks (par. 95) that the LPA’s evidence would usually make clear what account it had taken of the personal circumstances of the defendants and any hardship an injunction may cause. Lord Bingham added: “If it appears that these aspects have been

neglected and on examination they weigh against the grant of relief, the court will be readier to refuse it. If it appears that the local planning authority has fully considered them and nonetheless resolved that it is necessary or expedient to seek relief, this will ordinarily weigh heavily in favour of granting relief, since the court must accord respect to the balance which the local planning authority has struck between public and private interests. It is, however, ultimately for the court to decide whether the remedy sought is just and proportionate in all the circumstances". 34. 35. 36. 37. Blackpool BC v Beale & others – Approved Judgment 38. 39. 40. 41. 42. 43. 44. 45. In that respect, in South Bucks Lord Bingham held (par. 37) that the cases to which he had referred “make plain that any interference with a person's right to respect for her home, even if in accordance with national law and directed to a legitimate aim, must be proportionate. As a public authority, the English court is prohibited by s.6(1) and s.(3)(a) of the Human Rights Act 1998 from acting incompatibly with any Convention right as defined in the Act, including Art. 8. It follows, in my opinion, that when asked to grant injunctive relief under s.187B the court must consider whether, on the facts of the case, such relief is proportionate in the Convention sense, and grant relief only if it judges it to be so...”. It is of course common ground that the Defendants are just as entitled to right to respect for their home as anyone else, notwithstanding that their home is a caravan which is not permanently stationed in the same place. As the European Court in Chapman v United Kingdom (2001) 33 EHRR 18 said (par. 73): “The applicant's occupation of her caravan is an integral part of her ethnic identity as a Gypsy ... even though, under the pressure of development and diverse policies or by their own choice, many Gypsies no longer live a wholly nomadic existence and increasingly settle for long periods in one place in order to facilitate, for example, the education of their children” so that “measures affecting the applicant's stationing of her caravans therefore have an impact going beyond the right to respect for her home. They also affect her ability to maintain her identity as a Gypsy and to lead her private and family life in accordance with that tradition”. This brings in the further consideration that the Defendants and their families, as Romani Gypsies, have relevant protected characteristics for the purposes of the Equality Act 2010 so that, in exercising its powers in relation to the breach of planning control committed by the Defendants at this Site, the Council as a public authority must comply with s.149(1) of the Equality Act, which requires it to have “due regard to the need to ... (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it”. By s.149(3)(a) and (b) this includes having due regard in particular to the need to: (a) remove or minimise disadvantages suffered by such persons connected to those characteristics; and (b) take steps to meet their needs which are different from those who do not share those characteristics. This public sector equality duty is commonly abbreviated to the PSED. Insofar as the medical conditions of any of the Defendants or their children amount to disabilities the same applies. I have been referred to the decision of the Court of Appeal in Pieretti v Enfield [2010] EWCA Civ 1104, where it was held (in relation to the Disability Discrimination Act 1995, as the predecessor of the Equality Act) that the particular aspect of the duty under s.149(3)(b) could more easily be understood as a duty to take due steps to take account of a protected characteristic (per

Wilson LJ at pars. 33 - 35) In the often-cited case of *Bracking v Secretary of State for Work and Pensions* [2013] EWCA Civ 1345, which summarises the authorities on the exercise of the PSED, and which borrows extensively from the earlier judgment of the Divisional Court in *Brown v Secretary of State for Work and Pensions*

- [2008] EWHC 3158 (Admin) to which I was referred by Mr King, principle 5 at paragraph 26 of the judgment states: “(i) The public authority decision maker must be aware of the duty to have ‘due regard’ to the relevant matters; (ii) The duty must be fulfilled before and at the time when a particular policy is being considered; *Blackpool BC v Beale & others – Approved Judgment* (iii) The duty must be ‘exercised in substance, with rigour, and with an open mind’. It is not a question of ‘ticking boxes’; while there is no duty to make express reference to the regard paid to the relevant duty, reference to it and to the relevant criteria reduces the scope for argument; (iv) The duty is non-delegable; and
- (v) Is a continuing one. (vi) It is good practice for a decision maker to keep records demonstrating consideration of the duty.” Further, as Coulson LJ said in his judgment¹ in *Bromley LB v Persons Unknown* [2020] EWCA Civ 122 at par. 52: “Whilst it has been repeatedly accepted that the PSED does not require an EIA [short for an “equality impact assessment”], the reality is that undertaking an EIA will be a factor in a case of this sort that points towards a proportionate approach on the part of a local authority. It is the substance of the EIA undertaken that matters, not its formal existence (*R (Brown) v Secretary of State for Work and Pensions* and another [2008] EWHC 3158 (Admin) at [93]). An EIA undertaken prior to the seeking of injunctive relief will be evidence of good practice. Further, the carrying out of a welfare assessment on unauthorised campers to identify any welfare issues that need to be addressed, prior to the taking of any enforcement action against them, is good practice”. He held (section 6.6 at pars. 80-87) that the judge in that case had been entitled to take into account, when conducting the proportionality exercise (of deciding whether or not it was proportionate to grant an injunction), that the council in that case had failed to carry out an EIA and to comply with the PSED. He also noted at par. 6 “a long-standing and serious shortage of sites for Gypsies and Travellers” and at par. 69 that the absence of any alternative sites was a relevant factor in relation to the proportionality exercise. 46. 47. 48.
49. What is the relevance of a failure to comply with the PSED? A similar question was considered by the Court of Appeal in the case of *Forward v Aldwyck Housing* [2019] EWCA Civ 1334 in the context of a claim for possession of residential premises brought by a housing association in circumstances where the trial judge in the County Court had made findings that: (a) the claimant had not complied with the PSED when making the decision to bring the proceedings; and (b) the further consideration of the PSED undertaken by the claimant before trial was inadequate. It was argued for the defendant that this meant that the claim for possession should not be made. The trial judge decided that the non-compliance did not amount to a defence because the possession order was a proportionate means of achieving a legitimate aim. The High Court Judge on appeal held that although this

