



Appeal Decision

Hearing Dates 26 July 2022 and 13 June 2023

Site visit made on 13 June 2023

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2023

Appeal Ref: APP/L1765/W/20/3259672

Greenacres, Pricketts Hill, Shedfield SO32 2JW

- 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 P Green against the decision of Winchester City Council.
 - The application Ref 20/00841/FUL, dated 1 April 2020, was refused by notice dated 31 July 2020.
 - The development proposed is extension to existing Gypsy/Traveller site to create a total of 5 additional pitches on the whole site comprising the siting of 5 mobile homes, 5 touring caravans, and the erection of 5 dayrooms.
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Decision

1. The appeal is allowed and planning permission is granted for extension to existing Gypsy/Traveller site to create a total of 5 additional pitches on the whole site comprising the siting of 5 mobile homes, 5 touring caravans, and the erection of 5 dayrooms at Greenacres, Pricketts Hill, Shedfield, SO32 2JW, in accordance with the terms of the application, Ref 20/00841/FUL, dated 1 April 2020, subject to the conditions in the attached schedule.

Applications for costs

2. Applications for costs were made in writing in advance of the hearing by the Council against the Appellant, and separately by the Appellant against the Council. These applications are the subject of separate Decisions.

Procedural Matters

3. The hearing was opened on 26 July 2022, but an adjournment was requested by the Appellant before discussion on the substantive matters owing to the need to address the nutrient neutrality issues. Following further work between the parties on the nutrient neutrality issue, the hearing resumed on 13 June 2023 with the submission of a unilateral undertaking (UU) of the same date.
4. The Council agreed that another previously submitted UU and related contribution paid towards the Solent Recreation Mitigation Strategy (2014) satisfactorily addressed the fourth reason for refusal. I deal with this below.
5. From my site visit and as explained to me at the hearing, the Appellant has an unauthorised pitch to the south of the site, but which is little used at the present time given his frequency of travel. The Appellant's parents live on an authorised pitch to the north, just beyond the appeal site boundary. All other intended occupants of the proposed pitches, including the Appellant's siblings, their spouses and children, already either use the parents' accommodation as a

base or reside within touring caravans doubled up on the pitch. Therefore, I have treated the proposal as retrospective on the basis that the use has already commenced.

6. Annex 1 of the Planning Policy for Traveller Sites (2015) (PPTS) provides a definition of 'Gypsies and Travellers' and 'travelling showpeople' for the purposes of planning policy. Whether the Appellant and family group who intend to occupy the site fall within the PPTS definition is a matter in dispute between the parties. The PPTS definition has also been found discriminatory in the Lisa Smith Judgment¹ in respect of Gypsies and Travellers who have ceased to pursue nomadic lifestyles for either personal or family age or health-related reasons.
7. The submitted written evidence on PPTS status was rather limited, but it was explained to me at the hearing that the men of the respective households all travelled away to seek work, often together, sometimes taking their families, but often not. On the basis of the verbal evidence presented, I am satisfied that four of the five households comprise, for the most part, persons of a nomadic habit of life who comply with the PPTS definition of Gypsies and Travellers. It is less clear whether the adult daughter of the Appellant, who would occupy Pitch No. 4, could be held to meet the PPTS definition given her age and the absence of detail of her previous travelling experience or desire to commence or maintain such a way of life. Similarly, limited detail has been submitted in respect of her partner and his status. Consequently, whilst at least 4 pitches would meet a need for a family group that demonstrate compliance with the PPTS definition of Gypsies and Travellers, it is more appropriate for me to treat the needs of the wider family group as a whole.

Main Issues

8. The main issues are:
 - whether the location of the development accords with local policies that seek to limit development in the countryside;
 - whether the proposal would maintain a mixed and balanced community;
 - the effects of the proposal on the landscape character of the area;
 - the need for and supply of pitches in the area; and
 - the personal needs and circumstances of the occupiers.

Reasons

9. The appeal site comprises a gently undulating area of grassland extending to around 0.6 of a hectare which gently slopes down towards the south. To the north of the site is the lawful pitch primarily occupied by the Appellant's parents. The surrounding area has a patchwork of residential, agricultural, equestrian and commercial uses and buildings, although the dispersed built form and verdant qualities give the area a semi-rural character.
10. The proposal seeks to provide 5 additional Traveller pitches on the site to provide each respective household or adult individual their own pitch. Each pitch would have a maximum of two caravans (one static, one touring caravan)

¹ *Smith v SSLUHC & Ors [2022] EWCA Civ 1391 dated 31st October 2022*

and a small dayroom building. The proposal seeks to maintain the single point of access to the site.

