

**APPEALS BY MR THOMAS MALONEY
AGAINST THE REFUSAL OF PLANNING PERMISSION AND, SERVICE OF AN
ENFORCEMENT NOTICE BY
WINCHESTER CITY COUNCIL**

CHANGE OF USE OF LAND TO USE AS A GYPSY CARAVAN SITE TO PROVIDE
TWO PITCHES, INCLUDING LAYING OF HARDSTANDING AND FORMATION OF A
NEW ACCESS.

LOWER PADDOCK, BENT LANE, HAMBLEDON, WATERLOOVILLE, PO7 4QP

LPA REF: 20/00739/FUL
OUR REF: 20/112

DRAFT STATEMENT OF COMMON GROUND

1.0 INTRODUCTION

1.1 This Statement is divided into four parts: firstly, I describe the site and its surroundings; secondly, I give a resume of relevant planning policies; thirdly, I summarise the planning history of the appeal site; and fourthly, I set out the matters of agreement between the two main parties.

2.0 SITE DESCRIPTION

2.1 The enforcement notice encompasses a rectangular field with a width of about 55 metres and, a depth of about 79 metres (an area of approximately 0.44 hectares). This field is located along the north-western side of Bent Lane, Hambledon.

2.2 Prior to any development taking place there was a gap in the frontage hedgerow about 9 metres wide, situated in the centre of the road frontage. A new access has been formed from Bent Lane within this gap in the hedgerow and, the north-eastern half of the field has been laid with hardstanding. The planning application site comprises part of this hardstanding measuring about 36 metres wide and, about 57 metres in depth. The remainder of the field is laid to grass.

2.3 The appeal site is enclosed by substantial hedgerows and trees along the south-eastern (roadside), north-western and south-western boundaries, and by post and wire fencing along the north-eastern boundary. The site adjoins Shirmal Farm to the north-east which, not only, contains stable buildings and a partially constructed barn, but also, caravans occupied by a gypsy family. There is a separate farmstead located to the north of the appeal site and, a recently constructed farmstead to the south, along the opposite side of Bent Lane. The latter farmstead also contains a mobile home occupied for residential purposes.

2.4 Bent Lane is a single-track rural lane with no footpaths or street-lighting. The appeal site is located about 3 kilometres from Denmead which contains schools and shops, including a chemist and post office. The site is also within about 5 kilometres of Waterlooville which has a full range of community services and facilities, including a health centre and supermarkets.

3.0 PLANNING POLICY

Government Advice

- 3.1 The NPPF is intended to reinforce the importance of up-to-date plans and requires that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development (paragraph 11).
- 3.2 *Planning policy for traveller sites (PPTS)* sets out the Government's aims in respect of traveller sites which include, *inter alia*, local authorities developing fair and effective strategies to meet need through the identification of land for sites; protecting Green Belt from inappropriate development; promoting more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites; and to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply.
- 3.3 Local planning authorities are required to use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions (*Policy A*). In producing their local plans, local planning authorities should, *inter alia*, set pitch targets; identify and maintain a rolling 5-year supply of specific deliverable sites; and relate the number of pitches to the circumstances of the specific size and location of the site and the surrounding population's size and density.
- 3.4 Paragraph 13 sets out the wider sustainability benefits of providing permanent residential sites for gypsies and travellers which should be taken into account in plan-making and development control (*Policy B*).
- 3.5 Policy C suggests that gypsy sites may be located in rural or semi-rural areas, provided that they are of a scale appropriate to their specific location. This is reiterated in paragraph 25 of Policy H. Paragraph 22 of

Policy H sets out issues which should be considered in the determination of planning applications for gypsy sites. Policy H states 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.

Local Planning Policies

3.6 The Development Plan comprises of the Winchester District Local Plan Part 1 adopted in March 2013; the Winchester District Local Plan Part 2 adopted in April 2017; and, the Winchester District Gypsy, Traveller and Travelling Showpeople Development Plan Document, adopted in February 2019. Policies relevant to this appeal include Policy CP5 of the Part 1 Local Plan, DM4 of Part 2 of the Local Plan and, policy TP6 of the Traveller DPD.

4.0 PLANNING HISTORY

4.1 Planning application No. 20/00739/FUL was submitted on 8 April 2020 for the change of use of land to use as a residential caravan site for two gypsy/traveller families, each with two caravans including no more than one static caravan/mobile home, together with laying of hardstanding, construction of new access and erection of two ancillary amenity buildings.