was the wrong test, because the trial judge ought to have undertaken a structured and rigorous enquiry of the impact of the decision to seek possession against the objectives encapsulated in the PSED, on a proper application of the right test, the trial judge would inevitably have come to the same answer. On further appeal to the Court of Appeal, at par. 21 of his judgment (with which the other members agreed) Longmore LJ “decline[d] to accept the proposition that, as a general rule, if there is a breach of the PSED, any decision taken after such breach must necessarily be quashed or set aside”. At par. 25 he noted that “In the context therefore of a typical possession action the court, while having regard to the importance of the PSED, will also have available to it the facts of the particular dispute and be able to assess the consequence of any breach of the duty ...” At par. 26 he held that “the court should, in deciding the consequence of a breach of PSED, look closely at the facts of the particular case and, if on the facts it is highly likely that the decision would not have 50. 52. 51. 2 With which Haddon-Cave LJ and the Senior President of Tribunals agreed. A case where the council was seeking a borough wide injunction against encampment on accessible public spaces against persons unknown, but which in reality was directed against the gypsy and traveller community. Blackpool BC v Beale & others – Approved Judgment 53. 54. 55. 56. 57. been substantially different if the breach of duty had not occurred, there will (subject to any other relevant considerations) be no need to quash the decision. If, however, it is not highly likely, a quashing order may be made”. I should say that although he referred there to quashing the decision, it is clear in my judgment that when the decision is read in the context that this was not a judicial review case but a possession action, what he meant was that what the trial judge in the possession action was required to decide was whether or not a possession order should be made, applying the approach stated in par. 26. In my judgment, the same approach should be taken in the present case, where the Council is seeking a permanent injunction at trial requiring the Defendants to vacate the Site. A further relevant consideration is that the best interests of any children affected by the grant of an injunction are a primary consideration for the LPA when deciding whether or not it is necessary and expedient to seek an injunction and further an important matter to which the Court must have regard when deciding whether or not the grant of an injunction would be a disproportionate interference with the right to respect for the private and family life and the home of the Defendant, as explained by the Supreme Court (in the immigration law context) in *ZH (Tanzania) v Secretary of State for the Home Department* [2011] UKSC 4, [2011] 2 A. C. 166 (ZH). However, as the Supreme Court made clear in that case, this does not mean that the best interests of any children cannot be outweighed by other factors. As to the exercise of the discretion whether or not to order an injunction in case such as this, Mr King referred me to a decision of Stadlen J in *Brentwood v Ball* [2009] EWHC 2433 (QB) where the judge declined to grant an injunction against the defendants, also travellers, pending the determination of their planning application. Mr King did not submit that this decision established any legal precedent, but he did submit that it showed that the court can and will decline to grant an injunction in cases of this nature. I accept that this is the case, but of course that decision depended on its own particular facts, as indeed did the earlier decision of David Clarke J in *South Buckinghamshire DC v Smith* [2006] EWHC 281 (QB) to which he

also referred me. As regards the persons unknown defendants, the Supreme Court in *Wolverhampton City Council v London Gypsies and Travellers and others* [2023] UKSC 47 (Wolverhampton) made clear that the claimant must show a “compelling need” for the order, that there is procedural protection, that there are “territorial and temporal limitations” and that it is “just and convenient” that the injunction be granted (paragraph 167). When considering whether or not to make any interim injunction permanent the following considerations may be relevant: (i) how effective the interim order had been; (ii) whether any grounds for its discharge had emerged; (iii) whether there was proper justification for its continuance; (iv) whether and on what basis a further order should be made. Relevant planning policy 58. 59. 60. 61. In this section I refer, as briefly as possible, to the relevant parts of the applicable planning policies as they affect the site. I adopt with gratitude the neutral summary in Ms Parker’s witness statement in her similarly headed section. The Local Plan includes policy CS1, which recognises the important character and appearance of remaining lands at Marton Moss and the priority to retain and enhance its distinctive character. It also includes Policy CS7, which states that development will not be permitted where it causes an adverse local impact on local character or amenity. Policy CS16, entitled “Traveller Sites”, states that the most recent Gypsy and Traveller and Travelling Show-people Accommodation Needs Assessment (GTAA) will establish the target for new permanent Blackpool BC v Beale & others – Approved Judgment 62. 63. 64. 65. 66. 67. 68. and transit pitches and plots, and also identifies eight criteria which must be met for a site to be considered suitable for traveller use. The most important for present purposes is (c), which requires that the development should not cause demonstrable harm to the quality, character and appearance of the landscape. The most up-to-date GTAA is that produced for the Fylde Coast, including Blackpool, dated February

2024. It identifies a requirement for two pitches up to 2027 with a further 17 needed to 2040. It identifies that a significant proportion of this need can be met through existing supply, including pitch turnover and the potential expansion or intensification of established sites. This is particularly important in my view, because it is cogent evidence that on an objective analysis there is no significant unmet need for such accommodation in the Blackpool area at the current time. It appears that the current plan is for Blackpool to become incorporated with the other Fylde Coast authorities in the near future, but that does not affect the essential point and, indeed, arguably opens up more flexibility in terms of pitch availability, since the supply is greater in the other areas than in Blackpool. Policy CS26: Marton Moss, emphasises the importance of the local distinctiveness of the Moss and promotes a Neighbourhood Plan approach for the area, which has now been promulgated. The Local Plan Part 2 contains relevant policies in relation to design principles, landscaping, conservation areas and surface water development. The Marton Moss Neighbourhood Plan, made in Nov 23, is particularly important in that it specifically identifies the junction on which the Site sits and is supportive of development there which accord with policy MM2. Policy MM2 identifies the local area in which the Site sits as Major Open Land and stipulates that development be limited to three specified kinds of

development. The development which has been carried out or is proposed to be carried out does not fall into any of these categories. Relevant chronology and fact-finding The starting point is 4 May 22, which is when the Defendants were registered as proprietors of the Site, having paid a stated purchase price of £30,000. Their addresses were all given as 15 Fernhill Caravan Site, Bury. Their evidence as to their connection with this address was not explained in their evidence and there were some variations between the witness statements of Ms Beale and Mr Boswell-Jones and their evidence in court which leads me to place little reliance on their evidence that, if they were forced to leave the Site, they would have nowhere to go and would have to rely on roadside camping, at least beyond the short term. It is convenient to address and determine this key issue at the outset. The position of Ms Beale and her family

69. Ms Beale said in her witness statement that she and her family (she has four children aged 20, 17, 15 and 11 who currently all live with her) said that they had “lived in touring caravan accommodation all of our lives. I have lived all over England, but I have very strong family links to Blackpool which provides an essential closely available support network”. She had also explained that her youngest child (I will abbreviate his name as TB to protect his privacy) has ADHD for which he receives medication and has a local authority education, health and care plan (EHCP). She also attached to her statement a “recent letter from a GP with whom I was registered in Sussex, regarding [my health] problems, which are serious, ongoing, and which affect my day-to day life”. The letter is dated 14 July 2026 and is written by a GP in a Sussex practice who identified themselves as Ms Beale’s GP. It described her medical conditions, including anxiety and depression and physical 70. Blackpool BC v Beale & others – Approved Judgment 71. 73. 72. 74. conditions including a hernia, and supported her “application for permanent housing in the Blackpool area” on the basis that her health conditions would be significantly better if she was to live in a settled place without having to travel around as before”. In oral evidence Ms Beale explained that TB’s EHCP related to a junior school in Sussex at which TB had been receiving one-to-one support. She explained that the EHCP had come to an end this year because TB was due to transfer to secondary school (at which point under normal circumstances he would be assessed for a further EHCP). She explained that, because she did not want him to be allocated to a specialist school, she had taken the decision not to enrol him for school in the Blackpool area and to privately fund specialist support for him. She also explained that her family had put her down as a co-owner of the Site so that she could live there because of her illnesses and her son’s problems. When she was asked why she had not moved onto the Site until April 24 she said that he had just done what the men of the family had suggested. All this is relevant, because it is obvious from the above evidence that as at May 22 Ms Beale appears to have had sufficiently settled accommodation options in Sussex for TB to secure and EHCP and attend school there on a regular basis. She had not explained anything about this in her witness statement. In cross-examination she said that he had been “living all over” before she moved onto the Site. She said she had “travelled around Blackpool”. That is plainly inconsistent with her evidence about TB continuing to receive one to one assistance whilst