Location of development

11. The site is situated on the periphery of a small settlement known as Shirrell Heath. Whilst the settlement has limited facilities of its own, the parties agree that the site is not remote from everyday essential facilities, given its proximity to other settlements which offer a greater range of such, including Wickham and Swanmore. Thus, the site is considered to be relatively accessible.
12. Policy MTRA3 of the Winchester District Local Plan Part 1 (2013) (LPP1) identifies Shirrell Heath as a settlement without a defined development boundary where infilling of a small gap within a continuously developed road frontage may be supported. The nature of the site and the proposal would not constitute such a form of development. The site therefore falls to be considered as part of the countryside.
13. Policy MTRA4 of the Local Plan refers to development in the countryside and seeks to limit the permissible development types to those which have an operational need for such a location, i.e., agricultural or forestry businesses, reuse of existing rural buildings or small scale tourist accommodation sites. Traveller schemes are not listed as one of the permissible development types and thus, the proposal conflicts with Policy MTRA4.
14. LPP1 Policy CP5 is a key policy relating to Traveller development which, amongst other things, requires that sites should be accessible to local services and well related to existing communities to encourage social inclusion and sustainable patterns of living. The proposal accords with the locational criteria of this Policy.
15. The Gypsy and Traveller DPD (2019) contains a raft of policies concerning Traveller development. Policy TR5 allows for additional pitches through intensification of existing sites. As the proposal would represent an expansion of a Traveller site, it falls to be considered under Policy TR6. Initially, this Policy seeks to direct such proposals within the defined settlement boundaries or to the smaller settlements as an infill proposal under MTRA3. It goes on to state that outside of these areas, schemes shall accord with specific criteria, including where Traveller status must be proven, where there is a need to be in the location in question and where there is a lack of other accommodation. The Policy also echoes the requirements of Local Plan Policy CP5 insofar as sites must be sustainably located and well related to existing communities.
16. Taking the above factors together, whilst the proposal conflicts with Local Plan Policy MTRA4, specific policies relating specifically to Traveller development, including Local Plan Policy CP5 and DPD Policy TR6, allow for some sites in the countryside to come forward, provided they are sustainably located and well related to existing communities. The appeal site is both of these things and, therefore, in purely locational terms, the proposal would not conflict with the overall aim of the development plan to limit development in the countryside. Whether the proposal wholly complies with all of the relevant aspects of DPD Policy TR6 is considered further below.

Mixed and balanced community

17. Local Plan Policy CP5 seeks to avoid sites being over-concentrated in any one location or disproportionate in size to nearby communities.
18. The site is adjoined by the Traveller site containing a single pitch in the Appellant's family's ownership and which has existed lawfully since around 2009. The proposal seeks to add a further 5 No. pitches extending south of the existing pitch to the well-defined treed boundaries of the site. On the other side of Pricketts Hill, there is an authorised Traveller site which contains 5 No. pitches. To the northern outskirts of Shirrell Heath on land adjacent to Gravel Hill is another lawful site containing 3 No. pitches. The proposal would therefore take the 8 No. existing Traveller pitches within Shirrell Heath to a total of 13 No.
19. My attention was drawn to the aerial image submitted by the Appellant which depicts the physical extent of Shirrell Heath which shows it to be a sizeable semi-rural settlement. I was advised that the size of the settlement was in the order of 100 or so houses and consider this to be a reasonable gauge of its scale having seen much of it during the site visit. The settlement is therefore of a material scale and, in my view, the modest number of existing Traveller pitches does not dominate the settlement. Furthermore, there is no evidence to suggest that the local facilities or services are overburdened in any way that may relate to the increase in occupants in the area.
20. The appeal proposal would increase the number of pitches specifically around Pricketts Hill to broadly similar the same number of permanent dwellings, although those dwellings are spread out in a relatively dispersed, low density arrangement. The appeal proposal would be the least visible of the two sites, being set well back from Pricketts Hill and screened from it by substantial treed boundaries.
21. In my view, the appeal proposal would take the concentration of pitches specifically in Pricketts Hill to the upper tolerable limit to ensure a mixed and balanced community. However, even with the appeal proposal, the total number of pitches would not represent a disproportionate addition to the nearby community of Shirrell Heath when considered as a whole. Consequently, the proposal would maintain a mixed and balanced community in accordance with, in particular, Policy CP5 of the LPP1.

