



---

## Appeal Decisions

Inquiry held on 26-29 September 2023; 21-23 and 28 November 2023

Site visits made on 26 September 2023 and 23 November 2023

**by R Merrett Bsc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 April 2024

---

**Notice 1: Appeal Refs: APP/L1765/C/22/3296767, 3296771, 3296773, 3296776, 3296778, 3296781 and 3296783**

**Land at Carousel Park, Basingstoke Road, Micheldever, Winchester, Hampshire SO21 3BW**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by the persons named in Appendix 1 against an enforcement notice issued by Winchester City Council.
- The enforcement notice, numbered EN1, was issued on 1 March 2022.
- The breach of planning control as alleged in the notice is Without planning permission, the material change of use of the Land to a residential caravan site, including the stationing of approximately 100 caravans for residential use ("the Unauthorised Use").
- The requirements of the notice are 1. Cease the use of the Land as a residential caravan site; 2. Remove all caravans, park homes, mobile homes, hardstanding, hard surfacing, fencing, walls, gates, services, storage containers, sheds, porta-loos, animal enclosures, vehicles, machinery, trailers, waste, construction materials, buildings, structures, lighting, and any other items associated with the Unauthorised Use from the land; 3. Restore the land to its condition before the breach of planning control took place.
- The period for compliance with the requirements is 6 months.
- The appeals are made on the grounds set out in section 174(2)(a), (b), (d), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since appeals have been brought on ground (a), applications for planning permission are deemed to have been made under section 177(5) of the Act.

**Summary of Decisions: The appeals are allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.**

---

**Notice 2: Appeal Refs: APP/L1765/C/22/3296768, 3296772, 3296774, 3296777, 3296779, 3296782 and 3296784**

**Land at Carousel Park, Basingstoke Road, Micheldever, Winchester, Hampshire SO21 3BW**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by the persons named in Appendix 1 against an enforcement notice issued by Winchester City Council.
- The enforcement notice, numbered EN2, was issued on 1 March 2022.
- The breach of planning control alleged in the notice is Without planning permission, the breach of conditions 10, 11 and 15 of planning permission 02/01022/FUL granted on 02 October 2003.
- The development to which the permission relates is Change of use of agricultural land to travelling showpeoples' site.

- The conditions in question are Nos 10, 11 and 15 which state that - 10. There shall be a maximum of three caravans or mobile homes occupied for residential purposes on each pitch. Any additional touring caravans used by the travelling showpeople may be stored within the defined storage areas but may not be occupied for residential purposes at any time; 11. There shall be no more than 9 family pitches on the site and the pitches may not be sub-divided at any time; 15. No more than 50 people shall occupy the site at any time.
- The notice alleges that the conditions have not been complied with in that the number of caravans occupied for residential purposes, the number of family pitches on the site and the number of people occupying the site all exceed the restrictions imposed by the respective conditions.
- The requirements of the notice are: 1. Cease the use of the Land for siting more than three caravans or mobile homes per pitch occupied for residential purposes (condition 10); 2. Cease the use of the Land for occupation by more than 50 people (condition 15); 3. Restore the layout of the Land to comprise no more than 9 family pitches as shown on the attached plan 02-44-01 of December 2002 (condition 11)
- The period for compliance with the requirements is 6 months.
- The appeals are made on the grounds set out in section 174(2)(a), (b), (c), (d), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since appeals have been brought on ground (a), applications for planning permission are deemed to have been made under section 177(5) of the Act.

**Summary of Decisions: The appeals are withdrawn and therefore no further action is taken in relation to them.**

---

**Notice 3: Appeal Refs: APP/L1765/C/22/3296503 and 3296504  
Land at Carousel Park, Basingstoke Road, Micheldever, Winchester,  
Hampshire SO21 3BW**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by the persons named in Appendix 1 against an enforcement notice issued by Winchester City Council.
- The enforcement notice, numbered EN4, was issued on 1 March 2022.
- The breach of planning control as alleged in the notice is Without planning permission, the material change of use of the Land to a residential caravan site for 10 caravans ("the Unauthorised Use").
- The requirements of the notice are 1. Cease the use of the Land as a residential caravan site; 2. Remove all caravans, mobile homes, park homes, hardstanding / hard surfacing, fencing, services, storage containers, sheds, porta-loos, animal enclosures, vehicles, machinery, trailers, waste, construction materials, buildings, structures, and any other items associated with the Unauthorised Use from the Land; 3. Restore the Land to its condition before the breach of planning control took place.
- The period for compliance with the requirements is 6 months.
- The appeals are made on the grounds set out in section 174(2) (a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since appeals have been brought on ground (a), applications for planning permission are deemed to have been made under section 177(5) of the Act.

**Summary of Decisions: The appeals are withdrawn and therefore no further action is taken in relation to them.**

---

## **Preliminary Matters**

### *Planning Background*

1. The appeal site has a lengthy planning history. The lawful use of the site, as affirmed by a Court of Appeal decision in March 2015, is as a travelling

showpeoples' site, in accordance with the original 2003 permission<sup>1</sup>. In that line of case law it was found that travelling showpeople have their own particular planning needs and there is a distinction between the use of the land for travelling showpeople and its use as a residential caravan site. This distinction is significant in planning terms.

2. The use of land as a travelling showpersons' plot is essentially a mixed use since it encompasses the stationing of caravans for residential use alongside the use of land for the storage, maintenance and repair of fairground rides and other amusements.
3. As originally laid out, and in accordance with condition 11 imposed on the 2003 permission, Carousel Park included nine plots, laid out around a central access road. Condition 15 required that no more than 50 people could occupy the site at any time.

#### *The Enforcement Notices*

4. The Notice 1 appeal site covers all of Carousel Park, with the exception of former plot 7 and part of former plot 3.
5. Under s176(1) of the Town and Country Planning Act 1990 (the Act), I may correct any defect, error or misdescription in an enforcement notice, provided that doing so would cause no injustice to the appellants or to the Council. Whilst the figure is not wrong, I shall correct Notice 1 so as to delete reference to 'approximately 100'. It is not strictly necessary for the notice to state how many caravans are on the site – and doing so could hamper consideration of different numbers in these appeals and / or any future proceedings.
6. Notice 2 alleges that there has been a breach of conditions 10, 11 and 15 of the 2003 permission. The notice relates to the whole of Carousel Park.
7. The Notice 3 site is subsumed into those relating to Notices 1 and 2. Had the appeals against Notice 3 not been withdrawn, as discussed below, I would again have corrected the notice to delete the reference to the number of caravans on the land.

