



Legend

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Department	Winchester GIS
Comments	1:5000
Date	15/03/2017
PSMA Number	100019531

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE AGENDA

Item No: 03
Case No: 15/02529/FUL/W22773
Proposal Description: Variation of conditions no. 1 and 2 of planning enforcement appeal decision reference no. APP/L1765/C/13/2198472; to make the personal and temporary permission permanent.
Address: Ourland, Mayles Lane, Knowle. Hampshire,
Parish, or Ward if within Wickham
Winchester City:
Applicants Name: Mr D Keet & Mr L Goddard
Case Officer: Mr Stephen Cornwell
Date Valid: 6 November 2015
Recommendation: Approve

General Comments

This application is reported to Committee at the request of Wickham Parish Council, whose request is appended in full to this report and because of the number of objections received which are contrary to the officer's recommendation.

A report setting out the details of this application and containing a recommendation for permanent consent was prepared and published as part of the agenda for the 30 March 2017 Planning Committee. Additional comments were received from the Strategic Planning Team in the days leading up to the meeting. In discussions with the applicant it was thought appropriate to defer consideration of the application and allow for those comments to be included within a revised report. This report now contains those updated comments. The applicant has been given the opportunity to respond and any comments received will be included within this report (if time allows) or in the later update.

Site Description

The application site which is occupied by the caravans and associated structures consists of a strip of ground 60 metres by 20 metres located 170m metres west of Mayles Lane beyond the western edge of Knowle. The land separating the site from Mayles Lane is divided into two large paddocks with the land closest to the site in the control of the applicants. From the description in earlier planning documents dated 2013 the site was originally part of a larger field that had been divided and sold off as a number of lots.

The site is bounded to the north by a sewerage treatment works and its access that runs eastward back up to Mayles Lane. To the south beyond a fence is Meon Aggregates with a number of open storage areas for minerals, machinery and equipment. The applicants also control a tarmac road that runs down the eastern boundary of Meon Aggregates and which provides one of the two accesses into their site. This roadway links to the hardcore track that served the aggregates depot and which runs 180m back up the hill towards Mayles Lane. There is also a second access to the site located at the western end, off an unmade track that is shared with other premises and land.

Knowle was originally a small village and hospital. However after the closure of the hospital in 1996 the village was expanded. This work included a new access off the Wickham road approximately half way between Wickham and the M27. The layout of Knowle does not allow a driver to access the residential area from Mayles lane and vice versa.

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Mayles Lane runs down from Wickham on the eastern side of the river. After the first part of the lane, there is a sign that states "private road". There are signs of the existence of a gate in the past but there is no barrier to prevent anyone from continuing down the lane. Beyond the road sign are numerous access points to adjoining land and a number of properties. The private road is under the control of the Land Trust Charity. The sewerage treatment plant is controlled by Albion Water.

From the junction of Mayles Lane and the shared access track to Meon Aggregates and the application site, there are views towards and over the aggregate yard and the application site with the background of woodland beyond. The presence of these activities and particularly the aggregate depot fully occupies what was formerly the open space in the valley.

The application site does not carry any specific local or national nature conservation or landscape designation.

Proposal

This application seeks the removal of conditions 1 & 2 that were set out in a planning inspector's decision letter regarding an appeal against a planning enforcement notice. The inspector dealt with both the enforcement notice and a refusal of a planning application. Whilst dismissing the appeal with regard to the planning application, when addressing the enforcement notice, the inspector, having considered the applicant's personal circumstances, the best interests of the children and the belief that within 3 years the council's policy on identifying traveller sites would have been adopted, allowed a temporary consent. When granting the temporary consent the inspectors imposed the following conditions:

- Condition one: limited occupancy of the site to named people only.
- Condition two: limited the use of the site for a period of three years after which time it was to be cleared and restored to its former condition.

The current application form states that the proposal now under consideration is intended to make the personal and temporary permission permanent.

The only other document submitted with the application is a copy of the December 2013 appeal decision letter.

No plans of any description have been submitted with the current application. The temporary permission resulted from the enforcement appeal. A condition was imposed that required the submission of an internal layout plan and this is the only plan held by the authority relating to the site.

In response to a request for clarification on a number of points the agent has submitted the following information:

- Applicants are a Romany Gypsy family and continue to pursue nomadic way of life. Therefore continue to meet amended definition of gypsy/travellers.
- Dispute claims in objection letters regarding antisocial behaviour.
- Issues relating to connection to sewer have been resolved with Albion Water.
- Concerns of landscape officer can be addressed by conditions.
- Regarding questions over right to access site applicants have right to pass and re-pass to get to site as set down in deeds.

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- Continue to seek permanent consent which would contribute to over all 5 year supply and meet applicant's accommodation needs.

Relevant Planning History

- 12/02154/FUL Change of use of land to a private gypsy and traveller caravan site consisting of 3 No. Mobile homes, 3 touring caravans an associated amenity and day rooms as shown on drg 01198/1Rev1. Refused March 2013. Appeal dismissed December 2013.
- Planning Enforcement Notice alleging change of use of land from agricultural use to use as a caravan site issued April 2013. Appeal allowed December 2013. Temporary consent granted for 3 years to named individuals. A copy of the inspector's decision letter is attached as appendix A to this report.

Consultations

WCC Highways Engineers

The two conditions concerned restricted use of the site and have no affect on highway safety. Proposal is acceptable in principle.

Strategic Planning

(First Comment)

Given the lack of a five year supply of traveller sites, general approach is to allow applications which make temporary permission permanent, unless there are particular circumstances which would militate against this approach. Although the site is in the gap I note previous conclusion that the balance favours permission, albeit temporary. Government guidance states that it will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so (PPG - Paragraph: 014 Reference ID: 21a-014-20140306).

Also mindful of the need to make sure that the occupants meet the new definition of gypsies/travellers (PPTS 2015) including appropriate conditions. The key part of the new definition is the need for occupants/applicants to be able to demonstrate that they travel for the purposes of work, returning periodically to the "base" site. This does not include "commuting" to work on a daily basis.

(Second Comment)

The reason for reconsidering this application is that since the committee report recommending approval was drafted, the Council now considers it has a five year supply of land for gypsies and travellers.

Policy advice from Strategic Planning at the time the (*initial*) committee report was drafted, indicated that the Council did not have a 5 year supply and this was an important factor (as indicated in relevant Government guidance) in considering the planning application. The lack of a five year supply was a significant factor weighing in favour of granting permission, subject to other planning policies, national planning policy and other material considerations.

Whilst the Council's position is that it has a five year supply of sites I note that the applicant has commented that this has not been "tested" at appeal. This, in my view, does not detract in any way from the Council's stance in relation to the supply of sites. The existence of a five year supply in my view changes the planning balance in considering the application, and removes a significant factor which previously weighed

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in favour of granting permission.

Aside from the 5 year supply of sites, the Council also needs to consider the overall need for additional sites in the context of the requirement for sites set out in LPP2 Policy DM4. It should be noted that the requirement for 15 pitches identified in DM4 is not a cap or maximum target.

The previous committee report comments on the use of temporary consents - whilst the use of temporary consents is not encouraged (particularly second temporary permissions) - they can be used in "special circumstances." I think consideration should be given to whether the emergence of the Traveller DPD, which will identify sufficient sites to meet the identified need for travellers set out in LPP2 DM4, constitutes special circumstances which would justify granting temporary permission for this application. Alternatively, it may be that the overall planning balance indicates that the proposal be refused, in that it is essentially contrary to policy being inappropriate development in open countryside and in the Gap.

WCC Landscape Officer

Recommend refusal. Unable to support application as result of concerns over impact on character and appearance of countryside and compromising important Gap designated to protect edge of village. This scheme is at odds with policies SH4, CP18 & MTRA4 of Joint Core Strategy; and DP2 & DP4 of WLPR 2004. Also contrary to CP5.

Environmental Health

No adverse comment to make.

Representations:

Wickham Parish Council

Objection. The appeal decision makes clear use was only to be temporary. Key reference is paragraph 31 which states "harm to the character and appearance of the countryside and the creation of a gypsy site in a defined Gap where development is to be resisted weighs heavily against the granting of planning permission"

Request application heard by Planning Committee if officers minded to grant permission.

A copy of the parish council comment is attached as appendix B to this report.

Knowle Village Residents Association

- Represent over 5000 residents within Wickham Parish
- Harm arising from position in Strategic Gap should not outweigh applicant's cultural claims.
- With Welborne to be built in several years this side of Knowle must be defended.
- If allowed on permanent basis fear any site will then be subject to pressures to expand.
- Permanent consent should not follow on from a temporary consent.
- Number of semi permanent buildings gone up on site.
- Question of WCC has resources to monitor situation
- Site subject to antisocial actions, clashes with locals and neighbouring residents.

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- Site source of loud music, off road motorbikes, loud machinery, reversing alarms and barking dogs.
- Residents cannot enjoy use of garden areas.
- Site used for commercial purposes, burning dumping rubbish parking large vehicles.
- Mayles Lane is a private road and question if applicants have right to use it.
- Understand WCC faces challenge of finding suitable sites for travellers and gypsies but this not one.

Neighbour Representation

6 representations received all objecting to the scheme including one from the body which owns Mayles Lane.

- Site lies within a strategic gap between Knowle and Wickham that should remain undeveloped.
- Area part of green belt.
- Site outside settlement boundary for Knowle, any development contrary to policy 5 and also in contravention with policies SH4 & CP18 of District plan and MTRA4.
- Any development detrimental to character and appearance of rural area, site easily seen from Mayles Lane.
- Occupants had three years to find new site more suitable to their needs.
- Suspect applicant encouraged by planning permission for aggregate operation next door.
- Reasons stated in original application still pertinent. Cannot see why application should be granted.
- Since original temporary consent granted site seen considerable construction of semi permanent structures.
- Site used for parking horse transporter and burning rubbish.
- Noise emanating from site, reversing alarms and motorcycle riding at top end of land.
- If allowed on permanent basis without stringent and enforceable conditions, concerned activity will get worse.
- Question if a site next to a sewerage treatment plant is a suitable place to live for children.
- Question commitment of Council to enforce restrictions on site.
- Objecting on behalf of Land Trust Charity the owner of Mayles Lane which is a private road.
- Mayles Lane only accessible to those residents who have authorised access as shown on their property deeds.
- Road not in condition to take increase in traffic that would create additional wear and tear.
- Additional costs in dealing with litter fly tipping and other unsociable behaviour.

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Albion Water

- Albion Water provides sewerage services to Knowle area and need to protect existing sewers in this area.
- Any permitted variation would need to be accompanied with a planning requirement to enable access, inspection and making good any existing illegal connection.
- Suitable rubbish disposal condition should also apply.

