



Appeal Decision

Inquiry held on 9 December 2025, 6 July 2026 – 9 July 2026 and 13 July 2026

Site visit made on 9 July 2026

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2026

Appeal Ref: APP/L3815/W/25/3371769

Melita Nursery, Chalk Lane, Sidlesham PO20 7LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr M W Goddard against the decision of Chichester District Council.
 - The application Ref is SI/25/00814/FUL.
 - The development proposed is provision of 22 no. Gypsy/Traveller pitches (across 11 Plots) comprising 22 no. static caravans and 11 no. touring caravans.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs was made by Mr M W Goddard against Chichester District Council. This is the subject of a separate Decision.

Preliminary Matters

3. The description of development set out in the Council's decision notice and within the appeal form is different to that included in the application form. No written agreement of the change has been provided and I have proceeded on the basis that the proposal is for that set out above in the banner heading.
4. A draft deed of undertaking (DoU) was submitted with the appeal in respect of access mitigation measures in respect of the Chichester and Langstone Harbours Special Protected Area (SPA) and the Pagham Harbour SPA. With my approval, a completed DoU was submitted after the Inquiry. This is considered later.
5. During the course of the appeal, the Council indicated that the separation distances between the static caravans was acceptable, and that matters of waste and cycle storage could be satisfactorily addressed through the imposition of appropriately worded planning conditions. On the basis of the evidence before me I have no reason to find differently in respect of these matters.
6. During the course of the appeal a Flood Risk Assessment¹ (FRA) was submitted by the Appellant. The Council was given the opportunity to comment on this. I am satisfied that this information does not involve a substantial difference or fundamental change to the application. Moreover, procedural unfairness to anyone

¹ Flume Consulting Engineers September 2025

involved in the appeal would not occur. Accordingly, the additional information has been considered.

7. The Chichester Local Plan 2021 – 2039 Adopted August 2025 (CLP) has been adopted since the Council made its decision on the planning application related to this appeal. The policies referred to on the Council's decision notice from the Chichester District Council Adopted Chichester Local Plan: Key Policies 2014-2029 (ACLP) have been replaced by those within the CLP.
8. The Inquiry had to be adjourned on 9 December 2025 and resumed on 6 July 2027. It was held in person between 6 July and 9 July 2026. On the 13 July 2026 the Inquiry was held virtually.
9. The Inquiry was closed in writing on 31 July 2026.

Background

10. There is no dispute that there is a lawful use of the site for 9 no gypsy and traveller pitches. These were granted planning permission by 2 separate applications². The first being for the change of use of land for siting of residential caravans for 7 no. pitch Gypsy Traveller site with associated development (hard standing fencing and 3 no. utility buildings); the second being for the change of use of land to travellers caravan site consisting of 2 no. pitches each containing 1 no. mobile home and ancillary development (re-submission of 19/02876/FUL). The approved layouts show 1 mobile home on each pitch and space for a touring caravan. Amenity blocks/utility rooms are shown on 5 of the 9 lawful pitches.
11. That said, the number of caravans on the site does not reflect the lawful use. Reference is made to between 44 and 46 static caravans being occupied on the site. The Appellant agrees that this represents intentional unauthorised development.
12. The proposal is for 22 Gypsy/Traveller pitches on the site, laid out within 11 plots. This would result in a net increase of 13 pitches when assessed against the lawful use of the site. It is the Appellant's intention that the 'plots' would be occupied by a single family group.

Main Issues

13. The main issues are:

- Whether suitable living conditions would be provided to occupiers of the site, having regard to the layout of it and number of caravans;
- Whether the site could be suitably drained with particular regard to surface water;
- Whether the location of the appeal site is suitable for the development having regard to flood risk;
- The effect upon biodiversity, with particular regard to bats; and
- Whether or not there are any material considerations that outweigh any identified harms or conflict with the development plan.

