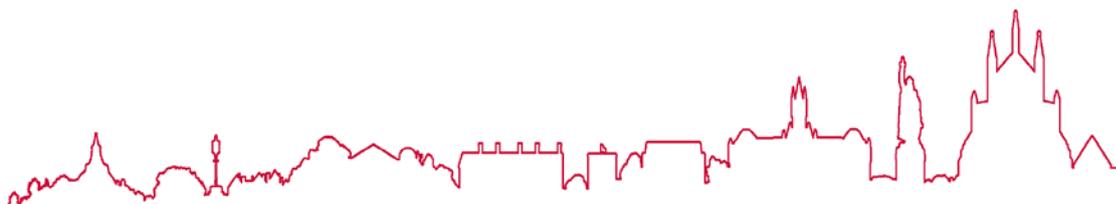


Winchester District Gypsy and Traveller and Travelling Showpersons Development Plan Document

‘Traveller DPD’

Responses to Pre Submission (Regulation 19) Consultation in Policy Order

May 2018



The following sets out in Policy order the representations received to the consultation held under Regulation 19 – these have not been summarised and appear as submitted on the Council's consultation portal Citizenspace and can be viewed in full at <https://winchester.citizenspace.com/policy-and-planning/winchesterg-t-dpd-pre-sub/>.

Where additional documents have been received by the Council but do not appear on Citizenspace these have been appended to this schedule and indexed as necessary and highlighted *by italic type*.

Policy TR1 – Safeguarding Permitted Sites

002 - Highways England

Thank you for inviting Highways England to comment on the Public Consultation on Traveller Development Plan Document.

Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity. We will be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN, in this case the M3 motorway and A34.

Whilst we have no comments on the initial consultation, we would request to be consulted again if any sites are identified as having direct or indirect impact on SRN (either M3 or A34) in order to assess impact and implications of such.

003 - Health and Safety Executive

Thank you for your request to provide a representation on the above consultation document. When consulted on land use planning matters, HSE where possible will make representations to ensure that compatible development within the consultation zones of major hazard establishments and major accident hazard pipelines (MAHPs) is achieved.

HSE acknowledges that early consultation can be an effective way of alleviating problems due to incompatible development at the later stages of the planning process. We also recognise that there is a requirement for you to meet the following duties in your plan, and that consultation with HSE may contribute to achieving compliance:

1. The National Planning Policy Framework (Para. 172) requires that planning policies should be based on up-to-date information on the location of major accident hazards and on the mitigation of the consequences of major accidents

2. Regulation 10(1)(b) of the Town and Country Planning (Local Planning) (England) Regulations 2012 as amended¹ requires that in local plans and supplementary planning documents, regard be had for the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment by pursuing those objectives through the controls described in Article 13 of Council Directive 2012/18/EU (Seveso III)². Regulation 10(c)(i) requires that regard also be had to the need, in the long term, to maintain appropriate safety distances between establishments and residential areas, buildings and areas of public use, recreational areas, and, as far as possible, major transport routes. At this early stage HSE can give a general opinion regarding development compatibility based only on the outline information contained in your plan. This opinion takes no account of any intention to vary, relinquish or revoke hazardous substances consents³. Planning authorities are advised to use HSE's Planning Advice Web App to verify any advice given. The Web App is a software version of the methodology used in providing land use planning advice. It replaces PADHI+. Further information on the Web App is available on HSE's website: <http://www.hse.gov.uk/landuseplanning/padhi.htm>

Encroachment of Local Plan Allocations on Consultations Zones

We have concluded that there is the potential for land allocated in your plan to encroach on consultations zones. The land allocations that could be effected are:

- H0522 – UK Petroleum Products Ltd, Winnall Trading Estate, Moorside Road, Winnall
- H1189 – Foster Yeoman, Station Road, Botley
- HSE Ref: 8053 – Southern Gas Networks – Lordswood/Purbrook
- HSE Ref: 4102384 – 9" Feeder Barton Stacey/Lockley
- HSE Ref: 8049 – 7" Feeder Barton Stacey/Mappowder

Compatibility of Development with Consultation Zones

The compatibility issues raised by developing housing and workplaces within the inner, middle and outer zones are summarised below.

Housing Allocations

Inner Zone – Housing is not compatible with development in the inner zone. HSE would normally Advise Against such development. The only exception is developments of 1 or 2 dwelling units where there is a minimal increase in people at risk.

Middle Zone – The middle zone is compatible with housing developments up to and including 30 dwelling units and at a density of no more than 40 per hectare.

Outer Zone – Housing is compatible with development in the outer zone including larger developments of more than 30 dwelling units and high-density developments of more than 40 dwelling units per hectare.

Workplace Allocations

Inner Zone – Workplaces (predominantly non-retail) providing for less than 100 occupants in each building and less than 3 occupied storeys are compatible with the inner zone. Retail developments with less than 250m² total floor space are compatible with the inner zone.

Note: Workplaces (predominantly non-retail) providing for 100 or more occupants in any building or 3 or more occupied storeys in height are compatible with the inner zone where the development is at the major hazard site itself and will be under the control of the site operator.

Middle Zone – The middle zone is compatible with workplaces (predominantly non-retail). Retail developments with total floor space up to 5000m² are compatible with the middle zone.

Outer Zone – Workplaces (predominantly non-retail) are compatible with the outer zone. Workplaces (predominantly non-retail) specifically for people with disabilities (e.g. sheltered workshops) are only compatible with the outer zone. Retail developments with more than 5000m² total floor space are compatible with the outer zone.

This is a general description of the compatibility for housing and workplaces. Detail of other development types, for example institutional accommodation and education, and their compatibility with consultations zones can be found in the section on Development Type Tables of HSE's Land Use Planning Methodology, which is available at:<http://www.hse.gov.uk/landuseplanning/methodology.pdf>

Include the paragraph below on mixed –use allocations where encroachment has been identified.

Mixed-Use Allocations

Because of the potential complexity when combination use classes are proposed, advice regarding mixed-use allocations is outside the scope of the general advice that can be given in this representation. Please refer to the Web App to determine HSE's advice regarding mixed-use developments.

Verification of Advice using the Web App

The potential for encroachment is being brought to your attention at an early stage so that you can assess the actual extent of any incompatibility on future developments. Information on the location and extent of the consultation zones associated with major hazard establishments and MAHPs can be found on HSE's extranet system along with advice on HSE's land use planning policy. Lists of all major hazard establishments and MAHPs, consultation zone maps for establishments, and consultation distances for MAHPs are included to aid planners. All planning authorities should have an authorised administrator who can access HSE's Planning Advice Web App; further information is available on HSE's website: <http://www.hse.gov.uk/landuseplanning/padhi.htm> . When sufficient

information on the location and use class of sites becomes available at the pre-planning stages of your local plan, the use of the Web App could assist you in making informed planning decisions about development compatibility.

Identifying Consultation Zones in Local Plans

HSE recommends that where there are major hazard establishments and MAHPs within the area of your local plan, that you mark the associated consultation zones on a map. This is an effective way to identify the development proposals that could encroach on consultation zones, and the extent of any encroachment that could occur. The proposal maps in site allocation development planning documents may be suitable for presenting this information. We particularly recommend marking the zones associated with any MAHPs, and HSE advises that you contact the pipeline operator for up-to-date information on pipeline location, as pipelines can be diverted by operators from notified routes. Most incidents involving damage to buried pipelines occur because third parties are not aware of their presence.

Identifying Compatible Development in Local Plans

The guidance in HSE's Land Use Planning Methodology, available at <http://www.hse.gov.uk/landuseplanning/methodology.pdf> will allow you to identify compatible development within any consultation zone in the area of your local plan. HSE recommends that you include in your plan an analysis of compatible development type within the consultation zones of major hazard establishments and MAHPs based on the methodology. The sections on Development Type Tables and the Decision Matrix are particularly relevant, and contain sufficient information to provide a general assessment of compatible development by use class within the zones.

There are a number of factors that can alter a Web App decision, for example where a development straddles 2 zones. These factors are outside the scope of the general advice in this letter. HSE's final advice on development compatibility can only be determined through use of the Web App.

Include the paragraph below on DPZs where encroachment has been identified. Following the Buncefield incident in 2005, HSE reviewed the consultation distances of all sites which met the criteria for large-scale petrol storage sites and an additional zone (DPZ) was introduced 150 metres from the boundary of the relevant storage tank bunds. The WebApp cannot be used to determine HSE's advice on developments within the DPZ and LPAs must refer any planning applications or pre-planning enquiries on developments within the DPZ to HSE. Further guidance is available on HSE's website:

http://www.hse.gov.uk/foi/internalops/hid_circs/technical_general/spc_tech_gen_43/index.htm

Include the paragraph below on information to pipeline operators where encroachment on MAHPs has been identified.

Provision of Information to Interested Parties – Pipeline Operators

The pipeline operator/s referred to will be sent a copy of this representation to make them aware of HSE's preliminary advice on this matter.

004 - Denmead Parish Council

Considers Policy TR1 is sound

005 – Murdoch Planning Limited

A Murdoch Planning Limited's Submission in relation to the Winchester District: Gypsy, Traveller and Travelling Showpeople Development Plan Document 2018 [the 'Traveller DPD']

1. Put shortly: the proposed emerging Traveller DPD so far as Gypsy and Traveller policy is concerned, is not robust, is not consistent with national policy and is unsound. I will explain why I have reached these conclusions below. The submission is divided into 2 parts: in the first section I address the issue of the definition of Traveller relied upon in the evidence base for the DPD and in the second I go on to consider some of the many shortcomings with the Gypsy and Traveller Accommodation Assessment [GTAA] upon which the DPD relies.

2. It is clear from the section entitled the "Evidence Studies" on p11 that the evidence that the Council is putting forward to justify this DPD is the October 2016 GTAA which is derived from the amended definition of Traveller that was adopted on 31 August 2015 when the Secretary of State for Communities and Local Government (SSCLG) issued a new planning policy entitled Planning Policy for Traveller sites (the 2015 PPTS):

"2.1 An early accommodation assessment study (Traveller Accommodation Assessment for Hampshire) was undertaken by Forest Bus in 2013/14. Since then the Government has revised the definition of travellers through the Planning Policy for Gypsies and Travellers published in August 2015 (see Glossary at Annex A for the revised definitions.) In general, the changes require travellers to still be leading a nomadic lifestyle - travelling and if they have permanently ceased to travel then they no longer comply with the revised traveller definition. This change has required the Council to commission further evidence to inform the DPD."

3. The 2015 PPTS replaced earlier guidance bearing the same title, issued in 2012 (the 2012 PPTS) with immediate effect. Importantly, the 2015 PPTS amended the planning policy definition of 'gypsies and travellers' by deleting the words 'or permanently' from both the definitions which had previously been included in the 2012 PPTS.

4. The new planning policy definition is set out in the Annex to the 2015 PPTS, where it is explained that any reference in the policy to 'gypsies and travellers' means –

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

5. The words in square brackets were included in the 2012 PPTS definitions but deleted from the 2015 PPTS definitions.

6. The changes to the planning definition are having a very damaging effect upon the most vulnerable members of the Travelling communities. Gypsies, Travellers and Travelling Showpeople who have stopped travelling permanently, for example, because of ill-health or old age, or because they care for people who can no longer travel because they are too old or ill to do so, will no longer:

- a) fall within the new planning policy definition of 'gypsies and Travellers';
- b) be able to rely upon the positive planning policy in the 2015 PPTS which has been issued by the SSCLG in order to promote site provision.

