



Appeal Decision

Site visit made on 15 July 2025

by **P Griffiths BSc(Hons) BArch IHBC**

an Inspector appointed by the Secretary of State

Decision date: 23 July 2025

Appeal Ref: APP/L1765/W/25/3361943

Carousel Park, Micheldever, WINCHESTER, SO21 3BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Carousel Park Ltd against the decision of Winchester City Council.
 - The application Ref.24/02175/DIC sought approval of details pursuant to conditions 4 and 8 of a planning permission granted at appeal under APP/L1765/C/22/3296767 (and 3296771, 3296773, 3296776, 3296778, 3296781 and 3296783).
 - The application was approved in part and refused in part by notice dated 6 March 2025.
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Decision

1. The appeal is dismissed.

Background

2. As indicated above, planning permission was granted on appeal for the material change of use of the land to a residential caravan site, including the stationing of caravans for residential use, on 8 April 2024, following the issue of several enforcement notices, and a subsequent Inquiry, held in the latter part of 2023.
3. The grant of planning permission was made subject to 8 (eight) conditions. Occupation of the site was limited to those defined as Gypsies and Travellers (condition 1), and the number of pitches on the site was capped at 24 and made subject to a 'caravan schedule' (condition 2). Other conditions required any touring caravans on the site to be used for purposes ancillary to the static caravans (condition 3); limited the weight of vehicles on the site (condition 5); and prohibited any commercial activities (condition 6). On the basis that the development permitted had already been carried out, the grant of planning permission was made subject to two conditions (conditions 4 and 8) that operate in a retrospective fashion. It is in pursuance of the approval of details required by these two conditions that the originating application subject to this appeal was made.

4. Condition 4 says:

The use hereby permitted shall cease and all caravans, structures, equipment, buildings and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within **28 days** of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

(i) Within **6 months** of the date of this decision a 'site development scheme' with details for:

(a) the layout of the pitches, the broad locations of caravans within those pitches, and the type of caravans;

- (b) the location of any buildings on the site including but not limited to day rooms, utility buildings, stables, sheds and toilets;
- (c) an area for the storage of domestic waste and recycling generated by permitted use on the site;
- (d) an earth bund of not less than 2 metres in height around the perimeter of the site;
- (e) landscaping around the perimeter of the site;
- (f) the materials and type of internal boundary treatments and gates;
- (g) external lighting;
- (h) foul and surface water drainage;

shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

(ii) If within **11 months** of the date of this decision the local planning authority refuse to approve the site development 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.

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

(iv) The approved site development 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.

5. In a similar vein, condition 8 says:

The use hereby permitted shall cease and all caravans, structures, equipment, buildings and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within **28 days** of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

(i) Within **6 months** of the date of this decision:

(a) a water efficiency calculation which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development;

(b) a mitigation package addressing the additional nutrient input arising from the development which addresses all of the additional nutrient load on protected European Sites and allows the local planning authority to ascertain on the basis of the best scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of protected European Sites, having regard to the conservation objectives of those sites;

shall have been submitted for the written approval of the local planning authority and the submitted scheme shall include a timetable for its implementation. The mitigation package is to include Nitrate Mitigation Credits and restrictions on which Waste Water Treatment Works are utilised.

(ii) If within **11 months** of the date of this decision the local planning authority refuse to approve the submitted 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;

(iii) 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;

(iv) 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.

6. Finally, condition 7 requires all buildings, sheds stables or other structures not shown as part of the 'site development scheme' required under condition 4 to be removed within 6 months of the approval of that scheme.
7. An application to discharge conditions 4 and 8 was made to the Council on 4 October 2024 (ref.24/02175/DIC), within the period of six months from the date of the appeal decision required by those conditions. The details submitted with the application were amended in the time it was with the Council. At the point where the Council made its decision (6 March 2025), these details comprised:

The application form;

The covering letter (amended in February 2025);

Drawing no.J004151-TD-01 Revision B – As Proposed Site Plan;

Drawing no.J004151-TD-02 – As Existing buildings 1;

Drawing no.J004151-TD-03 – As Existing buildings 2;

Drawing no.J004151-TD-04 – As Existing buildings 3;

Drawing no.CIV 001 Rev 1 – Below Ground Drainage Plans;

Drawing no.CIV 010 Rev 1 – Below Ground Drainage Details;

Drawing no.CIV 020 Rev 1 – Below Ground Drainage Manhole Schedules;

Cesspit Maintenance Schedule;

Cellular Soakaway Standard Detail;

Southern Water Wastewater Plan;

Storm Water Controls Information; and

Eastleigh BC Nutrient Neutrality Invoice.

