

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

## **REFUSAL of Planning Permission**

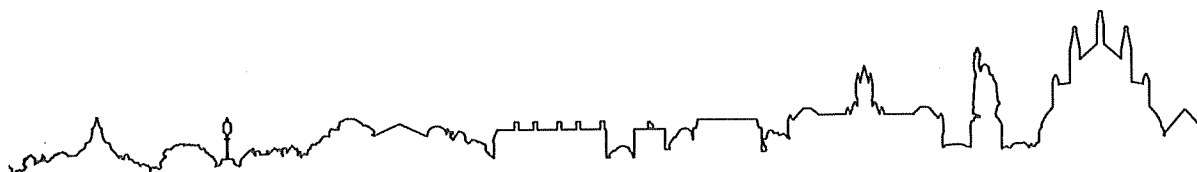
Planning Application Reference: 20/01806/FUL

Decision Date:- 21.10.2020

Winchester City Council **REFUSES** planning permission for **Creation of one Gypsy/Traveller Pitches comprising 1 Mobile Home, 1 Touring Caravan and 1 Dayroom, and associated works.** at Plot 2, Pony Paddock, Hipley Road, Hambledon, Hampshire, due to the following reason(s):

- 1 The application is contrary to policy MTRA4 of the Winchester Local Plan Part 1, in that it would result in an additional dwelling in the countryside for which there is no overriding justification.
- 2 The application is contrary to policy DM16 and DM23 of Winchester Local Plan Part 2 and TR7 of the Traveller DPD in that it would result in significant harm to the rural characteristics of the area by way of visual and physical intrusion and loss of tranquillity.

**J Pinnock**  
**Julie Pinnock BA (Hons) MTP MRTPI**  
**Service Lead - Built Environment**





## **Notes To Accompany Planning Decision Notice**

### **Rights of Appeal:**

- The applicant or the applicant's representative has the right to appeal to the Secretary of State against any of the conditions applied to this permission under section 78 of the Town and Country Planning Act 1990.
- **As this is a decision relating to a Planning Application, any appeal against the reason for refusal must be made within six months from the date of this notice.**
- **If an enforcement notice is served relating to the same or substantially the same land development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.**
- The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- Appeals must be made using a form which you can get from the Secretary of State at:

The Planning Inspectorate (England)  
Temple Quay House  
2 The Square  
**Temple Quay**  
Bristol  
BS1 6PN

Or online at:

<https://www.gov.uk/government/organisations/planning-inspectorate>

- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by the Secretary of State.



## OFFICERS ASSESSMENT

Case Reference: 20/01806/FUL

**Proposal:** Creation of one Gypsy/Traveller Pitches comprising 1 Mobile Home, 1 Touring Caravan and 1 Dayroom, and associated works.

**Site Address:** Plot 2 Pony Paddock Hipley Road Hambledon Hampshire

Decision Type: Delegated Decision

**Recommendation:** Application Refused

Officer: Rose Lister

**Date:** 21 October 2020

Extension of Time Date(if applicable) 21 October 2020

Consultee:

Parish Consultation Letter

Drainage Engineer

Environmental Protection

Contaminated Land Alison Harker Environmental Health

Natural England Consultation Service

LLAND Landscape

Officers Report:

Principle

Paragraph 47 of the NPPF requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The development is not situated within a settlement boundary therefore countryside policies apply.

Policy MTRA4 sets out the criteria for acceptable development within the countryside. The application is not for business or tourism uses, nor is the application for a agricultural/forestry worker. It is therefore considered that the application would not meet this policy.

The 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 within the PPTS 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 2013 and comply with the requirements of Policy TR7 which contains provisions applicable to all sites. A statement has been submitted that indicates that the applicant and their family are identified as gypsies or travellers.

The recent appeal for 4 plots demonstrated that there was of a lack of alternative suitable accommodation to serve the identified need. Tynefield Caravan Park in Whiteley is allocated for 18 pitches; however a recent appeal decision has found that the site is unfit for habitation.

