



## Appeal Decision

Hearing held on 29 November 2022

Site visit made on 29 November 2022

**by Joanna Gilbert MA (Hons) MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 January 2023**

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**Appeal Ref: APP/L3815/W/21/3268916**

**Land south of The Stables, Scant Road East, Hambrook, West Ashling, Chichester, West Sussex PO18 8UB.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Michael and Mr Miley Connors against the decision of Chichester District Council.
  - The application Ref FU/20/00534/FUL, dated 19 February 2020, was refused by notice dated 7 September 2020.
  - The development proposed is change of use of land to use as a residential caravan site for two gypsy families, including the laying of hardstanding, erection of boundary wall and, construction of two ancillary amenity buildings.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The access serving the site and the neighbouring gypsy and traveller sites has already been implemented, along with the erection of stone walls and gate posts adjacent to the access. However, the site is not yet occupied.
3. After the hearing, I wrote to the main parties to progress matters pertaining to recreational disturbance and nutrient neutrality. I requested a final draft legal agreement and final draft condition by 14 December 2022. As no further documentation was provided by the aforementioned deadline, I closed the hearing on 16 December 2022 and have proceeded to reach my decision.

### Main Issues

4. The main issues in this appeal are:
  - a) the effect of the proposal on the character and appearance of the area;
  - b) the effect of the proposal on the Chichester and Langstone Harbours Special Protection Area, with regard to recreational disturbance;
  - c) the effect of the proposal on the Chichester and Langstone Harbours Special Protection Area, with regard to nutrient neutrality;
  - d) the effect of the proposal on groundwater sources;
  - e) the appropriateness of the location for the proposal in the countryside, having regard to access to local services and facilities;

- f) whether the proposal, together with nearby gypsy and traveller sites, would dominate the settled community;
- g) the effect of the proposal on the living conditions of future occupiers, with regard to outdoor space;
- h) the effect of the proposal on highway safety; and
- i) whether any harm identified, including conflict with the development plan, would be outweighed by other considerations.

## **Reasons**

### *a) Character and appearance*

5. The area is characterised by undulating countryside with fields of varying sizes separated by fences, hedgerows, and trees. The site lies off Scant Road East, a rural road, which serves farms, existing gypsy and traveller pitches, and a few houses. The site lies between two existing gypsy and traveller sites. Beyond the southern gypsy and traveller site, fields and trees adjoin the A27.
6. The site consists of a small, narrow piece of land. The Council has confirmed that the site used to contain a group of trees and acted as a buffer between the adjoining pitches. The site is laid out with hardcore and is bounded by fencing to the north and east, and a hedgerow, drainage ditch, and trees to the south.
7. The site's western end at Scant Road East is bounded by existing high stone walls and gate posts topped with red bricks. These boundary treatments reflect what I am considering as part of this appeal. The walls and gate posts are in four substantial sections and exceed two metres in height, providing enclosure for the entrances to the existing northern and southern pitches and the site. Beyond the gate posts and walls, existing adjacent pitches are enclosed further by fencing and brick walls. The Council confirmed that the two southern sections of walls and gate posts are subject to enforcement action.
8. Based on what I saw on site and the location of the site between other authorised gypsy and traveller sites, infilling with two additional pitches would have little or no effect on the character and appearance of the area.
9. However, the Council's sole concern in respect of character and appearance stems from the stone and brick walls and gate posts. I saw a mixture of boundary treatments and gates in the locality, including tall metal gates, ornamental metal gates and brick piers, brick and flint walls, timber fencing, and hedges. Notwithstanding the mixture of boundary treatments, I saw nothing similar to the stone and brick walls and gate posts, in terms of height, detailed design, materials, and their imposing nature.
10. The erection of the walls and gate posts has not involved the loss of any hedgerow and they serve to unify the three gypsy and traveller sites and provide privacy and security. Furthermore, the walls and gate posts obscure views of existing caravans and structures on the neighbouring pitches and would do the same in respect of the pitches proposed, including the substantial pitched roofed utility block which would be located close to the site's entrance. However, the walls and gate posts appear to be starkly different from the surrounding boundary treatments and from the relatively verdant nature of

Scant Road East. Notwithstanding their screening effect, they urbanise this location and represent a negative addition to the streetscene.

