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## Appeal Decision

Inquiry held on 9, 10 & 11 June 2015

Site visit made on 11 June 2015

**by Lesley Coffey BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

**Decision date: 30 July 2015**

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**Appeal Ref: APP/L1765/A/14/2224363**

**Land adjacent to Chairmakers Arms, Forest Road, Hambledon, Waterlooville PO7 4QX**

- 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 Messrs Clark, Doran, Davis, Hitchens, Doran, Connors, Hilden & James against the decision of Winchester City Council.
  - The application Ref 14/00180/FUL, dated 6 August 2013, was refused by notice dated 17 June 2014.
  - The development proposed is the use of land to provide 8 plots for gypsy/traveller families for a total of 8 mobile homes, 8 touring caravans and 8 day rooms.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. At the Inquiry an application for costs was made by the appellants against Winchester City Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The second reason for refusal concerned the adequacy of the visibility splays at the junction of the access to the site with Forest Road. Following the refusal of the application, the appellants submitted evidence in relation to traffic speeds and the volume of traffic using this part of Forest Road. On the basis of the submitted evidence the Highway Authority agreed that, subject to the provision of the visibility splays shown on plan no: TSP/CMA/P2675/01, the proposal would not have an adverse effect on highway safety. Consequently the Council considers that the second reason for refusal has been overcome, and on the basis of the available evidence I have no reason to take a different view.
4. The application as originally submitted proposed the use of cess pits and soakaways. Shortly before the inquiry the appellants submitted a Drainage Strategy Report to the Council. This provided a more detailed assessment of the drainage issues affecting the site and proposed a sustainable drainage system based on ditches, swales, rainwater harvesting and the provision of a balancing pond. It also proposed the use of gravel in place of the concrete

hardstandings previously proposed. In terms of foul water it is proposed that each plot would be provided with a sewage treatment plant and that treated water would be discharged into a ditch where it would be filtered and discharged into the attenuation pond. On the basis of this information, the Council is satisfied that subject to the submission of a detailed scheme the reason for refusal in relation to foul and surface water drainage could be overcome.

5. The ecology report was submitted after the application was determined and was based on a walkover survey of the site and an external inspection of the structures on the site. It found no evidence of protected species. However the County Ecologist considered that there was insufficient evidence to establish whether there were any reptiles present on the site. A reptile survey was submitted by the appellants a few days prior to the inquiry. This had not been completed, in that only four visits had been undertaken at the time of the inquiry. The Council nevertheless considers on the basis of the available survey information that the proposal would be unlikely to have a significant adverse effect on ecology subject to a condition requiring on-going site management and sensitive site clearance. I have no reason to reach a different conclusion.
6. The appellants' proof of evidence includes plans showing alternative layouts for the site based on either six or four mobile homes. At the inquiry it was confirmed that these did not constitute an amendment to the proposal, but were intended to accommodate any necessary ecological requirements. In addition, the appellants request that should eight pitches be considered unacceptable for any reason consideration should be given to a lesser number of pitches, based on the alternative layouts submitted.

### **Main Issues**

7. I consider the main issues to be:
  - The effect of the proposal on the character of the surrounding countryside;
  - Whether the proposal would be well related to services, provide adequate play space for children and facilitate the integration of future occupiers into the local community ; and
  - Whether any harm would be outweighed by other material considerations including the general need for and supply of gypsy sites, the accommodation needs and personal circumstances of the appellants, to justify the grant of a permanent planning permission.

### **Reasons**

8. The appellants confirmed that they were Irish Travellers and all travelled for work. Very limited evidence as to the background of the appellants was submitted to the inquiry, but the Council accepts that each of the appellants benefits from traveller status and meets the definition of a traveller within Annex 1 Planning Policy for Traveller Sites (PPTS). I have no reason to reach a different view on the basis of the available information.
9. The appeal relies upon on the general need for pitches within the local planning authority area rather than the personal needs of the appellants.

10. The development plan for the area includes the Winchester District Local Plan Review 2006, the Winchester District Joint Core Strategy 2013 (adopted March 2013) and the Denmead Neighbourhood Plan (adopted April 2015).