#### *Use and Occupation*

8. The appellants confirmed at the Inquiry that they only sought planning permission for use as a residential caravan site for Gypsies and Travellers. They do not seek to authorise the residential use of Carousel Park by anybody that might be in occupation there who does not have the ethnic status of a Gypsy or Traveller. A proposed layout plan was submitted to demonstrate how the scale of accommodation on the site would be rationalised to allow for some 47 static caravans on the 24 delineated pitches that currently exist there<sup>2</sup>.
9. In the event that I allow the appeals in relation to Notice 1 and grant planning permission, the Council invited me at the Inquiry to make a split decision effectively granting planning permission for a "Gypsy and Traveller use" but not general residential occupation of the site.

---

<sup>1</sup> 02/01022/FUL granted planning permission 2 October 2003.

<sup>2</sup> This excludes two remaining Travelling Showpersons plots.

10. I understand the Council's concern that, even when granted retrospectively, absent a further act of implementation on the site, any conditions imposed through my decision, including one to restrict the use of the site to Gypsies and Travellers, may not come into force. Under such circumstances a breach of the residential occupancy condition could not be enforced<sup>3</sup>. However, and despite the Council citing practical advantages from this approach, planning permission may only be granted for what is alleged which, in the case of Notice 1 is the 'material change of use...to a residential caravan site'. A "Gypsy / Traveller site" will always be land in residential use. The only difference between a Gypsy site and any other residential caravan site lies in who the occupiers are, and occupation can only be controlled by condition.
11. If I grant planning permission pursuant to the appeals in relation to Notice 1 for the alleged material change of use of land, and impose the suggested occupancy condition, but the permission is later found to have not been lawfully implemented, the Council would be able to enforce against the residential use no matter who carries it out. If the permission is implemented but the occupiers are not Gypsies or Travellers, then the Council would be able to enforce against a breach of the relevant condition. Even if conditions imposed are dependent on a further material act of implementation, there is no compelling evidence that leads me to doubt that this would be achieved post decision, due to the continued residential use of the site.

*The appeals in relation to Notices 2 and 3*

12. The appellants confirmed following the Inquiry that in the event Notice 1 is quashed and planning permission granted, the appeals against Notices 2 and 3 would be withdrawn, providing such action in itself would not lead to the Council making an application for costs. The Council subsequently confirmed that it would not make an application for costs in such circumstances. If Notice 1 is quashed and planning permission granted, the appeals against Notices 2 and 3 are therefore withdrawn.
13. Under s180(1) of the Act, where planning permission is granted after the service of an enforcement notice, for development carried out before the grant of permission, the notice shall cease to have effect so far as inconsistent with that permission. It follows that if the Notice 1 appeals succeed on ground (a):
  - The 2003 permission would be superseded, and the (allegedly) breached conditions 10, 11 and 15 would cease to have effect over the Notice 1 site. As set out above, Notice 2 also relates to part of Plot 3 and the whole of Plot 7 and there is no dispute that the 2003 permission and its conditions will remain in force in relation to those areas.
  - Notice 3 would cease to have effect because it makes the same allegation in substance as Notice 1 and is entirely subsumed within the Notice 1 area.

*Other Procedural Matters*

14. As the appropriate competent authority, following the Inquiry I gave consideration to the impact of the development, subject to Notice 1, on environmentally sensitive sites, having regard to nutrient neutrality issues. To

---

<sup>3</sup> *Butcher v SSE & Maidstone BC [1996] JPL 636*

enable me to discharge this duty I requested various technical evidence from the appellants and consulted Natural England, as the statutory nature conservation body, and the Council during this process. I have explained this exercise and my findings later in my decision.

15. The appellants' case in relation to Notice 1 includes appeal grounds (b), (d) and (e), which are known as legal grounds of appeal. With each of the legal grounds the burden of proof rests with the appellants, with the standard of proof being the balance of probability.
16. Evidence to the Inquiry was given on oath.
17. A revised version of the National Planning Policy Framework was published on 19 December 2023. The parties were given the opportunity to comment on the significance to this case of any revisions therein.

### **Applications for costs**

18. At the Inquiry, applications for costs were made by the Council and the appellants against each other. These applications are the subject of separate Decisions.

### **The Notice 1 appeals on ground (e)**

19. This ground of appeal is that copies of the enforcement notice were not served as required by s172 of the Act. S 172(2) requires that the notice be served on owners, occupiers and anyone with an interest in the land subject to the notice. S329 of the Act sets out various alternative means of effectively serving a notice. These include delivering it to the intended recipient in person or by recorded delivery; leaving it at their last known place of abode and delivering to anonymous owners and occupiers by the same methods or by affixing the notice conspicuously to an object on the land.
20. The Council has provided evidence of attempted service by recorded delivery on various registered proprietors of Carousel Park, albeit that in several cases delivery by this method was unsuccessful, resulting in documents being returned. Notwithstanding this, it appears that service was in accordance with land registry records, in relation to which it is not the Council's responsibility to ensure they are kept up to date. I am therefore not persuaded that this outcome, in itself, amounted to defective service or that the persons concerned have been prejudiced.
21. In addition, the Council states that, where access could be gained, copies of the notice were left on the doorsteps of mobile homes throughout the site, were affixed to the entrance gates of individual plots where possible, were handed to some individuals, and in any event were posted in boxes at the site entrance. Copies of the notice were also affixed at the main site entrance. Photographic evidence of the delivery of notices at the site by the Council's planning consultants is provided, albeit that there is not a specific photographic record for the situation at each individual plot. I note, in accordance with s.329 of the Act, that affixation of the notice constitutes an alternative to leaving the notice at the usual or last known place of abode; also that there is no requirement to post within an individual letterbox in order to fulfil the requirement to 'leave' the notice.

22. The appellants' case is that the overall appeal site is comprised of many enclosed pitches in different ownerships. They say there are occupiers of Carousel Park who were unaware of the Council's enforcement action and as such could have been prejudiced in terms of being unable to make an appeal under ground (a).
23. Many site residents have come forward to present their case at the Inquiry. From those representations, and despite the efforts of the Council as outlined above, it is apparent that a large number did not receive a copy of the relevant notice. However, it seems to me that far from being oblivious to it, there has been widespread awareness and understanding by site occupiers of the Council's action and its potential implications for their future residency.
24. The various residents, who have spoken for themselves and often on behalf of family members and others, with whom they share a pitch, have effectively represented a significant part of the overall appeal site area. They have had the opportunity to fully present the reasons for their opposition to the Council's action. In addition it was conceded at the Inquiry, by the appellant's planning consultant, that certain premises in relation to which it had been claimed that appeals were not forthcoming had in fact either been the subject of an appeal or were outside the scope of Notice 1.
25. Overall I consider, as a matter of fact and degree, that sufficient steps were taken to ensure that copies of the enforcement notice were served as required by s172 of the Act and that service was properly effected. I conclude that prejudice has not been caused to the appellants and site occupiers on this basis. The appeals on ground (e) therefore fail.