7. It is clear that the revised definition indirectly discriminates against disabled and/or elderly Romani Gypsies and Irish Travellers and single women who are more likely to act as carers for the disabled and elderly members of their families and/or are less likely to travel than men. This discrimination is entirely contrary to the Public Sector Equality Duty [PSED] and the Equality Act 2010. Therefore, a Development Plan Document that relies upon the revised definition is itself unsound, not robust and not consistent with national policy as expressed in the PSED.

8. The new definition also violates rights protected by Article 8 of the European Convention on Human Rights (the Convention) - including the State's positive obligation to facilitate the Gypsy way of life - and breaches rights protected by Article 14 of the Convention for reasons that are explained below.

The vulnerable position of Gypsies and Travellers

9. The vulnerable position of Romani Gypsies and Irish Travellers, as ethnic minority groups living in our society, has long been acknowledged. The following extracts from 'Gypsies and Travellers: Britain's Forgotten Minority' [2005] EHRLR 335 written by Sarah Spencer, one of the Commissioners of the former Commission for Racial Equality ('CRE'), highlight the difficulties faced by Gypsies and Travellers in Britain today:

"The majority of the 15,000 caravans that are homes to Gypsy and Traveller families

in England are on sites provided by local authorities, or which are privately owned with planning permission for this use. But the location and condition of these sites would not be tolerated for any other section of society. 26 per cent are situated next to, or under, motorways, 13 per cent next to runways. 12 per cent are next to rubbish tips, and 4 per cent adjacent to sewage farms. Tucked away out of sight, far from shops and schools, they can frequently lack public transport to reach jobs and essential services (p.337).

In 1997, 90 per cent of planning applications from Gypsies and Travellers were rejected, compared to a success rate of 80 per cent for all other applications... 18 per cent of Gypsies and Travellers were homeless in 2003 compared to 0.6 per cent of the population... Lacking sites on which to live, some pitch on land belonging to others; or on their own land but lacking permission for caravan use. There follows a cycle of confrontation and eviction, reluctant travel to a new area, new encampment, confrontation and eviction. Children cannot settle in school. Employment and health care are disrupted (p.337). Overt discrimination remains a common experience... There is a constant struggle to secure the bare necessities, exacerbated by the inability of many adults to read and write, by the reluctance of local officials to visit sites, and by the isolation of these communities from the support of local residents ...

But we know that these are communities experiencing severe disadvantages. Infant mortality is twice the national average and life expectancy at least 10 years less than that of others in their generation (pp.338-9).'

10. The vulnerable position of Gypsies and Travellers in our society has also been recognised by the European Court of Human Rights (ECtHR) and led it to hold in *Chapman v United Kingdom* [2001] 33 EHRR 18 (at paragraph 96) that:

'The vulnerable position of gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases..... To this extent, there is thus a positive obligation imposed on the Contracting States by virtue of Article 8 to facilitate the gypsy way life ...'.

11. As part of its programme of work, developed in order to fulfil its statutory duty, the CRE adopted a three year strategy (2004-2007) in relation to race equality and the Gypsy and Traveller community. The CRE also conducted a major research project into how local authorities in England and Wales were promoting equality of opportunity and good race relations in their work relating to site provision for Gypsies and Irish Travellers. The findings of that research were published on 15th May 2006 in the report 'Common Ground: Equality, Good Race Relations and Sites for Gypsies and Irish Travellers' ('Common Ground').

12. Then, in 2009, the Equality and Human Rights Commission ('EHRC') published a report entitled 'Inequalities experienced by Gypsy and Traveller Communities: A review' and a briefing entitled 'Gypsies and Travellers: Simple solutions for living together'. It is worth noting that in the executive summary of the 'Inequalities' report the authors stated that:

'Many Gypsies and Travellers are caught between an insufficient supply of suitable accommodation on the one hand, and the insecurity of unauthorised encampments and developments on the other: they then face a cycle of evictions, typically linked to violent and threatening behaviour from private bailiff companies. Roadside stopping-places, with no facilities and continued instability and trauma, become part of the way of life. Health deteriorates, while severe disruptions occur to access to education for children, healthcare services and employment opportunities. In order to avoid the eviction cycle or to access vital services, many families reluctantly accept the alternative of local authority housing. They are however, typically housed on the most deprived estates, sharing the wider environmental disadvantages of their neighbours and exposed to more direct and immediate hostility focused on their ethnicity or lifestyle. This also involves dislocation from their families, communities, culture and support systems, leading to further cycles of disadvantage.'

13. More recently, in 2015 the EHRC published a report entitled *Is Britain Fairer* and in 2016 it published another report entitled *Is England Fair* as well as a spotlight report entitled *England's most disadvantaged groups: Gypsies, Travellers and Roma*. In the latter report, the EHRC identified the most up to date evidence and statistics on the education, employment, living standards and health, of Gypsies, Travellers and Roma as well as the negative attitudes and hostility that they experience from the general public, police and other authorities, fuelled by political rhetoric and the media. Having done so the EHRC concluded that little had changed since the *Inequalities* report had been published in 2009.

The shortage of accommodation for Gypsies and Travellers

14. The fact that there is a significant shortfall in accommodation for Gypsies and Travellers in England is undeniable.

15. Below is a brief summary of the relevant legislation and policy which demonstrates how the shortfall has arisen and how successive governments have tried to address the issue.

i. In 1960 Parliament passed the Caravan Sites and Control of Development (CSCDA) 1960. That Act was designed to regulate and control private caravan sites. It provided that no occupier of land could use it as a caravan site without a site licence and that a site licence could not be obtained unless planning permission had been granted for the use of the land for such a purpose.

- ii. Section 23 of the CSCDA 1960 also gave local authorities the power to close common land to Gypsies and other Travellers. This power was used enthusiastically by local authorities. Section 24 of the CSCDA 1960 also gave local authorities the power to provide caravan sites to compensate for the closure of the commons. However, local authorities failed to make use of this collateral power and it became increasingly difficult for the Gypsy and Traveller population to carry on their nomadic way of life.
- iii. In 1968, having recognised the problems caused by the 1960 Act, Parliament passed the Caravans Sites Act (CSA) 1968. It came into effect on 1 April 1970 and was designed to convert the section 24 CSCDA 1960 power into a duty imposed on County Councils to provide caravan sites for Gypsies and Travellers resorting to or residing in their area.
- iv. Though sites were built as a result of the CSA 1968 a number of authorities failed to comply with their duty and there remained a significant shortfall in authorised accommodation. As Sedley J. (as he then was) noted in *R v Lincolnshire CC ex p Atkinson* (1997) JPL 65:
'For the next quarter of a century there followed a history of non-compliance with the duties imposed by the Act of 1968, marked by a series of High Court decisions holding local authorities to be in breach of their statutory duty, to apparently little practical effect.'
- v. Then in 1994 the government issued Circular 1/94, which urged Councils to encourage private site provision on the basis that Gypsies and Travellers should help themselves. Circular 1/94 also advised local authorities to assess the need for Gypsy sites in their areas and to identify land on which such sites could be developed wherever it was possible to do so.
- vi. In 1994 Parliament also passed the Criminal Justice and Public Order Act (CJPOA). The CJPOA 1994 repealed much of the CSA 1968, including the duty imposed on County Councils to provide authorised sites. Though the section 24 CSCDA 1960 power to provide sites has been retained it has not been utilised and as a consequence the number of local authority sites has fallen.
- vii. At the same time the CJPOA 1994 gave both the Police and local authorities additional powers to remove Gypsies and Travellers when they park their caravans on unauthorised encampments: see sections 61 and 77 of the CJPOA 1994 respectively.
- viii. Few, if any, local authorities complied with the advice in Circular 1/94. The accommodation needs of Gypsies and Travellers were not assessed and land was not identified for their residential use. As a consequence Circular 1/94 failed to deliver sufficient sites for Gypsies and Travellers living in England. Moreover, the effect of the repeal of the CSA 1968, coupled with the changes to planning guidance, and the enforcement powers given to local authorities and the Police by the CJPOA 1994, has been to render it virtually impossible for those Gypsies and Travellers without an authorised site to continue living their traditional way of life within the law.
- ix. On 2 February 2006 the Government issued ODPM Circular 1/06 'Planning for Gypsy and Traveller Caravan Sites' (Circular 1/06). The new Circular replaced

Circular 1/94. The Government decided that it was necessary to issue new planning advice precisely because the evidence showed that Circular 1/94 had failed to provide adequate sites for Gypsies and Travellers in many areas of England over the previous 12 years.

x. In paragraph 5 of Circular 1/06 the Government referred to the poor health and low level of educational attainment amongst Gypsies and Travellers. In the same paragraph the Government expressed the view that the new Circular should enhance their health and education outcomes.

xi. In paragraph 12 the Government indicated that it was intended that Circular 1/06 would, inter alia:

- a) create and support sustainable, respectful and inclusive communities where Gypsies and Travellers have fair access to suitable accommodation, education, health and welfare provision;
- b) reduce the number of unauthorised encampments and developments;
- c) increase significantly the number of Gypsy and Traveller sites in appropriate locations with planning permission in order to address under-provision over the next 3 – 5 years;
- d) recognise, protect and facilitate the traditional travelling way of life of gypsies and travellers, whilst respecting the interests of the settled community;
- e) underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- f) identify and make provision for the resultant land and accommodation requirements;
- g) promote more private Gypsy and Traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own sites;
- h) help avoid Gypsies and Travellers becoming homeless through eviction from unauthorised sites without an alternative to move to.

xii. Circular 1/06 explained that it applied to 'gypsies and travellers' who were to be defined as:

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

xiii. Circular 1/06 explained how it was intended that the planning system would work in the context of the provision of Gypsy and Traveller sites and made it clear that local planning authorities (LPAs) should begin the process by assessing the accommodation needs of Gypsies and Travellers and produce Gypsy and Traveller Accommodation Needs Assessments (GTANAs).

xiv. The information from GTANAs was then to be fed to the Regional Planning Boards (RPBs) who were to be responsible for preparing Regional Strategies (RSs) which would identify the number of pitches required (but not their location) for each

LPA and a strategic view of needs across the region.

xv. Subsequently, individual LPAs were required to produce their own Development Plan Documents (DPDs) which set out site specific allocations for the number of pitches that the RSs had specified they needed to accommodate within their areas.

xvi. However, RSs were revoked by the Localism Act 2011 and then, in 2012, Circular 1/06 was replaced by PPTS. Due to the slow rate of site provision by LPAs' when 1/2006 was in force, it would take a further 18 years to meet the accommodation needs of Travellers

xvii. Paragraph 3 of the 2012 PPTS stated that the government's 'overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.'

xviii. Paragraph 4 of 2012 PPTS explained that the government's '... aims in respect of traveller sites are:

- a) that [LPAs] should make their own assessment of need for the purposes of planning
- b) to ensure that [LPAs], working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites
- c) to encourage [LPAs] to plan for sites over a reasonable timescale
- d) that plan-making and decision-taking should protect the Green Belt from inappropriate development
- e) to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites
- f) that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective
- g) for [LPAs] to ensure that their Local Plan includes fair, realistic and inclusive policies
- h) to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply
- i) to reduce tensions between settled and traveller communities in plan-making and planning decisions
- j) to enable provision of suitable accommodation from which travellers can access education, health welfare and employment infrastructure
- k) for [LPAs] to have due regard to the protection of local amenity and local environment.'

xix. The 2012 PPTS adopted the same definition of the term 'gypsies and travellers' as had been used in Circular 1/06.

xx. The 2012 PPTS was replaced by the 2015 PPTS on 31 August 2015. Most of the advice in the 2012 PPTS was retained in the 2015 PPTS. The key amendment so far as the Traveller DPD is concerned was that the 2015 PPTS adopted an amended definition of the meaning of 'gypsies and travellers' to that in Circular 1/06 and the 2012 PPTS, by deleting the words 'or permanently' so that the definition now reads: 'For the purposes of this planning policy "gypsies and travellers" means:

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

xxi. Significantly, the UN Committee on the Elimination of Racial Discrimination commented in paragraph 24 of its August 2016 report upon the position of Gypsies and Travellers in the United Kingdom and noted its concern that:

' ... the change in the definition of Gypsy or Traveller in the Planning Policy for Traveller Sites in England adopted in August 2015 may adversely impact the enjoyment of rights by those who have stopped travelling permanently due to factors such as illness or old age, and may further restrict the ability of Gypsy and Traveller communities to access culturally appropriate accommodation and stopping places. . . .'