at school in Sussex. It is not clear whether by taking the decision to move to the Site in April 26 she no longer retains whatever accommodation options were available to her whilst in Sussex. Furthermore, although she – and the other Defendants – emphasised the strength and depth of the extended family connection to Blackpool in general, noted that other members of the extended family lived in the locality of the Site, and explained that she had nine brothers and seven sisters, when she was asked in cross-examination why she could not live in her caravan with her children at one of the sites they occupied she said that they had no room. She said that she and her family would have to look for temporary roadside pitches if they had to leave the Site. In my view all of her evidence on the question of where she had lived and on what basis over the period before she came to own the Site, in the two years before she moved onto the Site, and what her options were if she had to leave the Site, was deeply unsatisfactory, with no solid corroborative foundation. In the circumstances I am not prepared to accept her evidence that she has no other available options other than roadside or service station overnight stops. I should note at this point that the GTAA states that those responding to the consultation had identified between eight and ten additional potential pitches on existing sites and a small turnover of two pitches in the Blackpool area. Further, the GTAA identified five vacant pitches in the Fylde area, which is very close to the Site, and a range of between 17 and 21 additional potential pitches on existing sites.

77. Ms Beale did not suggest that she had made any enquiry of the Council as to whether it could find a pitch for her if she had to vacate the Site. Nor so far as I have been made aware did her legal representatives upon being instructed. There was some suggestion in cross-examination of the Council's witnesses and in submissions that the Council had failed to take pro-active steps to have a suitable dialogue with the Defendants about these options, which ought to have been tailored to their position as Romani Gypsies and their literacy difficulties, in order to comply with their statutory duties to the Defendants. I am prepared to accept that there is some force in this criticism at the early stages, when the Defendants were unrepresented. However, the Defendants have been legally represented since 30 June 26 and had they seriously wished to investigate the options of alternative suitable pitches in the Blackpool and adjoining area they could easily have done so. Further, as Mr Fraser-Urquhart KC argued, since by 2 June 26 the Defendants had instructed Mr Pike, who submitted a planning 75. 76. Blackpool BC v Beale & others – Approved Judgment permission application on their behalf which did not include any submission based on an absence of alternative sites in the Blackpool area for Romani Gypsies or other travelling groups, it cannot be seriously suggested that this was not something which Mr Pike could have advised them to take up had that been thought appropriate. 78. 79. 80. 81. The position of Mr Boswell-Jones and his family So far as Mr Boswell-Jones is concerned, his evidence was even more unsatisfactory. In his witness statement he said that he was born in Bury and had lived up and down the country, though mainly in Lancashire. It emerged in his evidence that his parents had a pitch on a caravan site in Bury, that he has had his caravan on that pitch, sharing it with his parents, but he did not have a licensed pitch there. However, there was no suggestion in his evidence that the local authority had ever taken any steps to

remove him or his caravan on that basis or that his parents had ever asked him to leave. His evidence seemed to be that until April 26 he had spent varying amounts of time at the Bury site, but had also travelled the country, staying in various places for varying amounts of time and working as a landscape gardener. His evidence was that he had Blackpool connections as a member of the Boswell family, as did his wife through her family connections, and that it was only after they had their children, who are now three years and one year old respectively - and in particular after he had had a particularly unpleasant stayover at Rugby service station - that he decided to move onto the Site in April 26. He said that he did not want to live on his parents' pitch in Bury because it was unfair on them, and for the same reasons he had not asked his family or friends in the Blackpool area whether he could share a site with them. He said that what he really wanted was to do was to stay in the Blackpool area, as somewhere suitable for his family, and to work away from home as little as possible. However, in my judgment the evidence as to what he actually did makes plain that when he became involved in purchasing the Site he had a clear intention to use it as a caravan site for himself and his wife and the family they expected to have, sharing it with Ms Beale and her family, Mr Boswell and his family and another family, and that he was determined to do so regardless of the planning position. I reach that conclusion for the following reasons. 82.

83. Within a month, on 31 May 22, a visit by Mr Walker revealed the presence of diggers on site, clearing the land, and the erection of a 2m high green post and mesh fence around the boundary. The Council acknowledges that clearing the land and erecting a fence of this height and construction were not in themselves breaches of planning control, but they did indicate an intention to begin doing so.
84. Within a further few months of this development, a planning agent instructed by the Defendants had submitted a request for pre-application advice to the Council's planning department for four bungalows at the Site. The Council's responsive report, submitted in November 22, identified the relevant local policies then in force, explained that the proposal was contrary to policy and would be recommended for refusal. It is worth noting, in the light of Ms Parker's evidence as regards the current planning permission application, that it also referred to the need to demonstrate compliance with what is known as the Flood Risk Sequential Test because the Site was in Flood Zone 2. In his witness statement Mr Boswell-Jones stated that "It is of course true to say that we initially hoped we could use the land for building bungalows, but I also knew very well that this might not receive the relevant permissions, and it was always also in my mind that I could live on it or part of it in caravan accommodation according to Traveller culture, and I had understood (correctly as it turns out) that there might be a different process for obtaining permission to do that". 85.
- Blackpool BC v Beale & others – Approved Judgment 86. 87. 88. 89. 90. 91. 92. 93. In cross-examination Mr Boswell-Jones said that they had been advised by the agent to make an application for bungalows on the basis that these were more likely to obtain planning permission than caravans. He frankly explained that his intention, if he obtained planning permission, was to move a trailer onto the Site and live in it and, if and when he had the money, to build a bungalow. I am satisfied that his strategy was that by obtaining planning

permission for a bungalow he could move onto the Site with a trailer and do what was necessary to avoid enforcement by beginning construction works in the meantime. I make clear that this is not intended as any criticism of him or of his obviously genuine wish to do the best for his wife and young children. It is readily apparent that for him the Site is very suitable, in that it allows him to have a settled base for his family, close to family, friends and work, in a pleasant location, with the opportunity to have a reasonably private site for his caravan and to allow him to travel with his family as and when they choose to do so. The problem, of course, is the planning position, because he has decided not to wait until if and when he obtains planning permission to develop the Site and to move onto it, but to do these things even though he has no permission, in the hope and expectation either that he would obtain permission or, if not, that the Council would not take steps to remove him but, if it did, that he would be able to persuade a Court not to order him to leave. In the same way as with Ms Beale, in my view his evidence of the options for his family if they had to leave the Site was deeply unsatisfactory with no solid corroborative evidence, and I am not prepared to accept his explanations or protestations that he has no other available options other than roadside or service station overnight stops. If anything, the position is stronger in his case, because I am quite satisfied that he could share his parents' pitch at Bury if he needed to, and that whilst that would be cramped, and whilst there would be a risk of a complaint that sharing the pitch was unauthorised, the likelihood is that – as before – no action would be taken. Mr Boswell There is no need to say anything specific about Mr Boswell, since he and his wife have an authorised pitch on an adjacent site at Bury to that where Mr Boswell-Jones' parents have their pitch and, as I have said, he has no intention of leaving that site and moving onto the Site unless or until planning permission is granted. Feb. 24 onwards Following the negative pre-application advice report no planning permission application was made by the Defendants, and between Nov. 22 and Feb. 24 there was no evidence of any unlawful development on the Site or of anyone living there. There is no specific explanation as to why the Defendants did not take any further action over this period. On 8 Feb. 24 a further visit by Mr Walker, undertaken after a complaint made to the Council, revealed that hardcore had been imported and laid over the site and electricity feeds and a water tap were also installed. There were a number of caravans on the site, but none appeared occupied. In his witness statement Mr Boswell-Jones stated, and in cross-examination he maintained, that at or around this time he had discussed the development with Mr Walker, who had been encouraging and supportive. This was disputed and I prefer Mr Walker's account, which is that he stated that planning permission would be needed to lay hardcore. As Mr Fraser-Urquhart KC submitted, it is highly unlikely that Mr Walker, as an experienced planning enforcement officer, would have made such statements. I find that Mr Boswell-Jones wrongly assumed that, because Mr Walker limited himself to stating that planning permission would be required and did not say either that it would be opposed Blackpool BC v Beale & others – Approved Judgment or refused or that enforcement action would follow, he was giving the impression that the Council was not unduly concerned.

