

# **Enforcement Notice 03 Appeal Statement - Mr Joe Keet and Ms Lena Lara Keet**

## **Land at The Old Piggery, Firgrove Lane, North Boarhunt, Hampshire**



25 October 2021

Louise Cutts

BA (Hons) Dip TP MRTPI

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## **1 Qualifications and Experience**

- 1.1 I hold a 2:1 Planning Studies Bachelor of Arts Honours degree and a Diploma in Urban Planning from Oxford Brookes University. I am a member of the Royal Town Planning Institute.
- 1.2 I have worked in Hampshire since 1996. From 1996 to 2014 I worked at Eastleigh Borough Council as a Senior Planning Officer and then as a Principal Planning Officer in the Major Applications Team.
- 1.3 I have practised as a planning consultant since September 2014. I established my Town Planning practice, Wessex Planning Ltd, in September 2016.
- 1.4 I was instructed to appeal against the Enforcement Notice 03 in October 2021.

## 2 Introduction

2.1 Following the issue of enforcement notice 03 against “*the material change of use of the Land to use as a residential caravan site; together with the construction of associated areas of hardstanding, buildings and fencing which facilitate the change of use of the Land*”, the appellant is appealing against the notice on the following grounds:

**Ground A** – that planning permission should be granted for what is alleged in the notice – a fee is not included as the area covered is also included within the appeal against the enforcement notice for the wider area, for which a fee has been paid.

**Ground E** - That the notice was not properly served.

**Ground G** - That the time given to comply with the notice is too short.

2.2 All residents on this site fall within the definition of “gypsies and travellers” as set out at Annex 1 of the Government’s Planning Policy for Traveller Sites (August 2015) (PPTS).

2.3 The enforcement notice requirements are:

1. Cease the residential use of the Land
2. Remove all caravans (and mobile homes) from the Land and disconnect all services (water, gas electricity, waste).
3. Remove the hardstandings, drainage runs/pipes, tanks and all buildings and fencing associated with the use of the Land as a residential caravan site.
4. Remove any resultant waste and restore the Land to its former condition prior to the breach of planning control by laying topsoil and re-seeding to grass.

2.4 The time for compliance with the enforcement notice is 9 months with the notice taking effect on 5th November unless an appeal is made beforehand.



### **3 Ground A (planning permission should be granted for what is alleged in the notice)**

- 3.1 It is important for the Inspector to understand that the site outlined in red is part of 'The Withy Beds' site only, (not The Old Piggery). The Old Piggery relates to the authorised gypsy/traveller site to the north and is also owned by the appellant, whilst the site to the south is known as Firgrove Lane Caravan Park (a travelling showpersons' site although it is disputed whether any travelling showpeople have ever lived there). This site is not owned by the appellant.
- 3.2 Following the production of a (much criticised) Gypsy and Traveller Accommodation Assessment (GTAA) in 2016, a Regulation 18 draft Gypsy, Traveller and Travelling Showpeople Development Plan Document (DPD) was produced in July 2017.
- 3.3 The site, the subject of this enforcement appeal, was originally included within this draft DPD as part of a wider site that the LPA had wanted to be adopted, following a detailed site assessment process of many sites.
- 3.4 However, at that time, both the owner of the site, and the Showman's Guild of Great Britain were consulted, both making representations that the two groups (gypsies/travellers and travelling showpeople) 'didn't mix'. Unfortunately, and for no other reason, the LPA took the decision that the wider site was therefore undeliverable for either group, and removed it from the draft DPD.
- 3.5 The Regulation 19 Pre-Submission DPD was then produced. The Inspector noted that although the removal of the wider site left the LPA short of sites in terms of the 'snapshot in time' GTAA need, she considered that Policy TR6 would allow other sites to come forward outside of settlement boundaries in accordance with future need.
- 3.6 As such, in February 2019, the Council adopted the Winchester District: Gypsy, Traveller and Travelling Showpeople Development Plan Document (DPD).
- 3.7 Policy TR6 within this DPD specifically addresses developments such as those that are the subject of this appeal and, as an Inspector has most recently judged in a similar appeal (APP/L1765/C/19/3230601 and APP/L1765/W/19/3221730 "Southwick") nearby, Policy TR6 is the "most important development plan policy". The appeals are attached as Appendix 1.
- 3.8 The LPA refused the application associated with this enforcement notice for two reasons:

*"The proposal would represent new dwellings in the countryside for which there is no justification and would therefore be contrary to Policies MTRA3, MTRA4, and CP5 of, Local Plan Part 1 - Joint Core Strategy, policies DM1, DM4, of Local Plan Part 2 - Development Management and Site Allocations, Winchester District Gypsy, Traveller and Travelling Showpeople Development Plan Document and Government Planning Policy for Traveller Sites.,*

*The proposal would be contrary to policy CP5 of Winchester Local Plan Part 1 and policy TR7 of the Winchester District Gypsy, Traveller and Travelling Showpeople Development Plan Document in that*

*insufficient information has been provided in respect of the provision of facilities, particularly in terms of wastewater infrastructure and safe play spaces. As such it is not possible to ensure that facilities appropriate to the scale of the site can be adequately provided without adverse impact on the occupants of the site, neighbouring properties or the surrounding area."*

- 3.9 Whilst the LPA did not explicitly refuse the associated application on the grounds of policy TR6, as the "*most important development plan policy*" in relation to the principle of gypsy and traveller development, the main issues must be the same as were considered in the previous appeal referred to above. These were/are:
- (i) Whether the appellants are gypsies or travellers;
  - (ii) Whether the appellant can demonstrate a personal or cultural need to be located in the area;
  - (iii) The availability of suitable sites;
  - (iv) The effect of the development on the character and appearance of the area;
  - (v) Whether the site represents a sustainable location well related to existing settlements: and
  - (vi) Whether the development would comply with the requirements of DPD policy TR7

**(i). Whether the appellants are gypsies or travellers**

- 3.10 The occupants of the caravans within the red line all fulfil the definition of gypsies or travellers which is:  
*"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling Showpeople or circus people travelling together as such."*
- 3.11 There are no Travelling Showpeople on this site.
- 3.12 The following are a list of persons occupying the caravans on the site outlined in red within the enforcement notice along with their gypsy/traveller status, their economic status and whether they have children. Additional detail and updated information will follow.

No	Name	Nomadic Economic Situation	Children	Work
21	Bill Wenman	Gypsy/Traveller	Yes, visiting children	Car dealing
21A	Peter Yohwf	Gypsy/Traveller	Yes, visiting children	Car dealing
22	Ryes Mills + partner	Gypsy/Traveller	Yes, 2 children enrolled in local schools	Driver

**(ii) Whether the appellant can demonstrate a personal or cultural need to be located in the area**

- 3.13 There is nothing in the DPD to support any contention that the word 'area' is intended to apply to a very local area. The Inspector in the Southwick appeal decision at paragraph 19 stated very clearly that "*It is however very clear from paragraphs 24 and 25 of the examining Inspector's report that she considered policy TR6 as adopted to be consistent with 2015 Planning Policy for Traveller Sites (PPTS) paragraph 24e.*" This states that local planning authorities should determine applications for sites from any travellers and not just those with local connections.
- 3.14 The appellant and all of the occupiers have had considerable difficulty in establishing an authorised base from which to follow their nomadic habit of life. One occupier has a partner and children living on site with the others having children visiting the site. Without a base for the period in which the children's education should take place, access to such education is difficult. The other occupiers regularly work away from the site for periods of time during the year moving their base from which they travel from time to time.
- 3.15 The children on site are enrolled at school in Wickham, a nearby town, which is close to North Boarhunt. For this occupier, this amounts to a personal need to be located in the area.
- 3.16 For those occupiers without children, both are engaged in work in the nearby area but also travel. They regularly move their base from which they travel.
- 3.17 There is therefore no conflict with DPD policy TR6 on this issue.