² Refs 19/03112/FUL and 20/01330/FUL

Reasons

Living Conditions

14. The Appellant's 'As Proposed Site Plan' shows 22 single unit static caravans laid out on 11 'plots'. Each 'plot' would accommodate 2 static caravans and space for 1 touring caravan, as well as 4 no parking spaces, areas of hardstanding, enclosure and recreational grass space.
15. Policy H14 of the CLP is the site design policy for new gypsy and traveller and travelling showpeople sites/pitches. Amongst other matters, and of relevance to this main issue it requires that a good standard of amenity is provided for the occupiers, ensuring that the site is not overcrowded; that each pitch needs to contain sufficient amenity space, including an amenity building, space for a static caravan, touring caravan and car parking and that the site layout should have regard to how it can contribute to the promotion of health and well-being such as ensuring adequate landscaping and play areas for children. The policy requires that a site layout plan is submitted as part of any planning application to demonstrate that the site is able to accommodate the numbers of pitches and/or plots sought in a manner which will accord with the policy's requirements.
16. Although not as prescriptive as CLP Policy H14, the Planning policy for traveller sites (PPTS), paragraph 27 requires weight to be attached to promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children.
17. In order to accommodate the number of pitches proposed on the site, as is indicated on the proposed site plan, each would be modest in size. There would be limited space around each static caravan and between them. If 2 vehicles were parked outside each caravan the outdoor space for children to play or the occupiers to sit outside their homes would be further reduced. The small areas of grass space on each pitch would be unlikely to be sufficient to provide any meaningful play area for children including space for play equipment. Whilst the access hardstanding may be sufficient to kick a ball around on, the proximity to vehicles and caravans would be unlikely to make this suitable and safe.
18. I acknowledge that it is the Appellant's intention for the 'plots' to be occupied by members of the same family and that the outside space would be shared. However, it remains the case that the space upon the 'plots' would be limited and would not, in my judgement provide a good standard of amenity to the intended occupiers, whether they be related or not.
19. Although some of the design criteria of Policy H14 appears to come from withdrawn Government guidance³, it does provide a basis for what the Council considers to be acceptable design and by being clear about design expectations and how this will be tested, its approach supports the Government's objectives of achieving well-designed places, set out in chapter 12 of the National Planning Policy Framework (Framework).
20. That said, and acknowledging the revised definition of gypsy and travellers in the PPTS which was published after the CLP was adopted, includes those who have ceased to travel permanently, I find that the lack of space on each of the plots for a

³ Designing Gypsy and Traveller Sites: good practice guide (2008)

touring caravan does not make the site inherently unsuitable for gypsies or travellers.

21. However, given cultural preferences and to ensure that the site would be suitable to both gypsy and travellers it is my view that space for an amenity building should be provided on each of the pitches because this would provide choice and would likely make the site more attractive to gypsy and travellers and provide for their needs. The size of the pitches and plots would provide limited opportunity for amenity buildings to be accommodated.
22. I note the Appellant's suggestion that the needs of travellers are different to the settled community, but that of itself is not in my view sufficient to allow a layout that would not provide a good standard of amenity to the occupiers of the pitches or 'plots'. I have not been directed to a policy which establishes that members of the gypsy or traveller communities should be treated differently to the settled population in terms of the quality of their living environment. Indeed section 149 (1) of the Equality Act 2010 makes it clear that due regard be had to the need to, amongst other matters, advance equality of opportunity between persons who share a relevant protected characteristic (including gypsy and travellers) and persons who do not.
23. Moreover, CLP Policy H14 has recently been adopted following examination of the development plan, and whilst noting the suggestion that the gypsy and traveller community were unlikely to have been involved in the development plan process, no suggestion has been put to me that the policy is not sound, or that the adoption of the plan has been challenged. Accordingly, I give full weight to this policy in my consideration of this appeal.
24. I note the examples provided by the Appellant of other sites as included in Mr Woods' Evidence⁴ and Appendices⁵, however, it is difficult to draw a direct comparison to the scheme before me, in terms of the circumstances that led to the decisions on the respective sites, including whether the proposed layouts were similar to that before me. The extract from the layout at Scant Road appears to have larger pitches than those before me and provision of what appears to be a building. It is thus not comparable to the scheme before me.
25. My attention has been drawn to The Pitch Capacity Assessment⁶ which looked at the capacity of a number of gypsy and traveller sites based on the then emerging policy for the design of gypsy traveller sites. Whilst finding that each of the sites considered could be potentially suitable to accommodate further pitches, I am not aware that this has resulted in planning permission being granted for the additional pitches shown in the report. Indeed, the Assessment seems to exclude play space for children and adequate landscaping which are specific requirements of CLP Policy H14. Moreover, such an assessment, based on a desk top survey, whilst a useful exercise, does not infer that applications for planning permission based on the layouts in the report will be granted, because a number of factors will need to be considered, including development plan requirements. This Assessment does not to my mind provide support for the proposal.

⁴ CD9.8

⁵ CD9.9

⁶ Adams Hendry December 2022

26. I note that a further layout could be covered by a site development condition, as imposed on a number of appeal decisions that are before me. However, given the size of the site and the number of caravans proposed, I am not satisfied that an alternative layout could be provided to address these concerns. Taking these matters together, I find that the proposal would not provide a good standard of amenity for the intended occupiers of the site which brings the scheme into conflict with CLP Policy H14, the promotion of healthy lifestyles objectives of the PPTS and the promotion of health and well-being and high standard of amenity objectives of the Framework.

