

Winchester District Gypsy Traveller and Travelling Showpeople Development Plan Document

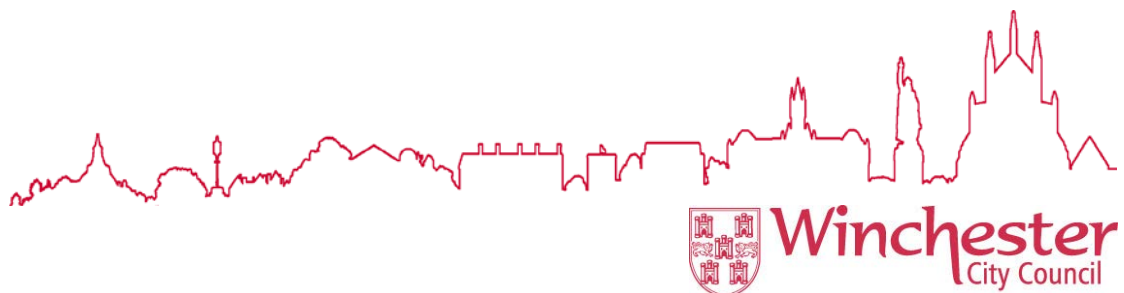
‘Traveller DPD’

Examination September 2018

Matter 4 – Supply of sites

Winchester City Council’s Response

WCC Matter 4



Winchester City Council

Winchester District Gypsy and Traveller and Travelling Showpeople DPD

WCC Response to Inspector's Matters, Issues and Questions

Matter 4 – Supply of Sites

Question 1 - In light of answers to questions in relation to Matter 3, do the Council have a 5 year supply of gypsy and traveller sites? If not, what is the shortfall and how will it be remedied?

WCC Response:

- The Council can demonstrate a 5-year supply of gypsy and traveller sites but not of travelling showperson's sites. The position regarding the 5-year period from September 2017 (2017-2022) was summarised in the Council's 2017 Authority Monitoring Report (document CD7 paragraphs 6.56 – 6.60), as follows:

Table 25 With regard to the 5 year supply position

Calculation	G&T	TSP
5-year requirement (incl 5% buffer)	2	16
Supply	6	2
Annual Requirement	0.4	3.2
Years Supply	15	0.6

- Appendix A provides a detailed breakdown of the figures used and how the supply situation was calculated.
- Although the end of the 2017-2018 monitoring year (31.8.2018) has not yet quite been reached, it is possible to update the land supply information to 1 August 2018. The 5-year supply calculation can then be updated to

September 2018, subject to the possibility that supply may increase as a result of decisions during August 2018. This results in the following situation:

5 year supply position at September 2018

Calculation	G&T	TSP
5-year requirement (incl 5% buffer)	-8	17/19
Supply	14	4
Annual Requirement	-1.6	3.4 / 3.8
Years Supply	Indefinite	1.2 / 1.1

4. Appendices B and C provide a detailed breakdown of the figures and how the supply situation was calculated. The exact 5 year supply for gypsies and travellers cannot be calculated as there is a negative requirement, due to the number of sites being implemented exceeding the total pitch requirement for the DPD period. For travelling showpersons, little more than 1 year's supply is available and this would still be the case even with no buffer.
5. There has been a recent appeal decision which concluded that a 5-year supply of gypsy and traveller pitches could not be demonstrated – land at Berkeley Farm, Durley Street ref: APP/L1765/W/17/3184059, attached at Appendix F. This relates to the use of the site as a gypsy and traveller caravan site for 4 pitches. The Inspector's decision letter deals with the issue of the need for gypsy and traveller sites at paragraphs 16 – 40. The Inspector concludes at paragraph 32 that he is not satisfied that the Council can demonstrate a 5-year supply of deliverable sites. While the Council accepts this conclusion, based on the evidence presented at the time, it considers matters have moved on significantly, particularly through the updated land supply situation summarised in the table above and set out in detail at Appendices B and C.
6. The Inspector had concerns about 2 key issues: whether the supply of sites was deliverable within the terms of PPTS footnote 4 (paragraphs 21 – 25); and whether the need for pitches took adequate account of 'unknown' households (paragraphs 27 – 32). The land supply evidence presented by

the Council was for the period 2017 – 2022 (see Inspector's decision letter paragraph 21) and was the same as the information summarised in the table at paragraph 1 above and set out in detail in Appendix A. Although the Council referred to more recent consents (see Inspector's paragraph 25) it had not produced a full update of the land supply position, as now summarised at paragraph 3 above and set out in detail in Appendices B and C. Clearly the situation is very different, particularly in respect of the large number of new permanent consents and the availability of vacant pitches at Tynefield.

7. With regard to site supply, only 5 gypsy and traveller pitches were identified as available by the Council at the time: 1 vacant pitch and 5 'windfall'. The Inspector had concluded (paragraph 20) that he could only attach limited weight to the emerging DPD and, given that the windfall sites were all allocations of the DPD, he did not feel they were 'available now' (paragraph 24). Even taking account of the update relating to 'Ourlands' (3 pitches) the Inspector concluded this would only give a marginal surplus over the requirement of 2 pitches (paragraph 25).
8. Matters have moved on substantially, with the number of permanent consents now granted/occupied since the base date of the DPD (18 pitches) already exceeding the whole DPD requirement for gypsy and traveller pitches (15), see Appendices B and C. Therefore, the requirement for pitches is now a negative figure, even before account is taken of any further supply.
9. In terms of supply, the Council no longer refers to 'windfall' provision but takes into account pitches that will arise through the provisions of the DPD, given the advanced stage this has now reached. Clearly, the DPD examining Inspector will be able to reach her own conclusions on whether the inclusion of these sites is 'sound', but the Council starts from the basis that they are. These would provide an additional 7 pitches, all on sites which are currently occupied on temporary consents and where there are current applications for permanent consent (4 at The Piggeries and 3 at land at Gravel Hill). In addition, there are now 7 vacated pitches at Tynefield (over and above the 10

already counted as supply by the GTAA), which could be re-occupied now or following the refurbishment proposed by the site owner. There is, therefore, a total supply of 14 deliverable pitches to meet the (negative) 5 year requirement.

10. In terms of the pitch requirement, the Inspector suggested that allowance made for 'unknown' sites may be too small (paragraph 28) and that the emerging DPD had accepted these households contribute towards traveller needs by allocating some sites occupied by 'unknown' households (paragraphs 30 – 31). The Council was somewhat surprised by the detailed assessment of this issue in the Inspector's report as it had not been the subject of evidence from either the Council or the appellant and was not discussed in any detail at the hearing.
11. The Council considers the DPD is right to limit its allocations to the known needs identified by the GTAA. This approach was supported by the Inspector examining the Maldon Local Plan, who specifically stated that allocations should not be made for 'unknown' households as this level of need is not known:

150. The Council's stance is that any need arising from 'unknowns' should be a matter left to the planning application process. Modifications to Policy H6 have been put forward by the Council setting out criteria for such a purpose, which I consider further below. To my mind, that is an appropriate approach. While there remains a possibility that up to 10 further pitches may be needed, that cannot be said to represent identified need. It would be unreasonable to demand that the Plan provide for needs that have not been established to exist. That being said, MM242h is nonetheless necessary in this regard. It commits the Council to a review of the Plan if future reviews of the GTAA reveal the necessity for land allocations to provide for presently 'unknown' needs. For effectiveness, I have altered this modification from the version put forward by the Council by replacing the word "may" with "will" in relation to undertaking the review committed to. I have also replaced "the Plan" with "Policy H6" – the whole Plan need not be reviewed.

12. ORS advise that using the national proportions of households meeting the planning definition, as opposed to local data, is more statistically robust and that the figure for 'unknowns' is a guide should local authorities wish to make any allocations. ORS will be present at the examination hearing to support the Council in relation to GTAA matters and can provide further information as required.
13. While the Council considers the correct approach to be to plan for 10% of the 'unknowns' (1 pitch), the supply of gypsy and traveller pitches is now sufficient to accommodate all 11 'unknown' households, there now being a 'surplus' of 20 traveller pitches over the DPD period, with additional planning applications/appeals under consideration. In fact, the DPD addresses all the sites identified in Figure 1 of the GTAA, regardless of their travelling status, apart from one (Cushty Tan - a tolerated site occupied by an elderly couple), either by safeguarding their use (TR1), promoting permanent consents (TR2) or allocating them for showpersons' use (TR3 – TR4). The needs of 'unknown' households are, therefore, addressed and should not be added to the pitch requirements established in policy DM4.
14. Accordingly, the Berkeley Farm appeal decision related to the situation and evidence heard at that time, but it is now clear that provision for gypsies and travellers is more than adequate, whether over a 5-year period or the DPD period as a whole..
15. In terms of remedying any shortfalls, there is no shortfall of gypsy and traveller sites. However, one issue that has arisen in recent appeals is whether a criteria-based policy is needed to deal with planning applications when the identified need has already been met (as here). This matter is considered further in the Council's response to Matter 5 – Criteria Based Policies.
16. There is a shortfall of travelling showpersons' sites and the Council has taken various measures to remedy this situation. These are referred to in response

to the Inspector's Question 4 relating to the soundness of the DPD in the absence of an adequate supply of showperson's sites. Various measures have and are being taken to remedy this situation and there is a strong presumption in favour of approving any applications for showperson's sites given the positive terms of the Local Plan and DPD policies and the lack of a 5-year supply of sites (see response to Question 4 below).

Question 2 – Are there any other potential problems with deliverability of sites being relied upon in the DPD?

WCC Response:

17. The sites promoted in the DPD fall into various categories and their deliverability is considered below.

Safeguarded Sites (TR1)

18. These sites all exist and have permanent consent for gypsy and traveller use. There is, therefore, no question as to their deliverability. Appendix C below shows that various other sites have now been consented and these could be added to the list in policy TR1 if it is considered appropriate to update it. Policy TR5 provides for expansion of these sites where justified and this provision may be relevant should there be a future need arising from the households occupying those sites, assuming there is capacity to accommodate it.

Sites With Temporary Consent (TR2)

19. There are 3 sites that are subject to policy TR2:

- The Piggeries (4 pitches) was subject to a larger planning application and appeal which has now been withdrawn. An application was received in July 2018 for the 4 existing temporary pitches, seeking removal of the time-limiting condition to make these pitches permanent. Given its allocation for permanent use in policy TR2, this can be expected to be delivered as a permanent site in the near future.
- Ourlands has received permanent consent (3 pitches) and is added to the list of 'completions'. It has therefore been 'delivered' and becomes subject to the safeguarding provisions of TR1.
- Gravel Hill is subject to a current application for permanent consent (3 pitches). Given its allocation for permanent use in policy TR2, this can be expected to be delivered as a permanent site in the near future. It is noted that there are objections to the inclusion of this site from

Shedfield Parish Council. These are considered in relation to the question of whether policy TR2 is justified and effective (Matter 6, question 5).

Site Allocations (TR3, TR4)

20. Carousel Park (policy TR3) is a complex site with a long planning history. It is subject to enforcement action and an on-going appeal. A situation statement regarding the current position is provided at Appendix E in response to the Inspector's Question 5. This concludes that there may be any number of permutations in terms of the outcome of the appeals, which unfortunately will not be clear by the time of the DPD examination hearings. However, what is clear is the evidence of need for travelling showpersons' accommodation and the lack of suitable and available sites. These factors fully justify the allocation of the Carousel Park site for showpersons' use, despite the uncertainty about the outcome of the appeals.
21. The situation at The Nurseries is more straightforward in that 3 of the 7 travelling showperson's plots have been granted permanent consent (see policy TR1), with policy TR4 seeking to retain the whole area for showpersons's use. Therefore the Council will take a positive approach to applications to regularise the 4 unauthorised plots at The Nurseries. It is also in discussion with the owner of the largest plot (plot 7) about the scope for intensification to create a greater number of plots. These discussions have not reached a stage whereby the Council could be sure that additional plots are deliverable, hence no change to policy TR4 is proposed. However, there is an aspiration on both sides to achieve an increase which it is estimated may amount to a gain of up to 5 additional showpersons' plots – see also the response to Question 4 below.
22. Therefore, those policies of the DPD which seek to retain or increase gypsy and traveller pitches/plots are considered to be deliverable, albeit that there is some uncertainty regarding Carousel Park. Nevertheless, this allocation is fully justified and the current enforcement appeal process will determine the outcome.

Question 3 – Does the DPD identify a supply of specific, deliverable sites, or broad locations for growth for years 6-10? If not, why not and what are the implications of this for the gypsy and traveller community?

23. It can be seen from Appendix C below that the numerical need for gypsy and traveller pitches has already been met for the whole Plan period. The total requirement established in LPP2 policy DM4 is 15 pitches and Appendix C shows that 18 pitches have already been permitted or allowed on appeal since the DPD's base date. In addition, there are currently 7 vacant pitches (at Tynefield), and it is expected that the DPD will deliver a further 10 pitches.
24. It is, therefore, anticipated that at least 35 pitches (18 delivered + 7 vacant + 10 DPD sites) have or will be delivered/available over the DPD period, of which most are already delivered/available. This compares to the total requirement under LPP2 policy DM4 of 15 pitches. It may be appropriate to update Appendix B of the Traveller DPD to incorporate the more recent figures provided at Appendix C of this Statement. There are currently planning applications / appeals under consideration for 16 pitches, some of which are on temporary sites subject to policy TR2, and not all of which will necessarily be permitted.
25. There is consequently a substantial over-provision of gypsy and traveller sites expected over the DPD period, even before taking account of the scope for intensification provided by policy TR5 or the outcome of current planning applications/appeals. Accordingly, all of the needs for gypsies and travellers over the DPD period are met by specific, deliverable sites.
26. With regard to travelling showpeople, it is acknowledged that it has not been possible to identify sufficient sites to meet the identified need, or to provide a 5-year supply of sites (see response to Question 1 and Appendix C). The Council has done all that it reasonably could to seek to resolve this issue – see response to Question 4 below.
27. Specific deliverable sites have been identified for the period beyond years 1-5 so far as possible, at Carousel Park, The Nurseries and through intensification

(estimated at 13 plots). It is possible that some of these will be delivered within 5 years, thus improving or resolving the 5-year supply shortfall, but they are not included in the 5-year supply at this stage due to uncertainty over the timing of delivery. Therefore the 13 additional plots that are expected to be delivered from the DPD's policies will either help to meet needs for the first 5 year period, if delivered quickly, or would fully meet the need in years 6-15 (9 plots) if delayed.