**(iii) The availability of suitable sites**

- 3.18 Read literally, DPD policy TR6 bullet 3 states such sites "*will only be permitted where they are for occupation by persons for whom there is a lack of other suitable accommodation*". This does not mean that the appellant or the occupiers are required to demonstrate that they have sought alternative sites. Indeed, the DPD Examining Inspector amended the policy to remove this element citing the Court of Appeal judgement S Cambs V SSCLG & Brown (2008) which stated,
- "In seeking to determine the availability of alternative sites for residential gypsy use, there is no requirement in planning policy, or case law, for an applicant to prove that no other sites are available or that particular needs could not be met from another site. Indeed, such a level of proof would be practically impossible"*
- 3.19 DPD policy TR6 Bullet 3 cannot therefore be interpreted as requiring the gypsies/travellers occupying this site to show a lack of other suitable accommodation.
- 3.20 PPTS, in paragraph 24 sets out two aspects to the issue. Firstly, it considers the existing level of local provision and the need for sites. Secondly it considers the availability or lack of alternative accommodation available. Each of these points is considered below:

Existing level of local provision

- 3.21 Policy DM4 of the Winchester Local Plan establishes a need for '*about*' 15 pitches for those falling within the definition of 'gypsy/traveller'. This figure derives from the LPA's 2016 Gypsy and Traveller Accommodation Assessment (GTAA). It was found by the Inspector for the Southwick appeal that this figure did not represent a ceiling on provision. The examining Inspector for the DPD also considered it likely that, even with a 5 year supply of traveller site provision, the Council would receive further planning applications for provision. She therefore endorsed Policy TR6 as a way of addressing application for pitches outside of settlement boundaries.
- 3.22 As such, a **fair reading** of the Local Plan alongside the PPTS indicates that the consideration of further applications for gypsy/traveller sites is not constrained at a general level either by the existence of a 5 year supply of available sites or by the number of pitches in policy DM4 having already been provided and exceeded.
- 3.23 An updated version of the 2016 GTAA is to be published shortly. Whereas the occupiers on this site were previously not willing to be interviewed by the Council's assessors at the time of the 2016 investigative work, they have now been persuaded by the fact that if they did not cooperate with the interviews their need could not be recorded, and they could face eviction. These interviews have now taken place and the occupants of these caravans, previously recorded as 'status unknowns' will now be revealed within the new GTAA as gypsies/travellers with a corresponding need for suitable accommodation. The information above will be updated and provided to the Inspector regularly prior to the inquiry. However, the occupiers have temporarily settled on this site over a period of about 5/6 years.

Availability of alternative accommodation

- 3.24 Since the gypsy/traveller site at Tynefield was closed, and no other pitches have been vacated since the GTAA, and all other pitches coming forward through planning permissions are both DPD allocated or for small family run/owned sites, there is no other site that is available for any of the occupiers on this site. In the Southwick appeal, the Council did not challenge this, and there have been no changes in the overall availability of alternative accommodation since that appeal decision.
- 3.25 Therefore, whatever the actual level of need is, and by how many pitches it has been exceeded, there is, at this time, a lack of other suitable accommodation for the current occupiers of this particular site in the local area. Without this site, those occupiers would find themselves homeless and would simply find themselves an unauthorised roadside encampment which would not be in the best interests of the children living on site and would have generally worse environmental outcomes.
- 3.26 In these circumstances policy TR6 is clear that applications for such sites should be permitted and there is no conflict with Policy TR6 in this regard.

**(iv) The effect of development on the character and appearance of the area**

- 3.27 North Boarhunt is a small settlement a short distance to the east of Wickham. There is a mix of development in the area, most of it being housing in linear form along the several roads of the main B2177. There are a number of commercial enterprises in the area and an authorised gypsy/traveller's site to the north. There is also a large authorised mobile home park to the west of the site, further down the main road. The character of the countryside in this area is therefore very mixed, with mobile home/caravans not unusual in views from public vantage points.
- 3.28 Whilst the majority of the area around the housing and mobile home park can be characterised as more open countryside with views across pony paddocks and open fields, this is not the case for this site. To the north and west, south and east, the area is visually very enclosed from the remainder of Boarhunt, which is likely why the Council's landscape officer had no objection to the proposals that were subject to the accompanying refused application.
- 3.29 The site is accessed by an unmade track belonging to the appellant, who maintains it such that it can be used by the occupiers of the site and for those using the public right of way along its length. There are similar unmade tracks leading off of the main road in the area.
- 3.30 Therefore, the caravans and mobile homes on this site are not uncharacteristic of the developments elsewhere in North Boarhunt and are well-screened from public view in any case. Nonetheless the appellant would be willing to accept a landscaping condition if the Inspectors considered that further landscaping along Firgrove Lane is required.

**(v) Whether the site represents a sustainable location well related to existing settlements**

- 3.31 The appeal inspector for the Southwick appeal considered that North Boarhunt was a sustainable location for a traveller site.
- 3.32 Policy CP5 in the Winchester Local Plan, which is the strategic policy for gypsies, travellers and travelling show people is largely superseded by the DPD Policy TR7. With respect to the location of sites, however, it confirms that these should be well related to existing communities to encourage social inclusion and sustainable patterns of living while being located so as to minimise tension with the settled community. One of its criteria is that the site should be accessible to local services such as schools, health and community services but avoid placing an unreasonable burden on local facilities and services. PPTS in paragraphs 14 and 25 anticipate sites coming forwards in areas of countryside away from existing settlements. DPD Policy TR6 is also designed to allow consideration of such.
- 3.33 Whilst there are few facilities within North Boarhunt itself, the Boarhunt social club is a very well used facility used by settled villagers and gypsies/travellers alike. It provides food and drink, has bistro and quiz nights, and a skittle alley together with hall hire if required. All other facilities required are available within Wickham. Like most settled residents within the village necessary day-to-day services such as

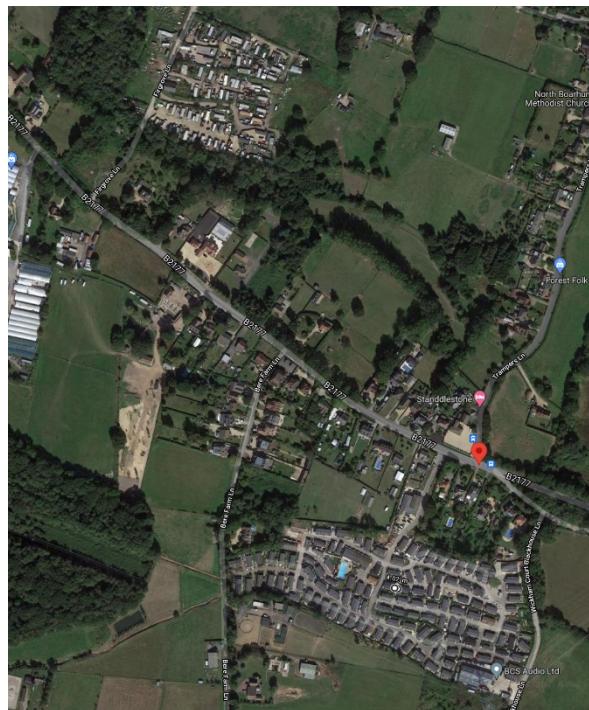
schooling, and healthcare would be accessed here. Without public transport available, residents need to drive but this is not unique to the occupiers of the appeal site.

- 3.34 There is however a Hampshire County Council funded taxishare scheme available. The route is the Southwick Area 38 Taxishare Scheme (see Appendix 2) that takes residents to Wickham and other nearby towns.