Relevant Planning Policy:

Winchester Local Plan Part 1 – Joint Core Strategy (LPP1) (2013)

- MTRA1(Development Strategy Market Towns and Rural Area).
- MTRA4 (Development in the Countryside).
- CP2 (Housing Provision and Mix).
- CP5 (Sites for Gypsies Travellers and Travelling Showpeople).
- CP10 (Transport).
- CP13 (High Quality Design).

Winchester District Local Plan Part 2-Development Management and site Allocations (LPP2) Adopted 5 April 2017)

- DM1 (Location of New Development).
- DM4 (Gypsies, Travellers and Travelling Showpeople).
- DM15 (Local Distinctiveness).
- DM16 (Site Design Criteria).
- DM17 (Site Development Principle)
- DM18 (Access and Parking).
- DM20 (Development and Noise).
- DM23 (Rural Character).

Inspectors feedback on identification and provision of sites:

Paras 6.2.19 and 20 – reintroduce policy from draft LPP2, including new numbers of both types of pitches required in the plan area to 2031, once known from new study to be published in September 2016. As LPP1 policy CP5 provides the relevant criteria element, reintroducing the former policy should enable this part of the plan to be found sound, subject also to the inclusion of a firm commitment, including a clear timetable, to the separate Development Plan Document to make the necessary site allocations that is now in the Council's latest Local Development Scheme.

6.2.19 refers to provision of 15 additional gypsy/traveller pitches within district outside South Downs National Park from 1 September to end of plan period.

Supplementary Planning Guidance:

- Traveller Accommodation Assessment for Hampshire 2013 (TAA)

National Planning Policy Guidance/Statements:

- National Planning Policy Framework
- Planning Practice Guidance
- Planning Policy for Travellers Sites (PPTS) August 2015
- Planning Practice Guidance Use of Conditions

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Planning Considerations

The main considerations in the determination of this application are:

- The status of the applicants
- The weight that should be given to the planning history
- The weight that should be given to the use of temporary consents.
- Whether the proposal conforms to planning policy.
- Other matters: including status of access and personal circumstances of applicants

The status of the applicants

Since the 2013 decision the guidance on gypsy and travellers has been revised and this has resulted in some adjustment to the interpretation of the definition of a gypsy. The original decision did not include any condition that restricted the occupancy of this site to people falling under the status of gypsies/travellers but to named people. The applicant has been asked to provide details to clarify their status and it has been confirmed that they continue to satisfy the definition of gypsies and travellers.

The weight that should be given to the planning history.

The site was occupied without the benefit of any consent and as a consequence after a retrospective application was refused in 2013 formal enforcement action was taken. The joint appeal in 2012/13 identified the 4 main issues as:

1. The impact on the character and appearance of the countryside with particular regard to the location within the gap.
2. Whether the site is a sustainable location.
3. The provision of a satisfactory level of amenity for residents.
4. Whether any harm arising from the above matters would be outweighed by other considerations including the need/supply of gypsy sites, the occupant's particular need and personal circumstances.

The inspector did accept that the proposal was contrary to policy and to the protection of the countryside and the open gap. There was a particular concern over the construction on the site of permanent buildings. However, the lack of a 5 year supply of sites, the recognition of the emerging policy and the personal circumstances of the applicants combined to outweigh the policy issues and resulted in the inspector supporting a temporary consent. These factors will continue to form part of the consideration of this application.

The weight to be given to the use of temporary consents

The current guidance on the use of temporary consents is set out in the Planning Practice Guidance on the use of planning conditions. One of the circumstances where a temporary consent can be used is when there is expected to be a change in the planning circumstances in a particular way at the end of the temporary consent. The emerging policy was the reason why the temporary consents were supported. The guidance also states that "It will rarely be justifiable to grant a second temporary permission". This latter guidance has been noted by the applicant and used in the application to support the claim for permanent consent. Whilst the repeated use of temporary consents is clearly not encouraged, the guidance does acknowledge that they can be used in "special circumstances". Accordingly, it is not considered that the use of a temporary consent in 2013 should be used solely to justify a permanent consent today.

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In weighing up this situation the comments from the strategic planning team are noted but it is considered that the situation outlined above reflects the correct weight that should be given to this issue. Having considered the situation it is the view of officers that the option is still open to the council to consider a temporary consent and not just a choice between a full permission and a refusal.

Whether the proposal conforms with planning policy.

Since the original report was deferred and this report has returned to committee the LPP2 has been adopted. Consequently the relevant policies from this plan carry the appropriate weight of adopted planning policy. Policy DM4 in LPP2 indicates that applications will be assessed against the criteria in policy CP5. The main headings of CP5 are outlined and considered below:

Objectively assessed accommodation need –Government Guidance on the approach to gypsy and traveller sites is contained within Planning Policy for Traveller Sites (PPTS) 2015. This guidance places significant weight on the availability of a 5 year supply of sites. Having initially indicated that this was figure was not met, the Strategic Policy Team are now advising that the council does have a 5 year supply of sites. Consequently, this change in circumstances should be given due weight in making any decision.

Proximity to existing community - This criteria considers how well the site is related to the existing community to encourage social inclusion and a sustainable pattern of living whilst noting the need for a degree of separation to avoid tensions with the settled community.

The site is located beyond the edge of Knowle. The main service provision is provided by Wickham which lies 2km to the north. Mayles Lane is a typical rural lane with no footpaths and no lighting. In 2013 the planning inspector did consider if this site was a sustainable location. He noted that this was not an issue raised by the local planning authority and concluded that the site was reasonably close to local facilities and services. On that basis I do not consider that the conclusion of this previous assessment should be challenged.

A clearly defined site - In this criterion consideration is given to the landscape screening of a site and its impact on landscape character.

The application site is defined on the ground by close board fencing. It benefits from a level of screening but the amount of planting has been scaled back in recognition of the temporary nature of the permission. Further measures could be undertaken if a permanent consent were granted, but it is doubtful that they would completely hid the site from view.

Provision of acceptable level facilities - In this criteria consideration is given to the size of the site and whether it can accommodate all the requirements whilst providing an adequate level of living facilities.

The site provides adequate space for the provision of the mobile homes and as noted by the previous inspector, there is sufficient space for children to play.

Proposal consistent with other policies - This criteria looks at compliance with other policies including landscape protection, flood risk, contamination and designations.

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The site is located within the open countryside and is part of the Open Gap intended to protect surrounding towns from coalescing. Isolated development within a Gap is also to be restricted as this is considered to reduce openness and lead to the gradual erosion of the open countryside. This factor weighed heavily in the consideration of the earlier appeal. The inspector concluded that the proposal would cause harm to the open gap designation and on that basis the proposal was viewed as in conflict with that policy. It was only when the inspector took into account other factors, that he proposed a temporary consent.

The open gap policy context remains the same. Notwithstanding the potential to screen the site, the elevated position of any viewpoint from the east means that the site will still be in view to some degree. Whilst the main component in the landscape is the aggregates depot, this is relatively open and low level. Whilst it does contain a building, its design and appearance is agricultural and is not uncharacteristic of the open countryside. In contrast, the application site with the mobile homes is distinctly residential in character and appearance. The location of the site within the open countryside and the open gap still conflicts with policy.

Retention of site for specific use - In recognition of the specific characteristics of the site, if the application is supported it will be necessary to impose suitable planning conditions limiting the use of this site to gypsies /travellers as defined in Annex 1 to the PPTS.

Other Matters

Guidance on the government website indicates that any proposed development should identify a means of access from a public highway. Mayles Lane is a private road and a question has been raised regarding the applicants ability to access the site. The applicant has been asked to clarify what rights they hold to use Mayles Lane and information has been provided to confirm that they hold rights to access the site.

During the appeal in 2013 the inspector gave significant weight to the personal circumstances of the applicants in reaching his decision. At that time the background was that the applicants had left a public gypsy site in Hampshire site due to a violent disagreement with other residents and whilst they had lived for a time in a house this property could not accommodated the whole family and they wished to resume living in caravans as part of their lifestyle. In 2013 reference was also made to two young children and the benefits of them attending a local school. The current application does not contain any reference or update. Accepting we are now 4 years on from that time I anticipate that the situation is relatively unchanged and consider that appropriate weigh is given to these factors.

Conclusion

The use of this site began as an unauthorised activity and was strongly resisted by the authority. This approach reflected the prevailing planning policy framework at the time. The temporary consent granted on appeal was viewed as recognising the applicants situation and in recognition of the strong expectation that the emerging planning policy framework would identify sites for gypsies and travellers. Unfortunately that clear guidance has not emerged and is not now projected to be issued for another 2 years. From the research undertaken as part of the formulation of policy, up until recent times there had been a view that the authority could not demonstrate an up to date 5 supply of sites. In those circumstances, the PPTS indicates that if the local planning authority cannot demonstrate an up to date 5 year supply of deliverable sites, this should be a significant material consideration when considering applications. Decisions and recommendations reflected this absence of a 5 year supply. However, following an additional review, it is considered that a 5 year supply figure can be achieved. This does have a major influence on the determination of this application.

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In making the judgement on the weight to be given to these factors, the outcome of a recent appeal at Barn Farm The Lakes Swanmore is noted. A copy of that decision letter is attached as appendix C to this report. That appeal considered a site where a temporary consent had been granted and the occupants then sought a permanent consent but where the authority only gave a further temporary consent. The site lies within an open gap. It was the local planning authorities case that the open gap policy should be afforded significant weight and that the Gypsy/traveller DPD process was the best mechanism for evaluating the suitability of sites in the countryside, or more sensitive locations such as those areas designated as open gaps. However, the inspector did not consider that these factors outweighed the absence of a 5 year supply. As part of this assessment the inspector considered that the claim the DPD should inform decisions relating to permanent sites was not sufficient to outweigh the harm caused by the use of a further temporary consent. A permanent consent was granted. However since that appeal, the councils position has changed with the belief that a 5 year supply can be shown. This new evidence must be weighed against the factors put forward by the application.

The report that was due to be considered by members at the Planning Committee meeting on 30 March 2017 weighed all the material considerations and came down in support of a permanent consent. A significant element in support of that recommendation was the absence of a 5 year supply of sites. Following the changes to the question of the 5 year supply figure, it is no longer felt appropriate to support a permanent consent for this site. It is the officer's view that the DPD process is the most appropriate way to evaluate the merits of this site against other sites on land that falls inside or outside the open gap. Having regard to the other material considerations, it is not the view that the application should be refused, but that another temporary consent is granted to get past the adoption of the DPD. This approach will allow the applicants to engage with that process.

