

**WRITTEN STATEMENT
OF
WINCHESTER CITY COUNCIL
APPEAL BY MR J LEE,
MR B KNIGHT, MR S BALL &
MR T BUCKLEY**

**PLOTS 3, 4, 7 & 8, PONY PADDOCK, 6 HIPLEY, HAMBLEDON,
WATERLOOVILLE, HAMPSHIRE
PINS REFS: APP/L1765/C/18/3201565, 3201566, 3201567 & 3201570
WCC REF: 17/0049/WKS**

PLANNING OFFICER'S STATEMENT

January 2019

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1.0 INTRODUCTION

- 1.1 At the time of writing there is no statement of common ground.
- 1.2 The Council's Gypsy/ Traveller Liaison Officer visited the occupants of the appeal sites (Plots 3, 4, 7 and 8) on 18th July 2018. The Council is satisfied of their Gypsy/ Traveller status and all parties have already had sight of the Officer's comments.
- 1.3 Since the issue of the Enforcement Notices dated 13th April 2018 plots 1, 2, 5 and 6 have become occupied and are now subject to a separate enforcement investigation.
- 1.4 It is not necessary to reiterate the contents of each notice given that all parties have received copies and there is no ground (e) appeal. There is also no dispute between parties that a breach of planning control has occurred (grounds b and c) and that the requirements of said notices are not excessive. The presumption therefore is that on the face of it the notices are not considered by the appellants to be a nullity.
- 1.5 The appellants have appealed on grounds (a) and (g) in that planning permission should be granted for what is alleged in the notice and that the time given in the notice is too short to comply.

2.0 SITE DESCRIPTION

- 2.1 The appeal site (plots 3, 4, 7 and 8) is located in the open countryside which is valued for its distinctive landscape character within the Forest of Bere Lowlands and mixed farmland and woodland.
- 2.2 The site is therefore rural in character with short views stopped by field hedgerows, tree lines and rural buildings. To the north, immediately opposite in the adjacent field are a number of containers/ adapted structures which are subject to a separate enforcement investigation and are not typical of the rural setting.
- 2.3 The plots are accessed via a single track road off Hipley Road and Forest Road. Each plot is now demarcated by fences and gates of various heights and has been individually customised to the appellants' requirements whether it is for an additional caravan to accommodate teenagers, a day room, washing facilities, kennels, stables or play equipment and so on. Photographs are attached at **APPENDIX A**.
- 2.4 At the time of serving the notices plots 3, 4, 7 and 8 were in the process of being hard surfaced and caravans and buildings were being brought onto the land. All four are now occupied by families with children of school age.

3.0 GROUND (A) THAT PLANNING PERMISSION SHOULD BE GRANTED FOR WHAT IS ALLEGED IN THE NOTICE

3.1 PLANNING HISTORY

- Article 4 direction dated 24th March 1980 – The carrying out on agricultural land having an area of more than one acre and comprised in an agricultural unit of building or engineering operations requisite for the use of that land for the purpose of agriculture (other than placing on land structures not designed for those purposes or the provision and alteration of dwellings) being development comprised within Class VI to in Schedule I of the said Order and not being development comprised in any other class
- Enforcement notice dated 22nd March 1982 - The erection of buildings and structures on agricultural land without planning permission, the said land being the subject of a direction made by Winchester City Council under Article 4 of the Town and Country Planning General Development Order 1977, dated 24th March 1980 .
- Planning application ref 04/01400/FUL Retention of hard standing, scaffold racking, lorry storage and materials. Refused – Relates to plot 1.
- Planning application ref 13/00696/FUL Proposed use of land to provide 8 plots for gypsy/traveller families a total of 8 mobile homes, 8 touring caravans and 8 day rooms on land at Forest Road Denmead. Withdrawn
- Planning application ref 13/01745/FUL Proposed use of land to provide 8 plots for gypsy/traveller families a total of 8 mobile homes, 8 touring caravans and 8 day rooms on land at Forest Road Denmead (RESUBMISSION). Withdrawn
- Planning application ref 14/00180/FUL The use of the land to provide 8 plots for gypsy/traveller families for a total of 8 mobile homes, 8 touring caravans and day rooms. Dismissed on appeal 30th July 2018
- Planning application ref 17/01191/FUL - Provide 4 no. gypsy/traveller pitches - plot of Land to the Rear Of Chairmakers Arms, Forest Road, Denmead. Withdrawn
- 17/01862/FUL 2 residential mobile homes and 2 touring caravans. Withdrawn – Relates to plots 3 and 4
- Injunction – Order made on 31th May 2017 by Mrs Justice O’Farrell for the whole of the land now comprising the individual plots registered at HM Land Registry (1-8) and the Defendants included J Connors, P Doran, A Lee, T Buckley, E Wall, N Connors and B Knight and related to the siting of further caravans, mobile homes and using further ones for residential development including occupation other than those then on the site and undertaking any operational development without express planning consent.

