
Site Address: Southdown View, Long Copse Lane, Emsworth
Proposal: Change of use of the site to a mixed use comprising private equestrian yard and Siting of additional 1No mobile home to enable a total of 2No mobile homes on site for private gypsy and traveller site. Provision of a further 2 additional car parking spaces to allow a total of 4 car parking spaces on site and retention of touring caravan space.

Application No:	APP/18/00929	Expiry Date:	21/12/2018
Applicant:	Mr Les Madgwick		
Agent:	Mr Kirk Manorwood	Case Officer:	Lewis Oliver
Ward:	Emsworth		

Reason for Committee Consideration: The application is contrary to the provisions of the adopted development plan. In addition, Councillor Cresswell has called this application in to be considered by Committee.

Density: The proposed density of the development is 4 dwellings per hectare.

HPS Recommendation: **GRANT PERMISSION**

Executive summary

This proposal is for the site to facilitate an additional permanent gypsy and traveller site for 1 further pitch in addition to its established mixed use for 1 gypsy/ traveller pitch and a private equestrian yard.

There was a previous application APP/16/00021 for this site to become a permanent gypsy and traveller site for 2 pitches which was refused in April 2016. The reasons given for refusal were: Being outside of the defined urban area; having an adverse impact on the character and appearance of the area; being in an unsustainable location; having an adverse impact on the highway network; a lack of contributions towards the Solent Recreation Mitigation Partnership. An appeal was lodged on 7/11/16 with the Planning Inspectorate, this appeal was placed in abeyance on 1/2/17 pending the outcome of a subsequent revised planning application APP/16/01234.

This was a revised application from the previously refused application APP/16/00021; the main changes involved the reduction of number of pitches and reduction in size of the amenity block. Application APP/16/01234 considered additional information provided by the applicant in a bid to overcome the previous reasons for refusal. It was considered by officers that the appellant had overcome the refusal reasons listed, based on one gypsy pitch being provided instead of two. However, at the Development Management Committee which determined the application, members considered all the information provided, along with consultation responses received and third-party representations and determined that the development would remain harmful to the rural character and visual amenity of the area. The decision in effect retaining refusal 1 of application APP/16/00021.

Following the refusal of APP/16/01234 the Planning Inspectorate brought the appeal for application APP/16/00021 out of abeyance. The appeal was determined on the basis of one single gypsy pitch, with all of the information considered under application APP/16/01234 being considered by the Inspector. The appeal was heard at an Informal Hearing on 6th February 2018. The appeal decision was issued on 28th February 2018. The Inspector allowed the appeal, and granted planning permission. The Inspector concluded that the proposal would not materially affect the character or appearance of

the landscape, or of the area generally. In this respect the scheme would not conflict with Policies CS11 or CS16.

The application the subject of this report proposes a further gypsy and traveller pitch outside the current settlement boundary in the countryside - which is contrary to the National Planning Policy Framework 2018 (paragraph 79) and Local Plan (Allocations) Policy AL2. However, as set out above, the Planning Inspectorate have previously allowed an appeal against the refusal of permission for a single gypsy and traveller pitch on this site, and as such the site is now an established site for 1 pitch. The appeal is a material consideration in this planning application. In addition, the Local Plan Housing Statement proposes to accommodate some 260 new dwellings on Land North of Long Copse Lane. This is in close proximity to the application site, and therefore is a material consideration to the current application in terms of the sustainability of this site and its impact on the character and appearance of the area.

The applicants are of traditional gypsy descent and meet the criteria of gypsy and traveller status as set out in Annex 1 of the Planning Policy for Traveller Sites (PPTS). The PPTS requires that local planning authorities "identify and update annually, a supply of specific deliverable sites against their locally set targets". While the policy approach through the adopted Local Plan (2011) has previously been found sound and justified with no allocations for Gypsy, Traveller and Travelling Showpeople, the position changed following the publication of the 2017 Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2016-3036 (May 2017) (GTAA), in that there was now a need to be addressed which represented a local 'target', which comprises the provision of 1 pitch in the borough. That need was met through the approval of APP/16/01234. However, 2017 Assessment must be regarded as a 'snapshot in time', and the PPTS also advises that the LPA needs to identify and update annually a supply of deliverable sites. Given that this applicant is a gypsy by definition and has local connections, this creates a further need for provision of 1 pitch within the borough. Granting permanent permission on this established gypsy/traveller site would meet the need for the required site and would negate the requirement for other sites to be considered, which could have a more significant adverse impact on the landscape in other parts of the borough.

Information has been provided by the applicant and the Gypsy Liaison Officer that the need for accommodation could not be met elsewhere. If planning permission were to be refused, there are no alternative pitches currently available in the area.

This application has been considered against both the criteria set out in policy CS10 of the Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015 and found to meet the criteria. The Highway Authority has raised no objection to the scheme. Furthermore, the development is not considered to have a significant adverse impact on the amenities of neighbouring properties. In addition, the appropriate financial contribution towards the Solent Recreation Mitigation Strategy has been secured. The development is acknowledged to affect, to some degree, the character and setting of this part of the area in terms of impact on its current rural appearance and tranquillity. However, it is also acknowledged that whilst this development is in a rural location, this must be balanced against the need for an additional gypsy and traveller pitch on this established gypsy/traveller site; and the design, layout and appearance of the development. As such this proposal is considered acceptable and is recommended for permission.

1 Site Description

- 1.1 The application site comprises an area of land of 0.5ha, lying on the northern side of Long Copse Lane, in the northern part of Emsworth. Long Copse Lane is a road of mixed character - at its western end, where it links with Hollybank Lane, the southern frontage of the road forms part of an established suburban area featuring a mix of dwellings with a

density of approximately 18 dwellings per hectare, with open fields to the north. Approximately 300m east of the junction with Hollybank Lane, and beyond the junction with Redlands Lane, the character of the road changes on its southern frontage to feature a row of individual dwellings in larger plots, with a density of approximately 5.6 dwellings per hectare, before this gives way to open fields.

- 1.2 To the north, the land features a number of isolated dwellings and a sequence of stables/paddocks as part of a field system that extends further to the Borough boundary. The Havant Borough Townscape, Landscape and Seascape Character Assessment (Feb 2007) identifies the site as being located within Landscape Character Area 21 '*Southleigh Forest*' which is defined as '*The open area of farmland to the east, consists of medium sized fields of pasture in the north predominantly used for horse grazing with some hedgerow division leading to larger open arable fields to the south.*' The Lane itself eventually leads beyond the Borough boundary into Chichester District, where it meets North Street, part of the settlement of Westbourne. Along its length, footways are generally absent from the Lane, and street lighting is only provided up to the junction with Redlands Lane. The carriageway width in the vicinity of the site is 4.2m - 4.4m; this typical for this part of the Lane.
- 1.3 The application site lies approximately 650m west of the junction of Long Copse Lane with Hollybank Lane, and at this point is beyond the last of the dwellings in Long Copse Lane which lie within the Borough boundary. The site features an existing graveled access off Long Copse Lane at the south western corner of the site, extending to an area of graveled hardstanding within the southern part of the site which leads to a stable block within the south eastern corner of the land. The site is currently occupied by an authorised mobile home, which was allowed on appeal under application APP/16/00021. This caravan, which is currently occupied by the applicant's son and his partner, is located to the north of the existing stables, and a cesspool has been installed between the mobile home and stable building. The remaining parts of the site are given over to an area of pasture used for horse grazing which is enclosed by post and rail fencing - a belt of well-maintained grass adjoins the pasture on its western and southern sides.
- 1.4 A two-storey dwelling, Hollybank Cottage, adjoins the application site to the west - the western boundary of the site featuring some established hedging and a number of mature Oaks covered by TPO1974. The southern boundary of the site features 1.8m high close boarded fencing on top of a small bank rising up from the carriageway of Long Copse Lane; this bank features some reduced native hedging, with a mature Ash the subject of TPO1974 lying just within the site. The eastern and northern boundaries of the site comprise post and rail fencing as used for the enclosure of the pasture; no natural landscaping is in place.
- 1.5 The site occupies an elevated position relative to the land beyond it to the north, and as such benefits from wide-ranging views to the surrounding landscape and the South Downs National Park beyond.