Landscape character

22. Aside the hardcore access track along the inside eastern boundary and the unauthorised hardsurfaced pitch to the south, the site itself is gently undulating with a slope towards the south and is generally rough grazing land. It is enclosed by substantial belts of mature trees on its eastern, southern, and part of its western boundary, much of which is evergreen. Only parts of the western boundary have gaps between the smaller tree species where views to some parts of the site are currently achievable from a nearby Public Right of Way (PROW).
23. The introduction of caravans, dayroom buildings and associated paraphernalia would obviously change the undeveloped site to one with a more urbanised character. This change would be harmful, even if many of these features would be capable of being removed.

24. A number of aspects would help to mitigate the harm caused by the proposal, including the spaciousness of the site, the low-density and low-lying nature of the proposal and the retention of the dense tree screening. The provision of additional landscaping by way of condition would noticeably soften the effects of the proposal and help maintain the site's inconspicuousness. The Council already acknowledge that the site is relatively secluded, and I consider that additional landscaping would add the softening from the only real public vantage points from the PROW. Therefore, the intrusiveness of the development in a visual sense would be minimal and would be capable of being further minimised to achieve compliance with Local Plan Policy CP5.
25. An aspect of the landscape character that would change would be the tranquillity of the area. The comings and goings from residential occupation of the sizeable site, from the associated noise and external lighting would result in a loss of tranquillity; an attribute that is synonymous with this particular area and which I noted during my site visit. Unlike the manner in which visual changes can be mitigated through landscaping and external lighting prohibited or controlled by condition, the audible effects on tranquillity are harder to suppress with a proposal of such a scale.
26. In view of the above, the proposal would harm the area's landscape character, contrary to, in particular, Policy DM23 of the Winchester District Local Plan Part 2 (2017) (LPP2). Amongst other things, this Policy seeks to ensure developments should not have an unacceptable effect on the rural tranquillity of the respective area.

General Need and Supply

27. The Planning Policy for Traveller Sites (2015) (PPTS) stipulates that Councils should be able to demonstrate a five-year supply of deliverable gypsy/traveller sites assessed against a locally set target. LPP2 Policy DM4 indicates that the accommodation needs of travellers who meet the PPTS definition in the plan area will be about 15 pitches within the period 2016 – 2031. This Policy was based on the Gypsy and Traveller Accommodation Assessment of 2016 (2016 GTAA), which was the only such document in existence at the time of determination of the appeal application and the opening of the hearing.
28. In the intervening period, the Council has commissioned and since published the Gypsy and Traveller Accommodation Assessment of 2022 (October 2022) (2022 GTAA) which will form part of the evidence based used to develop the Council's replacement and as yet, unpublished emerging Local Plan (eLP).
29. The Council's *Update Note on Traveller Needs* acknowledges the increase in the need for gypsy and traveller pitches, with the 2022 GTAA indicating that between 2022 and 2026, 79 pitches will be needed for Travellers that meet the PPTS Annex A planning definition, 14 more would be required between 2027 and 2031, 15 more between 2032 – 2036 and 7 more in the remaining two years, 2037 – 2038. This is a total of 115 pitches that would be needed from the baseline year of 2022 to the anticipated end date of the eLP.
30. To provide a comprehensive picture, the 2022 GTAA also indicates that up to 40 further pitches will be required on top to meet the needs of Travellers of 'unknown' status, i.e. where their status could not be ascertained but where it may meet the PPTS Annex A planning definition. The need for a further 40 pitches for those who do not meet the Annex A definition is also highlighted in

the 2022 GTAA to provide data on a component of housing need that the Council may wish to address as part of wider housing needs assessments.