3.2 CONSULTATIONS

- **Strategic Planning Officer – Objection**

Strategic Planning had recently responded to a (now withdrawn) application on this site and this response remains relevant. The emerging Traveller DPD has progressed further since the consultation response was drafted and at the time of writing comments it is currently being examined by an Inspector. Depending on the date of the appeal hearing, the DPD may have continued to progress towards adoption.

The LPP1 development strategy focuses substantial growth in three strategic allocations whilst setting targets for more limited growth in the market towns and larger villages. A criteria-based policy CP5 for gypsy and traveller and travelling showperson sites is included, with criteria for the allocation of sites or dealing with planning applications. Proposals should also be acceptable in terms of transport, design, the landscape and infrastructure provision (Policies CP10, CP13, CP20 and CP21).

Policy MTRA4 – Development in the Countryside - indicates that the Council will only support particular types of development - those which generally preserve the openness and character of the countryside, or to allow appropriate expansion of existing appropriate uses. Residential uses are not supported by the policy.

Policy CP5 indicates that sites will be allocated and planning permission granted for sites to meet the objectively assessed accommodation needs of gypsies and travellers, provided the criteria set out in the policy are met – that sites should be well related to existing communities to encourage social inclusion and sustainable patterns of living, should not be over-concentrated in one location or be disproportionate in size to local communities, they should be accessible to local services and avoid harmful impacts on nearby residential properties.

LPP2 The following policies are particularly relevant to this application;

DM1 – Location of New Development
DM4 – Gypsies, Travellers and Travelling Showpeople
DM16 – Site Design Criteria
DM17 – Site Development Principles
DM18 – Access and Parking
DM19 – Development and Pollution
DM20 – Development and Noise
DM23 – Rural Character

Policy DM1 reinforces the development strategy set out in LPP1 – in countryside areas, such as the application site, only development appropriate to a countryside location will be permitted.

Policy DM4 includes numerical targets for additional pitches/plots for both Gypsies and Travellers, and Travelling Showpeople to meet the assessed need for traveller accommodation (about 15 gypsy and traveller pitches and about 24 travelling showpeoples plots between 2016 and 2031). The supporting text to Policy DM4 indicates that Part 1 Policy CP5 (a criteria-based policy, see above) will be used in conjunction with LPP2 Policy DM4 to determine planning applications.

Other Material Considerations

Other material considerations include the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG), Planning Policy for Traveller Sites (PPTS, DCLG 2015), and the Pre-Submission Traveller Development Plan Document.

NPPF and PPTS

National planning policy for traveller sites is set out in PPTS which should be read in conjunction with the NPPF. The Government's overarching aim is to ensure fair and equal treatment for travellers in a way that facilitates the traditional and nomadic way of life of travellers, while respecting the interests of the settled community. PPTS paragraph 24 states that local planning authorities should consider the existing level of local provision and need for sites, the availability (or lack) of alternative accommodation for applicants and the personal circumstances of the applicant.

Paragraph 25 indicates that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

Paragraph 26 refers to the need for the site layout to be well planned with respect to soft landscaping to enhance the appearance of the site, avoiding hard landscaping and ensuring adequate play areas for children.

PPTS expects local planning authorities to set pitch targets for gypsies and travellers - including travelling showpeople – to address both permanent and transit site accommodation needs. A 5 year supply of deliverable sites is also required. Site allocations should therefore be made within a Local Plan, based on the needs assessment.

