

DRAFT STATEMENT OF COMMON GROUND

**LAND AT THE STABLES ADJACENT TO HOLLYBANK
COTTAGE, LONG COPSE LANE, EMSWORTH**

LPA REFERENCE: APP18/00929

**HEARING STATEMENT ON BEHALF OF THE
APPELLANT**

THE PLANNING HISTORY OF THE APPEAL SITE

1. The Appeal site was granted planning permission on Appeal pursuant to reference APP/X1735/A/14/2220161 on 1st September 2014 for an extension to an existing stable block that had itself been granted planning permission by the LPA on 21st July 2010 for the “*change of use of land and erection of stable block with tack room, entrance gate, landscaping and associated access/groundworks.*” Those permissions have now been implemented which means that the Appeal site is to be considered as previously developed land [PDL] for the purposes of the Framework and Planning Policy for Traveller Sites [PTS] both of which suggest that the re-use of PDL is consistent with Government policy. The Framework defines PDL as:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings.”

Paragraph 24 of PPTS states:

“When considering applications, local planning authorities should attach weight to the following matters: effective use of previously developed (brownfield), untidy or derelict land.”

2. On 28th February 2018 an Appeal was allowed by Inspector Felgate which authorised the *“change of use from a private equestrian yard to a mixed use comprising private equestrian yard and a single pitch private Gypsy and Traveller site, including mobile home and single touring caravan.”* The 2018 DL is a material consideration of significant weight not least because it establishes a base line that includes both an accepted residential caravan site use as well as an equestrian yard with extended stables against which this modest extension to the site should be considered.
3. This Appeal merely seeks to increase the number of residential caravans from one mobile home to two mobile homes. When considering the application now under Appeal the LPA’s own Planning Officer recommended that permanent planning permission be granted.

PLANNING POLICY AND NATIONAL GUIDANCE

4. By section 70(2) of the Town and Country Planning Act 1990, when dealing with an application for planning permission the LPA is required to have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations. By section 38(6) of the Planning and Compulsory Purchase Act 2004 planning determinations should be made in accordance with that Development Plan *‘unless material considerations indicate otherwise’*.
5. The Development Plan for the purposes of s38(6) consists of the Havant Borough Council Core Strategy within which there is a specific criteria based Gypsy sites policy CS10. The RFR does not allege a breach of CS10 from which it can be reasonably deduced that it is common ground that the proposal is consistent with that policy, a matter that attracts further significant weight. CS10 states:

“The council will allocate sufficient sites in the Development Delivery (Allocations) Development Plan Document to accommodate the needs of Gypsies and Travellers and Travelling Showpeople based on the information contained in

the Hampshire and Isle of Wight Gypsy and Traveller Accommodation Assessment updated as necessary and current government requirements.

Criteria for the location of such sites that are likely to be a mix of temporary and permanent sites dependant on need must take account of the following issues to ensure that:

1. There is no unacceptable adverse effect on the amenities of nearby residential and/or business uses.

By the use of the word “*unacceptable adverse effect*” it is clear that *some* effect on neighbouring land uses would not amount to a breach of criterion 1. When considering this issue, it is important to keep in mind that the base line against which to assess the impact of a single additional caravan (which is the only development sought in this Appeal) is an authorised residential caravan site and equestrian yard. Moreover, the proposed development of 260 houses on land adjacent to Hollybank Cottage in the 2018 version of the Draft Local Plan further effects the character of the area in which the assessment of a single additional caravan is to be considered. By the imposition of suitable planning conditions, no “*unacceptable adverse effect*” on the amenities of nearby land uses will occur. Indeed, when the previously proposed 2 pitch site was considered, the LPA did not find that the residential amenity of Hollybank Cottage was affected. Nor for that matter did Inspector Felgate in the 2018 DL.

All the criteria in CS10 are met.