94. What Mr Walker did do was to make contact with a Mr Tommy Boswell, who he had previously come across and who he was aware was a prominent member of the local traveller community, to attempt to gain some understanding of the Defendant's plans (to whom he had also written, without response) and was told that they intended to build three bungalows on the Site.
95. Mr Walker states that on 27 March 24 the Council authorised the undertaking of enforcement action, following which the relevant reports were prepared and prior notices and questions sent to the Defendants at their address at Bury as well as to the person who was believed to be their planning agent. Ms Goodall confirmed that a response was received from the planning agent which stated that the owners were dividing the land into sections.
97. 98.
96. Mr Walker said that the unauthorised development was considered to be a serious detriment to the local area, with many local residents complaining to the Council. It was decided to be in conflict with local planning policy and, as such, that it was expedient to take enforcement action. The enforcement notices were issued and sent on 5 June 24, alleging a breach of planning control on the Site, as being "without planning permission, erection of perimeter fencing, laying of hardcore, installation of electric feeds and water mains and the laying of footings for buildings" (the enforcement notice). The enforcement notice required the following steps to be taken within three months: i) ii) iii) iv) v) vi) In cross-examination and in submissions Mr King contended that there was no evidence that the Council had undertaken any specific EIA or otherwise expressly considered the PSED before issuing the notice and, in particular, there was no evidence that the Council had considered making contact to ensure that the Defendants were able to understand the process and what the notice required given their literacy problems, which the Council ought to have been aware of as a real risk in relation to their Romani Gypsy status. I agree that there is no evidence that any EIA was undertaken at this point or that any specific consideration was given to the Defendants' status and the PSED before deciding to issue enforcement notices. Cease the development of the land for residential purposes; Remove all hardcore; Disconnect and remove all electricity fittings and hubs; Remove all building footings in their entirety; Re-establish the land as greenbelt, with grass, shrubs and trees; Return the land to its lawful use as agriculture / horticulture. 100. 99.
101. Mr Walker said that he was aware that the Defendants were travellers and that he was aware of the Equality Act and had had some training about it. It was clear however that he had little knowledge of the PSED or the specific obligations it imposed. He agreed that the Council did not employ a dedicated gypsy and traveller officer.
102. However, I can deal with objection this shortly by reference to the *Forward v Aldwyck* causation question, as it is clear in my judgment that this undoubted breach of the PSED had no material consequences, because: (a) it is inconceivable in my judgment that any considerations based on the Defendants' status, or upon anything they could have said had they been consulted informally as well as by written notice, could have had any impact on

the decision to issue the enforcement notice as a fully justified response to a flagrant breach of planning control, not least in the absence of any evidence that any of the Defendants were actually in occupation of the site at this stage or had any genuine immediate need to do so; (b) in any event, the Defendants were sufficiently aware of the notice and Blackpool BC v Beale & others – Approved Judgment the need to respond to it that they were able to instruct agents to appeal the enforcement notice on the basis that planning permission ought to be granted for the development.

103. On 20 December 25 the appeal was dismissed. The planning inspector identified the four main issues as to whether or not the development: i) ii) is appropriate development in the Marton Moss Strategic Site. preserves the character and appearance of the locality and the Marton Moss Conservation Area. preserves green infrastructure. incorporates sustainable drainage. iii) iv)
104. The planning inspector noted that under relevant policy the site was not allocated for housing nor did it fall within the four listed exceptions to the limitation on new development and that it conflicted with relevant policy. He concluded that “the development causes harm to the character and appearance of the [Conservation Area] and undermines its historic significance” (par. 24). He concluded that: “The development is contrary to the development plan when read as a whole and the deemed application for planning permission should be refused”.
105. The revised enforcement notice required the Defendants to comply with the following requirements by 12 April 26:
 1. Cease the development of the land;
 2. Remove all hardcore;
 3. Disconnect and remove all electricity fittings and hubs;
 4. Remove all concrete footings and blockwork from the land;
 5. Reinstate the land to its condition before the breach took place.
106. The Defendants did not comply with the enforcement notice as upheld by the planning inspector. 107. Instead, and to the contrary, over the period from 14 to 27 April 26 a number of visits by Council planning enforcement officers revealed that further fencing had been erected on the Site, dividing it into four separate plots with separate access and fencing separating the plots.
108. On 5 May 26, following a complaint made that day, a visit revealed that four caravans were present on the Site, two in what has been referred to as plot one (the Boswell-Jones plot, at the furthest easterly part of the site) and another two in what has been referred to as plot two (the Beale plot, next to the Boswell-Jones plot) and appeared to be in residential occupation. A further caravan was present on plot three (next to the Boswell-Jones plot) but appeared to be unused. Plot four, the furthest west plot, was unoccupied. It follows that the

Beale and Boswell-Jones families had taken up residential occupation at some point between late April and early May 2026.