11. In conclusion, I find that the proposal would, solely by reason of the stone and brick walls and gateposts, have a harmful effect on the character and appearance of the area. Consequently, it would fail to comply with Policies 33, 45 and 48 of the Chichester Local Plan: Key Policies 2014-2029 (Local Plan) and paragraph 130 of the National Planning Policy Framework (the Framework). These policies require that, amongst other things, proposals meet the highest standards of design, including detailed design and materials, and have regard to the character of the surrounding area and its landscape setting.

*b) Recreational disturbance*

12. Natural England has advised that the complex of environmental sites likely to be affected by the proposal consist of Chichester Harbour Site of Special Scientific Interest, Chichester and Langstone Harbours Special Protection Area (SPA), Chichester and Langstone Harbours Ramsar site, and Solent Maritime Special Area of Conservation, though reference is only made to the Chichester and Langstone Harbours SPA in the reasons for refusal. Main issues b) and c) therefore relate respectively to the issues of recreational disturbance and nutrient neutrality for the Chichester and Langstone Harbours SPA.
13. The Chichester and Langstone Harbours SPA provides a range of intertidal and terrestrial habitats subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The SPA has been designated to safeguard overwintering and breeding avian species which frequent the mudflats, sandflats, seagrass beds, marshes, shingle beds and ridges for feeding, roosting, and breeding.
14. Local Plan Policy 50 deals with development and disturbance of birds in the SPA. It confirms that all net increases in residential accommodation are likely to have an in-combination effect on the protected bird species within the SPA. This is due to recreational disturbance from a growing population, including increased levels of walking, dog walking, boating and other watersports.
15. I consider that there remains a probability or risk that the proposal, in combination with other plans or projects, could have a likely significant effect on the SPA, as it would be likely to exacerbate existing recreational pressures. I am therefore required to carry out an appropriate assessment.
16. It is necessary for me to consider whether any potential effects could be mitigated. To mitigate the effect of recreational disturbance, the Solent Recreation Mitigation Partnership has developed the Bird Aware Solent scheme. This includes measures to avoid any net increase in recreational disturbance, such as wardening, education, green infrastructure improvements and monitoring.
17. Natural England confirmed on 16 November 2022 that if sufficient financial contributions were appropriately secured, mitigation measures would be in place to avoid adverse impact in terms of recreational disturbance. The appellants supplied an initial draft legal agreement immediately before the hearing to provide monies to mitigate the effect of recreational disturbance. However, this legal agreement was not completed. Consequently, there is no

mechanism in place to secure mitigation measures for recreational disturbance. As such, adverse effects on the integrity of the SPA would not be avoided.

18. In conclusion, the proposal would have a negative effect on the Chichester and Langstone Harbours SPA, with regard to recreational disturbance. Accordingly, it would fail to comply with Local Plan Policy 50, paragraphs 180 and 181 of the Framework, and the requirements of the Habitats Regulations. Paragraphs 180 and 181 of the Framework deal with sites of nature conservation importance.

*c) Nutrient neutrality*

19. Turning to the matter of nutrient neutrality, the proposal comprises new residential development with additional occupiers and therefore additional wastewater generation. This is of concern given that Natural England has advised that a net increase in residential development within the catchment area is likely to have significant effects on nutrient water quality and upon the aforementioned SPA in the main issue above.
20. Without mitigation, the proposal presents a likely significant effect on the integrity of the SPA, when the impacts are considered in combination with other residential developments in the area. Therefore, it is necessary for me to undertake an appropriate assessment.
21. The evidence provided to address this main issue has evolved during the appeal. Initially, a package treatment plant (PTP) was proposed off-site and later the appellant suggested a PTP on-site and off-site mitigation in the form of tree planting on a nearby paddock under the same ownership, but outside the site. A legal agreement to secure this mitigation was provided in draft form prior to the hearing, but was not updated following the hearing.
22. On 16 November 2022, Natural England noted that the appellant had used outdated nutrient neutrality guidance<sup>1</sup>. Furthermore, Natural England advised that while the provision of a PTP and off-site land-use change mitigation measures is a suitable approach in general, there is insufficient evidence provided to support a conclusion of nutrient neutrality and no adverse effect on integrity at this stage. Natural England pointed to a lack of data on the PTP's efficiency and raised concerns about PTP failure rates and the need to monitor and maintain PTP in perpetuity. If provided off-site, the management of the PTP may not be appropriately legally secured and it may be replaced by an alternative, less efficient PTP.
23. Following Natural England's advice, the appellants now propose an on-site PTP and have provided information on the PTP's operation and efficiency. They have also used the latest Natural England guidance<sup>2</sup> to calculate the proposed PTP's effectiveness and any remaining need for mitigation to ensure nutrient neutrality. The appellants propose off-site mitigation by means of the provision of land south of the site for tree planting.
24. This mitigation would need to be secured. I have not sought Natural England's views for a second time as the parties failed to provide me with a draft final legal agreement in accordance with the timetable set out following the hearing. Furthermore, this would not be suitably addressed by condition as I am not convinced that the delivery, management, and maintenance of the off-site

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<sup>1</sup> Advice on Achieving Nutrient Neutrality in the Solent Region, June 2020.