**(vi) Whether the development would comply with the requirements of DPD policy TR7**

- 3.35 DPD Policy DR6 requires all sites to comply with the requirements of DPD policy TR7. These are set out and discussed below:
- 3.36 **Access and Parking** – The LPA have no concerns with regard to access and parking
- 3.37 **Environmental** - Where children require play in private space, there is sufficient room provided on the relevant pitch. Land is also available adjacent to the site, within the appellant's ownership which is already regularly used by the children resident on this and the wider site, as is the local recreation ground which is equipped with a formal children's play area and zipwire. Living within the countryside, there is generally no shortage of places and spaces for children to play.
- 3.38 With regard to the Solent Recreation Mitigation Strategy, a Unilateral Undertaking has been completed to ensure the required contribution is paid. With regards to the Nitrate Mitigation issue, the caravans have been occupied for approximately 5/6 years, using a Septic Tank with no nitrate filtration. The occupiers were previously living on other local sites before this and so do not represent new development for nitrate purposes. The wastewater on this site currently percolates from the septic tank into the ground water in the surrounding area. The new Sewage Treatment Plant would be sized to cater for upwards of 50 persons for use by this and the wider site. It also uses the most up to date technology which reduces nitrates emanating from the plant to background levels. When compared to the existing situation, this is an improvement in the existing situation that may even create headroom for other new development nearby. A management and maintenance plan is also included at Appendix 3, which can be conditioned by the Inspector.
- 3.39 In relation to the surface water drainage system, all surface water currently drains to surrounding fields owned by the applicant. The LPA do not object to this.
- 3.40 In terms of boundary treatments, it is self-evident that this site is very well hidden from wider public vantage points by thick belts of trees. The site has also been provided with boundary screening which helps to screen the site in shorter range views. To completely encircle the site with landscaping however would be out of character with the landscape character of the area. The LPA have not raised an issue with the impact of the proposal upon the landscape within their report on the accompanying refused planning application.

- 3.41 Any remaining concerns could also be dealt with through the imposition of planning conditions. In relation to the distance between units, the required distances could be achieved if required and managed through a planning condition. However, it is notable that the mobile home park at Wickham Court nearby does not have 6m between each unit and functions satisfactorily. (See map below).



- 3.42 Therefore, it is considered that the development would comply with DPD Policy TR7.
- 3.43 It can therefore be concluded that the proposal is not only in compliance with the policies within the DPD but also the Development Plan as a whole.
- 3.44 Other issues are also very important in regard to an established gypsy/traveller site, whether permitted or unauthorised. It has been held that the best interests of children are the primary consideration in considering whether an unauthorised encampment should be granted permission, and the Human Rights of the existing residents are also a consideration of the utmost importance, as is the Public Sector Equality Duty.
- 3.45 The Equality and Human Rights Commission legal specialists have been contacted with regard to these enforcement proceedings as no account has been taken of the individual circumstances of the occupants, the children on the site, or the fact that should the enforcement proceedings succeed, this will effectively make the occupiers of the caravans homeless. The Council's out-of-date GTAA is being used as the archetypal 'sledgehammer to crack a nut'.
- 3.46 The fact that the LPA has only decided to take action now, after so many years of quiet and settled occupation on this site when there is no other site that the occupiers can move to in the local area also raises questions as to whether the LPA have properly considered the Human Rights of the occupiers, the best interests of their children or the Public Sector Equality Duty in the decision to enforce.

**4 Ground E (the notice was not properly served on everyone with an interest in the land)**

- 4.1 The appellant has confirmed that not all occupiers received the enforcement notice, with some finding that the envelopes had been thrown into their gardens and others having not received the notice at all.
- 4.2 In addition, whilst the application was made under the address of The Old Piggeries, this is only as a result of the Local Planning Authorities failure to check the address properly with the appellant, and the appellants then agent simply using the address used in the planning history as it was known to the Local Planning Authority.
- 4.3 Previous applications demonstrate that this confusion has been pointed out to the LPA, who appear to have taken no notice whatsoever e.g., Planning reference “17/00951/FUL | This application refers to both The Old Piggery and The Withy Beds Sites. Permanent retention of twenty-six residential caravans for travellers and 6 transit pitches, together with associated access... | The Old Piggery Firgrove Lane North Boarhunt Hampshire”.
- 4.4 To clarify, the central site, the subject of this appeal, is known as ‘The Withy Beds’ and registered as such. The site, the subject of this enforcement appeal is part of this site. Caravans occupying Nos 1-10 are located on ‘The Old Piggeries’ site. Caravans occupying Nos 18 onwards are located on ‘The Withy Beds’ site.
- 4.5 The authorised site to the north is known as ‘The Old Piggeries’. The ‘travelling showpeople’s’ site to the south (on which there are no travelling showpeople/travellers or gypsies occupying) is known as ‘Firgrove Lane Caravan Park’.

## 5 **Ground G (the time given to comply with the notice is too short)**

- 5.1 If the Inspector did consider that the enforcement notices should stand, 9 months is insufficient for each occupier and family to find an authorised site in which to live. The LPA do not have any authorised sites to which the occupiers could move, and referral to their Housing Services Unit is of no use and is contrary to the occupiers way of life in any case.
- 5.2 There is a known shortage of gypsy/traveller sites in the UK in any case, and so it is more likely that the occupiers would have no choice but to find unauthorised individual or group roadside pitches with worse environmental implications than if allowed to remain where they are.
- 5.3 Even if the occupiers were able to move, the uncertainty as to where to go would be disruptive to the children housed on the site and educated in local schools.
- 5.4 Finally, it is a major operation to remove the infrastructure from the site. Even the labour required for this type of operation is in short supply following the Covid-19 pandemic with some contractors having a year's backlog of work that they were unable to complete during the pandemic.
- 5.5 The sensitive removal of the gypsies/travellers would take at least 18 months (if there was a site they could find to move to), with the infrastructure only able to be moved after this. 2.5 years would be the absolute minimum period to comply with no certainty that any of the occupiers would find alternative authorised sites to move to.

## 6 The Alternative to Enforcement

- 6.1 If the site were granted permission and the occupiers were allowed to remain on the land, however temporarily, the following would occur:
- A permanent gypsy/traveller site would be established in accordance with the direct need of the occupiers who were not 'counted' as part of the need in the previous 2016 GTAA.
  - A permanent gypsy/traveller site would be established in a very well-concealed area. Additional landscaping conditions could be attached to ensure further screening of the site.
  - A permanent gypsy/traveller site would be established that, in 5-6 years of peaceful, settled existence has attracted no need for the LPA to enforce removal.
  - There would be no disruption to the schooling of the children living on the site.
  - The financial expenditure of LPA resources would be saved in preventing enforcement action on any number of future individual or group roadside encampments made necessary by the removal of this site.
  - The financial expenditure of LPA resources in seeking to permanently rehouse occupiers against their cultural requirements, in place of other persons already awaiting permanent housing on the LPA waiting list.
- 6.2 An application is also in preparation to 'tidy-up' the site, introducing regular pitch sizes, spaces between each plot, more efficient waste infrastructure, and more appropriate soft landscaping. However, with only 28 days to appeal an enforcement notice, this has not been submitted as yet. By the time of the inquiry, this application would have been submitted and decided.

## 7 Conclusion

- 7.1 The need for this site is obvious. There are no other vacant gypsy/traveller sites within the area, and the owner of the site is receiving weekly requests from displaced gypsies/travellers within Winchester's jurisdiction for a vacant pitch. Fully occupied, there is nowhere for the occupiers of the caravans to lawfully move to.
- 7.2 As the appeal inspector stated within the Southwick appeal decision - whatever the actual level of need is, and by how many pitches it has been exceeded, there is, at this time, a lack of other suitable accommodation for these gypsies/travellers to move to.
- 7.3 The gypsies/travellers on this site have been settled for some 5/6 years with children attending local schools and registered with the local doctor's surgery. Any displacement of these occupiers, with no alternative suitable provision is contrary to their human rights and the best interests of the child.
- 7.4 On a site that is well concealed in the landscape, causing no harm to the local settled population, any genuine balancing exercise carried out would show that enforcement action to remove the caravans from this site goes beyond unreasonableness, and that a permanent permission (with conditions) would solve many of the seeming issues that the LPA have with the impact of this site on designated countryside.
- 7.5 No harm caused to a small number of persons using the right of way along the access track could ever outweigh the harm caused by the enforced removal of the occupiers in relation to the best interests of the children living on site or the human rights of the occupiers of the caravans. Such action could be considered discriminatory in the circumstances of this case.
- 7.6 Whilst there are alternative areas of countryside and alternative rights of way (if required), there are no alternative, lawful gypsy/traveller sites in the area for the occupiers of this site to move to.

