
Site Address: Land - Stables adjacent to Hollybank Cottage, Long Copse Lane, Emsworth
Proposal: 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). Revised application.
Application No: APP/16/01234 Expiry Date: 20/04/2017
Applicant: Mr Madgwick
Agent: Mr Rowe Case Officer: Lewis Oliver
PROwe Planning Solutions
Ward: Emsworth

Reason for Committee Consideration: The application is contrary to the provisions of the adopted development plan

Density: The proposed density of the development is 1.25 dwellings per hectare.

HPS Recommendation: **GRANT PERMISSION**

Executive summary

This proposal is for the site to become a permanent gypsy and traveller site for 1 pitch in addition to its lawful use as a private equestrian yard. Currently the site has an unauthorised residential mobile home stationed on the land for accommodation of the applicant and his partner.

There was a previous application 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. This previous application is currently at appeal, which has been placed into abeyance by the Planning Inspectorate whilst this revised application is considered by the Local Planning Authority.

This application proposes a new gypsy and traveller pitch outside the current settlement boundary in the countryside - which is contrary to the National Planning Policy Framework (paragraph 55) and Local Plan (Allocations) Policy AL2. Since the determination of the previous application, the Local Plan Housing Statement has been adopted. The Statement includes a proposal is 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 Hampshire Consortium Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2016-3036 (May 2017) demonstrates a need for one pitch for Gypsies and Travellers in the borough which this proposal would meet. Granting permanent permission on this site would meet the need for a 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, this may result in eviction from the site, as there are no alternative pitches currently available.

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 Partnership 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 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 a gypsy and traveller site; the personal circumstances of the applicant's household; and the design, layout and appearance of the development. As such this revised proposal is considered to have addressed the reasons for refusal in the previous application and is recommended for permission.

1 Site Description

- 1.1 The application site comprises an area of land of 0.8ha, 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 unauthorised mobile home which is located to the north of the existing stables, and a septic tank 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 Representations received in connection with the current planning application have questioned the validity of the permission granted under 10/74070/000 on grounds that the application site as outlined in red on the 10/74070/000 application documentation extended beyond the applicant's ownership to the east; consequently it has been asserted that the development the subject of that permission should not be regarded as lawful as the location of the stable block shown on the application drawings is not as exists on site (it lying some 25m closer to the western boundary of the site with Hollybank Cottage than suggested on the 10/74070/000 application drawings). This matter is considered in further detail in paragraph 7.1 (xiii) - other matters.
- 2.4 An enforcement complaint was received on 23/12/15 - regarding a mobile home being brought onto the site. The matter was investigated and a Planning Contravention Notice (PCN) was served on the owners of the land on 1/2/16 in order to understand the time lines and the use of the mobile home. The information received from the agent addressing the questions raised by the council identified that the mobile home had been bought onto the site on 19/12/15 and that the applicant had no intention of occupying the mobile home (other than as may be necessary for any occasional overnight stay in connection with foaling or equine welfare) until after the determination of the current pending planning application. The agent further advised that there were no cooking facilities in the mobile home; further the touring caravan was just being stored as a chattel and was not occupied. As is identified below, in the interim a planning application was submitted for the Local Planning Authority to consider.
- 2.5 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.

- 2.6 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 this revised planning application. This current planning application was received by the Local Planning Authority on 28/11/16, however it was not made valid until 23/2/17 due to the requirement for further information. Enforcement action regarding the unauthorised residential use has been placed on hold whilst waiting for the outcome of this planning appeal and this current application. Officers are aware that concerns have been raised by the wider community regarding perceived inaction on enforcement matters, this is considered in paragraph 7.1 (xiii) below.

3 Proposal

- 3.1 This application proposes the 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 is a revised application from

the previously refused application APP/16/00021; the main changes involve the reduction of number of pitches and reduction in size of the amenity block. The static home forming part of the application, which has already been brought onto the site, has dimensions of 12.1m x 6.1m and lies approximately 3m off the eastern boundary of the site. The static home is 4m in height, sited on raised brick plinths of up to 800mm in height. The proposed amenity block, which is not currently on the site, is proposed to be located to the north of the static home and have a footprint of 5m x 5m with a pitched roof of 3.5m maximum height.

- 3.2 The static home has been provided within a graveled area serving two parking spaces, accessed off the graveled hardstanding serving the existing stable block, and a small area of grassed amenity space. Along the southern boundary of the site, immediately west of the stable block, an enclosed area would be provided to accommodate one touring caravan associated with the occupiers of the static home.
- 3.3 The application was submitted with a Design and Access Statement advising that the applicant and partner are Gypsy and Travellers within the meaning of Government policy in that they are a person of a nomadic habit of life, and is also an ethnic Romany Gypsy; and also a Tree Survey, Arboricultural Impact Assessment and Tree Method Statement. The application is also accompanied by a wide range of information, which was also submitted as part of the appeal documentation, this consists of the following:

- Appendix 1 - 2014 Appeal Decision on this site for application APP/14/00381
- Appendix 2 - Appeal decision for Shirehall Farm, Shirehall Road, Hawley, Kent, for proposed change of use of land to a private gypsy and traveller caravan site comprising one mobile home and one touring caravan
- Appendix 3 - the High Court judgment with regard to the above appeal decision
- Appendix 4 - Revised single pitch site plan
- Appendix 5 - the Officer's delegated report for the previous planning application APP/16/00021
- Appendix 6 - Appeal decision for Land at Tapmoor Road, Moorlinch, Somerset outlining what in this case constitutes a reasonably sustainable location for a Gypsy caravan site
- Appendix 7 - A further appeal decision for Marston View, Marston Bigot, Frome, Somerset, outlining what in this case constitutes a reasonably sustainable location for a Gypsy caravan site
- Appendix 8 - Department for Communities and Local Government - Progress report by the ministerial working group on tackling inequalities experienced by Gypsies and Travellers
- Appendix 9 - Appeal decision at Hare Lane, Broadway, Ilminster, Somerset
- Appendix 10 - the Hampshire Traveller Accommodation Assessment (Forest Bus) 2013
- Appendix 11 - Department for Communities and Local Government 2007 Guidance on Gypsy and Traveller Accommodation Needs Assessments
- Appendix 12 - Appeal decision for Land at Marsh Farm, Drove Lane, Earnley, Chichester, West Sussex - September 2016
- Appendix 13 - Letters from local site owners regarding lack of available sites

A Hearing Statement on Highway Issues was also submitted as part of the application in order to respond to reason for refusal 3 of the previous application.

4 Policy Considerations

National Planning Policy Framework (NPPF) 2012

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

The Government's original PPTS came into effect on the same day as the NPPF and

should be read in conjunction with the NPPF – 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

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 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 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 conditions to protect the trees which are covered by Tree Preservation Orders

Chichester District Council

Chichester District Council have no objection to the application, but do question whether sufficient information has been submitted to demonstrate the applicant is still a travelling gypsy/traveller as set out in the PPTS. We would also like to advise the following.