2 Planning History

- 2.1 10/74070/00- Change of use of land and erection of stable block with tack room, entrance gate, landscaping and associated access/ground works (Part Retrospective). - Permitted 21/07/10
- 2.2 APP/14/00381 - Extension to existing private stable block to provide feed / cart store for continued private use. Refused 04/06/14 on grounds of intensification of leisure development on the site and impact on the rural character of the area; however subsequently allowed on appeal under reference APP/X1735/A/2220161. The Inspector concluded that in summary, although the Council was correct to observe that an equine use does change the character of a rural area, he did not consider that the proposed

extension would increase that change from the extent accepted by the Council in its original decision to approve the stables. The proposal would therefore have no adverse effect on the character and appearance of the area and there would be no conflict with Policies CS11 & CS17 of the Core Strategy or with the National Planning Policy Framework 2012. This development has now been implemented.

- 2.3 APP/16/00021 - Change of use from private equestrian yard to a mixed use comprising private equestrian yard and two pitch, private gypsy and traveller site (including amenity block and two touring caravan pitches) - This application was received on 6/1/16 however was not made a valid planning application until 4/3/16 due to the requirement for further information from the applicant. The application was then refused on 29/04/2016 for the following reasons:

1 The application site lies outside of the built up area and its proposed use as a two pitch private gypsy and traveller site with equestrian yard is not considered to represent a form of development which is appropriate in this location having regard to Policy AL2 and the 'Update on Council approach to meeting the accommodation needs of travellers' of the Havant Borough Local Plan (Allocations) 2014, the National Planning Policy Framework 2012 and the Planning Policy for Traveller Sites 2015. Furthermore the form and extent of the development would have a significant and harmful impact upon the character and appearance of the site and the wider landscape, and would thereby conflict with relevant provisions of Policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the National Planning Policy Framework 2012 and the Planning Policy for Traveller Sites 2015.

2 Notwithstanding Reason 1 above, the use of the site as a two pitch private gypsy and traveller site with equestrian yard is not considered to represent a sustainable or suitable form of development by virtue of the remoteness of the site from local facilities and public transport, and the rural character of Long Copse Lane which has an absence of footways and street lighting in the vicinity of the site. The proposed use thereby conflicts with Policy CS10 of the Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015.

3 Having due regard to the information submitted in respect of the intended occupiers of the site, it is considered that the proposed use of the site as a two pitch private gypsy and traveller site and equestrian yard would involve regular towing of small and large caravans into and out of the site along the narrow Long Copse Lane which would cause further deterioration of its verge edges, surface and foundations and would exacerbate the hazards to other road users. The use is therefore not considered appropriate for this location and would thereby conflict with Policies CS10 and CS20 of the Havant Borough Local Plan (Core Strategy) 2011.

4 The proposal, without completion of the appropriate binding arrangements to secure a contribution towards the Solent Recreation Mitigation Partnership, is contrary to the Council's Policy on contributions towards measures of mitigation adopted by the Local Planning Authority. These seek to ensure that provision is made from new development towards mitigating against increasing recreational pressure on the Solent SPA. The development is therefore contrary to policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011 and Policy DM24 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2012.

- 2.4 An appeal was lodged on 7/11/16 with the Planning Inspectorate, this appeal was placed in abeyance on 1/2/17 pending the outcome of a subsequent revised planning application APP/16/01234.
- 2.5 APP/16/01234 - Change of use from private equestrian yard to a mixed use comprising private equestrian yard and single pitch, private gypsy and traveller site (including

amenity block and one touring caravan pitch). This was a revised application from the previously refused application APP/16/00021; the main changes involved the reduction of number of pitches and reduction in size of the amenity block.

- 2.6 Application APP/16/01234 considered additional information provided by the appellant in a bid to overcome the four reasons detailed above, in paragraph 2.3. It was determined by officers that the appellant had overcome the refusal reasons listed, based on one gypsy pitch being provided instead of two. However, at the ensuing Development Management Committee members considered all of the information provided, along with consultation responses received and third-party representations and determined that the development would still remain harmful to the rural character and visual amenity of the area. The decision in effect retaining refusal 1 of application APP/16/00021. For the purposes of clarity, the reason for refusal of APP/16/01234 was:
The site lies within a rural area and the siting of the caravans in the countryside would be detrimental to the rural character and to the visual amenity of the area. The proposal is therefore contrary to policies CS11.1, CS 11.9, CS16, and CS17 of the Havant Borough Local Plan (Core Strategy) 2011, Policy AL2 of the Havant Borough Local Plan (Allocations) 2014, Paragraphs 25 and 26 of the Planning Policy for Traveller Sites 2015 and the National Planning Policy Framework 2012.
- 2.7 Following the refusal of APP/16/01234 the Planning Inspectorate brought the appeal for application APP/16/00021 out of abeyance. The appeal was determined on the basis of one single gypsy pitch, with all of the information considered under application APP/16/01234 being considered by the Inspector. The Local Planning Authority having considered the further information submitted in this application subsequently withdrew reasons for refusal 2 and 3 of application APP/16/00021. The LPA therefore defended the appeal on the basis of the reason for refusal outlined above in paragraph 2.6.
- 2.8 The appeal was heard at an Informal Hearing on 6th February 2018. The appeal decision was issued on 28th February 2018. The Inspector allowed the appeal, and granted planning permission. The full appeal decision is attached at Appendix E. Regarding the impact of the proposal on the character and appearance of the area, the Inspector considered this in detail in paragraphs 27-31. The Inspectors summary of this consideration was:
I therefore conclude that the proposed development could be carried out with no more than a limited visual impact on views from public vantage points. As such, it would not materially affect the character or appearance of the landscape, or of the area generally. In this respect the scheme would not conflict with Policies CS11 or CS16.

3 Proposal

- 3.1 This application is for the siting of an additional 1No mobile home to enable a total of 2No mobile homes on site for private gypsy and traveller use; this being in addition to the private equestrian yard which would be retained. To support the further mobile home use there would be provision of a further 2 additional car parking spaces to allow a total of 4 car parking spaces on site and retention of touring caravan space. In terms of the nature of the mobile home, the proposal is to have a further static home sited on the site which has similar dimensions to the existing static home, with dimensions of 13.2m x 3.8m, and 2.8m in height.
- 3.2 The additional static home is proposed to be located approximately 4 metres from the southern boundary of the site, immediately west of the stable block within a gravelled area serving two parking spaces, accessed off the gravelled hardstanding serving the existing stable block. The existing static home is located to the north east of the gravelled track, and the overall layout would therefore take the form of a complex of buildings located in the south-eastern corner of the site.

- 3.3 The application is supported with a Design and Access Statement advising that the applicant and wife are Gypsy and Travellers within the meaning of Government policy in that they are a person of a nomadic habit of life, and also an ethnic Romany Gypsy; and also a Tree Survey, Arboricultural Impact Assessment and Tree Method Statement. As outlined above, the previous applications were accompanied by a wide range of information, which was also submitted as part of the appeal documentation, this consisted of a Transport statement, and other examples of appeal decisions relating to gypsy and traveller applications.

4 Policy Considerations

National Planning Policy Framework (NPPF) 2018

Planning Policy for Traveller Sites (August 2015) (PPTS)

The Government's original PPTS came into effect in 2012 – it was subsequently updated in 2015.

The Government's overarching aim in the above planning policy documents "*...is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.*" To achieve this aim, Local Planning Authorities should make their own assessment of need for such sites within their area for the purposes of planning and "*...should set pitch targets for gypsies and travellers and plot targets for travelling showpeople which address the likely permanent and transit site accommodation needs of travellers in their area, working collaboratively with neighbouring local planning authorities.*"

The Government guidance provides advice with regard to decision-taking for gypsy and traveller applications. Policy H advises that Local Planning Authorities should consider the following matters in determining applications of this nature:

- The existing level of local provision and need for sites
- The availability (or lack) of alternative accommodation for the applicants
- Other personal circumstances of the applicant
- That applications should be determined for sites for any travellers and not just those with local connections.
- Effective use of previously developed (brownfield), untidy or derelict land.
- Sites are well planned that positively enhance the environment and increase its openness
- Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children

Havant Borough Local Plan (Core Strategy) March 2011

CS10	(Gypsies, Travellers and Travelling Showpeople)
CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS13	(Green Infrastructure)
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS19	(Effective Provision of Infrastructure)
CS20	(Transport and Access Strategy)
CS21	(Developer Requirements)
DM10	(Pollution)
DM11	(Planning for More Sustainable Travel)
DM12	(Mitigating the Impacts of Travel)
DM13	(Car and Cycle Parking on Residential Development)
DM14	(Car and Cycle Parking on Development (excluding residential))
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

DM17	(Contaminated Land)
AL1	(Presumption in Favour of Sustainable Development)
DM18	(Protecting New Development from Pollution)
DM24	(Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Local Plan Housing Statement 2016 & Draft Havant Borough Local Plan 2036

The Council adopted the Havant Borough Local Plan Housing Statement (LPHS) on 7th December 2016 as the first stage in the development of the Havant Borough Local Plan 2036. This document is a clear position statement as to which sites the Council considers could deliver sustainable development to address the identified housing need up to 2036. The LPHS has identified a site immediately to the west and north of the neighbouring property of Hollybank Cottage, and to the north of the site itself, known as site UE76 Land North of Long Copse Lane, which is identified to provide approximately 260 dwellings. The Housing Statement makes clear that development, even on these sites, can only be considered sustainable under the NPPF if it provides the necessary infrastructure alongside new housing to fully mitigate its impact on the infrastructure network. The LPHS relates specifically to sites which are not allocated in the Adopted Local Plan. The site is referred to as site H6 in the ensuing Draft Local Plan which was published for consultation in January 2018.