4.2 Planning permission was refused on 06 May 2020 for the following reasons:

1. The proposal fails to accord with policies MTRA4 and CP5 of the Winchester District Local Plan Part 1 and DM4 of the Winchester District Local Plan Part 2 in that it would result in additional dwellings in the countryside for which there is no justification.
2. The proposal is contrary to policies CP13 of the Winchester District Local Plan Part 1 and policies DM15 and DM23 of the Winchester District Local Plan Part 2 in that they fail to respond to or enhance the rural character of the area.

3. The proposal fails to provide sufficient information in regard to policies CP16 of the Winchester District Local Plan Part 1 in regard to the impact of the proposal on the nearby protected landscape features and ecology.
 4. The proposal fails to provide sufficient information in regard to policy DM18 of the Winchester District Local Plan Part 2 in that the proposal has not demonstrated acceptable visibility splays at the proposed site access that could detrimentally impact the safety of highways users.
- 4.3 The Council served an enforcement notice on 5 May 2020 alleging, without planning permission, the material change of use of the land to a residential caravan site for gypsies and travellers (which includes creation of an access and engineering works to create a hardstanding).

5.0 MATTERS OF AGREEMENT

- 5.1 It is agreed that the appellants are gypsies for planning purposes and, that gypsy policies should apply to the proposed development.

Presumption in Favour of Sustainable Development

- 5.2 The National Planning Policy Framework (NPPF) puts the presumption in favour of sustainable development at the heart of both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development plan without delay; or, if the policies which are most important for determining the application are out-of-date, granting planning permission unless, *inter alia*, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
- 5.3 It is agreed that the appeal site is not located within the Green Belt, or within a SPA, SSSI, Conservation Area, local greenspace, AONB or National Park. Furthermore, the proposed caravan site is not located within an area shown on the Environment Agency's flood maps as being at high risk from flooding.

Principle of Development

- 5.4 Where, as in this case, a site is not allocated as a gypsy/traveller site and lies outside the settlement boundaries, Policy TR6 of the Traveller DPD provides that use for traveller accommodation will only be permitted in prescribed circumstances. The site must be for occupation by persons identified as gypsies or travellers falling within the PPTS definition who can demonstrate a personal or cultural need to be located in the area and, there is a lack of other suitable accommodation. In addition, sites must be in sustainable locations well related to existing communities, as defined by Policy CP5 of the Winchester District Local Plan Part 1, and comply with the requirements of Policy TR7 of the Traveller DPD which contains provisions applicable to all sites.

- 5.5 The site adjoins an existing traveller site to the north-west (Ydal Acres), together with its associated stable buildings and a modern barn; and, Shirmal Farm to the north. There is an intensive calf rearing enterprise at Little Oaks, including a temporary dwelling, located along the opposite side of Bent Lane and, there are two substantial clusters of residential development further north along Bent Lane, within 400 metres of the appeal site: at Bent Farm where there are 5 dwellings and associated outbuildings; and, Hill House, where there are a further 4 or 5 dwellings.
- 5.6 It is agreed that the appeal site lies within 2-3 miles of the local service centres of Hambledon, Denmead and Waterlooville. Denmead contains schools and shops, including a chemist and post office. Waterlooville has a full range of community services and facilities, including a health centre and supermarkets.
- 5.7 The provision of a settled site would allow the appellants to register with a GP for their day-to-day health care and, enrol children into local schools. They will also use other local services and facilities and, encourage social inclusion and a more sustainable pattern of living. The provision of a settled site would reduce the need for frequent travelling and possible environmental damage caused by unauthorised camping; and, facilitate the appellants' traditional lifestyle. The ability of the appellants to use the appeal site as a base for their horse dealing activities has the potential to omit many travel to work journeys and, contribute towards sustainability. The proposed site would provide a good standard of residential environment, free from undue noise, air pollution or, flood risk and, there is little likelihood that a development of two pitches would place undue pressure on local infrastructure and services. The proposed development would, in short, fulfil all of the sustainability objectives set out in paragraph 13 of PPTS.
- 5.8 The provision of 2 additional pitches, adjacent to the existing traveller site at Ydal Acres would not represent an over-concentration of sites in this location: it would be of similar size to the clusters of development at Bent Farm and Hill House. Furthermore, there would be sufficient distance between the proposed caravan site and any nearby dwellings to avoid harmful impacts on local residents from activity on the appeal site.

5.9 Policy CP5 does not require traveller sites to be completely hidden from view. It requires that sites should be clearly defined by physical features, where possible, and not be unduly intrusive. Additional landscaping may be necessary to maintain visual amenity and provide privacy for occupiers.