Chichester DC would like to advise that we presently have a 7.3 year supply of gypsy and traveller sites and a 7.5 year supply for Travelling Showpeople (note figure accurate at time of consultee response).

We would also like to advise that there is concern from the adjoining Parish of Westbourne about the number of gypsy and travellers in the parish. Whilst it is noted that the application site is not in said Parish, the LPA would like to draw Havant BC to this concern due to the proximity of the site to the parish boundary.

To also note, for your information, there have been recent appeal decisions in the parish of Westbourne, in particular APP/L3815/W/16/3157057 for a single pitch, on Cemetery Lane where there are a large proportion of settled gypsy and travellers. The inspector found that there would be no dominating effect on the existing settled community of Westbourne.

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 for Hampshire County Council.
2. I have been asked by Havant Borough Council planning department to establish the Gypsy and Traveller ethnicity and planning status of Mr James Madgwick with regards to the above application.

3. At 09.00 hours on Monday 20th March 2017, I met with Mr James Madgwick (26 years of age) and his father Les (52 years of age) on the land I now know as Stables Adjacent to Hollybank Cottage, LongCopse Lane, Emsworth.
4. I discussed at great length the planning application submitted to Havant Borough Council by James Madgwick this included his family history, movements and cultural heritage.
5. I ascertained that his family roots are in the local area and the Madgwick family is a very strong Portsmouth Gypsy family.
6. James informed me that he had obtained planning permission for the on site stables a few years ago and more recently planning permission for a tack storage shed. He is living on the site with his partner Pasha Green (22 years of age) she is herself of Gypsy ethnicity and is pregnant, with the baby due in September 2017. They have been living on the site for about 12 months and hence the planning application for accommodation on the site.
7. I was advised that they had contacted numerous sites and local authorities in the south east to enquire about waiting lists and the availability of pitches. Currently there are no vacant pitches, have not been for some time and all sites have long waiting lists which will take years to work through for a pitch to become available. As a result it was decided that their own land was preferable to the side of the road.
8. Les Madgwick informed me that some years ago he and his family had visited and stayed with relatives on the former Hampshire County Council site at Bury Brickfields and having spoken to the former site manager I am able to confirm their visits to the site. It should be added that this particular site in the New Forest is particularly horse and pony orientated with most of the residents owning livestock and the connection with the Madgwick family as horse traders is very pertinent. In addition; as the site has planning permission is for Gypsy and Traveller residence and site licence conditions are only for that community, it goes without saying that only members of the Gypsy Traveller community reside on and visit the site.
9. Whilst talking to the Madgwicks I looked at many photographs indicating a Gypsy and Traveller horse trading lifestyle and also viewed historic film footage showing Mr Les Madgwick attending Appleby horse fair years ago with his family and living the traditional lifestyle in caravans and trailers. I discussed at length family and friends namely the Smiths, Wickens, Green and Ruston families and from personal experience I can say that I have had dealings historically with all of these families and have verified their Gypsy and Traveller ethnicity.
10. Since this meeting I have made enquires of the Traveller Liaison Officer in West Sussex who can confirm that the families listed above including the Madgwick family are well know in the West Sussex area and across the south east of the country as being of the Gypsy and Traveller community.
11. From the verbal and photographic evidence produced to support his way of life and from my experience with the Gypsy and Traveller community in general, their lifestyle and my personal knowledge of the Madgwick family, I am of the considered opinion that there is no doubt the applicant is of Gypsy ethnicity.
12. The site is approximately one acre in size, in a rural location and has been owned by the applicant for about the last eight years. The Madgwick family are

predominantly horse dealers as was evidenced by the stables on site being fully occupied. 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.

13. I asked 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.
14. 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.
15. 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.
16. I spoke to Mr Madgwick about any problems encountered when using the local lanes with horse boxes and large caravans. He informed me that businesses in the local area have used horse boxes for years and local residents have caravans sited on their driveways and it is not a problem for them driving up and down the lane when going away on holiday.
17. I enquired about local facilities in the area which would allow easy access for shops, schools and medical facilities and I was informed that the Gypsy and Traveller community are well used to travelling for the purposes of accessing facilities and in any case all they currently required was within a short distance of the site in question.
18. I was informed that during his life the applicant together with his family has travelled the Country widely for business / economic purposes and he is still away working for at least 3 to 4 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.
19. As reported earlier, Mr Madgwick's partner is due to give birth later this year and the requirement for permanent accommodation to facilitate a settled life style, access to doctors and midwife services and eventually schooling is of paramount importance in his life.
20. 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 fifteen years.
21. During my visit I did inform the applicant that any evidence he could produce to prove a travelling lifestyle and if possible to show for economic purpose would be beneficial to his application. I advised that the planning officer having site of these documents prior to any planning meeting would be beneficial and suggested that his planning agent Mr Rowe or Dr Murdoch could facilitate this

for them.

22. The applicant has a cultural lifestyle of living in a traditional caravan and a history of travelling for economic purpose but would like to settle down for the stability, health and future education of his family. I conclude that after consideration of all the facts, my balanced view is that Mr James Madgwick is of Gypsy and Traveller status as required for planning purposes.

Further interviews were undertaken by the Gypsy Liaison Officer at the request of the Local Planning Authority, to clarify and explore further matters with the following response:

1. I am the Gypsy Liaison Officer for Hampshire County Council.
2. Further to the report I submitted on Friday 24th March 2017 I have been asked by Havant Borough Council planning department to enquire further with the applicant with regards to some specific questions which for the sake of regularity I have replicated as follows:

A. Why have they decided to settle in Havant and not Portsmouth or New Forest, which is where it appears they have strong links?

B. Do they own any other land that they could move onto? Where would they live if they did not own this land? (by the side of the road?)

C. What is the relationship with the address in Portsmouth? Do they own it etc?

D. Also I note in paragraph 22 of your report that the applicant would like to settle down for stability, health and future education of his family. Is he therefore looking for a permanent planning consent rather than a temporary permission?

3. At 14.50 hours on Wednesday 5th April 2017, I returned to the site I now know as Southdown View, Stables Adjacent to Hollybank Cottage, Long Copse Lane, Emsworth PO10 7UR where I spoke to the applicant Mr James Madgwick and his father Les.
4. I then put the above questions to the applicant and his answers were as follows.

In answer to question A: The applicant stated that whilst he has relatives and friends in the Portsmouth and New Forest area, the simple fact is that within a 2 to 4 mile radius of the land in question there are numerous family members, relatives and friends who would be able to assist his partner with livestock left in the stables and also ensure she felt safe when he is away at horse fairs and working. Also with the birth of the baby due in September there would be family around to ensure the safety and security of his partner whilst he was away.