The adopted DPD is considered to be valid until 2031 and while some of the allocations may not currently be available it is considered that they will be coming forward within the DPD period and therefore the 5 year Housing Land Supply for Gypsy, Traveller and Travelling Show people is considered to be intact. However in the short term it is accepted that there is a lack of suitable alternative sites to serve the identified need.

The Denmead Neighbourhood Plan 2011-2031 was made on 1 April 2015. Annex B proposes that the development of two new sites for travellers accommodation will be supported provided that (i) each comprises a self-contained site of no more than 2 or 3 pitches or plots (ii) they are located in close proximity to the settled traveller community in Old Mill Lane and adjacent to the existing traveller site at West Fork in Bunns Lane, and (iii) they will accord with all relevant policies in the Neighbourhood Plan and Winchester Development Plan. Criterion (ii) is not fulfilled, but at the recent appeal the Council confirmed that the Annex is not adopted as policy forming the development plan for the area. It is a statement of intentions rather than a policy requirement. Moreover, it is not consistent with the more recently adopted Traveller DPD. In relation to the recent appeal the Inspector gave the Denmead Neighbourhood Plan little weight in relation to the development.

#### Planning History

13/00696/FUL - Proposed use of land to provide 8 plots for gypsy/traveller families a total of 8 mobile homes, 8 touring caravans and 8 day rooms on land at Forest Road - withdrawn

14/00180/FUL - Use of land to provide 8 no. plots for gypsy/traveller families, 8 no. mobile homes, 8 no. touring caravans and 8 no. day rooms - refused. Appeal dismissed. This application confirmed that 8 pitches on this site is not considered acceptable.

17/01862/FUL - 2 residential mobile homes and 2 touring caravans - pending consideration

17/01191/FUL - Provide 4 no. gypsy/traveller pitches - pending consideration

19/02469/FUL - Creation of two Gypsy/Traveller Pitches comprising 1 Mobile Home, 1 Touring Caravan and 1 Dayroom for each pitch, and associated works. . Temporary permission until 2024 - permitted

20/00511/FUL - Creation of one Gypsy/Traveller Pitches comprising 1 Mobile Home, 1 Touring Caravan and 1 Dayroom, and associated works. - refused

There is a recent enforcement appeal decision, ( APP/L1765/C/18/3201565, App/L1765/C18/3201566, APP/L1765/C/18/3201567 and





APP/L1765/C/18/3201570, 28th August 2019) regarding plots 3,4,7 and 8 that has concluded that the site at Tynefield in Whitley is not yet inhabitable and as such there is a current shortfall of Gypsy and Traveller sites until this becomes available. This has been explored below.

#### Impact on Property and Character area

The proposal is for one gypsy/traveller pitch with amenity block and other associated development.

In terms of detail assessment of the suitability of the site policy CP5 of the LPP1 sets out the criteria for suitable sites for pitches, these include:

- Sites being well related to existing settlements
- Avoiding over-concentration of sites in any one location
- Accessible by local services
- Avoid harmful impacts on nearby residential properties
- Be capable of accommodating acceptable facilities

In addition policy TR7 of the DPD provides a set of general requirements in relation to access and parking; environmental and general criteria for developments to satisfy.

It has been established through the recent appeal decision that the site is located near enough to the small settled community of Worlds End to become integrated without being too close to cause tension with other residents.

Whilst the Inspector concluded that the development results in reliance upon the car to access services and facilities and so there is an issue of accessibility but in the context of a rural area it is not a major issue as it would only generate short journeys. The Inspector accepted that the site was not unsustainable taking into account environmental, economic and social issues including the social benefits to individuals in having a settled base. The Inspector concluded that the site was a suitable location for gypsy and traveller families and where peaceful and integrated co-existence with the local community is capable of being achieved.

Whilst the additional plot will increase the presence of development in this area it is not considered to lead to an overconcentration of sites in this location relative to the size and scale of the existing settled community of Worlds End.

Based upon the findings of the most recent appeal it is considered that the site is in a suitable location for such development and in principle is in a location that would support additional plots from an accessibility and sustainability perspective.

