

OFFICER REPORT FOR COMMITTEE

DATE: 12/12/2018

P/18/0473/CU
MR MATTHEW JAMES

TITCHFIELD COMMON
AGENT: GREEN PLANNING STUDIO
LTD

THE TEMPORARY USE OF LAND FOR A PERIOD OF THREE YEARS FOR THE STATIONING OF CARAVANS FOR RESIDENTIAL PURPOSES TO PROVIDE 1NO RESIDENTIAL FAMILY GYPSY PITCH AND THE CONSTRUCTION OF NEW ENTRANCE GATES

LAND TO WEST OF 237 SEGENSWORTH ROAD, FAREHAM PO15 5EW

Report By

Richard Wright – direct dial 01329 824758

1.0 Introduction

- 1.1 This application has been included on the agenda for this meeting by virtue of the number of representations received objecting to the proposal and contrary to the Officer recommendation below.
- 1.2 Members will note from the 'Five Year Housing Land Supply Position' report elsewhere on this agenda that this Council currently has a housing land supply of 4.95 years (a shortfall of 27 dwellings within the 5 year period).
- 1.3 The Housing Delivery Test results which were due to be published by the Ministry of Housing, Communities and Local Government in November 2018 had not been published as at 3rd December. Officers have carried out their own assessment against the same criteria the Government will use and are of the opinion that the Housing Delivery Test results will require this Council to apply a 20% buffer to its local housing need increasing its annual requirement to 575 dwellings per annum. This in turn would result in a 5 year housing supply of 4.3 years and a shortfall of 386 dwellings. Should the Housing Delivery Test results be published prior to the Planning Committee meeting, Officers will provide an update at the meeting.
- 1.4 Policy DSP40 of the Local Plan Part 2: Development Sites and Policies is engaged when it can be demonstrated that the Council does not have a five year housing land supply. Even if the Council were found to have a 5 year housing land supply as a result of resolutions taken during this meeting, Officers believe it is clear that the housing requirements for this Borough will increase in the very near future as a result of the Housing Delivery Test.

- 1.5 In light of the Government's clear 'direction of travel' on housing requirements and delivery, it is considered appropriate to consider proposals against the criteria set out within DSP40 (which derive from standalone development plan policies in any event and or are clearly material considerations in their own right), to assess what degree of harm may arise, even if that policy is no longer engaged.
- 1.6 Officers will advise Members accordingly at the meeting.

2.0 Site Description

- 2.1 The application site comprises a parcel of land located to the due west of the detached dwelling known as 237 Segensworth Road. The site lies close to but not adjacent the A27/Segensworth Road roundabout and for planning purposes is outside of the defined urban settlement boundaries.
- 2.2 The submitted location plan indicates that the red edged application site is part of a wider piece of land owned by the applicant, shown edged in blue. That land borders the eastern edge of the A27, the curtilage of 237 Segensworth Road and land to the south where currently a planning application for a development of 105 houses is under consideration (our reference P/18/0068/OA). A small area of the application site is on third party land owned by Hampshire County Council in the north-eastern corner of the site over which vehicular access to the site is currently provided. The applicant has submitted a Certificate to demonstrate that requisite notice has been served on the County Council as part owners of the site.
- 2.3 During the course of this planning application being considered development has been carried out on the site. A large "twin unit" mobile home with a pitched roof has been brought on to the site and a brick plinth and steps constructed around its base and up to the doors. Hard surfacing in the form of loose chippings / gravel and paving slabs has been laid across the land on the eastern side of the mobile home. A set of timber entrance gates have been constructed across the existing vehicular entrance on land owned by Hampshire County Council. Although technically outside of the red edged application site, an enclosed private amenity area has been created to the west of the mobile home and an outbuilding erected. Fencing has been erected around the perimeter of the blue edged land where none previously existed. The fencing is a combination of mesh and boarded fencing set in from the existing perimeter hedgerows. A previously existing storage barn building lies in the south-eastern corner of the site. Whilst fencing up to a height of 2.0 metres in this location will not require planning permission from the Council, the other development including the siting of the mobile home, the outbuilding, the loose chippings / gravel / paving and the entrance gates

would do, has been carried out without the benefit of planning permission and so is at present unauthorised.

- 2.4 The site forms part of a draft allocation for housing within the Draft Fareham Borough Local Plan 2036.

3.0 *Description of Proposal*

- 3.1 Planning permission is sought for the change of use of the land for a temporary period of three years for the stationing of caravans for residential purposes to provide one residential family gypsy pitch. Also proposed is the construction of new entrance gates.

- 3.2 As referred to earlier in this report, a mobile home has already been brought on to the site and is being used for residential purposes. A set of entrance gates has also already been installed. If permitted, this application would allow the retention of the mobile home and entrance gates.

- 3.3 The other development that has already been carried out on the site, namely the change of use of other land outside of the red edge in conjunction with the residential use hereby proposed, the erection of an outbuilding and the laying of hard surfacing, does not form part of this planning application. At the request of the applicant those matters should be addressed separately.