### **Character**

11. The appeal site lies close to Worlds End, a small settlement with a population of about 100, characterised by a scattered pattern of development. The site is one of eleven parcels of land that were previously in agricultural use prior to being divided into paddocks. There is a shared access onto Forest Road and a narrow track provides access to the individual paddocks.
12. The Water Meadows on the opposite side of Forest Road are listed in the Hampshire Treasures Record, a list of features of public interest by reason of their aesthetic, historical or scenic beauty and are valued by local residents.
13. The site lies within the open countryside as defined by policy MTRA4 of the Winchester District Part 1 Joint Core Strategy (JCS). Policy MTRA4 forms part of the Council's hierarchical approach to the location of development. It provides that very small communities which are no more than a collection of houses or isolated dwellings are considered to be in the open countryside. In such areas development is restricted to that which has an operational need to be in the countryside, the re-use of existing rural buildings, the expansion or redevelopment of existing buildings for specified purposes and small scale sites for tourist accommodation. Although the proposal would be contrary to it Policy MTRA4 is to some extent inconsistent with JCS policy CP5 and Planning Policy for Traveller Sites (PPTS) in that neither of these precludes the provision of gypsy and traveller within the countryside, although PPTS paragraph 23 states that new traveller sites within the open countryside should be strictly limited. Accordingly the weight to be attributed to Policy MTRA4 is reduced in the context of this appeal in so far as it seeks to limit development within the open countryside.
14. Policy CP20 of the JCS aims to protect the distinctive landscape character of the area including its tranquillity, sense of place and setting. Policy CP5 requires proposals for gypsy and traveller sites to respect local character. The *District Wide Landscape Character Assessment* was adopted by the Council as supplementary planning guidance. This identifies the site as coming within a mixed farmland and woodland landscape type which is valued for its tranquillity.
15. The weight to be afforded to emerging policy DM23 is limited in that the Local Plan Part 2 has not yet been subject to examination. Nevertheless, the general aim of policy DM23, namely to safeguard the rural character of the area including its tranquillity, is consistent with paragraph 123 of the National Planning Policy Framework (NPPF) and I accord it moderate weight. The aims of policy DM23 are also consistent with the views expressed in a recent letter from the Minister for State and Housing<sup>1</sup>. This confirms that plans and decisions should take into account the different roles and character of different areas and recognise the intrinsic character and beauty of the countryside to ensure that development is suitable for the local context.

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<sup>1</sup> 27 March 2015

16. The appellants submit that since the site is well screened by trees and that the proposed caravans and mobile homes would not be unduly intrusive in public views it does not come within the open countryside. Whilst I accept that the site lies within an enclosed landscape and the visual harm would be limited, it nevertheless does fall within the open countryside as defined by policy MTRA4.
17. The Chairmakers Arms situated about 70 metres to the north of the site is a sizeable public house. It attracts customers from the wider area and the activity associated with it could to some extent diminish the tranquillity of the area. Notwithstanding this, the surrounding area retains a peaceful and rural character. I acknowledge that due to the separation between the appeal site and the surrounding properties the proposal would not give rise to any significant harm to the living conditions of surrounding residents, however, it would fundamentally alter the character of the surrounding paddocks and land. I consider that the appeal proposal would significantly detract from the tranquillity of the locality by reason of noise, general activity, including numerous vehicle movements and lighting associated with a site of the size proposed. I therefore conclude that the proposal would harm the rural character of the area and would fail to comply with policies CP5 and CP20 of the JCS as well as policy DM23 of the emerging Local Plan Part 2.