In answer to question B: The applicant stated that he does not own any other land and if the current application fails then he will have to resort to living at the side of the road because there is no other suitable accommodation available in the local area.

In answer to question C: The applicant stated that his father, Les Madgwick owns and lives in a bricks and mortar property in the Portsmouth area together with his wife and two daughters. The house is a three bedroom property therefore does not have any spare capacity and in any case the applicant being of Gypsy ethnicity wishes to retain his cultural tradition of living in a caravan / mobile home accommodation.

In answer to question D: The applicant stated that he is making an application for permanent permission to reside on the land in question.

5. In view of the above answers it is my considered view that the applicant in this matter is in need of permanent accommodation in the light of personal changes, most particularly his partner's pregnancy. If the planning application for the land in question is refused then the applicant and his partner will almost certainly have to resort to living at the side of the road with all the issues and insecurity inherent in that lifestyle.
6. In conclusion, based on the evidence that has been collected and the applicant's need for permanent accommodation it is now my considered view that, given the evidence of local family connections and support network for the applicant and his family, the Planning officer and the Planning committee of Havant Borough Council, should be able to consider and take account of these local connections, the ethnicity and the personal circumstances of the applicant in deciding the application to establish permanent accommodation within the Borough.

The Local Planning Authority then requested that the Gypsy Liaison Officer investigate the submission from the applicants that there are no other suitable sites available for alternative accommodation in the surrounding area. The following response was received:

I have made enquiries of staff now employed to manage the two ex Hampshire County Council sites in the south of the county one of which is the Bury Brickfields site in the New Forest area and currently there are no vacant pitches and there are at least 12 people on the waiting lists for each site - some of whom have already paid their deposits.

I have spoken to the company who now manage all the sites in the West Sussex area and they advise that they likewise have no vacant pitches and have sixty (60) applicants on their waiting lists for the sites concerned.

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

I have reviewed the revised application documents, and I note that matters raised in respect of drainage & water supply have not been addressed. There would appear to be no material change to the proposals as regards matters concerning Environmental Health, and as such all comments made previously under APP/16/00021 are considered to remain relevant.

For convenience, I have reproduced those comments below:

Brownfield Land / Contamination

The design & access statement refers to the extension of the stable block granted on appeal in 2014 as being a qualifying factor for the site to be regarded as 'previously developed land'. This is linked to paragraph 24 (sic, para. 26) of the PPTS, which refers to the obligation for the LPA to attach additional "...weight to the effective use of previously developed (brownfield), untidy or derelict land"

The equivalent paragraph from the NPPF (17, Core principles) uses very similar

wording but includes the word 're-using'. I would interpret both provisions to relate to the re-use of land which would normally be land that is not currently in productive, useful or relevant use (with respect to it's current planning status) or is unviable / under-used with respect to it's current permitted use class. It is relevant that the implementation of the planning consent for extension of the stables (presumably required at the time & for the foreseeable future) is recent, and I note that the current application does not seek to redevelop the stables (indeed it indicates that they are very much in current use).

As regards the curtilage of the 'previously developed land', it does not necessarily follow that the field / paddock should be regarded as curtilage to the stables; this may depend upon it's planning status &/or details of relevant land transactions.

Whilst I have no objection to this application in principle, I would consider that no additional weight should be attached to these proposals on the basis of the land being previously developed / brownfield.

As regards contamination - 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), with the only difference being the standards of construction & structural ventilation provisions.

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 & demolition wastes for stabilising access tracks (etc.), informal storage of agricultural vehicles & machinery, and informal disposal of waste by burning or burial (whether by landowner, or others by means of fly-tipping). Desk-based sources of information are rarely informative with respect to these types of issues.

Sensitivity of the proposed land use with respect to exposure is relatively high, as stated above; but overall risks are arguably mitigated by;

i. pitch siting (plot[s] are) is central to the original field boundary, and disjoint from recent boundaries); not in a position likely to have been a former farm track where a degree of contamination might be expected.

ii. the dwelling[s] being mobile - not requiring foundations or contiguous direct ground bearing, and likely to be naturally under-ventilated (removing vapour / gas indoor exposure pathways)

The contamination risks are considered to be sufficiently low as to be reasonably comfortable with no requirement for intrusive site investigation to be required by condition on any approval granted.

The proposals do however require some limited groundwork's, so there remains the possibility that waste materials or other evidence of contamination could be identified in the course of implementation. If development control are minded to grant consent, I would request that the following informative be included on the decision notice:

"It is the responsibility of the developer to ensure development, upon completion, is safe & suitable for its consented future use. Contamination could potentially be present at the site that may be identified during the course of development. In the event that any discoloured soils or groundwater, oily sheens, foul or solvent odours, or deposits / inclusions comprising obvious waste materials be encountered during groundwork, or if groundwork staff report acute symptoms (skin, eye or respiratory); works in that area of the site should cease until an appropriate assessment of the nature and extent of the suspected contamination has been undertaken. The local planning authority should be notified of the nature of the contamination, and how that contamination is to be dealt with"

Services (Drainage / Sewerage)

The application details states that it is intended to dispose of foul sewage by means of a new cess-pit, and surface water by means of soakaway.

Soil succession in this area is topsoil over London Clay, meaning that soakaway is unlikely to be viable. Similarly, this could hamper the installation of leach-field disposal for the proposed cess pit, as viable installation depth may be very limited, and could be at risk of damage (e.g. by weight of horses &/or vehicles) if installed (unprotected) at very shallow depth in the paddock area.

I note that the tree location plan appears to show drainage pipework connecting the utility block & both static caravans to a chamber located to East of the site access, in turn just 22m east of the mapped position of the public foul sewer system. This pipework is marked in blue, suggesting that it is for surface water. However, the connections & destination shown would indicate that the pipes are likely to represent foul water. In either case, the pipework shown is inconsistent with the stated intention to utilise local disposal methods for surface & wastewater.

Disposal of surface water to a foul system should not be permitted, and disposal of foul to the public system will require consent of the local sewage undertaker. Given this lack of clarity, I would suggest that the means of disposal of both surface & foul water be confirmed by condition;

Construction of the development shall not commence until details of the proposed means of disposal of both foul and surface water sewerage have been submitted to, and approved in writing by, the Local Planning Authority. Submitted details shall demonstrate feasibility of any proposed local disposal methods, and the agreement of Southern Water in respect of any proposed connections to public sewage systems.

Reason: *To ensure appropriate means of wastewater management for the prevention of pollution, the mitigation of health risks to occupants of- & visitors to- the site, and to ensure that the site does not contribute either to downstream flooding or pollution.*

Services (Potable Water / Heat)

With reference to the DCLG good practice guide, I note that para. 5.2 requires a separately metered drinking water supply for each pitch, with meters provided within amenity buildings.