## Appendix 1 – “Southwick” Appeal Decision



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# Appeal Decisions

Site visit made on 22 November 2020

by Brian Cook BA (Hons) DipTP MRTPI

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

Decision date: 08 December 2020

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## **Appeal A: Appeal Ref: APP/L1765/C/19/3230601**

**Southwick Ranch, to the north of Southwick Road, North Boarhunt,  
Fareham, Hampshire PO17 6JS**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr D Saunders against an enforcement notice issued by Winchester City Council.
  - The enforcement notice was issued on 3 June 2019.
  - The breach of planning control as alleged in the notice is the material change of use of the Land from agriculture to use for the siting of 4 residential caravans and ancillary equestrian purposes and the laying of hardstanding associated with the residential use of the Land.
  - The requirements of the notice are:
    - i) Cease the residential use of the Land.
    - ii) Remove from the Land the caravans, the mobile stable and mobile lavatory and all other items associated with the non-agricultural use of the Land including the generator, vehicles, table and chairs.
    - iii) Remove from the Land the hardstanding shown on the Plan attached to the notice.
    - iv) Remove from the Land all materials and debris resulting from compliance with steps (i) to (iii) above.
    - v) Restore the Land to levels prior to the breach occurring and reseed with grass after compliance with steps (i) to (iv).
  - The period for compliance with the requirements is 28 days.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended
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## **Appeal B: Appeal Ref: APP/L1765/W/19/3221730**

**Land at Southwick Road, North Boarhunt, Fareham, Hampshire PO17 6JF**

- 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 Mr Derek Saunders against the decision of Winchester City Council.
  - The application Ref 18/01441/FUL, dated 7 June 2018, was refused by notice dated 27 November 2018.
  - The development proposed is use of land for the stationing of caravans for residential purposes.
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## **Decisions**

### **Appeal A: Appeal Ref: APP/L1765/C/19/3230601**

1. It is directed that the enforcement notice be corrected: by the deletion without substitution of the letter "4" in the breach of planning control alleged. Subject to this correction the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the material change of use of the Land from agriculture to use for the siting of residential caravans and ancillary equestrian purposes and the laying of hardstanding associated with the residential use of the Land on the land shown edged and hatched black on the plan annexed to this decision subject to the conditions set out in Schedule A.

### **Appeal B: Appeal Ref: APP/L1765/W/19/3221730**

2. The appeal is allowed and planning permission is granted for the material change of use of land for the stationing of caravans for residential development as a Gypsy site with stable block and other facilitating development (hard standing, utility block and septic tank) at Land at Southwick Road, North Boarhunt, Fareham, Hampshire in accordance with the terms of the application, Ref 18/01441/FUL, dated 7 June 2018, and the plans submitted with it, subject to the conditions set out in Schedule B.

## **Preliminary Matters**

### ***Appeals A and B: the land***

3. The summary details above are taken from the appeal documents submitted. Although the site addresses differ slightly, Appeals A and B relate to the same plot of land.

### ***Appeal A: the notice***

4. Although no appeal has been made on ground (b), the appellant raised two issues with the notice which, since the terms of the deemed planning application are set by the breach of planning control alleged, need to be addressed before the s174 appeal on ground (a) can be considered.
5. Responding to queries that I raised, the appellant has now confirmed that the whole of the site that is the subject of the notice is a single planning unit. It is also accepted that the description of the equestrian use of the land as ancillary to the residential use is correct. The point taken in that regard is that the stable referred to in the notice is not that proposed in the Appeal B development and that it was placed on the land prior to any other development taking place; confirmed by the Council's photographs. The contention that it is therefore excessive to require the removal of the mobile stable in the event of planning permission not being granted on either appeal is for the s174 appeal on ground (f).
6. The second issue concerns the number of caravans on site when the notice was issued. The appellant states that there were only two touring caravans and a one motorhome at issue date. A fourth caravan which was only on the land while others were swapped over was removed some weeks earlier and the Council had been informed that it would not be retained on the land.

7. The Council's photographs taken in March 2019 show two touring caravans and a camper van. There are no photographs around the time when the notice was issued. At the date of my site visit there was one touring caravan, one large mobile home and a camper van. These are sited more or less as shown on the Appeal B layout drawing. There were also two sheds/outbuildings and a portable toilet together with a children's play structure and slide. These are not shown on the Appeal B layout drawing and all but the children's play equipment are within the area shown proposed as paddock.
8. In my view, the specification in the notice of the number of caravans present is not necessary and I shall correct the notice accordingly using the powers available under s176(1) of the principal Act since there would be no injustice to either party in so doing.

#### ***Appeal B: description of the development***

9. It is for the appellant to describe the development for which planning permission is sought. On reflection, the appellant has asked that the Appeal B proposal be described as "material change of use of land for the stationing of caravans for residential development as a Gypsy site with stable block and other facilitating development (hard standing, utility block and septic tank)". In my view that more accurately describes the development proposed and I shall deal with Appeal B on that basis.

#### ***Appeal A: the s174 appeal on ground (a) and the deemed planning application and Appeal B***

##### ***Background and Main Issues***

10. The Council advises that planning permission for the Appeal B development was refused and that shortly after the appeal against that decision was made the site was occupied. This prompted an investigation and the issue of the Appeal A notice.
11. The reasons for issuing the notice and for the refusal of planning permission are the same although it appears that by the time the notice was issued the appellant had already paid the contribution necessary to overcome the Council's third reason in both cases. In any event, this reason, which concerns the Solent Disturbance and Mitigation Charge Zone no longer needs to be considered.
12. The development on the ground has evolved since the notice was issued although it is not yet as shown on the proposed Appeal B layout. It is arguable in my view whether development not referred to specifically in the breach of planning control alleged can be caught by step (ii) of the requirements of the notice. However, if it cannot, it seems to me equally clear that it cannot benefit from any planning permission following success on the ground (a) appeal.
13. In the circumstances, there is therefore no material difference between the Appeal A and the Appeal B developments and I shall therefore consider them together in this section.
14. After the Appeal B planning application was determined but before the notice was issued, the Council adopted (in February 2019) the Winchester District: Gypsy, Traveller and Travelling Showpeople Development Plan Document

(DPD). Policy TR6 specifically addresses developments such as those that are the subject of these appeals and, despite not being referred to in the notice, therefore seems to me to be the most important development plan policy.

15. The Council accepts that the appellant is a gypsy and traveller as defined in Annex 1 of Planning Policy for Traveller Sites 2015 (PPTS). However, it continues to dispute that the appellant can demonstrate a personal or cultural need to be located in the area or that there is a lack of suitable accommodation.
16. The main issues for the determination of these appeals therefore are:
  - (a) Whether the appellant can demonstrate a personal or cultural need to be located in the area;
  - (b) The availability of suitable sites;
  - (c) The effect of the development on the character and appearance of the area;
  - (d) Whether the site represents a sustainable location well related to existing settlements; and
  - (e) Whether the development would comply with the requirements of DPD policy TR7.