It is noted that the previous recent applications for neighbouring plots adjacent to the plot have found that, on balance, the impact of the additional plots on the wider area was outweighed by the personal needs of the applicants.

However, these decisions were reached in the context of location within the wider plot and the harm resulting from them. The previous applications were for pitches that were set back within the wider plot, and in the case of 19/02469/FUL infilled the area between existing temporary pitches. The previous applications have shown harm to the wider area however the low number of pitches, combined with the personal circumstances of the applicants made the applications acceptable for a temporary period only.



In this instance the application is for permanent residence, in an area that is closer to the road and the site access therefore resulting in development that is more visible in the street scene and the wider countryside. Policy DM23 allows for development within the countryside where it would not result in an unacceptable effect on the rural character of the area, by way of visual intrusion, incongruous features, the destruction of locally characteristic rural assets, or by impacts on the tranquillity of the environment. The policy also stipulates that development should not detract from the enjoyment of the countryside from the public realm or public rights of way. Concerns have been raised in these regards.

It is considered that in this case the proposal would result in visual harm, the loss of tranquillity and the loss of enjoyment of the countryside from the public realm.

It is noted that the site is currently subject to fly tipping with debris scattered throughout, however it is considered that this is a condition that can be resolved to allow the area to return to pasture that is characteristic of the area. It is not considered that developing the site, introducing domestic and urban features, would enhance the rural qualities of the area but would rather exasperate the harm experienced as a result of the temporary pitches adjacent to the site in a permanent manner that is considered to be contrary to policy DM23. It is considered that the proposal would result in substantial, irreparable harm to the surrounding countryside and contrary to adopted policies.

Previous appeals on the site that were dismissed raised concerns regarding the overdevelopment of the site. It is considered that the proposal would add an additional plot to the existing 6 (that have temporary permission). While it is noted that the previous appeal was in relation to 8 pitches it is considered that the location of this site would result in overdevelopment of the wider site as a whole to the detriment of the character of the area contrary to policy DM16 of the Winchester District Local Plan Part 2.

It is noted that the other pitches on the site are temporary and therefore a question of whether a temporary permission would be considered more acceptable has been asked. In this instance it is considered that the amount of temporary development in the area has reached its limits and resulted in harm that would only be exasperated by additional plots whether temporary or permanent and therefore, the current application, would compound the visual harm caused to the rural characteristics of the area.

#### Impact on residential amenity

The proposed development would be adjacent to existing temporary pitches. It is not considered that the proposal would result in adverse impacts on the residential amenities of the neighbouring occupiers.

#### Environmental Protection

The application site has been subject to fly tipping and fires in the recent past that is likely to have resulted in contaminated land, as such a contaminated land report was requested however this was not submitted. It is considered



that contaminated land reports and mitigation could be secured via condition. The Environmental Health Officer raised no objection subject to the reports and mitigation being secured prior to any works commencing. It is considered that should the application have been considered acceptable these would have been secured.

#### Highways

The site would use an existing access that has been considered acceptable under previous applications. There would be no change to this, therefore the access is considered acceptable.

The plans show suitable parking and turning places for potential occupants in line with the Residential Parking SPD.

#### Other Matters

##### Personal circumstances

The applicant has submitted a statement detailing a family link to the area and a desire for a base. In the event of planning permission for a generic gypsy and traveller site not being justified then the personal circumstances of the appellants and their families are a material consideration to be taken into account if considering a personal planning permission.

The applicant has indicated that their child is pre-school age and not yet enrolled in any local institutions, nor have the family enrolled in the local medical centres.

As regards Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights the applicant and their family are not currently living on the application site. Refusal of this application would not result in unnecessary upheaval. It is therefore considered that the applicant's rights would not be violated by the refusal of the application.