4.0 *Policies*

- 4.1 The following policies apply to this application:

Adopted Fareham Borough Core Strategy

CS2 – Housing Provision

CS5 – Transport Strategy and Infrastructure

CS6 – The Development Strategy

CS14 – Development Outside Settlements

CS17 – High Quality Design

CS19 – Gypsies, Travellers and Travelling Showpeople Population

Adopted Development Sites and Policies

DSP1 – Sustainable Development

DSP2 – Environmental Impact

DSP3 – Impact on Living Conditions

DSP6 – New Residential Development Outside of the Defined Urban Settlement Boundaries

DSP15 – Recreational Disturbance on the Solent Special Protection Areas

DSP40 – Housing Allocations

Other Documents:

Hampshire Consortium Gypsy, Traveller and Travelling Showpeople
Accommodation Assessment 2016 - 2036 (May 2017)

Planning Policy for Traveller Site (PPTS) - DCLG

Gypsies and Travellers: Planning Provisions (House of Commons Briefing
Paper 13 October 2017)

5.0 Relevant Planning History

5.1 The following planning history is relevant:

P/12/0259/FP	CONTINUED USE OF THE LAND FOR THE STABLING AND GRAZING OF HORSES TO INCLUDE RETENTION OF MOBILE HOME IN CONNECTION WITH EQUINE BREEDING BUSINESS / EQUINE WORKER IN LIEU OF CARAVAN PERMITTED UNDER APPLICATION P/06/0357/FP
REFUSE	5 OCTOBER 2012 APPEAL: ALLOWED 8 MAY 2013
P/10/0680/FP	CHANGE OF USE FOR STEAM CLEANING AND HAND CLEANING/FINISHING CARS, ERECTION OF TWO OPEN SIDED CAR WASH CANOPIES & RETENTION OF HARD SURFACING
REFUSE	29 SEPTEMBER 2010 APPEAL: DISMISSED 2 JUNE 2011
P/08/1075/VC	PARTIAL RELIEF FROM CONDITION 3 OF P/06/0357/FP (TO ENABLE SALE OF CHRISTMAS TREES IN DECEMBER ANUALLY), CHANGE OF USE OF SITE FOR THE KEEPING OF HORSES, RETENTION OF 3 MOBILE STABLES & CARAVAN, CONSTRUCTION OF MANEGE & DOG KENNEL
PERMISSION	12 NOVEMBER 2008
P/06/0357/FP	CHANGE OF USE OF SITE FOR THE KEEPING OF HORSES, (CHANGE OF USE OF YARD FOR EXTERNAL STORAGE – RELIEF FROM CONDITION 2 OF P/04/0613/FP), RETENTION OF 3NO. MOBILE STABLES, RETENTION OF CARAVAN, CONSTRUCTION OF MANEGE AND DOG KENNEL
PERMISSION	31 MAY 2006

6.0 Representations

6.1 Eighty-five letters of objection have been received raising the following material planning considerations:

- Concern over likely future use after expiry of 3-year period and if it may become a permanent arrangement.
- Possibility of alternative/additional caravans arriving on the site.
- Dedicated traveller/gypsy site at Tynefield, Whiteley Lane and Knares Hill, Botley Road.
- Fareham Local Plan has already made additional provision for transit and permanent gypsy pitches at Newgate Lane and Southampton Road. Further site therefore not required. FBC have already met their quota.
- Also many private residential caravan parks in the area.
- Could lead to development for future housing and/or continuation of adjacent proposed housing site (105 dwellings).
- Over-development of site.
- Visual impact. Out of character in terms of appearance compared with existing developments in vicinity. Loss of existing views from neighbouring properties.
- Would affect residential amenity - noise & disturbance. Currently a quiet, secluded residential area.
- Will there be adequate provision of sewage/mains water supply
- Litter & mess on site as created by previous temporary gypsy camps.
- Need more housing not sites for travellers.
- Approved plans for housing in the area, increasing population density already.
- Health, education, police & council services provision already stretched.
- Safety of children and pets living on site close to a busy road.
- Close to busy junction. Wedged between two busy roads.
- Segensworth Road is a major traffic conduit to A27 & M27 slip road & roundabout and proximity to commercial, business, offices and ONS causes significant traffic issues already.
- More traffic will be generated to access shops & schools from site.
- Traffic frequently backed up from traffic light control near 237 Segensworth Road back to Titchfield Park Road at peak times.
- Caravan accessing site will further obstruct traffic flow and create conflict & safety issues. Site access also crosses a busy pedestrian path.
- Concern over Segensworth Road and Titchfield Park Road being used as a 'rat run'.
- Emergency services access to area of concern.

7.0 Consultations

INTERNAL

Highways

- 7.1 No objection.

