

APP I

**Elizabeth Marsden**

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**From:** Elizabeth Marsden  
**Sent:** 14 August 2019 16:22  
**To:** 'heineplanning@btinternet.com'  
**Subject:** 18/01441/FUL - Land off Southwick Road, North Boarhunt

Dear Ms Heine,

I understand that the appeal is being progressed, in connection with an enforcement appeal on the same site, though I am not aware of any start date as yet.

It is noted, however, in your submitted statement of case that there is no reference made to Policy TR6 of the Council's Gypsy, Traveller and Travelling Showpeople Development Plan Document (DPD) which was introduced during the examination period in January 2019 and which has now been adopted. The adoption date was subsequent to the submission of the appeal.

Policy TR6 is a criteria based policy against which proposed traveller accommodation outside the identified sites are assessed and, in the light of the additional information that has been provided about the background of the Saunders and his family, you may wish to consider whether these circumstances would justify a further application that could be supported by this policy.

We will be happy to consider any arguments prior to the submission of an application, which could remove the necessity for an appeal, if successful. Alternatively, and to save both parties abortive work, the appeal could be downgraded to a written representations procedure where the Council would make the recent changes to the Development Plan clear to the Inspector.

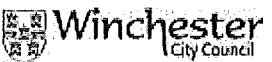
Please let me know how you would wish to continue to ensure a collaborative approach is taken in light of the most changes to planning policy.

Regards,

**Elizabeth Marsden**  
Principal Planning Officer

Winchester City Council  
Colebrook Street  
Winchester  
SO23 9LJ

01962 848267



[www.winchester.gov.uk](http://www.winchester.gov.uk)  
[www.visitwinchester.co.uk](http://www.visitwinchester.co.uk)

## Heine Planning Consultancy

Alison T Heine B.Sc, M.sc, MRTPI

10 Whitehall Drive, Hartford, Northwich, Cheshire CW8 1SJ

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15.8.2019  
L1-J11-2019

Ms E Marsden  
Principal Planning Officer  
Winchester City Council  
Colebrook St  
Winchester So2 9LJ

Dear Ms Marsden

**Re: Appeal against refusal of 18/01441/ful land off Southwick Road, North Boarhunt submitted 4.2.2019**

**Conjoined with an appeal against Enforcement Notice issued 3 June 2019 and appealed 10.6.2019**

**Mr Saunders**

Thank you for your email of 14.8.2019 concerning the above linked appeals. I welcome your email and the purpose behind it. I also appreciate that it is sent without prejudice to the Council's case. This reply is also submitted without prejudice to my clients' case at appeal. I am also replying as speedily as possible given the urgency of this situation and would like to reserve the right to amend my position if, on further reading of the adopted Traveller DPD I realise there are other matters of relevance to these appeals/ case that I have not spotted.

As you point out there is no reference in my Statement of Case (and indeed the Grounds of appeal for the Enforcement Notice) to policy TR6. The reason for this were three fold

- 1- It was not specifically referred to in the Officer Assessment for this application which did refer to the advanced stage of the emerging Traveller DPD
- 2- It was not relied on in the decision letter which referred generally to the draft DPD
- 3- The DPD was not adopted until 28.2.2019. My statement of case was submitted 4.2.2019

However, at paras 3.3/ 3.4 of my Statement of Case I do have regard to the draft DPD in so far as I summarise the key issues raised by the Inspector in the EIP report published on your website by late January 2019. I noted that criteria policy TR6 was to be modified to ensure compliance with PPTS. On studying the adopted version I am not convinced criteria 2 requiring a personal or cultural need to be located in the area is compliant with para 24 (e ) PPTS which makes clear that there is no need to prove a local connection. The other 2 criteria support applications

- a) For occupation by Gypsy Travellers
- b) Where there is a lack of other suitable accommodation.

I also commented on the intended supply of pitches.

Policy TRA6 also requires sites to be in sustainable locations, well related to existing communities as defined by policy CP5 and compliance with TR7. Policy CP5 requires in turn compliance with all other policies . The decision letter relied on a number of policies which I addressed in my Statement of Case. It included CP5.

Application 18/01441 was clearly for a Gypsy site. The previous agent submitted information in support of their Gypsy status. When permission was refused on 27.11.2018 there was no suitable alternative accommodation available. That remains the case. I am unclear what has changed since these appeals were submitted and why the Council failed to have regard to TR6 of the emerging DPD and then, several months later, served enforcement action if, as you now suggest, this policy supports the proposed development.

However, if I understand your email, it would appear the Council has reconsidered its position and is now of the opinion a further application could be determined differently having regard to TR6 and the DPD adopted in February 2019. As you point out, this could avoid a costly and unnecessary appeal. Alternatively you suggest that it may be possible to reconsider the need for a hearing.

I am all in favour of reducing costs for my clients who are of limited means. I am puzzled however why the adoption of the DPD in February 2019, and in particular policy TR6, after the s78 appeal was submitted and before the Enforcement Notice was issued should make any difference to the determination of this application or reasons for taking enforcement action. Policy TR6 does not appear to include anything that is not within national policy and my clients clearly had local connections and needs. Regard still has to be given to the other policies relied on by the Council and referred to in TR6. This includes CP5 and TR7.

