

Heine Planning Consultancy

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

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

Tel: 01606 77775 e-mail: heineplanning@btinternet.com

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