#### Equality

Due regard should be given to the Equality Act 2010: Public Sector Equality Duty. Public bodies need to consciously think about the three aims of the Equality Duty as part of the process of decision-making. The weight given to the Equality Duty, compared to the other factors, will depend on how much that function affects discrimination, equality of opportunity and good relations and the extent of any disadvantage that needs to be addressed. The applicants share a protected characteristic and the Local Planning Authority has taken into account the need to avoid discrimination.

#### Nitrates

The proposed development is within Winchester District where foul water is distributed into the European designated areas Solent SPAs/Ramsar sites via water treatment plants. In accordance with advice from Natural England and as detailed in Policy CP16 of the Winchester City Council Local Plan Part 1 Joint Core Strategy a net increase in housing development within Winchester District is likely to result in impacts to the integrity of those sites through a consequent increase in Nitrates. A nitrate calculation has been conducted in relation to this. It has been demonstrated that the proposal would generate a



surplus of nitrates and therefore mitigation is required. As such a Grampian condition in line with the Winchester City Council Position Statement on Nitrate Neutral Development has been agreed in principle to secure appropriate mitigation prior to occupation.

#### Conclusion

The Inspector for the recent enforcement appeal decision states that currently, while there are sites within the DPD that have yet to come forward, there is a current lack of available plots to meet the current need. Therefore, sites are required on a temporary basis, to accommodate the relevant demographic, until such a time as the other sites within the DPD come forward or other sites are allocated through the Local Plan review.

The enforcement appeal of last year has identified that the use of the site is harmful to the surrounding area and therefore as a permanent use of the site the proposal is not considered acceptable.

The previous enforcement appeal decision has highlighted the sustainability of the site and links of the applicants to the area giving additional weight to this. However, in this case it is considered that, while there is a family link to the area, this does not outweigh the harm to the rural character of the area. Therefore, the application cannot be supported.

The proposal fails to accord with the Development Plan and the following policies DS1, MTRA4, CP5, TR6, TR7, DM1, DM4 and DM23.

#### Representation

Councillor Clementson objected to the proposal in regard to:

- current use of inappropriate lighting on site
- existing occupants of the site are not those granted the temporary permission.

Denmead PC objected to the proposal in regard to:

- overdevelopment of the site
- contrary to policy
- Contrary to the Denmead Neighbourhood Plan

26 comments from 22 addresses have been received objecting to the proposal in regard to:

- existing occupants of the site are not those granted the temporary permission.
- overdevelopment of the site
- contrary to policy
- Contrary to the Denmead Neighbourhood Plan
- impact on countryside
- site is not owned by the applicant
- the proposal is not temporary in line with the rest of the site
- increase in traffic
- increase in light pollution
- insufficient drainage





- no need for more sites
- occupants behaviour
- impact on trees and hedges
- no information on materials

Application Refused for the following reasons:

01 The application is contrary to policy MTRA4 of the Winchester Local Plan Part 1, in that it would result in an additional dwelling in the countryside for which there is no overriding justification.

02 The application is contrary to policy DM16 and DM23 of Winchester Local Plan Part 2 and TR7 of the Traveller DPD in that would result in significant harm to the rural characteristics of the area by way of visual and physical intrusion and loss of tranquillity.

End of Report





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## Appeal Decision

Hearing Held on 24 August 2022

Site visit made on 24 August 2022

**by David Murray BA (Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 SEPTEMBER 2022

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**Appeal Ref: APP/L1765/W/20/3262560**