### **The Notice 1 appeals on ground (b)**

26. The appeals are that the matter alleged in the enforcement notice has not occurred. The appellants' concerns in this regard are two-fold. Firstly, they say that the notice identifies a single extensive residential caravan site, which fails to recognise that it is sub-divided into many different ownerships and planning units. They say that, rather than serving one notice, multiple notices should have been served according to individual planning units.
27. The individual pitches and plots are in separate ownership and occupation and also physically separated from one another via various means of enclosure. The Council referred at the Inquiry to horse keeping on the site leading to the overlapping of occupied areas. However, I find no compelling evidence to persuade me there are established functional linkages between the independent residential use of individual pitches and plots. I therefore accept that they should be regarded as separate planning units<sup>4</sup>. Notwithstanding this, there is no evidence to persuade me that the principle of an enforcement notice spanning multiple planning units is inherently problematic, when the alleged material change of use is considered to be applicable in relation to each.
28. In this context I have had regard to case law which found that a notice does not have to identify or relate to a whole planning unit<sup>5</sup> and to that relating to

---

<sup>4</sup> This accords with *Church Commissioners v SSE [1996] JPL 669*

<sup>5</sup> *Hawkey v SSE [1971] 22 P&CR 610*.

notices covering land divided into smaller plots<sup>6</sup>. Furthermore, I am mindful that the Inspector who most recently considered the previous enforcement action taken by the Council in relation Carousel Park, said in relation to the ground (b) appeal in that case, in a statement with which I concur, that there was no need to determine the planning unit issue, as it is only relevant to the assessment of whether a change of use is material<sup>7</sup>.

29. There is no dispute that a material change of use has occurred on the appeal site to that alleged in the notice. Indeed, it was conceded by the appellants' agent during cross examination, that if the breach of change of use to residential caravan site had been alleged on a plot by plot basis, then a ground (b) appeal would not have been made in such circumstances.
30. Secondly, the appellants say that the allegation of waste processing as set out in the Council's statement, is erroneous. Related to this they say that the requirement to remove waste from the site is excessive. However, waste processing does not form part of the alleged breach of planning control and the Council confirmed at the Inquiry that the requirement in the notice to remove waste, simply relates to any domestic waste on the site.
31. Notwithstanding references to waste processing in the Council's statement of case, this simply does not form part of the alleged breach of planning control. Accordingly the notice cannot be found erroneous on the basis of an argument that waste processing is not occurring.
32. Having regard to the above findings, I conclude that the matters stated in the notice have occurred as a matter of fact. The appeals on ground (b) therefore fail.

### **The Notice 1 appeals on ground (d)**

33. The ground of appeal is that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control. In order to succeed on this ground, in accordance with Section 171B(3) of the Act, it would be necessary for the appellants to show, on the balance of probability, that the alleged change of use of the site had occurred at least ten years before the notice was issued, that is by 1 March 2012, and had continued over a ten-year period.
34. It must be shown that there has not been any significant interruption in the use, in order to demonstrate the necessary continuity. If this cannot be shown then the use would not be immune from enforcement action.
35. It was accepted by the appellant's agent during cross examination that there is no evidence before me to indicate that the alleged use had commenced by the relevant date referred to above, and had continued for the requisite period of time, such that there had been permanent occupation of the site since March 2012. The appellant's closing submission that certain operational development has been in place on the site for more than 10 years does not overcome this point. The ground (d) appeals fail.

---

<sup>6</sup> *Rawlins v SSE [1989] JPL 439.*

<sup>7</sup> Appeal Ref APP/L1765/C/10/2138144 and others.

## **The Notice 1 appeals on ground (a)**

### Main Issues

36. The ground (a) appeal is that planning permission ought to be granted for the alleged breach. The main issues are i) the effect of the development on the character and appearance of the surrounding area; ii) whether the site is in a sustainable location; iii) the effect of the development on the layout of and space within the site; iv) foul drainage and nutrient neutrality issues; v) Need for Travelling Showpersons and Gypsy and Traveller sites; vi) Personal circumstances of site occupiers.

### *Local Policy Context*

37. The local development plan policy context is provided by the Winchester District Local Plan Part 1- Joint Core Strategy 2013 (LPP1); Winchester District Local Plan Part 2 - Development Management and Site Allocations 2017 (LPP2); and the Winchester District: Gypsy, Traveller and Travelling Showpeople Development Plan Document 2019 (DPD).
38. Policies MTRA 4 of LPP1 and DM1 of LPP2 resist development in the countryside unless it meets certain specified criteria, such as having an operational need to be located there.
39. Policy DM4 of LPP2 states that planning permission will be granted for identified traveller need between 2016 and 2031, with sites identified and consent granted as necessary, subject to the criteria in Policy CP5. Collectively policies DM16, DM17 and DM18 are concerned with site design and development principles. Policy DM23 seeks to protect the rural character of the area.
40. Collectively policies TR1, TR3, TR5 and TR7 of the DPD seek to safeguard permitted sites unless no longer required; allocate Carousel Park as a Travelling Showpersons site, having regard to its visual containment, seeking in principle to avoid further expansion or intensification beyond the currently defined extent of the site, whilst requiring intensification there to be considered on a case by case basis; require sufficient space to be maintained to allow for access, parking, storage and maintenance, safe children's play, whilst avoiding conflict between vehicles and residents.
41. Policy CP5 of LPP1 potentially allows for Gypsy and Traveller sites in the countryside where relevant criteria are met. Nevertheless it states that sites should be well related to existing communities to encourage social inclusion and sustainable patterns of living.
42. The parties do not dispute that occupation of the appeal site by Gypsies and Travellers fails to accord with the safeguarding objectives of, and thus is in conflict with, Policies CP5, TR1 and TR3.

### Reasons

#### *Character and Appearance*

43. The site is broadly rectangular, and accommodates multiple pitches across an extensive area. Though accessed from the A33 road, the site frontage is set back from the carriageway by a considerable distance. The site's western



- boundary immediately borders the Blackwood Forest, designated by the Council as a Site of Importance for Nature Conservation.
44. The parties agreed at the Inquiry that the key visual receptors for the site were the A33 road in the vicinity of the site entrance and from informal footpaths within the Blackwood Forest, passing close to the site's western boundary.
  45. From the road the upper parts of buildings and structures associated with the site may be seen. However the clarity of individual structures is reduced due to distance and the presence of a boundary bund, albeit which is compromised at certain points. In addition, the presence of intervening unkempt ground with sporadic plant and machinery (not associated with the site) and the established backdrop of dense mature woodland serve to draw the eye away from features of the appeal site itself. Furthermore, the recipients of this view would almost invariably be motorists, whose perception of the site would be via a fleeting gap in dense woodland along the side of the road. For these reasons attention tends not to be drawn to the presence of the site, despite its extensive area.
  46. From informal forest trails, although the tops of structures can be seen, the site's presence is heavily filtered by trees and substantially screened by the presence of the landscape bund albeit, again, this feature appears to have been breached in places, with the site having encroached to a degree further into the adjacent forest. However, it would be possible to impose a condition requiring the bund to be reinforced to secure the visual and physical containment of the site.
  47. For above reasons I do not concur with the Council that the development has had an urbanising effect. In this regard I am also mindful that because of the historic Travelling Showpersons use, the presence of structures on the site is not an entirely new characteristic, albeit the site is more intensively developed now. I conclude that the development does not result in harm to the character and appearance of the surrounding area. Accordingly it is not in conflict with policies DM1, DM16 and DM23 of LPP2 or with Policies TR3 and TR7 of the DPD insofar as they are relevant to this matter.