*Whether the appellant can demonstrate a personal or cultural need to be located in the area*

17. The appellant was born in Southampton and, it is claimed, has lived in the Hampshire area for most of his life. His partner was born in London. Her links with the area derive from being with the appellant. Their links with the very local area seem to have only been established some three years ago. It seems to me that the appellant tacitly accepts that he cannot demonstrate an historical personal or cultural need to be located in the 'area' as may be required by DPD policy TR6.
18. It is however argued by the appellant that DPD policy TR6 bullet 2 is not consistent with the PPTS. That argument is difficult to sustain. In requiring the submitted policy to be modified, the DPD examining Inspector confirmed that the form of words in the now adopted policy and the supporting text accords with national policy. The issue is therefore one of policy application.
19. There is nothing that I can see in the DPD to support the Council's contention that 'area' is intended to apply to a very local area. It is however very clear from paragraphs 24 and 25 of the examining Inspector's report that she considered policy TR6 as adopted to be consistent with PPTS paragraph 24(e). This states that local planning authorities should determine applications for sites from any travellers and not just those with local connections.
20. The appellant's evidence contains considerable detail of the difficulty the family has had in recent years establishing a base from which to follow their nomadic habit of life. In particular, the difficulties that they have encountered providing formal education for the children are highlighted. The children are now enrolled in school at Wickham which is quite close to North Boarhunt. Having regard to the best interests of the child this amounts, in my view, to a personal need now to be located in the area. DPD policy TR6 bullet 2 requires the demonstration of either a personal need or a cultural need; it does not require

demonstration of both. There is therefore no conflict with DPD policy TR6 on this issue.

*The availability of suitable sites*

21. In some respects, this is related to the previous issue.
22. Read literally, DPD policy TR6 bullet 3 says '...will only be permitted where they are for occupation by persons who there is a lack of other suitable accommodation.' The interpretation the Council puts upon it, namely that the DPD requires applicants to demonstrate that they have sought alternative sites, as required by DPD paragraph 4.21, can only hold if the words 'can demonstrate' from bullet 2 are implicitly read as also starting bullet 3.
23. In my view, that cannot be correct. Paragraph 25 of the examining Inspector's report is very clear. Referring to the submitted policy she says 'I have amended the policy to remove the requirement for the appellant to provide evidence as the Court of Appeal judgment in *S Cambs v SSCLG & Brown [2008]* stated: "*In seeking to determine the availability of alternative sites for residential gypsy use, there is no requirement in planning policy, or case law, for an applicant to prove that no other sites are available or that particular needs could not be met from another site. Indeed such a level of proof would be practically impossible.....*". DPD policy TR6 bullet 3 cannot therefore be interpreted as requiring the applicant/appellant to show a lack of other suitable accommodation.
24. There are two aspects to this issue as set out in PPTS paragraph 24 (a) and (b). First there is the existing level of local provision and the need for sites and, second, the availability (or lack) of alternative accommodation for the appellant. I deal with these in turn.
25. Policy DM4 of the Winchester District Local Plan Part 2-Development Management and Site Allocations (LPP2) establishes a need for 'about' 15 pitches for those falling within the PPTS Annex 1 definition of a gypsy/traveller. This figure derives from the 2016 Gypsy and Traveller Accommodation Assessment (GTAA) and is accepted by the Council to allow either more or fewer pitches to be permitted. It does not therefore represent a ceiling on provision.
26. The appellant is critical both of the methodology used in the GTAA and of the DPD examining Inspector's decision not to consider whether or not the pitch targets in LPP2 policy DM4 were correct. However, at paragraph 17 of her report where she confirms that the DPD identifies a five year supply of gypsy and traveller sites against policy DM4, she expresses confidence that the target set in policy DM4 will be met and most likely exceeded. The latter would most likely only arise if additional planning permissions were granted on other sites not allocated in the DPD. In paragraph 19 she recognises that the Council may well receive further planning applications, hence the need for an additional criteria-based policy to permit sites outside settlement limits in certain circumstances (emphasis added). That policy is TR6.
27. It seems to me therefore that a fair reading of both the development plan and the PPTS indicates that the consideration of further applications for gypsy/traveller sites is not constrained at a general level either by the

existence of a five year supply of available sites or by the number of pitches in LPP2 policy DM4 having already been provided.

28. Turning to the availability of alternative accommodation, the Council accepts that no vacant pitches can be assumed at Tynefield given the particular circumstances of this site. No other pitches have been vacated since the GTAA. The Council has not disputed the appellant's evidence that most, if not all, of the pitches coming forward through planning permissions at both DPD allocated and other sites are for small family run/owned sites which are therefore unavailable to the appellant.
29. It seems to me therefore that whatever the level of general need in the Council area as a whole and the extent to which it may or may not be exceeded by the provision at this time, there is a lack of other suitable accommodation for the appellant. That is the circumstance in which DPD policy TR6 indicates that sites will be permitted. There is therefore no conflict with DPD policy TR6 in this regard.

*The effect of the development on the character and appearance of the area*

30. North Boarhunt is a small settlement a short distance to the east of Wickham. There is a mix of development in the area, most of it being housing in linear form along the several roads off the main B2177. There are a number of commercial enterprises in the area and a travellers' site of some size off Firgrove Lane. In the main however the area is characterised by open fields with views across them available over a distance.
31. The appeal site is accessed via an unmade track running north from the B2177. There is a large care home on the left-hand side of the track beyond which is what appeared to be some sort of separate business enterprise. There were a number of mobile homes stationed on this land which could also be seen from the main road. I have no evidence as to their use or their planning status. Further along the track on the right-hand side is a residential property and then, a little further along on the left-hand side, the Strawberry Barn eco home. This was developed pursuant to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. The mobile home that has further been provided follows the issue of a certificate of lawful use or development. The appeal site lies immediately to the north of Strawberry Barn. The track continues to a further substantial residential property at the end. To either side of the track in the vicinity of the appeal site the fields were laid out to what appeared to me to be pony paddocks of similar size to the appeal site. None appeared to have any field shelters and the Council has provided no evidence as to their planning status.
32. The character and appearance of the immediate area is therefore one of residential development set within a landscape of open fields largely given over to horse grazing.
33. The development described in the breach of planning control alleged as corrected is separated from the track by a post and rail fence behind which there is some tree planting over part of its length. The residential use and the associated use of the larger part of the site for grazing a horse is in keeping with the character of the local area. Similarly, the caravan and mobile home and the parked vehicles are not uncharacteristic of the developments

elsewhere along the track and their appearance is no different to that of the area of land nearer to the B2177 where there are a greater number of such structures apparent in view. .

34. While the Appeal B development would add a utility building and a stable these would replace rather than add to the development already on site. It would not materially change the character or appearance of the development or alter its effect on the character and appearance of the area.
35. Neither development would therefore conflict with LPP2 policy DM15. Any external lighting could be controlled by an appropriate condition such that the tranquillity of the area would not be compromised. Subject to such an appropriate condition there would be no conflict with LPP2 policy DM23.

*Whether the site represents a sustainable location well related to existing settlements.*

36. Policy MTRA 3 of the Winchester District Local Plan Part 1-Joint Core Strategy (LPP1) seeks to limit development within settlements that have no clearly defined settlement boundary to infilling of a small site within a continuously developed road frontage. North Boarhunt is included in the list of settlements to which the policy applies. LPP1 policy MTRA 4 lists the types of development that may be permitted in the countryside as defined. Gypsy and traveller sites are not included in the list. LPP2 policy DM1 does not really add to these two policies.
37. Self evidently the appeal developments cannot comply with policies MTRA3 and MTRA 4. That does not necessarily mean however that the location of the site is inherently unsustainable.
38. The Council has confirmed that LPP1 policy CP5, which is the strategic policy addressing sites for gypsies, travellers and travelling show people, is largely superseded by DPD policy TR7. However, with respect to the location of sites it confirms that these should be well related to existing communities to encourage social inclusion and sustainable patterns of living while being located so as to minimise tension with the settled community. It then sets out three criteria to be met the second of which is that the site should be accessible to local services such as schools, health and community services but avoid placing an unreasonable burden on local facilities and services.
39. This is consistent with PPTS in several respects. One of the aims of government policy is to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure (paragraphs 4 (j) and 13 ((b) and (c)). Paragraphs 14 and 25 anticipate sites coming forward in areas of countryside away from existing settlements. Consistent with this policy approach, DPD policy TR6 is also designed to allow consideration of planning applications for sites in such locations (see paragraph 26 above).
40. No evidence has been given about the range of services available in North Boarhunt. It seems to me therefore that it would be to Wickham that the appellant, in common with most other residents of North Boarhunt, would look for necessary day-to-day services including schooling and healthcare. There is little evidence of public transport links to Wickham and I accept that the

majority of journeys to those services would be by private vehicle. However, that seems unlikely to me to be unique to the appellant.