5.10 The Landscape Character Assessment adopted by the Council as Supplementary Planning Guidance in 2004, identifies the appeal site as comprising a "Mixed Farmland and Woodland Landscape" type forming part of the "Forest of Bere Lowlands Landscape Character Area". This area is described as having "*an ancient character, retaining historic landscape features and a network of winding narrow lanes*".

5.11 With regard to biodiversity, there are no trees or hedgerows within the body of the site and, all of the work involved in laying hardstanding has already taken place. Retention of the caravan site would not involve the laying of any additional hardstanding, and would not require any loss of trees or, further hedgerow around the boundaries of the site. The granting of planning permission could be made subject to conditions which seek to reduce the amount of hardstanding, and increase the amount of planting around the site.

Other Material Considerations

5.12 Other relevant matters for local planning authorities when considering planning applications for traveller sites are set out in paragraph 22 of PPTS as comprising:

- a) the existing level of local provision and need for sites;
- b) the availability (or lack) of alternative accommodation for the applicants;
- c) other personal circumstances of the applicant;
- d) the locally specific criteria used to guide the allocation of sites in plans or, which form the policy where there is no identified need for pitches/plots, used to assess applications that may come forward on unallocated sites; and,

(e) determining applications for sites from any travellers and not just those with local connections.

Existing Level of Local Provision and Need for Sites

- 5.13 The Winchester Gypsy and Traveller Accommodation Assessment was published in 2016 and, identified 24 existing traveller sites, containing a total of 65 pitches. There are no public sites in Winchester and, apart from the former public site at Tynefield with 18 pitches, the remaining sites, including 4 temporary sites and 4 unauthorised sites, were small, family sites.
- 5.14 The GTAA estimates a need for a total of 31 permanent pitches for gypsies and travellers meeting the new definition comprising a current need for 8 pitches (3 households on unauthorised developments and, 5 concealed households) and, a future need for 21 permanent pitches (4 from older teenage children, 7 households on sites with temporary planning permission and, 10 from new household formation).
- 5.15 As a result of the interviews undertaken for the GTAA, 20 households were determined to fall within the new definition, 18 were considered to be outside the definition and, 11 were “unknown”. These 11 “unknown” households were believed to be ethnic gypsies and travellers and, the authors of the GTAA recognised that they may have met the new definition. As a result, the overall level of need could rise by up to 7 pitches with temporary planning permission and 4 pitches from new household formation, plus any concealed adult households or 5-year need arising from older teenagers living in these households (para 5.29 of the GTAA). Neither the GTAA or the Traveller DPD make clear how the needs of those who may be ethnically gypsies and travellers, but do not fall within the definition (or whose status is unknown), are to be met.
- 5.16 Appendix B of the Traveller DPD sets out details of sites that contribute towards supply. Of the 18 pitches identified, 10 pitches result from temporary pitches being made permanent since the beginning of the GTAA assessment period, of which 3 were not accounted for in the assessment of need, i.e. only 7 address the need identified in the GTAA. Of the remaining 8 pitches, 5 pitches are located on formerly

unauthorised sites (The Paddock, Durley Street, Durley; and, Woodley Farm, Alma Lane, Lower Upham) which are not identified or taken into account in the GTAA. Thus, of the need identified in the GTAA (25 pitches during the period 2016-2031), planning permissions have been granted for 10 pitches, i.e. leaving a residual need for 15 pitches.

Alternative Sites

5.17 In *Doncaster MBC v. FSS & Angela Smith* [2007] the Court decided that to be a realistic alternative, accommodation has to be suitable, affordable, available and acceptable.

5.18 The GTAA assumes that 10 pitches will become available on Tynefield but, the Council acknowledged that the Tynefield site is in a substantially derelict condition and, not fit for habitation. As a result, this site does not currently contribute towards supply and, is not a viable alternative to the appeal site.

5.19 The Traveller DPD allocates two temporary sites under Policy T2 for the provision of additional permanent pitches: at The Piggeries, Firgrove Lane, North Boarhunt; and, adjacent to Gravel Hill, Shirrell Heath. These sites are already occupied and, five of the “unknown” households identified in Figure 1 of the GTAA were living on these sites (4 at The Piggeries and, 1 at land adjacent to Gravel Hill). As a result, only 2 of the allocated pitches would contribute towards the need identified in the 2016 GTAA and, none of the allocated pitches would be available for occupation by the current appellants.

Signed on behalf of the City Council.....

Dated.....

Signed on behalf of the Appellant.....

Dated.....