Traveller DPD

The Traveller DPD sets out the Council's proposed strategy to provide traveller accommodation to meet identified needs – 15 gypsy and traveller pitches between 2016 and 2031 (GTAA, ORS 2016). Whilst the DPD is at the Examination stage, it is a material consideration in relation to the current planning application. The strategy set out in the DPD is to safeguard existing permitted sites, grant permanent permission on suitable sites with temporary permission, and implement specific allocation policies to consider the potential contribution of larger more complex sites. In applying the DPD strategy, the current position is that the Council has a 5 year supply of gypsy and traveller sites and has indeed identified sites to meet its full objectively assessed needs gypsy and traveller pitches for the plan period to 2031.

Assessment

The NPPF indicates that applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. In assessing development proposals planning authorities should apply the presumption in favour of sustainable development. PPTS sets out a number of "relevant matters" which planning authorities should consider in assessing applications for traveller sites which

include; the existing level of local provision and need for sites, the availability (or lack) of alternative accommodation for applicants, the personal circumstances of the applicant, that the locally specific criteria used to guide the allocation of sites in plans should be used to assess applications that may come forward on unallocated sites, and that applications should be determined from any travellers, not just those with local connections.

Residential accommodation would not normally be acceptable in this countryside location, but PPTS, and relevant LPP1/2 policies accept that there may be justification to use rural sites for the special needs of gypsies and travellers subject to their being sustainable economically, socially and environmentally.

The Pre-Submission Traveller DPD sets out the Council's strategy for the provision of gypsy and traveller accommodation to meet identified needs. The strategy does not require the allocation of additional sites not currently used for gypsies and travellers. Consequently, the Council is able to demonstrate a 5 year supply of traveller accommodation as required by national planning policy. The DPD also sets out how the Council will meet the identified need for gypsy and traveller pitches up to 2031.

PPTS indicates that Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

Other relevant policies of the Local Plan are listed above. This consultation response does not provide comment on these matters, however landscape impact, traffic and highways, design and amenity and pollution considerations amongst others will need to be taken into account when assessing the merits of the application.

Conclusion

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the NPPF and the PPTS.

Whilst the proposed development is potentially capable of meeting the requirements of Policy CP5, development plan policy MTRA4 resists residential development on land designated countryside. National and local planning policies indicate that there may be justification to use rural sites for the special needs of travellers, however, in the context of the Council being able to demonstrate a 5 year supply of traveller sites, and a strategy set out in a draft DPD which meets the objectively assessed needs for gypsies and travellers in the District for the period 2016 – 2031, there is no requirement for the provision of additional pitches. In planning policy terms, the grant of planning permission is not justified in this case.

- **Landscape Officer – Objection**

The Issue – harm to the rural character of the area.

1.1 Winchester City Council has undertaken a District-wide Landscape Character Assessment (LCA) (**APPENDIX B**). This document has been adopted as Supplementary Planning Guidance and reflects the importance of Winchester's landscape, both locally and nationally, and the pressures that are being placed upon it.

1.2 The Assessment is intended to help protect and enhance the strong identity of the Winchester landscape, whilst accommodating necessary development and change.

1.3 The appeal site is not within a Green Belt, or an area of Outstanding Natural Beauty or a National Park, but it is within an area of countryside which is valued for its distinctive character.

1.4 The WCC Landscape Officer expresses concern at the harm which would accrue to the seclusion and tranquillity of the landscape in this area from a residential development of this magnitude.

1.5 The appeal site is well contained by surrounding trees. Structures placed upon it would not be visually intrusive.

1.6 However, the Landscape Character Assessment (LCA) describes this type of landscape (the 'Mixed Farmland and Woodland Landscape Type') as being valued for its seclusion and tranquillity (LCA p.42, 1st paragraph):

1.7 Furthermore, this particular area ('Forest Of Bere Lowlands Landscape character Area) is characterised in the LCA (p 142, 4th paragraph) as a landscape which:

'has an ancient character, retaining historic landscape features and a network of ancient winding narrow lanes'.

'Key Issues' in this area include the 'suburbanised urban fringe character of parts of the area, with assorted sheds, horse paddocks and fencing, neglect of hedgerows, small nurseries and tipping.'

'Built Form Strategies' for this Character Area (LCA p143, 1st paragraph) seek to

'Retain the rural character of the local minor roads' and "resist development which further fragments the restoration of the former Forest of Bere, or suburbanises local settlements, such as that associated with 'horsiculture'.

1.8 In my view, a development of this magnitude, with the associated noise, light and vehicle movements will, cumulatively, suburbanise this local settlement and unacceptably harm its secluded and tranquil rural character.