#### *Site Location*

48. The Planning Policy for Traveller Sites 2015 (PPTS) states that local planning authorities should very strictly limit new traveller site development in open countryside that is 'away from' existing settlements or outside areas allocated in the development plan.
49. The evidence of several site occupiers was that their children attended Micheldever Primary school, several miles away from the site. I am not aware of any significant presence of services in Micheldever. It seems to me that it would be necessary for residents to travel to larger centres such as Basingstoke and Winchester, in order to access a full range of day-to-day services and facilities.
50. With regard to physical separation I conclude that the site is in the open countryside, away from existing settlements. I am mindful that the National Planning Policy Framework (the Framework) states that the development of

isolated homes in the countryside should, subject to certain limited exceptions, be avoided. However, there are other small developments scattered in the vicinity of the appeal site. Therefore, when considered in the round, I do not regard the site as being in a physically isolated or remote location.

51. With regard to connectivity, it would be realistic to conclude that for convenience and distance reasons, and safety during hours of darkness, there would need to be significant reliance on private vehicles in order to gain access to services and facilities. I accept that it would be possible, if not in their interests, for occupiers to share vehicles for journeys such as the school run. However, I have not been provided with any evidence to persuade me that the use of alternative means of sustainable travel would be likely.
52. Drawing the above considerations together I conclude that the development is inconsistent with the PPTS objective, in terms of being 'away from' existing settlements. I acknowledge that whilst the PPTS does not preclude the development of sites in the open countryside away from settlements, it qualifies this saying that such sites should be very strictly limited. I do not consider the scale of development in this case to necessarily be consistent with a requirement to very strictly limit.
53. I am mindful of the site's established status as a safeguarded site for Travelling Showpersons. As such the lawful use of the site would likely have given rise to journeys by unsustainable travel means. In addition, the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
54. Notwithstanding this the use of the site has intensified considerably when compared to its lawful use, restricted by condition. The 2003 planning permission restricted the residential use of the site to nine pitches for Travelling Showpersons, a maximum of three caravans occupied for residential purposes per pitch, and fifty people on site in total. There are now some 24 delineated plots on the site<sup>8</sup> and a significantly greater number of caravans than what the planning condition seeks to limit. Accordingly, this would have resulted in a material increase in the number of unsustainable trips to and from the site.
55. I have had regard to the PPTS objective of ensuring that traveller sites are sustainable economically, socially and environmentally, and to the various related criteria in paragraph 13 of that document. These include that a settled base may serve to reduce possible environmental damage resulting from unauthorised encampment. I also acknowledge that a settled base would tend to promote access to appropriate health services and ensure that children can attend school on a regular basis.
56. On balance, I am not persuaded that the appeal site could reasonably be described as being in a sustainable location. I conclude that in this regard the Gypsy and Traveller site, the subject of the deemed planning application conflicts with Policies MTRA4 and CP5 of LPP1, DM1 of LPP2 and with the PPTS. However, for the reasons in the aforementioned paragraph the adverse weight that I give to this matter is reduced to a moderate level.

---

<sup>8</sup> This excludes two remaining Travelling Showpersons plots.

### *Site Layout*

57. The Council also objects to the development on grounds that its intensity serves to compromise safe vehicle parking and turning, thus threatening pedestrian safety, and adequate open space for children's play. It did accept at the Inquiry, however, that it would be possible to deal with these issues through appropriate planning conditions. The Council also conceded at the Inquiry that it no longer objected to the development on grounds of reduced space available for the storage of equipment associated with the needs of travelling showpeople.
58. The site is broadly rectangular, with a single point of access at the north eastern corner. The route then turns a right-angle southwards to form a wide, central spine road, surfaced with tarmac, providing access to pitches on either side. From my visit it was apparent that pitch areas vary in size, with many intensively utilised for the stationing of static and touring caravans, day rooms and the parking of vehicles. At the Inquiry the appellant provided a layout plan identifying how the numbers of structures on each pitch would be rationalised, whilst respecting licensing requirements to maintain a minimum of 6 metres separation between caravans, with a view to ensuring a proportionate amount of external space within plots.
59. When taking into account the scale of the access road and proposed layout plan, I am satisfied that sufficient space would be available to enable vehicles to park and turn safely, having regard to the presence of various structures. Thus I do not find conflict with Policies CP5, DM18 or TR7 in this regard.
60. There is no dispute that the parts of Carousel Park targeted by the notice are occupied predominantly by Irish Travellers, with Travelling Showpersons occupying only a small number of residual plots which are outside the scope of the notice. It is accepted by the parties that the Travellers targeted by the notice would not have the need to store the types of large-scale machinery and equipment associated with the Travelling Showpersons work and lifestyle, there no longer being the need for such mixed-use yards.
61. In terms of children's play space, I acknowledge that the absence of a dedicated area for such facilities at Carousel Park would conflict with the objectives of Policies CP5, DM17 and TR7. I am also mindful that the PPTS states that weight should be attached to promoting opportunities for healthy lifestyles such as ensuring adequate play areas for children.
62. It was apparent from my visit that many pitches contained items of play equipment; also that when space is rationalised it would more readily allow for children's informal play and activity within the residual external parts of individual pitches. I do not consider that site occupiers would be faced with their children having no option but to play inside. Notwithstanding the previously stated policy objective, whilst I acknowledge the benefits of open space to children's play, I am concerned that the provision of a dedicated play area for children within the site would result in the displacement of certain occupiers or would result in reduced site capacity, in the context of a demonstrable acute need for Gypsy and Traveller sites, as discussed below. Whilst I acknowledge the conflict with policy is regrettable, in the circumstances of this case I am not persuaded that the relative advantages of providing play facilities in one place, compared to play on individual sites is

clear cut, particularly given the potential alternative of the roadside for certain displaced families.