16. The soundness of the Winchester Traveller DPD is undermined by the reliance on the October 2016 GTAA produced by ORS because the revised definition upon which it is based discriminates against ethnic Gypsies and Travellers who are too old or too ill to travel anymore by denying them the opportunity of having their accommodation needs met within the Traveller DPD process. This discrimination offends both Article 8 and the PSED. To fully understand why this is so there is a need to first consider briefly the jurisprudence on 'Gypsy status' before going on to consider the other manifest short-comings in the 2016 GTAA.

WHO IS A 'GYPSY'?

17. It is well established that the nomadic people we have come to call "Gypsies" - the Romanies – left North West India about 1500 years ago (evidenced clearly in their Sanskritic languages still used to this day) and had reached our shores by the 16th Century at the latest. Arguably the term "Gypsy" itself is a misnomer as it derives from the word "Aegyptian" whence Tudor society erroneously imagined these groups originated.

18. Nonetheless, the term "Gypsy" has persisted and in modern times we can see the repeated legislative incorporation of the word: under s127 of the Highways Act 1959 a 'Gipsy' could be prosecuted for pitching a booth or stall on the highway, a term which the courts and Parliament at the time considered should not refer to Gypsies as members of a particular ethnic minority group but as a lifestyle issue. In *Mills –v- Cooper* [1967] 1 QB 459 reinforced the view that Gypsy status for the purposes of the Highways Act was not determined by ethnicity or birth but by how one lived one's life.

19. One year after *Mills v Cooper* was decided, the definition of Gypsy as nomad entered the statute books by way of s16 of the Caravan Sites Act 1968: "persons of a nomadic habit of life, whatever their race or origin." Back in 1960 the Caravan Sites and Control of Development Act 1960 had given Local Authorities (County Councils)

the power to create Gypsy caravan sites in compensation for the closure of the commons to Travellers by s23 of the same Act. Following the failure of the 1960 Act to create a sufficient number of such sites s16 of the Caravan Sites Act 1968 placed those same Local Authorities under a statutory duty to provide adequate caravan sites for 'Gypsies residing in or resorting to' their area. The definition of Gypsy adopted at that time remains extant to this day, has not been repealed nor amended by statute.

20. In *London Borough of Greenwich v Powell* [1989] 2 WLR 7 (1988) the House of Lords held that a person might fall within the s16 definition if s/he led a nomadic life only seasonally and notwithstanding that he regularly returned for part of the year to the same place, at which he might be said to have a fixed abode or permanent residence. See also *Maidstone v Dunn* where the Court found Mr Dunn to have a nomadic habit of life given that he travelled to the horse fairs annually for work for a couple of months, notwithstanding that for most of the year he was engaged in gardening work in the local area. I will return to the significance of *Dunn* in the context of the mis-application of the law by ORS in the GTAA, a factor that further undermines the robustness of the evidence that underpins the DPD.

21. In 1994 the Court of Appeal [*R v South Hams DC, ex parte Gibb and Ors*] reviewed the law with respect to the statutory definition holding that the term 'nomadic' within the definition imported the requirement that there be some recognisable connection between one's travelling and the means by which one made or sought one's living.

22. When the 1968 Act duty to provide sites was repealed by the Criminal Justice and Public Order Act in November 1994, the s16 definition of Gypsy was retained (via s80 of that Act). This was the definition to be applied when Gypsies and Travellers thereafter applied for planning permission to legitimise their own caravan sites under circular 1/94 "Gypsy Sites and Planning" which had been issued in the January of 1994.

23. Since then over the years, case-law has repeatedly confirmed that to satisfy the definition of 'nomadic' it is not necessary to be perpetually travelling but that one could settle and remain a Gypsy in law. In *R v Shropshire County Council ex parte Bungay* [1990] 23 HLR @196 Otton J dismissed a challenge brought by an aggrieved local resident to the granting of planning permission for a family to reside on a private site. That challenge to 'Gypsy' status concerned the fact that the family had settled down when their father had become too ill to continue traveling and had not then travelled for some 15 years (up until the date of the application to the Court). The challenge was - how could they be 'nomadic' if they no longer travelled? The answer the Court gave is that as Gypsies are 'persons of a nomadic habit of life whatever their race or origin', then one had to look wider than just at their current situation but at the individual's "habit of life". Otton J held that in a situation where

people have stopped travelling in order to care for their relatives, then it could be said that their nomadic habit of life was in abeyance and had not been abandoned.

24. In *O'Connor –v- The First Secretary of State and Bath and North East Somerset Council* [2003] JPL 1128 a successful challenge was made to an Inspector's decision to dismiss a Planning Appeal for a Gypsy site for a single family in the Bristol Green Belt because (in the Inspector's view) the Appellant had failed to demonstrate Gypsy status as a consequence of her current inability to travel through her children's educational needs, child care responsibilities and her own health problems. I was instructed in both the Planning Appeal and subsequent legal challenge, where the High Court held that:

“it was not enough as this Inspector had done to merely look at the travelling being done at the time of the Inquiry but that one had to look at the whole life, to look at the reasons why one had ceased travelling at the moment and likelihood of travelling resuming in the future.”

25. In the case of *Wrexham County Borough Council –v- The National Assembly for Wales and Berry* [2002] EWHC 2414 Sullivan J heard an application to quash planning permission granted to a Gypsy site in a situation where the head breadwinner had ceased travelling due to serious, life-threatening ill health. Sullivan J dismissed the council's application stating that

“to find that someone who had been a Gypsy all their life had lost that status once they had become too old or too ill to continue to work [was] inhuman pedantry that defied common sense and common humanity and fell foul of the duty to facilitate the Gypsy way of life as provided for by Article 8.”

26. Such an approach was supported by the (then) Office of the Deputy Prime Minister ['ODPM'] Select Committee in 2004 after it took evidence from interested parties in relation to Gypsy and Traveller policies, where the definition was one of the critical issues examined. I too was called to give evidence to the Select Committee. Chapter 3 of the Select Committee's subsequent Report is devoted to this matter.

27. The government too supported a definition which embraced those “Gypsies and Travellers [who] stop travelling permanently or temporarily because of health reasons, or caring responsibilities but still want to maintain their traditional caravan dwelling lifestyle...” (ODPM January 2005, pp2-3).

28. In *Basildon DC v the First Secretary of State and Cooper* the court held that the lack of sites justified a Gypsy family being unable to travel in the manner that they had previously: “...what is the reason for this [ceasing travelling]? The lack of temporary sites is the answer. ‘They had only moved onto the site when it became too difficult for them to live on the roadside.’ ... do they intend to resume travelling? I quote again from the report ‘They would like to do so but are frustrated by the lack of

temporary sites.’ ”

29. In February 2006 Circular 1/94 was repealed and replaced by Circular 1/2006 Planning for Gypsy and Traveller caravan sites. In 1/2006 and elsewhere the (then) DCLG grasped the issue of people remaining within the definition if force of circumstance prevented them from travelling for work. Paragraph 15 of 1/2006 defined ‘Gypsies and Travellers’ as

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently...”

30. That definition was imported verbatim into Annex 1 of Planning Policy for Traveller Sites (2012). As we saw above, in August 2015 the definition was amended such that the words “or permanently” were deleted such that one would remain within the revised definition if one ceased travelling temporarily for reasons of old age, ill health or the educational needs of one’s children but not if one stopped travelling permanently.

THE IMPLICATIONS OF BEING AN ETHNIC GYPSY OR TRAVELLER

31. Whilst there is no need to be an ethnic Romany Gypsy or an Irish Traveller to come within the PPTS definition, the fact that one is from either of those groups does have implications for both race relations legislation as well as under the European Convention on Human Rights [‘ECHR’]. This is because Romany Gypsies and Irish Travellers have been held to be racial groups (in the *Commission for Racial Equality v Dutton*; and *Allied Domecq*, respectively so far as the Equalities Act 2010 is concerned).

32. In *Chapman v United Kingdom* (2001) 33 EHRR 399 the European Court of Human Rights said:

“73. The Court considers that the applicant’s occupation of her caravan is an integral part of her ethnic identity as a gypsy, reflecting the long tradition of that minority of following a travelling lifestyle. This is the case even though, under the pressure of development and diverse policies or from their own volition, 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. Measures which affect the applicant’s stationing of her caravans have therefore a wider impact than on the right to respect for 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.”(emphasis added).

33. In the Court of Appeal case of *Wychavon DC v the Secretary of State and the Butlers* where Lord Justice Pill held:

“I say at once that in my view the judge was wrong, with respect, to treat the words “very special” in the paragraph 3.2 of the guidance [PPG2] as simply the converse of “commonplace”. Rarity may of course contribute to the “special” quality of a particular factor, but it is not essential, as a matter of ordinary language or policy. The word “special” in the guidance connotes not a quantitative test, but a qualitative judgment as to the weight to be given to the particular factor for planning purposes. Thus, for example, respect for the home is in one sense a “commonplace”, in that it is an aspiration shared by most of humanity. But it is at the same time sufficiently “special” for it to be given protection as a fundamental right under the European Convention. Furthermore, Strasbourg case-law places particular emphasis on the special position of gypsies as a minority group, notwithstanding the wide margin of discretion left to member states in relation to planning policy (see *Chapman v UK* 33 EHRR 399; and the comments of Lord Brown in *Kay v Lambeth LBC* [2006] 2 AC 465 para 200). Thus, in *Chapman* the Strasbourg court recognised that the gypsy status did not confer “immunity from general laws intended to safeguard the assets of the community as a whole, such as the environment”, but added:

“...the vulnerable position of Gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory planning framework and in reaching decisions in particular cases... To this extent, there is thus a positive obligation imposed on the Contracting States by virtue of Article 8 to facilitate the Gypsy way of life...” (para 96, emphasis added)

The special position of gypsies in this respect is reflected in the 2006 guidance. Against this background, it would be impossible in my view to hold that the loss of a gypsy family’s home, with no immediate prospect of replacement, is incapable in law of being regarded as a “very special” factor for the purpose of the guidance.”

34. All of the respondents to the Winchester GTAA are Gypsies and Travellers in the ethnic sense of those words, thereby bringing into consideration the PSED and the duty to facilitate the Gypsy way of life under the Human Rights Act 1998. The revised definition of Traveller is inconsistent with those matters because it indirectly discriminates against those Gypsies and Travellers who are too old or too ill to continue to travel for work, as well against women (in particular single parents) who do not go out to work but raise a family instead. In addition, the definition is absurd: how can one stop travelling temporarily due to old age? If you’ve become too old to work at, say 65 years of age, you’re not likely to resume working at 70.

35. The comparator in my view would be agricultural workers: when they become too old or ill to continue work, they do not lose their status and are thereby denied the opportunity to live on an agricultural holding. Nor for that matter are their spouses or widows and widowers of such workers. Why should Gypsies and Travellers in similar situations fare worse than agricultural workers who retire on grounds of health or

age?