31. The PPTS advises that Local Plans should set pitch targets for gypsies and travellers and *'identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets*². The Council refer to its *'Authorities Monitoring Report 2020-21'* (AMR) and the 2021-22 AMR which indicate that the current development plan target for pitches has been exceeded, resulting in a negative pitch requirement.
32. Having publicised the 2022 GTAA which identifies a need of 79 pitches in the first five years (2022 – 2026), the Council cannot decide to ignore the change in circumstances until the eLP process is underway and a decision is made about what pitch target to set. It is clear that the target to meet the needs of the PPTS Annex A planning definition will be a minimum in any event, hence, the target for the period 2022 – 2026 should be for at least 79 pitches.
33. Though the demand that may arise for pitches may be able to be addressed through the criteria-based policies in LPP1, LPP2 and the DPD, in terms of supply, the Council indicated that the pitches that were allocated in the DPD have now received consent and there are no unspent allocations for new pitches. There are no public site pitch vacancies either. Furthermore, the GTAA 2022 indicates that in the period 2022 – 2038/39, no pitches are currently expected from either vacant public or private pitches, pitches on new sites, or pitches becoming vacant from out-migration or transition to bricks and mortar.
34. I appreciate that the 2022 GTAA is not policy itself. However, its publication has materially changed the circumstances in relation to needs of the Traveller community and this cannot be ignored until a future date determined by the Council. The future policies of the eLP may not be able to allocate sufficient sites to meet the substantial minimum need and it may not be tenable to rely so heavily on criteria-based policies to bridge any gaps. Whatever may be, it is not possible to wait until such replacement policies exist to acknowledge the materiality of the needs. The needs exist now. The supply of pitches to come anywhere close to meeting the need does not.
35. I acknowledge that the Council has provided two appeal decisions³ to support its position that there is a five year supply of pitches. The linked case at Bent Lane, Hambledon was issued in April 2021 and the decision for Hipley Road, Hambledon was issued on 30 September 2022. Neither of these decisions could have foreseen the material increase in the need for pitches that was identified in the 2022 GTAA. Given the fundamental change in circumstances that have arisen, I do not find that the submitted appeal decisions are sufficiently authoritative on the position of need and supply such that they affect my view.
36. Consequently, the Council does not have an up-to-date 5 year supply of deliverable sites. The level of unmet need and lack of supply present a very changed situation compared to that when the hearing originally opened in July 2022 and now form significant considerations in this appeal. The implication is that the degree of weight to attach to LPP2 Policy DM4 is reduced, as is the weight to the LPP1 Policy CP5 which seeks to permit sites only to meet the objectively assessed accommodation needs of gypsies, travellers and travelling

² PPTS paragraph 10

³ APP/L1765/C/20/3254261/APP/L1765/W/20/3253413 and APP/L1765/W/20/3262560

show people, rather than for all needs, including those arising since the last objective assessment of such. However, I agree with the Council that criteria-based Policies DPD Policy TR6 are still relevant, but any degree of conflict with them may attract reduced weight.

Personal needs and circumstances

37. The Human Rights Act⁴ establishes a right to respect for private and family life and the Public Sector Equality Duty⁵ (PSED) requires that a public authority must foster good relations between persons who share a relevant protected characteristic and those who do not. Irrespective of PPTS status, all of the family group are ethnic Travellers and therefore demonstrate a protected characteristic under the PSED.
38. The United Nations Convention on the Rights of the Child, under Article 3, requires a child's best interests to be a primary consideration, and no other consideration must be regarded as more important or given greater weight than the best interests of any child.
39. Pitch 1 would be occupied by the Appellant's sister, her husband and their children, both of which are under the age of 3.
40. Pitch 2 would be occupied by one of the Appellant's brothers, his wife, and their three children between the ages of 8 and 11.
41. Pitch 3 would be occupied by the Appellant, his wife, and their four resident children between age 2 and 16.
42. Pitch 4 is intended to be occupied by the adult daughter of the Appellant (age 19), along with her partner, to whom she is engaged to marry.
43. Pitch 5 would be occupied by the Appellant's other brother, who works with the Appellant, and who has four children that visit regularly for weekend stays.
44. 1 of the children on site attends a local school and others will also attend a local primary school when they come of age. The Appellant indicated that the family are registered with local medical practices but that the only pressing healthcare needs were with the Appellant's father who resides on the adjacent lawful pitch. The Appellant and other family members provide support for their parents and each other.
45. Interviews were conducted as part of the production of the 2022 GTAA with two of the households in need of a pitch as they were present on site at that specific time. Others who were away travelling at that time were not interviewed. The 2022 GTAA therefore only recorded the need for two additional pitches from the site, although the evidence before me suggests that there is a need for double that number. The Appellant knew of no other sites that would be available to him or other family members.
46. It is clear that all of the site occupants have only known the current appeal site as a base for a substantial period of time and that many of the children have only ever resided there. The family have a clear connection with the area, with familial links having been made with other local Travellers, with both the Appellant and his daughter having families of their spouse/partner within a few