Drainage

27. CLP Policy H14 requires, amongst other matters that it is demonstrated that the site and all the accommodation benefits from suitable provision of essential services including drainage, or that it can be demonstrated that the services will be successfully provided prior to the occupation of the site. In this regard the policy requires that a drainage strategy is prepared.
28. Policy NE16 of the CLP requires that development proposals demonstrate that new site drainage systems are designed to cope with residual flood risks, and that sustainable drainage systems should be designed for all development that needs a site-specific flood risk assessment.
29. These policies are in broad accordance with the Planning Practice Guidance (PPG) which sets out that the 'layout and function of drainage systems needs to be considered at the start of the design process ... as integration with road networks and other infrastructure can maximise the availability of developable land'.
30. The Appellant's FRA sets out that a full SuDS strategy is addressed separately, but I have little information in this regard. The FRA makes reference to a drainage strategy, but other than reference to the development platform being surfaced and drained and that residual water could be managed through on-plot conveyance and infiltration, ensuring runoff is managed at source and not increasing risk off-site, there is scant detail in this regard. Indeed, it was acknowledged at the Inquiry that ground investigations had not been carried out to ascertain whether infiltration would indeed be possible on the site.
31. That said, I have no doubt that there would be an engineering solution if infiltration on the site were not possible. Reference was made to porous paving/surfacing and rain gardens, but other than the plan submitted by the Appellant showing the area of hard surfacing reduced, I have little information in this regard.
32. The Council has previously conditioned drainage details to be submitted at No 2 Melita which the Appellant considers has similar geological characteristics to the appeal site. From the date of that permission⁷ it is clear that it was considered under previous development plan policies, notably Policies 36 and 42 of the ACLP which did not require the same level of detail in respect of drainage as the current adopted policies.
33. I note that details of drainage is a matter that can be conditioned, and that the Inspector in respect of an appeal on the site considered that a drainage condition was suitable. However, since this time the development plan has been adopted

⁷ Ref 23/02753/FUL

and there is no suggestion that the policy does not comply with national planning policy.

34. Furthermore, there is likely to be greater surface water run off given the quantum of caravans proposed when assessed against the lawful use of the site. It is my judgement that the information provided in respect of drainage, including reducing the area of hardsurfacing on the site, provision of grassed areas and caravans raised above the ground does not constitute a drainage strategy for the purposes of the development plan. Accordingly on the evidence before me, I cannot be satisfied that the site could be suitably drained and this brings the proposal into conflict with the drainage requirements of CLP Policy H14 and NE16.

Flood Risk

35. There is no dispute that the appeal site is currently located within Flood Zone 1 which has a low probability of flooding, defined in the Planning Practice Guidance⁸ (PPG) as having a less than 0.1% annual probability of river or sea flooding. In terms of flood risk vulnerability, the parties agree that caravans for permanent residential use are highly vulnerable. I shall assume a 100-year lifetime for residential development noted in the PPG as no specific justification has been put to me for a different period.
36. The Council consider that the appeal site is at future risk of flooding referencing the Environment Agency's Flood Map for Planning. The Appellant's FRA indicates that parts of the access to the site and the corner of the site near the existing bungalow would be flooded in the 0.5% AEP plus climate change event (2121) to a depth between 0.04 and 0.05 metre.
37. The Framework at paragraph 170 sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 173 of the Framework requires that a sequential risk-based approach be taken to individual applications in areas known to be at risk now or in the future from any form of flooding, by following the steps set out in paragraphs 174 – 182 of the Framework.
38. The Appellant's FRA did not include sequential testing, it being considered not necessary because of the exceptions given by paragraph 176 of the Framework. It is common ground that the proposal does not comprise a change of use, the use already being established. However, in terms of whether the proposal is minor development, the PPG provides advice in this regard in relation to flood risk⁹. This comprises minor non residential extensions, alterations that do not increase the size of buildings, and householder development. The proposal does not fall within any of these examples and thus does not comprise minor development in relation to flood risk. Equally it does not comprise major development. For the purposes of flood risk as set out in the PPG, the proposal comprises non-major development. It is thus not exempt from the sequential test in this regard.
39. Framework paragraph 175 sets out that the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in

⁸ PPG Table 1 Paragraph: 078 Reference ID: 7-078-20220825

⁹ PPG Paragraph: 051 Reference ID: 7-051-20220825

situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).