The third party comments and particularly those of the parish council are noted. In coming to the recommendation due weight has been given to the number and nature of the representations received.

In terms of suitable conditions, it is proposed to apply the same conditions as previously used with some refinements that have emerged from experiences at appeals. In the circumstances, it is appropriate to restrict occupancy to the same people as nominated in the earlier consent.

The application is recommended for temporary approval with appropriate conditions.

Recommendation

APPROVAL – subject to the following conditions:

1. The use hereby permitted shall be carried on only by Mr David Keet (Jnr), Mr Ricky Keet and Mr Lloyd Goddard and Mrs Esther Goddard and their resident dependants, and shall be for a limited period being a period years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.

Reason: The Council is in the process of establishing the required gypsy pitch provision for the District and allocation of gypsy and traveller sites so it would be premature to grant a permanent provision at this stage.

2. When the premises cease to be occupied by those named in condition 1) above, or at the end of the 3 year period, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, fencing, materials, hardsurfacing, including the

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access track, and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place.

Reason: To ensure that when the temporary use expires the site is cleared and restored to its former condition so that no adverse impact results from the temporary use.

3. No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended), of which no more than 3 shall be a static single unit caravans / mobile homes, shall be stationed on the site at any time. Double unit static caravans are not permitted to occupy the land.

Reason: To ensure that the residential accommodated provided within the site is proportionate to the needs of the applicants and is not overdeveloped.

4. The internal layout of the site including the siting of the caravans, hard surfaces, boundary treatment, parking, amenity areas, drainage provision and the position of any lighting shall conform with the details as shown on the TDA drawing entitled Detailed Landscape Proposals drawing number TDA.1955.02 dated March 2014.

Reason: To ensure that the site retains an acceptable layout with adequate provision of amenity and is not overdeveloped.

5. Any day room or amenity building shall only be used for ancillary purposes to the main caravan/mobile home on the respective pitch or caravan they are associated with and intended to serve and shall not be used to provide permanent, temporary or occasional residential overnight accommodation by any person who is a resident occupier or visitor to the pitch or site.

Reason: To ensure that the site retains an acceptable layout with adequate provision of amenity and is not overdeveloped.

6. Within the first full planting season after the permission is granted, the landscaping scheme as detailed on the TDA drawing entitled Detailed Landscape Proposals drawing number TDA.1955.02 dated March 2014 shall be fully implemented. If, within a period of 2 years after planting, any tree or plant is removed, dies or becomes, in the opinion of the local planning authority seriously damaged, defective or diseased, another tree or plant of the same species and size as that originally approved shall be planted at the same place, within the next planting season, unless the local planning authority gives it written consent to any variation.

Reason: To ensure that the site is both adequately screened and also blends in with the surrounding area.

7. No commercial activities, including the storage of materials, shall take place on the land.

Reason

To protect the character and appearance of the surrounding area.

8. No more than 3 commercial vehicles shall be parked, stationed or stored on the land for use by the occupiers of the caravans hereby permitted, and they shall not exceed 3.5 tonnes

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in weight.

Reason

To protect the character and appearance of the surrounding area.

9. No burning of materials or waste shall take place on the land.

Reason

To protect the character and appearance of the surrounding area.

Informatives

01. In accordance with paragraphs 186 and 187 of the NPPF Winchester City Council (WCC) take a positive and proactive approach to development proposals focused on solutions. WCC work with applicants/agents in a positive and proactive manner by;
- offering a pre-application advice service and,
 - updating applicants of any issues that may arise in the processing of their application and where possible suggesting solutions.
 - shared the draft conditions with the applicant.
02. This permission is granted for the following reasons:
The development is in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify the approval of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.
03. The Local Planning Authority has taken account of the following development plan policies and proposals:-
- Winchester Local Plan Part 1 – Joint Core Strategy policies MTRA1, MTRA4, CP2, CP5, CP10 & CP13.
Winchester Local Plan Part 2- Development Management and site Allocations (LPP2), DM1, DM4, DM15, DM16, DM17, DM20, DM23
04. No materials should be burnt on site. Where allegations of statutory nuisance are substantiated by the Environmental Health and Housing Department, an Abatement Notice may be served under The Environmental Protection Act 1990. The applicant is reminded that the emission of dark smoke through the burning of materials is a direct offence under The Clean Air Act 1993.



Appeal Decisions

Hearing held on 5 November 2013

Associated site visit made on 5 November 2013

by **N P Freeman BA (Hons) DipTP MRTPI DMS**

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

Decision date: 12 December 2013

Appeals A & B: APP/L1765/C/13/2198471 & 2198472

Land to the east of Mayles Lane, Knowle, Hants, PO17 5PN

- These appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 by Mr D Goddard and Mr D Keet against an enforcement notice issued by Winchester City Council.
- The notice was issued on 23 April 2013 (Council ref: ENF 12/00274/WKS).
- The breach of planning control as alleged in the notice is "Without planning permission, the material change of use of the Land from agricultural use to use as a caravan site."
- The requirements of the notice are:
 - (i) Cease the use of the Land for the siting of caravans (and mobile homes) for the purpose of human habitation;
 - (ii) Remove all caravans/mobile homes, sheds, vehicles and all other paraphernalia brought onto the Land for use in connection with the use of the Land as a caravan site;
 - (iii) Dig up and remove the area of hardstanding in the approximate position shown hatched black on the attached plan and the access track in the approximate position hatched green on the attached plan and restore the Land to its condition before the breach took place by re-levelling the ground with top soil and re-seeding with grass;
 - (iv) Demolish the close boarded boundary fence;
 - (v) Remove all resultant debris and materials from the Land resulting from compliance with steps (iii) and (iv) above.
- The period for compliance with the requirements is 4 months after the notice takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decisions: Appeal A – No further action. Appeal B – Allowed subject to the enforcement notice being corrected in the terms set out below in the Formal Decision.

Appeal C: APP/L1765/A/13/2194456

Land to the east of Mayles Lane, Knowle, Hants, PO17 5PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 by Mr D Goddard and Mr D Keet against the decision of Winchester City Council to refuse to grant planning permission.
- The application Ref. No. 12/02154/FUL, dated 1 October 2012, was refused by notice dated 4 March 2013.
- The development proposed is the change of use of land to a private gypsy and traveller caravan site consisting of 3 No. mobile homes, 3 No. touring caravans and associated amenity and day rooms as shown on Drg. 01198/1 Rev 1.

Summary of Decision: The appeal is dismissed.

Procedural matters

1. The appellants' agent explained at the opening of the hearing that one the appellants named on the appeal forms was in error in respect of Mr David Goddard. He occupies another site in Oxfordshire and was mistakenly stated as the co-appellant. The appeals should apparently have been made in the names David Keet (Snr) and David Keet (Jnr). Once the appeals are made and registered then I am not in a position to change the names. I was also told that David Keet (Snr) lives in a property at 2 Big Tree Cottages, Long Road, Soberton and has no intention or need to occupy the appeal site. It is his son David Keet (Jnr) who is living there along with his brother Ricky Keet and his sister Esther Goddard with her husband Lloyd and two children (Lena and Lloyd (Jnr)). David Keet (Jnr) is already named as the co-appellant. Given this background and the fact that Mr David Goddard was not intended to be a co-appellant the logical approach to adopt is to take no further action on Appeal A (2198471). I will consider Appeal B (2198472) on the grounds pursued in the name of David Keet (Jnr). I consider no prejudice would be caused to any party by adopting this approach.
2. In terms of the Appeal C, the plans that were before the Council when the decision on the planning application was taken included a block plan and site layout plan (Drg. Nos. 01183/8 & 01198/1 Rev 1 respectively). At the hearing revisions of these plans (Rev 3) were introduced showing amended layout details with a secondary point of access and the caravans, amenity blocks and dayroom re-positioned so as to seek to overcome the objection of the water authority (Albion Water) to building over existing foul sewers that cross the site. The wayleave required is 3m on either side of the sewers. Whilst I appreciate the desire to overcome this objection, I am required to determine this appeal on the basis of the plans that were before the Council when the decision was taken and the appellants' agent accepted as much. Consequently, I will proceed on this basis.
3. It was argued instead that it would be possible to consider these plans as the basis of the deemed application flowing from the s174 appeal. S177(1)(a) states that the planning permission on the deemed application may be granted in respect of the matters stated in the enforcement notice as constituting the breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or part of the land to which the notice relates. The alleged breach concerns the use of the land as a caravan site. The siting of caravans is a use of land and so it would be possible to consider alternative positions within the land area identified. However, the amenity blocks and day rooms are operational development which is not specified in the notice. They have also not been constructed and at the time of my visit there were only 3 smaller sheds, which I understand house chemical toilets, and some stables on the land. Accordingly, having regard to the terms of s177(1)(a), the amenity blocks and day rooms are not encompassed in the deemed application which is before me for consideration on Appeal B.
4. In terms of the wording of the allegation I also consider that this would benefit from some minor changes to clarify the use that is actually taking place. The term "caravan site" is vague and I consider that the words "for residential use" should be added. Additionally, only part of the land the subject of the notice is used for this purpose with the remainder in use for grazing horses, hence a mixed use. A more appropriate form of wording would be "the material change

of use of the Land from agricultural use to a mixed use as a caravan site for residential purposes and agriculture". I consider that using the powers conveyed by s176(1)(a) it would be possible to make this correction to the wording to get the notice in order without causing any injustice to the parties.

5. In terms of the 3rd reason for refusal of the planning application (Appeal C), a unilateral undertaking under s106 of the Act has been provided by the occupiers of the site to make provision for an open space contribution should planning permission be granted for the development. The sum is as agreed by the Council and they are satisfied that this overcomes this reason for refusal. The Council's representatives also explained that the contribution would only be sought if permanent rather than temporary planning permission is granted. For these reasons it is not necessary to take this issue any further.