8. I have dealt with the appeal on the basis of these same details.
9. The Council has helpfully clarified that in its decision notice dated 6 March 2025, details relating to condition 8 were considered acceptable and the condition was accordingly discharged. The details relating to condition 4 (c) (domestic waste and recycling storage) and the foul drainage element of condition 4 (h) were also considered acceptable. However, the details submitted in relation to condition 4 (a), (b), (d), (e), (f), (g) and the surface water element of (h) were not considered acceptable and as a result, condition 4 was not discharged.

Main Issue

10. Against that background, the main issue before me is whether the details submitted in relation to condition 4 are satisfactory, or not, bearing in mind the need to *help safeguard the character and appearance of the area and the living conditions of the site occupiers and nearby residents*¹.

¹ The words used by the Inspector in the appeal decision (APP/L1765/C/22/3296767) where planning permission was granted, as the reasons underpinning condition 4

Reasons

11. It is important, at the outset, to set out the limits of my powers in dealing with an appeal of this kind. If the details submitted properly address the requirements of the condition, then I should approve the details and thereby allow the appeal, or if they do not, then I must refuse to approve the details, and dismiss the appeal. It is not for me to question whether the conditions applied to the original grant of planning permission were necessary, relevant to planning and the development to be permitted, enforceable, precise, and reasonable in all other respects². I make that point because the submissions made on behalf of the appellants seem to me to go to those questions, rather than whether the details submitted meet the requirements of the relevant conditions. I have assessed the details submitted on their merits in the context of the appeal decision; an appeal decision that stands as a matter of public record.
12. As set out above, condition 4(d) requires the submission of a 'site development scheme' that includes details of various matters. It is clear from the wording of the condition that the Inspector expected an earth bund to be provided that extended around the perimeter of the site, and for that perimeter of the site to be landscaped. I deal with what 'the site' might mean below but the details submitted show a bund to the east of Carousel Park only.
13. According to the Council, part of the earth bund proposed would be on land that is not under the appellants' control. If that is the case, a difficulty would arise in that it is not then clear whether it could ever be implemented in accordance with the timetable. There is however a more fundamental problem in that the earth bund proposed does not extend around the perimeter of the site and, as far as I can make out from the submitted plan, neither is any landscaping proposed around the perimeter. What has been put forward does not accord, therefore, with what condition 4 explicitly requires.
14. It may well be that including the bund around the perimeter of the site, within the confines of Carousel Park would require a wholesale rearrangement of the site and the caravans and ancillary structures upon it. Obviously, I was not party to what was discussed at the Inquiry, but this must have been in the mind of the Inspector, otherwise there would be no point in the requirements under (a) and (b) of condition 4, and to an extent, (f) and (g).
15. There is a question too about what is meant by the perimeter of the site for the purposes of condition 4? The Council suggests that this must mean the area covered by the plan attached to the original Enforcement Notice. However, this would give rise to a tortuous arrangement that excluded areas of Carousel Park that were not subject to the Notice. I find it difficult to believe that this was the intention of the Inspector. Rather, it seems to me that 'the site' referred to in the condition, meant Carousel Park in its entirety. In the event the point goes nowhere because whichever way you interpret 'the site' for the purposes of condition 4, the details submitted do not accord with what is required by the condition.
16. Bringing those points together, I find that what has been put forward in pursuance of the details required under condition 4 do not accord with the intentions behind the condition. As a consequence, they are not capable of being approved, and as such, I intend to dismiss the appeal.

² The 'tests' for conditions set out in paragraph 57 of the National Planning Policy Framework (the Framework)

17. I must then address the arguments made on behalf of the appellants about the conditions. It is suggested that given the nature of what was at issue – in effect a change of use from a site occupied by Travelling Showpeople to one occupied by Gypsies and Travellers - and the impact this would actually have on the character and appearance of the area and the living conditions of occupiers of the site and those living nearby, that condition 4 was never necessary in the form appended, or indeed at all. The same argument could be made in relation to foul and surface water drainage – condition 4(h), and in some ways, condition 8 in its entirety.
18. There may or may not be force in those arguments but as I have set out above, an application for the approval of details pursuant to a condition is not the correct vehicle for that debate. It seems to me that this would need to be facilitated through an application under s.73 of the Town and Country Planning Act 1990 (as amended) (the Act) for the development of land without complying with conditions subject to which a previous planning permission was granted, the opportunity for an appeal under s.79 of the Act having long since passed. There appears to be a tacit acknowledgement of this in the submissions made on behalf of the appellant.

Conclusion

19. For the reasons given above, I conclude that the appeal should be dismissed.

P Griffiths

INSPECTOR