THE WINCHESTER GTAA 2016

36. It is plain from the GTAA that the revised definition has been misapplied by ORS: after detailing some of the case-law on this issue – including *Maidstone v Dunn* - in the section on the “definition of travelling” at paragraph 1.14 it states that:

1.14 The implication of these rulings in terms of applying the new definition is that it will only include those who travel (or have ceased to travel temporarily) for work purposes and in doing so stay away from their usual place of residence. It can include those who have a permanent site or place of residence, but that it will not include those who travel for purposes other than work – such as visiting horse fairs...”

37. This is repeated at section 5.19:

Figure 3 shows that for Gypsies and Travellers 20 households meet the new definition of a Traveller, and for Travelling Showpeople 17 household meets the new definition - in that they stated during the interview that they travel for work purposes and stay away from their usual place of residence, or have ceased to travel temporarily. A total of 18 Gypsy and Traveller and 2 Travelling Showpeople households did not meet the new definition as they were not able to provide information that they travel away from their usual place of residence for the purpose of work, or that they have ceased to travel temporarily due to children in education, ill health or old age. Some did travel for cultural reasons to visit fairs..”

38. It is useful now to refer to part of the “Site Record Form” which ORS use in their assessments:

39. Thus, the GTAA is designed in such a way as to exclude from Gypsy and Traveller status all those who answer that they travel to the fairs. The irony of this is that Mr Dunn, the eponymous Gypsy in *Maidstone v Dunn*, worked as a landscaper locally all year apart from his annual travelling to the traditional horse fairs, this latter activity being that which confirmed his Gypsy status in law. Therefore, the only nomadising that Mr Dunn practised was travelling to the horse fairs, the very activity that this GTAA considers precludes Gypsy status! In my view, had Mr Dunn been asked question F3 of the GTAA he would have most likely ticked the “fairs” box and it is clear that the ORS approach would have excluded him from being within the definition.

40. By these means, the GTAA asserts that of the 49 households assessed on existing Gypsy and Traveller sites in Winchester, only 20 come within the revised definition (Figure 3 p21) meaning that more than 50% of the existing population of residents on existing Gypsy and Traveller sites are not considered by ORS to be

Gypsies and Travellers. The utter absurdity of that position is stark indeed.

41. I have been professionally involved in Gypsy and Traveller planning matters for nearly two decades and consequently am very familiar with the process of considering the robustness of Gypsy and Traveller Accommodation Assessments both as part of the Local Plan process as well as in individual Appeals. I have given evidence at Examinations in Public into such assessments since 2008 when I appeared before (former Chief) Inspector Burley in relation to the evidence base underlying the South West RSS Gypsy and Traveller needs assessments.

42. On the basis of this experience, the first thing that struck me when reading this particular GTAA was that the time period for data collection was inappropriate in terms of the time of year when the survey took place. In the section on the “Timing of the Fieldwork” on p9, although ORS state that they:

“..are fully aware of the transient nature of many travelling communities and subsequent seasonal variations in site and yard occupancy. As such all of the fieldwork was undertaken during the non-travelling season, and also avoided days of known local or national events. Fieldwork was completed from late June through to early October. Whilst this did cover the summer period, where interviews were not able to be completed during July and August, repeat visits were made during September and October. The high response rate reflects this approach.”

43. Travellers tend to travel for work between May and the end of October annually as these are when the traditional Gypsy horse fairs start and end. There is thus a built-in deficiency with the baseline data as many families would have been away travelling who would have been present had the survey taken place in the winter and spring.

44. The GTAA fails to refer to the CLG Gypsy and Traveller Accommodation Needs Assessments Guidance (2007) [‘the CLG Guidance’] (Appendix 1) which at paragraph 33 refers to “important [matters] to consider” continuing at 38:

“It is also essential to ensure that the process has credibility and acceptance within the local Gypsy and Traveller community. This can best be achieved by involving members of the local Gypsy and Traveller communities from the very outset of the process, both to advise and help ensure that the culture and traditions of the communities and their accommodation needs are fully understood by those conducting the assessment, and to ensure that the process is properly explained. This should help ensure the communities have trust in the objectivity of the proceedings and encourage a willingness to participate.”

The “timing of the survey” is raised as an issue in the CLG Guidance from paragraph 81 onwards where it is recommended that:

“Careful consideration should be given to the appropriate timing for the survey. The caravan count consistently shows higher numbers on unauthorised encampments, and lower numbers on permanent residential sites, in the summer. It is likely that numbers in housing will also be lower in the summer.

82. The local authority or partnership will need some knowledge of travelling patterns and the local Gypsy and Traveller population before a decision can sensibly be made. For example, if Gypsies and Travellers moving during the summer come from the local area, they may be easier to access during the winter in their permanent residential bases. If on the other hand they come from outside the area, the survey will need to be carried out during the summer if their needs are to be assessed – and account should also be taken of the fact that some Gypsies and Travellers normally resident in the area may be away travelling themselves. Experience has shown that a Gypsy and Traveller Accommodation Needs Assessment is best conducted over a six to nine month period to identify the effect of seasonal migration.”

45. In the light of the clear advice from the CLG Guidance above it is striking that the survey was conducted in the summer months only. These manifold shortcomings detailed in this and other respects (discussed below) undermine the robustness of this GTAA.

46. The traditional annual Gypsy and Traveller horse fairs run from May through to October – with Wickham Fair at the beginning of May, followed by the first Stow Fair also in May and then what is probably the largest fair, Appleby in Cumbria in the first week in June, with the second Stow fair ending the season in October. To conduct the survey during this period was therefore bound to coincide with a great many Gypsies and Travellers being absent from their sites and homes working. Indeed, many of the Gypsy families I have worked with in Winchester site have been heavily involved with these fairs for generations (for example the Goddards actually open the Wickham Fair). One Romany Gypsy I spoke to about this GTAA remarked that the choice of timing for the survey may not have been accidental, stating that asking this particular LPA to assess the need for Gypsy sites was like asking the foxes to count the chickens.

47. It is important to understand that Gypsies do not simply travel between their base and fairs on the days before and after the fair. They travel more slowly, working on the route there and back. For example, some travel by horse-drawn wagons that can only cover about twenty miles a day and thus take a long time to reach the fairs. Even motorised Gypsies leave for the fairs days sometimes weeks beforehand not only to ensure they are guaranteed a good spot on site but also to visit friends and relatives - as well as find other work - on the way there and on the way back. For many Travellers the road trip to the fair is every bit as important as the fair itself. I know of many Gypsies who don't make it back to their home base for the whole

season, leaving in May and returning only once the second Stow fair has closed in October. None of these people - all of whom would have been away travelling for work at the time of the GTAA - would have been considered to come within the definition as applied by ORS.

48. In contrast to this GTAA that took place at the very time of year when many Travellers would be away working including at the fairs, other assessments elsewhere in the country have been far more robust. For example, the Somerset Gypsy and Traveller Accommodation Assessment was an extremely robust piece of work that had community buy-in from the Traveller and settled communities and was not challenged at EIP or at Appeals. The Somerset GTAA took evidence over a full 12 month period, thereby ensuring that seasonal variation was precluded, in turn increasing the reliability of the results obtained.

49. From the evidence above, I conclude: the CLG 2007 guidance recommends that surveys take place over a 6-9 month period to allow for seasonality and that some GTAAs cover a full 12-month period (such as the Somerset GTAA) and that most seem to take place outside of the time when Travellers are away travelling. The Winchester GTAA falls short on every one of these measures.

50. A further short-coming the GTAA is the failure to factor in any need arising from Gypsies and Travellers in bricks and mortar housing who would wish to live on a site if only one was available. There is a substantial such community of housed Gypsies in the Winchester area following the closure of the old Gypsy camps at Botany Bay and elsewhere. The 3 pitches at Bowen Farm referred in Figure 1 p15 were all living in houses (and had been since 1996) as there was such an inadequate supply of Traveller sites. The additional caravan permitted on that site in January 2018 was for elderly members of their family who were also living in a house (I know this because I was the Agent for this family). The family at the Big Muddy were also living in housing previously, as is the Page family whose application was refused just before Christmas 2017. Those 3 sites amount to 6 pitches alone just from my own clients.

51. In other GTAAs between 10% and 30% of the overall Traveller population in housing are considered to form part of the element of need. In this assessment ORS factor in a figure of zero (paragraph 5.20 and Figure 4). This is not robust, is not justified and undermines the soundness of the DPD.

52. An additional consideration is the issue of supply. In Figure 4 p 22 the sole source of "additional supply" is derived from so-called "vacant public and private pitches." Firstly, there are no public pitches in Winchester, all such public sites having been sold by the County Council "to a private management company in 2015" (5.30). One of those former Council sites, that at Tynefield, was under-going refurbishment at the time of the GTAA following its purchase the previous year (5.24). ORS then use these pre-existing 10 pitches being refurbished as contributing

not just to additional supply but this being the only supply over the entire plan period! How pitches that were already in existence in 2015 (and had been for many, many years) but were being refurbished in 2016 contributes to the future supply of pitches is not explained in the GTAA. In my view, this matter substantially undermines the robustness of the GTAA and the subsequent DPD upon which it relies.

53. Leaving aside the definition issue, at Figure 4 the Net Pitch Total should be: Current Need [8] and Future Need [21] – Total Supply [zero] = 29 (not the 19 stated).

54. Furthermore, the whilst the DPD seeks to reduce the level of need disclosed in the GTAA by reference to planning permissions permitted since the base line date of October 2016 – without establishing how many of those permissions were personal, temporary or permanent – it fails to do the corollary and factor in unauthorised sites that have arisen since that date. For example, I am Agent for an unauthorised development that consists of 4 pitches in Durley Street, Durley that is not referred to in the GTAA's Figure 1 but which is subject of on-going s78 and s174 Appeals (to be heard in June 2018). This site alone raises the number of unauthorised pitches by 50% from that considered in the GTAA. Quite why the DPD failed to add in these additional elements of need in the January 2018 consultation is not clear but again goes to the issue of the lack of robustness of the DPD.

55. This issue was considered by Inspector Dignan at paragraph 27 of the DL attached at Appendix 2 where he stated:

“There is also the question of how the current occupiers of the appeal site are accounted for. The GTAA survey period finished just before the occupants moved onto the site, and hence their absence from the GTAA model and output is justifiable. The GTAA output represents a point in time. However, when it comes to [a policy] which draws directly from the ...GTAA, it is difficult to see why they should not be seen as adding to need.”

56. For these amongst other reasons, the DPD is not sound as it is not justified and is not based on robust up-to-date evidence and is inconsistent with national policy.

57. I would be grateful for an opportunity to address the Inspector in person when this matter is considered at the EIP.

locate the 3 sites above and re-assess need

A further submission has been received and this is appended (Appendix 1)

006- Southern Water

No comment on Policy TR1

007 - Fareham Borough Council

Fareham Borough Council raises no objection and supports the aims of Policy TR1 to accommodate the identified Gypsy, Traveller need and Travelling Showpeople needs.

008 – Historic England

Unfortunately we cannot find the Policies Map with these sites to be able to identify precisely where these sites are. We are therefore unable to assess the sites against our records of designated heritage assets to ascertain whether or not any contain or are within the setting of such assets.

However, following a similar comment on the draft DPD in August the Council has advised Historic England that all of these sites have long-standing use by travellers (e-mail from Jenny Nell 13th October 2017) (*This email is set out at Appendix 2*).

Although that does not necessarily mean that none of the sites contain or are within the setting of designated heritage assets, we raise no objection to Policy TR1 or any of the identified sites.