<sup>2</sup> Advice on Achieving Nutrient Neutrality for New Development in the Solent Region, March 2022.

mitigation would be secured appropriately. In any event, I have not been provided with such a condition.

25. Given the failure of the proposal in this regard, allowing it would be contrary to the Habitats Regulations and the precautionary principle embedded within the Habitats Directive. I cannot be certain that there would be no adverse effect on the integrity of the SPA with regard to nutrient neutrality.
26. I conclude that it has not been demonstrated that the proposal would not have a negative effect on the Chichester and Langstone Harbours SPA, with regard to nutrient neutrality. It would therefore conflict with paragraph 180 of the Framework which deals with sites of nature conservation importance.

*d) Groundwater*

27. The site is located within Source Protection Zone 1C. The Council has expressed concern that insufficient information has been submitted to assess if the proposal can meet requirements to prevent, minimise and/or control pollution. Given that the PTP and the off-site mitigation works have not been secured, it is not clear that the proposal would not cause harm to health, living conditions and the natural environment. However, if the nutrient neutrality issues had been satisfactorily resolved, this main issue on groundwater would have been satisfied.
28. In conclusion, it has not been demonstrated that the proposal would avoid harm to groundwater sources. It would therefore conflict with Local Plan Policy 42, which amongst other things deals with the need to improve the environmental quality of watercourses. It would fail to comply with chapter 15 of the Framework, which deals with conserving and enhancing the natural environment, with particular reference to paragraph 180 as noted above.

*e) Location*

29. Amongst other things, paragraph 25 of the Planning policy for traveller sites (PPTS) states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local Plan Policy 36 includes criteria for determining applications for gypsy and traveller pitches. Criterion 1 confirms that sites should be well related to existing settlements with local services and facilities. Sites should either be within or close to such settlements or with good access to major roads and/or public transport thus affording good access to local services.
30. Lying in Funtington parish, the site is in the countryside and outside any settlement boundary. It is south of West Ashling Road, north of the A27, and east of Scant Road East. Authorised gypsy and traveller pitches lie to the north, south, east and west. The village of West Ashling is located to the north-east.
31. An appeal<sup>3</sup> for a gypsy and traveller site for 10 caravans was allowed south of the site in 2017. That appeal referred to it being common ground that the site was reasonably well related to services and facilities. The Council also noted a further appeal (No 5) in Appendix 4 of their Statement of Case, but that appeal has not yet been determined.

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<sup>3</sup> APP/L3815/W/16/3148352, decision issued on 7 February 2017.

32. In terms of nearby services and facilities, the closest settlement is West Ashling, some 0.8 miles away. There are only limited services and facilities there, including The Richmond Arms (a public house and restaurant), Funtington Primary School, and a bus stop on Mill Road. However, there are no regular bus services. Furthermore, there are no footpaths to the village and the roads are generally unlit. Some 3 miles from the site, Southbourne has a greater range of services, including healthcare, shops and a secondary school. Nutbourne and Bosham offer the closest railway stations.
33. In the circumstances described, the site's future occupiers would be unlikely to be able to walk safely to the limited facilities in West Ashling. There would be likely to be a reliance on the private motor vehicle for trips to services and facilities in the nearest settlements. However, as highlighted in the costs<sup>4</sup> and appeal<sup>5</sup> decisions supplied, it is not uncommon for such uses to be located in rural settings and for site occupiers to be reliant on the private car for most of their day-to-day journeys. As noted in the Shawbury appeal, this extent of reliance on use of the car is not unusual in a mainly rural area. Furthermore, and as in the Shawbury appeal, the distances involved in this appeal are not excessive by rural standards. This is consistent with paragraph 105 of the Framework which confirms that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. I see no reason to deviate from the Inspector's findings for the neighbouring 2017 appeal that the site is reasonably well related to services and facilities.
34. I conclude that the proposal would be in an appropriate location, having regard to access to local services and facilities. It would therefore not be contrary to Local Plan Policy 36 and paragraph 25 of the PPTS, as set out above.