**Plot 2, Pony Paddock, 6 Hipley Road, Hambledon, PO7 4QX.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr P Doran against the decision of Winchester City Council.
  - The application Ref. 20/01806/FUL, dated 17 August 2020, was refused by notice dated 21 October 2020.
  - The development proposed is the change of use to one Gypsy/traveller pitch comprising one mobile home; 1 touring caravan, and erection of one dayroom and associated works.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The hearing opened on the 24 August 2022 but was adjourned after dealing with the principal issues in the case as the main parties had not reached a conclusion on the issue of the development being 'nitrate neutral' and I was advised that further work was necessary on this topic. The parties asked for additional time in which to complete this. Further evidence was submitted later in August and September, and I am satisfied that this is sufficient for me to make a final decision on this case. I therefore wrote to the parties on the 26 September closing the hearing in writing.
3. The Council and local residents suggest that a small part of the application site at the entranceway from Hipley Road is owned by a third party, but no notice has been served under Articles 13 and 14 of the procedure Order<sup>1</sup>. Moreover, representations were made by Messrs Fuller, Smith and Turner plc, just before the hearing, saying that this company owns the access to the site, adjacent land, and the nearby Chairmakers Arms and that the company had not been notified of the application either by the appellant or the Council. For the appellant Mr Masters was adamant that his client owned all of the land in the application site at the time when the planning application was made and said it was not unusual for the gypsy and traveller community to not register such a land purchase at HM Land Registry.
4. There is conflicting evidence on land ownership submitted on the appeal and the resolution of the ownership issue remains a private and separate matter.

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<sup>1</sup> The Town and Country Planning (Development Management Procedure) (England) Order 2015, as amended.



In terms of the notification required by the Order, although the third party (if a relevant landowner) was not notified of the proposal by the appellant, the purpose of the notification is to enable the person/company to make representations on the proposal, which Fuller, Smith and Turner have been able to do, albeit on a limited basis and late in the day. These comments are similar to those made by others in the local community. I find that the third party has not been prejudiced by the lack of notification if that had been required. Moreover, I am satisfied that any potential problems over the implementation of the proposed access arrangements, if over land in other ownership, could be addressed by a 'Grampian' condition restricting the development until the proposed access can be legally secured if all other aspects of the proposal prove to be acceptable.

### **Main Issue**

5. The main issues are:

- The accord of the proposal with the development strategy;
- The effect on the character and appearance of the area of countryside;
- Whether the development can be mitigated to be 'nitrate neutral' and the effects on the Solent Special Protection Areas (SPAs);
- Whether the Council can demonstrate a five-year supply of gypsy and traveller sites to meet local needs and the availability of alternative sites;
- The personal circumstances of the appellants including the best interests of any children.

### **Reasons**

#### *Background*

6. The appeal site comprises an elongated area of land which lies close to the access and track leading to the other six gypsy and traveller pitches as described in paragraphs 8 & 9 below. Some of the actual boundaries of the formal application site were difficult to discern at the site visit because of the extensive tipping of waste that has taken place on the land. An area of land to the north-west of the appeal site is in the appellant's ownership. It was previously known as plot 1, however, the current proposal seeks to use this as an open area for biodiversity enhancement.
7. The appeal site lies within an area of countryside including a loose cluster of dwellings in an area known as Worlds End and there is an existing pub, The Chairmakers Arms to the east. The surrounding area is largely open countryside with scattered farmsteads and equine facilities and the Council's Landscape Character Assessment indicates that the local area comprises mixed farmland and woodlands within the Forest of Bere Lowlands.
8. The planning history of the appeal site and neighbouring area is relevant to this appeal. It is apparent that planning permission was sought for 8 gypsy/traveller plots/pitches in 2013 but permission was refused. A subsequent appeal<sup>2</sup> was dismissed as the Inspector concluded, in summary,

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<sup>2</sup> APP/L1765/A/14/2224363



that while the Council could not demonstrate an adequate five-year supply of sites at that time, the conflict with the development plan and harm to the countryside character and other harms outweighed this factor and so neither a permanent nor temporary permission was justified.

9. In a subsequent appeal in 2019<sup>3</sup> against an enforcement notice to cease the residential use of the land, temporary (5 year) permissions were granted for plots 3, 4, 7 & 8. In summary the Inspector concluded that the significant harm to the character and appearance of the surrounding area, and conflict with the development plan, was outweighed in the short term by the lack of alternative sites at that time and the unlikelihood of suitable sites becoming available, together with the appellants' personal circumstances and the best interests of children living on site. Since then, the Council has permitted two further pitches between the four approved at appeal. This was said to be a consolidation of what has already been permitted rather than a physical expansion of the overall site, and the permission is for a limited period expiring in August 2024 to coincide with the 2019 appeal decision.