010 - WS Planning and Architecture

WS Planning & Architecture support the aims of Policy TR1 and welcomes that Policy TR1 will safeguard permitted sites from alternative development, unless the site is no longer required to meet any identified traveller need across the District. We also welcome that other sites subsequently granted a permanent permission will be safeguarded in accordance with this policy.

In particular we refer to site W006 Barn Farm, The lakes, Swanmore, where there is clearly an identified need and moreover an identified need for a further permitted extension to this site.

011 - Cunnane Town Planning LLP

We support this policy and are of the view that this policy is sound as explained in paragraph 182 of the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (NPSS).

012 - Robert Fowler

refer to my previous submissions:

The WOO8 site is unsuitable because.

1. It is too close to the A31
2. It is too far from Towns facilities as defined by your Policies

Also the site is privately owned and is NOT occupied by a Gypsy or Travellers family. It is only occupied to prevent it being declassified.

013 - East Hampshire District Council

Thank you for consulting East Hampshire District Council on the consultation Pre-Submission Winchester Gypsy, Traveller and Travelling Showpeople Development Plan Document.

We note that you have updated Policy TR1 to reflect the comments we made in August 2017 on the draft DPD (attached below). Since our previous response East Hampshire District Council has committed to a Local Plan Review for those parts of the District outside of the South Downs National Park Authority (SDNPA). The Council has recently published an updated GTAA and we will seek to meet the identified needs through the Local Plan Review.

We recognise the difficulties in meeting needs for Gypsy and Traveller Accommodation both at local authority level and in a cross boundary context. Therefore, we are supportive of Policy TR1 which seeks to safeguard permitted sites, however in light of cross boundary needs we consider it would be useful to provide greater flexibility within the policy to recognise needs beyond your Districts boundary.

We hope these comments are useful, and we are happy to discuss the above comments further. We will continue to engage and work with you on this matter through the Duty to Cooperate and as we progress our Local Plan Review.

015 – Natural England

European Designated sites - Natural England is pleased to see that sites within 5.6km of the Solent SPAs are now listed in the DPD as advised in our previous response.

Policy TR2 – Sites with Temporary Consent

004 - Denmead Parish Council

Considers Policy TR2 is sound

006- Southern Water

No comment on Policy TR2

007 - Fareham Borough Council

Fareham Borough Council raises no objection and supports the aims of this Policy to accommodate the identified Gypsy and Traveller needs.

008 – Historic England

According to our records, none of the three sites with temporary consent contain or are within the setting of any designated heritage assets. We therefore have no objection to Policy TR2 or any of the identified sites.

011 - Cunnane Town Planning LLP

Policy TR2 covers a relatively small area of a larger area known as Land at the Piggeries Firgrove Lane that was previously covered by Policy TR5 (also entitled Firgrove Lane) of the Traveller DPD Draft for Consultation document dated July 2017. This land the subject of Policy TR2 (as the heading would indicate) is a site with temporary planning permission. We support its retention under Draft Policy TR2 as a site to be promoted for permanent planning permission but remain concerned that this is all that remains of what was a considerably larger area to accommodate travellers/gypsies that has now effectively disappeared from the emerging DPD document for no sound planning reason. We see no valid planning reason why former Policy TR5 has been deleted. We request the reinstatement of former Policy TR5 for the reasons indicated in the attached letter. Our client believes that the shortfall of 8 TSP plots identified in Appendix B to the DPD can be met on site.

We believe that Policy TR2 is in itself sound but that the removal of the surrounding area previously covered by TR5 of the July Draft is unsound in terms of Para 182 of the NPPF and the PPTS as indicated in the attached cover letter (*set out at Appendix 3*)

014 – HCC Countryside Planning Officer

Land at The Piggeries, Firgrove Lane, North Boarhunt (W014)

This site would be accessed via Boarhunt Footpath 10. There are no recorded public vehicular rights over this route. Under Section 34 of the Road Traffic Act 1988 it is an offence to drive over a public footpath, bridleway or restricted byway without lawful authority. The applicant would therefore need to provide evidence of their private

access rights over this route, and that the rights would be transferable to the new development. We are also concerned about the adverse impact upon the surface of the right of way increased vehicular movements would generate, as well as impacts upon the amenity of other users. To mitigate for these impacts we request a developer contribution towards resurfacing the route. We will be able to provide further details on this contribution in due course.

We request that any Public Rights of Way which are on-site or adjacent to any allocated sites, are displayed on the allocation.

Thank you for considering our comments.

Policy TR3 – Carousel Park, Micheldever

004 - Denmead Parish Council

Considers Policy TR3 is sound

006- Southern Water

No comment on Policy TR3

007 - Fareham Borough Council

Fareham Borough Council raises no objection and supports the aims of these Policies (*TR3 and TR4*) to accommodate the identified Travelling Showpeople needs.

008 Historic England

According to our records, this site does not contain nor is within the setting of any designated heritage assets. We therefore have no objection to Policy TR3.

015 – Natural England

Natural England supports the need to protect the biodiversity of Black Wood (an adjacent Site of Importance for Nature Conservation - SINC) and reinforce the site's visual containment by providing and retaining a bund and landscaping around the whole site boundary; as set out in Policy TR 3 – Carousel Park, Micheldever

Policy TR4 – The Nurseries, Shedfield

004 - Denmead Parish Council

Considers Policy TR4 is sound

006- Southern Water

No comment on Policy TR4

007 - Fareham Borough Council

Fareham Borough Council raises no objection and supports the aims of these Policies (*TR3 and TR4*) to accommodate the identified Travelling Showpeople needs.

008 – Historic England

According to our records, this site does not contain nor is within the setting of any designated heritage assets. We therefore have no objection to Policy TR4.

Policy TR5 – Expansion or intensification within existing sites

004 - Denmead Parish Council

Considers Policy TR5 is sound

005 – Murdoch Planning Limited

Yes. Three other site should be allocated:

The Big Muddy, Alma Lane which only has a personal consent

The land opposite the Big Muddy as this is PDL and complies with CP5

The land East of Maybank Cottage as this is also PDL and complies with CP5

In addition the GTAA is flawed and under represents the real extent of need

006- Southern Water

No comment on Policy TR5

007 - Fareham Borough Council

Fareham Borough Council raises no objection and supports the aims of Policy TR5 to accommodate the identified Gypsy, Traveller need and Travelling Showpeople needs.

010 - WS Planning and Architecture

Whilst WS Planning & Architecture support elements of Policy TR5, in particular it supports that this policy aims to allow the Council to consider proposals for the additional provision of pitches/plots. The policy then states that this will be on sites covered by Policies TR1 – TR 4 above, on a case by case basis and in accordance with the provisions of Policy TR6.

This policy therefore does not allow for the Council to consider further pitches, in other areas even where it can be demonstrated that the site is suitable and that there is an identified need.

The policy text notes in paragraph 4.19 that, "The Council has explored a range of options to identify and allocate sufficient sites to meet the identified needs of travelling show-people in the District, however, there remains a shortfall in provision." Therefore it is considered that this policy is too restrictive and therefore not effective. It is suggested that the wording "on sites covered by Policies TR1 - TR4 above" is removed.

011 - Cunnane Town Planning LLP

Current Draft Policy TR5 is supported by our client including Site W014 in relation to Policy TR2.

Policy TR6 – General Design Guidance and Site Layout

004 - Denmead Parish Council

Considers Policy TR6 is sound

006- Southern Water

No comment on Policy TR6

007 - Fareham Borough Council

Traveller Site Design Guidance and Layout - Fareham Borough Council raises no objection and supports the aims of Policy TR6 to accommodate the identified Gypsy, Traveller need and Travelling Showpeople needs

008 – Historic England

We welcome and support the fifth requirement under “Environmental”:: “ensure that the site and the layout proposed on it, would not cause harm to the significance or setting of heritage assets or biodiversity interests”..

009 - Environment Agency

The Environment Agency's support's Policy TR6 and in particular the requirement for details on wastewater infrastructure. The sites proposed do not appear to be in the vicinity of a public sewer, a foul drainage assessment will need to be submitted with any future planning application in line with government guidance contained within the National Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications, paragraph 020) the LPA may wish to strengthen the policy further and gain assurances by requesting foul drainage assessment which as a minimum details the following:

- Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or 5 cubic metres or less to surface water in any 24 hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within an inner Groundwater Source Protection Zone.
- Position of soakaway used to serve a non-mains drainage system which must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply.
- The applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.

It can take up to 4 months before we are in a position to decide whether to grant a

permit or not and where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit.

011 - Cunnane Town Planning LLP

We believe that in accordance with the tests of soundness Policy TR6 should be more positively worded . With the suggested relatively minor changes below we believe that this policy would also be considered justified and effective in the terms of para 182 of the NPPF.

Under the heading 'Environmental' within this policy we propose the replacement of the first and second bullet points with the following:

'- Boundary treatments that have a negative visual impact on the character of the site and locality should not be used.

- provide landscape screening to reinforce the boundary of the site and limit views into/out of the site.'

We suggest the word negative to replace 'detrimental' is a more descriptive term more difficult to establish and qualify.

014 - HCC Countryside Planning Officer

We request the following addition to this policy:

- Access and parking
- will protect and enhance existing rights of way

Comments on SA/HRA

001 - Graham Smith)

Sadly there is often a link between a site and crime issues. We need to be aware and ensure the necessary safeguards. CCTV helps with this.

011 - Cunnane Town Planning LLP

We note that two sites (W006 and W011) are contained within Policy TR1 but have environmental constraints identified in the Site Assessment Matrix to the Traveller Site Assessment Methodology document (dated July 2017) as being beyond mitigation and are therefore coloured red within that matrix. We note that our client's sites including W014, W019 and W081 are not identified as environmentally constrained - the latter two of which have now been removed from the list of allocations for no valid planning reasons. We request their reinstatement as per the covering letter.