The Hampshire Consortium Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2016-3036 (May 2017)

This Assessment sets out the level of need and requirements for gypsy and traveller pitches in the borough.

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Arboriculturalist

No Objection subject to condition

Chichester District Council

No Comment

Natural England

No Objection

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions. Provided the applicant is fully compliant with the Solent Recreation Mitigation Partnership Definitive Strategy and an appropriate planning condition or obligation is attached to any planning

permission to secure the contributions towards this mitigation measure, Natural England is satisfied that the applicant has mitigated against the potential adverse effects of recreational disturbance on the integrity of the European site(s).

Hampshire County Council - Gypsy Liaison Officer

Officer note: Hampshire County Council's Gypsy and Traveller Service was commissioned by the Local Planning Authority to analyse the planning application and assess whether it demonstrated (a) whether the applicants met the statutory definition of gypsies and travellers; and (b) whether the applicants had a need for accommodation. The Gypsy Liaison Officer's findings are as follows:

1. I am the Gypsy Liaison Officer (GLO) for Hampshire County Council.
 2. I have been asked by Havant Borough Council planning department to make enquiries relating to the above planning application with a view to establishing the current planning status of the applicant Mr Les Madgwick.
 3. In March 2017 I made extensive enquiries at the site regarding the previous application; Stables Adjacent to Hollybank Cottage, LongCopse Lane, Emsworth PO107UR – APP/16/01234 – when I interviewed Mr James Madgwick and his father Les Madgwick. As a result of these enquiries Gypsy ethnicity was established for both and there is no reason to doubt that this still stands today.
 4. At 11.40 hours on Tuesday 20th November 2018, I met with Mr James Madgwick (27 years of age) and his father Les (53 years of age) on the land I now know as Southdown View, LongCopse Lane, Emsworth.
 5. In addition to discussing at length the planning application submitted to Havant Borough Council I also verified that the land in question is owned by Mr James Madgwick but the land is viewed as in Madgwick family ownership.
 6. I informed Mr Les Madgwick that I had a number of queries that I wished to address from Havant BC planning and for clarity I would replicate the queries in my report and address matters raised accordingly;
- (a) Do the applicants meet the definition of gypsy/traveller? With regard to this point, the LPA are aware that it is likely that the applicant likely owns a house in Portsmouth. Therefore, the LPA would need to understand whether this constitutes that they are now 'settled', and therefore whether the applicants comply with the definition of gypsy/traveller. Also, we are aware from your previous correspondence, that the house in Portsmouth has a household containing Les and Tina Madgwick's daughters, we would need to understand the context of this.

Mr Madgwick informed me that he does still own a house in the Portsmouth area and explained that this was a family home for eighteen to nineteen years during the time that his children were growing up. All his children have now left the family home and he now has a wish to revert to his ethnic roots and traditions by living in a caravan together with his wife and intends to sell the house for use by another family. (Note: during my years as a GLO I have know numerous Gypsy and Traveller housed families who have reverted to their traditional lifestyles and moved back into caravans / mobile homes after their offspring have grown up and left home)

- (b) Do they have a need for accommodation within the Borough?

The applicant advised that he does have a need for future accommodation in the Havant BC area because when the house is sold he will not have access to any alternative suitable accommodation and would have to revert to living at the roadside.

- (c) Are you able to verify if there is no other suitable accommodation in terms of available gypsy/traveller pitches in Portsmouth, the New Forest (where they state they have family connections) or West Sussex, including any private sites in Westbourne? Our members referred to these sites during the Planning Committee.

I can confirm from my enquiries that there is no suitable accommodation available in the Portsmouth and New Forest area's and would comment that it would be most unusual after so many years for a Gypsy to move from his own private accommodation onto a 'Council' run site. I have made enquiries of West Sussex relating to the Westbourne Site and whilst there is currently one pitch available on that site, I am advised that this particular site is historically very settled and there are twenty applicants currently being considered for the pitch in question. Mr Madgwick is not on the waiting list and it is considered highly unlikely that he would be considered for this pitch.

I had a discussion with Mr Madgwick regarding the Westbourne site and if he had considered living in that local area on any private land / pitch and he informed me that it was now far too expensive and why when the family already owns land in the Borough of Havant and he wishes to be with his own family.

The applicant informed me that the family does not own any other land other than that at Long Copse Lane and whilst they have family links and connections in the Portsmouth and New Forest area, they also have family living in the Havant area and in particular on the land subject of the application.

7. I discussed at length with Mr Madgwick what he has planned for the future and he informed me that now that all his children had left home he needed to revert to living in a caravan as he was suffering from depressive periods from his continuing to living in bricks and mortar accommodation.

He also felt strongly that living with his son would ensure that there would be someone to assist him as he gets older and to ensure that his future health and welfare would be taken care. I would comment that Mr Les Madgwick's lifestyle is somewhat physically arduous and as he gets older he will more and more need the assistance of his son to continue the family trade. The applicant informed me that currently he continues to visit countless horse fairs in the UK and Ireland in company with his son Jimmy and whilst they are away travelling his wife would be on site to ensure the security of the land and also to keep Jimmy's partner company.

8. The Madgwick family continue to be predominantly horse dealers and traders as was evidenced by the stables on site being fully occupied during my visit. I established that the family have historically and still do visit most of the horse fairs in the country through out the year, not just as a family holiday but to conduct business buying and selling horses and ponies together with tack and equipment.
9. I clarified again where they stayed when travelling and did they have any documents to prove where they had travelled to and was informed that when

travelling they stayed with friends and relatives on private land. However, historically they would have stayed at the side of the road but in keeping and in common with this community the retention of any records and official notices to quit is not very common.

10. I asked if it was possible to obtain written letters to prove where they had been and who they had stayed with over the years and was informed that this could be done if required.
11. Like most families of the Gypsy and Travelling community in this day and age they live in mobile homes when on their own land and take a mobile tourer (caravan) with them to live in whilst they are away on business and / or holidays.
12. I was informed that during his life the applicant together with his family have travelled the Country widely for business / economic purpose and he is still away working for at least 4 to 5 months of the year. His home base would not solely be used as a place to commute to work and return home daily but would be somewhere for his family to establish a settled lifestyle whilst he is away as opposed to living at the side of the road due to the lack of local, regional and national pitch and transit site availability.
13. I am not by any means and do not profess to be an expert in planning and case law but I do have a limited knowledge of these matters and also practical expertise attained having dealt with matters and issues relating to the Gypsy and Traveller community over the last sixteen years.
14. The applicant currently has permanent bricks and mortar accommodation but also has a cultural lifestyle of living in a traditional caravan and a history of travelling for economic purpose. He has a strong desire to settle down for the stability, health and future of his family unit. I conclude that after consideration of all the facts, my balanced view is that Mr Les Madgwick is of Gypsy and Traveller status as required for planning purposes.

Development Engineer - Highways

The Highway Authority advice is that this application cannot be refused on highway grounds because the cumulative harm on the highway network can not be identified. as required by National Planning Policy Framework (NPPF) Guidance.

Environmental Health

No Objection

Landscape Team

No Objection subject to conditions to secure:

- Additional planting on the boundaries.
- Submission of the details of the proposed cladding materials and colours of the new mobile home.