1.9 The access improvements by themselves will unacceptably harm the character of the (ancient winding narrow) lane which the LCA is advising should be protected.

Summary:

2.1 The appeal site is well screened but policy makes reference to this area of countryside being valued for its seclusion and tranquillity. A residential development of this size in this location would suburbanise the area and harm this characteristic.

2.2 In addition, the appeal proposal will generate additional traffic, particularly as it is in an isolated location, and the improvements required to the entrance to the site – a

tarmac apron, kerbs, gates, lights or pillars etc will result in harm to the rural character which policy CP20 is seeking to protect.

- **Drainage Officer – No objection**

The site is not at a high risk of flooding, but surface water flows and ponding areas do need to be considered in the design. This could be dealt with by way of a planning condition.

3.3 REPRESENTATIONS

None received at the time of writing

3.4 CONSIDERATIONS – Ground (a)

3.41 Policy principle and Need

3.411 The National Planning Policy Framework (NPPF) is a material consideration in determining planning proposals together with up to date local plan policies and is guidance for the Local Planning Authority. At its heart is the presumption in favour of sustainable development (paragraph 11) and the need to assess a development proposal's economic, social and environmental role (paragraph 8). As such sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life (paragraph 10).

3.412 The appeal site is located in the open countryside where there is a general presumption against development under Local Plan Part1 (LPP1) policies MRTA2 and MRTA4 unless a scheme can meet a community need or demonstrates community support, or has an operational need for a countryside location.

3.413 LPP1 policy CP5 looks at development site criteria for proposals for gypsy, travellers and travelling showpeople, and providing proposals are consistent with other local plan policies such as on design and the protection of the natural and built environment a gypsy/traveller site can be in a rural location. This, however, all depends on whether the Council cannot demonstrate a 5 year supply of sites to meet the objective assessed needs for gypsies and travellers.

3.414 The Council has the responsibility to assess and meet the needs of gypsies, travellers and show people and as such work has been undertaken to quantify their accommodation requirements. This is set out in Local Plan Part2 (LPP2) policy DM4 which identifies that there is a need for 15 gypsy/traveller pitches between 2016 and 2031 and the allocation of sites is followed through in the Winchester District: Gypsy, Traveller and Travelling Showpeople DPD (Traveller DPD, January 2018) which was examined in September 2018 and is likely to be adopted and published February 2019.

3.415 Matter 4 of the Evidence Base (**APPENDIX C**) in response to the Inspector's questions shows 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. 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.

- 3.416 The Council has assessed the status and welfare of the individuals on site and notes the appellants' claims that there are no available pitches. However, it is understood that Tynefield is a deliverable alternative which has been put forward and has been examined by an Inspector. Also, there is no duty on the Council to relocate individuals to sites outside of that allocated to meet the objective assessed needs.
- 3.417 Matter 3 of the Evidence Base (**APPENDIX D**) demonstrates there is a need for two pitches for the period of 2017 – 2022 including the 5% / 20% buffer and clearly the evidence put to the Inspector can demonstrate that the Council will be able to meet this need.
- 3.418 It is therefore considered that the appeal site is not required and would be contrary to the Council's allocation policy DM4 which is followed through in the Traveller DPD. The Council is likely to have the Inspector's report following the Examination in January 2019. However, the Council considers that the DPD is sound at the time of writing this statement.

3.42 Sustainability

- 3.421 The appeal site's location has already been assessed in terms of providing an 8 plot gypsy/traveller site. The scheme was dismissed at appeal on 30th July 2015 at a time when the NPPF was in place; albeit a previous version (APP/L1765/A/14/2224363, **APPENDIX E**). Therefore the economic, social, and environmental roles still have weight in assessing the current appeals under the 2018 NPPF and there is little difference between then and now in that respect. Moreover, the appeal was dismissed at a time when the Council could not demonstrate a 5 year supply of sites. Put simply, the proposal was wholly unacceptable due to the significant level of harm to the character of the countryside and to unsatisfactory living conditions to the extent that a temporary planning permission could not be justified.
- 3.422 It is accepted that the occupants would contribute to the local economy by the use of shops and services in Denmead (approx. 2 miles away) and the children are in local schools. However, there is an over dependency to rely on vehicles rather than other modes of transport, i.e. pedestrian and cycle, due to the nature of the rural roads and the lack of connectivity via public transport and cycle routes. This is explained in more detail in the Denmead Village Design Statement (2016) of which a copy has already been sent to parties, and reinforces that the location is still remote. As such the current situation on site would not create a socially inclusive, safe environment which is easily accessible. This is contrary to paragraphs 91, 108 and 110 of the NPPF and LPP1 policy CP5. Moreover, this is exacerbated by the layout as the individual plots introduce segregation and a lack of communal play space.
- 3.423 The appeal site is also located in the open countryside where there is a