28. Consequently, every reasonable effort has been made to identify sufficient specific deliverable sites and the DPD provides a positive policy framework for further plots to be brought forward. There is no benefit in identifying 'broad locations' as this could limit the potential to bring forward suitable sites in other parts of the District. Instead, the positive presumption in favour of additional showpersons' sites applies across the whole DPD area, and is currently enhanced by the lack of a 5-year supply of sites.

Question 4 – A need for 24 plots for showpeople has been established in LPP2 Policy DM4, but the DPD identifies a shortfall in provision for such sites. How is the DPD sound in these circumstances? What would be the impact on those in need of a plot?

29. Clearly there is a shortfall of travelling showpersons' sites, both in terms of 5-year supply and the ability to meet the plot requirement over the whole DPD period. The Council has taken various measures to ensure 'no stone is left unturned' in an attempt to provide for the identified need for showpersons' sites. These are set out in detail in the report on the Pre-Submission DPD to the Council's Cabinet (Local Plan) Committee on 4 December 2017 – see report CAB2965(LP) paragraphs 10.45 – 10.54 (link in core document OD1). These measures are not repeated in detail here but, in summary, include:

- Requests under the Duty to Cooperate to neighbouring authorities at each stage of the DPD process (CAB2965(LP) paragraphs 10.45 – 10.47);
- Investigation of opportunities for the Council to acquire land for the development of travelling showpersons' plots (CAB2965(LP) paragraphs 10.48 – 10.49);
- 4 'calls for sites' during the DPD process, none of which produced any potential showpersons' sites (CAB2965(LP) paragraph 10.51);
- Permitting all applications received for showpersons' sites received, i.e. 3 plots at The Nurseries (CAB2965(LP) paragraph 10.51);
- Inclusion of suitable policies in the Traveller DPD, including safeguarding existing sites (TR1), allocating Carousel Park and The Nurseries to retain them for showpersons' use (TR3, TR4), and including a policy allowing for intensification of safeguarded/allocated sites (TR5) (CAB2965(LP) paragraph 10.51);
- Investigating use of the Council's land holdings (none suitable) (CAB2965(LP) paragraph 10.51).

30. All of the above attempts to identify sites have not resulted in a single new site being promoted. Nor have any planning applications for showpersons' sites been submitted during the DPD process, other than at The Nurseries (permitted). Therefore, this is not a case of the Council rejecting sites that could or should have been used for showpersons' plots, but of no sites whatsoever being promoted either through the DPD process or planning applications.
31. As a result, the Council is unable to demonstrate an adequate supply of showpersons' sites and the provisions of PPTS paragraph 27 come into play. This indicates that the lack of a 5-year supply of available sites should be '*a significant material consideration in any subsequent planning decision*' and, while this sentence goes on to refer to temporary consents, paragraph 24 of the PPTS refers to the '*level of local provision and need*' as relevant matters for traveller applications.
32. Policies CP5 and DM4 will continue to presume in favour of permitting showpersons' sites as the identified need has not been fully met. Provided planning applications accord with the criteria of these policies (and other relevant policies such as TR6) there would be a clear presumption in favour of permission. The 5-year land supply position provides further weight in favour of permission being granted.
33. Therefore, the existing / proposed planning policy background is very supportive of permitting applications for showpersons' sites, given the inability to meet identified needs. However, given the various measures it has undertaken to encourage sites to come forward, the Council has exhausted all realistic options other than relying on applications coming forward.
34. Policy TR5 provides for the intensification of existing / allocated sites, where a need is demonstrated. Given the shortfall of travelling showpersons' sites this policy is likely to apply and the explanatory text (paragraph 4.17) refers to potential for an estimated 6 additional plots at The Nurseries (Shedfield) and The Orchard (Swanmore). These sites are mentioned as the owners of

particular plots at each site have suggested a need and willingness to intensify their plots, although they have not put this in writing or made formal representations.

35. The owner of The Orchard made a general comment about the scope for intensification, whereas the owner of a plot at The Nurseries (the southern-most of the 7 existing plots) has suggested there is potential for about 12 'starter' plots for showpeople. The Council has considered this suggestion and, while positive in principle, is not convinced that this number of plots could be created whilst allowing sufficient space for storage, repair, etc of equipment and adequate living conditions. It suggests a more realistic maximum may be 6 plots (a gain of up to 5 over the existing single plot).
36. Because it has not been possible to confirm the owners' intentions in writing, or assess detailed site capacity, this potential to increase showpersons' plots is not subject to a formal allocation policy in the DPD. Nor is it sufficiently certain to be included in the assessment of 5-year land supply – see response to Question 1. It is, however, a means by which traveller plots may be provided and could result in a gain of at least 6 plots on these two sites alone and potentially more if applicable to other showpersons' sites.
37. In conclusion, the Council considers it has done all that it reasonably could to promote additional showpersons' sites. The Traveller DPD will create a positive policy background and the current failure to achieve a 5-year supply of plots will reinforce this. This will presume in favour of future planning applications and policy TR5 provides potential for further plot increases through intensification. While the evidence of need provided through the GTAA is considered robust, the lack of recent planning applications or sites being promoted by the travelling showpersons' community perhaps suggests that the needs identified are more long-term than suggested by the GTAA.

Question 5 – Can the Council please provide an update on outstanding planning issues with sites such as the Piggeries and Carousel Park and how this affects the supply of pitches?

38. Please see the Situation Statements at Appendix D (The Piggeries) and Appendix E (Carousel Park).

Question 6 – Do all the ‘sites with planning permission’ identified in row b of the table at the bottom of page 13 of the DPD have a permanent planning permission? If not, can the Council please provide details of all of these permissions. In addition, are any of the permissions personal to the occupants? If so, can the Council please provide details.

39. The Council confirms that all of the sites (8 pitches) in row b of the table on page 13 have permanent consent and that none of these are personal to the occupants. The details of each site are set out in Appendix B of the DPD, where row b relates to the 8 gypsy and traveller sites and 3 showpersons’ sites.

40. Appendix C to this statement provides an update to the information in Appendix B of the DPD, to 1 August 2018. Again, all the new consents listed are permanent and none are personal.

Matter 4 - APPENDIX A – 5-year Supply 2017 - 2022

The Assessment Period

1. Traveller site provision is monitored annually over a period from 1 September to 31 August, reflecting the base date of the GTAA. The 5-year assessment period for the 2017 AMR is from September 2017 to August 2022. The level of need is set in LPP2 policy DM4, and the GTAA breaks this down into 5 year periods. The assessment period of September 2017 – August 2022 covers the first 5-year period (2016-2021) and the first year of the second period (2021-2026).

The 5-Year Requirement

2. The pitch/plot requirement is calculated by taking the LPP2/GTAA requirement for the first 5 years (2016-2021), subtracting sites authorised ('completions') in the first year and adding one year's worth of the next 5-year requirement (2021-2026), as follows:

Table 1: 2017-2022 5 Year Pitch/Plot Requirement

Calculation	Gypsies & Travellers	Travelling Showpeople
a. 2016-2021 requirement Source: DPD paragraph 2.11	9	18
b. Completions 2016-2017 Source: DPD Appendix B (b)	8	3
c. Remaining requirement to 2021 (a – b)	1	15
d. 2021-2026 requirement Source: DPD paragraph 2.11	3	3
e. 2021-2022 requirement (1/5 th of d)	0.6	0.6
f. 5-year requirement (c + e)	1.6	15.6
g. Buffer (5% / 20%) (f x 5% or 20%)	0.08 / 0.32	0.78 / 3.12
h. Total 5-Year requirement with 5% / 20% buffer (f + g)	2 / 2 (rounded)	16 / 19 (rounded)

Pitch / Plot Supply

3. The sources of supply reflect those used by the 2016 GTAA, with the addition of 'windfall', as follows:
 - Vacant sites
 - New sites / commitments
 - Pitches vacated

- Windfall

- Each of these potential sources as detailed below.

Vacant Sites

- The GTAA includes the 10 pitches at Tynefield that were vacant at the time of the survey as 'supply'. As of the base date of September 2017, there was 1 further vacant pitch at Travellers Rest, Bishops Sutton. The Draft Traveller DPD safeguards this site (policy TR1). There were no vacant TSP plots identified at the base date of September 2017.

New sites/commitments

- All the new sites permitted from Sept 2016 – Aug 2017 are taken into account in calculating the pitch/plot requirements (see Table 1, row b above). The details of these sites are set out at Appendix B of the DPD.

Pitches Vacated

- No pitches have been identified since the GTAA as being vacated by people moving to bricks and mortar, or by households moving away from the area.

Windfall

- A 'windfall' allowance is made on the basis that there are a significant number of temporary consents that will expire during the 5-year period, some of which are expected to receive permanent consents. It is assumed that 50% of these sites will receive permanent consent, although as the DPD progresses this can be seen to be very cautious. The sites involved are:

GT Temporary Consents	Pitches
The Piggeries	4
Ourlands	3
Land adj Gravel Hill Swanmore	3
TOTAL	10 (50% = 5)

TSP Unauthorised Sites	Plots
Plot 3 The Nurseries	1
Plot 6 The Nurseries	1
Plot 7 The Nurseries	1
TOTAL	3 (50% = 1.5, rounded up to 2)

Total Pitch / Plot Supply

- The total supply from the sources discussed above is as follows:

Supply Summary at 1.9.2017	G&T	TS
Vacant pitches/plots	1	0
New sites/commitments	0	0

Pitches vacated	0	0
Windfall	5	2
TOTAL	6	2

Traveller Site Supply – Conclusion

10. On the basis of the updated evidence above, the Council can continue to demonstrate a more than adequate supply of gypsy and traveller sites but cannot demonstrate an adequate supply of travelling showpersons' sites, as follows:

Calculation	GT	TSP
5-Year Requirement (incl 5% / 20% buffer)	2 / 2	16 / 19
Supply	6	2
Annual Requirement	0.4	3.2 / 3.8
Years Supply	15	0.6 / 0.5

11. The 5 year supply for gypsies and travellers is well in excess of the requirement, regardless of whether a 5% or 20% buffer is applied. However, for travelling showpersons the situation is very different, with less than 1 year's supply available (even with no buffer).

Matter 4 - APPENDIX B – 5-year Supply 2018 - 2023

The Assessment Period

1. This assessment updates the 5-year monitoring period to run from September 2018 to August 2023. This period covers the first 5-year period (2016-2021) and 2 years of the second period (2021-2026).

The 5-Year Requirement

2. The pitch/plot requirement is calculated by taking the LPP2/GTAA requirement for the first 5 years (2016-2021), subtracting sites authorised ('completions') up to 1.8.18 (see Appendix C) and adding 2 year's worth of the next 5-year requirement (2021-2026), as follows:

Table 2: 2018-2023 5 Year Pitch/Plot Requirement

Calculation	Gypsies & Travellers	Travelling Showpeople
a. 2016-2021 requirement Source: DPD paragraph 2.11	9	18
b. Completions 2016-2018 Source: Appendix C (b)	18	3
c. Remaining requirement to 2021 (a – b)	-9	15
d. 2021-2026 requirement Source: DPD paragraph 2.11	3	3
e. 2021-2022 requirement (2/5 th of d)	1.2	1.2
f. 5-year requirement (c + e)	-7.8	16.2
g. Buffer (5% / 20%) (f x 5% or 20%)	0	0.81 / 3.24
h. Total 5-Year requirement with 5% / 20% buffer (f + g)	-8 (rounded)	17 / 19 (rounded)

Pitch / Plot Supply

3. The sources of supply reflect those used by the 2016 GTAA as listed below. This update removes the "windfall" category and replaces it with a category for sites likely to be delivered through the DPD, as all of the sites previously included as windfall are now either permitted or allocated in the DPD. When the DPD is adopted these sites will become firm commitments.

- Vacant sites
- New sites / commitments
- Pitches vacated
- DPD Sites

4. Each of these potential sources has been updated as detailed at Appendix C, which updates the information at Appendix B of the Traveller DPD. The situation is summarised below.

Vacant Sites

5. As of the base date of August 2018, the previously vacant pitch at Travellers Rest, Bishops Sutton has been occupied, so this is added to the 'completions' since 2016. The GTAA includes the 10 pitches at Tynefield that were vacant at the time of the survey as 'supply'. There remain no vacant TSP plots.

New sites/commitments

6. All the new sites permitted from Sept 2016 – July 2018 are taken into account in calculating the pitch/plot requirements (see Table 2, row b above). A new table has been added at Appendix C showing those sites where there are current planning applications/appeals pending. While these sites are not counted as part of the supply, some may potentially contribute in the future.

Pitches Vacated

7. A further 7 pitches at Tynefield have been vacated since the GTAA and the households have moved away from the area. These pitches are/will be available for occupation during the 5-year period (in fact it is expected that more will be created by subdivision and refurbishment).

DPD Sites

8. Of the 3 sites subject to policy TR2, the updated position is:
- The Piggeries (4 pitches) was subject to a planning application and appeal which has now been withdrawn, with a new current application for permanent consent (4 pitches)
 - Ourlands has received permanent consent (3 pitches) and is added to the list of 'completions'
 - Gravel Hill is subject to a current application for permanent consent (3 pitches).

Accordingly, 3 pitches now have permanent consent and 7 remain as likely to be delivered in the near future through the DPD.