63. The Council accepts that its concerns about adequate storage space for domestic waste and recycling materials; any commercial activities on the site and the management of foul and surface water could be adequately addressed through suitable planning conditions.
64. In light of its previous use as a Travelling Showpersons' site, which endured for a considerable period of time and in relation to which permanent structures and fixed surface infrastructure were constructed, I agree that the status of the land is to be regarded as previously developed. I am not persuaded that a condition attached to the 2003 planning permission requiring the removal of such features in the event of the site no longer being used by travelling showpeople is sufficient for those features to be regarded as not permanent. Furthermore, Travelling Showpersons continue to occupy plots on the wider Carousel Park site, and therefore any argument that the site has ceased to be used for such purposes, and so does not constitute previously developed land for that reason, is not compelling. I note that the PPTS advises that weight should be attached to the effective use of previously developed land.

#### *Foul Drainage and Nutrient Neutrality*

65. The Solent includes several Special Protection Areas and other sites designated for their environmental sensitivity, which are internationally important for breeding and non-breeding birds and their coastal and water course habitats. Having had regard to the characteristics of the proposed development and the available evidence, I consider that a likely significant effect on the qualifying features of these various protected areas, either alone or in combination with other plans and projects cannot be ruled out, having regard to nutrient neutrality issues, leading to an adverse effect on the integrity of the sites.
66. Therefore as the competent authority, I have a duty to undertake an appropriate assessment to consider whether it would be possible to secure satisfactory mitigation measures. In accordance with Natural England guidance the appellants have submitted a 'Nutrient Budget Calculator'. Taking a pre-existing baseline figure of 21 households (based on a planning condition restricting occupancy of the site to 50 persons), the Calculator proposes a net addition of 26 static caravans (with an average occupancy rate of 2.4 persons). In the event that planning permission is granted a condition would be imposed restricting the number of static caravans on the site to 47. It is proposed that touring caravans would be ancillary to the static caravans and not occupied as a separate unit of residence.
67. The Budget Calculator translates the aforementioned level of net development to a total annual nitrogen load of 88.61kg per year. This quantity of nitrogen therefore needs to be mitigated. I have had regard to the appellants proposed mitigation package. In this regard, firstly the appellants have secured an 'offer letter' from Eastleigh Borough Council regarding the purchase of nitrate credits (associated with the cessation of farming practices, proportionate to the net scale of proposed development on the site<sup>9</sup>). This confirms the cost of Nitrate

---

<sup>9</sup> Commensurate with the aforementioned proposed layout plan.

Mitigation Credits to amount to £265,830 excluding legal and administration costs and VAT.

68. Secondly, the landowner must require any appointed foul waste disposal contractor to establish and maintain a clear record of disposal of waste at specific treatment works. Treatment works draining to the River Itchen catchment area, such as Harestock, Chickenhall, New Alresford and Morestead would be excluded as acceptable disposal locations, such that the need for phosphorus mitigation in relation to the River Itchen Special Area of Conservation would be obviated. The onus would be on the landowner to secure this, and ensure that a consistent record is logged. Copies of these records (including certification of disposal of waste at a specific location) would be required to be kept by the landowner and made available for review by the Council on request.
69. I have consulted Natural England, as the statutory nature conservation body, and consider that the proposed mitigation package enables it to be ascertained that the proposal would not adversely affect the integrity of sites protected under the habitat regulations.
70. Accordingly a condition is proposed requiring the aforementioned mitigation package (including any timetable for implementation) to be submitted for the written approval of Winchester City Council within 6 months of the date of planning permission. Failure to meet the deadlines would result in the planning permission being lost. The condition would however make provision for a further appeal if for any reason Winchester City Council did not approve the mitigation package. The condition is a material consideration which satisfactorily mitigates harm in this case.

#### *Need for Gypsy and Traveller and Travelling Showpersons Sites*

71. The appellants confirmed at the Inquiry they do not seek to argue that any use of the appeal site by residents who are not members of the Gypsy and Traveller or Travelling Showpersons community would serve to ease pressure in terms of general affordable housing requirements in the Borough.
72. Paragraph 7(b) of the PPTS states that local planning authorities should prepare and maintain an up-to-date understanding of the likely accommodation needs of their areas over the lifespan of the development plan. The Council's most recent Gypsy and Traveller Accommodation Assessment (GTAA) was produced in October 2022. This identified a requirement over the period 2022-38 for those households that meet the definition of Gypsies and Travellers in Annex 1 of the PPTS<sup>10</sup>, of some 115 pitches. This figure includes 79 pitches in years 0-5 and a further 14 pitches in years 6-10. The corresponding figure for Travelling Showpeople, over the period 2022 – 38 is some 27 plots for those meeting the relevant definition in the PPTS<sup>11</sup>.
73. The recent changes in definition, cited above, follow in the wake of a Court of Appeal judgment<sup>12</sup>. The thrust of this judgment is that the previous PPTS definition was unlawfully discriminatory against Gypsies and Travellers who

---

<sup>10</sup> From 19 December 2023 the definition has reverted to that adopted in the 2012 version of the document.

<sup>11</sup> From 19 December 2023 the definition has reverted to that adopted in the 2012 version of the document.

<sup>12</sup> *Lisa Smith v SSLUHC & Ors [2022] EWCA Civ 1391*

- have ceased to travel permanently on grounds of age or disability. It indicated that such persons should be included in any assessment of need for site provision, thus potentially increasing the overall level of need.
74. The GTAA identifies a need of some 45 pitches for those Gypsies and Travellers not meeting the previous PPTS definition, and up to 40 additional pitches for undetermined households, which may include Gypsies and Travellers. A small number of additional sites would be required for Travelling Showpeople who are similarly categorised. Therefore the effect of including, in the assessment of need for sites in the District, Gypsies and Travellers known not to fall within the previous PPTS definition and who thus might previously have been excluded from consideration in the context of PPTS policies, is to significantly swell the requirement for sites.
75. The PPTS states that local planning authorities should identify, and update annually, a 5-year supply of specific deliverable sites against their locally set targets. The Council's position is that it is able to demonstrate a 5-year supply of sites for Gypsies and Travellers, against adopted development plan targets, but that it is not able to do the same in relation to Travelling Showperson sites. The implication is that the need to safeguard Carousel Park as a Travelling Showpersons site should be paramount.
76. However, the Council's stance on the 5-year land supply position is based on the findings of the previous GTAA undertaken in 2016. Whilst it acknowledges the significantly higher requirements identified in the most recent GTAA, and regards this as an important material consideration, it proposes to address the shortfall in provision as part of its emerging planning policy process.
77. Notwithstanding this the PPTS requires Councils to maintain an up-to-date understanding of accommodation needs over the lifespan of their development plan, with supply to be updated annually. Whilst it has not yet been scrutinised through the local plan process, the 2022 GTAA nevertheless constitutes the most up to date robust evidence of such need for traveller sites. Notably the Council conceded at the Inquiry that the pitch targets set out in Policy DM4 of LPP2 have been superseded, due to the most recent GTAA, and consequently that policy is out of date.
78. The most recent GTAA shows there is unmet need, both for Travelling Showpeople and Gypsy and Traveller sites, with need in relation to the latter being greater and considerable in magnitude. The GTAA 2022 indicates the need for Gypsy and Traveller site provision, in line with the recently reverted to definition, over the first 5 years of the assessment, 2022–26, to amount to some 111 pitches<sup>13</sup>. The corresponding figure for Travelling Showpeople is 22 plots<sup>14</sup>. The assessment also counted some 69 unauthorised Gypsy and Traveller pitches, an indication of the scale of immediate unmet need. This compares to 5 unauthorised Travelling Showperson yards<sup>15</sup>, but which nevertheless all constitute 'tolerated' sites.