Officer comment: The applicant has agreed to a pre-commencement condition with regard to the submission of materials.

Planning Policy

Principle of Development:

The site lies on the north side of Long Copse Lane between the communities of Emsworth and Westbourne (the latter of which lies within Chichester District). The site is outside of the urban area and, the proposal is, therefore, contrary to Policies CS17

and AL2 which seek to concentrate new development within the five-urban areas of Havant Borough. In addition, paragraph 25 of the PPTS (August 2015) states that: *“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan”*

Despite the above, planning permission for a single gypsy and traveller pitch on the proposed site was allowed at appeal in February 2018. The S78 appeal Inspector commented:

“Policy CS10.... Does not exclude locations in the countryside or Gaps, and given that these two designations cover the whole of the Borough outside the urban areas, it seems unlikely that suitable sites could be found anywhere else than within them” (see paragraph 22)

As such, the use of the site as a gypsy and traveller pitch has been established in principle.

Gypsies, Travellers and Travelling Showpeople:

The Council, along with six other local authorities in Hampshire, commissioned the Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA). The GTAA was published in May 2017 and stated in paragraph 1.19 (page 8) that: *“There is a need for 1 additional pitch in Havant as a result of the occupied pitch being unauthorised. There is no other current or future need” (emphasis added)*

The granting of planning permission APP/X1735/W/3156978 in February 2018 means that Havant Borough’s need for one additional pitch has now been met. Therefore, in this instance, paragraph 11 of the PPTS is of relevance. This states that: *“Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward”*

Paragraph 24 e) of the PPTS goes on to confirm that local planning authorities should determine applications for sites from any travellers and not just those with local connections.

Policy CS10 of the adopted Local Plan (Core Strategy) is a criteria-based policy. As the use of the site for gypsies and travellers has been established in principle through APP/X1735/W/3156978, criteria 1) - 3), along with the nature conservation interest element of criterion 5), will be appropriate in determining this proposal.

Emerging Policy H5 in the HBLP 2036 sets out a similar criteria-based policy. Please note, it is the Council’s intention to remove criterion a) which requires proposals to demonstrate they meet an identified need in the forthcoming Pre-Submission HBLP 2036. This is so the policy is compliant with paragraph 24e of the PPTS.

As the Borough’s need for one pitch has been met, it will be material to consider whether the applicant(s) meets the planning definition for gypsies and travellers as set out in Annex 1 of the PPTS. Paragraphs 24, 26 and 28 of the PPTS will also be of relevance. The Hampshire County Council Gypsy Liaison Officer will be able to provide further advice on these matters.

Providing that the applicant(s) meets the definition of the gypsies and traveller (see above), the proposal will need to comply with the following:

- Policy H (PPTS: Determining planning applications for traveller sites)
- Policy CS10 (Local Plan [Core Strategy]); and
- Policy H5 (Draft HBLP 2036).

Recommendation:

No objection in principle providing that:

- The applicant meets the planning definition for gypsies and travellers as set out in Annex 1 of the PPTS;
- The requirements of Policies CS10 and CS16 are met;
- The TPO onsite is retained and protected;
- The provision of two cycle spaces is sought; and
- The SRMS financial contribution is paid to the Council.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 3

Number of site notices: 7

Statutory advertisement: 31/10/2018

Objections: 8, including Emsworth Residents Association and Westbourne Parish Council

Summary of planning issues raised (with officer comments where issues are not addressed in Section 7 below):

- 6.1 Local Plan documents state that there is no assessed need for gypsy and traveller sites to come forward in the period up to 2027 and no explanation has been provided as to why the site should come forward.
- 6.2 The development will introduce an alien form of structures onto the site, visible from the nearby vicinity and wider viewpoints. It would be a further encroachment into the gap between Emsworth and Westbourne and be detrimental to the rural nature of Long Copse Lane.
- 6.3 The Allocations Plan defines the area within which the site lies as being an undeveloped gap - the proposed development does not accord with the exceptions allowed for under planning policy for development within such locations, and no justification has been provided.
- 6.4 The noise nuisance experienced by the immediate neighbours to the site from the current use of the site will be exacerbated and affect other users of the Lane and other land in the vicinity; both as a result of more intensive occupation and the increased amount of traffic visiting the site.
- 6.5 The adjacent residential property would be subject to a degree of overlooking and loss of amenity as a result of the development.
- 6.6 A grant of planning permission would result in an unjustified interference with the human rights of the occupiers of the adjacent residential property.
- 6.7 The availability of facilities in Westbourne relies on access from Long Copse Lane which is narrow and without pavements - as such the development will increase reliance on the private car which is contrary to the National Planning Policy Framework and the criteria of Policy CS10 of the Core Strategy.
- 6.8 The existing use of the site should not be regarded as a 'brownfield site' or 'previously

developed land' due to the location of the stable buildings being significantly at variance from the plans approved under 10/74070/000 and APP/14/00381. Furthermore it should not be assumed that the whole of the site constitutes a curtilage suitable for development.

- 6.9 The loss of further pasture land will adversely affect equine welfare on the site.
Officer comment: *The availability of pasture land was discussed in the APP/14/00381 appeal, with the Inspector reporting " I am also satisfied with the explanation of the relatively high horse density on the site compared with the guidance of the British Horse Association, which essentially is one of the horses living mainly in the stables rather than permanently outside". In this case the siting of the additional mobile home will not result in the loss of any land currently used for pasture.*
- 6.10 Inappropriate development which would have a significant adverse impact on the Green belt.
Officer comment: *The site is not within the Green Belt. Furthermore, no designated green belt exists within the borough.*
- 6.11 As a residential development in open countryside the proposal fails to meet the test of the meaning of sustainable development.
- 6.12 Long Copse Lane is not a suitable location to accommodate the type and volume of traffic associated with the use, which includes large caravans and associated vehicles for towing. With no pavements in place the use will pose a danger to pedestrians and other road users - including horse riders and cyclists - as well as damaging the road and verges/ditches.
- 6.13 There are already a number of gypsy/traveller sites within the Westbourne area - further provision in the area would dominate the existing settled community leading to social tensions. It is not clear whether there is a need for further pitches - if so, these other sites might be capable of expansion. In addition, an approved, but not implemented gypsy site is up for sale in Cemetery Lane, Westbourne. The applicant should buy one of these plots, which are currently up for sale.
- 6.14 The site will cause severe environmental damage to an area of outstanding natural beauty on the edge of South Downs National Park (SDNP), and will involve the loss of wildlife habitat.
Officer comment: *The site does not lie within an AONB or the SDNP; the land principally the subject of the application lies adjacent to an intensively used paddock area and is not considered to involve the loss of wildlife habitat.*
- 6.15 Insufficient infrastructure (both physical and social) is in place to support the site.
- 6.16 Concern regarding generation and disposal of waste from the site.
- 6.17 Concern regarding management of the site.
- 6.18 Application may set precedent for further caravans to be proposed for the site.
Officer comment: *The current application is for one additional pitch only; any further pitches would require a separate planning permission.*
- 6.19 Proposals to deal with waste water and surface water run off are inadequate - risks of flooding of Long Copse Lane and contamination.
- 6.20 The Westbourne Neighbourhood Plan should be taken into consideration with the community Balance Policy, The Plan has gone through the Examination stage and therefore carries weight. The examiner looked at all available evidence and agreed that the number of GTTS pitches were becoming an issue and that development in and

around Westbourne should stop. (This policy is OA4 in the Westbourne Neighbourhood Plan) The Parish Council are awaiting it going before Full Council to gain approval before going on to referendum, this has been delayed due to CDC having to re-assess Habitat Regulations.

Officer comment: *The site is not within the Parish of Westbourne, or Chichester District Council. Furthermore, this is not adopted policy. As such it cannot be considered in this application.*

- 6.21 Approval of this application to extend the use of the site should not be countenanced when there is doubt over the lawfulness of the current uses and buildings on the site.
- 6.22 Character of buildings proposed is out of keeping with the majority of existing properties in Long Copse Lane.
- 6.23 The site is located within the 'zone of influence' of the Chichester and Langstone Harbours SPA where it has been identified that any net increase in residential development results in significant harm to the SPA due to increased recreational disturbance. The applicant has not made sufficient mitigation against such an impact.
Officer comment: *See Section 7(xii) below.*
- 6.24 Traveller status of applicants disputed.
Officer comment: *See Section 7(i) below*
- 6.25 The number of vehicles proposed to be associated with the development appears excessive when compared to normal parking standards.