109. Mr Walker attended site that day and spoke to Ms Beale, telling her that planning permission was required for the caravans which had not been sought. He undertook what he described as a welfare check and was told that she had four children aged 20, 16, 15 and 11 and that her younger child had an ADHD diagnosis, but that none of the school age children were currently registered at a local school. He saw that there was a water and electrical supply. He spoke by phone to Ms Beale's husband, who said that a planning permission application would be submitted. He also spoke to Mr Boswell-Jones and was told that he had a wife and two young children with him, both children being registered with local GPs and there were no welfare concerns. Mr Boswell-Jones also confirmed that a planning permission application would be submitted. Mr Boswell-Jones also asked Mr Walker whether the Council would be serving an injunction and was told that Mr Walker that no decision had been made as yet. Mr Boswell-Jones also asked if he could build a utility block on his plot and was advised against by Mr Walker. Mr Boswell-Jones has followed this advice. Blackpool BC v Beale & others – Approved Judgment The interim injunction
110. On 15 May 26 the Council applied on a without notice basis for an interim injunction. The application was heard by me. I granted a limited injunction restraining any further development pending the return date on 5 June 26.
111. On 5 June 26 Ms Beale and Mr Boswell-Jones appeared in person, and I extended the limited injunction to trial, which I directed should be listed on an expedited basis.
112. Again, there is no evidence of any EIA being undertaken or any specific consideration being given to the PSED before the decision was taken to issue the application for interim injunctive relief. I will refer to the evidence of Ms Parker and Ms Goodall in more detail when I address this question in the context of compliance with the PSED in terms of the decision to pursue the claim for a final injunction at this trial.
113. However, so far as this stage is concerned, again I can deal with the point quite shortly by reference to the Forward v Aldwyck causation question, because again it is clear in my judgment that this undoubted further breach of the PSED had no material consequences. That is because: (a) it is clear from Mr Boswell-Jones' question to Mr Walker on 5 May 26 that he was fully aware of the risk that the Council would be applying for an injunction and had the opportunity to make any particular representations he might have wished to make at that point; (b) more importantly, at this stage the Council was faced with a fast-evolving situation where they had no idea what the Defendants' true intentions were in the short term, so that compliance with the PSED could not have made any difference to their decision to seek an interim injunction, at least insofar as it was directed to prohibiting further unauthorised development in breach of planning control or allowing any further persons to move onto the Site. That is because:

- (a) Ms Beale and Mr Boswell-Jones had moved onto the Site and made use of the existing infrastructure, in complete defiance of the deadline for compliance set by the planning inspector on appeal; (b) there was one unoccupied caravan and one unoccupied plot, so that there was a plain risk of the intensity of the development doubling if no injunction was obtained; and (c) the information provided by Ms Beale and Mr Boswell-Jones to Mr Walker on his recent visit had given rise to no welfare concerns so far as their existing occupation of the Site was concerned if further development was prohibited or if no-one else was allowed to move onto the Site. On any view, whatever they might have said at that point, in the context of what they have said at trial and what is now known about their circumstances, could have prevented the Council from taking immediate action on an interim basis to maintain the status quo. The planning permission application
114. On 1 June 26 the Defendants, through their planning agent Mr Pike, made an application for planning permission for “the use of land as a residential traveller site with four pitches, each with one static caravan, one touring caravan, one ancillary greenhouse structure and associated amenity space and car parking and shared access off School Road”. This application was initially rejected as invalid but, after being put into proper form on 13 July 26, has since been validated on 27 July 26. It follows that the Defendants’ plans are for Mr Boswell to move onto one of the currently unoccupied plots and, so it would appear, for another family to move onto the other. 115.
116. The supporting statement is a detailed submission which, in summary, is stated to demonstrate “a genuine and constructive attempt to work collaboratively and positively with the Local Planning Authority”, on the basis that it responds positively to the matters raised in response to the previous pre-application advice report. It does not, as Mr Fraser-Urquhart KC observed, include any representations as to the Defendants’ Romani Gypsy status or any submission that there are no available alternative pitches in the Blackpool or wider Fylde area. Blackpool BC v Beale & others – Approved Judgment 117. I address below the proper approach and my analysis and conclusions as to the prospects of this application receiving planning permission.
118. Ms Parker also gave evidence (and provided instructions to Mr Fraser-Urquhart KC in closing submissions) as to the indicative timetable for determining the planning permission application and any appeal therefrom.
119. A planning permission application must be determined within a statutory timeframe from validation which, in this case, expires on 21 Sept. 26. Mr Fraser-Urquhart KC acknowledged that this was often more honoured in the breach than in the observance. He also observed on instructions that the planning officers might seek further information from the applicants in relation to such things as landscaping schemes and ecological surveys, and that if they did that could delay the process. If the application was referred to the planning committee for determination the first committee meeting after the trial is scheduled to take place on 13 Oct. 26.

120. As regards any appeal, there is an appeal to a planning inspector as of right with a 6-month time limit for doing so. The appeal must be processed and validated and then given an issue start date and listed and duly determined. The most recent performance report for the period April to June 26 identified a mean average time of 19-20 weeks from the issue start date to the determination. It follows that the appeal process could take in the region of around 11 months from the date of the refusal of the planning permission application. The issues
121. The answer to some of the issues is not disputed or cannot in my judgment seriously be disputed. The remaining issues will be the subject of more detailed consideration separately below. Are the existing development works in breach of planning control?
122. The short answer to this question is obviously yes. The contrary is not asserted and nor could it be. Is it likely that in the absence of an injunction the existing breaches will not be remedied and/or that further development of the Site and further occupation, will occur? It is clear in my judgment that the Defendants have no intention of remedying the existing breaches or of vacating the Site, at least pending the final determination of their planning permission application, and then probably not even then without the grant of an injunction. This conclusion is based on their conduct before and after the grant of the interim injunction, in that before the injunction they did not comply with planning control or the enforcement notice, whereas after it they have complied with the injunction. I am also satisfied, by reference to the history of the Defendant's activities thus far, that in the absence of an injunction they would continue to develop the Site as they wish. Again, this conclusion is based on their conduct, and also by reference to the evidence of Mr Boswell-Jones in particular that his overriding desire is to provide his family with a permanent pitch at the Site as a place to live as and when they are not travelling. I also find that there is a real risk that the Defendants would permit some other connected family to move onto and occupy the remaining unoccupied plot in the absence of an injunction. Otherwise, there would have been no point in seeking planning permission for four plots. I am prepared to accept that there is no hard evidence that Mr Boswell would move to the site with his wife unless and until the planning permission application is finally determined in his favour. 123. 124. 125. 126. Blackpool BC v Beale & others – Approved Judgment Prospects of planning permission being obtained for the existing development and/or the proposed development?
127. The application is the subject of a “preliminary assessment of the merits” by Ms Parker in her witness statement. She makes clear that her assessment does not seek to pre-determine the outcome of the application. Indeed, in her evidence-in-chief she confirmed that because she had expressed views about the prospects of success of the application in her witness statement the actual application would be determined either by another planning officer acting under delegated powers or by the local planning committee. Although she does not express any concluded statement of her opinion as to the prospects of success of the application, it is readily apparent from her assessment – and indeed she stated as much in oral evidence - that she has significant concerns with the application which in her view

faced significant challenges.