general presumption against development unless it protects and enhances the rural character as set out in policy DM23 and the NPPF (paragraph 170). A development proposal must also be sympathetic to the local character and history (paragraph 127). In this case, the site is valued for its distinctive landscape character within the Forest of Bere Lowlands and mixed farmland and woodland and it is considered by the Landscape Officer that the introduction of the plots would suburbanise and unacceptably harm the secluded and tranquil nature of this part of the countryside by bringing not only a residential use to the area, but also highways improvements to make the site more sustainable. The detrimental impact on the countryside together with lack of social inclusivity would not outweigh the appellants' needs for accommodation.

3.424 Moreover, the appeal site is not previously developed and as such it would still not meet the environmental role in terms of sustainability.

3.5 CONCLUSION

3.51 The appeal site is located in the open countryside where there is a general presumption against development unless it meets LPP1 policy CP5 where there is an identified need for traveller sites. As such the weight to be attached to policy MRTA4 is reduced in these circumstances. The Council's Traveller DPD has been examined and it is likely to be adopted February 2019. The Council has demonstrated as part of the examination of the DPD that there is a 5 year supply of sites over the plan period. As such the principle of additional gypsy/ traveller plots is unacceptable in policy terms.

3.52 Should the Inspector consider that the appeal site would contribute to the supply of gypsy/travellers sites then the appeals should still fail on sustainability grounds and on the harm created to the character of the countryside contrary to local plan policy and the NPPF.

4.0 SUGGESTED CONDITIONS

1 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.

Reason: The site is situated in the countryside where new residential development would not normally be permitted and the proposal is an exception to countryside policy having regard to the personal circumstances of this Gypsy family.

2 There shall be no more than 1 family gypsy pitch within each plot comprising of 1 static caravan or mobile home, 1 touring caravan and a day room per pitch, as defined in the Caravan Sites and Control of Development Act 1960 (as amended) and the Caravan Sites Act 1968 (as amended).

Reason: To define the extent of this planning permission and to prevent more intensive use of the site.

3 No commercial, industrial or retail activity of any type including the parking of associated vehicles shall take place on the site.

Reason: To protect the character of the countryside and to prevent the over use of the public right of way as a footpath.

4 The development must be carried out in accordance with plan no. X received on X

Reason: To define the extent of this planning permission

5 No external lighting shall be provided on the site without prior written consent from the local planning authority.

Reason: In the interests of the amenities of the locality.

6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, or walls shall be erected without the prior written consent of the Local Planning Authority.

Reason: In the interests of the site's location within the countryside

5.0 GROUND (G) THE TIME GIVEN TO COMPLY WITH THE NOTICE IS TOO SHORT

5.1 The appellants have requested a period of 12 months be given to allow for them to look for an alternative site in the event the notices are upheld.

5.2 In response to the Inspector's questions for the examination of the Traveller DPD the Council has provided further information in relation to Tynefield Caravan Park, Whitely Lane in Matter 3 – Evidence Base (**APPENDIX C**). A site visit carried out in July 2018 confirmed that there is one household on site. This is substantially less than when the Gypsy and Traveller Accommodation Assessment (GTAA) was undertaken in 2016 and the refurbishment of the site has not yet happened. It is the intention of the owner to refurbish the existing 18 pitches and to expand the site. The site is therefore deliverable in terms of meeting the 5 year land supply and is a suitable alternative. Although, rubbish may need removing and day rooms may need refurbishment, the pitches with the consent of the owner are now available to be occupied.

5.3 Given that the children are in schools and the Hearing is due in February 2019, it would be more than reasonable to extend the overall compliance period to 6 months taking account of the summer holidays. This would enable the occupants to relocate and to carry out the remedial works within the time.