In addition, 7.17 states that (among other things) the amenity building at a minimum must include both a hot & cold water supply. The plans & statements make no mention of the source of the water supply or its adequacy for drinking water. Similarly, the application documents don't make any reference to the provision of hot water, the position of a boiler, or the means of fuelling a water heater. It is implicit, but not confirmed that an electricity supply will be provided to each plot - and in respect of water heating it may be as simple as an electric boiler over / under the kitchen sink to provide hot water. My principle concern here is the potable supply. I would prefer to avoid the creation of our first Regulation 8 re-supply - and would like to make sure that the potable supply to the site will be metered, and that the site owner will be a customer of Portsmouth Water, and not a third party re-selling the water supply. Water supplies should either be metered with both plots separately constituting direct customers of Portsmouth Water, or the site should be supplied as a single customer (i.e. supply shared between plots, with no additional re-charging between a primary customer & a subordinate plot).

Landscape Team

The application is deemed contrary to Policy CS11.1 because the proposals do not accord with the landscape character of the open countryside between Emsworth and Westbourne. Furthermore, Policy CS11.9 requires that development should maintain the gap between Emsworth and Westbourne.

The application site is located within Landscape Character Area 21 '*Southleigh Forest*' from the Havant Borough Townscape, Landscape and Seascape Character Assessment (Feb 2007). The landscape is identified 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.*'

In terms of openness / enclosure, prominence and visibility, there is particular reference to '*Views from the road out towards Westbourne across the open agricultural plain*'. Furthermore, the '*Encroachment of urban character into adjacent rural areas*' is regarded a key local issue for this landscape character area.

Despite the 1.8m height close board fencing installed along part of the Long Copse Lane, open views exist from public highway northwards to Ancient Woodland associated with Southleigh Forest, north-eastwards to Monks Farm (Listed Building) and beyond to the South Downs National Park.

If views are available beyond the site boundary, there is reasonable potential for the proposed application to have visual impact when viewed from surrounding landscape north and north-east of the site. White / light coloured caravans are visually prominent and may impact upon mid distance views from Westbourne Lane. Longer distance views may also be afforded from the South Downs National Park. Whilst screen planting would seem an appropriate means of mitigation – this would be at the expense of long reaching views mentioned above that are deemed an inherent part of the local visual amenity enjoyed by those travelling along Long Copse Lane.

Recommended landscape strategy for LCA 21 is to conserve and enhance the local character and avoid urbanising trends. Previous applications for the site afford consent for horse grazing pasture, timber stable / store and an associated access track without any stated provision for vehicle parking. The proposed application will unacceptably increase the building footprint area, which combined with additional vehicle parking, close board fencing and lighting columns are deemed inappropriate to the distinctly rural character.

From a landscape management perspective, I am further concerned the application proposals will cause over-intensification of the site to the detriment of landscape quality. The local soils are known to be slowly permeable, seasonally wet and vulnerable to over-compaction, which are not deemed appropriate for soak away drainage.

Planning Policy

The site lies on the north side of Long Copse Lane along which are a number of individual dwellings on large plots together with open fields generally in equestrian use for grazing. The site lies outside of and is not adjacent to the existing settlement boundary area; instead it is adjacent to a single dwelling and otherwise surrounded by open fields to the north and east with the large area of public open space (protected under Policy AL8 as a designated Local Green Space) associated with the Hampshire Farm development lying to the south. The existing built form (stable block) and permitted use of the site which includes a private stable block with tack room, feed and cart store is complementary to the rural surroundings of the site. This section of Long Copse Lane is rural in character, narrow, lacking pavements and street lighting.

As the site is not within the existing urban area boundary it is therefore in the area covered by Policy AL2 where new residential development should normally be restricted. The site is currently isolated from the nearby communities of Emsworth and Westbourne (in Chichester District), lying in the countryside area between these two settlements. The NPPF confirms that LPAs should avoid new isolated homes in the

countryside unless there are special circumstances.

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) proposes an area of development (site UE76) to the north of Long Copse Lane that will extend the settlement of Emsworth to the north and east towards the application site. Policy comments on the previous application APP/16/00021 (for two mobile homes, caravans and amenity blocks) indicated that there is a difference in whether a proposed site is in open countryside as opposed to being immediately adjacent to the existing built-up/urban area in terms of the impact and extent to which it is contrary to policy. The development proposed in the Local Plan Housing Statement will take some time to bring forward, the Local Plan Housing Statement itself is not part of the Development Plan albeit it is a material consideration in the determination of the application and there are uncertainties as to how it will affect Long Copse Lane for means of access. Nevertheless, the development would reduce the openness of the countryside around the application site.

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.

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 Havant Borough Local Plan 2036, a revised accommodation assessment has been 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 in March 2017 which identified that the household living on the site do meet the planning definitions. It also identified that the household has links to the area and has no alternative accommodation. The outcome of this is there is a need for 1 pitch as a result of the occupied pitch being unauthorised. The reason for this is explained in the methodology (Chapter 3) and reporting of the study results on current and future pitch provision (Chapter 7), paragraphs as follows:

Paragraph 3.34 Components of current accommodation need include "households on unauthorised developments for which planning permission is not expected".

Paragraph 7.16 'Only those households that meet the definition (i.e. in that they were able to provide information during the household interview that they travel for work purposes, and stay away from their usual place of residence when doing so – or that they have ceased to travel temporarily due to education, ill health or old age) form the components of need' based on responses to interviews.

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 has previously been sound and justified with no allocation, the position has changed following the publication of the 2017 GTAA, i.e. that there is now a need to be addressed which represents a local 'target'. While this could be carried out through the Local Plan process, given the need to determine the current application, with an appeal on hold pending this determination, and the timetable for the preparation Local Plan 2036, it could be considered that this application meets the need, subject to all other policy requirements including access and impact on the landscape being met.

The PPTS also sets out matters to be taken into account when considering planning applications for gypsy and traveller sites. These include (in paragraph 24):

- a) The existing level of local provision and need for sites,
- b) The availability (or lack) of alternative accommodation for the applicants,
- c) Other personal circumstances of the applicant.

Information has been provided that the need could not be met elsewhere; in particular, although having family connections in neighbouring areas in Portsmouth and in adjacent Westbourne there is no space available to accommodate the applicant and his household. Based on interviews undertaken by the Gypsy Liaison Officer for Hampshire County Council the ethnicity and planning status of the applicant has been established as meeting the definition of 'gypsies and travellers' as set out in Annex 1 of PPTS. Local Plan (Core Strategy) Policy CS10 is therefore of particular relevance to this application.