128. Mr King rightly objected that the Council had not applied for or obtained permission to adduce expert planning opinion on the merits, so that I should not allow Ms Parker to give evidence of that nature. He also submitted that the court should not be drawn into reaching a conclusion as to the merits of the planning permission application, and that it was sufficient to say that it was a properly made application which had to be determined by the relevant decision maker by reference to their assessment of the planning merits. I agree that it would not be appropriate for me to place reliance upon Ms Parker's opinion as to the prospects of success of the planning permission application or for me to reach any firm conclusions as to the prospects. 129.
130. Mr Fraser-Urquhart KC however made the following submissions in response, which I accept.
131. First, because s.38(6) of the Planning and Compulsory Purchase Act 2004 provides that "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise", it is proper for Ms Parker to draw my attention to the relevant policies forming part of the development plan and to draw my attention to those parts of those policies which are of relevance to that assessment.
132. Second, as stated by Holgate J in par. 94(iv) of the Ipswich decision: (a) it is not for the court to question the correctness of planning decisions which have been taken (e.g. decisions to refuse a planning permission or to dismiss an appeal); but (b) the court should come to a broad view as to the degree of environmental damage resulting from the breach and the urgency or otherwise of bringing it to an end. Further, in the Brentwood case to which I was referred by Mr King, Stadlen J referred to the fact that in the South Bucks case it was said to be legitimate to consider whether there is a real prospect that planning permission will be granted or an appeal would be successful, and that the court has the power to take that assessment into account in deciding whether or not to grant or to refuse an injunction and if so on what terms (pars 45(13) and (14)).
133. Third, it follows that the court should take into account the opinions already expressed by the planning inspector when refusing the appeal against the enforcement notice (albeit that it was directed to a different deemed application) and should also, to the extent it considers appropriate, have regard not only to the issue of planning harm but also – if it is able to do so without impermissibly forming its own view of the planning merits – the prospects of success of any planning permission application or appeal. In my view, it is readily apparent that it is extremely unlikely on current evidence that the planning permission application will be successful or that any appeal against the refusal of permission would be successful. That is for the following reasons. 134. Blackpool BC v Beale & others – Approved Judgment

135. First, although the current planning permission application seeks to distinguish the present application from the deemed application considered and rejected by the planning inspector in January 2026, it is difficult to see that there is any real difference of substance between them, in that both seek to obtain permission to develop the site from open land into permanent accommodation for four family units.
136. Second, the planning inspector considered and applied precisely the same policies as the LPA will consider and apply as regards the current planning permission application and: (a) noted (at par. 16) that the application not only falls outside the defined categories of acceptable development for this site (as obviously does the present) but also conflicted with the key applicable policies (as again obviously does the present); (b) noted (at par. 24) that the development causes harm to the character and appearance of the conservation area and undermines its historic significance (as again obviously does the present); (c) expresses the opinion (at par. 26) that “there is little to indicate that ... a development plan compliant scheme could be delivered [at the Site] in short course”. In the context of any comparisons between the position as before the planning inspector and the current position, as Ms Parker states the proposed changes to the site layout and the inclusion of appropriate boundary changes do not overcome these fundamental conflicts with planning policy. In particular, it is obvious that the proposed development does cause demonstrable harm to the quality, character and appearance of the landscape when compared with the open character of the land before the Defendants began their unauthorised development on the Site. 137.
138. Third, the application does not provide, and on current information would fail, the flooding risk sequential and exceptions test for the reasons clearly explained by Ms Parker, which are not matters of planning opinion but of hard analysis.
139. Fourth, and finally, in the absence of any submissions or evidence as to any adverse consequences to the Defendants should they have to vacate the Site, and in the absence of any submissions or evidence that alternative sites have been sought or considered but none are available, no countervailing material considerations have been identified in the context of the Defendants’ protected characteristics as Romani Gypsies or their personal circumstances as relevant to any assessment under the ECHR or the best interests of the children. I do accept that there is evidence that there are a number of caravan sites already located in the surrounding area and that some sites are occupied by other Romani Gypsy families, although the extent to which these are authorised or merely tolerated, and the particular circumstances applicable to each have not been ventilated in evidence. However, that does not seem to me to be a matter of obviously fundamental significance in the context of the prospects of success of the current planning permission application or any appeal and, indeed, nor has it been asserted as such. 140. Serious planning harm?
141. This is the subject of that section of Ms Parker’s witness statement headed “the harm arising from the development”.

142. She observes that the planning inspector has already determined that the development the subject of the enforcement notice is sufficiently harmful to the character and function of the area, and the value of the Marton Moss Conservation Area, for the notice to stand. That is clearly an exercise of planning judgment with which the court will not lightly interfere. Having read and considered the decision of the planning inspector on appeal, it is a determination with which I entirely agree.
143. She also states that the further development which has now taken place on the Site, when considered in its totality: (i) is clearly contrary to Policy MM2 of the Neighbourhood Plan; (ii) has resulted in a significantly higher level of operational development than would be expected for any of the permitted Blackpool BC v Beale & others – Approved Judgment uses; and (iii) has compromised the open and naturalised character of the junction, which is noted in the Marton Moss Conservation Area appraisal as a positive feature of the area, and which is expressly safeguarded in the Neighbourhood Plan. That is also a statement which with I entirely agree and is entirely consistent with the views expressed by the planning inspector as regards any further development and with the views I have expressed above as to the prospects of the Defendants obtaining planning permission for the current proposal.
144. She also states that the further development which has now taken place on the Site justifies the conclusion that the harm arising to the Conservation Area is now substantial, having regard to the number of people who will travel past the Site and the “notably increased height and solid nature of the operational development that has now taken place on the Site, the introduction of three caravans, and the reasonable expectation that other paraphernalia associated with the use will be located on the Site”. Again, I entirely agree.
145. She also refers to the current provision of weld-mesh fencing along the site boundary as being contrary to the expectations of Policy MM3 as well as the current poor-quality design of the site, including the lack of landscaping and biodiversity provision and the lack of information relating to drainage. She acknowledged in cross-examination that the current planning permission application includes the replacement of the existing fencing with hedgerows, makes provision for vegetable gardens, greenhouses and gardens and also refers to drainage (although she notes the lack of information in relation to flood risk). Hence, although her objections remain valid as regards the harm at the present time, I acknowledge that if planning permission is granted for the current scheme and if the works are carried out in accordance with that scheme this aspect of the overall harm will be ameliorated. I also accept that there is no evidence that the Defendants have caused any nuisance, either by – for example – failing to look after the Site in terms of rubbish disposal or the like, or by anti-social behaviour or similar conduct. I acknowledge that there is no basis for any concern that the occupation of the Site would be intensified beyond four families living in the four plots the subject of the current internal division and the subject of the proposed planning permission application. 146.

147. Nonetheless, the overall conclusion I reach is that serious planning harm has been and is continuing to be caused and, even if the Defendants obtain planning permission for the current application and implement it, there will remain serious planning harm in the context of intensive development of open land in a conservation area contrary to relevant policies as already described.
148. As Mr Fraser-Urquhart KC emphasised in his closing submissions, and as was stated in South Bucks and Ipswich, the need to enforce planning control in the public interest is always a highly relevant consideration, because the planning regime is a matter of paramount importance which exists to protect the public interest and to bind everyone. Human rights considerations and the PSED
149. This issue raises a number of separate but interconnected issues. Has the Council given sufficient consideration to the human rights and equalities' impacts of making an order? Has the Council had regard to the best interests of the children living on the Site? Is the interference with the human rights of the Defendants and their families lawful and justified? Has the Council complied with its PSED duty and, if not, is it highly likely that the decision would not have been substantially different if it had?
150. The starting point is the consideration actually given by the Council to these matters. Blackpool BC v Beale & others – Approved Judgment 151. 152. I have already referred to the general welfare checks undertaken by Mr Walker and concluded that this was as much as he did, since he had only a fairly general understanding of the requirements of the ECHR and the PSED. In her witness statement Ms Parker stated, at par. 74, that “the Council is mindful of the human rights of the owner/occupiers and is particularly concerned to ensure that the children on the site are not unduly detrimentally affected by any action taken against the unauthorised development. It is understood that the children are not yet enrolled at a local school, and that none of the children have specific medical or health needs that require residence in this particular locality. On this basis, it is not considered that their rights or well-being would be unacceptably affected by the granting of an injunction”.
153. As regards the children on the Site, I agree that their rights or well-being would not be unacceptably affected by the grant of an injunction, in that there is no evidence that they have any particular connection to this particular locality, save for the fact that it allows them to live close to their extended family. I accept that the more settled life here may well be preferable than travelling around the country, and I also accept that the Site is a safer place for TB than some roadside pitches, but it must be borne in mind that the time spent at the Site is of short duration compared to their life experience and there is no specific evidence from or about each of the Beale children and the Mr Boswell-Jones children are too young to be affected strongly either way.
154. When she was asked about where the Defendants could go if they were ordered to leave the Site, Ms Parker accepted that she could not say. She did however make the point that the planning authority had no obligation to provide alternative accommodation for anyone in