7 Planning Considerations

- 7.1 In weighing the planning considerations arising from the proposal, and having regard to the relevant policies of the development plan and all other material considerations it is considered that the main issues arising from this application are:
- (i) Principle of development - including whether the resident of the site is a gypsy for the purposes of planning policy
 - (ii) What is the existing level of local provision for Gypsies and travellers and the identified need for permanent sites
 - (iii) Whether there is alternative accommodation available
 - (iv) The personal circumstances of the applicant but not whether they have local connections
 - (v) Whether this is an effective use of previously developed (brownfield), untidy or derelict land
 - (vi) Whether the site is suitable for the proposed use by virtue of any previous contamination
 - (vii) Impact upon the character and appearance of the area
 - (viii) Effect on the existing settled communities
 - (ix) Sustainability
 - (x) Impact upon residential amenity
 - (xi) Highway considerations
 - (xii) Ecological considerations
 - (xiii) Drainage
 - (xiv) Other matters
 - (xv) Human rights
- (i) Principle of development - including whether the resident of the site is a gypsy for the purposes of planning policy

- 7.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan (the Core Strategy and the Allocations Plan), unless material considerations indicate otherwise. The application site lies outside of the built-up area as defined by the Allocations Plan, and as such is in an area where new development would normally be restricted in line with the criteria of Policy AL2. The site is currently isolated from the nearby communities of Emsworth and Westbourne (in Chichester District), lying in the area between these two settlements. The NPPF confirms that Local Planning Authorities (LPA's) should avoid new isolated homes in the countryside unless there are special circumstances; these are considered in detail below.
- 7.3 'Gypsies and travellers' are defined in Annex 1 Planning Policy for Traveller Sites (PPTS). This sets out that the question to be asked when considering the 'nomadic habit of life' is not one of ethnicity but the activity of the persons claiming to be gypsies. It does not suffice to merely prove that a person is of gypsy stock; they must retain the nomadic habit of life; unless that person has ceased to travel for any of the reasons set out in Annex 1 of the PPTS.
- 7.4 The applicant has submitted with the application details of their personal circumstances and details of their gypsy/traveller status together with independent documentary evidence of the families travelling for work. The Gypsy Liaison Officer (GLO) has examined this information and interviewed the applicant. The information included that during his life the applicant, together with his family, has travelled widely for business / economic purposes. Evidence was also shown through historic film footage showing Mr Les Madgwick, the applicant, attending Appleby horse fair years ago with the wider family, this film footage showed the applicant living the traditional lifestyle in caravans and trailers. The applicant has advised that they still work away from home, with the work comprising a traditional Gypsy and Traveller horse trading lifestyle.
- 7.5 Further investigations by the GLO included making enquiries of the Traveller Liaison Officer in West Sussex who confirmed that the Madgwick family are well known in the West Sussex area and across the south east of the country as being of the Gypsy and Traveller community. The applicant also advised that the proposed site would be his home base, which would not solely be used as a place to commute to work and return home daily, but would be somewhere for his family to establish a settled lifestyle, whilst he is away.
- 7.6 In addition the Local Planning Authority have also taken into account that the applicant owns a property in Portsmouth. The GLO undertook an interview in order to understand the circumstances of this matter. The applicant advised that he currently owns and lives in a bricks and mortar property in the Portsmouth area together with his wife. However, it has been asserted by the applicant that over the last few years, they have had a growing aversion to bricks and mortar accommodation and wish to continue their traditional family and cultural lifestyles of living in a caravan / mobile home accommodation, and the associated nomadic lifestyle. Furthermore, the applicant has outlined that they wish to live on the same site as his family, so that they can be a family unit and provide mutual support for each other. The GLO has highlighted that he is aware of numerous Gypsy and Traveller housed families who have reverted to their traditional lifestyles and moved back into caravans / mobile homes after their offspring have grown up and left home. Evidence relating to the occupation of houses can have a bearing in terms of reaching a view on whether the applicant was practising a nomadic habit of life. However, even if the applicant has lived in a house for a period of time that alone would not fall foul of the definition of 'gypsies and travellers' as set out in the PPTS.
- 7.7 Determining this issue is a question of looking broadly at the life being led, and the applicant's background, based on the evidence available in order to reach a conclusion. Travelling does not have to be on a permanent or regular basis but needs to be of some substance, taking place in order to contribute to livelihood rather than for personal

enjoyment or socialising. Based on the evidence provided it is considered that the applicant has continued to travel for work and sets out that it is the intention to continue to do so. Therefore, on the evidence before the Local Planning Authority, the applicant has continued to travel for work and has not given up a nomadic habit of life. It is therefore considered that as a matter of fact and degree, that the applicant has not 'settled' in the sense of ceasing to travel and has a nomadic habit of life. As such it is considered that the applicant is a gypsy by definition as defined in Annex 1 of the PPTS (2015). Consequently, the policy regime applying to gypsies and travellers is engaged, which comprises the PPTS and policy CS10 of the Core Strategy, which are therefore material considerations in this application, and are considered below.

(ii) What is the existing level of local provision for Gypsies and travellers and the identified need for permanent sites

- 7.8 The PPTS expects that Local Planning Authorities when carrying out their plan making duties will set pitch targets for gypsies and travellers which address the likely permanent and transit accommodation needs in their area. As the evidence indicated at that time, based on the Travellers Accommodation Assessment for Hampshire 2013 which showed zero need in Havant Borough for gypsies and travellers, no site allocations specifically for gypsies or travellers were made in the Council's adopted Local Plan (Allocations) 2014. This is the basis on which the initial application APP/16/00021 was determined, and given that there was zero requirement at that time, it was refused partly on grounds that there was no identified need for gypsy and traveller sites within the borough at that time.
- 7.9 Since that time, with the change in the definition of gypsies and travellers made by the PPTS 2015 and the need to update the evidence base for the new Local Plan to 2036, a revised accommodation assessment was commissioned jointly with a number of other Hampshire local planning authorities. The Hampshire Consortium Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2016-3036 (May 2017) for Havant Borough references an interview conducted by the GLO in March 2017, which identified that the household living on the application site, considered under the previous planning applications, did meet the planning definitions for gypsy and travellers as set out in Annex 1 of the PPTS. It also identified that the household had links to the area and had no alternative accommodation. The outcome of this was that there was a need for 1 pitch – that need was met through the granting of planning permission in appeal under APP/16/01234.
- 7.10 The PPTS requires that local planning authorities "*identify and update annually, a supply of specific deliverable sites against their locally set targets*". While the policy approach through the adopted Local Plan (2011 & 2014) has previously been sound and justified with no allocation, the position changed following the publication of the 2017 GTAA, in that there was now a need to be addressed which represented a local 'target', which comprised the provision of 1 pitch in the borough. Whilst that need was met, the 2017 GTAA can only represent a 'snapshot in time' regarding need - as outlined above, the PPTS advises that the LPA needs to identify and update annually a supply of deliverable sites. Given that this applicant is a gypsy by definition and has local connections, this creates a further current need for provision of 1 pitch within the borough. Given that the Draft Local Plan 2036 is at an early stage and the lack of any other deliverable identified sites within the borough as a whole, consideration should be given to an appropriate site being granted permission. This would reduce the need for other sites, which could have a significant adverse impact on the landscape of the area. Given the available advice and evidence, it is considered that the granting of permission for a further pitch on this established gypsy/traveller site would address the current need for gypsy and traveller sites within the Borough. The combination of these factors weighs significantly in favour of the development.