9. Policies TR3 (Carousel Park) and TR4 (The Nurseries) remain and an update regarding Carousel Park is given in response to Question 5 below. In addition, policy TR5 provides for expansion and intensification within existing sites and it continues to be estimated that this could contribute 3 gypsy and traveller pitches and 6 travelling showperson's plots. Because there is less certainty about the level of additional provision from the sites subject to policies TR3 – TR5, the only allowance that is made for supply from these sites in the 5-year period is 4 plots at The Nurseries (travelling showperson's)

as these can be easily achieved through regularising the current unauthorised use of these plots.

Total Pitch / Plot Supply

10. The total supply from the sources discussed above is as follows:

Supply Summary at 1.8.2018	G&T	TS
Vacant pitches/plots	0	0
New sites/commitments	0	0
Pitches vacated	7	0
DPD Sites	7	4
TOTAL	14	4

Traveller Site Supply – Conclusion

11. On the basis of the updated evidence above, it is clear that the supply of gypsy and traveller sites is substantially in excess of the requirement for the whole of the Traveller DPD period, let alone for 5-year supply, but it remains impossible to demonstrate an adequate supply of travelling showpersons' sites, as follows:

Calculation	GT	TSP
5-Year Requirement (incl 5% / 20% buffer)	-8	17 / 19
Supply	14	4
Annual Requirement	-1.6	3.4 / 3.8
Years Supply	Indefinite	1.2 / 1.1

12. The exact 5 year supply for gypsies and travellers cannot be calculated as there is a negative requirement, due to the number of sites being implemented exceeding the total pitch requirement for the DPD period. Nevertheless, supply is clearly well in excess of any requirements. However, for travelling showpersons the situation is very different, with little more than 1 year's supply available and this would still be the case even with no buffer. If the travelling showperson's supply were taken to be the whole of the 'DPD Sites' category (13 plots instead of the more cautious estimate of 4 used above) this would give 3.4 - 3.8 years' supply of sites.

Matter 4 - APPENDIX C – Update to DPD Appendix B**(Details of sites that contribute to the supply)**

<u>Updates to Traveller DPD Appendix B are shown in red</u>		
	G&T pitches	TSP plots
a. Requirement Policy DM4 (2016 – 2031)	15	24
b. Sites with planning permission/allowed on appeal / occupied (since 1/9/16)	<p>18 =</p> <p>5 pitches at Barn Farm, The Lakes, Swanmore allowed on appeal (APP/L1765/W15/3141334)</p> <p>1 pitch allowed on appeal at Woodley Farm, Alma Lane, Lower Upham (APP/L1765/W/15/3131614)</p> <p>1 at Joymont Farm Curdridge Lane, permission granted 16/8/17 (17/00789/FUL)</p> <p>1 at Stablewood Farm, The Lakes, Swanmore, permission granted 17/7/17 (17/00764/FUL)</p> <p>3 at Ourlands Land East of Mayles Lane, Knowle permission granted 19/4/2018 (17/02212/FUL)</p> <p>1 at Bowen Farm, Wangfield Lane, Curdridge granted 02/02/2018 (17/02504/FUL)</p> <p>1 at Riverside, Highbridge Road , Highbridge granted 17/11/2016 (16/01993/FUL)</p> <p>4 at Field Adjacent Berkeley Farm, Durley Street, Durley allowed on appeal 16/07/2018</p> <p>1 pitch at Travellers Rest, Bishops Sutton – previously vacant site now occupied.</p>	<p>3 =</p> <p>The Nurseries Shedfield, Plot 1 granted 1 permanent permission for Travelling Showpersons sites in September 2016, and plots 2 and 5 granted 1 plot each for permanent permission in December 2016 (total 3 plots)</p>
c. Vacant site	<p>7 = 7 at Tynefield</p> <p>1 pitch at Travellers Rest, Bishops Sutton granted permanent permission for non-personal use for gypsy and travellers under 07/02898/FUL, 10/02429/FUL (now occupied)</p> <p>7 pitches at Tynefield vacated since the GTAA, occupiers have moved away.</p>	0
d. To be delivered	About 10 =	About 13 =

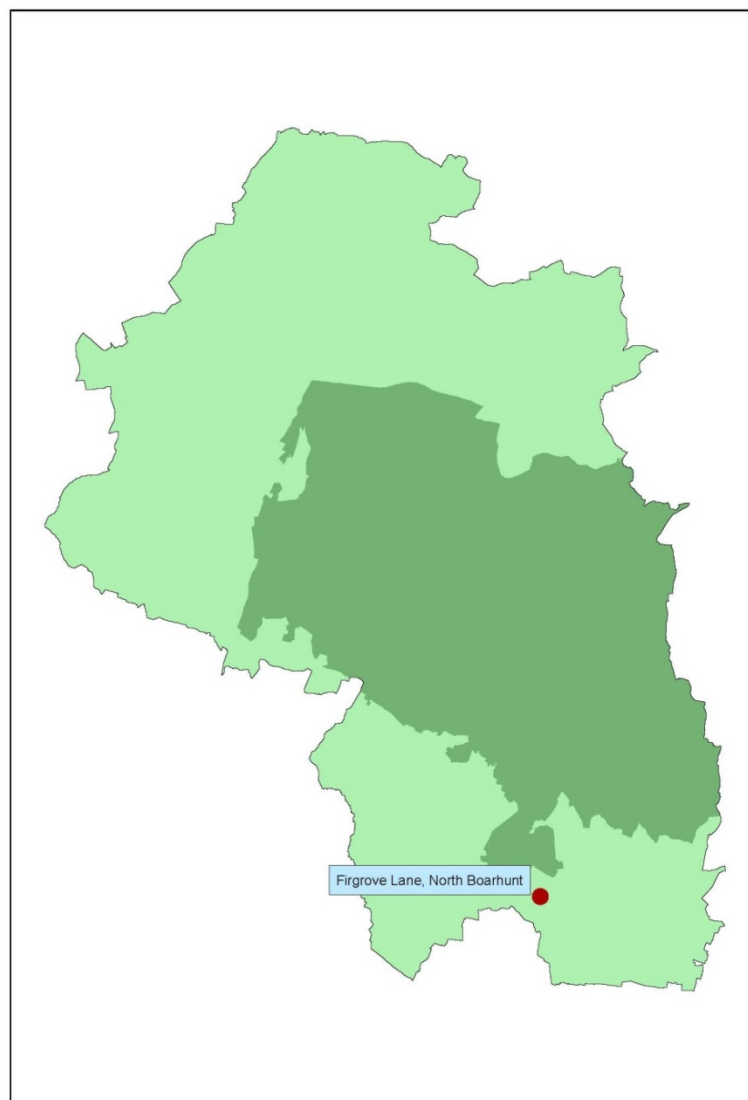
through this DPD	<p>Policy TR2, 3 7 temporary pitch consents to be granted permanent permission (3 at Ourlands East of Mayles Lane, Knowle, 3 at Gravel Hill, Shirrell Heath (see 'sites awaiting decision' below) and 4 at Firgrove Lane, North Boarhunt (see 'sites awaiting decision' below)).</p> <p>Policy TR5 about 3 from the expansion and intensification within existing sites</p>	<p>Policy TR3 Carousel Park – existing planning consent for Travelling Showperson's plots. Enforcement action in progress against the change of use of plots which it is estimated will result in a gain of 3 showperson's plots</p> <p>Policy TR4 The Nurseries, Shedfield Plots 3, 4, 6 and 7 (one plot on each site, total 4 plots) currently unauthorised.</p> <p>Policy TR5 about 6 from potential intensification within existing sites</p>
Total supply (b+c+d)	35	16
Surplus/shortfall	+20	-8

Sites currently awaiting decision	<p>16 =</p> <p>4 pitches at Plot Of Land To The Rear Of Chairmakers Arms, Forest Road, Denmead (17/01191/FUL).</p> <p>1 pitch at Little Ranch Portsmouth Road Fishers Pond (17/03035/FUL).</p> <p>3 pitches at land at Gravel Hill, Shirrell Heath. 17/02213/FUL - variation of conditions to allow permanent occupation (policy TR2 site).</p> <p>1 pitch at land opposite The Big Muddy Farm, Alma Lane, Upham (18/01283/FUL)</p> <p>1 pitch at Stablewood Farm, The Lakes, Swanmore (enforcement case - 17/00060/ENF)</p> <p>1 pitch at land north of Southwick Road, North Boarhunt (18/01441/FUL)</p> <p>4 pitches at The Old Piggery, Firgrove Lane, North Boarhunt (18/01691/FUL).</p> <p>1 pitch at Durley Hall Lane, Durley (appeal against 17/01831/FUL)</p>	None
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Matter 4 - APPENDIX D – The Piggeries, Situation Statement

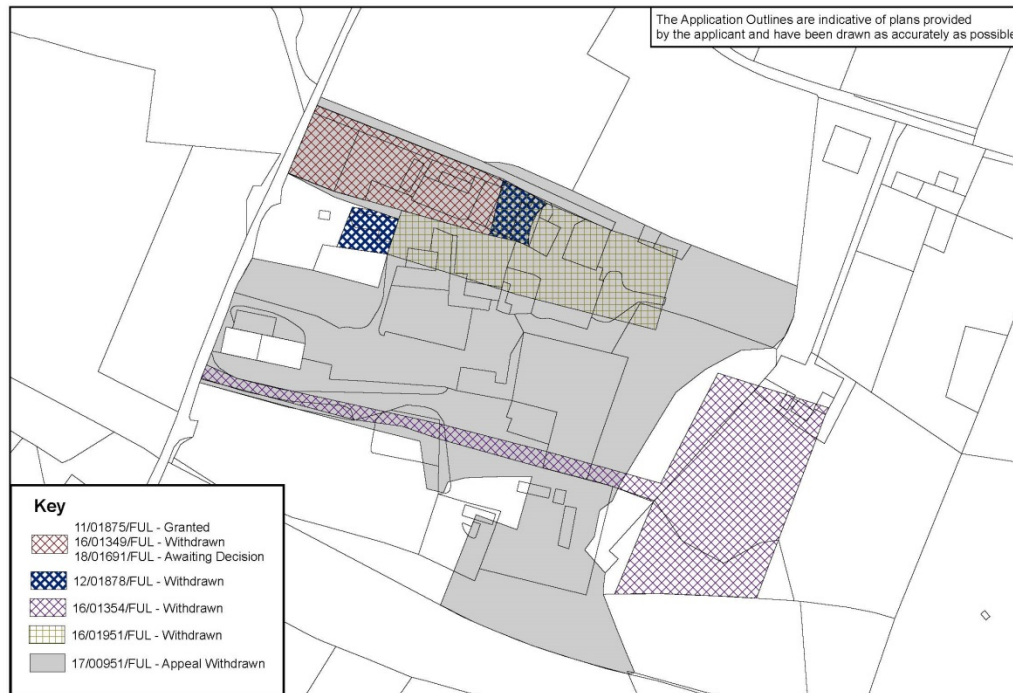
Situation Statement for The Piggeries, Firgrove Lane

1. This Statement is based on information sourced from various planning applications relating to the site, in addition to information provided by Hampshire County Council's Gypsy Liaison Officer, Barry Jordan-Davis, during May 2017. It summarises the Council's understanding of the recent history of 'The Piggeries', 'The Old Piggery' and 'The Withy Beds' recorded in the GTAA under references W014, W019, W081, situated in the south of Winchester District near North Boarhunt. The following plans indicate the location of the site together with the distribution of the sites referred to above :





2. The site is located to the north of Southwick Road and accessed from a track which is designated as a public footpath known as Boarhunt Footpath No. 10, called Firgrove Lane which runs up the western boundary of the site and beyond to a green waste disposal facility located approximately 250m to the north of the site.
3. Discussions between Hampshire County Council's Gypsy Liaison Officer and the key land owner Mr Keet, confirm that Mr Keet purchased 20 acres of land about 6 years ago. He then sold 4 acres to a waste recycling company. Mr Keet confirmed that his land ownership extended to the land known as The Piggery and The Withy Beds, currently with twenty six occupied pitches, although it should be noted that the most recent planning application covering a large portion of the site refers to the 'The Old Piggery' and 'The Withy Beds'.
4. Various individual planning applications were submitted for consideration between 2011 - 2016, as indicated on the plan below:-



- a. The first application (11/01875/FUL) on the site was for the siting of 4 residential gypsy caravans which was granted temporary permission for 5 years, until 30 November 2016. This consent was subject to a number of conditions, including the requirement that it must not be occupied by any persons other than gypsies and that no more than 4 caravans be located on the site.
- b. Application (12/01878/FUL) for the siting of 2 additional residential gypsy caravans was submitted and subsequently withdrawn on 01 April 2014.
- c. Application 16/01349/FUL (submitted 15 June 2016) for the continued stationing of 4 residential gypsy caravans and removal of Condition 3 of permission 11/01875/FUL was withdrawn on the 31 January 2017.
- d. Application 16/01354/FUL (submitted 15 June 2016) for the use of land for six transit gypsy caravan pitches withdrawn 31 January 2017.
- e. Application 16/01951/FUL (submitted 09.08.16) for the siting of 8 residential Gypsy sites including parking was withdrawn 01 March 2017.
- f. Application 16/02075/FUL (submitted 22 August 2016) for the agricultural farm building to be re-built as bungalow for management occupation. An appeal was lodged against non-determination of the

application on 12 January 2017, subsequently withdrawn 03 February 2017.

