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Appeals under Section 78 & Section 174

Planning Inspectorate Reference:

APP/L1765/C/17/3184051

APP/L1765/C/17/3184052

APP/L1765/C/17/3184053

APP/L1765/C/17/3184054

APP/L1765/C/17/3184059 (Lead
Appeal)

Local Planning Authority:

Planning Application Reference No: 16/03090/FUL

Enforcement Notice Reference: 17/00166/CARAVN

Address:

Land Adjacent to Berkeley Farm
Durley Street
Durley
Winchester
Hampshire
SO23 2AB

Document Title:

**Local Planning Authority Response to Appellants Hearing
Statement and Landscape Statement.**

Date: 14 May 2018

Introduction.

1. The local planning authority received the above statements on 24 April 2018. The Council is still seeking to resolve the procedural matters as set out in its statement, and agree the statement of common ground and suggested conditions with the appellant.

Having reviewed both documents the following comments are put forward:

Response to Hearing Statement.

2. Although it will be agreed through the statement of common ground, for convenience the Council will acknowledge at this time that it accepts that the occupants fall within the definition of gypsy/travellers.
3. When setting out the Development Plan, it is considered that the appellant has failed to give due regard to the emerging DPD and its status particularly at the time when the appeal hearing will take place. The use of the July 2017 version in the appellants hearing statement (appendix 11) instead of the more recent Pre Submission version dated January 2018 is considered to reflect this.
4. In the Council's statement of case, a commitment was given to provide an update of any progress on the emerging Gypsy/Traveller DPD. I can confirm that on 9 May 2018 the DPD was submitted for examination. A programme officer has been appointed for the Examination Hearings.

All documents can be viewed at

<http://www.winchester.gov.uk/planning-policy/traveller-dpd/gypsy-and-traveller-dpd-examination>

5. In response to the claim that the Council does not have a 5 year supply of sites (para 74 of Hearing Statement) the Council

contends that it does. This is shown in the position statement that is set out at the end of this response.

6. The use by the appellant of previous appeal decisions in an attempt to show a lack of a policy context and in doing so support the appeals, also fails to acknowledge that the policy position is moving on with the emergence of the DPD. Consequently, those previous decision do not reflect the current policy position. In any event, each application and appeal has to be determined on its own planning merits.
7. The appellant's failure to distinguish between the two appeals which will be determined on two different layouts with potentially different impacts on the surrounding area means that the generalised statement that the requirements of policy CP5 are not relevant is incorrect.
8. It was appropriate to refer to policy MTRA4 in the reason for refusal regarding the planning application and in the reasons for issuing the enforcement notice. Without the clearly established need there was no identified justification to allow the release of a site in the countryside. This approach is supported by the PPTS paragraph 25 which refers to limiting new sites in the open countryside.
9. The councils understanding of the need for gypsy/traveller sites has improved through time as a result of the emergence of the DPD and the background work that has gone into the formulation of that policy.

Response to Landscape Statement.

- 10 In response to the appellants comments on the second reason for refusal of the planning application, the following has been prepared by the landscape officer in response to the landscape statement prepared by TDA dated April 2018 and which has been submitted:

In addressing the Council's landscape objections, TDA ask the question: can the site 'accommodate the change of use without unacceptably impacting upon the visual amenity and landscape character of the surrounding area?'

This seems to suggest that if there was some carefully considered planting of native trees and shrubs on the boundaries of the site, such that in due course the site was hidden from view, then the development would cease to have any impact on either visual sensitivities or landscape sensitivities. The inference being that, at present, the change of use is unacceptably impacting upon the visual amenity and landscape character of the surrounding area.

This suggests to the Council that an assumption is being made that providing it was hidden from view, then any form of development in this location would be acceptable.

Indeed, Section 5 deals with 'landscape mitigation measures' designed to minimise landscape character and visual amenity impacts of the scheme and Section 6 is a review of the visual and landscape impacts 'following establishment of landscape enhancement and mitigation measures'.

There is little doubt that the site is well screened from the surrounding wider landscape and could be further screened from view from those more local 'short range' view points. However the development's visual impact is not really the issue. What is at issue is whether uncontrolled, piecemeal, suburban sprawl into open countryside will result in a deterioration of the Winchester landscape - its 'key attributes' being its tranquillity, its rurality, it's 'unspoilt' character and its natural beauty.

This is not a degraded landscape but a landscape with 'a remote, historic feel' (LCA p163). This is supported by the evidence of 'relatively early field enclosures' and scattered areas of ancient woodland. Moreover, the Winchester LCA draws specific attention to the 'Key Issue' of 'suburbanisation and urban fringe encroachment' in this area.'

It is suggested that the development as currently occupying the site is precisely the sort of suburbanisation or urban fringe encroachment which the Council is aiming to limit in this rural area. The significance of

this piecemeal erosion of the countryside around Durley has not been fully taken into consideration in the appellant's landscape character and visual impact assessment which has essentially focussed on hiding the development behind an array of 'landscape enhancement and mitigation measures'.

No mention is made of the impacts on tranquillity caused by additional lighting and noise occurring as a result of the development (ref Policy DM23) and these impacts will be experienced particularly by users of the adjacent footpath – detracting from the enjoyment of the countryside from the public realm.

This is a 'greenfield' site and development upon it does not constitute sustainable development in terms of local and national planning policy. The Council therefore does not agree that the development 'respects the qualities, features and characteristics that contribute to the local area' and does not agree with the appellants' suggestion (7.11) that this site is the same as 'all new gypsy and traveller sites in the countryside'. The other gypsy & traveller sites in the District have been through a wider assessment process – this one has not. It is suggested therefore that to avoid these environmental constraints, another site should be selected which can more readily accommodate the proposed development.