### **Services, play space and social integration**

18. JCS Policy CP5 states that planning permission will be granted for gypsy and traveller sites subject to compliance with the specified criteria. These include that sites should be well related to existing communities to encourage social inclusion and sustainable patterns of living. In addition, sites should not be disproportionate in size to nearby communities; be accessible to local services such as schools, health and community services; be capable of accommodating the proposed use to an acceptable standard and provide facilities appropriate to the type and size of site, including the provision of play space for children.
19. The Denmead Neighbourhood Plan does not include any specific policies in relation to gypsy and traveller sites. It addresses the provision of sites as a non-statutory proposal. It is supportive of additional sites within the Parish but considers that they should be located close to the existing settled traveller community.
20. The appeal site is situated within the hamlet of Worlds End. It is remote from the surrounding dwellings. There is no public open space or community hall within Worlds End and the only facility is the Chairmakers Arms Public House which is separated from the site by the intervening fields and paddocks.
21. The nearest infants school is at Newtown, about 2.25km from the site and would provide facilities for children up to the age of about 7. The closest junior school, shops and other facilities are within Denmead about 4.14km away. The nearest recreation ground is about 3.5km away.
22. The appellants suggest that the children would be able to walk to the infants school at Newtown school using the footpath across the fields. However, the public footpath is situated at a junction and close to a bend in the road. There are no footways in the vicinity of the appeal site. The grass verge on the southern side of Forest Road where the appeal site is located is dissected by several gullies and it is necessary to step onto the roadway at numerous points along the short route between the Chairmakers Arms and Meadowsweet

Cottage to the south of the appeal site. Even during the daytime when weather conditions are good, the road is hazardous for pedestrians due to the frequency and speed of vehicles using it as well as the limited visibility due to the bends. In my view it would be extremely unsafe to walk along Forest Road with young children even for a short distance. Moreover, older children would need to travel to Denmead and would be reliant on either the use of a car or school transport.

23. The site is not accessible by public transport. The nearest bus route is within Denmead and provides a service to Waterlooville and Portsmouth. It does not operate during the evenings or on Sundays. On behalf of the appellants it was suggested that it would be possible for residents of the site to drive into Denmead and perhaps use the bus for onward journeys. Whilst this may avoid the need to make lengthy journeys with older children and teenagers, for most journeys it is likely that residents of the site would be reliant upon the use of a car.
24. Policy CP5 requires the provision of play space within gypsy and traveller sites. The need for suitable play space is supported by '*Designing Gypsy and Traveller Sites Good Practice Guide*'. Where in the case of larger sites suitable play provision is not available within walking distance on a safe route, or using easily accessible public transport, it recommends that the inclusion of a communal recreation area for children of all ages is considered.
25. Although this guidance is primarily intended for public sites it was developed in consultation with members and representatives of the gypsy and traveller communities. Amongst other matters, it aims to ensure that sites are sustainable, safe and easy to manage and maintain, and provide a decent standard of accommodation, equitable to that which would be expected for social housing in the settled community. It also requires adequate access for emergency vehicles. Whilst there are similarities with small private sites, these are usually designed to meet the individual and personal preferences of the owner and therefore it is not appropriate to use the guidance in isolation to decide whether a private application for site development should be permitted. Nevertheless, the aims of the guidance are consistent with paragraphs 57 and 58 of the NPPF. These state that it is important to plan positively for the achievement of high quality and inclusive design for all development. In addition development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.
26. The appellants suggest that there would be sufficient space within each pitch to accommodate a play area for children. The pitches would be broadly rectangular in shape and would measure about 19 metres wide by 26 metres deep. Each would accommodate a mobile home or static caravan, a day room, a touring caravan, and car parking. The remaining area could be used for clothes drying, refuse storage and amenity space. Whilst there may be sufficient space within the pitches to meet the needs of individual families there would be no communal space available for children to play. The proposal is for 8 pitches and the appellants' families include about 18 children. There are no play facilities within walking distance of the appeal site and therefore children would be reliant on trips by car to reach play facilities. Whilst I am conscious of the need to avoid inflexible standards, gypsy and traveller sites typically have a high density of children resident on site, and having regard to the lack of any play facilities nearby, I consider the provision of play space in

accordance with policy CP5 to be necessary in order to provide an acceptable standard of amenity and to deliver the high quality inclusive design sought by the NPPF.

27. Policy CP5 also seeks to encourage social inclusion. Whilst the Chairmakers Arms may provide some opportunity for adults to integrate with the local community, it would not be suitable for the children and there are no other facilities within the settlement. Due to the extremely poor pedestrian conditions in the vicinity of the appeal site I do not consider that walking or cycling to school or Denmead would be a viable alternative. I therefore consider that those living at the appeal site would be heavily reliant on the use of their cars to access day to day services and facilities either at Denmead or Waterlooville and this would limit the opportunity for social integration with the settled population of Worlds End, and therefore the proposal would not comply with policy CP5.