Background

6. The appeal site is an L-shaped parcel of land located in the north-western corner of a larger field of about 3 hectares in area. I understand that this field was bought by a Mr Cooper from Knowle Farm in the mid-1990s¹ and that he has now sold off separate parcels, including the appeal site to the occupants², whilst retaining the south-western part which is occupied by a modern barn-like building (Unit 2, Knowle Farm). I note that the part he has retained has been the subject of enforcement action in respect of an unauthorised waste processing activity and there are now further investigations being undertaken concerning use for the importation and processing of aggregates. Unit 2 was constructed under agricultural permitted development rights and the Council's representatives think it has now been granted planning permission for domestic storage. From what I saw on my site inspection it did not appear to be used for this purpose and the presence of commercial machinery and excavators inside and storage bays on the adjacent yard to the north are consistent with the claim that an aggregates processing business is taking place.
7. The rest of the larger field to the east has been split into 2 separate ownerships (Little Acorns and Little Oaks) and is used for private equestrian purposes. Planning permission for stable blocks has been granted for both with one already built and the other under construction (slabs laid). There is a track running between the two from Mayles Lane and this provides access to Unit 2 and the appeal site via another track along the eastern boundary. There is also another access to the appeal site in the north-western corner which leads off the access road to Knowle Farm. The northern part of the appeal site has been surfaced with shingle and enclosed by fencing and is presently occupied by 3 touring caravans, 3 sheds and a stable block, which houses the occupants ponies. The rest of the appeal land to the east comprises a field for horse grazing with the secondary access drive running along its western side.
8. The settlement of Knowle, which is focused around the former hospital, lies further to the east on the opposite side of Mayles Lane. To the south, also within the settlement are some houses, including some newer dwellings at Mayles Corner, the North Park Business Centre (based around the old farm yard) and the Knowle Village Business Park beyond. To the west, on the opposite side of the access track is a sewage works and open land used for storage in connection with a water management company which the Council

¹ Mrs Chambers of the Knowle Village Residents' Association said that the purchase took place in 1995

² The Land Registry Title shows the purchase date as 9 March 2012

say is unauthorised. Next to this is another modern building (Unit 1) which is authorised for commercial use. To the north is a cemetery (disused) which sits within an area of dense woodland.

9. The Keet brothers lived their early life with their sister (Esther) and parents on the public gypsy site at Tynefield, Whiteley, Hants. In 2001 the family suffered a violent attack from others on this site which resulted in their caravans being burnt down. For their safety they were initially moved to a safe house in Portsmouth and then to another Council-owned property in Soberton, where there father (David Keet Snr) and mother still reside. I understand that this is a small house and of insufficient size to accommodate the whole family. Moreover the children did not want to stay there but to resume living in caravans as part of their typical lifestyle. Given their age and the fact that Esther is now married with two young children, with another baby due in February 2014, the house could not accommodate all of them anyway. The information on travelling is limited but it is said that the men travel for a large part of the year carrying out gardening and landscaping jobs. On this basis, I am satisfied that the site occupants have gypsy status and the Council have not disputed this. Accordingly the policy framework applying to gypsies and travellers is engaged.

Reasons - S78 and ground (a) s174

10. The main issues in this case are:

- 1) The impact on the character and appearance of the countryside with particular regard to the fact that the site lies within the defined Knowle/Wickham – North Fareham Strategic Development Area (SDA) Gap;
- 2) Whether the site is in a sustainable location;
- 3) Whether the site provides a satisfactory level of residential amenity for the occupants;
- 4) Should harm be found in respect of any of the preceding issues, whether this harm is outweighed by other material considerations which include the need for and supply of gypsy sites both in general and in terms of the occupants' particular needs and personal circumstances.

Issue 1)

11. There is no dispute that the site is outside the settlement boundary for Knowle and in the defined Gap between the settlements of Knowle and Wickham and the SDA to the south. It is also accepted for the appellants that this means that the development is at odds with Policies SH4 and CP18 of the Winchester District Local Plan – Part 1 – Joint Core Strategy (JCS) – adopted 20 March 2013 and Policy MTRA4 of the same, which only permits certain limited types of development in the countryside, outside defined settlements. However, Policy CP5 of the JCS, which specifically concerns gypsy and traveller sites indicates that they may be located in rural locations subject to satisfying various criteria. This is consistent with the national policy found in the Planning Policy for Traveller Sites (PPTS) which does not prohibit such development in rural areas but requires it to be of a scale which does not dominate the nearest settled community and to be strictly limited in the open countryside away from settlements.

12. In terms of the nature of the land in question I have had regard to the aerial photographs provided for the appellants³. These appear to indicate that parts of the appeal site were hardsurfaced and in use as a yard with possibly some structures present as well. It is not possible to discern exactly what may have been taking place by way of use although it may well have gone beyond the lawful agricultural use and have some connection with the former owner's unauthorised activities on the adjacent land to the south. The Council maintain that whatever was taking place, no planning permission had or has been granted and that the only lawful use of the land is for agricultural purposes. Mrs Chambers for the Residents' Association asserts from her own personal knowledge of the land that it was part of the larger green field and that the changes that have taken place have come about since Mr Cooper purchased and subdivided the land.
13. In the absence of any planning permission or lawful development certificate I consider that any non-agricultural use or development that may have taken place is likely to have been unauthorised. For this reason, having regard to the definition contained in Annex 2: Glossary to the National Planning Policy Framework, I do not consider that the site can be categorised as previously-developed land in whole or part. Nevertheless it is evident from the photographs that the north-western part, closest to the access, has been surfaced for some time and this has caused physical and visual degradation which can be contrasted with the eastern part of the appeal site which is still a grass field and the paddocks of Little Oaks and Little Acorns beyond.
14. As regards the impact of the development, I have considered the visual appraisal and landscape assessment provided for the appellant and my own observations on site. The ground falls quite sharply from Mayles Lane into a valley and the part in residential use is on lower lying ground. However, the caravans, fencing and other domestic paraphernalia are clearly visible from sections of Mayles Lane, particularly in the vicinity of Viewpoint 4 in the assessment. I understand that a length of hedgerow that was removed from the frontage in this location is to be reinstated but this will take some time to mature and even so there are open views over the apron to the access track which would remain largely unimpeded. I was also seeing the development at a time when the predominantly deciduous trees in the locality were still in leaf and without this foliage I would expect any development on the appeal site to be more noticeable. Moreover, as the Council point out, there are only touring caravans on the land at present and not larger mobile homes. I do not accept that these are likely to be less apparent due to their livery as argued for the appellants. In my experience because of their size and height they tend to be more prominent features in the landscape.
15. Additionally the s78 appeal proposal includes a number of amenity buildings and a substantial day room which would add to the presence of noticeable development all within a defined Gap which the Council is seeking to maintain. I appreciate that the revised plan, which I have explained above is not before me, would reduce the size of the dayroom and lead to some re-positioning but the number of permanent buildings shown would still be considerable on what is a modest gypsy site. I am not convinced that it is necessary to have 3 separate amenity blocks as well as the day room for the occupants.

³ Dated 31/12/2005 and 21/04/2007

16. I have taken account of the fact that the backdrop of trees in the Meon Valley would still be seen and that the site is set some distance away from the public vantage points. Nevertheless, I find that permitting the development as a caravan site has and would continue to represent an encroachment into the countryside beyond the settlement boundary. It would occupy land which falls within an important Gap which needs to be protected to prevent the coalescence of settlements and to safeguard the character and appearance of the rural area. I accept that the site is near the edge of a settlement and in what might reasonably be described as a fringe location close to other residential and commercial development. However, as I understand it, the development closest to it is unauthorised and Unit 2 was only permitted originally on the basis that it was to be used for agricultural purposes. These are important aspects of the context which illustrate the vulnerability of this sensitive piece of the countryside and the need to resist development that would lead to further harmful encroachment which would devalue the Gap.
17. I have had regard to the permitted stabling and fencing around the paddocks to the east and the excavation that has taken place for one group of stables. Whilst this has altered the open aspect of the field to a degree these are typical features found in a rural area related to equestrian uses and can be distinguished from a caravan site where the intensity of development and its residential nature would have a greater impact. I have also noted the detailed landscaping scheme put forward which I accept could help to ameliorate the visual impact. However, the planting would take some time to mature and it would not overcome the harmful physical presence of the caravans and associated buildings (Appeal C) in a defined Gap which would reduce its open character contrary to the requirements of Policies SH4 and CP18 of the JCS.
18. My attention has been drawn to the findings of my colleague in an appeal decision⁴ relating to a touring caravan site for 60 pitches with associated buildings on the northern part of the original larger field (encompassing part of the present appeal site). This appeal was dismissed due to the detrimental effect on the prevailing character and appearance of the countryside. This was a much larger development covering a substantially greater land area. I also note that the Inspector in that case referred to the surrounding non-agricultural development which he found resulted in the land not being contiguous with the open countryside beyond. However it is worth quoting what he then goes on to say⁵:

"These points are noted; but it is not accepted that the site is so well contained and concealed that its development would have an insignificant effect on the character of the area. It forms part of the setting of the village of Knowle and, despite intervening vegetation, there are views of it from adjoining residential development, and from public areas including parts of Mayles Lane and, to a limited extent, the public footpath to the west of the site. In addition, whilst it is not attached to agricultural land, the development to the west is of a relatively open character, and the adjoining cemetery has the appearance of undeveloped woodland. Overall, the site is not a discrete entity, but has a visual connection with the countryside between Knowle and Wickham, and forms part of the valley landscape."

⁴ Ref. No. APP/L1765/A/11/2145112 dated 22 June 2011

⁵ Para 5 of the appeal decision

19. I have no reason to disagree with this careful analysis of the nature land in question of which the appeal site forms a part. Hence whilst the quantum of development before me differs considerably the importance of protecting land which makes a significant contribution to the setting of the village and the visual connection with the countryside is strong determining consideration.
20. Concluding on this issue, I consider that the development whether under Appeals B or C, would cause harm to the character and appearance of the rural area compromising part of an important Gap which was designated to protect this vulnerable piece of countryside on the edge of settlements and secure the long-term retention of its rural character. This would be at odds with Policies SH4, CP18 and MTRA4 of the JCS and the relevant parts of saved Policies DP3 and DP4 of the Winchester Local Plan Review 2006. The impact would be greater with the Appeal C proposal given the inclusion of new buildings as well as the caravans. There would also be conflict with the terms of Policy CP5 of the JCS which seeks to protect designated Gaps and restrict permanent built structures on gypsy sites in rural locations to essential facilities such as a small amenity block. In terms of the PPTS, I do not consider that the development of 3 pitches would dominate the nearest settled community and given the close proximity to Knowle village I do not find that it would lead to development in the open countryside away from existing settlements. Nevertheless, this does not alter my conclusion that there would be conflict with the development plan policies referred to above.

Issue 2)

21. The Council made it clear that they would have not objected to the development on the ground of it being in an unsustainable location if that was the only concern. I was informed that there is a small general store, a wine bar and a beauty salon in the Knowle. There is also a bus service to Wickham running through the village which has a stop within a short walk of the appeal site. Wickham is about 1.5 miles away and contains a wide range of shops and services. Whilst I would expect the occupants of the site to normally travel by motor vehicle to Wickham I consider that the distance is limited and it would be reasonable and possible to cycle to and from this destination. For these reasons I consider that the site is reasonably close to local facilities and services and not in an unsustainable location when considered on this basis. I also consider that some of the other aspects of sustainability listed in paragraph 11 of the PPTS would be fulfilled, such as providing a settled base and access to health services and schools. Esther Goddard's daughter Lena is already enrolled at Wickham Primary School.