*Accord with development strategy*

10. The development plan includes the Council's District Local Plan Part 1 Joint Core Strategy 2013 (now referred to as the CS); District Local Plan Part 2 – Development Management and Site Allocations (DMSA); the Denmead Neighbourhood Plan (NP); and the Traveller Development Plan Document (DPD). Policies relevant to the appeal will be considered in the main issues.
11. The site lies in the countryside well away from any settlement defined in planning policy. CS Policy MTRA 4 seeks to limit development in such a location to specific uses which have a functional need to be located in the countryside together with development associated with the reuse of buildings and also low-key tourist accommodation. The appeal proposal is not of this nature and therefore the proposal conflicts with this main policy as Mr Woods agreed.
12. However, both main parties recognise that other policies could permit development in a countryside location, and such a location is not advised against in the Planning policy for traveller sites (PPTS). In terms of the Policy CP5, dealing with sites for Gypsies and Travellers, the Council agreed that where a need could be established, the only criteria in this policy that was not met by the proposal was in relation to the effect on the landscape where sites should not be 'unduly obtrusive'. I will conclude on this aspect after the second main issue.
13. Policies on the suitability of gypsies/traveller sites are also set out in the Travellers DPD. This contains policies and proposal for the safeguarding of permitted sites and the development of new ones and Policy TR6 deals with new sites within settlement boundaries or by 'infilling'. Outside of these stated parameters the Policy sets out three criteria in bullet points for sites to be considered acceptable along with meeting other site-specific policy in CP5 and TR7.
14. Taking these bullet points in turn, on the appellant's evidence I have no reason to doubt that he and his family are travellers who meet the definition set out in

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<sup>3</sup> APP/L1765/C/18/3201565





the Annex to the PPTS. Although the Council query the extent to which the appellant has a personal and cultural need to be located in the area, as the appellant's parents live in a residential unit on the adjoining land as permitted by the 2019 appeal, at the moment the appellant has clear personal links to the area. Finally on the issue of other suitable accommodation, the evidence given at the hearing was not clear cut in that while alternative sites had not been shown to be available the Council referred to the range of potential sites set out in the DPD. Nevertheless, these appear to me to be privately occupied sites and there is little evidence that any could be reasonably suitable and available to the appellant and family.

15. Overall, on the written and oral evidence submitted I find that the proposal does not conflict with Policy TR6 of the DPD. I will make an overall conclusion of the accord with the development strategy in the planning balance.

*Effect on countryside character*

16. In assessing this factor, I have borne in mind that the existing gypsy/traveller pitches have a limited period permission which expire in 2024. Moreover, the present tipped material on the appeal site is unauthorised and I have not placed any weight on its visual appearance or the benefit of its removal that the proposal would result in.
17. Although the eastern edge of the appeal site is open, the southern and western boundaries are generally tree/hedged lined and there is another belt of landscaping along the frontage of Forest Road. Consequently, much of the appeal site and the caravans and day room proposed would be screened from view from the general public realm. There would be a limited view of these elements from Forest Road through the gap formed by the access and below the canopy of tall conifer trees together with views from other private land around the access road to the existing pitches.
18. In terms of the factors set out in Policy DM23 regarding 'Rural Character' I find that the proposed single pitch site would have a significantly intrusive effect on the physical character and landscape of the surrounding countryside which mainly comprises open fields and paddocks with belts of woodland. However, the direct visual effect on the public realm would only be moderately harmful as it is relatively contained by landscaping which could be reinforced.
19. The factors in DM23 also refer to the effect on 'tranquillity'. Although the proposed site would not make much difference to the comings and goings and light spillage associated with the other gypsy/traveller pitches, judged on its own and on a permanent basis I find that the trappings of the use proposed would be at odds with the characteristics of the relative remoteness of this rural area, taking account of the presence of The Chairmakers Arms which I noted at the site visit.
20. Overall, on this issue I find that even taking account of potential new landscaping and enhancement of the land to the north (previously known as plot 1) the proposed residential caravan pitch would harm the character and appearance of the surrounding area of countryside and would not accord with the provisions of Policy DM23. Moreover, it would be 'unduly intrusive' in the general landscape and so conflict with the specific criterion set out in Policy CP5.