---

<sup>13</sup> This includes both Gypsies and Travellers who met the previous PPTS definition and those who did not do so.

<sup>14</sup> Although the Council confirmed at the Inquiry that this figure did not include 3 Travelling Showpeople plots at Carousel Park since transferred to Gypsy and Travellers.

<sup>15</sup> Excluding 3 located in the South Downs National Park.

79. The Council's emerging Local Plan is at an early stage of production<sup>16</sup>. I am not provided with evidence to persuade me that the scale of need for Gypsy and Traveller pitches will be met and if so when that would be likely. Drawing the above considerations together I conclude that the Council is unable to demonstrate a 5-year supply of sites both in relation to Travelling Showpeople and Gypsies and Travellers; also is unable to indicate any potential alternative area that might accommodate existing Gypsy and Traveller site occupiers at Carousel Park.
80. The Council says, in light of recent revisions to the Framework and the stage that its emerging Local Plan has reached, that it only now needs to demonstrate a 4-year supply of sites, but that this would not materially alter the position regarding Travelling Showperson sites. Whilst in the circumstances of the present appeal, this is an academic point, for the avoidance of doubt, I am not persuaded that the 4-year supply provisions are applicable to traveller sites; in relation to which the Framework specifically states that the supply of deliverable sites should be assessed separately, in line with policy in the PPTS.
81. It is important to consider the argument that Carousel Park is not an appropriate location to accommodate additional Gypsy and Traveller need, no matter how great, given the Council's policy context and the safeguarded status of the site. In this respect the Council considered that the issue should not simply be reduced to a numerical contest given that there also remains a significant need for Travelling Showpeople site provision; also when taking account of the site specific requirements of Travelling Showpeople who need to facilitate access to the strategic road network for what are often large and unwieldy items of equipment and machinery, and consequently the added complications and potential constraints for finding suitable sites.
82. Whilst I take no issue, in principle, with these points it remains that the scale of immediate and short term need for Gypsy and Traveller sites cannot be easily set aside, particularly when there is nothing to assure me that alternative site provision, to the scale required, will be secured in the near future. In terms of anecdotal evidence, I am also mindful that at the Inquiry the Council was only able to cite a single case in recent times where it had been approached by a Travelling Showperson family in search of a site; also, when questioned, that it did not report receiving any complaints or enquiries from Travelling Showpeople relating to difficulties in storing or transporting equipment.
83. I accept that the proximity of Carousel Park to a major road, away from settlements, lends itself to the storage and transportation of large items of equipment, without causing undue disturbance to living conditions; also that alternative sites with similar attributes may be hard to find. However, I am not persuaded that there would be no prospect of such favourable circumstances being found at sites elsewhere in the District. The upshot of these considerations is that the significance of need for Gypsy and Traveller sites remains undiminished. Even if, as the Council says, Gypsy and Traveller sites have been more readily identifiable than Travelling Showpeople sites in the past, the sheer scale of need for the former, which would remain considerable

---

<sup>16</sup> The Council confirmed that its emerging Local Plan has reached 'Regulation 18' stage.

even if the deemed application is successful (therefore delivering 24 pitches accommodating various extended households), is a matter that carries substantial weight in the planning balance. I consider this surpasses the, albeit significant, weight that ought to be attached to the need for Travelling Showpeople sites.

*Personal Circumstances of Site Occupiers*

84. Carousel Park was originally split into 9 plots, but is now further sub-divided into many more and is home to several families. The parties do not dispute the ethnic status of a vast majority of site occupiers as Irish Travellers, nor that numerous children live there, either of school or pre-school age. It seems that many children attend or are on a waiting list for Micheldever Primary school. I find no compelling reason to doubt the reports given. It appears that a small number of the children may also have special needs.
85. There is also no dispute that there are some persons living on the site, at present, who are not part of the travelling community at all. However as previously stated the appellant is not seeking to authorise the residential use of Carousel Park by anybody that might be in occupation there who does not have the ethnic status of a Gypsy or Traveller.
86. From the representations made to the Inquiry by those living on site it would appear that prior to arriving at Carousel Park, many occupiers were moving between roadside locations, such as car parks and fields, which were inevitably lacking in sanitary facilities and amenities. A common theme that emerged from the representations was of families seeking a settled base in the interests of security; providing support for one another by living as part of an extended family and wanting to provide a better life for their children.
87. It was reported by several occupiers that attendance at school had allowed their children to mix with and do activities with children from the settled community; was making their children happy with a positive knock-on effect for their own well-being. The Council do not seek to challenge the personal circumstances of the site occupiers and likewise I see no reason to take a contrary view.
88. Invariably residents were of the view that if the appeals failed, and the notice was upheld, in the absence of alternative site provision and the ability to purchase alternative land, they were at risk of being made homeless and face a return to a roadside existence.
89. I see no reason to think otherwise. There can be no doubt that if the appeals were unsuccessful, it would take away a settled base for these households. A return to living on the roadside would very likely mean disruption to the children's educational provision as a result. I am mindful that it may be difficult to enrol children in school and /or maintain the children's attendance if they have no fixed address.
90. In addition it appears, undisputed by the Council, that a number of the occupiers present on the site have medical conditions that require regular attendance at health centres or hospitals for treatment and check-ups. The absence of a fixed address is likely to jeopardise access to such health care.