8.0 Planning Considerations

8.1 PLANNING HISTORY AND LAWFUL USE OF THE LAND

- 8.2 The application site comprises part of a larger parcel of land owned by the applicant and a small piece of land belonging to Hampshire County Council.
- 8.3 In March 2012 a planning application was submitted seeking permission for the use of the land for the stabling and grazing of horses including the retention of a mobile home in connection with an equine breeding business (our reference P/12/0259/FP). In October that year the Council refused the application and an enforcement notice was subsequently served to require the discontinuance of the land for the siting of the static caravan amongst other things.
- 8.4 An appeal was lodged and in May 2013 planning permission was granted by the Planning Inspector for a limited period of three years. In his decision letter the Inspector gave the view that the lawful use of the site at the time was as described in the enforcement notice, the description being derived from the grant of permission in 2006 (our reference P/06/0357/FP) as follows: "for the keeping of horses, retention of 3 mobile stables and a mobile caravan [not to be used as permanent living accommodation] and construction of manege and dog kennel". That use is still considered by Officers to be the lawful use of the land today, notwithstanding various unauthorised uses which have taken place on the site since that time.
- ### **8.5 IMPLICATIONS OF FAREHAM'S CURRENT 5-YEAR HOUSING LAND SUPPLY POSITION**
- 8.6 On the 24th July 2018, the Government published the revised National Planning Policy Framework (NPPF). The requirements set out in the revised NPPF (and the National Planning Practice Guidance (PPG)) change how Local Planning Authorities must calculate their housing need figure.
- 8.7 Previously, housing need was calculated through a process called Objectively Assessed Need. The requirement of the revised NPPF is for housing need to now be calculated by the new standard method which is set out in the PPG.
- 8.8 Use of the standard method applies from the date of publication of the new Framework and Guidance (24 July 2018), and as such the Council must now

determine its 5YHLS position using the local housing need figure calculated using the new standard method.

- 8.9 A report titled "Five year housing supply position" is reported for Members' information elsewhere on this Agenda. That report sets out this Council's local housing need along with this Council's current housing land supply position. The report concludes that this Council currently has 4.95 years of housing supply against the 5YHLS requirement.
- 8.10 On the 26th October, the Government issued a 'Technical consultation on updates to national planning policy and guidance.' The consultation on the proposed updates runs from 26 October 2018 until 7 December 2018. The introductory section of the consultation sets out the background for the consultation and the Government's priority to deliver more homes and to do so faster. The Government is of the view that the household growth projections published very recently by the Office for National Statistics, that predict a lower level of household growth than previously, does not mean fewer homes need to be built. The objective of the consultation proposes changes to the standard method to ensure consistency with the objective of building more homes. In the short-term, the Government proposes to use the 2014-based data on household growth to provide the demographic baseline for assessment of local housing need. Such an approach will further increase Fareham Borough Council's local housing need.
- 8.11 In the absence of a five year supply of deliverable housing sites, Officers consider that policy DSP40 is the principal development plan policy that guides whether schemes will be considered acceptable.
- 8.12 PRINCIPLE OF DEVELOPMENT IN RELATION TO HOUSING PROVISION
- 8.13 Policy CS2 (Housing Provision) of the adopted Core Strategy states that priority should be given to the reuse of previously developed land within the urban areas. Policy CS6 (The Development Strategy) goes on to say that development will be permitted within the settlement boundaries. The application site lies within an area which is outside of the defined urban settlement boundary and is not previously developed land as defined in the National Planning Policy Framework (NPPF).
- 8.14 Policy CS14 of the Core Strategy states that:

'Built development on land outside the defined settlements will be strictly controlled to protect the countryside and coastline from development which would adversely affect its landscape character, appearance and function.'

Acceptable forms of development will include that essential for agriculture, forestry, horticulture and required infrastructure.'

8.15 Policy DSP6 of the Local Plan Part 2: Development Sites and Policies states - there will be a presumption against new residential development outside of the defined urban settlement boundary (as identified on the Policies Map).

8.16 The development proposed comprises the change of use of the land for the stationing of a caravan which is a form of housing provision. The site is clearly outside of the defined urban settlement boundary and the proposal is therefore contrary to Policies CS2, CS6, and CS14 of the adopted Core Strategy and Policy DSP6 of the adopted Local Plan Part 2: Development Sites and Policies Plan.

8.17 POLICY DSP40

8.18 Policy DSP40: Housing Allocations, of Local Plan Part 2, states that:

"Where it can be demonstrated that the Council does not have a five year supply of land for housing against the requirements of the Core Strategy (excluding Welborne) additional housing sites, outside the urban area boundary, may be permitted where they meet all of the following criteria:

- i. The proposal is relative in scale to the demonstrated 5 year housing land supply shortfall;*
- ii. The proposal is sustainably located adjacent to, and well related to, the existing urban settlement boundaries, and can be well integrated with the neighbouring settlement;*
- iii. The proposal is sensitively designed to reflect the character of the neighbouring settlement and to minimise any adverse impact on the Countryside and, if relevant, the Strategic Gaps;*
- iv. It can be demonstrated that the proposal is deliverable in the short term; and*
- v. The proposal would not have any unacceptable environmental, amenity or traffic implications."*

8.19 Each of these five bullet points are worked through in turn below:

8.20 POLICY DSP40(i)

8.21 The proposal for one single additional residential unit is relative in scale to the 5YHLS shortfall and therefore bullet point i) of Policy DSP40 is satisfied.