40. The Appellant's FRA utilised the Environment Agency's site-specific data set (Product 4, August 2025) and the Council's Strategic Flood Risk Assessment. It found that the site was flood free in all defended tidal scenarios, including the 0.5% Annual Exceedance Probability (AEP), the 0.5% AEP plus climate change (2121) and the 0.1% AEP events. However, as set out above, in the undefended scenario, parts of the access and near the existing bungalow would be flooded in the 0.5% AEP plus climate change event (2121).
41. The Council consider that the climate change allowance contained within the Appellant's FRA does not include the most recent climate change allowances. Indeed, the Product 4 data used specifically states that 'the climate change allowances provided are not up to date'. It advises that reference should be made to 'Flood risk assessments: climate change allowances' for the most up to date allowances.
42. The Environment Agency Flood Map for 2070 to 2125 is the most up to date climate change data for the purposes of this appeal. This shows that the appeal site would be at risk of flooding from rivers and the sea once allowances for climate change have been applied, along with vast swathes of the surrounding area, including nearby roads. Flood defences are not taken into account in this Flood Map because there is no certainty that they would not fail in the future or be overtopped. Whilst the Council indicated that this would take the appeal site into Flood Zone 3, it acknowledged at the Inquiry that this was incorrect, and that with the flood zone plus climate change extent, the site should be treated as if it were in Flood Zone 2, in accordance with Environment Agency guidance.
43. I note that it is considered that to rerun the modelling would be time consuming and expensive and that it would not be proportionate to the nature of the development. Even if I were persuaded by this argument, having regard to paragraph 175 of the Framework and even accepting that the Appellant's evidence is the 'best available data', it is my judgement that because part of the access to the site would be at risk of flooding in the future, however shallow, the sequential test should be applied. I acknowledge that the access is existing however that access is built development within the site boundary and would serve the number of static caravans proposed. Whether or not the Environment Agency has commented on the proposal does not alter this view.
44. The Appellant has provided no evidence on alternative sites that are at a lesser risk of flooding. That vast swathes of land in the District are shown to be affected by flooding taking into account the recent climate change data relied on by the Council, does not provide a basis to pass the sequential test.
45. I find therefore that it has not been demonstrated that there are no reasonably available sites in areas with a lower risk of flooding for the proposal. The Appellant submits that the site passes the exception test in any event. Be that as it may, the exception test is predicated on the sequential test. The PPG¹⁰ is quite clear that

¹⁰ PPG Paragraph: 033 Reference ID: 7-033-20220825

the sequential tests need to be applied and show that there are no reasonably available, lower risk sites suitable for the proposed development to which the development could be steered before moving on and applying the exceptions test. It is also clear from the PPG that where the sequential and the exception tests have been applied as necessary and not met, development should not be allowed.

46. Even if I were to apply the exception test, I would need to be satisfied that the development would provide wider sustainability benefits to the community that outweighed flood risk; and that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.
47. I acknowledge that the provision of pitches for gypsies and travellers would be a community benefit and would be likely to reduce roadside living and/or unauthorised sites. However, in the absence of a detailed drainage strategy, I cannot be certain that the proposal would ensure that there was not an increased risk of flooding elsewhere. Noting the Appellant's view that there is an engineering solution that would be suitable for the site, and the absence of evidence in this regard, does not satisfy this requirement.
48. Moreover, in terms of the development being safe for its lifetime, it is clear that the FRA has only assessed the impacts of risk and climate change to 2121. It is submitted that an additional 5 years to take account the lifetime of the development would result in water depth increasing nominally where it is shown to pool in the undefended scenario plus climate change. This point has not however been substantiated and there is no certainty that the depth of water at the access would be only a few millimetres more per year. Accordingly, I cannot be satisfied that the development would be safe for its lifetime.
49. Furthermore, the pooling of water at the access would be the only means of escape from the site in a flood event. The measures set out in the FRA in relation to the caravans being safe from flood risk because of the height of the floor levels would be unlikely to give the occupiers confidence in a flood event and there is a reasonable likelihood that they would want to vacate the area given the likely unpredictability of flooding. The escape route along the access would not be flood free and whilst stout boots could be worn as suggested it is my view that safe evacuation routes could not be provided, particularly bearing in mind that some of the occupiers may be young children, elderly people, or those with physical impairments.
50. I have taken into account the existing planning permission on the site which would enable occupation of the site on 9 pitches resulting in the same level of risks from flooding to those future occupiers. The PPG sets out that proposals that are likely to increase the number of people living in an area of flood risk require careful consideration, as they could increase the scale of any evacuation required and that even low levels of flooding can pose a risk to people in situ because of, for example, the presence of unseen hazards and contaminants in floodwater, or the risk that people remaining may require medical attention. Whilst the flood water is suggested to be shallow, with low velocity, in the event of an evacuation a far greater number of people would need to vacate the site compared to its lawful use. The lawful situation does not provide justification to put more people on the site with the associated increase in risk during a flood event.

51. I have had regard to the appeal decision at Saxon House¹¹ but find that the circumstances of this case are not directly comparable in that no part of the built development of that site was shown to be at risk of flooding. I note that at Jardine Nursery¹² the Inspector considered on the evidence before them that the site which did not include the Flood Map for Planning from the Environment Agency was acceptable in flood risk terms. The Flood Map for Planning is before me as evidence, and the circumstances of this case are not directly comparable.
52. On the basis of the evidence before me I find that the appeal site is not suitable for the proposal because of the future risk of flooding. The proposal conflicts with CLP Policy NE16 which seeks to avoid inappropriate development in areas at current or future risk of flooding from any source, and guidance contained within the Framework and PPG relating to flood risk. This is a matter to which I attach considerable weight.