⁴ Article 8 of the European Convention on Human Rights as enshrined in the Human Rights Act (1998)

⁵ Public Sector Equality Duty under the Equality Act, 2010

kilometres of the site. It is also evident that the family intend to stay together to provide ongoing support for either work, practical or other family reasons. Aside the need for pitches, the Appellant and family group have adequately justified their need and desire to stay together in the area to meet the requirements of DPD Policy TR6.

47. It is clear that there would be advantages for the general wellbeing of all of the respective households through them having their own respective settled based with space and access to basic amenities. This would be in the best interests of all of the resident children and those that visit regularly. Alternatively, dismissal of the appeal would, in all likelihood, result in a continued overcrowding of the Appellant's parents' pitch, or roadside existences, without the certainty of suitable alternative accommodation becoming available.

Other Matters

48. I have taken account of the many representations made by local residents about the proposal, including on aspects covered above. The anecdotal suggestion that there is a lack of capacity at the local doctor's surgery would be unlikely to be worsened by the proposal as it appears that the majority of the intended occupants already have registrations there, or at least in the surrounding area in any event.
49. The most frequently raised concern is about the unsuitability of the access to serve the development. Whilst I noted the care which needs to be taken when emerging from the site access, there are no safety concerns raised by the Council's highway specialist that would suggest that this needs remedying. The numbers of vehicles may increase with the proposal, but perhaps not so materially given that it appears that the adjoining pitch has been regularly over-occupied by the majority of the intended occupiers of the pitches.
50. The allegation of the breach of planning conditions on the adjacent site has not been borne out by any submitted evidence. In the absence of any clarity as to how this is material to the proposal, this does not detract from it in any way.
51. A number of comments have been raised in connection with the lack of provision for foul drainage and possible flooding effects. It was recognised by the Appellant that such measures would need to be addressed and a planning condition, linked with the submitted UU of the 13 June 2023, would do so. In terms of surface water measures, these could also be secured by way of a planning condition. The parties agreed that the site extent had been pulled away from the higher risk flood zones and, subject to conditions, the scheme would not increase any risks of flooding to areas beyond the site.
52. There does not appear to be any evidence to support the allegation of potential harm to the nearby site of nature conservation interest (SINC) and planning conditions could minimise the potential for residual effects either through water run-off or lighting.
53. I have also taken note of the concern about the potential for creation of a precedent should I allow the appeal. My view about the concentration of sites in Pricketts Hill may suggest that there could be no particular precedent created in the immediate vicinity of the site at very least. However, the key principle that each case is determined on its own merits must not be forgotten.

I do not expect that the merits in this case could be replicated so similarly that it would result in the creation of a precedent.

Solent Protected Sites – Nitrate Neutrality

54. The site lies within the Hamble River catchment area that passes into the Solent. The Solent hosts many Protected Sites⁶, designated under the Habitats Regulations⁷ for their specific qualifying features, including aquatic plants, the water environment and the multiple overwintering bird species.
55. In short, levels of nitrogen and phosphorus from various sources are reaching the protected sites with negative consequences, harmful to their integrity. As a result, the nutrient input from changes in use of land, increases in foul drainage outflows and other related developments that drain into the protected sites must be assessed and found not to add to the existing nutrient burdens.
56. The existing use of the site is pastoral land, which itself has a nutrient output. The proposal would add five additional Traveller pitches and their resident occupants which would increase the nutrient burden from the site. With the installation of a specifically identified non-mains package treatment plant to serve all five units, a '*Rewatec Solido Smart, single chamber biological nutrient removal wastewater treatment plant*' (PTP), it has been calculated using the latest Natural England Nutrient Budget Calculator that the development would result in an additional nitrate burden of no more than 9.3kg TN/pa (with an appropriate buffer). The proposal would therefore result in a likely significant effect on the integrity of the protected sites and an Appropriate Assessment under the Habitats Regulation has therefore been undertaken and the accuracy of the inputs checked.
57. The additional nitrate burden could be offset to make the development nitrate neutral over its lifetime through the purchasing of offsetting credits from Eastleigh Borough Council. The credits would secure the equivalent of 9.3kg TN/pa of offsetting measures and such a level has been confirmed as being available, along with the purchase price for such.
58. The submitted UU obliges the Appellant to ensure that any foul drainage system is installed and that proof of the purchase of the offsetting credits are provided prior to occupation of any of pitches that may be granted. The management of the drainage system is also a requirement of the UU, as is the submission of further mitigation should there be any exceedance in the calculated levels.
59. As competent authority for the purposes of the Habitats Regulations, I have consulted with Natural England. Owing to the identification of specific measures within the unilateral undertaking, I am certain that based on the best available scientific evidence, the scheme would not harm the integrity of the protected sites and would therefore accord with the expectations of the Habitats Regulations and LPP1 Policy CS16.
60. For related reasons, I consider that the UU is directly related to the development, necessary to make it acceptable in planning terms and also fairly