Policy CS10 includes criteria for the location of gypsy and traveller sites. These considerations include:

- no unacceptable adverse effect on the amenities of nearby residential and/or business uses;
- satisfactory means of access;
- adequate parking provision and turning space within the site;
- traffic generated being on a scale that is not inappropriate to the locality and not likely to cause a hazard to road safety;
- access to utilities and capable of being served by refuse and recycling collection services;
- reasonable distance from local facilities such as schools, welfare and health services;
- not in an area at high risk of flooding;
- not damage the historic environment or nature conservation interests; and
- suitable mitigation against contamination prior to occupation.

The layout plan shows the proposed pitch, to include a mobile home, touring caravan parking space, vehicle parking spaces and a utility building, is to be sited on the part of the site that is furthest from the closest residential neighbour. It is noted that the plans submitted with the application include the mobile home (already on site) although this is not specifically included in the description of the development being applied for.

Transport and highways consultee(s) will provide advice concerning the access and traffic implications although the existing approved use of the site would already require vehicle movements at least twice a day to care for the horses and would include regular movements of a lorry or car and horse trailer to transport horses to fairs and other events, stable bedding (clean bedding to the site and removal of muck heap from site), hay and feed, etc. Parking space and hardstanding on site appears sufficient to meet requirements although the horse trailer and caravan were seen to be parked on the side of the site closest to the neighbouring property (rather than as indicated on the layout plan) during a site visit.

Utility companies and environmental health consultees will advise on the location and connection to services and disposal of waste, requirements for cess pit etc. There should already be a connection to water supply for the horses unless brought onto site in a tanker however Portsmouth Water usually requires new dwellings to be metered. There may also be electricity connection already on site unless a generator is being used to light the stables and yard area; which may cause noise disturbance to neighbouring residents and should also avoid light pollution.

The NPPF expects development to be located where practical to give priority to pedestrian and cycle movements and to have access to high quality public transport

facilities. This is reflected in Policy CS20. Ensuring that the site is a 'reasonable distance' from local facilities, as required by Policy CS10, presents some difficulty given that Long Copse Lane is narrow with no footways or street lighting. What is a reasonable distance is not defined however pedestrian safety is of concern in any case. In assessing the accessibility of development sites to facilities Hampshire County Council uses a walking distance of no more than 800m to schools, and although 800m to the nearest bus stop is regarded as adequate a distance of 400m to a bus stop is normally considered as providing for ease of use. The nearest local shop and bus stop is located at Westbourne to the east but gaining access on foot to either Westbourne or Emsworth facilities requires a potentially unsafe walk, even with the use of the unmade Redlands Lane; and in all probability an unsustainable car journey instead.

The site is not in an area at high risk of flooding, or within a conservation area or adjacent to a listed building. The nearest listed building lies at some distance to the north west of the site, beyond the area that is identified for new housing development on the Local Plan Housing Statement. Regarding nature conservation interests, neither the site itself nor the adjoining land is subject to any ecological designation although the small paddock diagonally across the road to the south-west is designated a Site of Importance for Nature Conservation.

Policy CS11 seeks to ensure that the key landscape principles of the Borough's Landscape Assessment are protected and enhanced. The Council's Landscape advisor should be able to comment on the extent to which the application proposal affects this in the light of the development proposed in the Local Plan Housing Statement. Clearly the existence of the mobile home and associated activities such as washing hanging to dry introduces a domestic appearance to the site. Some activities such as the burning of rubbish could be conditioned to avoid nuisance to neighbours.

Policy DM8 refers to on-site landscape proposals, in particular, 'new landscape works that integrate successfully with the local environment and existing natural features, using local materials and plant species'.

The PPTS in paragraph 26(b) refers sites being 'well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness'. And (d) 'not enclosing a site with so much hard landscaping, high walls or fences, ...' The appearance of the site has already been changed by boundary treatments some of which may be viewed as neatening the appearance, for example the use of post and rail fencing around the grazing areas when compared with wire and electric fencing to some pony paddocks in the vicinity. Close boarded fences along the boundary to the road could be softened with natural hedge planting.

Previous policy comments also expressed concerns regarding touring caravans and how these can be conditioned or restricted so that they don't become further residential use. If planning permission is to be granted then a personal condition relating to the applicant could be used to ensure that consent and use is for a single pitch for his own household only. This would be appropriate as the need is based on the applicant's personal circumstances (including partner and impending family). Such an occupancy condition would, however, need to be monitored and enforced if necessary.

A mitigation package will be required in accordance with Policy DM24 Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development.

Finally on the subject of the proposals resulting in the loss of grazing land associated with the currently permitted use of the site, the British Horse Society publishes advice on the appropriate area of pasture needed per horse. For permanent grazing (where horses/ponies live out 24/7) 1-1.5 acres per individual is the norm, providing good pasture management is employed. However when horses/ponies are stabled for part of

the day 1 acre per individual may be adequate and for some individuals (such as native ponies and cobs) ¼-½ acre may be appropriate to avoid obesity and debilitating or life threatening metabolic disorders such as laminitis.

Conclusion

- The application site lies outside of the Emsworth urban area boundary, in the countryside area between exiting development and Westbourne, and the proposal does not meet the terms within Policy AL2 where permission will be granted.
- While the application proposes a new dwelling outside the current settlement boundary in the countryside, which is contrary to the NPPF (paragraph 55) and Local Plan (Allocations) Policy AL2, the adoption of the Local Plan Housing Statement in December 2016 and the proposal to accommodate some 260 new dwellings on Land North of Long Copse Lane is material to the current application.
- Advice from the HCC Gypsy Liaison Officer indicates that the applicant meets the PPTS planning policy definition of 'gypsies and travellers'.
- The Hampshire Consortium Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2016-3036 (May 2017) demonstrates a need for one pitch for Gypsies and Travellers in the borough which this proposal can meet, subject to details being acceptable and/or capable of being conditioned..
- Information has been provided that the need could not be met elsewhere, in particular although having family connections in neighbouring areas in Portsmouth and in adjacent Westbourne (West Sussex) there is no space available to accommodate the applicant and his household.
- The proposal does not constitute sustainable development due to its distance from local facilities and public transport. This is exacerbated by the lack of pavement and street lighting along Long Copse Lane.
- The existing boundary treatments adjoining the road could be softened by planting with native species.
- An SPA mitigation package would be needed.

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: 1

Statutory advertisement: 10/03/2017

Objections: 67, 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".*
- 6.10 The application shows no indication of how the development has taken account of the land on the opposite side of Long Copse Lane, which is designated as a Site of Importance for Nature Conservation (SINC).
Officer comment: *The SINC has been designated on the basis of the land comprising "Semi-improved grasslands which retain a significant element of unimproved grassland" - this status is not considered to be prejudiced by the proposals the subject of this application, as they are wholly contained within the application site which lies on the other side of Long Copse Lane.*
- 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.

- 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 is 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.