(iii) Whether there is alternative accommodation available

- 7.11 The GLO has undertaken a site search and enquiries to other gypsy and traveller sites within this part of Hampshire and over the county boundary in West Sussex. The two former Hampshire County Council sites, which are now run privately in the south of the county have no vacant pitches. In terms of the sites in West Sussex, contact has been made with West Sussex County Council who now manage all the sites in the area, and it has been confirmed that there is currently one vacant pitch. However, there is a waiting list of 20 applicants for this one pitch, furthermore the applicant is not on the waiting list and it is considered highly unlikely that he would be eligible for this pitch.
- 7.12 It is noted that some representations to this application refer to other sites in Westbourne Parish being available and that these should be used first, before accepting the principle of an additional pitch on this site. These identified sites are private gypsy pitches, and some of these permissions remain to be implemented or completed. It is noted that a private site, containing 5 pitches is currently for sale in Cemetery Lane, on a plot by plot basis. The applicant has advised that the cost of these pitches, which varies from £250k - £300k, are cost prohibitive, and he would not be able to afford a plot in this location. In addition, the applicant has outlined that they wish to live on the same site as his family, so that they can be a family unit and provide mutual support for each other. Furthermore, as has been identified above, the need for an additional gypsy pitch is within the Borough of Havant. As such the Local Planning Authority needs to address meeting its own needs first, through identifying suitable site(s) for the gypsy/traveller community. It is only if it has been concluded after a robust assessment of sites in the Borough that there are no suitable sites for this community that the Duty to Cooperate is engaged. The assessment in this report considers if an additional pitch on this established gypsy/traveller site is acceptable in this location.

(iv) The personal circumstances of the applicant but not whether they have local connections

- 7.13 It is evident that the applicant has had some health issues and states that he is seeking to settle down with his wife together as a family unit with his son on the site. However, he remains able to work and does so. There is nothing before the Local Planning Authority to suggest that his medical condition is such that it requires ongoing medical attention or that he must live in special circumstances for his health. As such based on this evidence it is considered that the applicant's personal circumstances are not out of the ordinary. Therefore, they do not present any special or compelling needs at this time and as such no weight has been afforded to this matter in the overall planning balance of this application.

(v) Effective use of brownfield land

- 7.14 The application submission indicates that this proposal would make an effective use of brownfield land. However, it is not considered that it can reasonably be argued that the site is either untidy or derelict, and the principal area of land affected by the development proposed is not considered to constitute brownfield or previously developed land. Furthermore, the Inspector in the latest appeal on this site considered this issue, regarding Previously Development Land (PDL), and outlined "*that the provisions relating to PDL in Policy CS17 seem to me to apply only within the urban areas. The issue therefore has no bearing on the present appeal*". As such the site is not considered to be brownfield or previously developed land and no weight has been afforded to this matter in the overall planning balance of this application.

(vi) Whether the site is suitable for the proposed use by virtue of any previous contamination

- 7.15 The site has been marked as greenfield land on mapping back to the earliest available

issue (1867). The land use proposed is equivalent in terms of sensitivity to a residential development with private garden area(s). The risk of a significant contamination source being present at this site is relatively low, but is not negligible. Agricultural land can be affected by contamination through import of construction and demolition wastes for stabilising access tracks etc., informal storage of agricultural vehicles and machinery, and informal disposal of waste by burning or burial (whether by landowner, or others by means of fly-tipping).

- 7.16 The contamination risks are considered to be sufficiently low that there is no requirement for intrusive site investigation to be required by condition. No objection has been raised to the application from the Council's Environmental Health team in this regard. An informative would be added to any approval to advise that if any contamination is found that the applicants would need to advise the Council's Environmental Health team.

(vii) Impact upon the character and appearance of the area

- 7.17 One of the core planning principles set out in the NPPF is to take account of the different roles and character of different areas by, amongst other matters, recognising the intrinsic character and beauty of the countryside. Policies CS11 and CS16 of the Core Strategy set out a range of criteria that new development should be able to demonstrate in order to protect the environment and heritage of the Borough and secure high quality and appropriate developments - chief amongst these is that new development should ensure that the key landscape and built form principles set out in the Havant Borough Townscape, Landscape and Seascape Character Assessment are protected, and to respond to and respect local context. Policy CS11 also expressly seeks to maintain the undeveloped gap between Emsworth and Westbourne.
- 7.18 The application site comprises part of a paddock, situated in a part of Long Copse Lane which lies beyond the settlement boundary. The current mobile home, allowed on appeal, is currently located just to the north of the existing stable block. Whilst an isolated dwelling lies adjacent to the site to the west, on all other sides the site adjoins open fields which are used for a variety of grazing and equestrian uses. Where buildings and structures appear in this landscape, these are related to these rural uses. The application site is located within Landscape Character Area 21 'Southleigh Forest' of the Havant Borough Townscape, Landscape and Seascape Character Assessment which describes the landscape as "*.....an open area of farmland.....consists of medium sized fields of pasture in the north predominantly used for horse grazing with some hedgerow division....*" In terms of openness/enclosure, prominence and visibility there is a particular reference to "*Views from the road out towards Westbourne across the open agricultural plain*" and the "*encroachment of urban character into adjacent rural areas*" is regarded as a key local issue for the landscape character area, where the strategy is to conserve and enhance local character.
- 7.19 In considering the impact of the site being used as a gypsy and traveller site, the Inspector in the previous appeal APP/16/00021 concluded that "*I accept that these structures are not likely to be reflective of nearby permanent dwellings, but the site's local context also includes agricultural buildings in a variety of materials, and to my mind the development would not be out of keeping with structures of this kind. I note that the existing stables development at the site has been carried out and maintained to a high standard, and there seems no reason why the same quality should not be achievable in the present proposal.*" The Inspector then concluded "*that the proposed development could be carried out with no more than a limited visual impact on views from public vantage points. As such, it would not materially affect the character or appearance of the landscape, or of the area generally. In this respect the scheme would not conflict with Policies CS11 or CS16.*" This appeal decision is a material consideration in determination of this application and case law requires that like cases should be considered in a like manner to allow for consistency in decision making.

- 7.20 The 'Planning Policy for Traveller Sites' (DCLG, August 2015) (PPTS) in paragraph 25 confirms that LPAs should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. However it must be recognised that the Local Plan Housing Statement (adopted in December 2016) and Draft Local Plan 2036 (published in January 2018) propose an area of development to the north of Long Copse Lane that will extend the settlement of Emsworth to the north and west of the application site. The identification of this neighbouring site for substantial residential development is a significant and material change since the determination of application APP/16/00021, which was originally for 2 pitches. It is considered that there is a difference in impact depending on whether a proposed site is in open countryside as opposed to being immediately adjacent to an existing built-up/urban area. While the development proposed in the Local Plan Housing Statement will take some time to bring forward, and there are uncertainties as to how it will affect Long Copse Lane for means of access, it is clear that it would reduce the openness of the countryside around the application site.
- 7.21 In its current context, it is accepted that the introduction of a further mobile home in combination with the existing would have some impact upon the character and appearance of the locality. It is also reasonable to assume that once an additional residence is established that more domestic paraphernalia would accumulate on the site, potentially further detracting from the openness of the location. To that end, however, views through to the existing static home from the main road are largely screened and have to be actively sought; it is not directly evident to users of the road, or passers by, that the site is being used as a gypsy site. Furthermore, the static home is of limited height, and from going along Long Copse Lane beyond the site entrance, the visible built form on the site would be to the west of the existing stables, which are set back approximately 4.5m from the southern boundary. From this viewpoint the top of the additional static home would be visible, however it would be largely screened by a combination of being set approximately 4 metres into the site, in combination with the existing boundary fencing, and the hedging located to the south of the fence. It is therefore considered that the views of the development that would be gained from Long Copse Lane would not be unduly intrusive or harmful. Furthermore, no public views of the site are available from the north or other directions.
- 7.22 It is also noted that the layout of the proposed development, in combination with the existing static home and stables, would ensure that all the built form is contained within one area of the overall site. It would relate reasonably well to this existing pattern of development and would not add to it significantly. As such, the proposed development would not encroach into the more sensitive landscape beyond the road frontage. In addition, it would not materially erode the gap between settlements or threaten coalescence.
- 7.23 Therefore, whilst it is accepted that the proposed additional static home would lead to some further harm to the openness of this countryside location, it is relatively well screened and is not out of keeping. In reaching this conclusion, account has been taken of the opportunity to introduce additional landscaping within and around the site, which is proposed to be secured by condition. Whilst native species are likely to take some time to establish, these would, in time, reinforce the well-established screening which already exists immediately outside the site, particularly on the southern boundary with Long Copse Lane. Much of the site would remain open and does not jar against the wider area. Furthermore, the site is not so enclosed that it gives the impression that it is deliberately isolated from the rest of the community; this is a matter that weighs in favour of the development as set out in paragraph 24 of the PPTS.