Biodiversity/Bats

53. The appeal site lies within a Core Sustenance Zone, being within 3km of identified bat roosts. Guidance suggests that habitat availability and quality will have a significant influence on the resilience and conservation status of the colony within the roost¹³. It is suggested that the existing hedgerows and trees are likely to be used by bats for foraging and commuting.
54. Policy NE5 of the CLP requires all development to ensure the conservation, protection, enhancement and restoration of biodiversity, avoiding any adverse impact on the condition and recovery of, amongst other matters, species within their ecological networks. I am mindful of protected species legislation and duties including the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 as amended and the Natural Environment and Rural Communities Act 2006 (as amended) (the NERC Act).
55. Government Circular 06/2005¹⁴ sets out that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by proposed development is established before planning permission is granted. This would include bats which are included on the list of species of principal importance under section 41 of the NERC Act. No ecological appraisals or surveys have been undertaken on the site.
56. Whether or not the static caravans could be located more than 5 metres away from the hedgerows through the submission of a site development scheme to prevent disturbance or light spillage, or indeed whether this would be necessary cannot be determined on the evidence before me because the presence or otherwise of protected species has not been demonstrated. The siting of caravans close to the hedgerow under the planning permissions on the site does not alter this view because I do not know what evidence was submitted at the time they were considered. A planning condition to address this matter would not meet the tests on conditions because I cannot be certain that it would be reasonable or necessary on the basis of the evidence before me.

¹¹ Appeal Decision ref APP/L3625/C/24/3345298

¹² Appeal Decision ref APP/L3815/W/25/3361375

¹³ The Bat Conservation Trust's 'Bat Surveys for Professional Ecologists: Good Practice Guidelines 4th edition 2023, Chapter 3.7

¹⁴ Biodiversity and geological conservation – statutory obligations and their impact within the planning system

57. Although in draft form, The Sussex Local Nature Recovery Strategies Habitat Measures V5.1 (12th May 2025) (LNRSHM) sets out the measures required to deliver the priorities and outcomes identified for natures' recovery in Sussex. In terms of hedgerows, section Hdg1 details the measures required to enhance, expand, restore and connect the network of hedgerows, along with the 'action on the ground' required to deliver this priority. Such actions include managing existing hedgerows to improve their structure, longevity and value for biodiversity; to restore hedgerows; to create new hedgerows to support habitat connectivity and creating and enhancing hedgerows as important corridors for wildlife and wildlife permeable boundaries.
58. There is no dispute that hedgerows have been removed from the site. There are however trees and hedgerows along much of the boundaries to the site, and a section of hedgerow to the northwest of the existing bungalow. The Appellant intends to retain the boundary hedgerows and whilst not shown on the submitted drawing, additional planting could be provided where there is none at present along parts of the western and northern boundaries of the site. Such matter could be controlled by a suitably worded planning condition. This would support the objectives of the LNRSHM, providing new hedgerow planting and providing habitat connectivity and biodiversity value.
59. Whilst the proposal would result in enhancements to landscaping, I find that there is insufficient robust evidence to conclude that the proposal would not result in unacceptable adverse effects on protected species, notably bats which is in conflict with the aims of CLP Policy NE5 insofar as it seeks to conserve, protect, enhance and restore biodiversity.

Other Considerations

Need/Supply of Pitches

60. There is no dispute that the Council is unable to demonstrate a 5 year supply of deliverable gypsy and traveller sites against its identified need. The Council's latest supply assessment ¹⁵ sets out that it can demonstrate 4.42 years of pitches. At the Inquiry, the Council conceded that the need assessment was not based on the current definition of 'gypsies and travellers' as set out in the December 2024 PPTS. Various figures were suggested on need and supply in the Statement of Common Ground¹⁶ and the Council's revised position was that it could demonstrate a 2.44 years supply against a need of 47.2 pitches at best, or 1.9 years supply if the Harwood site was excluded. The Appellant considers that the supply figures are less than this, based on a greater need, but either way it is clear that there is an urgent and pressing need to provide sites for gypsy and travellers within the district.
61. The provision of 22 pitches on the site, which would result in a net increase of 13 pitches which could be delivered quickly would support the Government's objectives to promote more private traveller site provision. Given the serious shortfall in the supply of gypsy and traveller sites, the proposal carries significant positive weight.

¹⁵ Gypsy and Traveller supply: current 5-year supply position July 2026 (ID26)

¹⁶ ID30

Use of Previously Developed Land

62. The proposal would make use of an existing site which has planning permission for gypsy and traveller pitches. The PPTS makes it clear that weight should be attached to the effective use of previously developed (brownfield) land. For the reasons set out above in respect of living conditions, it is my judgement that the use of brownfield land would not be effective in this case and this moderates the weight that I can give to this matter.
63. The reduction in authorised hardstanding and incorporation of grassed areas are noted as benefits of the proposal but given the localised impacts and that a well-designed site is expected in policy terms, these matters carry limited positive weight.

Ecological Measures and Landscaping

64. It is accepted that given the nature of the scheme that statutory Biodiversity Net Gain is not a requirement in this case. Landscaping could be enhanced upon the site, as could biodiversity, but these matters would be requirements of the development plan to ensure a well-designed scheme with enhancements to biodiversity incorporated. They are thus neutral in my assessment.

