

**Case Name:** *Braintree District Council v Secretary of State for Housing Communities and Local Government* [2021] EWHC 651 (QB) (18 March 2021)

**Full case:** [Click Here](#)

**Commentary:**

The High Court has upheld a decision in favour of the Secretary of State and the Interested Party, Mark Nicholls, to quash a Council's enforcement notice requiring the use of a site in Braintree, Essex for residential purposes to stop and requiring the removal all mobile homes, storage containers and non-agricultural vehicles from the land.

Nicholls and his family are gypsies who purchased the site and occupied it as their home. In January 2019 Braintree District Council issued an enforcement notice alleging a breach of planning control and that the use of the land for residential purposes was unauthorised; since acquiring the land, Nicholls had replaced the existing mobile home (which had benefitted from planning permission for use as an agricultural workers' dwelling) and bought another mobile home for use as a day room and laundry. Nicholls appealed against the enforcement notice and a hearing was held in which the inspector decided in his favour by quashing the notice and granting planning permission.

The Council raised two grounds of challenge to the inspector's decision; the first was that she had misinterpreted policies of the Local Plan and Core Strategy and in doing so had undermined the policy framework for the strict control of new development in the countryside, and the second was that she had failed to give adequate legal reasons for concluding that the development to which the enforcement notice related was in accordance with the development plan. The Council also challenged the decision in relation to the award of costs on the basis that the inspector had failed to specify in the costs order that part of Nicholl's costs which they were required to pay.

The High Court held that the inspector had given accurate summary policies, understood their effects and clearly "had the policy of strict control imposed by the development plan on development in the countryside well in mind". The court found that her conclusion that the use of the site "as a residential caravan site for one gypsy family and for storage purposes gave rise to no conflict with the development plan read as a whole and was not erroneous in law". In respect of costs, the Court did not find that unspecified costs were legally defective; the inspector had awarded that particular part of the costs because the Council had failed to carry out proper prior investigations as to Nicholl's status as a gypsy as well as the needs of his family and had unreasonably put the onus on him to provide this information. Nicholls had sought professional advice to prepare and present his appeal against the enforcement notice and it was this part of the overall costs of the appeal that he incurred which the Court agreed should be reimbursed

*Case summary prepared by Lida Nguyen*