91. The site occupiers personal circumstances therefore weigh in favour of the development.

### **Other Matters**

92. Reference was made at the Inquiry to reports of persons associated with Carousel Park being responsible for criminal or anti-social behaviour at or in the vicinity of the site. Fly tipping in the vicinity of the site perimeter was also referred to. No evidence was provided to corroborate links between such occurrences and occupiers of the site. However, even if such connections could be established, the problem would be one of individual behaviours, rather than one associated with the proposed use of the site per se. This is not therefore a consideration which weighs against the proposed development.
93. Concern was also raised with regard to highway safety matters. Access to and egress from the site onto the A33 dual carriageway road is via a left-turn manoeuvre only. I am mindful that the Council raises no objection to the development on grounds that it would jeopardise the safe operation of the highway, and that I have not been provided with evidence that this location is an accident blackspot. With this in mind, and from my observation of the junction and traffic using the road at the time of my visit to the site in November, I am not persuaded that the development would be harmful to highway safety.
94. It was indicated that the use of the primary school at Micheldever, by children who occupy the appeal site, increases the demand on places at the school over the planned amount. Notwithstanding this, I have not been provided with any evidence to suggest that the delivery of local education services is at risk or that detracts from my finding above that the provision of a stable base to enable children to attend school is a positive attribute.

### **Planning Balance**

95. The development would result in the loss of a site, safeguarded by Council policy, for the provision of Travelling Showpeople's accommodation, when according to recent evidence a significant need for more Travelling Showpeople's sites exists, and the Council is unable to demonstrate a 5-year supply of such sites. This is a matter that weighs significantly against the development. The appeal site is in a location 'away from' a settlement and remote from services and facilities. For the reasons set out, I give this consideration moderate adverse weight.
96. The site does not provide a dedicated children's play area. However, the likely cost of such provision would be to displace certain occupiers into a roadside existence or to reduce site capacity in the context of significant need. Furthermore, the site layout does not preclude the possibility for external play altogether. The adverse weight given to this matter is thus tempered to a moderate level.
97. I have found that the development would not result in harm to the character and appearance of the area or, subject to an appropriate planning condition, to water quality in environmentally sensitive areas further afield. I am also satisfied that the site may be effectively controlled through planning conditions.

These 'absences of harm' are neutral in the planning balance and do not weigh in favour of the appeals.

98. I acknowledge there is significant need for Travelling Showpeople's site provision within the District. However, it seems to me that the Council's undisputed sizable and immediate unmet and growing need for Gypsy and Traveller pitches, as manifested in the lack of available alternative sites and the lack of a five-year land supply, is so acute and pressing that it surpasses in importance the needs of the former. Furthermore, that I am not persuaded regarding a likely timescale for the delivery of sites to meet such a large scale of need militates against justifying a temporary planning permission in this case. This is therefore a matter that collectively attracts substantial positive weight. In accordance with the PPTS I attach positive weight (albeit limited) to the site constituting previously developed land.
99. The development is in conflict with the Council's development plan when read as a whole. However I conclude, for the above reasons, material considerations indicate that a decision, otherwise than in accordance with the development plan, is justified in this case.
100. Given that I have found the development to be acceptable on the basis of the above considerations there is no need for me to go on to consider the significance of the appellants' and site occupiers' personal circumstances. Notwithstanding this, a condition will be justified restricting the occupation of the appeal site to Gypsies and Travellers. There is also no need for me to consider whether, as the appellants argue, paragraph 11(d) of the Framework, and the so-called 'tilted balance', is engaged in this case, as I have already found the development on balance to be acceptable. However, even if the provisions of paragraph 11(d) were to be applied, I would not be persuaded that any adverse impacts of granting planning permission, including any weight that might be afforded to the evident need for Travelling Showpeople's sites, would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
101. Representations were made to the effect that the appellants' human rights under Article 8 of the European Convention on Human Rights, as incorporated in the Human Rights Act 1998, and taken as including the best interests of the children living on the site, would be violated if the appeal is dismissed. Since I have decided to allow the appeals and grant full planning permission for the proposed development there will be no interference with the appellants' rights to a private and family life and home.
102. Since the appellants are Irish Travellers, they share the protected characteristic of race for the purposes of the Public Sector Equality Duty (PSED) under s149 of the Equality Act 2010. Since the evidence supports the grant of permanent permission, my decision to allow the appeals on ground (a) will support the aims of the PSED to eliminate discrimination against and advance equality of opportunity for persons with the protected characteristic, and to foster good relations between them and the settled community.
103. For the avoidance of doubt, my conclusions are not influenced by any reluctance claimed on the part of the appellants to rent sites to Travelling Showpersons, in the event that the notice is upheld. They would also be

unchanged even if I were to ignore the question of whether the site should be regarded as previously developed land.

### **Conditions**

104. I have considered the conditions suggested by the Council and discussed with the parties at the Inquiry. A condition confirming that planning permission is restricted for residential use by Gypsies and Travellers is required in order to safeguard the supply of the site for this purpose and in recognition that any occupation of the site for general residential purposes has not been justified. However in light of the recent Court of Appeal judgment cited below<sup>17</sup> and the consequent amendment to the definition of Gypsies and Travellers in the PPTS, in order to avoid discrimination, the condition should include those Gypsies and Travellers who have ceased to travel permanently.
105. A site restoration condition is not necessary in relation to a permanent planning permission. If there is a breach of the occupancy condition, the remedy would be to occupy the site in accordance with that condition.
106. A condition limiting the number of pitches and caravans stationed is needed in order to protect the character and appearance of the area; and the use of touring caravans for ancillary purposes in the interests of nutrient neutrality. Conditions restricting the size of vehicle parked and preventing commercial activity on the site are required in the interests of helping to safeguard the character and appearance of the area and the living conditions of residents.
107. A condition confirming the loss of the permission unless details are submitted for approval (including a timetable for implementation and retention thereafter) concerning the layout of pitches, the location and type of caravans and buildings, domestic waste storage, landscaping and earth works, boundary treatments, drainage details and external lighting arrangements is required in order to help safeguard the character and appearance of the area and the living conditions of the site occupiers and nearby residents. A condition requiring removal of any buildings and structures, not part of the approved site development scheme, is required for the same reasons. Additional stand-alone conditions restricting waste storage and external lighting would not be required as they would be superfluous in the context of the aforementioned details.
108. Similarly a condition confirming the loss of the permission unless details are submitted for approval concerning water efficiency measures and a mitigation package designed to neutralise nitrate impacts in the interests of environmental protection is required.
109. The form of these conditions is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matters before the development takes place. The conditions will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the conditions, or if the details are not approved by the local planning authority or the Secretary of

---

<sup>17</sup> *Lisa Smith v SSLUHC & Ors* [2022] EWCA Civ 1391

State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

## **Conclusion**

### *Notice 1*

110. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the use as described in the notice as corrected. The appeals on grounds (f) and (g) do not fall to be considered.

## **Formal Decisions**

### **Notice 1**

111. It is directed that Notice 1 is corrected by the deletion of the words "approximately 100" within the description of the alleged breach of planning control at Schedule 3.