### **Other Material Considerations**

#### *Need for and supply of sites*

28. Amongst other matters policy CP5 undertakes to quantify the accommodation requirements for gypsies, travellers and travelling show people within the District. The Travellers Accommodation Assessment for Hampshire 2013 (TAA) indicates that a further 12 pitches are required within Winchester by 2017 and a further 7 for the period up to 2022. It is intended that accommodation needs will be quantified and sites allocated within the emerging Local Plan Part 2. The Council advise that it has appointed a consultant to assess potential sites. At the inquiry the Council advised that it is unlikely that the Local Plan Part 2 will be adopted until late 2016/early 2017. On this basis there are unlikely to be any available sites for some considerable time and during this period proposals will fall to be assessed against the criteria within policy CP5.
29. The appellants consider that due to the low response rate the actual requirement could be significantly higher than suggested by the TAA. This was acknowledged by the inspector in the Fishers Pond appeal<sup>2</sup>. The Council accepted that the response rate was somewhat low and explained that extrapolation and professional judgement were used to provide a realistic assessment of the overall pitch requirement. Whilst it may be that the pitch requirement is higher than suggested by the TAA, the Council concede that since there is no target for pitch provision within the development plan it is unable to demonstrate a five year supply of gypsy and traveller sites as required by PPTS. The Council also accepts that at the present time there are no alternative sites within the area.
30. The lack of available and suitable alternative sites, together with the extent of the need for sites is a factor weighing in favour of the proposal. Indeed, given the absence of any reliable timetable to deliver additional pitches it is a matter of significant weight.

#### *Personal Circumstances*

31. Although the appeal is predicated upon the general need for sites the appellants request that should the proposal be unacceptable for any reason their personal circumstances are taken into account. Only limited evidence in relation to the personal circumstances of the appellants was submitted to the

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<sup>2</sup> APP/L1765/A/2226051

inquiry. The intended occupants are Irish travellers and comprise Charmaine Clark; Margaret Doran and her dependant son; Andrew and Minnie Davis and their three dependant children (their twin daughter are now married); Ian Hutchins, his partner Shelley Ayrrer and their four dependant children; Patrick Tom Doran, his partner Birdie Connors and their dependant daughter; Billy and Nancy Connors and their two dependant children; Joe Hilden, his partner Mary Hughes and their four dependant children; and Randolph and Lisa James and their three dependant children. According to Mr Woods none of the children have been in education for any significant length of time, and there are no particular health issues, other than for one of the children who suffers from ADHD. At the inquiry it was explained that the group rely upon each other for support and therefore seek a site where all 8 families are able to live together. A stable base would enable the residents of the site to access medical care and education. Mr Woods advised that he did not wish to explain where the group currently resided, and therefore it is unclear whether any, or all, of the appellants have a permanent base at present.

32. The appellants' need for a stable base from which to access education and health services is a matter of considerable weight. If the appeal is dismissed it may be that the families would need to camp by the roadside, but this is uncertain from the limited information available. Therefore on the basis of the limited evidence submitted to the inquiry I am unable to give the personal circumstances of the appellants' significant weight.

#### *Flooding*

33. Local residents are concerned that the proposal could exacerbate existing flooding issues in the immediate area. Whilst I am sensitive to these concerns the submitted drainage strategy indicates that a suitable drainage scheme for the site could be designed that would not increase flood risk elsewhere.

#### *Sustainability*

34. PPTS and the NPPF require applications for planning permission, including planning applications for traveller sites, to be assessed and determined in accordance with the presumption in favour of sustainable development. Sustainability is not just about distance from services, but includes an economic, social and environmental role. PPTS sets out at paragraph 11 the matters that local planning authorities should include to ensure that development plan policies in relation to traveller sites support sustainable development. The JCS was adopted following the publication of the NPPF and PPTS and although the appellants suggest that I should accord little, if any, weight to policy CP5 for reasons discussed below, no evidence was submitted to suggest that the criteria within policy CP5 are in any way inconsistent with PPTS or the NPPF.
35. The economic role includes the provision of sufficient land of the right type in the right place to support growth and innovation. It was explained that the men on the site travel for work. There would be some potential for the occupants of the site to contribute towards the economic role through their use of shops and services within Denmead.
36. The social role includes the provision of a high quality environment with accessible local services. The appeal site would provide a settled base from which the residents could access health and educational services. Whilst the proposed use may not give rise to conflict with the existing population, the site