41. I have already referred to the travellers' site off Firgrove Lane. DPD policy TR2 proposes that planning permission should be granted for an existing site of four pitches with temporary planning permission (land at the Piggeries) immediately to the north of this development. This development is two field width's distance from the appeal site. It seems to me inconsistent for the Council to argue that the appeal site is in an unsustainable location when through its DPD it promotes a larger site in such close proximity.
42. That does however raise whether the appeal site would result in an over-concentration of sites in the one location. Although this has been raised as a concern in representations received my view is that it would not. The two developments are along different roads and during my site visit I was not aware of the Firgrove Lane site at all.
43. My conclusion on this issue therefore is that the appeal site is in a location that enables access to the nearest available services and facilities and is as well located in relation to the settlement as other existing and allocated gypsy/traveller sites in North Boarhunt. While there would be a *de facto* conflict with LPP1 policies MTRA 3 and MTRA 4, there would be no conflict with LPP1 policy CP5 or DPD policy TR6 in this regard. Both are directly relevant to the developments that are the subject of these appeals and I therefore conclude that there would be no conflict with the development plan as a whole on this issue.

*Whether the development would comply with the requirements of DPD policy TR7*

44. Finally, DPD policy TR6 requires all proposals to comply with the requirements of DPD policy TR7. This sets out a number of criteria under three headings; access and parking, environmental and general.
  - Access and parking
  45. Sub bullets 2 and 3 would be matters for the Site Development Scheme (SDS) that could be required by condition. No commercial activity is proposed and this could be prevented by condition to address sub bullet 4.
  46. Sub bullet 1 requires safe vehicle and pedestrian access from the site to the highway. The highway authority raises no concern regarding access to the highway at the junction of the track and the B2177. The track leading from the highway is unlit and has no footways. Over much of its length it is only a vehicle-width wide. There are no passing places. However, traffic along the track is likely to be limited. In all the circumstances I do not believe there would be a conflict with sub bullet 1.

Environmental

47. There is sufficient space within the site boundaries to provide for safe children's play (sub bullet 3). The contribution to the Solent Recreation Mitigation Strategy has been paid (sub bullet 4) and sub bullet 5 is not relevant to these appeals.
48. Sub bullets 1 and 2 concern boundary treatments. As already mentioned, some planting has taken place on the boundary with the track and the Appeal B

site layout plan proposes landscaping of all boundaries. I can appreciate that the appellant may wish to enclose the whole or part of the site for various reasons including privacy. However, to my mind, enclosure by planting would be somewhat incongruous in this open landscape. I do not regard it as necessary in planning terms but any that is proposed should be approved as part of the SDS. To that extent, sub bullet 2 would be met.

49. It would however be wholly out of keeping with the local landscape and contrary to the aims of community cohesion for the site to be enclosed with hard materials such as a wall. The suggested condition removing permitted development rights in this regard is therefore necessary to ensure compliance with sub bullet 1.

General

50. Each of the matters detailed in the four sub bullets are subject of the conditions suggested by the Council in the event of planning permissions being granted.
51. In conclusion therefore I consider that the developments either would, or could be capable of being made to, comply with DPD policy TR7 by the imposition of appropriate conditions.

**Other Matters**

52. Between the Council's decisions and the appeals being made an issue has arisen in relation to risks to European protected sites, collectively known as the Solent SPAs, from the development of housing and overnight accommodation. The issue is eutrophication resulting in the loss of feeding grounds and therefore disturbance to bird species. The cause is the increase in levels of nutrients, particularly nitrates, discharged at the coast. The source is development within the Council and other areas.
53. The solution agreed with Natural England is an avoidance and mitigation package secured prior to the implementation of any planning permission. A suitably worded pre-commencement condition has been developed and put forward by the Council.
54. The appellant has drawn an analogy between this issue and that which arose in relation to the Dorset Heaths. The appellant has suggested that the development would make no net addition to the discharges at the coast because the appellant was previously residing in the area at either other sites or on unauthorised roadside camps and would be forced to do so again if the notice was upheld.
55. Natural England did not accept this proposition and maintained its advice that the development amounted to a net new permanent caravan site which needed to show the achievement of nutrient neutrality.
56. The suitably worded condition is therefore required in order to avoid a conflict with LPP1 policy CP16 which, among other things, seeks to maintain the integrity of European sites and protect them from inappropriate development.
57. Representations have been received in respect of a number of issues including concerns about drainage and noise from certain activities on the site such as the use of a generator. Foul and surface water drainage would be the subject

of a condition. I note that although complaints have been made to the Council the Environmental Protection Officer did not object to the Appeal B proposal and I have not been made aware of any formal action having been taken.

### ***Conclusion***

58. For the reasons set out above I consider that there would be no conflict with the policies of the development plan as a whole arising from either the Appeal A or the Appeal B developments.
59. In coming to these conclusions, I have had regard to both the public sector equality duty contained in the Equality Act 2010 and the best interests of the child. With respect to the first, evidence has been given that the appellant's partner is an Irish Traveller who therefore has the protected character of race under s149(7) of the 2010 Act. PPTS includes specific policy approaches to gypsy and traveller development outside settlement boundaries and in the countryside that I have taken into account and applied. Regarding the second, I have had regard to the children's need for formal education and the fact that they are now enrolled at nearby schools having established a permanent base.

### ***Conditions***

60. The Council has suggested nine conditions that might be imposed on each development and the appellant has commented upon them. I have considered these matters in the light of the advice in the Planning Practice Guidance and have altered the wording proposed where necessary to reflect that Guidance.
61. The effect of my conclusion is that two planning permissions will be granted, one for the development alleged in the notice as corrected and one for the development proposed under Appeal B. While it is a matter for the appellant as to which is implemented, the Appeal A permission allows only the stationing of the caravans present when the notice was issued, the laying of hardstanding and the associated equestrian use of the land. It does not permit any other development such as the utility block or the stable block that would be provided by the Appeal B development. It is nevertheless necessary for the full suite of conditions to be imposed on each permission although the scope of the development to be considered through the SDS for Appeal A would be limited.
62. Although not required for Appeal A, the standard commencement condition is required for Appeal B as is a condition listing the approved plans.
63. Suggested condition 1 would require the development to cease after a limited period of 5 years. The reason is so that the position can be reassessed in a forthcoming local plan. However, it follows from my conclusion against the policies of the development plan that this is a suitable site for the development that has taken place and is proposed. I therefore see no reason not to grant a permanent permission in each case.
64. Suggested conditions 2 and 3 are required to ensure that the development is occupied by persons meeting the PPTS Annex 1 definition of a gypsy/traveller and that the development is restricted to one pitch accommodating one touring caravan and one mobile home.
65. The need for the remaining conditions which would secure no commercial activity, control over lighting and any means of enclosure, a SDS and the nutrient avoidance and mitigation package has already been discussed. As the

Appeal A development has already taken place, the latter two conditions for that permission are worded in a form which requires the development carried out to cease if certain milestones in the condition approval process are missed by the appellant. I agree with the appellant that suggested conditions 7 and 8 (SDS) can be combined. For appeal B, each condition follows the standard pre-commencement format. I am satisfied that the appellant agreed in writing to the wording of the conditions imposed.