5. These applications did not however, reflect with any accuracy what was on the ground, or take into account a number of other units that did not have the benefit of planning permission. Consequently, the Council requested a comprehensive application (17/00951/FUL) following a number of discussions with the land owner Mr Keet, and his advisor at the time, Mr Grocott. This was submitted on 30 March 2017, for the permanent retention of twenty-six residential caravans for travellers and 6 transit pitches, together with associated access arrangements, foul water disposal, landscaping and earth bund.
6. Given the results of the GTAA which established a recognised need for 24 Travelling Showpersons plots over the period 2016 – 2031. The draft DPD recognised an opportunity to identify this provision through a larger allocation on this site, particularly as no new sites had been submitted for travelling showpersons, through the various ‘call for sites’. This would also have provided an opportunity for the site as a whole to be brought within the control of the planning system through improving landscaping, access and infrastructure. Draft Policy TR5 therefore, set out the requirements for a masterplan to establish the position of both travelling showpersons plots and gypsy and traveller pitches, together with landscaping, children’s play area etc.
7. No formal decision was made on the application, given the circumstances of the case and in the light of the emerging DPD, and an appeal was submitted against non-determination, to be considered by informal hearing in October 2018, although this was withdrawn in June 2018. The Council had resolved that planning permission would have been refused for the following reasons:
 - i) Insufficient evidence has been submitted to demonstrate that the occupants of the caravans that have been located on the site are Travellers, within the definition of gypsy/travellers as set out in Annex 1 of Government guidance ‘Planning Policy for Gypsies and Travellers (August 2015). The proposal must therefore be considered as general residential development within the open countryside, for which there is no overriding justification and is therefore contrary to Policy MTRA4 of the Local Plan Part 1 – Joint Core Strategy.
 - ii) In the event that the applicant is able to confirm that the occupants are Travellers, within the definition of gypsy/travellers in annex 1 of Planning Policy for Travellers, adequate pitches have been provided to meet the needs for gypsy and travellers accommodation within the locality and the

Council can demonstrate a 5-year supply of gypsy/traveller pitches. The proposal would therefore be contrary to Policies CP5 of Winchester District Local Plan Part 1 – Joint Core Strategy, DM4 of Winchester District Local Plan part 2 – Development Management and Site Allocations, and Policy TR5 of the pre-submission Gypsy, Traveller and Travelling Showpeople Development Plan Document (January 2018).

- iii) The proposal would therefore result in the consolidation of undesirable residential development and activities in an area of countryside, for which there is no overriding justification, and is harmful to the character and appearance of the area contrary to Policy MTRA4 of the Local Plan Part 1 – Joint Core Strategy and Policies DM15 and DM23 of Winchester District Local Plan Part 2 - Development Management and Site Allocations and TR6 of the pre-submission Gypsy, Traveller and Travelling Showpeople Development Plan Document (January 2018).
 - iv) The proposed development is contrary to Policy CP16 of the Winchester District Local Plan Part 1 - Joint Core Strategy, in that it fails to protect and enhance biodiversity across the District by failing to make appropriate provision for the Solent Disturbance and Mitigation Charge Zone
8. The Council has since received application 18/01691/FUL (submitted 03 July 2018) for the continued siting of 4 no. residential gypsy caravans without complying with Condition 3 of planning permission ref. 11/01875/FUL. This application still awaiting a decision.
9. The following aerial photographs illustrate how the site has changed since 2000; the area of travelling showpersons plots (W030) safeguarded under Policy TR1 is clearly visible to the south of the site and being initially quite separate from any traveller pitches to the north, which expands considerably between 2005 and 2013. The photograph submitted by the Parish Council in 2017 illustrates a significant intensification of the site.

Aerial Photo, Council GIS data, 2000



Aerial Photo, Council GIS data, 2005



Aerial photo, Council GIS data, 2013 –



Aerial photograph submitted by Parish Council, May 2017



Key issues

10. The above illustrates that this is a complex site, which has grown over the last ten years and whilst the planning history is not extensive a few key matters have come to light.

GTAA

11. The [GTAA](#) records refusals of interviews at both The Piggeries (4 pitches) and The Old Piggery (3 pitches) (1 interview was undertaken at The Old Piggery). During the initial consideration of the planning application for the permanent retention of 26 pitches, several requests were made of the applicant and the planning agent to confirm the travelling status of the occupants in accordance with the definition of Annex 1 of the PPTS. This data was never provided. It therefore remains unclear as to how many (if any) of the current occupants on the site would be in compliance with the definition. The Council is aware that the main land owner and applicant Mr Keet and his immediate family, are of gypsy ethnicity. The land owner Mr Keet has advised the Gypsy Liaison Officer that *all the residents on his land are of Gypsy and Traveller ethnicity.*

Firgrove Lane and Right of Access

12. Hampshire County Council's countryside officer, responded to the Regulation 19 publication of the DPD, questioning the legality of using a designated footpath by vehicles to access the site. The Council has covered this matter in some detail in its Background Paper CD14, which concludes at para 6.25 that: *In particular it will be necessary for a person seeking to use Footpath No 10 with vehicles to be able demonstrate that there exists a private right of way for vehicular use of Firgrove Lane or ownership of Firgrove Lane, to enable this allocation to be implemented.*
13. The Council, is aware that the planning applications submitted have included Firgrove Lane within the application red line and Certificate B has been served on an adjoining property Danube, Southwick Road, North Boarhunt. The Council has undertaken a number of title searches to determine the ownership of Firgrove Lane but these have not been conclusive. One result has however, revealed that a legal right of access does exist over Firgrove Lane to the land allocated by Policy TR2. The land owner Mr Keet advised the Gypsy Liaison Officer that *whilst he owns the road there is a Public Footpath / Right of Way which runs through the lane permitting access by others, which in turn gives access to other businesses further up the lane.*

14. The Council is also aware that HCC in its capacity as Minerals and Waste Local Authority granted a consent (ref 10/02304/HCS) in August 2010 for a retrospective change of use from agriculture to green waste recycling with a condition (No. 2) limiting access to the site from Firgrove Lane only, this site lies to the northwest of the travellers sites. The consent also referred to the need to install signs requesting that vehicles give way to pedestrians along the site access, in the interests of pedestrian safety on a public right of way. It therefore appears that it was acknowledged then, that Firgrove Lane was being used by vehicular traffic, yet this matter has only recently been raised by HCC in terms of the vehicular use of a designated footpath.
15. The Council has proposed a modification (CD8) to draft policy TR2 which proposes the permanent retention of four of the pitches on the site, and considers that the proposed modification improves the DPD. The Council is of the view that there is a legal right of access over Firgrove Lane to the site allocated by Policy TR2. To date, the Council has not received any comments from HCC Countryside Officer in relation to the current planning application.

Issues raised by planning agent acting on behalf of the land owner

16. The planning agent representing the land owner responded to the Regulation 19 version of the DPD, these matters have been covered to some extent in the Council's Submission Statement (CD12) and Submission Background Paper (CD14).
17. The Council does not dispute that if the previous allocation of the site was reinstated to incorporated 8 travelling showpersons plots on the site, then this would resolve the current shortfall in travelling showpersons provision. However, the advice received from the Showmans Guild of Great Britain was definitive in that the two cultures of travellers and travelling showpeople do not mix, and that there was no possibility that if the plots were made available then they would be taken up by travelling showpeople, given the proximity of the two groups on one site. This view has also been stated verbally by a local showperson who is looking for sites.
18. Furthermore, if this allocation was reinstated and the plots not occupied by travelling showpeople, there is no current need for more travellers pitches as there is adequate provision as set out in the response to Matter 4 Appendix B and C. There is also no evidence that the current occupants of the site comply with definition of travellers as set out in the Annex to the PPTS.
19. A similar situation currently exists at Carousel Park (Matter 4 Appendix E), where the Council permitted the site for travelling showpeople. The original

consent for this site established the number of plots and layout of the site, but the plots have since been subdivided and the current occupation is a mix of non-travellers, retired showpeople, gypsies and residential caravans. This site has an extensive and complex planning history with unresolved planning enforcement matters. The Council wishes to avoid this type of situation arising again, so therefore questions the objectors claim that Policy TR5 could be reinstated and delivered as originally intended, particularly with the occupants complying with the definition of travellers in accordance with PPTS.

Conclusion

20. The Council had sought to resolve the unauthorised situation on the site by allocating it for a mix of gypsies and travelling showpersons occupation as proposed by draft Policy TR5 in the July 2017 version of the DPD. This was particularly seen as an opportunity to also address the shortfall in the provision of travelling showpersons plots in the DPD.
21. However, further research and specific advice from the Showmans Guild of Great Britain, concluded that this would not be deliverable on the basis that the two cultures do not mix. This was also consistent with representations made on behalf of the site owner at the time stating that the masterplan was not deliverable. The Council also received an objection from the Parish Council to the draft DPD https://winchester.citizenspace.com/policy-and-planning/gypsy-traveller-and-travelling-showpeople/consultation/view_respondent? b_index=60&uuld=807274086
22. This highlights a number of local concerns with the site, particularly in relation as to how the site has increased in size in recent years and the occupants not falling within the definition of travellers.
23. The Council's Cabinet (Local Plan) Committee on 4 December 2017 considered this matter and agreed to amend the DPD (CAB2965(LP) para 10.32 – 10.37 refer).
24. The Council has therefore amended the DPD, to allow for the retention of the 4 pitches with a temporary consent, to be consistent with how other sites with a temporary consent have been dealt with through the DPD and in recognition that these contribute to the identified need in the GTAA. However, there is no identified need for the allocation / regularisation of further gypsy and traveller pitches in view of the over-provision now made in the DPD, and no evidence has been provided regarding the travelling status (if any) of the current occupiers.

25. With regard to these remaining pitches it will be necessary for the Council to instigate enforcement proceedings, to reconcile the planning situation on the site.

Footnote: late response from planning agent representing the owners of The Bungalow site W027

The Council has received a letter dated 23 July 2018, on behalf of the owners of the Bungalow, Southwick Road, North Boarhunt, claiming that they were not aware of the DPD and objecting to the inclusion of part of their site under Policy TR1 for the safeguarding of two plots for travelling showpeople.

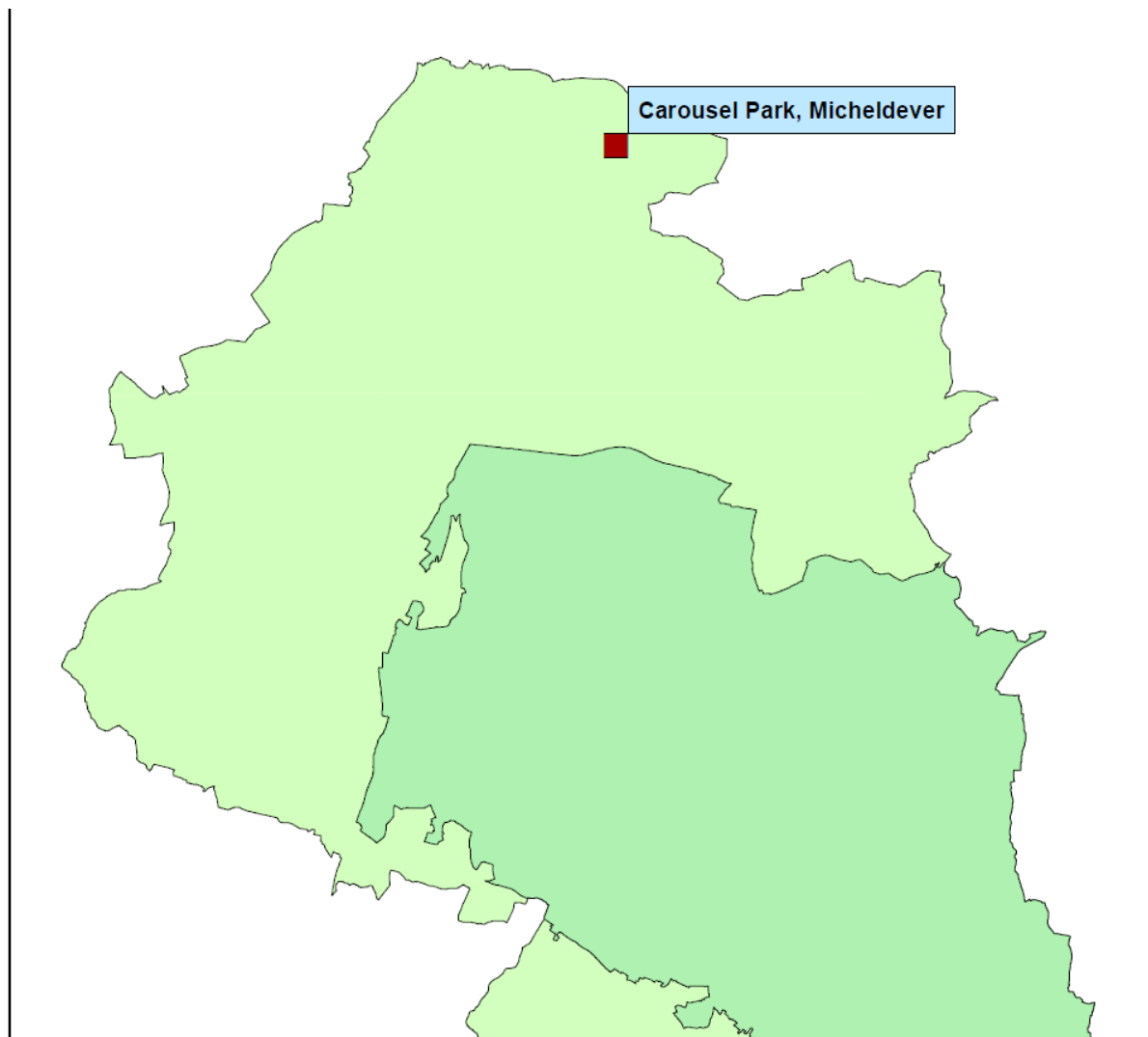
Two plots were granted permission on the site in 2011, limiting occupation to travelling showpeople but not personal. Both plots contributed to the GTAA assessment undertaken during June – October 2016 and both were interviewed as indicated at Figure 2 on page 16 of the GTAA. Given the GTAA is a critical element of the evidence base for the DPD, the DPD rightly safeguards the plots for travelling showpersons use through Policy TR1. Whilst planning permission may have been granted for a replacement dwelling on the front of the site, in the Council's view, this does not preclude retention of the travelling showpersons plots on land to the rear. It is only this area to the rear of the site that policy TR1 safeguards for showpersons' use (see Policy Map 31, document CD7).