is remote from Denmead and other properties within World's End, and for the reasons given above, the location of the site would not facilitate social integration. It was suggested that the site would fulfil the social role in that the appellants would provide support to each other. However, the weight to be attributed to this consideration is limited given that the purpose of the proposal is to meet the general need for sites. The proposal would fail to provide a high quality environment due to the failure to provide suitable communal play space within the site. There is also insufficient information to indicate that the proposal would provide adequate access for emergency vehicles. Whilst the benefits of access to health and education for the occupants of appeal site would contribute to social sustainability, when balanced against the lack of facilities and services and opportunities for social integration, including the absence of play space within the site, the proposal would not be socially sustainable.

37. The occupants of the site would be reliant on the use of a car for most of their trips. It was stated at the inquiry that the appellants are well known to each other and would be likely to make use of car sharing. However, this consideration is dependent upon the appellants' occupation of the site and not its role in meeting the general need for accommodation. Whilst the NPPF recognises that different policies and measures will be required in different communities and that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. It nevertheless advises that local planning authorities should support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport. In the light of the number of pitches proposed, the location of the site relative to services and facilities, the poor pedestrian environment and the relatively high levels of vehicle ownership amongst some groups of gypsies and travellers for towing caravans and employment purposes the proposal would not be in an accessible location in terms of sustainable modes of transport. There would also be harm to the character of the area as identified above.
38. There would be some environmental benefit in that the proposal would be likely to reduce the number of unauthorised sites and roadside encampments. The appellant submits that the proposal involves the redevelopment of brownfield land and would therefore be consistent with paragraph 24 of PPTS. Whilst there is some hardstanding, dilapidated stables and other structures at the western end these occupy only a small area of the overall site. Other than this small area where the structures have been colonised by vegetation, the land predominantly comprises grazing land and therefore the appeal site does not constitute previously developed land. Therefore the proposal would not fulfil the environmental role of sustainable development.
39. Overall, when looked at as a whole, I consider that the proposal would not be sustainable development. The fact that the proposal is for 8 pitches, which would represent about two-thirds of the identified need for gypsy and traveller sites for the period up to 2017 reinforces the need for the development to be sustainable.
40. The appellants draw attention to the recently adopted Denmead Neighbourhood Plan. This outlines the circumstances in which proposals for additional gypsy and traveller sites within the Parish will be supported. It states that during the preparation of the Neighbourhood Plan residents felt amongst that assimilation outweighed the benefits of limited sustainability. However, this is not a Neighbourhood Plan policy, but an indication that the local community is



supportive of additional gypsy and traveller sites and it would seem that the comment relates more to accessibility rather the broader view of sustainability within the JCS, NPPF and PPTS.

41. The appellants referred to other appeal decisions where it was found that sites a similar distance from services and facilities to that between the appeal site and Denmead were sustainable. In the Wedmore<sup>3</sup> decision the inspector found that the proposal did not conflict with the relevant development plan policy. Moreover the settlement of Wedmore was accessible by a limited bus service. In the Porthtowan decision<sup>4</sup> there was no extant development plan policy. The inspector considered that here would be some harm arising from the location of the site in relation to services and facilities but considered in the round the proposal was sufficiently sustainable form of development for it to be acceptable. It was also within walking distance of a shop/post office and public house as well as a limited bus service to Truro, Redruth and St Agnes.
42. Whilst these decisions confirm that gypsy and traveller sites within the open countryside were not unacceptable in principle, the proposals were assessed in not only in terms of distance from services and facilities, but also whether such service and facilities were accessible by means other than private cars. In addition, both proposals were for markedly smaller schemes by comparison with this appeal and as such would generate a much lower number of overall trips. However, as explained above, sustainability is not just about distance from services, but includes an economic, social and environmental role. Therefore these decisions do not alter my view that the proposal would not be sustainable development.