⁶ Solent Maritime Special Area of Conservation, Solent and Dorset Coast SPA, Solent and Isle of Wight Lagoons SAC, Solent and Southampton Water SPA and RAMSAR site, Chichester and Langstone Harbours SPA/RAMSAR, Portsmouth Harbour SPA/RAMSAR.

⁷ The Conservation of Habitats and Species Regulations, 2017, as amended

and reasonably related to the development in scale and kind, such that it meets the tests for planning obligations outlined in the Framework.

Solent Protected Sites – Recreational Effects

61. The Solent and Southampton Water SPA, Portsmouth Harbour SPA and Chichester and Langstone Harbour SPA (the SPAs) are designated under the Habitats Regulations for their wader and wildfowl populations and habitat characteristics that provide support for these over-wintering birds. The impact of additional recreational visits from the increase in residents (from housing development) and resultant bird disturbance within the SPAs has resulted in the need for mitigation to avoid adverse effects on their integrity.
62. The addition of five new pitches and their associated residents would be capable of increasing the number of recreational visits made to the SPAs, with potential for bird disturbance and other associated harms. Therefore, the unavoidable conclusion is that the proposal would be likely to have a significant effect on the integrity of the SPAs.
63. The site lies within an area where Winchester District Solent Recreation Mitigation Partnership Area works collaboratively with other Solent local authorities towards implementing the Solent Recreation Mitigation Strategy (2014) (The Strategy). The Strategy seeks to secure a financial contribution based on each net additional dwelling/unit of accommodation (or a flat rate fee for traveller pitches as relevant in this case). These contributions are to be spent on mitigation measures, such as the employment of rangers, communicating and marketing initiatives and provision of alternative or enhanced greenspaces. The UU dated 26 July 2022 provides for the payment of £3,260 towards the Strategy and the Council is directed to use the contribution as set out therein for purposes specifically intended to mitigate the impact of the development on the SPAs.
64. As competent authority for the purposes of the Habitats Regulations, I have consulted with Natural England on this Appropriate Assessment. Owing to the submitted UU which would secure the appropriate level of mitigation, I am certain that based on the best available scientific evidence, the scheme would not harm the integrity of the protected sites and would therefore accord with the expectations of the Habitats Regulations and LPP1 Policy CS16 in this regard.
65. For related reasons, I consider that this UU is also directly related to the development, necessary to make it acceptable in planning terms and also fairly and reasonably related to it in scale and kind. This obligation therefore also meets the tests outlined in the Framework.
66. In conclusion, as competent authority, I am satisfied that the mitigation measures have been secured so as to avoid adverse effects on the integrity of the Protected Sites.

Planning balance

67. By reason of the harm that would be caused to landscape character, the proposal would result in conflict with LPP2 Policy DM23.
68. The conflict identified with LPP1 Policy CP5 and LPP2 Policy DM4 arises because the proposed pitches are extra to the target that the Policies intended to meet.

Given the absence of a five-year supply of deliverable pitches to meet the significant unmet need identified in the 2022 GTAA, the weight to attach to this conflict is materially reduced.