Issue 3)

22. The Council's concern appears to relate to the lack children's play space within the residential part of the site. On my inspection it was evident that the whole of this part is surfaced in pea shingle with no green space or area separated for play. However, it seems to me that in view of the area in question there is scope to introduce play space and this could be required by a condition. I am also mindful that the eastern part of appeal site is a paddock at the northern end of which I observed some play equipment. This land would also add to the potential for recreational space and subject to suitable controls could make a contribution. For these reasons, I am satisfied that the concerns regarding amenity space for the site residents could be addressed.

Issue 4)

23. In terms of general need for gypsy and traveller sites, a Traveller Accommodation Assessment (TAA) prepared by Forest Bus Limited on behalf of the Council and some other Hampshire planning authorities, including the County Council, was published in April 2013. This provides the most up-to-date assessment of need and will be used to inform the site allocations process which will be formalised in the Local Plan – Part 2 – Development Management and Allocations Plan (DMAP) which is still to be drawn up. The Council's representatives said that some work has commenced on this with a possible site for 5 pitches being considered in Colden Common and engagement with parish councils being sought in terms of provision. However it was agreed that the adoption of DMAP is not likely until the summer of 2015 at the earliest and that until that time there remains an unmet need for more pitches.
24. The TAA indicates that there are currently 41 pitches in the Winchester authority area and a current notional need for 3 pitches. Need for the future is assessed as 12 pitches by 2017, 19 by 2022 and 26 by 2027 (all figures cumulative rather than additional). For the appellants, there was no criticism of the actual figures calculated but it is argued that the Council has repeatedly failed to provide a 5 year supply of pitches as required by the former national guidance and the present PPTS. This is said to amount to a policy failure and whilst the Council do appear to now be genuinely attempting to make provision this is said to be too little, too late, and will not help the occupants of the appeal site who have no present alternative to which they can resort which is suitable and available.
25. Having regard to the work that has been carried out by the Council jointly with other Hampshire authorities and the ongoing process of site allocation, I am satisfied that there are genuine steps being taken to comply with the terms of paragraph 9 of the PPTS. However, it is common ground that at present there is unmet need for 12 pitches to 2017 and this is now only 4 years away. Paragraph 25 of the PPTS says that if local planning authorities cannot demonstrate an up-to-date 5 year supply of deliverable sites this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. As there is no up-to-date 5 year supply this is a significant point to which I will return to below.
26. On the supply side, the Council were not able to identify any alternative site that would be suitable, available and viable for the site occupants. No vacant pitches have been identified on lawful sites and the public site at Tynefield was said to have only 14 of the 18 pitches in use due to 4 pitches being uninhabitable and a waiting list should any become vacant. Given the historic background surrounding the Keet family's previous occupation of this site I do not consider it represents a realistic and suitable alternative even if pitches are vacated. I have no details of any attempts made to find an alternative but it is said that a search has been taking place since 2001 when the pitch at Tynefield was vacated but to no avail. Demonstrable general need set against a shortage of supply supports this claim. The occupants apparently came to purchase the appeal site having heard from a friend it was for sale. I do not consider it is realistic or practical to expect the occupants to go back to the house in Soberton given their number, including young children.

27. As regards the personal circumstances of the occupants, Lena Goddard suffers from asthma and needs regular screening by her local doctor – currently at The Denmead Practice – to monitor this condition. I accept that having a settled base enables these appointments to be kept and this would become difficult, if not impossible, if it was necessary to resort to a roadside existence. It could also lead to the worsening of the condition. No other particular health needs were mentioned but access to a local surgery is beneficial to all the site residents.

28. In terms of education, only Lena is of school age and registered at Wickham Primary School. Lloyd (Jnr) is aged 2 and will become eligible for pre-school in about a year's time. Whilst Lena has only just started schooling it is advantageous that she does not have to move having only recently begun.

Other matters

29. I have regard to the objections raised by the Residents' Association, some local residents and other interested persons. In terms of highway safety I was made aware that Mayles Lane is a private road owned by the Homes and Communities Agency who bought the land after the closure of Knowle Hospital. The concern is that this narrow road is already poorly maintained and that any additional traffic would be harmful to the safety of drivers and pedestrians given the presence of speed humps and the lack of any footway or street lighting. I note that the highway authority raised no objection and that the previous Inspector, who dealt with the appeal for the touring caravan site, did not find against the development on this basis. The development before me would create far fewer trips on Mayles Lane and given that this road already serves a significant amount of residential and commercial development, I am satisfied that the extra traffic generated is unlikely to cause any material increase in the risks to the highway safety of road users.

30. In terms of residential amenity and living conditions, conditions could be imposed to prevent any commercial use on the site and to limit the weight of commercial vehicles parking there. Similarly any concerns about light pollution could be addressed by condition. The site is not immediately adjacent to any residence and those living nearby are located within a mixed use area where a certain amount of noise and activity is to be expected. The County Council's ecologist was unable to identify any harm to protected species and although bats may be living in trees around the field there is nothing to suggest that the use has or would cause them harm. Given the presence of foul sewers crossing the site a connection seems feasible for drainage purposes and surface water could be picked up by a system of soakaways. Again precise details could be required by condition to ensure acceptability.

Overall conclusions

31. Whilst I have not found against either proposal (Appeals B and C) on the second and third main issues, I conclude that harm to the character and appearance of the countryside and the creation of a gypsy site in a defined Gap where development is to be resisted weighs heavily against the granting of planning permission. I reach this conclusion notwithstanding the relatively close proximity to the settlement of Knowle on the basis that encroachment into this Gap on a permanent basis with permanent structures unrelated to rural uses would undermine its objectives and could lead to pressure for other unacceptable forms of development. From the history of unauthorised

development on some of the surrounding land it is evident that this is not some vague possibility but something that has already happened and which represents a cumulative threat to the integrity of the Gap in question. My concerns in this respect are greater with the Appeal C proposal as this includes a significant number of new buildings.

32. Set against this harm, I have had regard to the fact that there is a demonstrable need both in general terms for more traveller sites in the Council area and specifically as regards the personal accommodation needs of the site occupants. There are also some personal circumstances that weigh in favour including the unsuitability of returning to the Tynefield site should a pitch become available there.
33. Bringing these points together, and carrying out the necessary balancing exercise, I consider that the harm in terms of Appeal C is substantial for the reasons explained above and that the other considerations do not outweigh this harm. I therefore intend to dismiss this appeal. I have considered whether it would be justifiable to grant a temporary planning permission instead but the inclusion of a number of permanent buildings, the totality of which I am not convinced are necessary, leads me to conclude otherwise. It would also be inappropriate to permit these buildings on the basis that they would have to be removed at the end of the temporary period given the financial investment that would have to be made in their construction.
34. Turning to Appeal B, I also find that the harm is such that permanent planning permission should not be granted. In considering whether it would be justifiable to grant a temporary planning permission instead the deemed application in this instance only applies to the caravans and not the buildings. Moreover, having regard to the national policy contained in paragraph 25 of the PPTS, the weight to be attached to the lack of a 5 year supply of pitches is a significant material consideration when considering whether to grant temporary planning permission. The lack of any clear alternative for the site occupants to move to at present means that it would be likely that they would have to take up a roadside existence or occupy land illegally if they were required to vacate the appeal site. Given their personal circumstances, and the best interests of the children in question, which has been held by court authority to be a primary consideration that must be given due weight, and their human rights⁶, I find that a proportionate outcome would be to grant temporary planning permission for a limited period.
35. As the allocation of sites is unlikely to be formalised in the adopted DMAP until the middle of 2015 and in view of the additional time required to obtain planning permission and make the sites available for occupation, I consider that a realistic period for the temporary permission would be for a period of 3 years. This would provide a degree of security for the site occupants whilst at the same time ensuring that the use has to cease and the land be restored to its former condition thereafter, in line with the prevailing policies described above. The Council assert that they are confident that suitable alternative sites will be found and made available during this period and from what is before me this appears to be a reasonable proposition. It will be a matter for the Council, first and foremost, to consider the situation afresh at the end of the temporary period having regard to the situation prevailing at that time. This outcome

⁶ Article 8 of the European Convention on Human Rights (ECHR) and Article 1 of the 1st Protocol

would lead to the quashing of the enforcement notice so the site occupants would not have to find somewhere else to live and there would consequently be no violation of their human rights.

36. In reaching these conclusions, I have had regard to all other matters raised including the representations received from third parties and the appeal decisions and court judgments to which the parties have referred. I have taken account of the planning permission recently granted on appeal for 4 new houses at North Park Business Centre but this relates to the redevelopment of an existing building used as offices and that site comes within the village settlement boundary and not the defined Gap. None of these matters alter the findings I have reached on the particular circumstances of the appeals before me.

Conditions

37. In terms of the conditions that I will attach to the deemed planning permission on Appeal B, as already indicated I will impose one restricting the use to a three year period from the date of this decision and requiring the removal of the development thereafter. I have considered whether the temporary permission should be personal to the named occupants and their dependants and consider that this is justified as their personal circumstances, particularly the unsuitability of returning to the Tynefield public site, have a bearing. As the permission would also only be for a limited duration the concerns about children reaching adulthood and no longer being dependants does not arise. With the imposition of a personal condition it is not necessary to attach the standard gypsy status condition as well.
38. I will limit the number of caravans that can be stationed on the land to 6 in total of which no more than 3 shall be static caravans or mobile homes. The occupants are also willing to accept a restriction limiting the static caravans to single unit size only. I consider that this would be advantageous and would help to lessen the visual impact. There is a need for a condition requiring the submission of certain details in order to protect the countryside, the residential amenities of local residents and the living conditions of the site occupants. I will use the form of wording that is normally adopted when a use has already commenced. The matters to include are siting of the caravans, surface treatment, parking spaces, amenity areas, boundary treatment, landscaping, drainage and external lighting. As regards landscaping, although a detailed scheme has been submitted with the appeals, in view of the fact that only temporary planning permission is being granted, I consider that the details are likely to need reconsidering in the light of the costs of carrying out this level of planting. This will be a matter for the Council to address with the site occupants.
39. I have considered whether it is necessary and reasonable to require one of the two access points to be stopped up. Whilst I am not convinced that both are actually needed I do not consider that either causes any particular problems in terms of highway safety and at the end of the 3 year period the condition I will attach will require the removal of the hardsurfacing, which includes the present access track that runs along the edge of the appeal site paddock, ensuring that the character of the land is not permanently compromised. It is reasonable and necessary to prevent any commercial use of the land, to limit the weight of vehicles coming to the site and to preclude any burning.