### **Overall Balance**

43. The site is not well located in relation to services and would fail to provide an acceptable standard of amenity for future occupants. Due to the poor pedestrian environment it would be unsuited to walking or cycling and would limit the opportunity for social integration. The proposal would also harm the character of the countryside
44. The Council is unable to demonstrate a five year supply of gypsy and traveller sites and the current shortage of allocated sites is likely to continue for some time. This matter together with the lack of alternative sites adds significant weight in favour of the proposal. The provision of a settled base from which future occupants of site could access education and health services adds further weight in favour of the proposal.
45. The appellants rely upon the Wenman judgment (*Wenman v SSCLG & Waverley BC [2015]*) which found that where there was no five year supply of gypsy and traveller sites paragraph 49 of the NPPF is engaged. This states that where a local planning authority cannot demonstrate a five year supply of deliverable housing the relevant policies for the supply of housing should not be considered up-to-date. Paragraph 14 states that where the relevant planning policies are out-of-date, unless material considerations indicate otherwise, planning permission should be granted unless any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework as a whole.

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<sup>3</sup> APP/V3310/A/11/2162249

<sup>4</sup> APP/D0840/A/12/2186070

46. The appellants suggest that JCS policies MTRA4, CP5, CP20 and emerging policy DM23 are all policies for the supply of housing. As explained above, the weight to be afforded to policy MTRA4 in so far as it seeks to restrict development, including housing, within the open countryside is limited. Policy CP5 restricts the provision of sites where they would fail to comply with the specified criteria. However, these criteria are not intended to limit the areas where sites can be provided but aim to encourage social inclusion and sustainable patterns of living. These principles are at the core of the NPPF and PPTS. Moreover, they accord with paragraph 10 of PPTS which supports the inclusion of criteria based policies against which proposals for unallocated sites should be assessed. Policy CP5 also requires sites to be capable of accommodating the proposed development to an acceptable standard. These requirements are consistent with paragraph 24 of PPTS and section 8 of the NPPF which both promote healthy lifestyles and communities.
47. Policy CP5 also requires proposals for sites to be consistent with policies in respect of design, flood risk, contamination, the protection of the natural and built environment and areas designated for their local, national or international importance, such as Gaps and the South Downs National Park. Whilst policies in relation to these matters may restrict the provision of housing in some locations, the aim of such policies is to ensure sustainable development and safeguard the natural environment. Having regard to the criteria within policy CP5 I consider that its aim is to ensure that gypsy and traveller sites are sustainable and it is not a policy for the supply of housing. For this reason I consider that they should be afforded full weight.
48. The aim of policy CP20 is to safeguard the heritage and landscape character of the local planning authority area, and is not a policy for the supply of housing. The general aim of policy DM23 is to safeguard the rural character of the area. Nonetheless, for the reasons given above, the weight to be afforded to emerging policy DM23 is limited.
49. Having regard to the relevant legal judgments cited in *Wenman* I consider that policy MTRA4 is a policy for the supply of housing. However, in the light of my findings above the proposal would not be sustainable development. Nevertheless, for the same reasons as those given above, even if the tests at paragraph 14 were applied the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework as a whole. Therefore a permanent planning permission is not justified.
50. Paragraph 25 of PPTS advises that where a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration when considering applications for the grant of temporary planning permission. If the harm arising from the proposal was limited to its effect on the character of the countryside a temporary planning permission may be warranted, particularly given the lack of alternative sites in the area. However, the proposal would provide unsatisfactory living conditions for the future occupants of the site and would not foster social integration with the local community. I therefore conclude that a temporary permission is not justified.
51. I have also given consideration to the alternative layouts for a reduced number of pitches submitted by the appellant. These schemes would have a lesser impact on the character of the countryside and also provide an area of grazing

land. Nevertheless, these schemes would not overcome my concerns with pedestrian safety, social integration and access to services. At the inquiry Mr Woods was unable to advise which of the appellants would occupy the site if either of the schemes for either 4 or 6 caravans was found to be acceptable. Consequently little weight can be attributed to the personal circumstances of the appellants in relation to either of these schemes.