8.22 POLICY DSP40(ii)

- 8.23 The site is part of a wider area of land that is surrounded by the urban settlement boundary, located further west of the site, the south east and to the north east. The site is in reasonable proximity to leisure and community facilities, schools and shops and would relate well to the existing urban area. Officers consider that the proposed development can be well integrated within the neighbouring settlement in accordance with point ii).
- 8.24 POLICY DSP40(iii)
- 8.25 The site is within an area of countryside but is not designated as strategic gap. Policy CS14 of the adopted Core Strategy confirms that built development will be strictly controlled to protect it from development which would "adversely affects its landscape character, appearance and function".
- 8.26 Due regard has been given to The Fareham Landscape Assessment 2017 (which is part of the evidence base for the published draft Fareham Local Plan 2036). The site lies within the LCA 5 Titchfield Corridor. The assessment of area 5.1a (which this site is located within) confirms that the area comprises an 'island' of landscape bounded by busy roads to the west and east (A27 Southampton Road, Segensworth Roundabout and Segensworth Road) and by the rear boundaries of housing along Titchfield Park Road to the south.
- 8.27 Reference is made to the woodland and dense cover of trees/scrub and the designated Sylvan Glade SINC. The assessment goes on to confirm that there is scope for development within this area which is of lower landscape sensitivity but stresses the importance of maintaining the well-treed character, green infrastructure and that the role of the area in separating settlements is not compromised and landscape and settlement character is enhanced.
- 8.28 Along the southern and western boundaries of the site are mature hedgerows which act to screen and soften the visual impact of the development. The caravan has been sited in the centre of the plot away from the boundaries.
- 8.29 Further consideration of the character and appearance of the development follows later in this report, however by virtue of the single storey scale of the unit, its position on the site and boundary vegetation the proposal minimises the adverse impact on the countryside such that it accords with the test set out at point iii) of DSP40.
- 8.30 POLICY DSP40(iv)

8.31 This fourth policy test concerns the short term deliverability of the proposal. In this regard and in this instance there is no conflict with this policy since the development has already been carried out.

8.32 POLICY DSP40(v)

8.33 The development is not considered to have any unacceptable environmental, amenity or traffic implications and is in accordance with this final policy test of Policy DSP40. The matter of recreational disturbance to the Solent Coastal Special Protection Areas is discussed later in this report.

8.34 CHARACTER AND APPEARANCE

8.35 As referred to above, Core Strategy Policy CS14 seeks to protect the countryside from development which would adversely affect its landscape character, appearance and function. In addition, Core Strategy Policy CS17 (High Quality Design) seeks to ensure that development will, amongst other things, be designed to "respond positively to and be respectful of the key characteristics of the area".

8.36 The current application seeks permission for a change of use of the land to allow the stationing of a caravan meaning the type, size and appearance of the mobile structure on the site could vary. The caravan that has been brought on to the site already and currently is stationed there is a significant sized twin unit mobile home which has the appearance of a detached bungalow. It is positioned centrally within the site and is therefore visible from several viewpoints outside of the site itself including through the entrance gates when open, from the adjacent A27 to the west and from the roundabout located to the north. Whilst hedgerow planting which has in recent years matured exists along the western site boundary and more well established planting lines the southern boundary of the blue edged land owned by the applicant, the northern boundary of the site is very sparse. The adjacent landowner who owns the site located between the applicant's land and the roundabout has recently undertaken significant works to reduce boundary hedgerows and vegetation increasing the visibility of the mobile unit from public vantage points. A planning application for a care home on the land to north is currently under consideration (planning reference P/18/0897/FP) and is reported elsewhere on this agenda.

8.37 Officers consider that the stationing of a caravan on the land causes some visual harm upon the character and appearance of the countryside as it currently exists. However, Officers note that the lawful use of the land could potentially carry with it a visual impact not dissimilar to the application proposal and this should be taken into account when considering the effect of

the proposed development. The lawful use is for "the keeping of horses, retention of 3 mobile stables and a mobile caravan [not to be used as permanent living accommodation] and construction of manege and dog kennel".

- 8.38 Furthermore, Officers acknowledge that development proposals for the land immediately adjacent to the north and south of the site are currently under consideration and both are reported for Members' consideration elsewhere on this agenda.
- 8.39 To the north of the application site on land on the south-eastern side of the A27 roundabout a care home is proposed (planning reference P/18/0897/FP). The care home is proposed to comprise 75-bedrooms in a single building ranging between 3 to 4 storeys in scale.
- 8.40 To the south of the application site lies land subject of a current outline planning application for 105 dwellings (planning reference P/18/0068/OA). Whilst all matters except for access are reserved an illustrative site plan submitted with the application demonstrates how the site could be laid out with housing a short distance from the party boundary.
- 8.41 Both of these sites, along with the application site at land west of 237 Segensworth Road, form part of a proposed housing allocation within the draft Fareham Borough Local Plan 2036. At this stage in the plan process only limited weight can be given to the proposed allocation and draft policies. However, the prospect of development coming forward on these adjacent sites is significantly raised by the draft allocation and current formal proposals at the point of determination. Were either of these developments on adjacent land to be permitted the context of the current application site would fundamentally change to a more urbanised location surrounded by built development. In particular the proposed care home would alter the perception of the site with the siting of a caravan being seen either against the backcloth or alongside the building or screened from view by that building.
- 8.42 The likelihood of this adjacent development coming forward and the consequential shift in the setting of the application site is a material consideration for Members in determining this planning application.
- 8.43 The application also seeks permission for the entrance gates already installed. The timber entrance gates are positioned set back from the adjacent highway and immediately next to the boundary wall, railings and gates of the neighbouring dwelling at 237 Segensworth Road. Officers do not consider the appearance of the gates to be harmful to the character of the area.