015 - Natural England

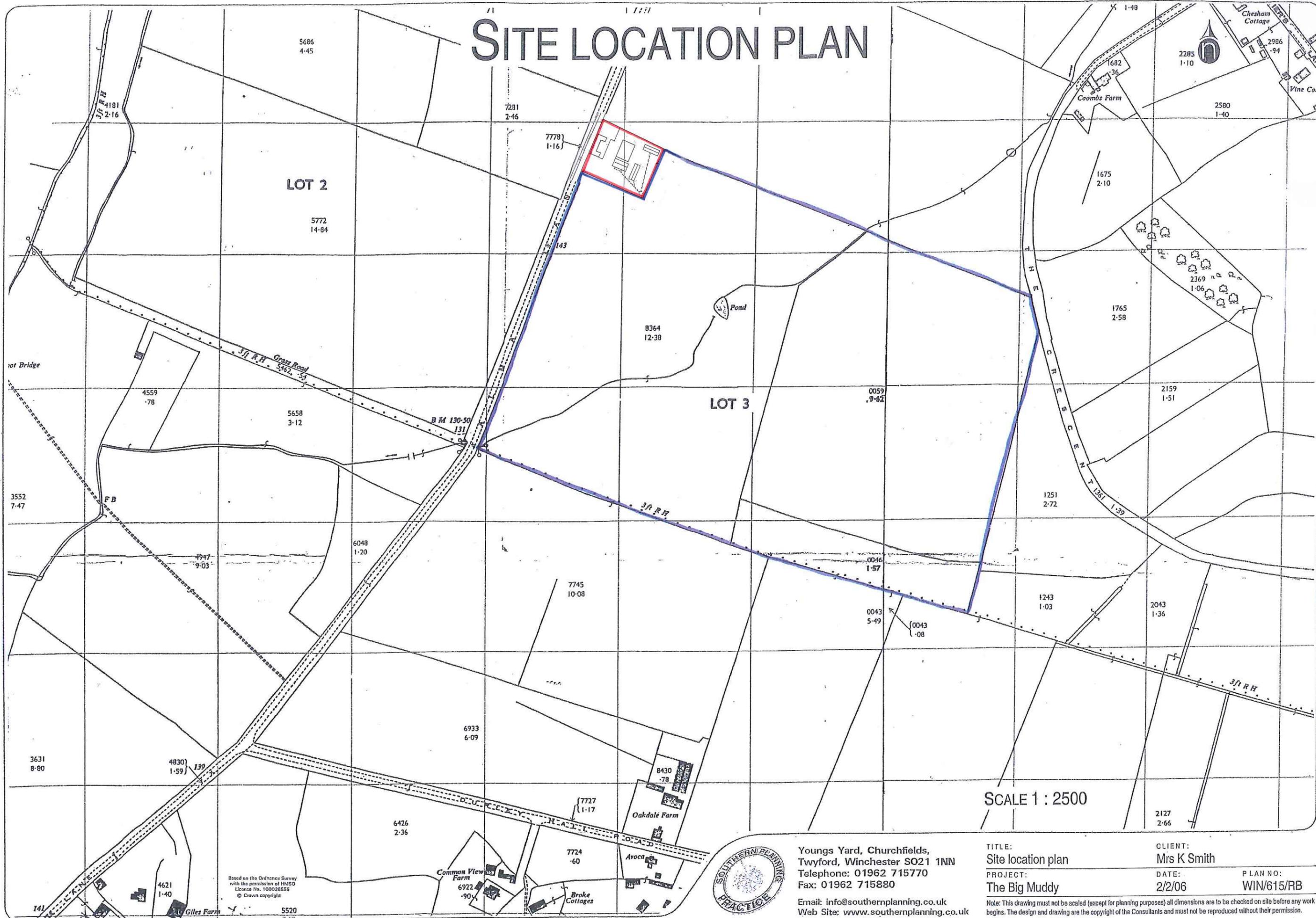
Habitat Regulations Assessment

Natural England would advise that the DPD and the accompanying Habitat Regulations Assessment needs to be amended to ensure that all references to the Conservation of Habitats and Species Regulations 2010 are amended to the Conservation of Habitats and Species Regulations 2017. This is required to reflect the recent changes to the regulations.

We have no further comments to make on this reg 19 consultation

Appendix 1

SITE LOCATION PLAN



SCALE 1 : 2500



Youngs Yard, Churchfields,
 Twyford, Winchester SO21 1NN
 Telephone: 01962 715770
 Fax: 01962 715880
 Email: info@southernplanning.co.uk
 Web Site: www.southernplanning.co.uk

TITLE: Site location plan	CLIENT: Mrs K Smith
PROJECT: The Big Muddy	DATE: 2/2/06
	PLAN NO: WIN/615/RB

Note: This drawing must not be scaled (except for planning purposes) all dimensions are to be checked on site before any work begins. The design and drawing are the copyright of the Consultants and must not be reproduced without their permission.

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KEY:

 Application Boundary



REV	NOTES	BY	DATE
TDA CANNA STUDIO LLANGAN VALE OF GLAMORGAN CF35 5DR TEL: 01446 771250			
 Environment • Landscape • Design		CLIENT MR TONY KEET	
DRAWING NUMBER	SCALE		
TDA.2219.03	1:1250 @ A3		
DRAWN	DATE	PROJECT DURLEY STREET, DURLEY	
RHC/AMP	SEPT 2016	DRAWING TITLE SITE LOCATION PLAN	



Durley Hall
Barn

KEY:

	Buildings		Overhead Cable		IC	Inspection chamber		Bo	Bollard
	Wall		Concrete edge		Pluv	Pipe Invert		IB	Illuminated bollard
	Kerb line		Tarmac edge		Gy	Gully		Bin	Rubbish bin
	Line marking		Grass verge		Bg	Back gully		Vp	Vent pipe
	Drop kerb		Canopy/Overhang		Dp	Down pipe		GrI	Ground light
	Centre line		Verge		Pipe	Pipe above ground		Lbox	Letter box
	Station and Name		Station Level		MH	Manhole		Ldr	Ladder
	Tree / Bush / Sapling		Area of Undergrowth		WL	Water level		IFL	Internal floor level
	Woodland		Ridge Level		Lp	Lamp post		THL	Threshold level
	Eaves Level		Electricity post		Tp	Telegraph post		Sp	Sign post
	Flat Roof Level		Traffic light		TH	Triallhole		BH	Borehole
	Gate		Bus stop		ELC	Electric		BT	British Telecom
	Fence types:		Stop valve		Cbox	Control box		TT	Tactile
	Intervoven		Stop tap		BP	Brick paved		CPS	Concrete paving slabs
	Iron Railings		Earth rod		CVR	Cover		IC	Inspection chamber
	Wire Mesh		Water meter		R/wall	Retaining wall		UTL	Unable to lift
	Post & Rail		Gas valve		TCL	Tree canopy level		G	Girth
	Post & Wire		Air valve		Mkr	Marker post		MG	Multi girth
	Chain Link		Rodding eye		Gmkr	Gas marker post		Stmp	Tree Stump
	Wooden Panels		Water meter		So	Soffit		CL	Cover level
	Concrete Panels		Water meter		IL	Invert level			
	Steel Palisade								

REV	NOTES	BY	DATE
TDA CANNA STUDIO LLANGAN VALE OF GLAMORGAN CF35 5DR TEL: 01446 771250			
		Environment • Landscape • Design	
CLIENT MR. C. PAGE			
DRAWING NUMBER TDA.2304.02		SCALE 1:200@A1	
DRAWN RHC		DATE JUNE 2017	
PROJECT OAK HILL, DURLEY HALL LANE			
DRAWING TITLE EXISTING SITE PLAN			

Publication (Pre-Submission) Winchester District
 Gypsy, Traveller and Travelling Showpeople
 Development Plan Document (DPD) **Comment Form**

Please return to: Head of Strategic Planning, Winchester City Council, City Offices, Colebrook Street, Winchester, Hampshire SO23 9LJ or email: LDF@winchester.gov.uk
No later than midnight Monday 26th February 2018

The comment form has five parts:-

- Part A – Personal Details
- Part B – Legal Compliance and Duty to Cooperate (questions about the whole DPD)
- Part C – Soundness (fill in a separate Part C for each part of the DPD you wish to comment on)
- Part D – Future Involvement
- Data Protection Act 1998 and Freedom of Information Act 2000

We recommend that you read the 'Comment Form Guidance Notes' before filling in the form, as this will explain the process and terms used.

Your representation should succinctly cover all the information, evidence and supporting information necessary to support/justify your representation and any suggested changes. There is not normally another opportunity to make further representations. **After this stage, further submissions will only be at the invitation of the Inspector, based on the matters they identify during the examination.**

We cannot accept anonymous representations. Therefore please fill in Part A and sign the Data Protection Act section at the end of the form, before sending it to us.

Part A

1.	Personal Details*	Agent's Details (if applicable)
<p><i>*If an agent is appointed, please complete only the Name and Organisation boxes for the client in Personal Details, but complete the full contact details of the agent.</i></p>		
Name	<div style="border: 1px solid black; padding: 5px;">DR ANGEUS MURDOCH</div>	
Organisation (where relevant)	<div style="border: 1px solid black; padding: 5px;">MURDOCH PLANNING LTD</div>	
Address	<div style="border: 1px solid black; padding: 5px;">P.O. BOX 71 ICMINSTER SOMERSET</div>	
Post Code	<div style="border: 1px solid black; padding: 5px;">TA19 0WF</div>	
Telephone Number	<div style="border: 1px solid black; padding: 5px;">01460 57881</div>	
E-mail Address	<div style="border: 1px solid black; padding: 5px;">angus@murdochplanning.co.uk</div>	

Part B – Legal Compliance and ‘Duty to Cooperate’

2a. Do you consider the DPD is legally compliant?

Yes

No

2b. If you answered 'No' please give details of why you consider the DPD is not legally compliant.

The CTA is flawed for the reasons stated in my written submissions hence the plan is unsound.

(Continue on a separate sheet /expand box if necessary)

2c. What change(s) do you consider necessary to make the DPD legally compliant? It would be helpful if you are able to put forward suggested revised wording of any policy or text.

The CTA needs to be properly undertaken with a realistic approach to the definition of Gypsy + Travellers.

(Continue on a separate sheet /expand box if necessary)

3a. Do you think the DPD complies with the 'Duty to Cooperate'?

Yes

No

3b. If you answered 'No' please give details of why you consider the DPD fails to comply with the 'Duty to Cooperate'. NB Please note that any non-compliance with the 'Duty to Cooperate' cannot be corrected at the Examination.

(Continue on a separate sheet /expand box if necessary)

Part C – ‘Soundness’ Please use a separate sheet for each representation

4a. On which policy or paragraph you are commenting? Use a separate sheet for each comment. You can find the references in the DPD online, or in the Council’s main offices:
<http://www.winchester.gov.uk/planning-policy/traveller-dpd>

Paragraph Policy Map

4b. Do you consider the DPD is sound? See guidance note for information on definitions

Yes No

4c. If you selected 'No', please indicate which 'test(s) of soundness' it does not meet.

Positively Prepared.....	<input checked="" type="checkbox"/>
Justified	<input checked="" type="checkbox"/>
Effective	<input checked="" type="checkbox"/>
Consistent with national policy.....	<input checked="" type="checkbox"/>

4d. Please give details of why you consider that this part of the DPD has not met the tests of 'soundness'. If you wish to support the 'soundness' of this part of the DPD, please also use this box to set out your comments. Please be as precise as possible in your response, and refer to the relevant policy or paragraph you are commenting on.

Please refer to my written submission.

(Continue on a separate sheet /expand box if necessary)

4e. What change(s) do you consider necessary to make this part of the DPD 'sound'? You need to say why this change will make the DPD 'sound'. It would be helpful if you are able to put forward your suggested revised wording of any policy or text.

(Continue on a separate sheet /expand box if necessary)

Part D – Future involvement

5a. If your representation is seeking a change, do you wish to participate by speaking at the hearing sessions of the examination? *The Inspector will determine who will be invited to speak at the hearing sessions.*

Yes, I wish to speak at the hearing sessions.

No, I do not wish to speak at the hearing sessions. I will rely on my written representations

5b. If you wish to speak at the hearing sessions of the examination, say why you consider this is necessary.

Because it is only @ such EIPs that the issues can properly be pursued.

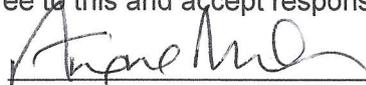
5c. We will keep you informed of subsequent stages towards adoption of the DPD. Please tick in the box on the right if you do not wish to be kept informed.

I do not wish to be kept informed

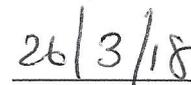
Data Protection Act 1998 and Freedom of Information Act 2000

Representations cannot be treated in confidence. The Town and Country Planning (Local Planning) (England) Regulations 2012, requires copies of all representations to be made publically available. The Council will also publish names and associated representations on its website but will not publish personal information such as telephone numbers, or email addresses. By submitting a representation on the Gypsy, Traveller and Travelling Showpeople Development Plan Document you confirm that you agree to this and accept responsibility for your comments.