### *Effect on SPAs*

21. This issue is concerned with the discharge of foul water from new development in the area into the Special Protection Areas via water treatment plants. Such development is likely to have an adverse effect on water quality caused by an increase in nitrogen and phosphate deposition into the protected harbours where the increase in nutrients causes a dense growth in certain plants to the detriment of other species. From all of the evidence submitted it is clear that the overall SPA is in an unfavourable ecological state.
22. In addition to the evidence submitted on behalf of the Council, I have also taken account of the Written Ministerial Statement made by the Secretary of State on the 16 March 2022<sup>4</sup> and the evidence from Natural England.
23. The development proposal is the siting of a residential mobile home which would result in additional waste-water being produced. I understand that the waste would be disposed of to a small treatment plant on site, but this would need to be emptied on an occasional basis. Depending on where the sewerage would be treated locally the resulting nutrient in the effluent could still reach the SPAs. The extent of nutrient 'load' that is likely to arise has been assessed though a 'Nutrient Neutrality Budget Calculator' and the Council is satisfied that mitigation of the increase in nitrates can be addressed through a Grampian condition, the details of which were discussed at the Hearing.
24. If I was minded to allow the appeal, I would need to undertake an Appropriate Assessment under the Habitat Regulations, however, for the moment I am satisfied that with the condition put forward by the main parties (or Unilateral Undertaking if financial contributions were necessary) this would secure appropriate and necessary mitigation thereby ensuring that the proposal would not adversely affect the integrity of the SPA.

### *Need and supply of sites*

25. The PPTS stipulates that Councils should be able to demonstrate a five-year supply of deliverable gypsy/traveller sites assessed against a locally set target. Policy DM4 indicates that the accommodation needs of travellers who meet the PPTS definition in the plan area will be about 15 pitches within the period 2016 – 2031.
26. The evidence submitted on the supply of sites in this case is varied and conflicting. It is evident that when the Council decided the application (August 2020) it conceded that it could not demonstrate a five-year supply at that time. However, when the appellant's agent submitted the written statement on the appeal (November 2020) the five-year supply was 'not contested'<sup>5</sup>. For more up to date evidence the Council relies on the Inspector's decision on two appeals in Hambledon<sup>6</sup> issued in March 2021. In these the Inspector concluded that the Council did not have a shortfall of pitches. At this appeal the Council sought to introduce further evidence on the supply of sites from the last annual monitoring report, but this was objected to by the appellant as late evidence.
27. The appellant submits that the base data collected and used in the 2016 GTAA is now out of date and disputes some of the methodology contained within the

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<sup>4</sup> Statement UIN HCWS688.

<sup>5</sup> As at paragraph 8.15.

<sup>6</sup> APP/L1765/C/20/3254256 & APP/L1765/C/20/3253413



assessment. Nevertheless, the Traveller DPD is reasonably up to date and has been subject to examination. It should therefore be given the full weight of the development plan. The DPD indicates that the policy requirement set out in DM4 will be delivered with a surplus of 16 sites. This includes about 10 pitches to be delivered through the SPD mainly through the conversion of temporary sites into permanent ones under policies TR2-4 and the intensification of existing sites under policy TR5. Even if the provision at Tynefield is deleted from the calculation, as the Council accepts that the site remains in an uninhabitable state, it appears to me that there is still an adequate supply at the moment.

28. I recognise that when the temporary permissions relating to the adjoining land expire in 2024 there may be a local need arising from the 6 pitches, but I cannot speculate if these would then meet policies TR5 or TR6 because of the harm to the character of the countryside previously identified. The issue of that need would therefore be a matter for the forthcoming Local Plan review.
29. Overall, on this issue I find that at the moment it has not been shown that the Council cannot demonstrate an adequate supply of gypsy/traveller sites to satisfy Policy DM4.