Officer comment: *Further information supplied by the applicant's agent indicates that the proposed accommodation is expressly for James Madgwick and Pasha Green.*

- 6.18 Application may set precedent for further caravans to be proposed for the site.

Officer comment: *The current application is for one 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.

Officer comment: *Foul and surface water arrangements could be reserved by condition for further analysis. The site is also not in a high risk flood zone.*

- 6.20 An existing mobile home has already been placed on the land without permission, and a replacement hedge has not yet been provided.

- 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(xi) 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) Sustainability
 - (ix) Impact upon residential amenity
 - (x) Highway considerations
 - (xi) Ecological considerations
 - (xii) Drainage
 - (xiii) Other matters
 - (xiv) 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 owners and occupiers of the caravans. 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, who is the applicants father, 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 for at least 3 to 4 months of the year, with the work comprising a 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 (currently unauthorised) site is 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. The applicant advised that the only other option would be to live at the side of the road due to the lack of local, regional and national

pitch and transit sites.

- 7.6 In addition the Local Planning Authority have also taken into account that the applicant was, at some point, on an electoral roll for a property in Portsmouth. The GLO undertook a further interview in order to understand the circumstances of this matter. The applicant advised that his father, Les Madgwick owns and lives in a bricks and mortar property in the Portsmouth area together with his wife and two daughters. The house is a three bedroom property therefore does not have any spare capacity for James Madgwick and Pasha Green to stay. Furthermore the applicant, being of Gypsy ethnicity, has indicated that they wish to retain the cultural tradition of living in a caravan / mobile home accommodation, and the associated nomadic lifestyle. 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. The same can be said for the objections received from third parties that the applicant does not live at the site, however no firm evidence has been submitted to the Local Planning Authority to substantiate this. Furthermore by virtue of the nomadic lifestyle of the gypsy community, it is not unusual for sites to not be occupied for long periods of time, whilst they are away travelling.
- 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. Therefore, 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, and regardless of any periods when he may have lived in "bricks and mortar", 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). As a consequence 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 previous 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 has been 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 do meet the planning definitions for gypsy and travellers as set out in Annex 1 of the PPTS. It also identified that the

household has links to the area and has no alternative accommodation. The outcome of this is there is a need for 1 pitch as a result of the occupied pitch being unauthorised. The reason for this is explained in the methodology (Chapter 3) and reporting of the study results on current and future pitch provision (Chapter 7), paragraphs as follows:

Paragraph 3.34 states that: components of current accommodation need include *"households on unauthorised developments for which planning permission is not expected"*.

Paragraph 7.16 states that: *'Only those households that meet the definition (i.e. in that they were able to provide information during the household interview that they travel for work purposes, and stay away from their usual place of residence when doing so - or that they have ceased to travel temporarily due to education, ill health or old age) form the components of need'* based on responses to interviews.

- 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 has previously been sound and justified with no allocation, the position has changed following the publication of the 2017 GTAA, in that there is now a need to be addressed which represents a local 'target', which comprises the provision of 1 pitch in the borough. The GTAA will inform the allocation of gypsy and traveller sites in the emerging Local Plan, which is at the early stages of development. Given that the Local Plan is at an early stage and the lack of current other deliverable identified sites within the borough as a whole and the scale of need, 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 permanent planning permission on this site would address the need for gypsy and traveller sites within the area. The combination of these factors weighs significantly in favour of the development.

(iii) Whether there is alternative accommodation available

- 7.11 The application is submitted with 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 GLO has subsequently verified the information that has been submitted in this regard. The two former Hampshire County Council sites, which are now run privately in the south of the county have no vacant pitches and there are at least 12 people on the waiting lists for each site. In terms of the sites in West Sussex, contact has been made with the company who now manage all the sites in the area, and it has been confirmed that they also have no vacant pitches and have sixty (60) applicants on their waiting lists for the sites concerned. Given this position and the fact that the site the subject of this application is in gypsy ownership and is being occupied, albeit on an unauthorised basis, this site would provide the unmet need for a single pitch site within the borough, which therefore weighs in favour of the development.

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

- 7.12 The application is supported with a statement indicating the personal circumstances of the applicant. The submission states that Mr Jimmy Madgwick lives on the site with his partner, Pasha Green, in a caravan. The couple moved onto the site in caravans because they are expecting their first child and had nowhere else to go. Mr Madgwick has registered the family with the GP surgery in Emsworth so that his partner can be assigned a midwife for the pregnancy. The arrival of the baby has now been indicated as being in September. The family is homeless as they have no other site where they can park their caravan and live. The statement also indicates that the site is their only home and if they had to leave there they would have to go back on the roadside, as it is clear there are no

vacancies on either permanent or transit sites elsewhere in the immediate and surrounding area.

- 7.13 It is considered that given these circumstances that whilst evidence has not been provided to demonstrate that the site is required as a general gypsy site, the nature of the occupation by James Madgwick and Pasha Green themselves is important to the recommendation of this application. Should permission be granted, a personal permission would be appropriate to reflect the evidence that has underpinned the application, and this has been agreed by the applicant.

(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. The former paddock area which is proposed to be used for the siting of the static home and amenity block exhibits a very different character from the stable yard itself and is not considered to lie within its curtilage for the purposes of identifying what area of the site is suitable for development in principle. The wider paddock area instead reads as part of the wider rural landscape that extends beyond the site to the fields beyond. 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 & demolition wastes for stabilising access tracks etc., informal storage of agricultural vehicles & 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. 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. 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 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) proposes an area of development (site UE76) 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 the previous application APP/16/00021, as 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.
- 7.20 It is accepted that the applicant has carried out some works since the site was first acquired and subsequent alterations to the site have included the installation of gravelled tracks, extensions to the existing stables and the erection of post and rail fencing on both the internal and external boundaries of the site. Nevertheless the land was not previously developed, untidy or derelict land for planning purposes when the mobile home the subject of an earlier enforcement investigation was first brought onto site. The introduction of the static home and touring caravan in combination with the proposed utility block will therefore have had an impact upon the character and appearance of the locality. To that end views through to the static home from the main road are achievable. It is also reasonable to assume that once the residence is further established that more domestic paraphernalia would accumulate on the site further detracting from the openness of the location. However, views of the site and static home 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 only visible built form on the site is the stables, which are set adjacent to the 1.8m close boarded fencing, with some hedging located in front.
- 7.21 Therefore, whilst it is accepted that the current use has led to some harm to the openness of the countryside location, it is 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 remains 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) Sustainability

- 7.22 With regard to the 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. The previous application was refused due to concerns over the sustainability of the site. In assessing the current application, it recognised that many gypsy and traveller sites are by their nature in relatively unsustainable locations. Therefore, it is recognised there is a balance to be taken in determining this proposal. This application has reduced the number of units from the 2 originally proposed to 1. This will result in fewer traffic movements, which would lessen the impact on the peace and tranquillity of this part of the area. Whilst it is acknowledged that future residents would be reliant on the private car, the proposal would provide a needed gypsy and traveller site in the area and would not have a significant adverse impact on the character and appearance of the area.