Matter 4 - APPENDIX E – Carousel Park, Situation Statement

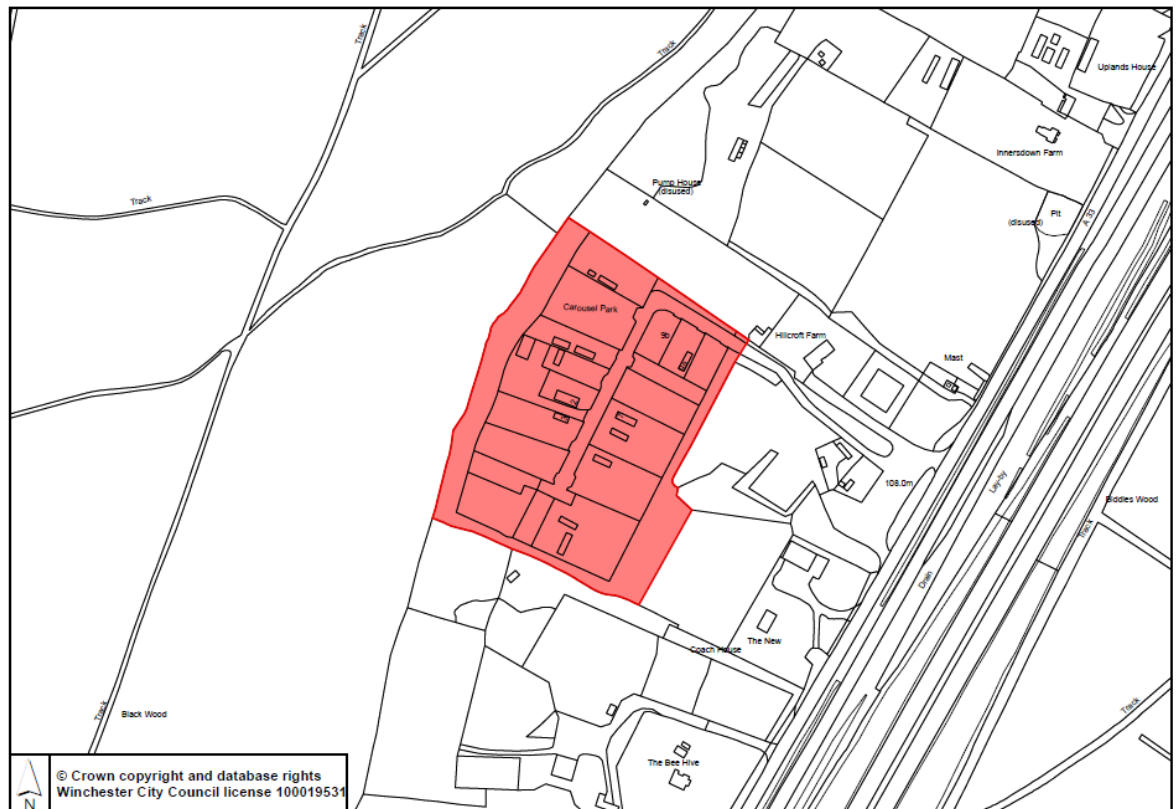
Situation Statement for Carousel Park, Micheldever

26. Carousel Park is a site located in the north of Winchester District, the nearest settlement being Micheldever. This site was promoted by the owner of the then Drivers Diner roadside café and one of the occupiers of The Nurseries, as a development that would allow for the relocation of unauthorised travelling showpersons' plots at the Nurseries, Shedfield. As such it was supported by the Council and planning permission was granted in 2003 for the change of use of agricultural land to a travelling showpeople's site for 9 plots (ref: 02/01022/FUL).

Location of Carousel Park Within Winchester District



Carousel Park Location Plan



27. For a variety of reasons, occupiers of The Nurseries did not locate top Carousel Park. Hence The Nurseries continues to be occupied and was until recently unauthorised. Some plots have now been authorised and the remainder are proposed to be by the Traveller DPD.
28. The Carousel Park consent was subject to planning conditions and a S106 agreement which required that the land only be occupied by qualifying showmen or their dependant relatives. The Council issued enforcement notices in respect of the unauthorised change of use of 6 of the plots in September 2010 on the basis that they were not being used as travelling showpersons' plots in accordance with the planning consent. The change of use alleged by the Notices was in each case:

"Without planning permission, the material change of use of the Land from use as a Travelling Showperson's site to a use for siting of caravans/residential mobile homes for occupation by persons who are not Travelling Showpersons and the storage of vehicles, equipment and materials in association with the operation of businesses unrelated to that of travelling showpeople"

There was no identifiable change of use of the remaining 3 plots taking place at the time (although one of these had previously been subject to breach of condition and stop notices).

29. Appeals were lodged and heard in 2011 for each plot/owner on grounds (b), (c), (d), (a), (f) and (g) – appeal references APP/L1765/C/10/2138144, APP/L1765/C/10/2138149, APP/L1765/C/10/2138150, APP/L1765/C/10/2138152, APP/L1765/C/10/2138153, APP/L1765/C/10/2138155. In his decision the Inspector corrected the notices and determined that the ground (b) appeals should succeed, as he found that the 2003 consent was for the use of land as a residential caravan site with no restrictions on who could occupy the site, and quashed the notices as corrected.
30. The Council challenged the Inspector's decision in the High Court on the basis that the planning permission was for use as a travelling showpeoples' site which, as a sui generis use, was different to use as a residential caravan site. The High Court, in quashing the Inspector's decision, agreed with the Council that the Inspector did not address the issue correctly and had wrongly applied the "I'm You Man principle" to the appeals. The appellants unsuccessfully challenged the High Court decision in the Court of Appeal.
31. These processes took lengthy periods of time. The High Court decision was in January 2013 and the Court of Appeal in March 2015. There was a further delay before the public inquiry commenced on 21 June 2016, with a new Inspector, Jean Russell. However, by this time the updated GTAA had been commissioned and the parties agreed that the hearings should be adjourned to enable this information to be available to the parties and Inspector. The inquiry was re-scheduled to start on 10 January 2017 but the appellants' agent submitted new evidence relating to housing land supply on the basis that the appellants were ideally seeking an unconstrained residential caravan site consent. The Council objected to this major new issue being raised and asked for time to respond and call appropriate witnesses and the hearings were again adjourned, until 6 June 2017.
32. The June 2017 hearings were again adjourned for various reasons and the remaining matters were re-scheduled for new hearings commencing on 29 November 2017, extending into December 2017 and if necessary January 2018. Unfortunately, due to a combination of adverse weather, illness and the availability of witnesses and Counsel, the hearings were again not completed and they resumed on 14 March 2018. During the course of this hearing the appellants made a formal application to the Inspector that she should be required to 'recuse' herself on the grounds of predetermination / bias. The Inspector formally declined to recuse herself and on 28 June 2018 the inquiry

resumed to discuss administrative arrangements and future hearing dates. These have now been scheduled to commence on 17 October 2018 and be complete by 27 November 2018.

33. The situation is, therefore, that while the Council had expected a decision on the appeals at Carousel Park before the Traveller DPD was submitted, this has not been possible and it is now most unlikely that the appeals will be determined before the DPD is adopted (assuming it is found sound). In the meantime, the use of the 3 'un-enforced' plots appears to be in breach of planning control in that they are not being used as travelling showpersons' sites (see Google Earth aerial photo below dated April 2017 showing large numbers of caravans on these plots, at the southern end of the site). Most of these caravans are understood to be occupied by migrant workers or as general residential mobile homes (non-traveller).

Carousel Park Aerial Photo April 2017



34. The Council has held back from taking further enforcement action on these plots so that it could take account of the conclusion of the current appeals. It still proposes to take this approach but will be mindful of the need to take

action before the 10 year period for enforcing against unauthorised changes of use expires in 2020.

35. As a result, the situation regarding Carousel Park is uncertain, as are the implications in terms of the supply of pitches/plots. The Council has been consistent in seeking to retain the site for travelling showpersons' use, both through the enforcement/appeal process and the Traveller DPD (policy TR3). This approach is fully justified by the evidence of need for travelling showpersons' plots and by the difficulty in finding suitable and available sites.
36. Of the 6 plots that are subject to enforcement action, 5 have now been subdivided to create 15 pitches/plots in total. As of December 2016 the appellant's evidence and witness statements suggested that 2 sub-divided pitches/plots were unoccupied. The occupiers of the remaining pitches/plots consisted of 12 gypsy and travellers, 6 travelling showpeople and 13 eastern Europeans. The appeals could result in a number of different outcomes, given the number of appeals / appellants involved, the various grounds of appeal, the fact that most plots have been subdivided, the characteristics of different occupants, and the scope for the Inspector to uphold or quash the enforcement notices (wholly or partially) or grant consent subject to planning conditions. At its simplest, there are two potential extremes in terms of the outcome of the appeals – 1. the enforcement notices are upheld or 2. they are quashed (or the 'ground a' appeals are allowed) granting planning consent for non-showpersons' use.
37. If the enforcement notices are upheld they will require that the land is used as travelling showpersons' sites. Therefore, under this scenario, Carousel Park would continue to be available for showpersons' use and several plots would be freed up given that the appellant's evidence was that travelling showpeople only occupied 5 of the 15 sub-divided plots. The DPD estimates that there would be a gain of at least 3 showpersons' plots (paragraph 4.11) on the basis that it is uncertain what the outcome of the appeals will be and some sub-divided plots may need to be amalgamated to be large enough for showpersons' use.
38. Where non-travelling showpeople occupy some plots (or subdivisions of plots) they would either have to use the plots for showpersons' use or move off. This may result in a short-term need being created by people moving off the site and looking for alternative accommodation. Of these, up to 12 may be relevant to the DPD as this is the number of gypsies and travellers that it was claimed were present. However, given the requirements of planning policy and human rights legislation relating to travellers, the appeal Inspector will need to take account of occupiers' needs when considering matters such as the compliance period and occupancy conditions. Without knowing how the

appeal Inspector will deal with the needs of anyone that may potentially be displaced it is difficult to estimate whether there will be any new pitch requirements arising under this scenario.

39. Taking the other extreme scenario, if the appeals are allowed and the notice is quashed or consent is granted for unrestricted use as a residential caravan park, none of the 6 original plots would be available exclusively for either gypsies and travellers or showpersons' use. An unrestricted consent (which is the appellants' preferred outcome) would allow existing occupiers to remain (if the sub-divisions were authorised) so no travellers would be displaced immediately. However, 6 authorised showpersons' plots would no longer be retained for that use and it is likely that the Council would have to adopt a consistent approach for the remaining 3 'un-enforced' plots. It is likely that the 6 travelling showpeople that the appellants claimed were on the site would be displaced or leave in due course, with no identified sites to which they could go in the District. The same may also apply to the 12 gypsies and travellers over time.

Conclusion

40. Between the potential 'extremes' of outcome there are any number of permutations in terms of the outcome of the appeals and the implications for the supply of pitches/plots. Unfortunately this will not be clear by the time of the DPD examination hearings. However, what is clear is the evidence of need for travelling showpersons' accommodation and the lack of suitable and available sites. These factors fully justify the allocation of the Carousel Park site for showpersons' use, despite the uncertainty about the outcome of the appeals.

Matter 4 - APPENDIX F – Appeal Decision: Berkeley Farm, Durley Street



Appeal Decisions

Hearing Held on 13 June 2018

Site visit made on 13 June 2018

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2018

Appeal A Ref: APP/L1765/C/17/3184051

Appeal B Ref: APP/L1765/C/17/3184052

Appeal C Ref: APP/L1765/C/17/3184053

Appeal D Ref: APP/L1765/C/17/3184054

Land adjacent to Berkeley Farm, Durley Street, Durley, Hampshire

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr T Keet (Appeal A), Mr B Keet (Appeal B), Mr J Saunders (Appeal C) & Mr T Castle (Appeal D) against an enforcement notice issued by Winchester City Council.
- The enforcement notice was issued on 15 August 2017. The Council's reference number is 17/00166/CARAVN
- The breach of planning control as alleged in the notice is:
Without planning permission, the material change of use of the Land from agricultural use to use as a site for caravans for residential use together with ancillary operational/ engineering development including but not limited to:
 - i) The construction of day rooms (shown marked in their approximate position with an "X" on the attached plan;
 - ii) The erection of fences;
 - iii) The installation of areas [of] decking;
 - iv) The laying of rubble and gravel to create hard standings and a track (shown in its approximate position shown hatched in green on the attached plan); and
 - v) The installation of water supplies and drainage
- The requirements of the notice are:
 - i) Cease the use of the Land as a residential caravan site;
 - ii) Remove from the Land all caravans (static/mobile homes and touring caravans), vehicles and trailers, and all residential and domestic paraphernalia;
 - iii) Remove from the Land the fences that divide each plot;
 - iv) Remove from the Land the day rooms and all areas of decking;
 - v) Dig up and remove the track, hardstandings, rubble and gravel from the Land;
 - vi) Remove the water supply and drainage from the Land and refill the resulting holes following the removal of the water supply and drainage;
 - vii) Return the Land to its condition and appearance as agricultural land that is clear, level and seeded to grass after compliance with steps (i) to (vi).
- The period for compliance with the requirements is: Steps (i) and (ii) 6 months after the notice takes effect; Steps (iii) to (vi) 7 months after the notice takes effect; and Step (vii) 8 months after the notice takes effect.
- Appeal A is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act. Appeals B, C & D are proceeding on ground (g). Since the prescribed fees have not been paid within the specified period in respect of Appeals B, C & D, the appeals on ground (a) and the applications for planning permission deemed to

have been made under section 177(5) of the Act have lapsed in relation to those appeals.