Future Occupiers

65. The appeal scheme is seeking a general permission for a Gypsy and Traveller site and is therefore not predicated on the personal circumstances of any specific individuals.
66. I acknowledge that refusal of the proposal would likely make some of the current occupiers of the site who fall within the PPTS definition of gypsy and travellers without alternative accommodation, but I have no evidence that an approval would serve the best interest of any particular child.
67. Nevertheless, the future occupants would have the protected characteristic of race under s149(7) of the Equality Act 2010. Mindful of my duty set out above under s149(1) this includes minimising disadvantages that are connected to the protected characteristic such as access to accommodation. The appeal scheme would provide a settled base for persons of nomadic habit of life, whatever their race or origin thereby advancing equality of opportunity. The scheme would support the traditional way of life for many families. The absence of a five-year supply of pitches indicates inequality in housing opportunities and the proposal would contribute to the provision of lawful sites in the District and reduce the deficit that the Council finds itself in. The equality implications of the proposal weigh moderately in favour of it in this instance.

Other Matters

SPAs

68. The appeal site lies within the Zones of Influence for the Chichester and Langstone Harbours and Pagham Harbour Special Protection Areas (SPAs). The SPAs are safeguarded by legislation, namely the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) as amended.

69. The Chichester and Langstone Harbours SPA is internationally important because it regularly supports a large population of wintering wildfowl and wintering waders and provides a breeding site for three species of terns. It also supports internationally important numbers of grey plover, sanderling, dunlin, redshank, brent goose, shelduck, teal, ringed plover, curlew, bar-tailed godwit, turnstone, wigeon, pintail, shoveler and the red breasted merganser, which are all qualifying features.
70. The conservation objectives of the Chichester and Langstone Harbours SPA are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring the extent and distribution of the habitats of the qualifying features, the structure and function of the habitats of the qualifying features, the supporting processes on which the habitats of the qualifying features rely, the population of each of the qualifying features, and the distribution of the qualifying features within the site.
71. The Pagham Harbour SPA's qualifying features are dark bellied brent goose, ruff and breeding common tern and little tern. Its conservation objectives are the same as for the Chichester and Langstone Harbours SPA.
72. Site Improvement Plans have been published for the SPAs. They provide a high-level overview of the issues (both current and predicted) affecting the condition of the Natura 2000 features on the site(s) and outline the priority measures required to improve the condition of the features. Public access and disturbance have been identified as one of the activities that can disturb birds and measures are set out to reduce the impact of such access.
73. In addition, the Bird Aware Solent Revised Strategy September 2024 has been published which sets out a strategy which aims to mitigate likely impacts of bird disturbance as a result of additional homes and the resulting increase in recreational visits.
74. Policy NE6 of the CLP sets out that any increase in overnight accommodation within the Zones of Influence for these SPAs, amongst other designated areas will be required to make appropriate avoidance/mitigation measures in accordance with Policy NE8. Policy NE8 of the CLP sets out a number of measures to avoid/mitigate the effects of residential development on the SPAs.
75. The 'Recreational Disturbance of Birds in Special Protection Areas (SPAs) Guidance for planning in the Chichester Local Plan area (April 2026) (Guidance) sets out that for new development leading to an increase in the visitor numbers to the SPAs can only be granted planning permission where appropriate avoidance and mitigation measures are put in place in perpetuity that will ensure that the development in combination with all other developments in the Plan area does not adversely affect the integrity of the SPAs. For caravans or gypsy and traveller sites, a flat rate of £836 is sought towards the Bird Aware Solent scheme of which Chichester and Langstone Harbour SPA forms part, and a flat rate of £974 is sought towards mitigating the recreational effects of development on Pagham Harbour SPA. Where a development falls into the area where the Zones of Influence overlap, as in this case, the contribution required will be the higher of the 2 contributions set out above which would be split between the respective SPAs' mitigation strategies.

76. The proposal would result in an increase in overnight accommodation and would be likely to result in additional recreational pressure on the SPAs. Without mitigation in place the proposal would be likely to undermine the conservation objectives of both the Chichester and Langstone Harbours SPA and the Pagham Harbour SPA and adversely affect their integrity, either alone or in combination with other plans and projects, thereby having a likely significant effect on the protected sites.
77. The Appellant's DoU dated 17 July 2026 would make a financial contribution towards the provision of access mitigation measures in respect of both SPAs of £21,428.00, less £6489.00 which has already been paid in respect of planning permission ref 19/013112/FUL. This amount complies with the Guidance. Natural England and the Council consider that such mitigation would ensure that there would be no likely significant effect on the integrity of the protected sites, and on the evidence before me, I have no reason to find differently. In this regard, there would be no conflict with CLP Policies NE6 or NE8 or the Habitats Regulations.