(viii) Effect on the existing settled communities

- 7.24 Westbourne Parish Council, the neighbouring parish council located within Chichester District Council area, has raised concerns about tensions between the travelling and settled communities, and maintaining a proper balance between them, given the increase in pitches of the last recent few years. It is acknowledged that it appears that the number of gypsy and traveller pitches and showmen's plots within this neighbouring parish has increased due to several applications for gypsy/traveller pitches, which have been allowed on appeal. As such a concentration of gypsy and traveller pitches is located around Cemetery Lane, which is located to the east of the village and approximately 1.6km from the application site.
- 7.25 It is acknowledged that these concerns have a basis within the national Planning Policy for Traveller Sites (the PPTS), which seeks amongst other things to reduce such tensions, and to ensure that sites within rural or semi-rural settings do not dominate nearby settled communities due to their scale. However, this site is located on the edge of Emsworth, which has many residential properties located along Long Copse Lane and with residential development continuing further to the south and west. This present proposal is for only one additional new pitch on this established site, and it must be considered on its merits. It is considered that, based on the evidence, the proposed development by itself or cumulatively would not dominate the existing nearby settled communities by reason of scale or in any other way so as to significantly harm social cohesion. As such it is considered that there would be no conflict with PPTS paragraph 25.

(xi) Sustainability

- 7.26 Regarding the sustainability and accessibility of the site, Long Copse Lane is a narrow rural lane with no footways or street lighting present in the vicinity of the site. To the south, the site lies over 1km from the nearest local shop and over 800m from the nearest bus service (this assuming the use of the unmade Redlands Lane). To the east the site lies approximately 700m from the nearest local shop and almost 600m from the nearest bus stop in Westbourne - this relying on a journey of almost 0.5km along Long Copse Lane before reaching the outskirts of that settlement. Notwithstanding these distances, in assessing the current application due regard has been given to the previous appeal decision where the Inspector commented on this issue that *"Local shops, schools and health facilities are available in Emsworth and Westbourne, and given the site's proximity to both of these settlements, I consider it well located in this respect. Other properties in Long Copse Lane are apparently served by refuse and recycling collections, and there is no reason why these could not also serve the appeal site."*
- 7.27 Furthermore it must be recognised that the Local Plan Housing Statement (adopted in December 2016) and Draft Local Plan 2036 (published in January 2018) propose an area of development to the north of Long Copse Lane that will extend the settlement of Emsworth to the north and west of the application site. As such given this change in context to the surrounding area, in combination with the previous appeal decision it would be difficult to justify a reason for refusal based on the site being unsustainable.

(x) Impact upon residential amenity

- 7.28 As discussed above, the application site currently lies in a largely rural setting, with only one isolated residential property, Hollybank Cottage, adjoining the site to the west. Thus, in terms of residential amenity it is only this property which is likely to be directly affected by the combined equestrian/two pitch gypsy and traveller site use applied for.
- 7.29 Hollybank Cottage is a two storey dwelling with a number of windows in its eastern elevation offering views over the application site. As such the further change in the character of the site described above will be fully appreciable to the occupiers of this property. At a more direct level, however, it must be acknowledged that the additional

static home would lie over 32m from the boundary with Hollybank Cottage and would be of a limited height (4m) in relation to this property. The curtilage of the static home is also separated from the boundary of Hollybank Cottage by an area of grassland, and the internal gravelled driveway. It is therefore not considered that there would be a harmful impact on Hollybank Cottage in terms of loss of privacy, overbearing impact or loss of light; nor need there be a significant loss of amenity through noise and disturbance arising from the residential occupation of the site given the separation distances and the fact that no business use is proposed relating to the pitches.

- 7.30 In addition the Inspector in the previous appeal concluded that *“Hollybank Cottage enjoys panoramic and attractive views from its side windows, over the appeal site, and across it to the countryside beyond. From this direction, the proposed development would be clearly visible. But, assuming the mobile home and caravan space were located roughly as now shown, these items would be over 30m away from the shared boundary, and nearer 40m from the house itself. As such, they would occupy only a small part of the overall view, alongside the existing stables and driveway. The existing wider views of the countryside would still remain.”* Overall on this point it is considered that the additional mobile home, in combination with the existing development on the site, would not appear unduly dominant when seen from Hollybank Cottage.

(xi) Highway considerations

- 7.31 In considering the highway issues arising from the application it is considered that two aspects need to be considered - firstly the ability of the site to accommodate the parking and turning movements associated with the proposed uses; and secondly the appropriateness of the site's location in terms of the access to it from the wider highway network when having regard to the ongoing intention of the applicants to continue to travel.
- 7.32 On the first issue it is considered that the submitted site layout plan satisfactorily demonstrates that the car parking, touring van storage and turning requirements associated with the combined equestrian/gypsy and traveller pitch use of the site can be accommodated on the site without prejudicing highway safety.
- 7.33 The submissions made on behalf of the applicant sets out the family's travelling background and reaffirms that it is their intention to continue to travel, and to that end provision is made in the application for one touring caravan to be stored within the site, which will have to be taken into and out of the site as the travelling lifestyle of the site's occupiers requires. Given the number of units, with regards to the number of pitches and touring caravans, the Development Engineer has reviewed the application and has noted the numbers of trips to be generated by an additional pitch. Guidance in the National Planning Policy Framework, outlines that proposals would have to have proven severe cumulative harm on the highway network, for applications to be refused. In addition, the Inspector in the previous appeal outlined on this matter that *“I saw on my visit that the appeal site has a safe access to the highway and ample parking and turning space. The traffic generated by one pitch would be well within the capacity of the local road network, and Long Copse Lane is more than adequate for that purpose.”* It is not considered that a further additional pitch, with the associated highway movements along Long Copse Lane, would have a severe adverse impact on the safety or free flow of the highway network, and as such it would be unreasonable to refuse the application on this matter.

(xii) Ecological considerations

- 7.34 The Council has conducted a Habitats Regulations Assessment (HRA) of the proposed development under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, this includes an Appropriate Assessment under Regulation 63. This is included in the case file. The screening under Regulation 63(1)(a) found that there was

likely to be a significant effect on Chichester and Langstone Harbours Special Protection Area due to the increase in recreation as a result of the development. The planning application was then subject to an Appropriate Assessment under Regulation 63. This assessment included a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy and the applicant has indicated a willingness to enter into a legal agreement to secure the mitigation package. The Appropriate Assessment concluded that this is sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment. The applicant has indicated a willingness to enter into a legal agreement to secure the mitigation package.

- 7.35 The applicants have made the necessary planning obligation and returned the associated paperwork. As such the appropriate financial contribution has been secured and the development complies with the mitigation requirements as set out in the Solent Recreation Mitigation Strategy.
- 7.36 With respect to other ecological matters, the application is supported by a Tree Survey, Arboricultural Impact Assessment and Tree Method Statement in light of the proximity of the development to TPO trees on the site. Having visited the site, the Arboriculturalist is satisfied that the development can be carried out without detriment to the health of the TPO trees.

(xiii) Drainage

- 7.37 A number of representations cite concerns that the development would have an adverse impact on the foul sewage network. The application proposes to utilise the existing cesspool, which was considered acceptable for the previous application and has sufficient capacity for an additional static home. As such it is considered that it has been demonstrated that the site can be suitably drained.

(xiv) Other matters

- 7.38 The objections raised by local residents and others concern various matters, including harm to outlook, reduction in privacy, potential noise disturbance, future use of the site, highway safety, sustainability and impact on local services.
- 7.39 It is acknowledged that the establishment of an additional gypsy pitch on the application site will affect those living nearby to some degree. However, it is considered that there is sufficient distance and vegetation between the nearest residential properties and the appeal site such that nearby residents will retain a reasonable outlook and level of privacy, and are not subject to undue noise disturbance.
- 7.40 Furthermore a planning condition restricting the use of the site to no more than four caravans, comprising two static mobile homes and two touring caravans, and restricting any commercial activities would ensure the use remains at the proposed low level of activity. There is no evidence to substantiate the concerns that the development has led to flooding in the locality and or that the development has compromised highway safety.
- 7.41 Representations received also refer to concerns that allowing the proposed development would set a precedent for similar development to take place on the adjoining land. However there is no substantiated evidence that any such development is proposed. Moreover any such proposals would have to be considered on their own merits having regard to adopted policy at the time and all other material considerations. This is not a reason to refuse permission for this scheme.