52. The appellants also referred to an appeal decision at Headcorn<sup>5</sup>. However, this decision does not address the issue of sustainability and there was no relevant development plan policy against which to assess the proposal. Policy CP5 was adopted following the publication of PPTS and is consistent with the policies therein. Unlike the Headcorn appeal policy, CP5 provides criteria against which proposals for gypsy and traveller sites can be assessed. Therefore the Headcorn decision is not comparable with the appeal proposal.
53. Paragraph 3 of PPTS confirms that the Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community. *Chapman v UK* [2001] confirmed the positive obligation on governments to facilitate the gypsy way of life
54. I recognise that dismissing the appeal would interfere with the rights of the appellants under Article 8 of the Human Rights Act. This sets out the right to respect for family and private life and the home. However, this is a qualified right and requires a balance between the rights of the individual and the wider community interest.
55. The proposal would not be sustainable development and would be harmful to the character of the countryside. Therefore after taking into account all material considerations, including the desire of the appellants to live together as a single group, and whether any harm could be mitigated by suitable conditions, I am satisfied that these legitimate aims can only be adequately safeguarded by the dismissal of the appeal. The protection of the public interest cannot be achieved by means that are less interfering with the appellants' rights. They are proportionate and necessary in the circumstances and would not, therefore, result in violation of the appellants' rights under Article 8.
56. I have also had regard to the best interests of the children which is a primary consideration as confirmed by *ZH(Tanzania) v SSHD*. In the present case, it seems to me that the most important requirement for the appellants' children is that they have a settled base that would allow them to access educational and health services. However, the appeal site is not well placed for access to schools and health facilities and none of the children attend local schools and therefore the dismissal of the appeal would not disrupt their education. I do not consider that it would be in their best interests to be socially isolated and live with no access to play facilities either on site or nearby. Therefore allowing the appeal would not be in the best interest of the children.
57. I have taken account of the fact that the appellants are Irish Travellers, a protected group for the purposes of the Equality Act 2010 and I have had due regard to the requirements of the Public Sector Equality Duty, in particular the need to eliminate discrimination, advance equality of opportunity and foster good relations between those with protected characteristics and others.

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<sup>5</sup> APP/U2235/A/13/2198352

Following careful consideration of these matters I conclude that any impact of the dismissal of this appeal is justified and proportionate.

**Conclusion**

58. For the reasons given above I conclude that the appeal should be dismissed.

*Lesley Coffey*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Trevor Ward	Of Counsel
He called	
David Rothery	Principal Planning Officer
Stuart Dunbar-Dempsey	Open Space Project Officer

### FOR THE APPELLANT:

Justine Compton	Of Counsel
She called	
Brian Woods	WS Planning and Architecture

### INTERESTED PERSONS:

Michael Read	Ward Member Winchester City Council
Kirk Phillips	Ward Member Winchester City Council
Patricia Stallard	Ward Member Winchester City Council
Neil Lander-Brinkley	Denmead Parish Council
Paula Langford-Smith	Denmead Parish Council
Peter Ambrose	Denmead Village Association
Colin Dove	
Carolyn Hargreaves	
Lesley Crawford	
Denise Searle	
Sarah Settle	

## DOCUMENTS

- 1 David Rothery Summary Proof of Evidence
- 2 Reptile survey – interim report submitted by the Appellant
- 3 Drainage Strategy Report submitted by the Appellant
- 4 Bundle of appeal decisions & Judgements submitted by the Appellant
- 5 Submission from Cllr Read
- 6 List of suggested conditions
- 7 Denmead Neighbourhood Plan
- 8 Letter to Planning Inspectorate from Brandon Lewis MP regarding landscape character
- 9 Comments from Hampshire County Council ecologist
- 10 Submission from Paula Langford-Smith
- 11 Submission from Kirk Hill
- 12 List of Hampshire Treasures
- 13 Submission from Carolyn Hargreaves
- 14 Submission from Peter Ambrose
- 15 Appeal decision ref APP/U2235/A/13/2198352
- 16 List of Planning applications for traveller sites within District

submitted by the Council

**PLANS**

- A Existing and proposed Urban grain submitted by the Council
- B Location of other traveller sites within Denmead submitted by the Council