7.23 Furthermore it must be recognised that the Local Plan Housing Statement (adopted in December 2016) proposes an area of development (site UE76) 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, it would be difficult to justify a reason for refusal on the basis of the site being unsustainable. It is therefore considered that reason for refusal 2 in the previous application has been overcome in this proposal.

(ix) Impact upon residential amenity

7.24 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/one pitch gypsy and traveller site use applied for.

7.25 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 distinct 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 static home lies over 45m 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 the retained paddock area and area of grassland beyond. 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 in connection with the pitches. In addition the previous application, which was for 2 pitches, was not refused on adverse impact on residential amenity - it would therefore be unreasonable to introduce a reason for refusal on this basis for a single pitch.

(x) Highway considerations

7.26 In considering the highway issues arising from the application it is considered that two aspects need to be taken into account - 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.

7.27 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.

- 7.28 The previous application was refused for reasons including a concern that the towing of small and large caravans into and out of the site along the narrow Long Copse Lane would not be appropriate and would cause further deterioration of its verge edges, surface and foundations and would exacerbate the hazards to other road users. This application has reduced the number of units from the 2 originally proposed to 1. 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 reduction in number of units, with regards to the number of pitches and touring caravans, the Development Engineer has reviewed the application and has noted that the numbers of trips are reduced. Guidance in the National Planning Policy Framework, outlines that proposals would have to have proven severe cumulative harm on the highway network, in order for applications to be refused. Given the reduction in number of units, it is now not considered that the development would have a severe adverse impact on the safety or free flow of the highway network. It is therefore considered that reason for refusal 3 in the previous application has been overcome in this proposal.

(xi) Ecological considerations

- 7.29 The proposed introduction of a one pitch gypsy and traveller site is considered to have an impact on the Solent's Chichester and Langstone Harbours Special Protection Area (SPA), as this development would increase the number of dwellings within the 5.6km zone identified as significant in potentially increasing recreational pressure on the SPA. Natural England's advice with regard to all new housing development within this zone is that it is likely to have a significant effect on the SPA. The measures of mitigation adopted by the local planning authority at the end of June 2014 requires a payment of £181 per dwelling (plus monitoring and administration fees) to the Solent Recreation Mitigation Partnership – this is to secure accordance with Policy DM24 of the Havant Borough Local Plan (Allocations) 2014.
- 7.30 The principle of securing developer contributions is set by policy CS21 of the Local Plan (Core Strategy) 2011 which states that:
Development will be permitted if on-site and/or off-site infrastructure requirements are met. Where new or improved infrastructure is essential for planning permission to be granted the council will require the on-site or off site provision and/or contributions through planning obligations, agreements or tariffs in accordance with the relevant legislation for off-site provision. The need for contributions will depend on information and advice from infrastructure providers on the expected impacts of the development on all the infrastructure types.
- 7.31 Policy DM24 of the Local Plan (Allocations) 2014 states that:
Planning permission will be granted for residential developments that avoid or mitigate a likely significant effect on the SPAs, caused by recreational disturbance through the in-combination effect of net additional dwellings. This mitigation can be provided through:
a) A financial contribution...
Where these measures cannot be provided development proposals will be refused, unless the applicant can show, subject to meeting the tests of the Habitats Regulations, that there would not be an adverse effect on the integrity of the SPAs.
- 7.32 The applicants have made the necessary planning obligation and returned the associated paperwork. As such the appropriate financial contribution has been secured and it is therefore considered that reason for refusal 4 in the previous application has been overcome in this proposal.

7.33 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 has been carried out without detriment to the health of the TPO trees.

(xii) Drainage

7.34 A number of representations cite concerns that the development would have an adverse impact on the foul sewage network. The application proposes to install a septic tank. A number of conditions are proposed to require details of both foul and surface water drainage of the site in order that these technical matters are appropriately addressed.

(xiii) Other matters

7.35 It is clear from this application and the overall history to the site that local opposition to the proposal is strong. 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. Furthermore concerns have been raised about the unauthorised situation of the site and subsequent matters relating to perceived lack of enforcement action on the site by the LPA.

7.36 It is acknowledged that the establishment of a gypsy site on the application site will have affected 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 occupiers have retained a reasonable outlook and level of privacy, and are not subject to undue noise disturbance.

7.37 Furthermore a planning condition restricting the use of the site to no more than two caravans, comprising one static mobile home and one touring caravan and restricting any commercial activities would ensure the use remains at the current 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.

Enforcement matters

7.38 Concerns have been raised regarding lack of enforcement action on this site, as it is currently being occupied by an unauthorised static home. There is a common misconception that breaches of planning control are a criminal offence and should automatically attract formal enforcement action. However, enforcement action is a discretionary power. It is for the Local Planning Authority to decide how to determine when action is necessary and the type of action that is appropriate. In making these decisions the authority should be mindful of maintaining public confidence in the planning system, but it should be recognised that in the majority of cases, formal enforcement action should be seen as a last resort.

7.39 The site has had a complex enforcement history, and the previous refused application is currently at appeal with the Planning Inspectorate; however it has been placed into abeyance whilst the Local Planning Authority considers this revised application. Given that the previous application is at appeal and that the revised application is currently being considered, it is not judged to be appropriate to instigate formal enforcement action until both this application and the appeal have been determined. Once these matters have concluded the Local Planning Authority would be in a position to take appropriate action, if necessary, based on the associated outcomes.

7.40 Concerns have also been raised regarding the stables built pursuant to 10/74070/000, and their associated extension allowed at appeal under application APP/14/00381, in that they

have not been built in the correct location (see Paragraph 2.3 above). Formal enforcement action may only be taken in cases where (i) there is a breach of planning control and; (ii) it is expedient to take such action. In general terms, this requires circumstances where an unauthorised development is causing serious harm, rather than it being a minor or technical breach in control. The matter of "expediency" covers a range of matters upon which a judgement needs to be based, a key issue being whether the breach would unacceptably affect public amenity or use of land that should be protected in the public interest. Any enforcement action should be proportionate to the breach, so for example, it would be inappropriate to take formal action against a trivial or technical breach. There will be cases where there is a breach of planning legislation but the breach or harm is so minor that action cannot be justified, i.e. it is not expedient or in the public interest to pursue the case.