Appeal E Ref: APP/L1765/W/17/3184059

Land opposite Forge Cottage, Durley Street, Durley, Winchester

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr T Keet against the decision of Winchester City Council.
 - The application Ref 16/03090/FUL, dated 25 October 2016, was refused by notice dated 30 May 2017.
 - The development proposed is: The use of land as a gypsy and traveller caravan site consisting of 4 no. pitches, each containing 1 no. mobile home, 1 no. touring caravan; 1 no. semi-detached utility building; play area; and associated development.
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Decision on Appeal A

1. It is directed that the enforcement notice be varied by the deletion of the time periods for compliance set out in section 6 and the substitution for the following time periods: For step (i) 6 months after this notice takes effect and, For steps (ii) to (vii) 12 months after this notice takes effect. Subject to these variations the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Decisions on Appeals B, C & D

2. It is directed that the enforcement notice be varied by the deletion of the time periods for compliance set out in section 6 and the substitution for the following time periods: For step (i) 6 months after this notice takes effect and, For steps (ii) to (vii) 12 months after this notice takes effect. Subject to these variations the appeals are dismissed and the enforcement notice is upheld.

Decision in Relation to Appeal E

3. The appeal is allowed and planning permission is granted for the use of land as a gypsy and traveller caravan site consisting of 4 no. pitches, each containing 1 no. mobile home and 1 no. touring caravan and for the erection of 2 semi-detached utility buildings, a play area and associated development at Land opposite Forge Cottage, Durley Street, Durley, Winchester in accordance with the terms of the application, Ref 16/03090/FUL, dated 25 October 2016, and the plans submitted with it, subject to the conditions that are appended to this decision.

Preliminary and Procedural Matters

4. Five appeals are before me for determination and I have referred to them as appeals A, B, C, D and E, as set out in the banner heading above. Four of those appeals are made against the Council's decision to serve an enforcement notice and the fifth is made against its decision to refuse to grant planning permission. The relevant fee was only paid in relation to one of the enforcement appeals, as is often the case where multiple appellants appeal against the same notice. Accordingly, the appeal on ground (a) will only be considered in relation to Appeal A and Appeals B, C and D will proceed on ground (g) alone.

5. In terms of chronology, the planning application was submitted to the Council before any development took place and the site was occupied shortly after the decision to refuse the application. The description of the site address on the application form was different from the address used by the Council in relation to the enforcement notice. However, although there is a minor difference between the red line boundary on the site location plan which depicts the application site and the red line boundary on the plan attached to the enforcement notice, the two are broadly similar and cover the same site.
6. The description of development given on the application form in relation to Appeal E refers to the use of land. The proposed utility buildings would amount to operational development and, for clarity, I have amended the description of development in my formal decision to include reference to the 'erection of' those buildings.
7. Where an appeal against an enforcement notice is made on ground (a), it is necessary to consider whether to grant planning permission for the matters stated in the enforcement notice. As described above, those matters relate to a material change of use to use as a caravan site for residential use, with ancillary operational and engineering operations. The operational development and engineering works are specifically listed within the notice and the scope of the appeal on ground (a) is defined by that description.
8. There are a number of differences between the development that has taken place and the layout put forward in the "site layout & detailed landscape proposals plan" (the site layout plan) that was submitted with the application¹. The number of pitches is the same but the exact position of those pitches is different. As a result, the fences and hedges demarcating the pitches are not as shown on the site layout plan and the areas of hardstanding have not been developed as shown. Decking areas have been erected around the static caravans whereas none were shown on the site layout plan. Wooden sheds/ huts have been erected for use as storage/ for day rooms and those are different to the day rooms shown on the site layout plan in terms of their materials, design and location. The central play space has not been created as shown and the soft landscaping shown on the site layout plan has not been carried out.
9. Individually, those components are relatively small but the cumulative effect is that the development as undertaken is quite different in terms of its character when compared to that proposed in the application. The appellant indicated that the differences were due to the fact that the families did not wish to invest in more permanent day room facilities or undertake other landscaping without knowing whether planning permission would be granted for the use of the site. That is an understandable position. Nonetheless, I must consider the appeal on ground (a) on the basis of the description of development as set out in the enforcement notice and the development that was on the ground at the time the notice was issued.
10. The agent for the appellant accepted at the Hearing that the current layout has caused some harm in terms of landscape impact and suggested that the layout could be made to comply with that shown on the site layout plan through the imposition of conditions, if I was minded to grant planning permission. However, in line with the view of the Council, I have reservations about that

¹ Drawing number TDA.2219.05 revision A

approach. In essence, the question is whether the suggested conditions would change the scope of the appeal under ground (a) to such a degree that it would amount to the approval of a different form of development than that described in the notice.

11. On balance, I consider that would be the case in this instance due to the cumulative effect of the various differences between what has occurred and what was proposed. The use of the land may be the same but the layout, buildings and hard surfaces are materially different. The suggested conditions in relation to the appeal on ground (a)² would also require elements of development to be carried out that fall outside of the description of the breach, including the construction of the day rooms; buildings that would undoubtedly require planning permission in their own right. That reinforces my view that the suggested conditions seek to secure a remedy by way of developing a scheme that is quite different to that enforced against. The correct place to consider that scheme is in relation to the appeal against the refusal to grant planning permission. Likewise, the correct approach to assessing the appeal on ground (a) is to consider the development as undertaken and that is how I shall proceed.
12. I appreciate that there may be circumstances where the imposition of a 'site development scheme' condition may be appropriate to secure alterations to existing site layouts. The appellant has referred to an enforcement appeal decision relating to a site in Sevenoaks where the Inspector imposed such a condition³. However, the question of whether the changes are so substantial as to amount to a different scheme will always be a matter of fact and degree in any given case. I cannot be certain of the specific details of the Sevenoaks case and it does not alter my conclusion on the correct approach in this instance.
13. In terms of the structure of my decision, the main issues in relation to Appeal A on ground (a) and Appeal E are the same. The issue of the need for, and supply of, gypsy and traveller sites is common to both and my conclusions on those matters are not affected by the differences in layout described above. Consequently, I have considered that issue first. Following that I have considered each appeal individually in terms of the other main issues due to the differences between the two schemes, starting with Appeal E.
14. Within the Statement of Common Ground (SoCG) the parties agree that all of the residents on site fall within the definition of "gypsies and travellers" as set out at Annex 1 of the Government's Planning Policy for Traveller Sites (August 2015) (PPTS). Having regard to the information before me, including the assessment of the County Council's Gypsy Liaison Officer, the families are ethnically Romany Gypsies falling within the definition and I have no reason to doubt the agreed position.

Appeal A on Ground (a) and Appeal E

15. The main issues in respect of both are:
 - i) Whether there is a need for additional gypsy and traveller sites in the area and, if so, if there is sufficient provision to meet those needs;

² As appended to the Statement of Common Ground

³ APP/G2245/C/15/3134905, APP/G2245/C/15/3134906, APP/G2245/W/15/3025094

- ii) The effect of the development on the landscape character and appearance of the countryside;
- iii) Whether the development is contrary to the relevant policies of the development plan and, if so;
- iv) Whether the conflict with the development plan is outweighed by other material considerations to the extent that planning permission should be granted.

Whether there is a need for additional gypsy and traveller sites in the area and, if so, if there is sufficient provision to meet those needs – As Applicable to Appeal A on Ground (a) and Appeal E

16. The Winchester District Local Plan Part 2: Development Management and Site Allocations (LPP2) was adopted as recently as April 2017. Policy DM4, entitled “Gypsies, Travellers and Travelling Showpersons”, states the following:

Planning permission will be granted for pitches to meet the accommodation needs for the area covered by this Plan for people falling within the definition of ‘travellers’, of about 15 gypsy/ traveller pitches and about 24 travelling showperson’s plots between 2016 and 2031.

Sites will be identified and consent granted as necessary to meet identified traveller needs in the Plan area which could not otherwise be met, subject to the criteria outlined in Policy CP5. Proposals for transit sites will be considered on an individual basis, following the criteria of CP5.

17. The figure of ‘about 15’ gypsy/ traveller pitches derives from the Winchester Gypsy and Traveller Accommodation Assessment – Need Summary Report which was published in October 2016 (the 2016 GTAA). That report was before the Local Plan Inspector and the Plan would have been subject to consultation. Although I have not been provided with the Inspector’s comments, it is reasonable to conclude that the evidence was properly considered as part of the plan making process.
18. As a result of that process, the figures within policy DM4 now form part of the adopted development plan and, in line with section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan remains the starting point for the assessment of planning applications.
19. The LPP2 does not allocate sites to meet the needs identified in policy DM4. That is the aim of the emerging Winchester District: Gypsy, Traveller and Travelling Showpeople Development Plan Document (the Traveller DPD). From information given at the Hearing I understand that the document has been subject to consultation and has now been submitted to the Planning Inspectorate for examination. An Inspector has been appointed but no dates for the examination have been set. As noted in the SoCG there are outstanding objections to the DPD, including an objection from Dr Murdoch, the agent for the appellant in this case, regarding the robustness of the data that underpins the assessment of need.
20. It is a moot point whether those matters would be re-examined in relation to the Traveller DPD which has a specific aim of allocating sites. However, the precise scope of that examination will be a matter for the relevant Inspector. I cannot pre-judge any of those matters and, as such, cannot draw any

meaningful conclusions on the likely outcome of the examination. Accordingly, the weight that I can attach to the Traveller DPD is limited, having regard to paragraph 216 of the National Planning Policy Framework (the Framework).

21. Therefore, at the present time, no sites have been identified in the development plan to meet the need identified in policy DM4. Nonetheless, the Council maintains that it can demonstrate a five year supply of sites based on a combination of predicted windfall sites that it expects to secure planning permission within the next five years, and a site that is currently vacant. Table 8, produced in the "Local Planning Authority Response to Appellant's Hearing Statement and Landscape Statement" identifies a five year requirement of an additional 2 pitches for the five year period from September 2017 to August 2022. Whilst the appellant disagrees with the Council's conclusions on the need for sites and the methodology of the 2016 GTAA, he was satisfied that the mathematics behind the data produced at Table 8 was accurate, if based on the Council's own figures.
22. Against that requirement for 2 pitches, the Council maintains it can demonstrate a supply of 6 pitches, 1 vacant site and 5 windfall sites. In line with footnote 4 to paragraph 10 of the PPTS to be considered deliverable, sites should be available now, offer a suitable location for development and be achievable with a realistic prospect that development will be delivered on the site within the next five years.
23. No details of the vacant site have been provided. It does not necessarily follow that it is available because it is vacant and that may depend on the ownership of the site and whether any former occupants intend to re-use the site in future. Consequently, on the information before me, there is uncertainty in that regard.
24. Furthermore, reliance upon an assumed windfall of sites that may achieve planning permission in the future is not consistent with those criteria. I am not satisfied that the sites without planning permission are "available now". The three windfall sites relied upon are sites put forward by the Council within the Traveller DPD⁴. As stated above, that has yet to be examined and the Inspector will no doubt have to consider each site, taking account of any representations received. Whether the sites will be considered acceptable for inclusion within the DPD is unknown.
25. At the Hearing, the Council did provide an update to state that planning permission has now been granted for three permanent pitches at 'Ourlands', which is one of the sites put forward in the Traveller DPD. I was not provided with a copy of the decision but have no reason to doubt that is the case. On the Council's assessment that permission would be sufficient to meet the five year need for 2 additional pitches, with a marginal surplus of 1.
26. However, I am mindful that the figure of 'about 15' additional pitches was considered to be the minimum of what would be required within the 2016 GTAA. A key component of the assessment of future need was based upon interviews carried out with existing gypsy and traveller households. Those interviews were used to assess whether the households fell within the definition of gypsies and travellers set out in Annex 1 of the PPTS and to assess the likely future needs of those households.

⁴ The Piggeries, Ourlands and Land adjacent Gravel Hill, Swanmore

27. The subsequent analysis of need within the 2016 GTAA only related to those considered to fall within the PPTS definition. How the Council anticipates meeting the needs of those who may be ethnically gypsies or travellers but do not fall within the definition is not clear. As a result of the interviews 20 households were determined to fall within the new definition, 18 were considered to be outside the definition and 11 were 'unknown', either as a result of a refusal to take part or because the households could not be contacted⁵.
28. Of the interviews that did take place, approximately half of the households were considered to fall within the PPTS definition. However, an allowance of only 10% is made for the 11 'unknown' households within the 2016 GTAA i.e. only one in ten is considered likely to fall within the definition. The report suggests that the 10% figure is based on the national average of surveys carried out by ORS – the consultants who prepared the 2016 GTAA – but no analysis of those figures is provided. I can see no obvious reason why the proportion would be so much lower than that for other local households, or why a national figure should be preferred over more localised evidence, especially when the issue in question is one of local needs. It seems likely to me that significantly more of the 'unknown' households would fall within the PPTS definition.
29. Seven of those unknown households were living on unauthorised sites. The 2016 GTAA concludes that the overall level of need could rise by up to 11 pitches if information was made available to the Council that those 'unknown' households did meet the PPTS definition (based upon the existing seven pitches plus an additional 4 from new household formation)⁶. In other words, the figure of 'about 15' within policy DM4 may need to rise if additional evidence of unknown need comes to light.
30. Five of the 'unknown' households occupy sites that are put forward by the Council within the Traveller DPD, four at The Piggeries and one at land adjacent to Gravel Hill⁷. Clearly, the intention of the Traveller DPD is to allocate sites to meet the needs of gypsies and travellers who meet the definition. In putting forward The Piggeries and land adjacent to Gravel Hill the Traveller DPD states that "this strategy will, however, not only secure the planning status of the sites for the current occupants, *contributing to the specified need* (my emphasis), but also provide certainty in relation to the delivery of sites to meet the needs in Policy DM4"⁸.
31. In other words, there appears to be an acceptance within the Traveller DPD that the present occupants of those sites contribute to the need for gypsy and traveller sites within the area. However, those occupants were not considered to contribute towards need within the 2016 GTAA because they fell into the 'unknown' household category. If those households do fall within the definition, as seems likely having regard to the Traveller DPD, the overall need would be greater than the figure of 15. Thus, the Council is putting forward those sites to meet future needs but does not appear to have factored in the needs of the present occupants in determining the overall pitch requirement.