8.44 PRINCIPLE OF DEVELOPMENT IN RELATION TO ONE RESIDENTIAL FAMILY GYPSY PITCH

8.45 The government has published Planning Policy for Traveller Sites (PPTS) (last updated August 2015) which is to be read in conjunction with the NPPF which itself was revised in July this year.

8.46 Paragraph 23 of the PPTS sets out that "Applications should be assessed and determined in accordance the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites".

8.47 Paragraph 24 continues that:

"Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

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;

d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;

e) that they should determine applications for sites from any travellers and not just those with local connections."

8.48 Taking point a) firstly; the most up to date assessment of local provision and need is in the recently published Hampshire Consortium Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2016 - 2036 (May 2017) (GTAA). This assessment was published as part of the evidence base to support the draft Fareham Local Plan 2036.

8.49 The GTAA identified a need for 3 additional gypsy and traveller pitches in the Borough. This need was generated by the existing gypsy and traveller pitch on land south west of Burrridge Road from which it has been identified that additional pitches will be required to accommodate members of that family. This current application at Segensworth Road does not relate to that identified need and so should be considered as a windfall proposal on a site which is not currently or proposed to be allocated for this purpose.

8.50 On points b) and c) of Paragraph 24 of the PPTS, the personal circumstances of the intended occupants of the site are discussed below in a separate

section to this report. This is because such information need only be taken into account if the proposal is found not to be compliant with planning policy in general terms such that the personal circumstances of the applicant are then an important material planning consideration.

8.51 Paragraph 26 of the PTTS sets out further criteria and states that:

"When considering applications, local planning authorities should attach weight to the following matters:

- a) effective use of previously developed (brownfield), untidy or derelict land;*
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;*
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;*
- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community."*

8.52 This site is not previously developed, untidy or derelict land. The siting of the mobile home in the centre of the land holding does not attempt to make use of any existing features on the site to reduce its visual impact. No details have been provided as to any soft landscaping which would be carried out, in contrast a large area of the site has been hardsurfaced as described earlier in this report. High level entrance gates have been erected and, adjacent to the position of the caravan, an enclosed garden area created within the wider site which is bound by perimeter fencing and boundary treatment around the extent of the applicant's ownership. Whilst Officers are mindful of the importance of ensuring the property would be secure such features run contrary to the aims of point d) of the Paragraph 26. As a whole the submitted proposal fails to satisfy the considerations set out in Paragraph 26.

8.53 Consideration then falls to the relevant local plan policies on gypsy and traveller accommodation which are Policy CS19 of the adopted Fareham Borough Core Strategy and Policy DSP47 of the adopted Fareham Borough Local Plan Part 2: Development Sites and Policies.

8.54 The relevant section of Policy CS19 reads as follows:

"In identifying sites through the Site Allocations and Development Management Development Plan Document for Gypsies and Travellers and Travelling Showpeople, previously developed land within or on the edge of urban areas will be considered before sites in rural locations. The site must be suitable for this type of accommodation in that it meets the criteria below and

there is a realistic likelihood it will come forward during the plan period, taking into account site constraints such as flood risk, access to the highway network and infrastructure.

Planning permission will be granted where the following criteria can be met:

- The site is accessible to shops, schools and health facilities by public transport, on foot or by cycle;*
- In the case of Travelling Showpeople sites, the site includes sufficient space for storage and maintenance of equipment and the parking and manoeuvring of all vehicles associated with the occupiers;*
- The site is capable of being provided with adequate on - site services for water supply, power, drainage, sewage disposal and waste disposal facilities."*

8.55 The relevant part of Policy DSP47 meanwhile states that:

"Where an unallocated site is proposed for a permanent pitch or pitches, the Council will ensure that it:

- i. has regard to the Borough-wide objectively assessed need;*
- ii. is accessible to shops, schools, community and health facilities by public transport, on foot or by cycle;*
- iii. offers safe and convenient pedestrian, vehicular access and parking without unacceptable impact on highway safety;*
- iv. is capable of being provided with on-site services for water supply, power, drainage, sewage disposal and waste disposal facilities;*
- v. is well laid out and carefully designed;*
- vi. does not unacceptably harm visual amenity and includes adequate planting and landscaping, where necessary;*
- vii. does not cause harm to natural and/or heritage assets that cannot be satisfactorily mitigated and/or compensated; and*
- viii. is not located in areas at high risk of flooding or unstable land."*

8.56 The site lies within the countryside outside of the urban settlement boundaries. However, adjacent sites on the opposite sides of Segensworth Road and the A27 from the site lie within the urban area. In this respect the site can be said to have an edge of urban location. Access to the highway network, local facilities and shops is good. The current caravan sited on the land is adequately serviced and Officers have no concerns in this regard.