*f) Effect on the settled community*

35. PPTS Policy C, paragraph 14 states that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community. PPTS paragraph 25 also confirms that, amongst other things, local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing undue pressure on local infrastructure. Criterion 6 of Local Plan Policy 36 states that in rural and semi-rural areas sites should not dominate the nearest settled or Gypsy, Traveller, and Travelling Showpeople communities.
36. The site lies within a rural parish, where there is no defined settlement boundary. Much of the parish's development is located in East and West Ashling and in Funtington. Outside these small settlements, development is sporadic and consists of either individual scattered properties or small groupings of development along roads.
37. The Council has assessed postcode areas and has referred to the site's postcode area and two adjoining postcode areas. The bricks and mortar properties within the three postcode areas total 24 properties. In contrast, the existing adjacent gypsy and traveller pitches are clustered in a 4 hectare site.

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<sup>4</sup> Costs Decision for APP/L3815/W/18/3209147 and APP/L3815/W/18/3209145, decisions issued 12 September 2019.

<sup>5</sup> APP/L3245/A/14/2215836, decision issued 26 September 2014 (Shawbury); and APP/J0405/C/13/2193582 and APP/J0405/C/13/2193601, decisions issued 6 September 2013.

38. The Council referred to a nearby appeal<sup>6</sup> decision at Newells Lane. In that appeal, the Inspector included scattered dwellings, Edith Cottages, and other properties within the western side of West Ashling as forming the local settled community. However, it is not clear which properties were included and what evidence was before that Inspector. As such, I must reach my own conclusion based on the evidence before me in this appeal.
39. Using Council data, Funtington Parish Council (FPC) has provided figures for existing authorised gypsy and traveller pitches at district, parish and local level. FPC has provided the potential average numbers of occupiers per pitch, but this is based on a multiplier, rather than survey work. It is not possible to corroborate these assumptions, which indicate a minimum population of 156 on authorised pitches with 4 occupants per pitch and a maximum population of up to 408 people on authorised and unauthorised pitches at 6 occupants per pitch.
40. FPC also provides detail about the existing settled population in and around West Ashling. Based on the 2011 Census, there were 340 residents in 140 households in West Ashling. A further 37 residences are located on West Ashling Road, Scant Road East, Newells Lane, Southbrook Road, and at Edith Cottages. Estimating by means of Census household data for West Ashling, FPC suggests that there would be some 90 occupants of these properties. FPC estimates that around 430 people form the local settled population.
41. I appreciate that matters have moved on since the 2017 appeal on the adjoining site. It is evident from the data provided by the Council and FPC that there is a high concentration of gypsy and traveller pitches, both authorised and unauthorised, in and around West Ashling and in the wider parish. However, without detailed survey work to understand the true size of the gypsy and traveller population locally with reference to the number of occupants per pitch, the population figures provided by FPC are simply estimates.
42. The proposal would numerically increase the existing numbers of gypsies and travellers resident locally by only a very small number. Furthermore, the proposal would fill a narrow gap between other pitches and would be seen together with existing pitches on Scant Road East, but not from West Ashling itself or from West Ashling Road. It would not be closer to existing sporadic residential development than existing gypsy and traveller sites. Its visual and spatial effect on the surrounding settled community would not therefore be harmful in scale, despite the loss of a formerly wooded area. Additionally, there is no evidence before me that there is any undue pressure on local infrastructure, including road capacity.
43. In conclusion, the proposal, together with nearby gypsy and traveller sites, would not dominate the settled community. It would comply with Local Plan Policy 36 and paragraphs 14 and 25 of the PPTS as set out above.

*g) Living conditions*

44. The Council's concerns about living conditions pertain to the site's capacity for pitches, soft landscaping and amenity space. The Council referred to appeal<sup>7</sup> decisions at Melita Nursery with regard to spaciousness of pitches. Without plans for those appeals, it is not possible to compare the sites.

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<sup>6</sup> APP/L3815/W/19/3220300, decision issued 1 November 2019.

<sup>7</sup> APP/L3815/W/20/3254057 and APP/L3815/W/20/3257880, decisions issued 28 July 2022.