112. Subject to the correction the appeals are allowed, the enforcement notice is quashed and 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 to a residential caravan site, including the stationing of caravans for residential use at Land at Carousel Park, Basingstoke Road, Micheldever, Winchester, Hampshire SO21 3BW, as shown on the plan attached to the notice and subject to the conditions in the schedule below.

*R. Merrett*

INSPECTOR

## SCHEDULE OF CONDITIONS

- 1) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as 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 or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 2) There shall be no more than 24 pitches on the site. On each of the pitches hereby approved the maximum number of caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, that shall be stationed at any time shall accord with the following caravan schedule:

<b>Pitch number</b>	<b>Maximum no. caravans</b>	<b>Maximum no. static caravans</b>
1	4	2
1A	8	4
2A	8	4
2B	4	2
2C	4	3
3A	4	2
3B	5	2
3C	1	1
4A	3	3
4B	2	1
4C	2	1
4D	2	1
5	8	4
5A	3	1
5B	2	1
5C	4	2
6A	4	2
6B	6	2
8A	2	2
8B	3	1
8C	2	1
9A	3	2
9B	3	2
9C	2	1
<b>Total</b>	<b>89</b>	<b>47</b>

- 3) Touring caravans stationed on the site shall only be used ancillary to the static caravans and not occupied as separate residential units.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment, buildings and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within **28 days** of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

(i) Within **6 months** of the date of this decision a 'site development scheme' with details for:

- (a) the layout of the pitches, the broad locations of caravans within those pitches, and the type of caravans;
- (b) the location of any buildings on the site including but not limited to day rooms, utility buildings, stables, sheds and toilets;
- (c) an area for the storage of domestic waste and recycling generated by permitted use on the site;
- (d) an earth bund of not less than 2 metres in height around the perimeter of the site;
- (e) landscaping around the perimeter of the site;
- (f) the materials and type of internal boundary treatments and gates;
- (g) external lighting;
- (h) foul and surface water drainage;

shall have been submitted for the written approval of the local planning authority and the 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 site development 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 site development scheme shall have been approved by the Secretary of State.

iv) The approved site development 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.

- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 6) No commercial activities shall take place on the land, including the storage of materials.
- 7) Within 6 months of the date of approval of the site development scheme referred to in Condition 4 above, all buildings, sheds, stables or other structures not shown on the approved site development scheme shall be removed from the site.

8) The use hereby permitted shall cease and all caravans, structures, equipment, buildings and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within **28 days** of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

(i) Within **6 months** of the date of this decision:

(a) a water efficiency calculation which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development;

(b) a mitigation package addressing the additional nutrient input arising from the development which addresses all of the additional nutrient load on protected European Sites and allows the local planning authority to ascertain on the basis of the best scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of protected European Sites, having regard to the conservation objectives of those sites;

Shall have been submitted for the written approval of the local planning authority and the submitted scheme shall include a timetable for its implementation. The mitigation package is to include Nitrate Mitigation Credits and restrictions on which Waste Water Treatment Works are utilised.

ii) If within **11 months** of the date of this decision the local planning authority refuse to approve the submitted 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.

## **END OF SCHEDULE OF CONDITIONS**

## APPEARANCES

FOR THE APPELLANT: Michael Rudd of Counsel

He called:

Brian Woods	Planning Consultant
Anthony O' Donnell	Site Occupier
Hughie Stokes	Site Occupier
Tom Connors	Site Occupier
Patrick Stokes	Site Occupier
George Doran	Site Occupier
Patrick Flynn	Site Occupier
Stacey Stokes	Site Occupier
Patrick Hegerty	Site Occupier
Patrick Stokes	Site Occupier
Fono Hegerty	Site Occupier
Patrick Stokes	Site Occupier
Mary Stokes	Site Occupier
Lorraine Doyle	Site Occupier
Ellen Marie Crumlish	Site Occupier
Josephine Maughan	Site Occupier
Freddie Loveridge	Site Occupier

FOR THE LOCAL PLANNING AUTHORITY: Jack Parker and Jack Barber of Counsel

They called:

Steven Opacic	Strategic Planning Project Officer
Nigel Wicks	Enforcement consultant
Tom Wicks	Enforcement consultant

INTERESTED PERSONS:

Cllr Jackie Porter	County and City Councillor
Cllr Stephen Godfrey	District Councillor
Cllr Peter O' Keefe	Micheldever Parish Councillor
Noel McGinley	Site Occupier



Documents submitted at the Inquiry:

- 1) List of Appearances for the Council.
- 2) Appellant's and Council's opening statements.
- 3) Gumtree advert.
- 4) Statement from Cllr Jackie Porter.
- 5) Statement from Cllr Stephen Godfrey.
- 6) Evidence of returned notices intended for service by recorded delivery.
- 7) Appeal Decision ref: APP/L1765/W/20/3259672.
- 8) Suggested planning conditions including various related site layout plans.
- 9) Copies of Planning Contravention Notices served in relation to Carousel Park.
- 10) Drawing J004151-DD01 Rev A – Illustrative Site Layout Plan.
- 11) Closing submissions from both parties.

Documents submitted following the Inquiry:

- 1) Costs submissions from both parties.
- 2) Documents from appellants to enable Appropriate Assessment.
- 3) Correspondence from Natural England.
- 4) Comments regarding the revised National Planning Policy Framework.
- 5) Withdrawal of appeals in relation to Notices 2 and 3.

## Appendix 1

### List of those who appealed against Notice 1:

1	Freddie Loveridge	Appeal A	APP/L1765/C/22/3296767
2	Anthony O' Donnell	Appeal B	APP/L1765/C/22/3296771
3	Patrick Flynn	Appeal C	APP/L1765/C/22/3296773
4	Hughie Stokes	Appeal D	APP/L1765/C/22/3296776
5	Danny Carter	Appeal E	APP/L1765/C/22/3296778
6	Patrick Stokes	Appeal F	APP/L1765/C/22/3296781
7	Oliver Crumlish	Appeal G	APP/L1765/C/22/3296783

### List of those who appealed against Notice 2:

1	Freddie Loveridge	Appeal H	APP/L1765/C/22/3296768
2	Anthony O' Donnell	Appeal I	APP/L1765/C/22/3296772
3	Patrick Flynn	Appeal J	APP/L1765/C/22/3296774
4	Hughie Stokes	Appeal K	APP/L1765/C/22/3296777
5	Danny Carter	Appeal L	APP/L1765/C/22/3296779
6	Patrick Stokes	Appeal M	APP/L1765/C/22/3296782
7	Oliver Crumlish	Appeal N	APP/L1765/C/22/3296784

### List of those who appealed against Notice 3:

1	Patrick Stokes	Appeal O	APP/L1765/C/22/3296503
2	Bernie Stokes	Appeal P	APP/L1765/C/22/3296504