8.57 The identified need for sites for gypsy and traveller accommodation is already set out earlier in this report and with the exception of Policy DSP47 (vi) in relation to the visual impact of the development which is also discussed above, the proposal is considered to meet the remaining criteria of both of

these local plan policies. This must however be considered in the round as part of the Planning Balance which is summarised at the end of this report.

8.58 OTHER MATERIAL CONSIDERATIONS

8.59 TEMPORARY CONSENT

8.60 The covering letter accompanying this application explains that the applicant is seeking a temporary consent for 3 years "as the land is likely to be developed in the future for other uses". This is a reference to the fact that the site forms part of a wider draft housing allocation within the draft Fareham Borough Local Plan 2036.

8.61 Paragraph 27 of the PPTS states that "If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission".

8.62 As set out above, the GTAA identifies an unmet need for 3 further gypsy/traveller pitches in the Borough. Notwithstanding, the need identified which is specific to that generated by another existing site in the Borough would not be addressed by this proposal.

8.63 The immediate harm to the countryside character and appearance which is identified earlier in this report would not be mitigated by a temporary consent. However, the temporary nature of the proposal would mean that in the long term the visual impact of the development could be remedied relatively easily by the cessation of the use.

8.64 Officers note that the footnote to Paragraph 27 of the PPTS points out that "There is no presumption that a temporary grant of planning permission should be granted permanently". If planning permission was granted for a temporary period of three years, at the end of that period there would be no obligation for the Council to grant a permanent consent for the use of the site.

8.65 PERSONAL CIRCUMSTANCES OF OCCUPANTS

8.66 The applicant has submitted details of the personal circumstances of the occupants. Officers have sought advice from the Gypsy Liaison Officer at Hampshire County Council who has visited the site and interviewed one of the occupants.

8.67 The County Gypsy Liaison Officer has reported that he is in no doubt that the two occupants are of gypsy ethnicity. He is also of the view that both have

had a cultural lifestyle of living in traditional touring caravans and mobile homes although evidence of a more recent nomadic lifestyle is lacking. He further notes that the occupants have travelled and intend to travel for economic purposes in the future but would like to settle down for their stability and health and the education of any future family. There is however some concern in relation to the occupants meeting the definition of gypsies and travellers for planning purposes provided at Annex 1: Glossary of the PPTS in that neither has presented a case for ceasing to travel temporarily for educational, health needs or old age.

- 8.68 The Glossary to the PPTS reads that, "For the purposes of this planning policy "gypsies and travellers" means:

"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) whether they previously led a nomadic habit of life*
- b) the reasons for ceasing their nomadic habit of life*
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances."*

- 8.69 The County Gypsy Liaison Officer has commented that, whilst there is some evidence to support the considerations a) - c) above there is currently insufficient evidence to support compliance with the definition in place and required for planning purposes. However, in support of a temporary permission, he is sure that as time passes their family circumstances and compliance may be more evident.

- 8.70 The applicant has been invited to provide additional evidence in support of the application and in response to the report by the County Gypsy Liaison Officer. Such evidence may be in the form of a further interview with the applicant, a further interview with the other occupant of the site or further demonstration of their travelling for economic purposes. The applicant has declined to provide further information and has requested instead that the application be determined on the basis of the information already supplied.

8.71 In the absence of sufficient information Officers consider that only limited weight may be ascribed to the personal circumstances set out in the application as presented due to concerns over whether the occupiers meet the definition of gypsies and travellers as set out in the PPTS above. It therefore does not fall to be considered whether suitable alternative accommodation is available to the occupants or for other personal circumstances to be taken into account.

8.72 RECREATIONAL DISTURBANCE ON THE SOLENT PROTECTION AREAS

8.73 Policy DSP15 (Recreational Disturbance on the Solent Protection Areas) of the adopted Fareham Borough Local Plan Part 2: Development Sites and Policies explains that planning permission for proposals resulting in a net increase in residential units may be permitted where the 'in combination' effects of recreation on the Special Protection Areas are satisfactorily mitigated through the provision of a financial contribution to the Solent Recreation Mitigation Project (SRMP). The proposal involves a net increase of one residential unit. The applicant would be required to make a financial contribution through the SRMP to offset the cumulative effects identified.

8.74 To fulfil the requirement under the Habitat Regulations Officers have carried out an Appropriate Assessment in relation to the likely significant effects on the SPAs and have concluded that subject to the application's compliance with the Solent Recreation Mitigation Strategy there would be no adverse effect on the integrity of the designated sites.

8.75 HUMAN RIGHTS ACT

8.76 Members are advised that Articles 8 and 14 of the Human Rights Act 1998 ("the HRA") apply and should be taken into account as a material consideration in determining this planning application.

8.77 Article 8 (Right to respect for private and family life) reads:

"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 freedom of others."

8.78 Article 14 (Prohibition of Discrimination) meanwhile states that:

"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."

8.79 Case law has found that "home" in Article 8(1) includes a mobile home, and that what potentially could be disrespected by the Committee's decision is the occupant's right to live in that home.

8.80 Having established that Article 8(1) is engaged, the question that the committee must consider is that raised in 8(2) above.