- 7.41 It is therefore appropriate to consider whether it is expedient to take action with due regard to the impact on the character and appearance of the area and on the amenities of Hollybank Cottage. In terms of the impact on the character and appearance of the area, the stables are visible from Long Copse Lane, through a combination of filtered views through the existing hedging, and at points through gaps in the hedge. It is not considered that the location of stables in a countryside location is unusual, and as outlined by the Inspector in the appeal when an extension to the original (wrongly sited) stable block was allowed, it was not considered to have a significant adverse impact on the character and appearance of the area. The layout existing on site is not considered to have a significant adverse impact on the character and appearance of the area compared to the approval which was granted, furthermore as part of this application a landscaping condition is proposed, in order to strengthen and reinstate the existing hedging on the southern boundary.
- 7.42 In terms of the impact of the stables on the amenities of Hollybank Cottage, it is considered that given the layout and degree of separation, and the existing landscaping, which includes a protected tree, that the stables in their revised location do not have a significant adverse impact on the amenities of neighbouring properties compared to the originally approved location. It is noted that concerns have been raised with regard to the impact of glare from security lights located on the stables, causing light pollution and associated nuisance to Hollybank Cottage. As is detailed below, a condition is proposed in order to control lighting in terms of orientation and angle of lighting in order to address this issue.
- 7.43 As such given the considerations above, it is not considered that the existing stables have a significant adverse impact on the character and appearance of the area, or on neighbouring properties, compared to the impact that would have arisen had they been constructed in the originally approved location. It is therefore not considered expedient or in the public interest to take enforcement action regarding the stables.

Precedent

- 7.44 Local residents are also concerned 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.

(xiv) Human rights

- 7.45 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.

7.46 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.

7.47 It is accepted that refusal of the planning application could 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.

7.48 The refusal of this application could involve direct interference in his rights and the fact that there is little credible prospect of any 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.

7.49 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.

7.50 Concern has been raised that by permitting this application it would be contrary to 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 an unmet need for one 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 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 whilst at some distance from local facilities, the identified LPHS site will alter the degree to which the site is viewed as unsustainable; and technical drainage requirements can be met by relevant conditions.
- 8.3 It is considered that these material considerations in favour of the scheme outweigh any harm identified and justify a permanent planning permission. The nature of the occupation by James Madgwick and Pasha Green is important in the determination of this application, therefore a personal permission is necessary. 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.
- 8.4 In overall conclusion, it is considered that there are compelling grounds for granting permanent planning permission subject to various conditions. A number of previous appeal decisions have been submitted by the applicant, in the appeal documentation for the previous application, and these have been taken into account. Those decisions highlight the importance of the balancing exercise that needs to be carried out in such circumstances. Having considered all other matters raised, 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

- 8.5 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, on the basis of identified need sufficient to clearly outweigh other considerations. Furthermore a personal condition is applied given the specific circumstances of the applicant.
- 8.6 In addition, the permission will be limited to one pitch with no more than one static mobile home/caravan and one touring caravan 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.
- 8.7 The external materials to be used in the construction of the utility/dayrooms would need to be agreed and used in the development to ensure that the buildings are appropriate to their setting. Details of the existing static home would be unnecessary given the well-screened nature of the site and the opportunity to secure additional planting.
- 8.8 A condition is required with regard to 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 aspect.

- 8.9 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.
- 8.10 Details regarding the foul water/sewerage system are required in order to ensure that it is an appropriate way to drain the site in this location.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/16/01234 subject to the following conditions:

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

01297-9 REV1 LOCATION PLAN
01297/2C REV FEB 17 PROPOSED SITE PLAN
MOBILE HOME ELEVATIONS AND FLOOR PLAN
PROPOSED UTILITY BUILDING PLANS AND ELEVATIONS.
01297-5 REV1 EXISTING STABLES

Tree Survey, Arboricultural Impact Assessment and Tree Method Statement To British Standard B.S. 5837: 2012 "Trees in Relation to Design, Demolition and Construction – Recommendations For Land of east of 'Holly Bank Cottage', Long Copse Lane, Emsworth, Havant, PO10 7UR Prepared by N J Trowell
Date 24 November 2015

Reason: - To ensure provision of a satisfactory development.

- 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 This permission shall enure for the benefit of James Madgwick and Pasha Green and any resident dependants only and shall not enure for the benefit of the land and the use hereby permitted shall be discontinued on the date when James Madgwick and Pasha Green and any resident dependants cease(s) to occupy the land.

Reason: This permission has been granted on the personal circumstances of the applicant and as such would have been unsuitable for a general gypsy and traveller site in accordance with policy AL2 of Havant Borough Local Plan (Allocations) 2014 and the Planning Policy for Traveller Sites 2015.

- 4 The amenity building (day room) hereby permitted shall be for the sole benefit of the occupiers of the Land adjacent to Hollybank Cottage, Long Copse Lane, Emsworth. The said building shall not be used other than as a utility building and for domestic storage purposes and shall not be used as ancillary residential accommodation, as a separate self-contained unit of residential accommodation or for any business or commercial use whatsoever.

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.
- 5 There shall be no more than 1 pitch on the site and on the pitch no more than 2 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 1 shall be a static caravan.

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.
- 6 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.
- 7 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.
- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no 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.
- 9 No above ground construction works on the amenity block (day room) shall take place until samples and / or a full specification of the materials to be used externally on this building have been submitted to and approved in writing by

the Local Planning Authority. Such details shall include the type, colour and texture of the materials. Only the materials so approved shall be used, in accordance with any terms of such approval.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 10 No external lighting shall be installed on the site unless details of the position, height and type of lights have been submitted to and approved in writing by the local planning authority. The external lighting shall be installed and operated in accordance with the approved scheme and no other lighting shall be installed or operated.
Reason: To prevent light pollution and in the interests of the amenity of the area and neighbouring properties in accordance with policy CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011.
- 11 Within 2 months of the date of this permission 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, and a programme for implementation, shall be submitted to and approved in writing by the Local Planning Authority. These details shall also include; proposed finished levels or contours; means of enclosure and hard surfacing materials (where appropriate). The landscape works shall be carried out in accordance with the approved details and the approved implementation programme unless otherwise agreed in writing by the Local Planning Authority. **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.
- 12 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following granting of permission on the site; and any trees or plants which within a period of 5 years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation. Any variation shall be carried out in accordance with the approved details.
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.
- 13 Within 2 months of the date of this permission details of water supply, proposals for the disposal of foul and surface water and facilities for recycling/waste management (including any associated structures) shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented within 4 months of the date of this permission.
Reason: To ensure appropriate means of wastewater management for the prevention of pollution, the mitigation of health risks to occupants of - & visitors to - the site, and to ensure that the site does not contribute either to downstream flooding or pollution in accordance with policies DM8 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011.

Appendices:

- (A) Location Plan
- (B) Site location plan
- (C) Proposed site plan
- (D) Mobile home floor plan and elevations
- (E) Proposed utility building floor plans and elevations
- (F) Existing stable elevations
- (G) Existing stable floor plans