## **Overall Conclusions**

### ***Appeal A***

66. It is clear from the representations that the description of the development in the enforcement notice is incorrect in that the reference to 4 caravans is both inaccurate at the date of issue and unnecessary. I am satisfied that no injustice will be caused and I will therefore correct the enforcement notice, in order to clarify the terms of the deemed application under section 177(5) of the 1990 Act as amended.
67. For the reasons given above I conclude that the appeal should succeed on ground (a) and I will grant planning permission in accordance with the application deemed to have been made under section 177(5) of the 1990 Act as amended, which will now relate to the corrected allegation. The appeal on grounds (f) and (g) does not therefore need to be considered.

### ***Appeal B***

68. For the reasons given above I conclude that the appeal should be allowed.

*Brian Cook*

Inspector

## Schedules of conditions

### Schedule A

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 2) There shall be no more than 1 pitch on the site and on each pitch hereby approved no more than 2 caravans, shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 3) No commercial activities shall take place on the land, including the storage of materials.
- 4) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) Details of any floodlighting shall be submitted to and approved in writing by the local planning authority before installation. Development shall be carried out in accordance with the approved details.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no walls, fences or other means of enclosure other than those shown on the approved plans shall be erected on the site unless details of their size, materials and location shall have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 6 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
  - i) Within 3 months of the date of this decision a scheme for the means of foul and surface water drainage of the site and the distance from structures of any package treatment plant; the internal layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking, storage provision and amenity areas; fencing and other means of enclosure; hard and soft landscaping; (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the site development scheme shall include a timetable for its implementation.
  - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 8) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 6 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
  - i) Within 2 months of the date of this decision a water efficiency calculation which demonstrates that no more than 110 litres of water per person per day is consumed within the development and a mitigation package addressing the additional nutrient input arising from the development shall have been submitted to and approved in writing by the local planning authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European sites by the development and shall allow the local planning authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites. The mitigation package shall include a timetable for its implementation.
  - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - iv) The approved mitigation package shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved mitigation package specified in this condition, the measures specified shall thereafter be maintained/retained/remain in use as set out in the approved mitigation package.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

End of schedule A conditions

### **Schedule B**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 18\_915\_001; 18\_915\_002; 18\_915\_003; 18\_915\_004; 18\_915\_005.

- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 4) There shall be no more than 1 pitch on the site and on each pitch hereby approved no more than 2 caravans, shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 7) Details of any floodlighting shall be submitted to and approved in writing by the local planning authority before installation. Development shall be carried out in accordance with the approved details.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no walls, fences or other means of enclosure other than those shown on the approved plans shall be erected on the site unless details of their size, materials and location shall have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) No development shall take place until details of a scheme for the means of foul and surface water drainage of the site and the distance from structures of any package treatment plant; the internal layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking, storage provision and amenity areas; fencing and other means of enclosure; hard and soft landscaping; (hereafter referred to as the site development scheme) shall have been submitted to and approved in writing by the local planning authority. These details shall include an implementation programme. The development shall be carried out in accordance with the approved site development scheme.
- 10) No development shall take place until details of a water efficiency calculation which demonstrates that no more than 110 litres of water per person per day is consumed within the development and a mitigation package addressing the additional nutrient input arising from the development shall have been submitted to, and approved in writing by the local planning authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European sites by the development and shall allow the local planning authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites. These details shall include an implementation programme. The development shall be carried out in accordance with the approved details.

End of schedule B conditions



## Plan

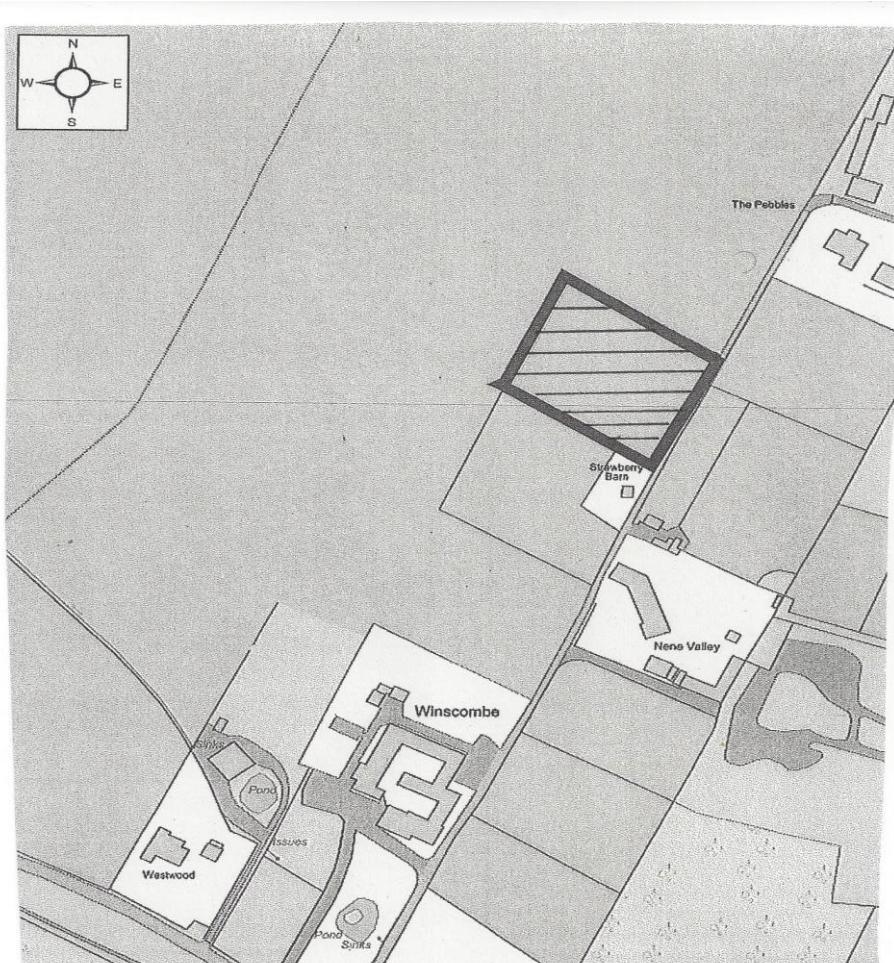
This is the plan referred to in my decision dated: 08 December 2020

**by Brian Cook BA (Hons) DipTP MRTPI**

**Land at: Southwick Ranch, to the north of Southwick Road, North Boarhunt, Fareham, Hampshire PO17 6JS**

**Reference: APP/L1765/C/19/3230601**

Scale: not to scale



## Appendix 2 – Southwick Area 38 Taxishare Scheme

# The Southwick Area Taxishare (38)

A public transport service for passengers travelling from Southwick, North Boarhunt, Newtown or Soberton Heath to Wickham or Cosham/QA

## What is the Southwick Area Taxishare?

It is a public transport service for anyone who needs to travel from Wickham, Soberton Heath, Newtown, Hundred Acres, North Boarhunt or Southwick to QA Hospital or Cosham.

The service is similar to a bus service, except that passengers will need to book in advance and the journey will be operated by a taxi instead of a bus.

## Where can I travel to?

Pre-booked passengers will be dropped off and picked up at Queen Alexandra Hospital, Cosham Health Centre, Wickham Square or Wickham Surgery.

## Where will I be picked up?

Any bus stop in Southwick, North Boarhunt, Hundred Acres, Newtown or Soberton Heath. Additionally, from Wickham Square.