Signature: _____



Date: _____



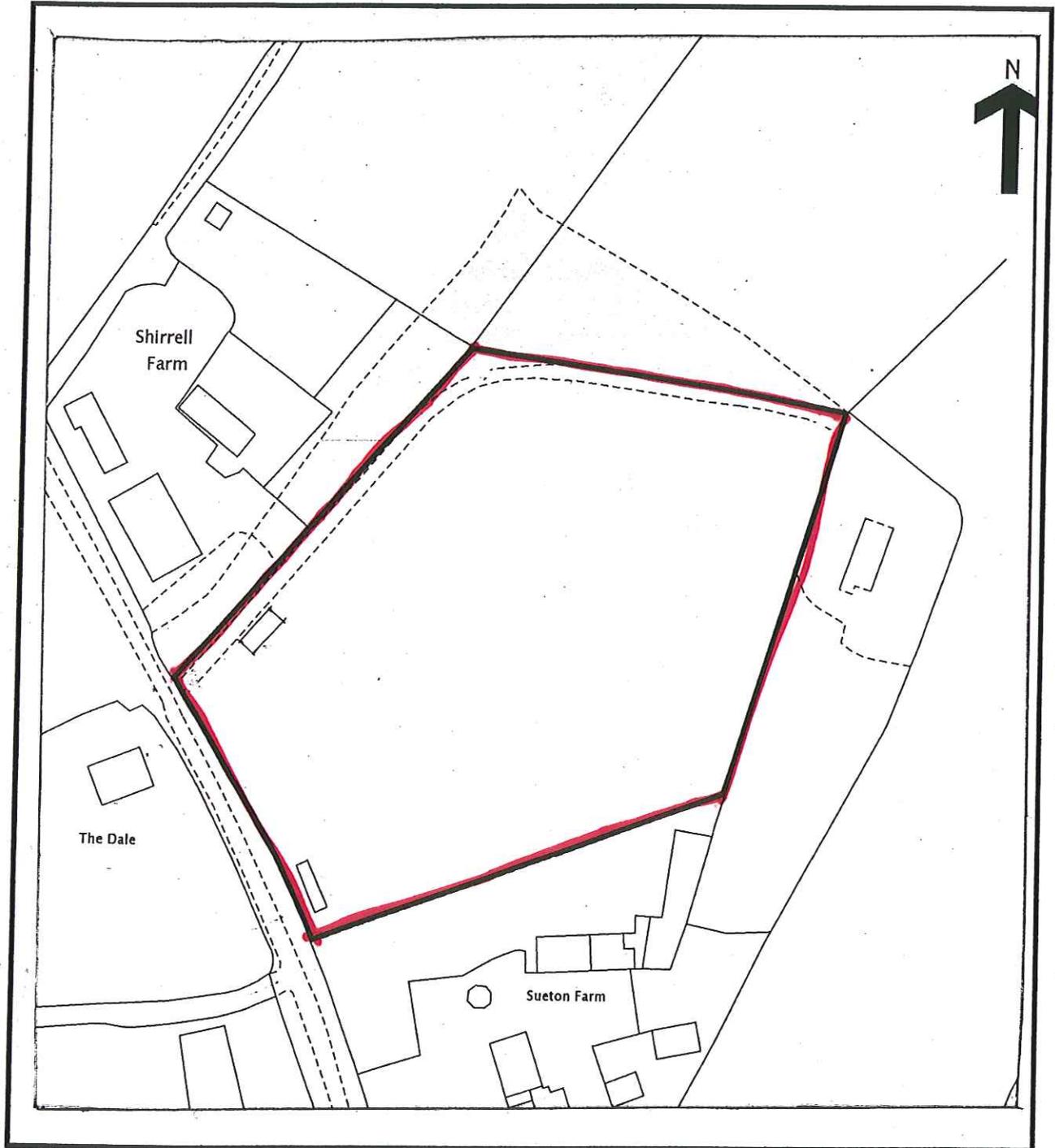


MICHAEL WARREN ASSOCIATES LTD

CHARTERED ARCHITECTS

LOCATION PLAN

FOR PRECISE BOUNDARY DIMENSION, PLEASE REFER TO THE SITE LAYOUT PLAN



REPRODUCED FROM THE ORDNANCE SURVEY'S 1:12500 SCALE
MAP WITH THE PERMISSION OF THE CONTROLLER OF HER MAJ-
ESTY'S STATIONERY OFFICE © CROWN Copyright
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Scale 1:1250

4 Piping Green, Colden Common, Winchester, Hampshire SO21 1TU
Phone 01962 841224
Email: mwarchitects@outlook.com

Appendix 2

Content of email 13 October between WCC and Historic England

Martin

Hope you are well.

I'm just going through your comments on our Traveller DPD, you refer to Policy TR1 which seeks to safeguard existing sites. These are typically small sites across the District which have a long standing use by travellers through either a planning permission or lawful occupation and the policy seeks to ensure that they are retained for such purposes rather than non traveller use. Whilst I understand your position these sites have been in use for many years - any expansion or intensification would be covered by other policies and Policy CP5 of local plan part 1 refers proposals should be consistent with other policies etc - policy TR7 tries to focus on matters in addition to CP5 which refers to protection of the built and natural environment.

Just wondering if I amend the first sentence of TR7 to read

All sites to be considered through this development plan document or subsequent planning applications will be required to comply with the requirements of Policy CP5 (LP1) and with the following in so far as they are relevant to the site and its location....

regards

Jenny

Jenny Nell

Head of Strategic Planning

Strategic Planning

Winchester City Council

City Offices

Colebrook Street

Winchester

SO23 9LJ

jnell@winchester.gov.uk

01962 848278

Appendix 3

Our ref: LM/6019/Firgrove/L220618

Head of Strategic Planning
Winchester City Council
Colebrook Street
Winchester
Hants
SO23 9LJ

*Suite 4, Oriel House, 26, The Quadrant,
Richmond. TW9 1DL Tel: 020 3846 6390
www.cunnanetownplanning.co.uk*

BY EMAIL WITH COMPLETED FORMS

26th February 2018

Dear Sir/Madam

SUBMISSION ON THE WINCHESTER DISTRICT GYPSY, TRAVELLER AND TRAVELLING SHOWPEOPLE DEVELOPMENT PLAN DOCUMENT ON BEHALF OF JOE KEET AND FAMILY.

We have been instructed by our client Joe Keet and his family of the Old Piggeries, Firgrove Lane, North Boardhunt, to lodge this submission on their behalf, on the Winchester District Gypsy, Traveller and Travelling Showpeople Development Plan Document which is currently on public display until 26th February 2018.

Our client notes with disappointment the now exclusion of their sites at The Old Piggery, Firgrove Lane, North Boardhunt (known as site W019) and Caravan 2 & 3 Firgrove Lane (known as site W081) from the Draft Traveller DPD (Regulation 18) document made available for public comment in the period July to September last year.

Background

The Winchester District: Gypsy, Traveller and Travelling Showpeople Development Plan Document ('Traveller DPDP) Draft for Consultation under Regulation 18 was placed on public display in July last year. Draft Policy TR5 within that draft document identified the area identified below as being primarily allocated for travelling showpersons use. That policy stated that *'In order to secure the provision of additional plots for people meeting the definition of travelling showpeople, permission will be granted for approximately 12 travelling showpersons plots, the permanent use of 4 existing gypsy and travellers pitches, and associated access*

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PO Box 305
Manchester M21 3BQ
Tel: 0161 861 0410*

*Irish Practice:
Cunnane Stratton Reynolds Ltd
Dublin, Cork, Galway
www.csrlandplan.ie*

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and landscaping improvements . . .’ subject to a number of stated requirements including the provision of a masterplan.

Figure 1: Site Comprising W014, W019, W030, and W081 Referred to in Policy TR5 of the July 2017 Draft DPD.



Within the overall site shown in Figure 1 above, there is an area, known as site W014, the subject of Draft Policy TR2 of the Draft DPD (Regulation 19) as well as sites W019 and W081. Our client supports the inclusion of this smaller site (W014) within Policy TR2 of the Regulation 19 Draft but objects to the removal of the remainder of the site from the July 2017 Draft Traveller DPD. There is also an area known as W030 in the southern part of the above indicated area which is not within our client’s ownership which would also appear to be now be included in the latest version of Policy TR1 which means that our client has had two of his three land holdings removed and a fourth landholding in someone else’s ownership has been retained.

The Committee Report of 4th December 2017 into the emerging Traveller DPD indicated that the officers had reassessed Policy TR5 in light of soundness and specifically the need for policies and proposals to be deliverable. This was following a number of comments received in the Draft DPD in the period July to September that the policy was not deliverable and that there was doubt over the capacity of the Council to deal with the various issues on site given the scale of occupation. It was acknowledged that there as a planning application for 26 travellers' pitches which is now the subject of a S78 appeal against non-determination.

The decision to take our client's W019 and W081 sites expressed in Policy TR5 out of the travellers/showpersons is based on a number of factors as expressed in the Committee report dated 4th December 2017. These factors were as follows:

- The Draft policy is not deliverable;
- The Showman's Guild of Great Britain have indicated that '*showmen and the travelling community do not mix*';
- There is doubt on the part of main site owner that there is no option but to delete that part of the policy, that sought to achieve provision for at least 12 additional travelling showpersons (TSP) on the site because this land is unlikely to be deliverable for (TSP);
- Doubt over the capacity of the Council to deal with the various issues on the site given the scale of occupation;
- Existing occupants are not travelling showpeople;
- Enforcement action may be necessary in relation to alleged occupation of the land by non-travelling showpeople, which is the subject of current Policy TR1 (safeguarding policy);

Our Client's Current Position

Policy TR1 (Safeguarding Permitted Sites)

Our client supports this policy although he has no lands affected by it.

Policy TR2 (Sites with Temporary Consent)

Our client supports this policy which seeks to enable their site revert from temporary planning permission to permanent planning consent. Our client's concern relates to the area around the site (W014) referred to in current Policy TR2, namely the removal from allocation of sites W019 and W081 which are outside the scope of current Policy TR2.

Policy TR5 (Expansion or Intensification within Existing Sites)

Our client supports this policy which permits the additional provision of pitches/plots on sites covered by Policies TR1 -TR4 including Policy TR2 which affects our client's site (W014), on a case by case basis and in accordance with emerging Policy TR6. Please see our comments on the latest version of TR6 below.

Policy TR6

Our client supports the thrust of Policy TR6. However, we would request the following changes under the heading 'Environmental' as follows:

'- Boundary treatments that have a negative visual impact on the character of the site and locality should not be used.

- provide landscape screening to reinforce the boundary of the site and limit views into/out of the site.'

We suggest the word 'negative' in the first bullet point of emerging Policy TR6 to replace 'detrimental' which is a more descriptive term and is more difficult to establish and qualify.

We believe that these changes we are seeking to Policy TR6 will make it more positive as required in Para 182 of the NPPF and will enhance its soundness therefore.

In respect of bullet point 5 under 'Environmental' we suggest the insertion of the word 'undue' between the words 'cause' and 'harm'. This will also facilitate a policy that is positive in the context of the requirements of soundness set out in the NPPF.

The most significant aspect of our client's submission is that we request that Policy TR5 of the Regulation 18 Draft DPD be reinstated with modification as set out below.