40. **Appeal A** - For the reasons given in paragraph 1 above I will take no further action on this appeal.
41. **Appeal B** - As explained in paragraph 4 above, the wording of the alleged breach should refer to the current mixed use of the land. I am satisfied that no injustice would be caused by correcting the enforcement notice in this respect and it will clarify the terms of the deemed application under section 177(5) of the 1990 Act as amended. For the reasons given above I conclude that this appeal should succeed on ground (a) and I will quash the notice and grant planning permission in accordance with the application deemed to have been made under section 177(5) of the 1990 Act as amended, which will now relate to the corrected allegation.
42. **Appeal C** - For the reasons given above I conclude that the appeal should be dismissed.

Formal Decisions:

Appeal A: APP/L1765/C/13/2198471

43. No further action – appeal lodged in error in wrong name.

Appeal B: APP/L1765/C/13/2198472

44. The enforcement notice is corrected by the deletion of the words at paragraph 3 (THE BREACH OF PLANNING CONTROL ALLEGED) and the substitution of the words "Without planning permission the material change of use of the Land from agricultural use to a mixed use as a caravan site for residential purposes and agriculture". Subject to this correction the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the use of the Land for a mixed use as a caravan site for residential purposes and agriculture subject to the following conditions:

- 1) The use hereby permitted shall be carried on only by Mr David Keet (Jnr), Mr Ricky Keet and Mr Lloyd Goddard and Mrs Esther Goddard and their resident dependants, and shall be for a limited period being a period of 3 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
- 2) When the premises cease to be occupied by those named in condition 1) above, or at the end of the 3 year period, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, fencing, materials, hardsurfacing, including the access track, and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place.
- 3) No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended), of which no more than 3 shall be a static single unit caravans / mobile homes, shall be stationed on the site at any time. Double unit static caravans are not permitted to occupy the land.

- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for the internal layout of the site, including the siting of the caravans, hardsurfacing, boundary treatment, parking and amenity areas; the means of foul and surface water drainage of the site; proposed and existing external lighting; landscaping including details of species, plant sizes and proposed numbers and densities and the maintenance and aftercare of the planting (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation;
 - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development 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.
- 5) No commercial activities, including the storage of materials, shall take place on the land.
- 6) No more than 3 commercial vehicles shall be parked, stationed or stored on the land for use by the occupiers of the caravans hereby permitted, and they shall not exceed 3.5 tonnes in weight.
- 7) No burning of materials or waste shall take place on the land.

Appeal C: APP/L1765/A/13/2194456

45. The appeal is dismissed.

NP Freeman

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr A Murdoch BA(Hons) MSc MA PhD MRTPI	Planning Consultant
Mr R Crandon BA(Hons) DipLA	Landscape Architect with Tirlun Design Associates Ltd
Mr D Keet (Snr)	Father of site occupants
Mr D Keet (Jnr)	Co-appellant and site occupant
Mr R Keet	Site occupant
Mr L Goddard	Site occupant

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Jenkison MRTPI	Principal Planning Officer
Mr N March BSc(Hons) DipTP MRTPI	Enforcement Manager

INTERESTED PERSONS:

Mr S Chambers	Knowle Village Residents' Association
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DOCUMENTS SUBMITTED AT THE HEARING

- Doc 1 Bundle of documents handed in by Dr Murdoch concerning land ownership, Lena Goddard's asthma condition and letters from those who have provided temporary accommodation for the site occupants in the past.
- Doc 2 Medical records concerning Esther Goddard's pregnancy.
- Doc 3 Unilateral Undertaking (s106) dated 5 November 2013 concerning the contribution towards the provision of public open space and associated Land Registry Title document.
- Doc 4 Traveller Accommodation Assessment (TAA) published April 2013.
- Doc 5 Appeal Decision (APP/L1765/A/13/2197755) – 4-5 North Farm Business Centre, Knowle – dated 18/10/13.
- Doc 6 Appeal Decision (APP/L1765/A/12/2188816) – The Big Muddy Farm, Alma Lane, Lower Upham – dated 05/09/13.
- Doc 7 Appeal Decision (APP/L1765/A/13/2192872) – 1 The Nurseries, Botley Road, Shedfield – dated 06/09/13.
- Doc 8 *Moore v SSCLG & LB Bromley [2013] EWCA Civ 1194.*

PLANS AND PHOTOGRAPHS SUBMITTED AT THE HEARING

- Plans A & B Revised plans: (A) 01198/8 Rev 3 (Block Plan) & (B) 01198/1 Rev 3 (Site Layout Plan):
- Photo A Enlargement of aerial photo dated 31/12/05.

Wickham Parish Council Comment

APPENDIX B

Please return this form to the Case Officer
From: Wickham Parish Council
Case No 15/02529/FUL
Location Ourlands Mayles Lane Knowle
Proposal

Comments:

Object: The Appeal Decision from the hearing held on 5th November 2013 makes it clear in the conclusion that the permission should be temporary for a limited period and this should continue to be upheld by WCC. The key issue in refusing a permanent site in para 31 is ..'that harm to the character and appearance of the countryside and the creation of a gypsy site in a defined Gap where development is to be resisted weighs heavily against the granting of planning permission' Request application is heard by the Planning Committee if officer are minded to grant permission

Signed:

Nicki Oliver
Parish Clerk

Date: 9.6.16

Appeal Decision

Hearing held on 9 August 2016 & 21 September 2016

Site visit made on 21 September 2016

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 10 March 2017

Appeal Ref: APP/L1765/W/15/3141334

Barn Farm Caravan Park, The Lakes, Swanmore, Hampshire SO32 2PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Henry Hughes against the decision of Winchester City Council.
- The application Ref 15/00636/FUL, dated 24 March 2015, was approved on 29 June 2015 and planning permission was granted subject to conditions.
- The development permitted is the variation of condition no.1 (occupancy condition) and removal of condition no.3 (occupancy condition and expiry of permitted use by 18 October 2015) of planning permission 12/02253/FUL.
- The conditions in dispute are Nos 1,2,3,5,6,7,8,9 and 10 which states that:
 - (1) The permission for the siting and occupancy of the mobile home on site as hereby granted shall be for a limited period of three years expiring on 30 June 2018 on or before which date the mobile home and all materials and equipment brought on to the premises in connection with the use shall be removed and the land restored to its former condition in accordance with a scheme of work submitted to and approved by the Local Planning Authority at least six months before the final expiry date above.
 - (2) There shall be no more than five pitches provided on the site and the 5 pitches individually have no more than a single unit mobile home and one touring caravan stationed on each pitch at any time. No other caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, than those the subject of this planning permission shall be stationed on the site in connection with the permitted use at any time.
 - (3) The use hereby permitted shall be carried on only by the Hughes family and their resident dependent children as scheduled in the South West Law email and annotated plan of 6 February 2015 as provided below:
 - Pitch 1 - Henry Hughes (snr) and Anna Hughes and their son Henry Hughes and his wife and resident dependent children
 - Pitch 2 - Tony Hughes and Natalie Hughes and their resident dependent children
 - Pitch 3 - Isaac Hughes and Tracey Hughes and their resident dependent children
 - Pitch 4 - Leslie Hughes and Sophie Hughes and their resident dependent children
 - Pitch 5 - Edward Hughes and Evelyn Hughes and their son Stanley Hughes and April Hughes his wife who provide care for Edward and EvelynIn addition for a period not extending beyond 31 January 2016 Pitch 5 shall also be occupied by Edward and Evelyn's daughter Mary Hughes and her husband Joseph and their dependent children.
 - (5) No commercial, industrial or retail activity (including vehicle sales and display, the storage or sorting of goods, materials, scrap and scrap metal or storage or stationing of equipment or machinery) and no parking of goods vehicles of any type or description, except as set out below, shall take place.
 - The parking of vans or goods vehicles on the site shall be limited to a maximum of 5, with a maximum laden weight not exceeding 3,500 kilograms and a maximum height of 2.7m and shall be restricted to the use by the occupants of the site.

- (6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order modifying, revoking and re-enacting that Order with or without modification) no fences, gates, wall or other means of enclosure shall be erected and no sheds, outbuildings or other structures shall be erected on the land unless otherwise agreed in writing by the local planning authority. The existing enclosures and structures (single storey day rooms, large barn storage shed, domestic garden sheds and dog run pens) as currently on site (and to which a photographic record has been made and held on planning file by the local planning authority) are taken to form part of this temporary planning permission.
 - (7) Other than any existing storage carriage lamp at the front door and any bulkhead light at the rear door, no external lighting, whether fixed or freestanding, shall be installed or used on the site in connection with the permitted use, unless approved in writing by the local planning authority.
 - (8) The sewage treatment equipment /septic tanks as installed and as used in connection with the approved temporary use shall be operated and maintained in accordance with the manufacturer's instructions at all times until the site ceases residential occupation.
 - (9) No touring caravans stationed on the site (when in addition to a mobile home on the same pitch) shall be used for any permanent overnight accommodation by occupiers of the pitch or site.
 - (10) The day rooms provided on the site shall only be used for ancillary purposes to the main caravan /mobile home on the respective pitch the individual day room is provided to serve and shall exclude any permanent, temporary or occasional residential overnight accommodation by any person who is a resident occupier or visitor to the pitch or the site.
 - The reasons given for the conditions are:
 - (1) To enable the Local Planning Authority to progress the enactment of a policy under the Local Plan Part 2 for the allocation and provision of land for gypsy and traveller sites to meet the anticipated shortfall of such sites across the district.
 - (2, 6, 9 & 10) To enable the Local Planning Authority to control the use of the land and the particular circumstances that the planning permission is founded upon and in the interests of the amenities of the locality.
 - (3) To enable the Local Planning Authority to control the use of the land and the particular personal circumstances that the planning permission is founded upon.
 - (5) To protect the neighbouring amenities and the character of the countryside and to ensure that the use of the track, which is also used as a public footpath, does not become excessive and inconvenient through inappropriate activity.
 - (7) In the interests of the amenities of the locality
 - (8) To ensure the proper drainage of the area.
-

Decision

1. The appeal is allowed and the planning permission Ref 15/00636/FUL for the variation of condition no.1 (occupancy condition) and removal of condition no.3 occupancy condition and expiry of permitted use by 18 October 2015 of planning permission 12/02253/FUL at Barn Farm Caravan Park, The Lakes, Swanmore, Hampshire SO32 2PR granted on 29 June 2015 by Winchester City Council, is varied by deleting conditions 1,2,3,5,6,8,9 and 10 and substituting the conditions on Schedule A attached to this decision.