## When can I travel?

### Wickham - Cosham

	Mon - Fri	Tues & Thur only	Wed & Fri only	Mon only
Wickham Surgery	-	09:12	12:20	14:20
Wickham Square	08:00	-	12:25	14:25
Soberton Heath	-	-	12:35	14:35
Newtown	-	09:22	12:39	14:39
Hundred Acres	08:03	09:25	12:41	14:41
North Boarhunt	08:06	09:30	12:44	14:44
Southwick	08:10	09:37	12:51	14:51
QA	08:15	09:43	12:57	14:57
Cosham	08:20	09:46	13:00	15:00

### Cosham - Wickham

	Mon, Wed & Fri only	Tues only	Thurs only	Mon - Fri
Cosham	-	11:40	14:30	17:15
QA	-	11:44	14:34	17:20
Southwick	09:25	11:50	14:40	17:25
North Boarhunt	09:32	11:57	14:47	17:30
Hundred Acres	09:34	12:00	14:50	17:33
Newtown	09:37	12:03	14:53	-
Soberton Heath	09:41	-	-	-
Wickham Square	09:51	12:10	15:00	17:36
Wickham Surgery	09:55	12:15	15:05	-

## What do I do next?

Firstly you must register with Hampshire County Council (this is free) by calling the number below.

You will then be sent a membership pack with the booking number to ring when you would like to travel.

Please call Hampshire County Council for more information on

**01962 846785**

(standard and local call rates apply to this number)

## How do I use it?

To use the service you must pre-book your journey by 4pm the day before you wish to travel.

You can book as far in advance as you like.

## How much will it cost?

	Single	Return
Wickham to Cosham	£4.30	£6.50
Newtown, Hundred Acres or North Boarhunt to QA or Cosham	£2.40	£4.00
Southwick to Wickham	£2.40	£4.00
Southwick to QA or Cosham	£1.85	£3.10
North Boarhunt to Wickham	£1.85	£3.10
Newtown or Soberton Heath to Wickham	£1.65	£2.75
Between any two villages	£1.30	£2.20

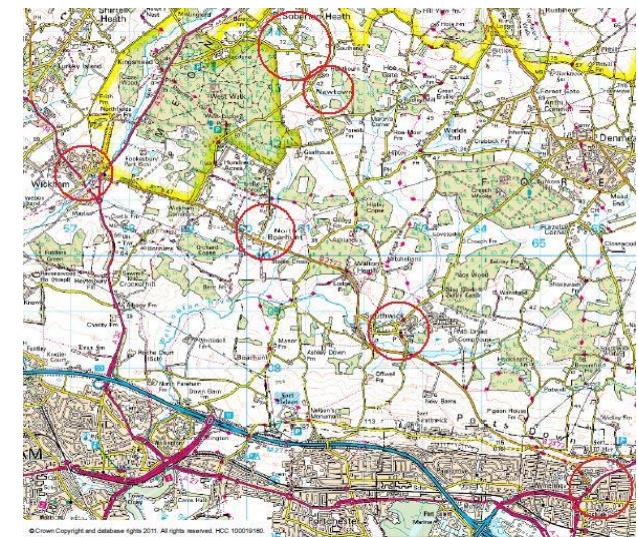
If you have a Concessionary Travel Bus Pass you may use it on this Taxishare service in accordance with the rules of the scheme.

## Other transport information

Updated May 2020

# Southwick area 38 Taxishare

A public transport service



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Hampshire  
County Council

**Appendix 3 – Management and Monitoring Plan for new Sewage Treatment Plant**

# **Drainage Monitoring and Maintenance Strategy**

## **1 Schedule of Maintenance**

1.1 The foul drainage facilities comprising **Biobubble Package Treatment Plant** will be the responsibility of the owner of the site and should be operated in accordance with manufacturer's recommendations and the Environment Agency's General Binding rules for Sewage Discharges in England.

1.2 The system must be installed, operated and maintained in accordance with the manufacturer's specification together with the following requirements in perpetuity.

- The system will be checked at least once a month for signs of pollution by the homeowners. This will be completed by checking for any sewage smells, signs that sewage is not draining properly such as pooling of water around the Package Treatment Plant or drainage field.
- The Package Treatment Plant will be regularly emptied of sludge at a timescale no greater than once a year by a suitably qualified company and should include sampling for total nitrates and plant efficiency during annual servicing. These records will be provided to the LPA upon request.
- Any waste or sludge from the units will be removed and disposed of by a suitably registered company.
- The owner of the site will be responsible for retaining records of any works undertaken on the Package Treatment Plant which will include any invoices, bill or receipts for any works done to empty, maintain or repair it. These will be surrendered to the LPA if required by them.

## **2 Transfer of Ownership of Package Treatment Plant/Wetland**

2.1 If the property is sold or there is a change of ownership the responsibility of operation of the drainage system will pass to the new owner. A written notice stating that a Package Treatment Plant serves the site, and a description of the wastewater system must be provided to the new owner including full details of maintenance requirements in accordance with the latest Environment Agency General Binding Rules (or equivalent).

2.2 Where the property is sold or there is a change of ownership / operator the following shall be provided to the persons responsible for the ongoing management and maintenance of the foul drainage system:

- A description of the treatment system and drainage system

- The location of the main parts of the treatment system, drainage system and discharge point
- Details of any changes made to the treatment system and drainage system
- Details of how the treatment system and drainage system should be maintained, and
- the maintenance manual if there is one
- Maintenance records if they have been retained

2.3 If the system is replaced or decommissioned, due to a higher than 88.5% nitrate removal efficiency provided by the local water company, the existing Package Treatment Plant should be decommissioned by an appropriately qualified person to ensure that pollutants do not enter the groundwater and the LPA shall be informed.

### **3 Repairs and Replacement of Package Treatment Plant**

3.1 Any replacement of the Package Treatment Plant will be with a system that is equivalent or has a greater treatment efficiency than the **Biobubble STP** (88.5%), which will apply in perpetuity. Details shall be provided to the Local Planning Authority upon replacement.

3.2 Any replacement Package Treatment Plant should be supported by at least two years of recorded data to ensure that total nitrates generated from the wastewater effluent at the site are equivalent to or lower than 88.5%.

3.3 Any replacement Package Treatment Plant will also be confirmed with the Local Authorities Building Control department to ensure compliance with Building Regulations and the relevant British Standards.

3.4 The Package Treatment Plant will be replaced at intervals determined by the manufacturer but typically would be undertaken every 15-20 years. This should be determined by the suitably qualified and competent person undertaking the ongoing maintenance of the Package Treatment Plant or when there is an indication that the recorded performance may be reaching /below an efficiency of 88.5%.

3.5 The Package Treatment Plant will be suitably repaired or replaced by a competent person should any of the following issues occur or be identified:

- Leaks
- Cracks in tank walls or pipes
- Blocked pipes
- Signs that the effluent is not draining properly, pools of water around the drainage
- Point

- Sewage smells
- A failed motor
- A failed pump
- A failed electricity supply

#### 4 Maintenance Schedule

Table 1:Schedule of Regular and Corrective Maintenance

Maintenance Schedule	Required Action	Frequency
Regular Maintenance	Check area around Package Treatment Plan/Drainage Field for any sewage smells or signs that sewage is not draining correctly	Monthly or as required
	Foul water pipework – jetting/rodding	Annually
	Maintenance/Servicing by competent and suitably qualified person in accordance with the manufacturers guidance	Annually
	Sampling of total nitrates from discharge of Package Treatment Plant and details provided to LPA	Annually
	Check outlet pipe is clear from debris or obstructions Ensure no roots have entered outlet pipes Remedy any defects or repairs within one month of detection	Bi- Annually
Corrective Maintenance/Replacement	Repairs to Package Treatment Plant	As required or during annual/biannual service
	Repairs or replacement of components forming part of the foul drainage system where any leak, crack in tank wall, blocked pipe, failed motor, pump or electrical supply is identified.	As required or during annual/biannual service
	Replacement of unit with a similar compliant or superior unit with a total nitrate efficient of greater than 88.5% and in meeting latest	Minimum of every 15-20 years.

	Environment Agency and British Standard requirements	
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## 5 Maintenance Summary

Table 2:Drainage System Maintenance Summary

Inspection/Action Required	Biobubble Unit	Connecting foul pipework, outfall, point of discharge	Drainage Field
Monthly	x	x	x
Bi-annually			x
1 year	x	x	x
15-20 years	x		
25 years			x