6. The planning application that is currently under Appeal was refused planning permission for the following reason (singular):

“The site lies within a rural area where the stationing and use of additional individual caravans for residential purposes is contrary to the policies of the Local Planning Authority and represents a form of development which is likely to be detrimental to the rural character and to the visual amenity of the area and the amenities of conventional residential properties in the vicinity. The proposal is

therefore contrary to policies CS11, CS16 and CS17 of the Havant Borough Local Plan (Core Strategy) 2011, policy AL2 of the Havant Borough Local Plan (Allocations) 2014, Paragraph 26 of the Planning Policy for Traveller Sites 2015 and the National Planning Policy Framework 2018.”

7. Firstly, whilst the RFR refers to *the stationing and use of additional individual caravans for residential purposes* the application in fact only relates to a single additional residential caravan. The Landscape Officer did not object to the application under Appeal; nor did the Arboricultural or Policy Officers.
8. The elephant in the room with the RFR is also addressed by the RTC, namely the development of some 260 houses proposed in the Local Plan Housing Statement on land adjacent to Hollybank Cottage:

“...it must be recognised that the Local Plan Housing Statement (adopted in December 2016) and Draft Local Plan 2036 (published in January 2018) propose an area of development to the north of Long Copse Lane that will extend the settlement of Emsworth to the north and west of the application site. The identification of this neighbouring site for substantial residential development is a significant and material change since the determination of application APP/16/00021, which was originally for 2 pitches. It is considered that there is a difference in impact depending on whether a proposed site is in open countryside as opposed to being immediately adjacent to an existing built-up/urban area.”

9. The LPA does not allege that the site is in an unsustainable location.
28. If the Inspector concludes that is some conflict with the Development Plan then pursuant to the second limb of s38 (6), the other considerations include, but are not limited to, the following:
- i. The Gypsy and Traveller status of the Appellants;
 - ii. the issue of need for more Gypsy and Traveller sites a) nationally b) regionally c) at county level and d) within the District,
 - iii. the unavailability of suitable, available, acceptable alternative site(s);

- iv. the family's personal circumstances and needs
- v. the sustainability of the Appeal site;
- vi. the progress the Council has made in respect of its Local Development Framework and Site Allocations DPD;
- vii. the deficiencies with Development Plan policies with respect to Gypsy caravan sites which goes back many years;
- viii. matters of discrimination and inequality in provision
- ix. that the site comprises PDL
- x. Human Rights considerations.

GYPSY AND TRAVELLER STATUS

29. The Appellants and their family are Travellers in terms of Annex 1 PPTS as well as ethnic Romany Gypsies for the purposes of the Equality Act 2010.

30. Paragraph 3 PPTS states:

*“The Government’s overarching aim is to ensure fair and equal treatment for travellers, **in a way that facilitates the traditional and nomadic way of life of travellers** while respecting the interests of the settled community.*

31. Part of the traditional way of life of Travellers is living in extended family groups for mutual support. This is given effect by Article 8 of the Human Rights Act 1998, as recognised in the case of *Chapman v the UK*. This purpose of this Appeal is so that the Appellant can move back into caravans and bring his extended family back together on a Gypsy caravan site. This factor attracts great weight.

NATIONAL, LOCAL AND REGIONAL NEED

32. Nationally some 1 in 4 caravans are on unauthorised sites without planning permission. 18% of Travellers are homeless compared with under 2% of the general population. The South West of England has 1 on 3 caravans on unauthorised sites. All of the other Hampshire authorities have a need for further Traveller sites: in the bi-annual count for January 2016 Basingstoke and Deane had 11 unauthorised caravans out of a total of 25;

East Hampshire had 3, as well as 9 with only a temporary permission; Eastleigh had 20 unauthorised; Gosport had 4. Havant had 4 unauthorised caravans in the January 2018 count. It would appear that Havant had never had an authorised Travellers site in its history until the previous Appeal on this site was allowed in 2018.

33. The Officer's Report accepts that there is an unmet need for one further pitch. The Appellant considers this to be a significant underestimate.