⁵ Figure 3, produced at page 21 of the 2016 GTAA

⁶ Paragraph 5.23 of the 2016 GTAA

⁷ Figure 1 of the 2016 GTAA

⁸ Paragraph 4.9

32. If those households are added to the assessment of need, or an appropriate allowance is applied to the 'unknown' households, the need would be greater than that identified by the Council. That need would also appear to be an immediate need, given that the households are already resident in the area. Having regard to those matters, it appears to me that the five-year need is likely to be somewhat greater than the 2 additional pitches, based upon the Council's own approach and methodology. Given my comments on the limited available supply of sites, as set out above, I am not satisfied that the Council is able to demonstrate a 5 year supply of deliverable sites to meet that need.
33. As noted, my conclusions in that regard are based purely on an analysis of the Council's own data, including the 2016 GTAA and the Traveller DPD. None of those documents take account of the needs of the present occupants of the site. The families were not interviewed as part of the 2016 GTAA and their needs were not accounted for in that assessment. The Council does not explicitly dispute that the families have accommodation needs relating to the local area.
34. The planning application had been submitted in October 2016 and the surveys and interviews conducted to inform the 2016 GTAA were completed early in October 2016. Had the application been made a few weeks earlier, the Council would have been aware of the appellants' circumstances and that may well have prompted ORS, who produced the 2016 GTAA to interview them as part of the process. It strikes me that assessing local needs is not an exact science and there will be cases, particularly where travelling families are involved, when particular households may be missed in surveys. That does not dictate that their needs should not be taken into account, particularly if those families have a local connection and local need relating to their circumstances.
35. From the information provided by the Gypsy Liaison Officer (GLO) at the County Council the families have roots in the local area. The GLO also noted that there were no vacancies on sites in Hampshire which were previously owned by the County Council and that the one remaining Council owned site had six applicants on the waiting list but was also "in the wrong area to satisfy the accommodation needs of these families". Having regard to that and the other information before me I am satisfied that the needs of the families are for accommodation in the local area. Therefore, it is reasonable take account of their needs for a permanent residential base in the local area into account when assessing need more generally.
36. That approach is consistent with the recommendation in the 2016 GTAA and paragraph 11 of the PPTS, that Council's should develop criteria based policies for assessing applications in relation to unknown households who provide evidence that they meet the definition.
37. In terms of policy DM4 of the LPP2, the approval of four pitches at the appeal site may result in slightly more than 15 pitches being approved over the plan period if the currently envisaged sites in the Traveller DPD also secure permanent planning permission. However, the wording of the policy contains a built in degree of flexibility in that it states that permission will be granted for "about 15" pitches. The evidence base behind the 2016 GTAA also acknowledges that the level of need may be greater depending on the status of the 'unknown' households. The policy does not expressly state that permission should be refused for any pitches over that number and, in view of the

flexibility within the policy and the evidence base, an approval of four pitches at the appeal site would not be of such a scale as to increase numbers materially beyond what was envisaged in the development plan.

38. Moreover, the policy states that "sites will be identified and consent granted as necessary to meet identified traveller needs in the Plan area which could not otherwise be met, subject to the criteria outlined in policy CP5". I have concluded that there is an unmet need for additional permanent gypsy and traveller pitches and am not satisfied that the Council is able to demonstrate a five-year supply of sites to meet that need. The Council does not allege any conflict with the criteria based policy CP5 and, on that basis, I find no conflict with the aims of policy DM4.
39. In reaching those conclusions I have based my decision on the adopted planning policy position and the evidence base that underpinned that policy. I appreciate that Dr Murdoch has raised a number of objections relating to the methodology and conclusions of that evidence base. The matters raised include, amongst other things, concern that the interview questions led to a fundamental miscalculation whether people met the gypsy and traveller definition; concerns that the surveys were carried out at the wrong time of year during the travelling season; a failure to take account of any allowance for people living in bricks and mortar; and a failure to make an allowance for families living on unauthorised sites.
40. As noted above, those matters would more appropriately have been submitted at the consultation stage relating to the LPP2. How the examining Inspector in relation to the Traveller DPD deals with the submissions will be a matter for him or her. However, I see no reason to address those matters here because there is no suggestion that the current evidence over-estimates the need for sites. Given that I have concluded that there is an unmet need based upon that evidence consideration of the matters raised would not lead me to a different conclusion.

CONSIDERATION OF APPEAL E

The effect of the development on the landscape character and appearance of the countryside

41. The appeal site relates to a roughly rectangular parcel of land, formerly used as a paddock for horse grazing, situated to the west of Durley Street, adjacent to Berkeley Farm. Durley Street is a linear settlement with houses and farmsteads strung out along the roadside. The majority of the built development is situated to the south and east of the road although a number of farms and houses are scattered more loosely to the north and west. The site is located within the countryside for the purposes of the development plan but is not subject to any particular landscape designation in terms of planning policy.
42. The Council has produced the Winchester District Landscape Character Assessment (2004) (the WDLCA) which breaks down the district into broad landscape types and more local character areas. The area falls within the 'Mixed Farmland & Woodland Landscape Type' and the 'Durley Claylands' character area. I took the opportunity to view the site from surrounding roads and footpaths and walked a number of other footpaths around the settlement to appreciate its character. The small paddock at the appeal site and the

surrounding fields and woodland is typical of the local landscape as described in the WDLCA, as is the low density and sprawling nature of the settlement.

43. In particular, I noted a predominance of small enclosed fields on either side of the main road adjacent to the village and a tendency for the enclosures to become slightly larger as one moves further into the countryside. The effect of that pattern of development is an intimate association between the built form of the village and the surrounding fields. When combined with the mature trees and hedgerows, the low lying and gently undulating topography limits views of the site from the wider area.
44. In terms of visual impact the primary vantage points of the site are from the road to the front and the public footpath which passes to the north and east. The proposed layout plan shows that the pitches and the associated caravans and built development would be situated well within the confines of the site, surrounded by existing and proposed landscaping. Gaps in the hedgerow would be filled with native species and a buffer zone of native understorey planting would be created to the rear of the existing hedgerow. The retention and reinforcement of the hedgerow would ensure that a key feature of the local landscape would be retained.
45. Whilst some views of the internal areas would be possible, particularly in the winter months, the density of caravans and buildings would be low. In addition, the site layout plan indicates that the caravans and buildings would be sited towards the south-western edge of the site, adjacent to the existing buildings at Berkeley Farm. That would help to minimise views from the footpath to the north, as would the internal planting that is designed to delineate the plots within the site. The low density nature of the development and careful attention to the siting of units and buildings would ensure that the built form did not dominate the surrounding character. From the outside looking in I am satisfied that the prevailing sense would be of a paddock with some buildings within it.
46. That would not be unduly out of character with the surrounding landscape, particularly the fields and paddocks immediately adjacent to the settlement where stables, agricultural buildings and other structures are relatively common. By virtue of their design and materials, the caravans would undoubtedly have an appearance that is at odds with the more rustic feel of the other buildings referred to above. The development would also have a suburbanising effect through the introduction of structures and hard standings. Nonetheless, I am satisfied that careful siting and landscaping as proposed would avoid any undue harm. The low roof height of the structures would help in that regard.
47. Furthermore, the site is closely adjacent to existing buildings and the linear nature of the settlement is one of its defining features. A small and well-planned addition in an enclosed paddock would not bring about any major change to the prevailing character of the village. The site is adjacent to a well-used rural road adjacent to other houses. As such, I see no reason why the residential use would lead to a noticeable loss of tranquillity and any lighting scheme could be controlled through condition to ensure that no harmful effects arise in that regard.
48. For all of those reasons I find that the development would not cause harm to the landscape character of the area or to the character and appearance of the

settlement. In those respects it would conform to the aims of policies DM15, DM23 and CP5 of the LPP2 and with paragraph 25 of the PPTS which states that sites in rural areas should respect the scale of and not dominate, the nearest settled community.

Whether the development is contrary to the relevant policies of the development plan

49. For the reasons given, I find no conflict with the aims of policy DM4 on the basis that there is an identifiable need for the development and a shortage of available and suitable alternative sites. Policy MTRA4 of the Winchester Local Plan Part 1: Joint Core Strategy (2013) (the LPP1) relates to development in the countryside and states that the local planning authority will only permit specified types of development. The use of land as caravan sites for gypsy and traveller families is not a type of development listed within the policy.
50. Nonetheless, the Council does accept that such sites may be appropriate in countryside locations, depending upon need. I understand that all of the sites put forward within the Traveller DPD are within the countryside. That provides an indication that the Council do envisage that development in the countryside will be necessary to meet the needs of gypsies and travellers in the district.
51. The Council does not allege that the proposal would contravene any of the criteria within policy CP5 and I concur with that view. The site is well related to the existing settlement and the development is of a modest scale such that it would not dominate the existing village. It is accessible to local services, having regard to its rural context, adequate utility provision can be secured by condition and no objection has been raised from the highway authority in terms of highway safety. I find that adequate visibility splays are available and the nature of the road is such that on-coming drivers would have adequate notice of vehicles pulling out from the site. In fact, there are many driveways and access points along the road, many of which no doubt would not meet modern standards but no accident records have been presented to indicate that there is a highway safety problem in the locality. I note concerns expressed by a neighbouring resident regarding the future maintenance of the visibility splays, including the suggestion that land immediately to the north-east of the point of exit is not in the ownership of the appellant. That may be the case but there is no reason to suppose that the grass verge is likely to be put to any other use such that it would impair visibility. That sliver of land is set below the level of the adjacent field to the front of the hedgerow. In practical terms it forms part of the highway verge and it is difficult to see what other purpose the land could be put to. As such, that matter does not alter my conclusions on the safety of the access arrangements.
52. Therefore, whilst policy MTRA4 does not provide for an exception for caravan sites, I am satisfied that the development would not be contrary to the aims of the development plan when read as a whole.

Other Matters

53. Given that I have concluded that the development would comply with the relevant policies of the development plan it is unnecessary to undertake a detailed balancing exercise in relation to the personal circumstances of the families who reside at the site. Nonetheless, I understand that a number of the children attend school and a letter from the educational advisor at the County

Council has been provided to that effect. Having a settled base would assist those children in continuing their education. I am also mindful of the medical condition of one of the children who needs to attend hospital regularly. A stable home would no doubt be a benefit in that regard. Consequently, the needs of the families, particularly the needs of the children, are factors that add weight in favour of the development.

Conditions

54. A list of suggested conditions has been forwarded by the parties as part of the statement of common ground. If I am minded to allow the appeals I will attach those conditions that meet the tests set out in paragraph 206 of the Framework, making corrections to the wording, where necessary, for clarity and to avoid repetition. A number of conditions would require further information to be submitted and approved in writing by the Council. Although the scheme that has been implemented on site is not the same scheme as that put forward in Appeal E, the residential use of the site has commenced and the caravans are occupied. In view of that, rather than imposing conditions which require information to be submitted 'prior to first occupation', I have worded the conditions to allow a reasonable period for the submission of further details, and the subsequent implementation of the required details, ensuring that the conditions remain enforceable in the event of non-compliance.
55. In the interests of the character and appearance of the area conditions are necessary to ensure that the development is carried out in accordance with the plans submitted with the application and to ensure that existing planting is retained and new landscaping is carried out in accordance with the submitted plans. For the same reason and in the interests of providing satisfactory residential environment conditions are needed to ensure that the play area is laid out and maintained as shown on the submitted plan.
56. It is also necessary to attach a condition to ensure that the site is occupied by gypsies or travellers, as defined in Annex 1 of the PPTS because my conclusions on need for that type of accommodation and compliance with the development plan are based upon use by people falling within that definition. It is also necessary to limit the number of pitches to 4 because the suitability of the layout is based upon the plan depicting how that number of units can be accommodated without causing harm to the character and appearance of the area. Similarly, it is necessary to attach a condition to ensure that the utility buildings are used for purposes ancillary to the residential use of the caravans to ensure that those buildings serve the four families in the interests of providing satisfactory living conditions and to regulate the residential use of the site.
57. I am satisfied that the suggested conditions to prevent commercial activity on the site and to limit the size and number of vehicles that can be parked or stored at the site are necessary in the interests of the character and appearance of the area and to ensure that the development does not have a harmful effect on the living conditions of neighbouring residents, or residents of the site itself. The condition seeking to prevent any materials being burnt on the site seems unnecessary and onerous to me. Many homeowners will often have fires to burn garden waste and cuttings and that may well be necessary on this site from time to time given the extent of vegetation.

58. A condition to prevent the installation of external lighting unless details of such lighting have first been submitted to and agreed by the local planning authority is required to prevent unnecessary light spillage in the interests of the character and appearance of the area. Also for that reason I agree that a condition is required to remove permitted development rights for the erection of walls, fences and other means of enclosure. The suggested conditions relating to the provision of bird and bat boxes, the protection of nesting birds, badgers and trees are all necessary to conserve and enhance biodiversity, in line with the aims of paragraph 118 of the Framework. In the interests of highway safety conditions are necessary to ensure satisfactory visibility splays are maintained and to provide a surface water receptor adjacent to the site entrance to avoid run-off onto the highway.
59. Finally, details of how foul and surface water will be disposed of should be submitted to and agreed by the local planning authority to avoid the risk of pollution and neighbouring amenity and a condition to secure a waste management plan detailing measures for the collection of waste and recycling is necessary in the interests of the appearance of the site and the living conditions of its residents.

Conclusion in Relation to Appeal E

60. For the reasons given above I am satisfied that there is an identified need for the proposed development taking account of the evidence base presented by the Council and also the specific needs of the families concerned. The proposed site layout plan has been carefully considered and would mitigate the effects on the surrounding landscape to a satisfactory degree and provide a suitable residential environment for the occupants of the site, without harming the living conditions of neighbouring residents. The proposal would meet the criteria set out in policy CP5 and it represents a suitable scheme of a modest scale in a suitable location.
61. Any other matters can be adequately mitigated by the imposition of appropriate conditions and, subject to those conditions, I conclude that the appeal should be allowed and planning permission granted.