Planning Balance

78. The proposal would accord with the development plan in respect of its effect on European sites. However, there would be conflict with CLP Policy H14 in terms of the living conditions of the occupiers of the pitches/'plots', Policies H14 and NE16 in terms of drainage strategies, Policy NE16 in terms of flood risk and Policy NE5 in terms of biodiversity. The conflict with these policies brings the proposal into conflict with the development plan as a whole.
79. However, because of the position in terms of the supply of gypsy and traveller pitches, in accordance with paragraph 28 of the PPTS, paragraph 11 d) of the Framework is engaged. This sets out that planning permission should be granted unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
80. In terms of paragraph 11 d) i., footnote 7 identifies the areas or assets of particular importance, including habitats sites and areas at risk of flooding or coastal change. In terms of habitats sites, the recreational effects of the scheme would be suitably mitigated and this would not therefore result in engagement of paragraph 11 d) i.
81. Even accounting that a sequential approach to site selection has not been undertaken and that an exceptions test has not been passed, it is clear that the appeal site would remain at a low probability of flooding for some considerable time. Taking the Council's worst case scenario, the site would continue to have a low probability of flooding from rivers or the sea until 2070, and even longer adopting the Appellant's approach (2121). Even adopting the Council's approach that the flood defences may only be in place for 20 years, this still means that the

appeal site could provide much needed accommodation for gypsies and travellers for a considerable period of time.

82. Having regard to the particular timeframe of the flood risk associated with this site and the nature of the use, it is my view that that a planning condition could be imposed for a temporary period which would ensure that the site was only occupied whilst it had a low probability of flood risk. Highly vulnerable development, such as caravans, is suitable in Flood Zone 1 having regard to the PPG's Table 2 on Flood risk vulnerability and flood zone 'incompatibility'.
83. Given this, and that future flood risk could be suitably mitigated by planning condition, it is my judgement that the risk of flooding or coastal change does not provide a strong reason for refusing the development proposed.
84. None of the other matters set out in footnote 7 of the Framework are applicable in this case and paragraph 11 d) i is not determinative. It is therefore necessary to assess the proposal on the basis of paragraph 11 d) ii.
85. The identified harm that would be caused to the living conditions of the intended future occupiers would conflict with the PPTS and the Framework's objectives of ensuring a high standard of amenity for existing and future users and creating places that promote health and well-being. In that I have identified that there would be limited outside space for future occupiers, which would be harmful to living conditions, the scheme would not be well-designed. The Framework is clear at paragraph 139 that in such circumstances development should be refused. This matter carries substantial negative weight in my decision.
86. The absence of a drainage strategy carries limited negative weight in my decision, because there is a high probability that a suitable scheme could be delivered on the site, as it already has, and on sites nearby.
87. In terms of protected species, insufficient up-to-date information is before me and as such I cannot be satisfied that bats, in particular would not be adversely affected by the proposal and/or that the mitigation measures sought (hedgerow buffers) would be necessary or would be sufficient to ensure that species were protected and enhanced. This matter carries significant negative weight in light of my biodiversity duty.
88. The location of the site where there is a future risk of flooding and that the development would be unlikely to be safe for its lifetime carries moderate negative weight in my decision, because the identified harms could be mitigated as set out above.
89. The benefits of the proposal are set out above. The provision of gypsy and traveller pitches carries significant positive weight, and would provide a settled base for many families, reducing the need for a roadside existence or living on unauthorised sites. The equality implications of this carries moderate positive weight. Limited weight is given to the use of previously developed land because as proposed, its use would not be effective because of the harm that I have identified to living conditions and by association to design.
90. The proposed ecological measures, including additional landscaping are neutral for the reasons set out above. I note that the Appellant considers that compliance with the SPA Guidance should weigh in favour of the proposal, but such

contributions would mitigate the recreational effects of the scheme. They are thus necessary to make the development acceptable in planning terms and this matter is neutral in my decision. These matters do not weigh in favour of the proposal.

91. Whilst there are significant benefits associated with the provision of gypsy and traveller pitches as outlined above, I find that taken with the other benefits, alone or in combination that they are insufficient to outweigh the totality of the harmful impacts I have found when assessed against the Framework taken as a whole, having particular regard to key policies for making effective use of land and securing well-designed places.
92. I have considered the option of granting planning permission for a temporary period. The Appellant whilst seeking a permanent permission considered that a period of 5 years would be suitable. This requires a balancing exercise taking into account the limited duration of any permission and any reasonable expectation of a change in planning circumstances by the end of that period.
93. In terms of flood risk a temporary planning permission would be appropriate for the reasons set out. Putting aside drainage, which may be costly depending on the scheme/strategy that would be delivered, making a temporary condition unreasonable, the harm that would be caused to occupiers' living conditions as a result of the number of caravans proposed on the site would occur regardless of any time limits and harm may be caused to protected species. In my judgement the extent of harm that would be caused as a result of a poor living environment and possible effect on protected species remain as overriding factors which would outweigh the benefits, even if the development were permitted for only a temporary period. As such overall, I find that a temporary solution to the provision of much needed pitches would not be appropriate in this case.
94. Dismissing the appeal would represent an interference of facilitating a gypsy and traveller way of life as set out in Article 8 of the Human Rights Act 1998. In accordance with the public sector equality duty, I have given due regard to minimising the disadvantages suffered by the intended occupiers of the site and to meeting their needs in so far as they are different to those without a relevant protected characteristic. Whilst ultimately the appeal is to be dismissed, these considerations have been at the forefront of the decision-making process. Nevertheless, the specific nature of the harms identified means the outcome is a proportionate one.