(xv) Human rights

7.42 In considering this application for a mixed use comprising equestrian yard and one pitch gypsy and traveller site, Human Rights considerations must be taken into account; in particular:

(a) Article 8 - right to respect for private and family life

8.1 Everyone has the right to respect for his private and family life, his home and his correspondence.

8.2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

(b) Article 14 - prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

7.43 The Council must also have regard to Section 149 of the Equality Act 2010: 149 - Public sector equality duty, which states that:

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.44 It is accepted that refusal of the planning application would constitute an interference with the applicant's rights under Article 8(1) and any decision should take into account the effects of that upon the applicant.

7.45 The refusal of this application would involve direct interference in his rights and the fact that there is little credible prospect of any further private gypsy site being permitted in the near future is also a consideration under Article 8. However, as the application is recommended for permission, there would be no interference with the statutory rights.

7.46 Article 14 concerns the prohibition of discrimination. The Council has worked in a proactive way to engage with the applicants in order to understand the personal circumstances. As such it is considered that the Council has had due regard to the duties concerning matters of equality. Thus, there is no infringement of the rights conveyed by Article 14.

7.47 Concern has been raised that by permitting this application it would be contrary to existing residents' human rights with particular reference to allowing a form of development which is contrary to policy, where general housing is restricted and with regard to the impact on the amenities of neighbouring properties. It is considered that given the safeguards provided by planning conditions and other legislation, no material interference with the residents' human rights has been established and there is no need to consider the matter further.

8 **Conclusion - Overall planning balance**

- 8.1 The development lies outside of the built up area and is not provided for in current adopted Local Plan policy - as a result the proposal is contrary to development plan policy. Although some weight must be attached to this start point for considering the proposal, it is tempered by the findings that any harmful impact is fairly localised, and the development would not unduly affect the character and appearance of the wider area.
- 8.2 Furthermore it has been identified that a number of material considerations weigh in favour of recommending permission, for which considerable weight should be attached. There is a current unmet need for one additional gypsy and traveller pitch in the Borough and it is unclear how other alternative sites would be identified and brought forward at this time. There are no alternative realistic sites currently available. This scheme would therefore meet the unmet need for gypsy and traveller sites within the Borough. With Policy CS10 of the Local Plan engaged, detailed assessment of the criteria listed in the Policy would indicate that residential amenity will not be unacceptably affected by the development; that the site has an adequate access and parking/turning arrangements; that traffic generation will not be at a scale which will appear inappropriate to the locality or cause a hazard; that the site is considered sustainable; and technical drainage requirements can be met by the existing infrastructure on site.
- 8.3 It is considered that these material considerations in favour of the scheme outweigh any harm identified and justify a permanent planning permission. Consideration has been given to whether a personal permission is necessary, as the applicant has outlined that they are willing to accept such a condition. However, in allowing the appeal under APP/16/00021 the Inspector concluded on this matter that: *“However, in the light of this condition, and given that on this basis I have found the development to accord with the relevant provisions of the development plan, there is no need for a further condition restricting the occupation to any specific individuals.”* As such the existing pitch on the site is not restricted to any named individuals. It is therefore considered that it would not be reasonable to apply a personal condition on an additional pitch, giving the findings of the previous appeal.
- 8.4 In coming to this conclusion consideration has been given to the matter of a temporary planning permission which may be acceptable where there is an unmet need, no alternative provision, and a reasonable expectation that new sites are likely to become available at the end of the temporary period. However, given current uncertainties about the timetable for progression of the new Local Plan 2036 there remains considerable doubt as to when additional sites will be identified and made available. Given the lack of a clear timetable or reasonable expectation of a change in circumstances within a definite and foreseeable period, a temporary permission would not be justified in this case. Furthermore, this additional pitch would make efficient use of the land, for what is already an existing established gypsy pitch.
- 8.5 In overall conclusion, it is considered that there are compelling grounds for granting permanent planning permission subject to various conditions. Having considered all other matters raised by objectors, it is considered that these are not of sufficient weight to lead to a different conclusion on this application and the application is therefore recommended for permission.

Conditions

- 8.6 The need for conditions has been considered in the light of the advice contained in Planning Practice Guidance. Occupation of the site is to be restricted to gypsies and travellers, in accordance with the definition given in PPTS, based on identified need sufficient to clearly outweigh other considerations. Furthermore, the previous appeal decision on this site, has been considered and this recommendation utilises the relevant conditions from this decision.

- 8.7 In addition, the permission will be limited to two pitches with no more than two static mobile home/caravans and two touring caravans to limit the impact of the development. Commercial activities and the parking of larger commercial type vehicles will not be permitted so as to safeguard the character and appearance of the area and the amenities of neighbouring properties.
- 8.8 Details of the proposed static home would be necessary given glimpses of it would be seen above the front boundary fencing of the site and the opportunity to secure additional planting.
- 8.9 A condition is required regarding removing permitted development rights for any building, structures, boundary treatment and any hardstanding. Any future suburban style walls, fences and hardstanding could harm the character and appearance of this site, which could serve to highlight its built-up nature in this countryside location. Given permanent planning permission is recommended it is considered reasonable for the Local Planning Authority to retain control over the site in this respect.
- 8.10 Additional landscaping is required and would be secured through an appropriate condition, to also include revised details of tree protection. Furthermore control on external lighting is required, as there is no significant street lighting in the locality and areas of darkness at night is part of the rural character of the area and, given its proximity to the South Downs National Park, is required to protect the rural appearance of the area.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/18/00929 subject to the following conditions:

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 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'.
Reason: The development is contrary to the provisions of the development plan in that the site lies within the rural area and is unrelated to the needs of agriculture or forestry. Planning permission has only been granted in this instance because of insufficient site provision for the needs of the Gypsy and Traveller Community. This condition is therefore necessary in order to protect the character and appearance of the rural locality in accordance with Policy CS10 of Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015.
- 3 There shall be no more than 2 pitches on the site and no more than 4 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed at any time, of which only 2 shall be static caravans.
Reason: The development is contrary to the provisions of the development plan in that the site lies within the rural area and is unrelated to the needs of agriculture or forestry. Planning permission has only been granted in this instance because of insufficient site provision for the needs of the Gypsy and Traveller Community. This condition is therefore necessary in order to protect

the character and appearance of the rural locality in accordance with Policy CS10 of Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015.

- 4 No commercial activities shall take place on the site, including the storage of materials.
Reason: To protect the amenities of neighbouring residential properties in accordance with policy CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011.
- 5 No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
Reason: To protect the amenities of neighbouring residential properties in accordance with policy CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011.
- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure or areas of hardstanding other than those shown on the approved site development scheme shall be erected on the site.
Reason: The development is contrary to the provisions of the development plan in that the site lies within the rural area and is unrelated to the needs of agriculture or forestry. Planning permission has only been granted in this instance because of insufficient site provision for the needs of the Gypsy and Traveller Community. This condition is therefore necessary in order to protect the character and appearance of the rural locality in accordance with Policy CS10 of Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015.
- 7 No above ground construction works shall take place until a Site Development Scheme has been submitted to and approved in writing by the Local Planning Authority. The Site Development Scheme shall include details of:
- (a) full details of hard and soft landscape works including planting plans; written specifications (stating cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities,
 - (b) all boundary treatments;
 - (c) all parking and hardstanding areas;
 - (d) all external lighting;
 - (e) cladding materials for the mobile home, such details shall include the type, colour and texture of the materials.

The approved Scheme shall be carried out in full, and completed prior to the occupation of the development hereby approved. Following the implementation of the approved Site Development Scheme, the works thus carried out shall thereafter be retained and maintained, and shall remain in use throughout the lifetime of the development.

Reason: To ensure the development does not have a significant adverse impact on the character and setting of the area in accordance with policies CS10, CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

- 8 The development hereby permitted shall be carried out in accordance with the

following approved plans:

LOCATION PLAN Drawing No. 000

01297/2C REV FEB 17 PROPOSED SITE PLAN

MOBILE HOME ELEVATIONS AND FLOOR PLAN Drawing No. 200

PROPOSED UTILITY BUILDING PLANS AND ELEVATIONS.

01297-5 REV1 EXISTING STABLES

Arboricultural Report Prepared by Jonathan Rodwell Date October 2018 –

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Reason: - To ensure provision of a satisfactory development.

Appendices:

- (A) Location Plan
- (B) Approved block plan pursuant to APP/16/00021
- (C) Proposed block plan
- (D) Mobile home floor plan and elevations
- (E) Appeal Decision for application APP/16/00021