the Defendants' position. Mr Fraser-Urquhart KC submitted that the same would apply to anyone who was ordered to leave land which they had developed and occupied in breach of planning control. As he submitted, anyone who could not find suitable alternative accommodation could approach the local authority housing authority for assistance if they qualified as homeless. Of course, that is something which many members of the Romani Gypsy community would not wish to do, but this does not mean that it is not available to them as an option, even though I accept that their choice to live a travelling lifestyle should be respected as, therefore, should their unwillingness to accept homeless accommodation which did not permit this. In terms of the Defendant's objective ability to access suitable alternative accommodation which respected their travelling lifestyle, the Council relied upon the GTAA, whilst acknowledging that it did not – not was it intended to - provide an up-to-date list of currently available pitches at the present time. Ms Parker also accepted that the planning department had not asked the Defendants whether there were local sites available for them. However, she did refer in her witness statement to an existing site in the Fylde area, only some five miles by road from the Site, which had planning permission for five additional pitches which had not yet been brought into use. She said that it was her understanding that this site was fully serviced and available. There was no evidence adduced by the Defendants to counter this. 155.

156. Ms Goodall confirmed that the planning enforcement team falls within her responsibility as head of legal services. She explained that she was acting under delegated authority in bringing the claim for a permanent injunction. In par. 20 onwards of her witness statement, she explained that she had reviewed the information provided by the Defendants as to their personal circumstances and the potential impact that enforcement action may have upon them and their families. I must however bear in mind that at this stage, not having seen the Defendants' witness statements, it would appear that this information was pretty much limited to what they had said to Mr Walker in May 26 (as well as what they stated in court on the return day). She said that she "recognise[d] that the grant of a final injunction will interfere with the Defendants' private and family life and may cause them hardship, particularly given the Blackpool BC v Beale & others – Approved Judgment presence of children on the site. I have taken these matters into account, together with the Council's obligations under the Human Rights Act 1998 and the need to act proportionately". She explained why nonetheless she considered it expedient and necessary to seek a final injunction. She gave reasons for this opinion, including that "the evidence [provided by the Defendants] does not demonstrate any exceptional circumstances which outweigh the public interest in enforcing planning control and remedying the continuing planning harm". 158. 159.
157. She made no reference to the Romani Gypsy status of the Defendants in her witness statement, to the Equality Act 2010 in general or to the PSED in particular. The Council has produced no formal EIA as regards the PSED and nor has it produced any internal documentation which records any investigation into or consideration of matters relevant to its compliance with the PSED. In cross-examination Ms Goodall agreed that the PSED

applied – the said that she understood it applied to a myriad of public services and that it was something which was the subject of everyday thought. Whilst she accepted that there was no EIA, she said that she had assessed the situation with the Defendants and their families in a conscious manner even though she had not documented it. I have to say that I am not convinced by that evidence. It seems implausible to me that, if Ms Goodall was aware of the need to comply with the PSED before making the decision to pursue a final injunction and had done so consciously, she would at the very least have said words to this effect in her witness statement, as indeed she had done as regards the Council's compliance with the ECHR. If she had been aware of the importance of the need to comply with the PSED in the context of a case such as this, she would in my view either have undertaken or instructed a suitable colleague to undertake some form of EIA or at least some form, of analysis which was recorded in some form or another.

160. Most significantly, in my judgment, she would have recognised the need to re-assess the situation upon receipt of the Defendants' witness statements. This is important because it was only at this stage, after obtaining legal advice, that the Defendants actually articulated their position in any detail. Since the duty to comply with the PSED is a continuing duty there was, in my judgment, a positive obligation to re-assess the situation after seeing what the Defendants said in their evidence about their background and their position. Whilst I acknowledge that Ms Beale and Mr Boswell-Jones did make some reference to their background and to their general position at the return date hearing on 5 June 26, it would not have been reasonable in my judgment to rely upon that alone, rather than considering what they said in their later more detailed witness statements. 162.
161. Obviously, the extent to which an assessment or re-assessment is necessary and at which stage is highly fact-specific. However, in my judgment the reality is that there is little or hard evidence to indicate that anything very much was done beyond the initial queries made by Mr Walker and the generalised knowledge which those involved in planning applications and planning enforcement had about the local Romani Gypsy and other travelling community in general and the extended Boswell family in particular. It does follow that I have to pose and answer the question, by reference to the Forward case, i.e. whether or not on the particular facts of this case it is highly likely that the decision (to pursue the claim to a final injunction) would not have been substantially different even if the breach of duty had not occurred. 163. In my judgment the Council have made out their case on this point for the following reasons.
164. Although the Council was by then aware of the literacy problems expressly identified by the Defendants, by this stage the Defendant were of course legally represented and were, therefore, perfectly well able to understand the process in which they were engaged, to obtain appropriate advice and to articulate their position in a clear and comprehensive way as, indeed, they have done. Blackpool BC v Beale & others – Approved Judgment