69. DPD Policy TR6 is a key policy in this appeal. Save for my doubt about one occupant not sufficiently demonstrating compliance with the PPTS definition of a Traveller in terms of their nomadic way of life, the proposal complies with the Policy.
70. Based on recently produced evidence, I consider that there is a significant unmet need for PPTS pitches in the area and no available supply to address the need. Therefore, the most obvious benefits of the scheme would be the valuable contribution that 5 pitches would make to meeting this need. These public benefits alone are sufficient to outweigh the identified conflicts with the development plan.
71. If I allow the appeal, I consider it highly likely that the Appellant and his wider family would take occupation of the pitches. By doing so they would benefit from the certainty of settled bases with continued access to education and healthcare facilities, and with family close by. The best interests of the children would be served through them occupying the proposed pitches as intended.

Conditions

72. In the interests of certainty, a condition is necessary specifying the approved plans. In the interests of protecting the character and appearance of the area, a condition is necessary requiring a site development scheme to be submitted to address matters of landscaping, surface water run off and external lighting. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.
73. Whilst the Council suggested a planning condition to seek details of the foul drainage system, the submitted UU dated 13 June 2023 supersedes the need for such a condition. The UU would secure appropriate measures prior to works and prior to occupation, and during the lifetime of the development. It would also pass to any successor in title.
74. As the particular pitch needs of travellers falling under the PPTS Annex A definition have factored into my decision to grant permission, a condition is also necessary limiting occupancy of the pitches as such, with the necessary amendments to avoid discrimination. The Appellant had no objection to such a condition. I have indicated that the intended occupier of Pitch No. 4 may not have traveller status. Rather than withhold permission for it, it would be more appropriate to treat the needs of the family altogether. As such, I consider it appropriate to impose a personalised condition for this specific pitch. Such a condition would meet the six tests for planning conditions outlined in the Framework in the circumstances.
75. In the interests of the character and appearance of the area, a condition is necessary limiting the site to five pitches with a specific permissible number and types of caravans. For similar reasons, it is necessary to ensure that

commercial vehicles are limited in number and size and that no storage of materials associated with commercial activities occurs on site.

Conclusion

76. For the foregoing reasons, the appeal is allowed.

Hollie Nicholls

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr A Masters	of Counsel
Mr B Woods BA (Hons) MRTPI	WS Planning and Architecture
Mr P Green	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Rose Chapman	Principal Planning Officer
Mr Steven Opacic	Principal Planning Officer
Mr Stuart Dunbar-Dempsey	Landscape Officer

DOCUMENTS SUBMITTED 26 JULY 2022

Document 1	Updated list on occupants of Greenacres
Document 2	Copy of GTAA 2016
Document 3	Solent Up Front Payment Form
Document 4	Map showing other GT sites in Shirrell Heath
Document 5	Map showing Footpath 11 PROW location
Document 6	Extract from WCC Annual Monitoring Report 2020 – 2021
Document 7	Breakdown of WCC sites from GTAA 2017

DOCUMENTS SUBMITTED 13 JUNE 2023

Document 8	Unilateral Undertaking dated 13 June 2023
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SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site location plan, Ref J003548-DD01, dated March 2020
 - Proposed Site Plan, Ref JJ03548-DD03 Rev A, dated 27 May 2020
 - As proposed dayrooms, Ref JJ003548-DD04, dated April
- 2) Notwithstanding the details shown on Drawing No J003259-DD03 Rev A and within 4 months of the date of this decision, a Site Development Scheme including the following details shall have been submitted for the written approval of the local planning authority:
 - details of any external lighting within the site;
 - details of surface water measures;
 - boundary treatments;
 - a hard and soft landscaping scheme.

Hard landscaping shall include means of enclosure and surfacing materials. Soft landscaping shall include identification of all trees, shrubs, and hedges to be retained showing their species, spread and maturity; new tree, hedge and shrub planting including details of species, sizes and proposed numbers and densities; and a schedule of landscape maintenance for a period of 5 years following initial planting.

If within 8 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as 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 or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 4) The use of Pitch 4 hereby permitted shall be carried out only by Ms Evelyn Green, Mr Joseph Butler and any of their resident dependants. When the land ceases to be occupied by those named above, the use

hereby permitted shall cease, and all caravans, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.

- 5) There shall be no more than five pitches on the site and no more than 10 caravans (of which no more than five shall be static caravans), as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the pitch at any time.
- 6) No commercial activities shall take place on the land, including the storage of materials.
- 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

END OF SCHEDULE