8.81 The proper regulation of planning control in accordance with the law is recognised as a legitimate aim in the public interest. However any planning decision that amounts to the interference with an individual's Article 8 rights must be necessary and proportionate in the particular circumstances of the case. Thus the Committee must carry out a balancing exercise in making its decision: it must weigh up the requirements of national and local planning policies against the rights and needs of the occupants of the site as gypsies.

8.82 The decision must be proportionate, that is, a fair balance must be struck between the interference with the applicant's rights and the legitimate aim of the Council in the public interest pursuant to the legislation.

8.83 Article 14 applies so that in carrying out the above exercise under Article 8, Members must ensure they do not discriminate against the applicant or occupants i.e. give them less favourable treatment than they would do to another applicant because of their identity as gypsies or for any other of the reasons set out in Article 14.

8.84 EQUALITY ACT 2010

8.85 Members are reminded that there is a general statutory duty not to discriminate against people of other racial groups. Romany gypsies and Irish travellers have been specifically recognised as distinct ethnic groups protected by the Act.

8.86 Moreover the Council has a duty to comply with the public sector equality duty (PSED) in section 149 of the Equality Act 2010:

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.*

8.87 Notwithstanding that the County Council Gypsy Liaison Officer has raised concern in relation to the occupants meeting the definition of gypsies and travellers for planning purposes provided at Annex 1: Glossary of the PPTS, the applicant and other occupier of the site are of gypsy ethnicity and so have a protected characteristic for the purposes of the PSED.

8.88 SUMMARY AND PLANNING BALANCE

8.89 Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out the starting point for the determination of planning applications:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

8.90 This report identifies that the proposal complies with the criteria set out in Policies CS19 & DSP47 in relation to sites for gypsy and traveller accommodation. However, it also sets out that the proposal comprises a form of housing development which is contrary to those policies of the adopted local plan which seek to resist new residential development outside of the existing urban settlement boundaries. The development causes harm to the character and appearance of the area as a result of the development contrary to local plan policies.

8.91 Other material considerations have been discussed. No weight can be given to the unmet need for gypsy and traveller pitches identified in the GTAA since that need is specific and would not be met by this proposal. Additionally, in relation to the definition provided in the Glossary to the PPTS, the applicant has failed to provide satisfactory information to demonstrate that the personal circumstances of the occupants should be taken into account.

8.92 The proposal makes a very modest contribution of just one residential unit towards the Council's five-year supply of deliverable housing sites. This benefit would be limited by virtue of the temporary nature of the permission being sought. However, similarly limited would be the harm to the character

and appearance of the area and incursion into the countryside identified earlier in this report. If permission was granted the Council would retain control to require the land to be reinstated to its previous lawful use after the expiration of three years. Officers have noted that the lawful use of the land, which allows for the stationing of a caravan for non-residential purposes and the siting of mobile stables, could also have a visual impact of its own.

- 8.93 On balance, Officers consider that the harm identified to the countryside and its character and appearance would be limited to the short term and would not be so great so as to make the development unacceptable for a period of three years. During that time there is the prospect of the development on adjacent land proposed in the two current applications pending determination coming forward. Such development would potentially have a material urbanising effect on the character and appearance of the surrounding area. The extent to which this may alter the visual impact of the siting of a caravan on this site would be a matter to consider at the end of the temporary period of consent should a further application be received requesting use of the land on a permanent basis. As a result it is considered that the material considerations set out above, when considered alongside the adopted development plan as a whole, carry sufficient weight to indicate that planning permission should be granted in this instance.
- 8.94 This recommendation is made on the basis of the visual impact of the development being mitigated by virtue of its temporary nature. The harm identified is not considered to be outweighed by virtue of any policy or other material considerations concerning the provision of gypsy and traveller accommodation. For that reason it is not proposed to include a planning condition limiting the occupation of the site to solely those persons meeting the PPTS definition of gypsies and travellers since that is not considered to alter the planning balance in any way.
- 8.95 As set out earlier in this report, Officers consider that the implications of the CJEU judgement (People Over Wind, Peter Sweetman v Coillte Teoranta) and paragraph 177 of the NPPF mean that the presumption in favour of sustainable development imposed by paragraph 11 of the same Framework is disapplied.
- 8.96 In the event that this approach is subsequently found to be incorrect as a consequence of a Court decision or a clarification in government policy, Officers have considered the application in the alternative and assessed the proposals against the 'tilted balance' test set out at paragraph 11 of the NPPF.

8.97 In undertaking a detailed assessment of the proposals throughout this report and now applying the 'tilted balance' to those assessments, Officers consider that:

(i) there are no policies within the National Planning Policy Framework that protect areas or assets of particular importance which provide a clear reason for refusing the development proposed; and

(ii) any adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole.

8.98 Therefore, even if paragraph 11 of the NPPF were fully engaged, Officers find that having applied the 'tilted balance', they would have similarly concluded that planning permission should be granted for the proposals.