Our Main Area of Concern

These main areas of concern are that:

- **In deleting former Policy TR5 (for no valid planning-based reason) the Council is putting itself in a position of being unable to provide the shortfall of 8 showpersons plots that the GTAA identifies and which is contained in Appendix B of the DPD consultation document.**
- **If Policy TR5 is reinstated, with modification as identified directly below, then the required provision for TSP in the plan period can be provided on our client's site. We request the provision of 8 such plots which is the shortfall rather than the previously stated 12 plots contained in former Policy TR5.**
- **The peaceable accommodation of TSP and gypsies and travellers can be achieved by good site planning and is capable of being addressed in a masterplan solution as set out in current Policy TR6. This can also be achieved in accordance with the first bullet point of deleted Policy TR5.**
- **This objective of peaceable accommodation between travellers and showpeople can be achieved in accordance with Para 4 (i) of the PPTS.**
- **The Peter Brett Associates 'Gypsies and Travellers and Travelling Showpeople – Site Assessment Study' commissioned by the local authority indicates clearly that *'This is an existing Gypsy and Traveller site which needs to be safeguarded in the Local Plan. . . The unauthorised pitches are suitable for full planning permission subject to landscape and highway improvement measures'*.**

At this stage of the plan formulation process submissions must be made on grounds of whether the draft plan complies with legal and procedural requirements, the duty to co-operate and its soundness. Soundness is considered in paragraph 182 of the National Planning Policy Framework (NPPF). There are four requirements for soundness to be proven at this stage of the plan formulation process.

These are that the emerging DPD must be:

1. Positively prepared: Meaning that the plan should be prepared on a strategy which seeks to meet objectively assessed development including unmet requirements from neighbouring authorities where it is reasonable to do so and is consistent with achieving sustainable development.
2. Justified: The plan should be the most appropriate strategy when considered against reasonable alternatives, based on proportionate evidence;
3. Effective: The plan should be deliverable over its period and based in effective joint working on cross-boundary strategic priorities;
4. Consistent with national policy: The plan should enable the delivery of sustainable development in accordance with policies in the NPPF.

It is our view that the omission of our client's sites (W019 and W081) at this stage, but previously contained within the Regulation 18 Draft DPD as Policy TR5, results in the Regulation 19 version of the document, currently on public display being unsound for the reasons set out below. We accept, however, that that the same document is both legally compliant and meets the Council's Duty to Co-operate. We request the reinstatement of Policy TR5 with modification as set out in this letter.

The omission of previous Policy TR5 and the exclusion of our client's sites W019 and W081 is unsound for the following reasons in the terms of NPPF para 182.

Positively Prepared

The existing site shown in Figure 1 occupies a mix of travellers and gypsies which is the subject of a planning appeal which sought to regularise planning on site and which sought to ensure that temporary planning permission was made permanent on the basis of Policy TR5 being carried forward. The removal of this site from the current draft DPD in its entirety, meeting neither traveller/gypsy or even travelling showpeople needs is unacceptable to our client and is unwarranted especially in the context of there remaining a shortfall of 8 traveller showpersons plots identified in Appendix B (Details of Sites that Contribute to Supply) and the current demand of those of the travelling community living in situ and those likely to require similar accommodation over the plan DPD period 2016-2031. Were this site to be reinstated for travellers/gypsies and travelling showpersons, it would provide accommodation in the

manner anticipated in the previous version of Policy TR5 as amended and meet the requirements of Appendix B. Previous Policy TR5 positively presents a sustainable opportunity for such accommodation subject to a number of positively disposed requirements set out clearly in the bullet points of the previous version of TR5.

It is clear to us that this is a site that has been earmarked at an early stage for accommodation for travellers/gypsies and travelling showpersons and that it can be developed in a sustainable manner to meet on site existing needs and constraints consistent with an approved masterplan. It seems to us that a strategy for the future development of the site shown in Figure 1 above has now been abandoned for no valid planning reason. This is an excellent opportunity for positive planning to develop a site where there is an existing need from families living there that utilises existing infrastructure and services, including schools where children are already well settled, and can be planned for in a positive planning context that is encouraged in the first requirement of soundness identified in para 182. The Peter Brett Associates assessment of traveller sites supports its retention within the travellers' accommodation allocation.

Justified

As indicated above the position put forward by our client is a reasonable one meeting strategic needs of TSP for which there is a need that cannot be met if the previous Policy TR5 is deleted. The necessity to meet this need is a justification for its retention. In the alternative, the deletion of this policy is unjustified on planning grounds. The alternative as set out in Para 182 of the NPPF would be for our client to seek to find alternative accommodation in the borough for the existing occupants of our clients site. There is a permitted site in this location (W030) the subject of TR1, a temporary consent (W014) the subject of Policy TR2, and a masterplan covering all potential planning issues, servicing, access and infrastructural requirements. The unrealistic alternative would be to meet needs of the travelling community on alternative sites with issues of severance of communities and families a major concern by our client. Children would have to be taken out of schools and our clients daughter reregistered with an alternative hospital potentially some distance away. This is all unjustified in our opinion and the second test of soundness through the deletion of former Policy TR5 is also failed.

The position to retain this site as an allocation under former Policy TR5 is supported by the recommendation of Peter Brett Associates and any proposal to depart from that recommendation would have to be justified in planning terms. No such planning justification has been presented.

Effective

Former Policy TR5 is readily capable of implementation and the parameters set by the masterplan identified in the former version of that Policy, with the modifications above sought. There is a current accommodation need from those currently living on site to have the planning position regularised, as stated in the current S78 planning appeal, starting with the reinstatement of the area shown in Figure 1 for both travellers/gypsies and showpeople.

Consistent with National Policy

The reinstatement of former Policy TR5, with modification, as identified above, is consistent with the two crucial pieces of government guidance and national planning policy.

NPPF

By way of an introduction, para 4 of the NPPF states that the Framework should be read in conjunction with the government's Planning Policy for Traveller Sites and that the preparation of plans should have regard to the policies in the Framework.

National Planning Policy for Travellers Sites (PPTS)

The proposed changes and retention of former Policy TR5 with modification from 12 TSP plots, to the required 8 in Appendix B of the DPD, is consistent with para 8 of the PPTS in that what is proposed is eminently more sustainable than the loss of accommodation and the consequential scattering of our client's family and extended family elsewhere.

We believe that that the number of plots or pitches on the site in its entirety can be agreed in the context of a master plan utilising existing and planned services and infrastructure entirely consistent with para 10 points (d) and (e). Requirement (d) states that local authorities should

relate the number of pitches or plots to the circumstances of the specific size and location of the site and the surrounding populations size and density. There should therefore be no concern at the scale of accommodation to be provided as identified in the Planners report on the DPD to Committee. This is a modest site. Requirement (e) protects local amenity and the environment and this is met if current Policy TR6 and former Policy TR5 are complied with – which is our client’s full intention. In the context of para 10 of the of the PPTS our client’s sites are both ‘deliverable’ and ‘developable’. Our client is willing to develop in the manner required in the masterplan. There is an excellent record of management of the existing site and current accommodation within it.

Crucially, in this case, para 11 of the PPTS requires that *‘where there is no identified need, criteria based policies should be included to provide a basis for decisions in case applications nevertheless come forward.’* Both current policy TR6 and previous Policy TR5 ensure that this requirement in para 11 of the PPTS is fully met.

The reallocation of sites W019 and W081, along with W014 and W030 that are proposed to be retained is consistent with para 13 of the PPTS as follows:

- a) The peaceful and integrated co-existence between the sites and the local community will be continued and we are not aware of any issues between local permanent resident and the travelling community on site. Travellers and showpeople can live side by side peaceably especially where the site was proposed to masterplanned and para 4 (i) of the PTSS actively encourages this;
- b) Residents will have excellent access to health services. The Peter Brett Associates ‘Gypsies and Travellers and Travelling Showpeople – Site Assessment Study undertaken for the City Council identifies that our client’s site has access to a general practitioner 2.9km away;
- c) Children of current travellers staying on site already attend a local primary school and this school is located 2.3km away and preschool nearby;
- d) The allocation of sites W014, W019 and W81 will facilitate a settled base for our client’s children and grandchildren, and if these sites are re-allocated for travellers’, long distance travel from this existing and preferred location will be avoided. As indicated above, the sites can be developed within the context of a masterplan and can be developed in a sustainable manner consistent with NPPF and the PPTS. If the sites

are re-allocated appropriately our client will seek to regularise the planning situation in these sites as they have sought to do through the current Section 78 appeal. In the wording of item (d) these sites provide the settled base that our client requires for his family including grandchildren. He would prefer, quite rightly, in accordance with (d) that his family is not spilt up, but facilitated together in one modestly scaled sustainable location;

- e) The masterplan envisaged for the site in former Policy TR5 will ensure that there are no harmful environmental impacts on residents within the sites or on their neighbours of the permanent residential community. Current Policy TR6 provides additional reassurance that there will be no unacceptable impact experienced by those either within the development or on those living nearby. No issues of noise or air quality are anticipated in either the Environmental Sustainability Assessment carried out by the City Council or in the parameters of the previously proposed masterplan for the site. We do not believe that such concerns are warranted therefore. The requirements of item (e) of para 13 of the PPTS are therefore met.
- f) The re-allocation of the sites identified (W019 and W081) will not be over bearing on local infrastructure of services as the local authority would not have originally allocated these sites for TSP and no distinction should be made between TSP and travellers/gypsies in service and infrastructural terms. The consolidated site in question is modestly sized in our opinion. The requirement of item (f) of para 13 of the PPTS is therefore met.
- g) The reallocation of our client's landholding and reinstatement of former Policy TR5 is consistent with item (g) of para 13 as there is no risk of flooding as corroborated in the Council's own environmental assessment of sites contained with Policy TR1 which includes W014 and the immediately adjoining W019 and W081. There are several sites within Policy TR1 that fail the test of item (g). Our client's sites meet the requirement of item (g) however.
- h) This item does apply to our client's existing on-site operations.

There had been some concern expressed by the Council in their Report to Committee approving the DPD for Regulation 19, in relation to the size of the site. The requirement in para 14 of the PPTS is that the scale of sites should dominate the nearest settled community. The nearest settled community is Wycombe which is approximately 3km away. The scale of

site is modest in our opinion and any potential impact deriving from the scale of development can be dealt with by masterplanning and phasing as identified in former Policy TR5 which our client would like reinstated with modification to the number of TSP which should be set at 8 plots in accordance with Appendix B of the DPD.

Although primarily for consideration of planning applications the Council should also consider the requirements of para 24 which advocates that local authorities should consider:

- a) The existing level of local provision and need for sites;
- b) The availability or lack of alternative accommodation for the applicants; and
- c) Other personal circumstances of the applicant.

(a) Existing level of local provision and need for sites

There is a requirement for both TSP set out in Appendix 8 of the DPD and a current and on site need for travellers and gypsy accommodation. Both requirements would be met with the reinstatement of former Policy TR5. Provision is substantially and unacceptably reduced with the retention of W014 which is within our client's ownership and by W030 which falls outside his ownership.

(b) The availability or lack of alternative accommodation for the applicants

Our client's family and extended family will have to at least partially relocate if former Policy TR5 is not reinstated. This is socially unsustainable (NPPF refers) and is entirely unacceptable to our client.

(c) Other personal circumstances of the client

A substantial number of children currently on site are at school and pre-school locally and to delete this allocation/former Policy TR5 would mean that they would have to move schools which would seriously disrupt their education. The interests of the child is paramount in this case and alternative schooling would be required if former Policy TR5 is not reinstated. Please note also that Mr Keet's daughter suffers from Rheumatoid Arthritis which requires her to attend a local hospital on a regular basis. Such an ailment is symptomatic of a poor standard

of accommodation which our client wants to see corrected and which can only be done if the site is allocated and planning permission achieved for traveller accommodation.

Peaceful accommodation of both travellers and TSP can be achieved by good planning (the masterplan of former Policy TR5) and by the provisions of emerging Policy TR6. There is no record of disturbance and the existing accommodation is managed without complaint by third parties.

Our client also currently pays Council Tax for the units that occupy the site.

We trust you will give due consideration to this submission and reallocate our client's sites.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Eamonn Prenter', with a small dot at the end.

Eamonn Prenter
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