Unfortunately I could not support the alternative suggestion of a written representations appeal. In my experience the Planning Inspectorate are of the view Gypsy Traveller appeals require specialist knowledge as they tend to be more complex and cover issues/policies not generally addressed by other appeals. For this reason very few cases are accepted for the written representation process.

I would be willing to resubmit the application as made, if, as would appear from your email, the Council are of the opinion they would be willing to reconsider their decision to refuse permission and take enforcement action. But I do not do so lightly. There are added costs for my client of a further application as they are not able to do this themselves and would rely on myself to submit all the paperwork. Also I would be seeking permanent permission as I consider the chances of securing this on appeal would be high. If you felt the Council would only be minded to grant permission on a temporary basis I would prefer for the matter to be still heard before a Planning Inspector so that the merits of permanent permission can be heard.

Before I make a further application for the same development could you please confirm

- 1-that this application would be fee exempt if submitted within 12 months of the refusal of the previous application,
- 2-that issue would no longer be taken with the other Policies cited in the refusal notice or enforcement notice, in particular CP5 and TR7 and, if it is shown TR6 is complied with you would accept that this is a sustainable location well related to existing communities as defined by Policy CP5, would not take issue with any of the requirements of policy TR7 and would agree that it is likely that any concerns could be addressed by condition, and.
- 3-the Council would endeavour to issue a decision as quickly as possible, ideally within 8 weeks.

I look forward to receiving your reply. Please ring me on 01606 77775 to discuss if you prefer.

Yours Sincerely

Mrs Alison Heine

## Elizabeth Marsden

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**From:** Elizabeth Marsden  
**Sent:** 27 August 2019 14:43  
**To:** 'heineplanning@btinternet.com'  
**Subject:** FW: 18/01441/FUL - Land off Southwick Road, North Boarhunt

Dear Alison,

Thank you for your letter.

As you are aware, policy TR6 is a criteria based policy, which was introduced following the examination of the DPD. It was subject to consultation by means of Proposed Modifications, prior to the Inspector producing her report which recommended inclusion of the policy (January 2019).

During the course of the application, as well as sorting out other issues, such as drainage, there were requests for additional information about the personal circumstances of the applicants to justify the proposal and which could have then be used to demonstrate accordance with the draft policy. We did receive some information from the agent acting for Mr Saunders at the time, in the letter dated 25.09.18 that you have referred to. Further advice about the additional information was sought from the strategic planning officer and was not considered to be sufficient to justify the proposal. These comments were relayed to the agent in full and despite an indication that additional evidence could be provided, no further information was received and the application was therefore refused.

Your statement of case does set out further information about the circumstances of the applicants (which have altered in the period following the application), together with information about the unavailability of other sites in the area. Whilst it is felt that more details are necessary, in particular to show that they meet the PPTS traveller definition and the local connections that require them to live in this location, if it can be demonstrated that the family and site meet the criteria of policy TR6 then it could be possible to recommend a resubmitted application favourably. Obviously there can be no guarantee of the outcome of an application, which would be subject to further publicity, and you should be aware that the Parish Council objected to the previous proposal, which they asked to be determined by committee.

In response to your final questions:

- No fee is needed if the application is submitted prior to 22 November.
- If the proposal can be shown to be TR6 compliant, it would effectively accord with the other policies referred to. The second reason for refusal related to the impact of the development on the countryside which, where a proposal is not justified, is a valid reason for refusal. In this case, however, objections on a landscape basis could be overcome by the provision of additional planting as set out in the consultation response from the landscape officer.
- The application would be dealt with as quickly as possible though, if it is necessary for it to go to committee this will be subject to the monthly committee cycle of meetings.

I understand that a new GTAA has been commissioned and interviews will be undertaken over the next few months. It is hoped that your clients will be willing to be part of this process.

You may also be aware that there are current issues over the impact of nitrates on the Solent SPA, which has led to new residential development (which would include a caravan site) being required to demonstrate 'nitrate neutrality'. Whilst this is principally associated with discharge to mains drainage using sewage treatment plants, there is also an argument that smaller rural

developments with private package treatment plants, could have an impact through eventual discharge to water courses leading to the Solent. I am trying to obtain advice from Natural England on this point.

I hope this is of some help, but please contact me if you have any queries.

Regards,

Liz

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**From:** [heineplanning@btinternet.com](mailto:heineplanning@btinternet.com) [mailto:[heineplanning@btinternet.com](mailto:heineplanning@btinternet.com)]

**Sent:** 15 August 2019 11:37

**To:** Elizabeth Marsden

**Subject:** Re: 18/01441/FUL - Land off Southwick Road, North Boarhunt

Hello Liz

Thanks for this. I do appreciate the contents and would do anything to avoid the expense of a hearing for my clients as they are of limited means.

But as this is not straightforward I attach a reply

Kind me if you want to discuss

I am happy to resubmit but struggle to understand why TR6 makes such a difference.

Alison

----- Original Message -----

**From:** [EMarsden@winchester.gov.uk](mailto:EMarsden@winchester.gov.uk)

**To:** [heineplanning@btinternet.com](mailto:heineplanning@btinternet.com)

**Sent:** Wednesday, 14 Aug, 2019 At 16:22

**Subject:** 18/01441/FUL - Land off Southwick Road, North Boarhunt