45. However, having compared the proposal with surrounding pitches to the north and south, it does not appear to be markedly different from some authorised pitches. There would be space for parking and some amenity space in addition to the siting of caravans and utility blocks. Furthermore, the proposal would be consistent with model standards for caravan sites. Consequently, the site would neither be unduly cramped nor have an undesirable layout.
46. I conclude the proposal would not have a harmful effect on the living conditions of future occupiers, with regard to outdoor space. It would comply with Local Plan Policy 36 and PPTS paragraph 26. Policy 36 requires, amongst other things, that acceptable amenity is provided for proposed residents. Paragraph 26 looks for sites to be well planned or soft landscaped to positively enhance the local environment and increase its openness, and to promote opportunities for healthy lifestyles, such as adequate landscaping and play areas for children.

*h) Highway safety*

47. Scant Road East is a relatively narrow road at national speed limit. It travels southwards from West Ashling Road and bends tightly prior to continuing to its terminus adjacent to a tree belt and the A27. There is no access to the A27 from Scant Road East. Accessed from Scant Road East only, the site's access is shared with two adjoining gypsy and traveller sites. A wide area of tarmac has been laid on one side of the bend in the road to allow for access to the three sites. The entrances to the existing and proposed gypsy and traveller sites are demarcated by existing high stone walls and gateposts.
48. The local highways authority West Sussex County Council (the County Council) has considered the existing widening of the access off Scant Road East and the stone walls and gateposts. The works have been carried out without a crossover licence from the County Council. Consequently, the County Council considers that if planning permission were granted, the appellants should apply for a crossover licence to regularise the works. Furthermore, as part of the wall has encroached onto the highway, the County Council has confirmed that the relevant section of wall should be removed or an application should be made for that part of the highway to be stopped up via the Magistrates' Court under Section 116 of the Highways Act 1980. This is outside the planning process.
49. No concerns have been raised by the County Council in respect of visibility along Scant Road East. The County Council's consultation response also states that the proposal would not have an unacceptable impact on highway safety or result in severe cumulative impacts on the operation of the highway network. The County Council therefore considers it is not contrary to paragraph 111 of the Framework, and that there are no transport grounds to resist the proposal.
50. The Council confirmed at the hearing that their concern centred on the absence of the crossover licence and encroachment of the wall on the highway, rather than a specific concern about highway safety. During my site visit, I did not discern any particular issues with highway safety which would cause me to question the County Council's view. Notwithstanding the failure to apply for a crossover licence or the stopping up of the highway thus far, it is difficult to see how the reason for refusal can be substantiated in this instance.
51. I conclude that the proposal would not have a harmful effect on highway safety. It is therefore consistent with Local Plan Policy 39 insofar as it addresses the need for safe and adequate means of access and internal

circulation/turning arrangements for all relevant modes of transport, and with paragraph 111 of the Framework as set out above.

*i) Other considerations*

52. Section 38(6) of the Planning and Compulsory Purchase Act 2004 confirms that 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. To this end, I now turn to the other considerations put forward.

*Need*

53. The PPTS confirms that local planning authorities should identify and annually update a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. Local Plan Policy 36 addresses the need for and provision of sites for gypsies, travellers and travelling showpeople from 2012 to 2027. It requires 59 additional pitches for gypsies and travellers, including 37 pitches prior to 2017. It refers to sites being allocated in a Gypsy, Traveller and Travelling Showpeople Site Allocation Development Plan Document (GTTSSA), if there is a shortfall in provision. The Council accepts that the data within this policy is now out of date and is developing a new Local Plan and GTTSSA. Neither document has been submitted for examination.
54. The Council produced a Gypsy, Traveller and Travelling Showpeople Assessment 2019 (GTAA) to support the development of its emerging Local Plan. This is now being revised. However, the 2019 GTAA identifies a requirement for a further 66 pitches in the five years from April 2018 to March 2023. Since April 2018, 59 pitches have been approved. The Council has confirmed that this results in a remaining unmet need of seven pitches, plus an additional six pitches between April 2023 and March 2026. The Council's figure for overall unmet need to March 2026 is therefore 13 pitches.
55. It was highlighted at the hearing that the overall shortfall of 13 pitches was not necessarily accurate and could be greater than this number. It is agreed that the Council does not currently have a five-year supply of specific deliverable sites, as required by the PPTS. Despite the small number of pitches proposed, they would contribute towards reducing the identified shortfall and can be delivered prior to the delivery of the GTTSSA. The unmet need for gypsy and traveller pitches is of significant importance. I afford this significant weight.