*Personal circumstances including best interest of children*

30. The appellant and family's personal circumstances are set out in his Statement, and this was added to at the hearing. In essence he and his family have been travelling for work and have to live on the road-side or 'double up' on existing pitches. However, their current pitch expires in October and the family would likely be back living on the roadside if this appeal is not successful. His parents occupy one of the adjacent sites and the family would greatly benefit from living close to the relatives. A permanent address would also help the family access medical and social services.
31. There are four children in the family currently of school age and their itinerant lifestyle means that the children get little formal education. The pitch on the appeal site would give them a settled base from which they would be able to attend local schools which is essential for their educational and social development and is in their best interests. The clear benefits for the grouping of the extended family (at least up to 2024) and the best interest of the children are factors that I give significant weight.

*Planning balance*

32. At the start of the planning balance, I have borne in mind the requirements of the Public Sector Equality Duty and I have placed no single aspect above the best interests of any child.
33. On the main issues I have found that the proposed residential pitch would harm the countryside character of the area. While the visual harm would be moderate there would be significant harm to the physical undeveloped character of the countryside landscape and the tranquillity of the area so as to conflict with the provisions of Policy DM23 and it would be unduly intrusive and conflict with the criteria in Policy CP5, although I have found that that the DPD Policy TR6 is not conflicted with.
34. The proposal would add to the effect caused by discharge of nitrates into the Solent SPA in a minor way, but I am satisfied that a condition could be imposed



on any permission to ensure appropriate and necessary mitigation so that the proposal would not adversely affect the integrity of the SPA.

35. Overall, I conclude that the proposal conflicts with the strategy and policy of the development plan when this is read as a whole, but this has to be balanced with other considerations.
36. In terms of the need and supply of gypsy and traveller sites, I conclude that it is likely that the Council can demonstrate an adequate supply at the moment and that the requirements of the PPTS are being met.
37. The proposal would provide significant benefits for the appellant and family in finding a permanent base close to other family members for their mutual support and would help secure access to education for the children essential for a secure and stable upbringing.
38. On balance, I conclude that the harm which would be caused by the development and the conflict with the development plan outweighs the other considerations to the extent that permanent planning permission should not be granted. However, it is also necessary to consider whether a time-limited permission could be granted. It is evidence that this should be consistent with that applying to the neighbouring pitches but in practice the period of just over two years would be disproportionate to the degree of work required to make the site ready for the use proposed. It could also hinder rather than support the children's long-term stability particularly for education.
39. On this basis neither a permanent nor temporary permission is justified. Dismissing the appeal could interfere with the appellants' rights under Article 8, since the consequence might be that the family is rendered homeless at some point. However, the interference would be in accordance with the law and in pursuance of a well-established and legitimate aim: the protection of the character and appearance of the countryside.

## **Conclusion**

40. For the reasons give above I conclude that the appeal should be dismissed.

*David Murray*

INSPECTOR





## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr A Masters	of Counsel
Mr B Woods BA (Hons) MRTPI	WS Planning and Architecture
Mr P Doran	Appellant
Mr T Doran	Appellant's father
Mrs E Doran	Appellant's mother

### **FOR THE LOCAL PLANNING AUTHORITY:**

Ms R Chapman	Principal Planning Officer, Winchester City Council.
Mr S Opacic	Strategic Planning and Projects Officer, WCC
Mr Dunbar-Dempsey	Landscape Officer WCC
Ms L Hutchings	Planning Implementation and development Manager WCC

### **INTERESTED PERSONS:**

Cllr P Langford-Smith	Chair – Denmead Parish Council.
Mrs C Hargreaves	Chair – Residents Association.
Ms D Searle	Local resident
J Hollingshead	Denmead PC.
S Settle	Local resident

## **DOCUMENTS SUBMITTED AFTER THE HEARING**

- 1 Revised Solent Nutrient Budget Calculator – sent by email 25 August 2022.
- 2 Response from LPA – sent by email 25 August 2022.

End