9.0 Recommendation

9.1 GRANT TEMPORARY PLANNING PERMISSION, subject to:

- the applicant completing a legal agreement under Section 111 of the Local Government Act 1972 and making a financial contribution in accordance with the adopted Solent Recreational Mitigation Strategy December 2017;

- and the following conditions:

1. The development hereby permitted shall be carried out strictly in accordance with the following drawings/documents:

a) Drawing no. 15_760_001 B - Location Plan - received 20th June 2018

b) Drawing no. 15_760_003 Revision A - Proposed Site Plan - received 18th June 2018

c) Drawing no. 15_760_006 - Proposed Entrance Gates - received 18th June 2018

REASON: To avoid any doubt over what has been permitted.

2. The use hereby permitted is granted for a limited period only expiring on a date at the end of a period of three years from the date of this decision. On or before this date, the use shall cease and any development carried out in pursuance of this permission shall be demolished, materials removed from the site, and the land restored to its former condition.

REASON: To retain planning control over the use hereby permitted and to enable the circumstances leading to the grant of permission to be reviewed.

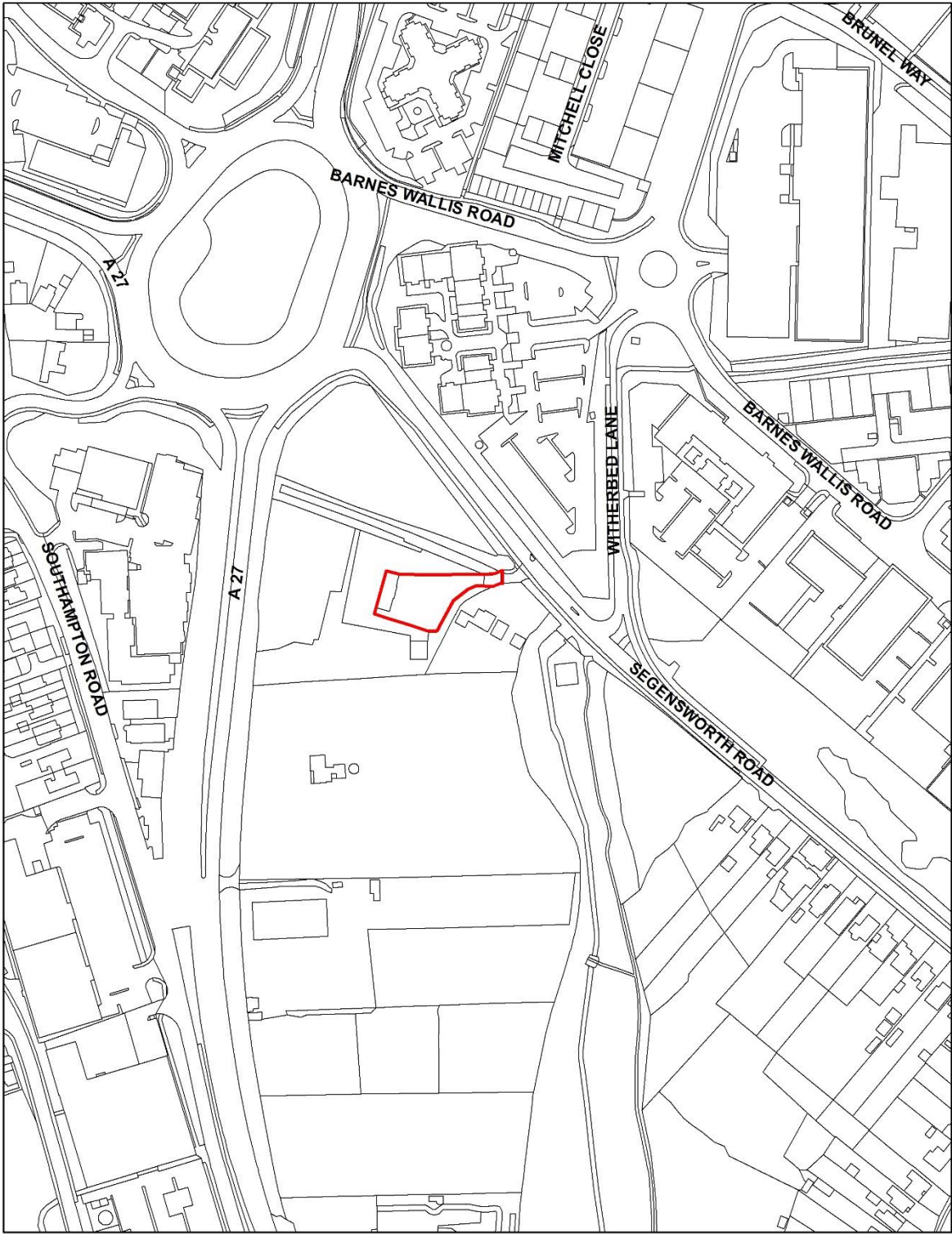
3. No more than two caravans, as defined in the Caravans Sites and Control of Development Act 1960, and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan) shall be stationed on the site at any time.

REASON: To enable the local planning authority to maintain control in the interests of the amenity of the area.

11.0 *Background Papers*

11.1 P/18/0473/CU

FAREHAM
BOROUGH COUNCIL



Land to West of
237 Segensworth Road
Scale: 1:2,500



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