Application for costs

2. At the hearing an application for costs was made by Mr Henry Hughes against Winchester City Council. This application is the subject of a separate Decision.

Procedural Matters

3. At the hearing, the Council submitted a Gypsies and Travellers and Travelling Showpeople Site Assessment Study (SAS) 2016 document. The Appellant was given the opportunity to consider and comment on this document.
4. The appeal documentation indicates that the site is occupied by persons meeting the definition of gypsies and travellers in Annex 1 of the Planning Policy for Traveller Sites (PPTS) which the Council has not disputed. I see no reason to disagree and shall proceed on the basis that the occupiers of the site have gypsy status.

Background

5. Under planning application 15/00636/FUL, the proposal was to amend condition 1 and delete condition 3 of a planning permission 12/02253/FUL (the 2012 permission). Condition 1 was to be amended to restrict occupation to those meeting the gypsy and traveller definition in Annex 1 of the Planning Policy for Traveller Sites (PPTS). In amending and deleting the conditions, the proposal effectively sought a general permanent planning permission.
6. In this appeal, the Appellant seeks the variation of conditions 1 and 3 but also questions the necessity for conditions 2, 5, 6, 7, 8, 9 and 10 on this decision notice 15/00636/FUL. I will consider the merits of all these conditions under the tests of paragraph 204 of the National Planning Policy Framework (the Framework).

Main Issues

7. The main issues are whether the disputed conditions are reasonable and necessary, having regard to the character and appearance of the countryside, the location of development, the living conditions of nearby residents, the need for gypsy and traveller accommodation, the provision of sites, personal circumstances and the availability of alternatives.

Reasons

Development Plan Policy and emerging planning policy

8. The Winchester District Local Plan Review (LPR) 2006 policy CE.22 states that development of dwellings in the countryside for workers employed in enterprises not connected with agriculture or forestry will not be permitted unless an essential need can be demonstrated, using criteria for agricultural workers dwellings' accommodation as set out in policies CE.19 and CE.20. The Winchester Local Plan Part 1: Joint Core Strategy (LPP1) 2013 policy MTRA4 states only certain types of development will be permitted in the countryside. The appeal site lies within the countryside and does not fall within any of the specified exceptions and therefore it is contrary to policies LPR CE.22 and JCS MTRA4.
9. The appeal site lies within a designated local gap under LPR policy CE.2 for Bishop's Waltham, Swanmore, Waltham Chase, Shedfield and Shirrell Heath. The Council has emphasised that draft policy SW2 of the emerging Winchester District Local Plan Part 2 Development Management and Allocations Document (LPP2) proposes housing near the site within the gap. It has commented that the proposal's conflict with this policy should be considered in the wider

assessment of sites coming forward under an emerging Gypsy and Traveller Site Allocations Development Plan Document (DPD) to allocate sites for pitches.

10. LPP1 policy CP5 states that the Council will undertake needs assessments to quantify the accommodation requirements for gypsies, travellers and travelling showpeople within the district. The Traveller Accommodation Assessment for Hampshire (TAA) 2013 sets out need and pitch targets for pitches.
11. The LPP2 has been subject to an Examination-in-Public with the Inspector's Report awaited. The anticipated adoption date is spring 2017. The Council are preparing the DPD to allocate sites for gypsies and travellers and the SAS has recently been considered by the Council as part of this process. The anticipated adoption of the DPD document is June 2018.

Character and appearance

12. LPR policy DP.3 indicates that development that accords with other policies of the plan will be permitted provided it satisfies various criteria. It requires development to respond positively to the character, appearance and variety of the local environment in terms of design, scale and layout. LPR policy DP.4 indicates, amongst other matters, that development will not be permitted where it would detract from, or result in the loss of important public views, where site analysis identifies these as being of recognised importance. Amongst the criteria of LPP1 policy MTRA4, there is a requirement that sites should be clearly defined by physical features where possible and not be unduly intrusive.
13. Emerging LPP2 policy DM14 requires developments to respect the qualities, features and characteristics that contribute to the distinctive character of the local area. LPP2 policy DM15 requires development to respond positively to the character, appearance and variety of the local environment in terms of its design, scale and layout.
14. The appeal site is divided up into 5 pitches and a site for a permitted storage building. Each pitch has a dayroom building. The pitches have caravans and outbuildings within them and are individually fenced off from one another. They are accessed off a central vehicular access way. There is some established landscaping around the north, east and west boundaries of the site.
15. Immediately adjacent to the site to the south, there is a caravan site known as Stablewood Farm which has a lapsed temporary planning permission. In the other direction, there is the paddock and curtilage of Belmont Farm. A housing estate within Swanmore is also located to the north of the appeal site which is approximately 350m distant. An unmade road known as The Lakes passes along the northern boundary of the appeal site which provides access to the appeal site, Belmont Farm and other dwellings nearby. In general, the character and appearance of the area surrounding the appeal site is mixed by reason of sporadic location of development within paddocks/fields and the close proximity to the built-up area of Swanmore.
16. To remove the condition limiting the duration of the permission would result in permanent residential development on the site. There have been previous temporary planning permissions on the site, including the 2012 planning permission, which the Appellant has argued has allowed the gradual establishment of boundary vegetation. On my site visit, there was substantial

vegetation around the boundaries on the site and beyond, which would significantly screen the appeal development. In addition, the character of the immediate area is mixed. For these reasons, the impact of a permanent development on landscape character would be minor.

17. There is a public right of way (PROW) along The Lakes which forms part of two long-distance footpaths, Kings Way/Allen King's Way and Hampshire Millennium Pilgrims Way. From this PROW, there would be views of the appeal development, including frontage boundaries, through the access to the development. Nevertheless, in travelling along the PROW, views of the development would be of short term duration and within a context of some established landscaping either side of the access framing such views. As the PROW runs alongside the side of the appeal site, there are some views of the pitches but there is a hedgerow and trees in a strip of land between the road and the site. There has been some clearance of vegetation to allow for repairs to a boundary fence but as whole, this established landscaping provides good screening of the site. From the rear end of the site, there is dense hedgerow landscaping largely obscuring the development.
18. Despite hedging being largely deciduous, the dense nature of landscaping would still significantly filter views of the development in winter from the PROW. The other side of the appeal site would be a considerable distance from the nearest public road with considerable intervening vegetation in between. From what I saw on my site visit, there would be no other public vantage points in the Swanmore built-up area from which to view the site.
19. Overall conclusions on landscape matters: for the reasons set out I conclude that the proposal would result in limited harm to landscape character and appearance having regard to the nature and extent of the views from public vantage points. In this regard, the Council's officer's report indicated that the caravan site is not considered a significant intrusive impact on the wider open countryside character of the area. For all these reasons, the proposal would be contrary to LPR policies DP3 and DP4 and LPP1 policy CP5, albeit the nature of the conflict is limited. Similarly, it would be contrary to LPP2 policies DM14 and DM15, albeit the nature of the conflict is also limited.

Location of development

20. The appeal site is located approximately 1.12km away from the Swanmore Village Store via New Road. The store contains a post office and next door there is a grocers and butchers. Swanmore Primary School is a similar distance away. The nearest secondary education provider is Swanmore College, approximately 0.64km away from the appeal site. Doctor's surgeries are available in nearby settlements Wickham and Bishop's Waltham. The distances and nature of the road along The Lakes without street lighting are such that residents of the site are likely to be discouraged from walking or cycling and are more likely to be reliant upon the use of the private motor vehicles to meet their day to day needs.
21. The site is within open countryside and just over a kilometre from the nearest settlement and services. Whilst most journeys are likely to be by means of private motor vehicle the trips would be relatively short and there would be an opportunity for linked trips for example to collect shopping after dropping children at school. For this reason, I find that the site would be relatively well-related to the existing community having regard to the distances involved.

Overall, I conclude that it would provide sustainable patterns of living in compliance with a requirement of LPP1 policy CP5.

22. PPTS at paragraph 13 sets out criteria to identify sustainable gypsy and traveller sites in plans. Although there are local objections to the proposal, third party objections are not unusual in connection with a residential use. Thus, there would be no reason why the site would not enjoy a peaceful co-existence with the local community. There are health services and schools in Swanmore and nearby settlements. The site would promote a settled base that reduces the need for long-term travelling. A settled base would provide a benefit in preventing a roadside or transient existence as unauthorised sites may be located in an areas with poor environmental quality. There has been no evidence that the occupation of the site has placed undue pressure on local infrastructure and services. There is no detailed evidence to indicate that the site is subject to any adverse flood risk. The site would enable traditional lifestyles to be maintained. Consequently, I conclude that the location of the site would broadly accord with the sustainability considerations set out in the PPTS.

Living conditions

23. Despite third party and Parish Council comments on noise, disturbance and anti-social behaviour, detailed reports of incidents linking them with the occupiers of the site are not before me. Furthermore, the Council has confirmed that complaints received are mainly not planning related. Accordingly, on the balance of evidence before me, the proposal would comply with LPR policies DP.3 which amongst other matters, requires development not to have an adverse impact on adjoining land, uses or property. It would also comply with emerging LPP2 policy DM16, which amongst other matters, requires development to not cause unacceptable levels of pollution to neighbours by means of noise.

Other material considerations

Need and supply of gypsy and traveller accommodation

24. PPTS confirms that the Government's aims, amongst others, are for local planning authorities to make their own assessment of need for the purposes of planning and to ensure that local authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites. A further aim is to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply.
25. The most up to date assessment of need is the Travellers Accommodation Assessment for Hampshire (TAA) 2013. The TAA identified an unmet need across Winchester City Council (excluding the South Downs National Park) of 26 gypsy and traveller pitches between 2012 and 2017. For the period between 2011 and 2031, there was a requirement of 33 pitches. In contrast, the Appellant identified an unmet need of 38 pitches from 2013 to 2017, with a further 12 additional pitches from 2017 to 2022 and an additional 14 pitches from 2022 to 2027.
26. Both parties used different methodologies to derive need figures and the five year deliverable supply of gypsy and traveller sites. At the hearing, there was

considerable disagreement over how data was extrapolated to derive need. The Appellant's need figures derived from a growth rate applied to a base date of total need. It was less evidence based compared to the Council's figures given that they were mainly based on survey work.