Conclusion

95. The proposal conflicts with the development plan taken as a whole. There are no other material considerations, including the Framework or PPTS, that have been shown to indicate that a decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

RC Kirby

INSPECTOR

APPEARANCES:

FOR THE APPELLANT

Scott Stemp, Barrister	Instructed by Brian Woods of WS Planning and Architecture
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He called:

Tom Quigg BSC MSC CEng MICE	Director of Flume Consulting Engineers
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Brian Woods BA(TP) MRTPI	Chairman and Founder WS Planning and Architecture
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FOR THE LOCAL PLANNING AUTHORITY

Kimberley Ziya, Barrister	Instructed by Nicola Golding, Principal Solicitor, Chichester District Council
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She called:

Katherine Waters MSC, BSC, C.WEM, Management MCIWEM	Technical Director Sustainable Water Team WSP
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Owen Broadway BA MSC PGDip	Conservation and Design Manager Chichester District Council
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Nicholas Gray BSc (Hons) ACIEEM	Grays Ecology
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Calum Thomas BA(Hons) MA, MRTPI	Principal Planning Officer Chichester District Council
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Fjola Stevens	Chichester District Council
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INTERESTED PARTIES

Martin Mellody	Chairman Sidlesham Parish Council
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Nick Wade	Vice Chairman Sidlesham Parish Council
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Tacy Parsons	Sidlesham Parish Council
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David Guest	Sidlesham Parish Council
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Mr Harland	Sidlesham Parish Council
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James Corsan	Local resident
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Julie Yeates	Local resident
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James Berresford	Local Resident
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Chris Blanchard	Local Resident
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Peter Whitmore Jones	Local Resident
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Mary Cameron	Local Resident
Hester Johnstone School	Family Support Worker Sidlesham Primary
Susan Coe	Local Resident

DOCUMENTS SUBMITTED DURING AND AFTER THE INQUIRY

- ID1: Appearances for the Appellant
- ID2: Appeal Notification List
- ID3: Appellant's Opening Statement
- ID4: Council's Opening Statement
- ID5: Sidlesham Parish Council Statement
- ID6a: WSP Rebuttal of Mr T Quigg
- ID6b: Appeal decision APP/Z5630/W/25/3369621, 141 London Road, Kingston upon Thames
- ID7: Council's Note on Notification Procedure
- ID8: Appellant's Note on Publicity
- ID9: Chichester Observer Press Notice 4 December 2025
- ID10: Rex (Gurajena and another) v Newham London Borough Council [2024] EWHC 1745 (Admin)
- ID11: Council's Notification Letter of Appeal dated 19 December 2025
- ID12: List of Persons Notified of Appeal
- ID13: Public Inquiry Site Notice 15 January 2026
- ID14: Public Inquiry Site Notice Locations
- ID15: Public Inquiry Site Notice Location Photographs
- ID16: Chichester Observer Press Notice 15 January 2026
- ID17: Council's Notification Letter of Appeal dated 1 June 2026
- ID18: List of Persons Notified of Appeal
- ID19: Public Inquiry Site Notice 4 June 2026
- ID20: Public Inquiry Site Notice Locations
- ID21: Public Inquiry Site Notice Location Photographs
- ID22: Chichester Observer Press Notice 4 June 2026
- ID23: Supplement Proof of Evidence Calum Thomas

- ID24: Gypsy and Traveller supply: current 5-year supply position June 2026
- ID25: Breach of Condition Notice Ref SI/91 dated 12 August 2025
- ID26: Gypsy and Traveller supply: current 5-year supply position July 2026
- ID27: Decision Notice for 22/02038/DOC Discharge of Condition 4 of application 19/03112/FUL
- ID28: Approved Block Plan for Application 22/02038/DOC
- ID29: Appeal Decision Saxon House Ref: APP/L3625/C/24/3345298
- ID30: Gypsy and Traveller Pitch Need and Supply Statement of Common Ground
- ID31: Recreational Disturbance of Birds in Special Protection Areas (SPAs) April 2026
- ID32: In Perpetuity Costs of Mitigating Recreational Disturbance
- ID33: Draft Planning Conditions
- ID34: Draft Conditions 4 and 5
- ID35: Council's Closing Submissions
- ID36: Appellant's Closing Submissions
- ID37: Appellant's Cost Application
- ID38: Council's Cost Response
- ID39: Completed Deed of Undertaking
- ID40: Suggested addendum to condition no 5 dated 17 July 2026
- ID41: Note on High Hedges Legislation
- ID42: Note on British Railways Board v Secretary of State for the Environment and others [1993] 3 PLR 125