CONSIDERATION OF APPEAL A ON GROUND (a)

The effect of the development on the landscape character and appearance of the countryside

62. As noted above, the agent for the appellant accepted at the Hearing that the current layout has caused harm to the character and appearance of the area. Mr Crandon, the appellant's landscape architect, assessed the impact upon landscape character to be 'moderate adverse' without mitigation. I concur with that assessment of the current impact. In particular, the layout of the site is markedly different to that submitted with the application in relation to the position of the units and associated buildings. The unit on the most northerly pitch is situated closer to the site boundary and the timber sheds that have been erected in association with that unit are directly adjacent to the hedgerow⁹.
63. Those timber buildings are specifically referred to in the notice and form part of the scheme for consideration under ground (a). The position of the buildings

⁹ As depicted in photograph 14 at Appendix C to the Council's statement

and the caravan is such that they are clearly visible from the footpath which runs to the north of the site and, from those angles, the accumulation of buildings and the caravan presents a somewhat cluttered appearance within one of the more noticeable parts of the site. That impact also detracts from the ability to appreciate the hedgerow itself which is a key feature of the local landscape.

64. I am not satisfied that impact could be adequately mitigated by additional planting due to the proximity of the buildings to the boundary of the site. Moreover, the arrangement within the site is unregulated at present which provides an ad-hoc appearance in contrast to the layout shown on the plan where the caravans and associated fencing and landscaping would be carefully situated.
65. As I have already explained, the required changes to make the existing layout conform to the site layout plan submitted with the application would go beyond what could be considered to fall within the scope of the ground (a) appeal. Effectively, the layout considered in relation to Appeal E is a different scheme. Given my conclusions in that regard, no workable alternative plan is before me to demonstrate how the adverse impact could be adequately mitigated. In the absence of such a plan it would be difficult for the Council to monitor and enforce any changes in layout that may occur in future if caravans were moved to different locations on the site.
66. Consequently, having regard to the harm caused to the character and appearance of the area and the surrounding landscape I find that the current layout is contrary to the aims of policy DM15 and DM23 of the LPP2, particularly with regard to the visual intrusion and proximity to the hedgerow which is a key characteristic of the landscape. The failure to maintain visual amenity is also contrary to one of the criteria set out within policy CP5 of the LPP1.

Whether the development is contrary to the relevant policies of the development plan

67. Whilst I am satisfied that there is an established need for the development and that the principle of developing a gypsy and traveller site within the countryside is acceptable, it is clear that the currently unregulated layout has caused harm to the character and appearance of the area, contrary to relevant policies of the development plan. In addition, whilst not a point raised by the Council, the current layout fails to provide the play space shown on the proposed layout, contrary to one of the requirements of policy CP5.

Whether any conflict with the development plan is outweighed by other material considerations to the extent that planning permission should be granted

68. As above, the personal circumstances and best interests of the children are matters that weigh in favour of the development. Nonetheless, having regard to my conclusions in relation to Appeal E those needs could be met equally well if the site was laid out such that it did not cause harm to the character and appearance of the area, as put forward in the proposed site layout plan. I have resolved to approve that scheme and the appellant and the other families on site would have the option to implement that development. They have

indicated a willingness to do so. In those circumstances, I see no justification in approving the current layout.

69. I am also mindful of the fact that the site was occupied immediately following the refusal to grant planning permission. Having regard to the Written Ministerial Statement of December 2015 intentional unauthorised development weighs against a grant of planning permission because the development took place without an opportunity to limit or mitigate the harm caused.

Conclusion in Relation to Appeal A on ground (a)

70. For the reasons set out above, I conclude that the balance of material considerations weighs strongly against the grant of planning permission for the development. I am not satisfied that the harm caused to the character and appearance of the area can be adequately mitigated by conditions and, having regard to my decision in relation to Appeal E, I can see no justification for approving a harmful layout when the needs of the families could be met through the development of the site in accordance with a scheme that would not cause harm. Thus, the harm caused would significantly and demonstrably outweigh the benefits of granting permission and I conclude that the appeal should not succeed.

APPEALS A, B, C AND D ON GROUND G

71. The time periods for compliance with the requirements of the notice were phased such that the use should cease and the caravans be removed within 6 months, all buildings and fences, hard surfaces etc were to be removed within 7 months and the land restored to its former condition within 8 months. At the Hearing, and as agreed subsequently within the SoCG, the Council indicated a willingness to extend those periods to 12 months, 18 months and 24 months.
72. The reason for that change of position was due to the personal circumstances of the families and their need to find alternative accommodation. That circumstance will not arise as a result of my decision in relation to Appeal E. Under the terms of section 180(1) of the Town and Country Planning Act 1990, if planning permission is granted for any development carried out before the grant of that permission, a notice shall cease to have effect so far as inconsistent with that permission. In other words, the notice would not take effect in relation to the use of the site but would continue to take effect in regard to those elements of the development that are inconsistent with the approved scheme. Thus, the buildings, fences, hardstandings, decking areas and drainage arrangements that are not consistent with the planning permission granted would need to be removed.
73. In effect, the question for consideration under ground (g) is what amounts to a reasonable period for that to occur. The agreed position between the parties allowed for a 12 month period between the cessation of the use and the reinstatement of the land to its former condition.
74. Prior to implementing the approved scheme the appellants would need to submit details to the Council with regard to a number of conditions and have those details approved. It seems likely that they would wish to have those details agreed before removing the unauthorised elements of the scheme so that work on complying with the enforcement notice and implementing the planning permission could be carried out simultaneously such that they

wouldn't be faced with a long delay without day rooms, hard surfaces or drainage arrangements. Consequently, I find that 12 months would be a reasonable period of time to require the unauthorised elements of the scheme to be removed because that period would also enable the relevant conditions to be discharged in relation to the approved scheme.

75. Therefore, the appeals on ground (g) succeed to that extent and I shall vary the terms of the notice to extend the period for compliance with steps (ii) to (vii) to 12 months.

Overall Conclusion in Relation to Appeal A

76. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the deemed application.

Overall Conclusion in Relation to Appeals B, C and D

77. For the reasons given above I conclude that a reasonable period for compliance with steps (ii) to (vii) would be 12 months. I will vary the enforcement notice accordingly, prior to upholding it. Appeals B, C and D under ground (g) succeed to that extent.

Chris Preston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr Angus Murdoch BA(Hons) MSC MA PhD MRTPI	Planning Consultant
Mr Rhodri Crandon	Landscape Architect
Mr Tony Keet Jnr	Son of Mr T Keet Snr (appellant)

FOR THE LOCAL PLANNING AUTHORITY:

Mr Stephen Cornwell	Planning Officer
Mr Steve Opacic	Strategic Planning Projects Officer
Mr Stuart Dunbar-Dempsey	Landscape Officer

INTERESTED PERSONS:

Ms Hazel Richardson	Local resident
Mr Toby Ross	Local resident
Mr Sam Charles	Local resident and Chair of Durley Parish Council
Mr David McLean	District Councillor

Documents Submitted at the Hearing

- 1) Winchester District: Gypsy, Traveller and Travelling Showpeople Development Plan Document 'Traveller DPD', Publication (pre-submission) version, January 2018

Appendix: Conditions in Relation to Appeal E

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The site shall not be occupied by any person other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites dated August 2015 (or its equivalent in replacement national policy).
- 3) The development hereby permitted shall be carried out in accordance with the detail shown on the approved drawings: TDA drawing entitled Site Location Plan drawing number TDA.2219.03 dated September 2016; TDA drawing entitled Site Layout & Detailed Landscaping Proposals drawing number TDA.2219.05 revision A dated September 2016; TDA drawing entitled Proposed Semi Detached Day Rooms (Plans Elevations) drawing number TDA.2219.06 dated September 2016; and TDA drawing entitled Tree Survey Plan drawing number TDA.2219.01 dated September 2016.
- 4) No more than 4 pitches shall be formed on the site. A maximum of 8 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended), of which no more than 4 shall be a static caravans / mobile homes, shall be stationed on the site at any time, the dimensions of which shall not exceed those shown for the mobile homes on the TDA drawing entitled Site Layout & Detailed Landscaping Proposals drawing number TDA.2219.05 revision A dated September 2016.
- 5) The internal layout of the site including the subdivision into the four pitches, the siting of the mobile homes and the touring caravans, the day rooms, hard surfaces, boundary treatment, parking and the provision of the play area shall conform with the details as shown on the TDA drawing entitled Site Layout & Detailed Landscaping Proposals drawing number TDA.2219.05 revision A dated September 2016.
- 6) Any day room or amenity building shall only be used for ancillary purposes to the main caravan/mobile home on the respective pitch or caravan they are associated with and intended to serve. They shall not be used to provide permanent, temporary or occasional residential overnight accommodation by any person who is a resident occupier or visitor to the pitch or site.
- 7) Excluding the single tree identified to be removed on TDA drawing entitled Tree Survey Plan drawing number TDA.2219.01 dated September 2016 all the remaining perimeter vegetation ranked A, B & C on the above plan and annotated as "existing trees retained" on TDA drawing entitled Site Layout & Detailed Landscaping Proposals drawing number TDA.2219.05 revision A dated September 2016 shall be retained hereafter.
- 8) Within the first available planting season following the residential use of any of the mobile homes hereby permitted the site shall be landscaped in accordance with the details shown on the Site Layout & Detailed Landscaping Proposals drawing number TDA.2219.05 revision A dated September 2016, unless an alternative timetable for implementation is agreed in writing by the Local Planning Authority. Prior to the implementation of that planting, a schedule setting out the seed mix and

proposed seed coverage for the wildflower margins, the area of ruderal vegetation and the proposed ornamental grass areas shall be submitted to and approved in writing by the local planning authority.

- 9) If, within a period of 5 years after planting or seeding, any seeded area or tree or plant is removed, dies or becomes, in the opinion of the local planning authority seriously damaged, defective or diseased, new seed of the same variety or another tree/plant of the same species and size as that originally approved shall be sown or planted (as appropriate) at the same place, within the next sowing or planting season, unless the local planning authority gives it written consent to any variation.
- 10) Prior to the commencement of any work involved in the construction of any of the buildings or hard surfaces hereby approved, details of a scheme for the installation of bird and bat boxes on trees within the site shall be submitted to and approved in writing by the Local Planning Authority. The details submitted for approval shall include details of the materials, size and design of the bird & bat boxes, the identification of the trees where the boxes will be located, the height above ground, the orientation of the box, how the box will be attached to the tree and a timetable for the installation of the boxes. Thereafter, the boxes shall be installed in accordance with the details so approved.
- 11) Prior to the commencement of any work involved in the construction of any of the buildings or hard surfaces hereby approved, details for the installation of a surface water interceptor to be located at the entrance to the site shall be submitted to and approved by the local planning authority. The submitted details shall include details of how the intercepted water will be disposed of, measures relating to the treatment of the access into the site to ensure that the operation of the interceptor is not inhibited by loose material, and a timetable for implementation. Thereafter, the interceptor shall be installed in accordance with the approved details.
- 12) No commercial activities, including the storage of materials, shall take place on the land.
- 13) No more than 4 commercial vehicles shall be parked, stationed or stored on the land for use by the occupiers of the caravans hereby permitted, and they shall not exceed 3.5 tonnes in weight.
- 14) Within the first available planting season following the commencement of the residential use hereby permitted the play area as shown on the on the TDA drawing entitled Site Layout & Detailed Landscape Proposals drawing number TDA.2219.05 revision A dated September 2016 shall be created and seeded with grass. Thereafter, that area shall be retained in accordance with the details shown on the approved plan.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) no other means of enclosure shall be erected within the site other than those sections of post & rail fencing shown on the TDA drawing entitled Site Layout & Detailed Landscape Proposals drawing number TDA.2219.05 revision A dated September 2016. The lower rail shall be fixed to offer a minimum unrestricted clearance to the ground of 300mm.

- 16) No external lights, fixed or freestanding, shall be installed on the site unless details of their number, position and power have first been submitted to and approved by the local planning authority. The submitted details shall include the provision to minimise light spillage and all lighting must be directional, downward facing and away from natural features.
- 17) Prior to the commencement of any work involved in the construction of any of the buildings or hard surfaces hereby approved an environmental management plan shall be submitted to and approved in writing by the local planning authority. The submitted details shall include an updated walk over report on the presence of badgers on the site prepared by a competent person. In the event that badgers are found to use or occupy the site then a methodology for undertaking any work shall be submitted to and agreed in writing by the local planning authority including details of the formation of roadways or hard surfaced areas, concrete bases, laying of pipes or installation of septic tanks) within 30 metres of the badger sett and specifying the time of year the work will be undertaken (avoiding December through to June inclusive). Thereafter, the works shall be undertaken in accordance with the details so approved
- 18) No vegetation clearance work shall be undertaken during the bird nesting season (April -September inclusive) unless the proposed work has been assessed by a competent person and a report submitted to and approved in writing by the local planning authority. In that event only the approved work shall be undertaken.
- 19) Within 12 months following the first use of any of the caravans hereby permitted (unless consent for a different period is first granted in writing by the local planning authority) waste and recycling bins and storage areas shall be provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
- 20) Within 12 months of the first use of any of the caravans hereby permitted (unless consent for a different period is first granted in writing by the local planning authority) a scheme for the disposal of foul and surface water generated from the development shall have been implemented in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
- 21) The access track as shown on the approved plan shall be constructed of permeable material. Before its construction through any root protection area as shown on TDA drawing entitled Tree Constraints Plan drawing number TDA.2219.02 dated September 2016, details of the proposed method of construction to ensure no harm occurs to the tree roots shall be submitted to and approved in writing by the local planning authority. Any construction shall then be undertaken in accordance with the approved details.
- 22) Before the development hereby approved is first brought into use, visibility splays of 2.0 metres by 43 metres shall be provided at the junction of the access and public highway. The splays shall be kept free of obstacles at all times.