27. However there were no details of permissions and sites in the district to support the Council's base date figure of unmet need. At the hearing, its growth rate was in part derived from children identified at the time of a supporting survey and not from growth from individuals over 18 years old or family breakdown. Furthermore, the Council were not able to provide convincing reasons as to why the TAA should not make any allowance for those gypsies staying within bricks and mortar accommodation. Such weaknesses in the TAA could result in a higher level of need based on the evidence before me.
28. The DCLG annual count indicates a total of 82 caravans in 2015. Of these 38 caravans were unauthorised. No count was undertaken in 2014. Although the counts in previous years were less, the 2015 figures represent the most-up-to-date data on caravans within the district. Pitches will have more than one caravan, typically two caravans. The 2015 count indicates that the current unmet need is at least 18 pitches before account has been taken of future growth or other matters such as doubling up, hidden need and gypsies and travellers in bricks and mortar accommodation. Taking account of all of the above matters, including the TAA weaknesses, I am satisfied that the true unmet need figure lies somewhere in the mid range of the Council's figures and those of the Appellant.
29. Paragraph 25 of the PPTS provides that where a Council cannot demonstrate an up-to-date five year supply of sites, this should be a significant material consideration when considering applications for the grant of temporary planning permission. In this case, the Council does not have a five year supply and effectively, a permanent planning permission is being sought. In these circumstances, I consider that the lack of a five year supply and general unmet need attracts some weight in support of a permanent permission.

Alternative provision

30. No other private site was brought to my attention as being available for the occupiers of the appeal site. The Appellant has also confirmed that there are no public gypsy and traveller sites for him and his family or other occupants of the site in the surrounding area. This was accepted by the Council. On this basis, there are no alternatives available for the Appellant and his family at the present time once the existing temporary planning permission expires.

Failure of policy

31. Under the LPP1, the Council has a detailed gypsy and traveller policy. Work has commenced on the Council's DPD for future sites. At the hearing, the Council indicated their recent approval of the SAS as part of that process. Concerns were raised about the TAA based on the evidence before me. However, there is a DPD stage for representations to enable questions about the evidence base to be raised and the DPD will be assessed for its soundness. Therefore, there will be opportunities for further assessment of need and the adequacy of provision. In any case, I have already attached weight to unmet need and the lack of five year supply of pitches in this decision. Accordingly, I attach only limited weight to this consideration.

Emerging allocation policies

32. Part of the Council's case in justifying a temporary planning permission rests on the progression of the DPD and the argument that the appeal proposal should not pre-empt this process. Indeed the Council indicates that the site would be better considered under this plan since there may be other sites which are better located than the appeal site. The Council is aiming to have the traveller DPD adopted by June 2018. Be that as it may, Planning Practice Guidance (PPG) provides that arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Whilst I appreciate that the Council did not refuse the application for variation, it did in effect refuse what was essentially an application for permanent planning permission. Therefore the same principles apply.
33. The PPG further states that circumstances where a planning permission could be withheld on the grounds of prematurity are likely, but not exclusively, to be limited to situations where the development proposed is so substantial or its cumulative effect significant AND where the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area. Such circumstances do not pertain here and therefore allowing this appeal and granting a permanent planning permission on the Site Allocations DPD process is not material to my decision making.

Personal circumstances

34. The appeal site is home for the Appellant's and other families. In total, there are 15 adults and 14 children on the site. Most of the children are of school age attending local schools. A roadside or transit existence would not provide a settled base for the raising of a young child. The appeal site does offer access to GPs and hospitals. The existing temporary planning permission provides some provision for a settled base but only until June 2018. Inevitably, there is some uncertainty over whether it would be renewed. Consequently, roadside encamping could occur after June 2018. An existence on the roadside or at transit site, where families may be required to move at short notice, would not be good for the child's well-being or future educational needs. Accordingly, I attach significant weight to this consideration.

Planning appeal decisions

35. My attention has been brought to many other appeal decisions. Nevertheless, the appeal is considered on its particular planning merits and having regard to any other material considerations including the personal circumstances of the occupiers of the appeal site. Indeed, each of these decisions demonstrates that rarely are any proposals alike because circumstances and policies change and consequently different planning balances arise.

Conclusions

Condition 1 (temporary restriction) and condition 3 (personal restriction)

36. The proposal is contrary to LPR policy CE.22 and LPP1 policy MTRA4 in terms of its location in the countryside. These are important strategic policies which sit at the heart of development plans and seek to guide developments to appropriate locations. There would also be a conflict with LPR policies DP.3 and DP.4, and LPP1 policy CP5 by reason of the harm to the character and appearance of the area. However this conflict would be not great for the reasons indicated.

37. In favour of the proposal, there is the general unmet need for sites. There is the failure of policy to make sufficient provision to allocate sites. In addition, there are the accommodation needs, options and personal circumstances of the occupiers of the site and their families. These include the health, education and well-being needs of children. In respect of the location of the site, its disadvantages in encouraging reliance on private transport would be negated by the provision of a settled base and a reduction in long-distance travelling. The unmet need for gypsy and traveller sites is a consideration to which I attach moderate weight. Set against these considerations, the proposal would conflict with emerging LPP2 policies DM14 and DM15 by reason of the harm to the character and appearance of the area.

38. In terms of a permanent planning permission, I conclude that the adverse impacts would not outweigh the benefits when assessed against the policies in the Framework and the development would be sustainable. For this reason, the requirement for a temporary planning permission (condition 1) is unnecessary. In respect of a personal restriction (condition 3), the balance in favour of a permanent planning permission weighs heavily in favour even without consideration of personal circumstances given the unmet need for sites balanced against the limited harm. For this reason, there is no need for a personal condition naming occupiers.

Remaining disputed conditions

39. Condition 2 (pitch and caravan numbers, type of mobile home): the restriction on pitch and caravan numbers is necessary. Without some control, the plots could increase in number along with the caravans upon them and there would be more traffic along The Lakes. Such intensification would change the character and appearance of the area to its detriment. An exception to this would be pitch 5 where family circumstances indicate two family units. This pitch is the furthest away from the entrance into the appeal site and thus less visible than the other pitches and additional domestic traffic from additional two caravans would not be adverse. Therefore, a condition allowing no more than 2 caravans on pitches 1-4 and no more than 4 caravans on pitch 5 would safeguard the character and appearance of the area. Varying the condition to allow the mobile homes to be twin units would not add significantly to the visual impact of the caravan site if it fell within the definition under the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.

40. Condition 5 (commercial activity, number and weight of vehicles): from what I saw on my site visit, the size of the pitch plots would not self-regulate against any commercial activities or a greater number of commercial vehicles. A greater intensity of commercial activity on the site would be significant for reasons previously indicated. Furthermore, further vehicular use by commercial vehicles of The Lakes would result in noise and disturbance

harming the living conditions of residents along this unmade road. Subject to some re-wording in the interests of preciseness, condition 5 is necessary with its components separately conditioned.

41. Condition 6 (permitted development rights and stipulation that all existing enclosures/structures be part of the permission): the site has well-established screening in the main and there are no incongruous boundary treatments presently. However, any future suburban style walls and fences could harm the character and appearance of this site especially with future occupiers and would serve to highlight its built-up presence in this countryside location especially with future occupiers. Given permanent planning permission is to be granted, there are exceptional circumstances for the withdrawal of permitted development rights for boundary treatments for these reasons.
42. However, any permanent outbuildings and structures would separately require planning permission and thus the part of the condition removing such rights is not needed. As to moveable buildings and structures, their impact would be limited given their likely incidental or ancillary nature and the screening of the site. Little justification has been provided to the requirement that existing enclosures/structures are to form the record of the planning permission. As I have indicated, permanent outbuildings and structures would require planning permission whilst the impact of moveable building or structures would be limited. In summary, condition 6 is necessary only in respect of withdrawal of permitted development rights for boundary treatments.
43. Condition 7 (lighting): poorly designed and sited illumination could be intrusive within a countryside location such as this. The condition does allow some flexibility in excluding necessary lighting at the front doors and rear doors from the requirement to submit details separately for approval. Accordingly, the condition is justified.
44. Condition 8 (foul drainage): a planning application has been submitted the housing site nearby under LPP2 and detailed drainage measures were put forward. However this is to be expected with a major housing scheme and there is no evidence that foul drainage problems have arisen here on a site which has been operational for a number of years. Furthermore to require the operation and maintenance with a document not detailed in the condition would be hard to enforce. Therefore, condition 8 is not justified.
45. Condition 9 (No use of touring caravans for overnight accommodation): the proposal allows for static caravans to be parked on the site for overnight accommodation. It is common for gypsy and traveller families to use touring caravans for overnight accommodation. Given that the caravans are already permitted on the site I do not consider that this condition serves any planning purpose. Therefore, condition 9 is not justified.
46. Condition 10 (No use of dayrooms for overnight accommodation and use to be ancillary): from what I saw on my site visit, the dayrooms are large structures and they could be used as surplus accommodation. In granting a permanent planning permission, the operation of individual pitches could change with future occupiers and consequently, the site could become more intensively used so adversely affecting character and appearance. The condition would be enforceable with an appropriate site inspection inside any building. Therefore, condition 10 is justified.

Conclusion

47. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Schedule A

1. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning policy for traveller sites (or its equivalent in replacement national policy).
2. There shall be no more than five pitches provided on the site. No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 1 shall be a static caravan) shall be stationed on each pitch at any time with the exception of pitch 5. For pitch 5 located furthest away from the vehicular entrance into the site, the requirement shall be no more than 4 caravans, of which no more than 2 shall be static caravans.
3. No commercial activities shall take place on the site including the storage of materials.
4. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site and the parking of vans or goods vehicles on it shall be limited to a maximum of 5.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or wall shall be erected within pitches 1-5 on this site.
6. Other than any existing lighting at the front and rear door of any static caravan, there shall be no external lighting on the site at any time other than in accordance with a detailed scheme which shall first have been submitted to and approved in writing by the local planning authority.
7. The day rooms provided on the site shall only be used for ancillary or incidental purpose to the main caravan/mobile home on the respective pitch the individual day room is provided to serve and shall exclude any permanent, temporary or occasional residential overnight accommodation by any person who is a resident occupier or visitor to the pitch or the site.

APPEARANCES

FOR THE APPELLANT

M Green
H Hughes

Director, Green Planning Studio
Appellant

FOR THE LOCAL PLANNING AUTHORITY

S Cornwell

Winchester City Council

Documents

1. Statement of Common Ground.
2. Winchester City Council LPP2 Policies Map 18 Swanmore.
3. South Downs National Park Authority, East Hampshire District Council.
Winchester City Council Gypsy and Travellers and Travelling-Showpeople Site
Assessment Study Peter Brett Associates July 2016.