165. Although the Council was by then also aware of the further details about Ms Beale and her children and Mr Boswell-Jones and his family, as given in their witness statements, there was nothing in those witness statements which demonstrated that their needs were such that they had a compelling need to remain at the Site for health or welfare reasons. I am not seeking to downplay the seriousness of the medical conditions faced by Ms Beale or TB's ADHD, but it must be remembered that these are of longstanding duration and had not prevented them from living in the Sussex area for some considerable time whilst also being able to retain their travelling lifestyle. There was nothing so specific to the Site which differentiated it from the other available sites which the GTAA had referred to or the specific alternative site in the Fylde area about which Ms Parker gave evidence. As I have said, there was no compelling evidence that they had nowhere to go other than unsatisfactory temporary roadside or service station pitches if they had to leave the Site. In that regard, the Council was entitled to have regard to the lack of explanation in the witness statements of their previous connections with Bury – of which the Council was aware from the Land Registry documents – or, in Ms Beale's case, with Sussex. They were also entitled to have regard to their knowledge of the fact that there was a large extended Boswell family community in the Blackpool area in general and the Marton Moss area in particular, and no specific reasons given as to why Ms Beale and her family or Mr Boswell-Jones and his family could not find or share a pitch at a site occupied by family members, at least on a temporary basis, whilst they looked – if they wished to remain in the Blackpool or wider Fylde area – for suitable sites of which there was no evidenced significant under-supply. 166.
167. Although the Council ought to have been aware of the full breadth of the factors to which it should have regard under s149 Equality Act 2010, including the need to advance equality of opportunity, they were also entitled to and clearly did have regard to the wider planning and related considerations which applied in this case. These included all of the matters already referred to in this judgment, including the fact that the Defendants had paid £30,000 for the site in the knowledge that there was no planning permission for development, that they had already started clearance before applying for planning permission, that they had been advised that they would be unlikely to obtain planning permission but had proceeded with development anyway, that they knew that it was even harder to obtain planning permission for caravans than for houses but had gone ahead regardless, that they had failed to comply with the enforcement notice and, despite having lost the appeal on a basis which made it even clearer that they had no realistic prospect of obtaining planning permission, had gone ahead in defiance of the enforcement notice to undertake yet more development in breach of planning control and to move caravans and persons onto the Site.
168. They were also entitled to have regard to the fact that, as I have found, it is extremely unlikely that the Defendants will obtain planning permission whereas it is highly likely that the Defendants will not voluntarily leave the Site unless a final injunction was obtained, and that if planning permission is refused it is highly likely that an appeal will be lodged which could take up to 11 months to resolve. They were also entitled to have regard to the planning harm being suffered in the meantime and the potential wider adverse consequences for the

planning control system if action was not taken to protect the Marton Moss conservation area from unauthorised development. In the circumstances, I have no doubt that the fundamental position would not have been any different had the Council fully and properly complied with its PSED obligations. 169.

170. For completeness, I should consider whether or not the performance of the PSED would have made any material difference to the nature of the final injunction which the Council has sought.
171. The draft final injunction contains: (a) an immediate prohibition against further development or occupation; (b) a requirement to cease residential use and remove all caravans etc. within 14 days; (c) Blackpool BC v Beale & others – Approved Judgment a requirement to remove all hardcore etc. and to reinstate the land to its previous condition within 3 months.
172. Mr King submitted that the orders at (b) and (c) should not be granted and, instead, the obligation to vacate and reinstate the Site should only arise if and when the planning permission application is finally determined, including any appeal. He accepted in closing submissions that the court might require some provision requiring the Defendants to issue and prosecute any such appeal with due expedition by way of protection against abuse but otherwise maintained his stance.
173. Mr Fraser-Urquhart KC submitted that there was no basis for allowing the Defendants this additional period of time to vacate the Site. He particularly relied upon: (a) the Council's assessment of the lack of prospects of the Defendants obtaining planning permission; and (b) the significant time which would elapse before any appeal could be determined, even if it was prosecuted with due expedition. He also submitted, in the light of the previous experience of the courts in such cases, that the likelihood was that the Defendants would then make a further application to extend the time for compliance, based upon the ties they had built up in the intervening period. He also relied upon Holgate J's observation in Ipswich that in some cases less overall hardship would be caused to those occupying the land in breach of planning control if they were required to leave sooner rather than later.
174. Whilst this issue is in most cases simply a question for the exercise of the discretion by the court, in this case, I must also consider whether or not the failure to perform the PSED in making the decision to seek a 14-day departure injunction would have been substantially different had the PSED been properly performed. In this regard, Mr King again emphasised the absence of any express evidence of nuisance or anti- social behaviour on the Site and the lack of any hard evidence of real harm in allowing the Defendants to remain over this period, when compared with the real harm which the Defendants would suffer if they had to move out within 14 days, only to be allowed back in if and when planning permission was subsequently granted. 175.

176. Whilst I see the force of the argument, I am satisfied that there would have been no substantial difference on the basis that, in addition to all of the factors identified above: (a) the absence of any real prospect of obtaining planning permission has particular force in this context, as does: (b) the fact that any appeal lies as of right and that the period of potential delay whilst any appeal is progressed is substantial. Further, given that the Defendant's breach of planning control in moving onto the Site was particularly flagrant, in so closely following the expiry of the time for compliance with the enforcement notice, in circumstances where no planning permission application had been made for caravans at any time from 2022 onwards, I am satisfied that the outcome would not have been substantially different in any event. Finally, as I have said the planning harm is both real and substantial.
177. Finally, I should say that in my judgment all of the factors identified above are equally relevant to the issues arising under the ECHR and the duty to treat the best interests of the children as a primary consideration. In short, none of the factors relevant under the ECHR or by reference to the children's best interests could conceivably require the Council not to take the steps which they have taken. What in all the circumstances is the appropriate remedy as against the Defendants? 178. In my judgment it follows from my findings that an injunction in the terms sought by the Council is plainly appropriate and justified. The only further questions to consider are as follows.
179. First, whether even having regard to all of the above 14 days is too short a period for Ms Beale and Mr Boswell-Jones to make alternative arrangements. Blackpool BC v Beale & others – Approved Judgment
180. As to this, I am satisfied that even allowing for the protracted history 21 days is more reasonable. I do not regard 21 days as unreasonably short. The Defendants have known for some time now that their being ordered to leave by injunction has been a real possibility and ought to have taken steps to anticipate it.
181. Second, whether there could be any basis for making such an order against Mr Boswell as well as against the other Defendants. I accept that insofar as he is not in residential use of the Site par. 2(a) of the draft would not be apposite. Par. 2(b) should be reworded in any event to make clear that the obligation to remove all caravans etc. should only apply to those within the control of each of the named Defendant.
182. As I have said, Mr Boswell has indicated that he will offer an undertaking. Given that this has the same effect as an injunction and given that there has been a significant difference between his approach and that of Ms Beale and Mr Boswell-Jones, it seems to me that so long as an undertaking in the terms identified above is given and which is otherwise satisfactory in its terms then the court should accept it. Would damages be an adequate remedy?

183. Finally, and for completeness I should record that it is obvious that they would not. In Ipswich, Holgate J said (par. 105) that “there is no dispute that because each of the claimants is seeking to enforce planning control, damages could not be an adequate remedy. Indeed, I do not see how damages would even be an available remedy”. An injunction against persons unknown?
184. As noted, the Wolverhampton decision makes it clear that the claimant must show a “compelling need” for the order, that there is procedural protection, that there are “territorial and temporal limitations” and that it is “just and convenient” that the injunction be granted (paragraph 167). When considering whether or not to make any interim injunction permanent the following considerations may be relevant:
- (i) how effective the interim order had been; (ii) whether any grounds for its discharge had emerged; (iii) whether there was proper justification for its continuance; (iv) whether and on what basis a further order should be made. I am not satisfied that a compelling need or proper justification has been shown for a permanent injunction against persons unknown or that it is just and convenient to make such an order. In short, that is because: (a) it is reasonably clear that the Defendants, as the owners of the Site, have only ever wanted to occupy the Site themselves together with, potentially, one other family; (b) there is no basis for fearing that others, unconnected with the Defendants, would seek to move onto the Site and seek to develop and occupy it in the same way as have the Defendants; (c) par. 1 of the order would permanently prohibit the Defendants from instructing, encouraging or permitting any other person to do so anyway. 186. 185. 25

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