11 The Council has been seeking to clarify if the Landscape consultant will be attending the hearing. If Mr Crandon is going to attend on behalf of the appellants then the Councils Landscape officer will also be present. However, the Council would like to agree with the appellants that the landscape submissions by the two relevant landscape professionals are taken as read. This will be explored through the statement of common ground.

12 It is noted that the appellants landscape consultant whilst visiting the site in March 2018 when it was occupied, is silent on the changes to the layout from that formed to support the original planning application and which it is stated was arrived at following careful consideration.

13. The appellant has listed ten topics as other material

considerations in paragraph 60 of the hearing statement. It is considered that the following items:

1 (need for more sites)

6 (Progress on DPD)

7 (Deficiencies with policy)

8 (lack of 5 year supply)

would more suitably sit within the assessment of the planning policy context as they form part of the background within which policy would be formulated.

14. The local planning authority does not dispute that the personal circumstances of the occupants of the site have some bearing on the outcome of the appeals. However, the appellants hearing statement has put forward a uniform case that rests on the circumstances of a limited number of the children. From reading the background papers it is evident that not all the children from all the pitches share similar circumstances. Not all the children resident on the site are travelling off site to attend school and not everyone is under medical supervision. Consequently, the weight given to personal circumstances as they apply to the occupants of each of the four pitches must vary. This has not been recognised or acknowledged by the appellant.

Conclusion.

Whilst the appellants two hearing statements add to the background information relating to the site and its occupants, they do not add anything to the situation that would result in the local planning authority having reached a different decision regarding the outcome of the planning application or the decision to issue the enforcement notice.

The appellant needs to resolve the outstanding procedural matters to ensure that the hearing is not delayed or time is absorbed on matters that could have been resolved prior to the hearing.

End

Gypsy & Traveller 5-Year Land Supply Position

The Assessment Period

- 1.1. Traveller site provision is monitored annually over a period from 1 September to 31 August to reflect the base date of the GTAA. As the appeal hearing is in the second monitoring year (Sept 2017 – Aug 2018), the 5-year assessment period should be rolled forward to start in this year, running from September 2017 to August 2022.
- 1.2. The level of need is set in Local Plan Part 2 policy DM4, and the GTAA breaks this down into 5 year periods. The suggested assessment period of September 2017 – August 2022 covers the first 5-year period (2016-2021) and part of the second period (2021-2026).

The 5-Year Requirement

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

Table 8: Updated 5 Year Pitch/Plot Requirement

| Calculation | Gypsies & Travellers | Travelling Showpeople |
|--|----------------------|-----------------------|
| a. 2016-2021 requirement (from GTAA) | 9 | 18 |
| b. Completions 2016-2017 | 8 | 3 |
| c. Remaining requirement to 2021 (a – b) | 1 | 15 |
| d. 2021-2026 requirement (from GTAA) | 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% buffer (f + g) | 2 (rounded) | 16 (rounded) |

Pitch / Plot Supply

- 1.4. The sources of supply are based on the categories used by the 2016 GTAA, as follows:
 - Vacant sites
 - New sites / commitments
 - Pitches vacated

have 54 not 16 for f

- Windfall

1.5. Each of these potential sources is updated below.

Vacant Sites

1.6. As of the base date of September 2017, there was 1 vacant pitch at Travellers Rest, Bishops Sutton. The Draft Traveller DPD safeguards this site (policy TR1).

New sites/commitments

1.7. All the new sites permitted from Sept 2016 – Aug 2017 have been taken into account in calculating the pitch/plot requirements (see Table 8 above).

Pitches Vacated

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

Windfall

1.9. While the GTAA does not include 'windfall' as a source of pitches/plots, it does show that a substantial number of sites are either unauthorised or have temporary consent. Several sites have been identified as having temporary consents, all of which will 'expire' during the 5-year period, with all the TSP sites being unauthorised (but 'tolerated'), as follows:

| GT Temporary Consents | Pitches |
|-------------------------------|-----------|
| The Piggeries | 4 |
| Ourlands | 3 |
| Land adj Gravel Hill Swanmore | 3 |
| TOTAL | 10 |

Silent on C+T unauth sites

| TSP Unauthorised Sites | Plots |
|------------------------|----------|
| Plot 3 The Nurseries | 1 |
| Plot 6 The Nurseries | 1 |
| Plot 7 The Nurseries | 1 |
| TOTAL | 3 |

1.10. The assumption is made that 50% of sites with temporary consent will receive permanent consent within the 5-year period. In fact this is a very cautious estimate as all the temporary consent are proposed to be made permanent in the emerging Traveller DPD. Nevertheless, using this 50% 'windfall' rate would produce a 5-year supply of 5 GT pitches (10 pitches x 50% = 5) and 2 TSP plots (3 plots x 50% = 2, rounded up).

Total Pitch / Plot Supply

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

| Supply Summary at 31.3.2017 | 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

- 1.12. 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% buffer) | 2 | 16 |
| Supply (Table 10) | 6 | 2 |
| Annual Requirement | 0.4 | 3.2 |
| Years Supply | 15 | 0.6 |

- 1.13. The 5 year supply for gypsies and travellers remains well in excess of the requirement. Given that the emerging Traveller DPD proposes to authorise all the temporary and unauthorised sites listed as 'windfall' in Table 9 above, it is likely that all the 'windfall' sites will be permitted. This would further increase the number of years supply for gypsy and traveller sites.

Para 11 PPTS