*Alternative sites*

56. I asked about the possibility of alternative sites being suitable or available. The appellants had not found any alternative sites that would be suitable in the particular personal circumstances of the intended occupiers. There were no other authorised sites which would allow the intended occupiers to live close to their family and to local schools. A recently approved site on Newells Lane is not available. Previous appeals<sup>8</sup> were also highlighted which address the lack of turnover on public sites and length of waiting lists for those sites. This absence of suitable and available alternative sites provides significant weight in support of the proposal.

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<sup>8</sup> APP/L3815/W/18/3209147 and Appeal Ref: APP/L3815/W/18/3209145, decisions issued 12 September 2019.

### *Personal circumstances*

57. At the hearing, it was clarified that the first pitch is intended to accommodate the daughter and grandchild of one of the appellants. The second pitch is intended for occupation by the aforementioned grandchild when they are old enough to require their own pitch. For the intervening years, it is likely that the second pitch would be occupied by other unspecified family members at times.
58. At present, the intended occupiers of the first pitch live locally on an unauthorised site and are doubling up. A settled base would provide improved quality of life and stability for the intended occupiers of the first pitch and avoid them resorting to a roadside existence. As there are no named individuals intended to occupy the second pitch for the time-being, there are no specific personal circumstances to afford weight to in respect of the second pitch.
59. I have regarded no other consideration as inherently more important than the best interests of the child and, prior to my assessment of their individual circumstances, none have been given greater weight. However, the best interests of the child will not always outweigh other considerations including those that impact negatively on the environment.
60. The appellants have identified that one child would live on the first pitch, with scope for unspecified children to live on the second pitch from time to time. No specific needs were mentioned in relation to the individual child, who attends a local school. I accept that a settled base without overcrowding would be in their best interests for their mental and physical well-being and development and for continuing stable access to local education.
61. I give the personal circumstances of the intended occupiers of the first pitch significant weight.

### *Planning Balance*

62. Based on the evidence before me, there is a shortfall of at least 13 pitches for gypsies and travellers in the Council's area, but this shortfall could be greater in number. Significant weight is attached to the benefits of the additional pitches. I also attach significant weight to the lack of alternative sites and to the personal circumstances of the intended named occupiers of the first pitch.
63. In terms of those main issues where I have found harm, I afford only moderate weight to the harm to the character and appearance of the area. However, I attach substantial weight to the harm in terms of recreational disturbance, nutrient neutrality, and groundwater.
64. Given the harms I have found in this instance, a permanent planning permission is not appropriate. Neither party sought a temporary permission but I have considered whether such a permission would protect the public interest by a means that would interfere less with the intended occupants' human rights and thus be a more proportionate response. It is not evident that personal circumstances will change significantly in the next few years, with need for education likely to continue beyond that time period. However, there is little justification for a temporary permission that would cause harm to character and appearance, recreational disturbance, nutrient neutrality, and groundwater, even on a short-term basis. It would not therefore be a necessary or proportionate response. Similarly, I have considered a personal permission, but the negative effects of this could be long-lasting in terms of the

harms I have identified and the identified personal circumstances are not sufficient to outweigh the harms.

65. Having had regard to all material considerations, the aims of avoiding harm to the character and appearance of the area, recreational disturbance, nutrient neutrality, and groundwater can only be addressed by dismissal of the appeal. Interference with the human rights of the appellants and their family is therefore necessary and proportionate.

## **Conclusion**

66. Notwithstanding my conclusions in respect of location, the effect on the settled community, living conditions, and highway safety, the proposal would have an unacceptable effect on the character and appearance of the area, recreational disturbance, nutrient neutrality, and groundwater. It would therefore conflict with the development plan, the PPTS and the Framework when read as a whole. There are no material considerations which would outweigh the identified harm, including the conflict with the development plan.
67. For the reasons given above, and having had regard to all other matters raised, including the suggested conditions, the appeal is dismissed.

*Joanna Gilbert*

INSPECTOR

## **Appearances**

### **FOR THE APPELLANT:**

|                 |                             |
|-----------------|-----------------------------|
| Philip Brown    | Philip Brown Associates Ltd |
| Michael Connors | Appellant                   |
| Miley Connors   | Appellant                   |

### **FOR THE COUNCIL:**

|              |                            |
|--------------|----------------------------|
| Calum Thomas | Senior Planning Officer    |
| Martin Mew   | Principal Planning Officer |
| Sascha Haigh | Senior Planning Officer    |

### **INTERESTED PARTIES:**

|            |                                                       |
|------------|-------------------------------------------------------|
| Luke Smith | Whaleback Ltd, on behalf of Funtington Parish Council |
|------------|-------------------------------------------------------|