Question: Please advise me of what active steps our Council is currently taking to uphold the law and remove the unlawful use of the field?

Response: The Council have authorised direct action under Section 178 of the Town and Country Planning Act 1990 (as amended). The Council are the local Planning Authority.

Question: Also please indicate the costs to our council dealing with this matter to date?

Response: To be confirmed

Question: Please also clearly outline the history of this site with clear timelines and dates and types of applications?

Response: The Council is the relevant Local Planning Authority. The lawful use of the land is for agriculture and it lies in an area designated as part of the Green Belt. There exist, as a result of the actions of the occupants, continuing breaches of planning control which cause material harm to the Green Belt. Occupation of the site, without planning permission, took place around 19 December 2009. The Council subsequently obtained and served an injunction on 22 December 2009, the effect of which was to limit the number of caravans to the 10 already stationed on the site, and prohibiting further works of construction or development.

The site has been the subject of 3 no. planning applications since occupation took place. Details are:

1) Application 09/02711/Full – For the Change of use of land to use as a residential caravan site, including access improvements, hard standing and erection of 10 amenity blocks. Received on 21st December – applicant Mr. Mark Picket (Junior). Application was refused planning permission on 25th February 2010 for the following reasons:

   1. The proposal represents inappropriate development in the Green Belt contrary to saved Policy GB1 of the Local Plan and Planning Policy Guidance 2. Inappropriate development is by definition harmful to the Green Belt. Furthermore, the proposal would be harmful to the purposes of including the land in the Green Belt, as the use of the land for the siting of residential caravans, together with the proposed amenity blocks and associated paraphernalia and activities, will encroach into the countryside and erode the openness of the area. The proposal will also, by reason of its siting and scale, detract from the landscape character and rural appearance of the area. The site is not suitable for the proposed purpose as it has limited access to local services and facilities and the residents would be largely
reliant on car travel. There is no evidence of very special circumstances that clearly outweighs the harm caused by reason of its inappropriateness or any other harm. Accordingly, the proposal is contrary to saved Policies GB1, GB2 and GB3 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations, adopted June 2003).

2 The development lies within an area that is at high risk of flooding (Flood Zone 3) and constitutes a highly vulnerable form of development as defined in Annex D to Planning Policy Statement 25: Development and Flood Risk (2006). Furthermore, it would impede the flow of flood water, reduce the capacity of the flood plain to store flood water and increase the number of people and properties at risk from flooding. As such the development is contrary to saved Policy F1 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations, adopted June 2003).

3 The proposal will lead to the intensification of the use of an inappropriate means of access onto Shurlock Road, (a classified local distributor road). It has not been demonstrated that adequate sight-lines can be provided or that the design of the junction and internal road layout are appropriate. The proposal is considered to be detrimental to highway safety and the free flow of traffic on the classified highway network. Accordingly, it is contrary to Policy T5 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations, adopted June 2003).

4 The development would place an additional burden on local infrastructure and fails to make financial contributions towards the provision of infrastructure, services, facilities and amenities made necessary by the development and therefore fails to mitigate its impact. The development is therefore contrary to saved Policies IMP1 and R3 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations, adopted June 2003) and Supplementary Planning Guidance ‘Planning Obligations and Developer Contributions’, revised September 2009.

5 The northern boundary of the application site lies adjacent to an area of woodland and a line of trees exist along the site boundary to the west. No information has been submitted with the application to demonstrate that the trees can be effectively retained and protected during the development, and therefore the proposal is contrary to Policies DG1 and N6 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations, adopted June 2003).

The planning application was not the subject of the appeal.
2) Application 12/03428/Full – For the Change of use of land to site seven static residential Gypsy Traveller caravans, together with hard standing for seven touring caravans and fourteen associated vehicles (retrospective). Received on 12th December 2012 – Applicants as listed on the application form are Albert Wright, Freddie Rusher, Della Connelly, Bonnie Smith, Swaylie Cooper, Lily Smith and Connie Stevens. The Council declined to determine the application on 12th February 2013 for the following reason:

In accordance with section 70A (4B)(b) of the Planning Act 2008 a similar application to that now submitted was deemed to have been made by s.177(5) to the Secretary of State when the Enforcement Notice was appealed and this is confirmed in the Inspectors final paragraph in the Decision Notice: "Subject to the correction and variations, I recommend that the appeal be dismissed, and that the enforcement notice is upheld, and that planning permission be refused on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990." Therefore s70 A(4A) is satisfied as the local planning authority is satisfied that within the 2 year period prior to the submission of this application the Secretary of State has refused a similar application [that is an application for which the development and land are the same or substantially the same] and there has been no significant change in the development plan or any other material circumstances since the last application was determined.

This application has therefore been closed and no further action will be taken in respect of the matter.

3) Application 12/03541/Full – For the Change of use to include stationing of caravans for occupation by gypsy-traveller family with fencing, access road, hard standing, utility block, cess pool and improvements to field access. (retrospective). Received on 24th December 2012 – Applicant Mrs. J. Eastwood. The Council declined to determine the application on 12th February 2013 for the following reason:

In accordance with section 70A (4B)(b) of the Planning Act 2008 a similar application to that now submitted was deemed to have been made by s.177(5) to the Secretary of State when the Enforcement Notice was appealed and this is confirmed in the Inspectors final paragraph in the Decision Notice: "Subject to the correction and variations, I recommend that the appeal be dismissed, and that the enforcement notice is upheld, and that planning permission be refused on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990." Therefore s70 A(4A) is satisfied as the local planning authority is satisfied that within the 2 year period prior to the submission of this application the Secretary of State has refused a similar application [that is an application for which
the development and land are the same or substantially the same] and there has been no significant change in the development plan or any other material circumstances since the last application was determined.

This application has therefore been closed and no further action will be taken in respect of the matter.

**Question:** I would also like to know enforcement action taken to date by our council?

**Response:** The Council obtained and served an injunction on 22 December 2009, the effect of which was to limit the number of caravans to the 10 already stationed on the site, and prohibiting further works of construction or development. The Council have served an Enforcement Notice that requires the following:

- (a) Cease the use of the land for residential purposes
- (b) Remove all caravans, mobile homes or similar from the land
- (c) Remove all hard standings, scalpings and all other materials used for the creation of roads, accessways or similar
- (d) Remove all fences, posts, gates or otherwise erected on the land
- (e) Remove all vehicles including plant, site machinery or similar
- (f) Return the field to grassland.

The Enforcement Notice was issued on 24 December 2009, was upheld on appeal and came into effect on 11 August 2011. The period for compliance was 18 months, ending 11 February 2013. The CPSC (Cabinet Prioritisation Sub Committee) resolved to take direct action on 14 February 2013. The Council issued the land owner and occupants of the site a 28 day notice of intention to take action.

Since the Injunction was obtained the Council have alleged 3 no. breaches have occurred and made applications to the High Court for committal. The first application was heard in March 2011 for stationing an additional caravan on the land. The High Court confirmed a breach had occurred and fined the defendant £75. In December 2011 the High Court heard an application for committal for stationing an additional caravan on the land. The High deemed that the unit was not a caravan and dismissed the application. The Council appealed this decision to the Court of Appeal but was unsuccessful. In March 2012 the High Court heard the last committal application, for the stationing of a mobile home on the land. The Court ordered that the defendant remove the mobile home and replace it with a caravan.