



The Planning Inspectorate

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Michelle Houghton
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant
Hampshire
PO9 2AX

Your Ref: APP/00021
Our Ref: APP/X1735/W/16/3156978

16 January 2018

Dear Michelle Houghton,

Town and Country Planning Act 1990

Appeal by Mr L Madgwick

**Site Address: Stables adjacent to Hollybank Cottage, Long Copse Lane,
Emsworth, Hants, PO10 7UR**

I enclose for your information a copy of the third party correspondence on the above appeal(s).

Normally, no further comments, from any party, will now be taken into consideration.

Comments submitted after the deadline will not be seen by the Inspector unless there are extraordinary circumstances for the late submission.

Yours sincerely,

Mariola Bartkowiak

Mariola Bartkowiak

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - www.planningportal.gov.uk/planning/appeals/online/search

From: [REDACTED]

Sent: 08 January 2018 09:30

To: East1

Subject: APP/X1735/W/16/3156978 - Stables and land adjacent to Hollybank Cottage, Long Copse Lane, Emsworth, HAVANT

Dear Ms. Bartkowiak,

I have sent about half an hour ago, via your online comment facility, a statement of representation on behalf of Dr and Mrs Mason, Mr. R. Mason and Dr. and Mrs Thomas. Should you require any printed copies please let me know.

I would be grateful if you would inform the Inspector that I wish to appear at the hearing on behalf of the above named.

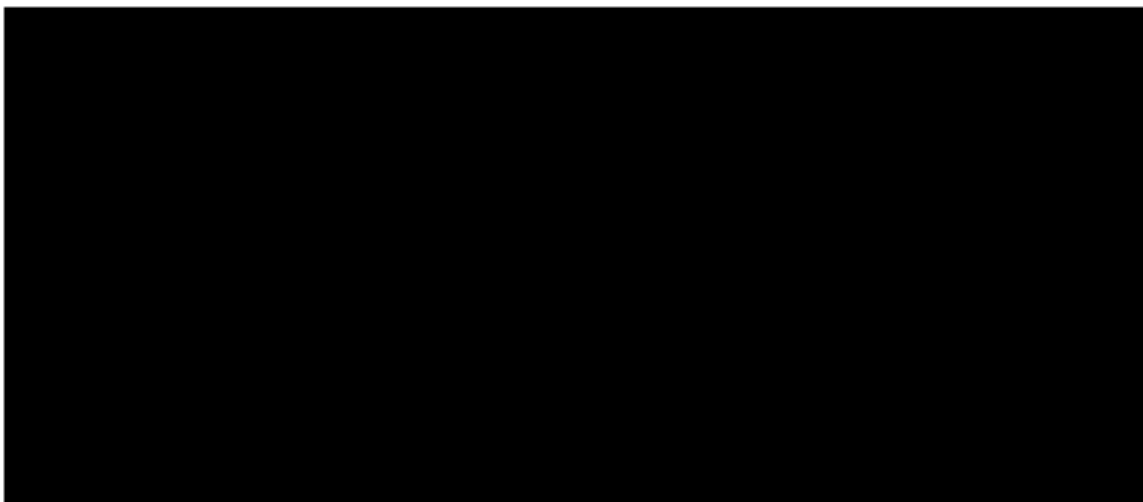
Given that the original appeal was held in abeyance for some considerable period, it may be that the appellant will seek to submit further representations beyond his statement of case already submitted. If this is so I would be grateful if you would forward these to me by email.

I would also wish to draw your attention to your attention that the original planning application subject of this appeal was lodged on behalf of Mr. James Madgwick whereas the appeal was lodged by Mr. L. Madgwick. It is believed, but not known for certain, that these persons are son and father respectively. It would appear that the appeal may not be valid as it is not being pursued by the original applicant, contrary to law (Town and Country Planning Act 1990 S78 (1)). No doubt you will make such enquiries as are appropriate to establish whether the appeal has been made lawfully.

Regards,

Philip Woodhams

1, Barbary Lane, Ferring, Worthing, West Sussex BN12 5JB



From: David Mason [REDACTED]
Sent: 29 December 2017 11:05
To: East1
Subject: RE: Question regarding APP/X1735/W/16/3156978

Dear Ms. Bartkowiak,

Planning Inspectorate's Appeal Reference: APP/X1735/W/16/3156978

Site: Land - Stables adjacent to Hollybank Cottage, Long Copse Lane, Emsworth

Proposed Development: Change of use from private equestrian yard to a mixed use comprising private equestrian yard and two pitch, private gypsy and traveller site (including amenity block and two touring caravan pitches).

LPA Planning Application Number: APP/16/00021

Appeal Start Date: 05 December 2017 **Appellant's Name:** Mr J Madgwick

Thank you for your answer. Please could you give us some further guidance, as this is the first time we have been involved in a planning appeal and don't know in detail how they work?

Our current understanding is that the Inspector will decide the appeal against the refusal of the application APP/16/00021 based on the evidence available at the time of the hearing (February 2018). He will not be limited to the evidence available at the time that the application was refused in 2016.

Or have we got this wrong and are all the negotiations that happened after the refusal of the appeal in 2016 to be ignored?

Please could you say which is correct.

Best regards,
David Mason (Dr).
Hollybank Cottage.

From: [REDACTED]
Sent: 09 January 2018 11:02
To: East1
Subject: APP/X1735/W/16/3156978 - Stables and land adjacent to Hollybank Cottage,
Long Copse Lane, Emsworth, HAVANT

Dear Ms Bartkowiak,

I refer to the above and the statement submitted via your automated system. I wonder if you would note and pass on to the Inspector an error in my Statement. Paragraph 2.1.3 refers to Appendix 3. There is no Appendix 3 – after thought applied to an original draft I included the diagram originally located in Appendix 3 as an image located within the text. Perhaps you would be good enough to forward a copy of this email to the Inspector, the LPA and the appellant to draw attention to this error. I would like to be able to blame someone else but this is solely down to me. Please accept my apologies.

Regards,

Philip Woodhams

Ketts House, 92 Cambridge Road , Moseley, Birmingham B13 9UG
1, Barbary Lane, Ferring, Worthing, West Sussex BN12 5JB

The Planning Inspectorate

COMMENTS ON CASE (Online Version)

Please note that comments about this case need to be made within the timetable. This can be found in the notification letter sent by the local planning authority or the start date letter. Comments submitted after the deadline may be considered invalid and returned to sender.

Appeal Reference: APP/X1735/W/16/3156978

DETAILS OF THE CASE

Appeal Reference APP/X1735/W/16/3156978

Appeal By MR L MADGWICK

Site Address
Stables adjacent to Hollybank Cottage
Long Copse Lane
Emsworth
Hants
PO10 7UR
Grid Ref Easting: 1234567
Grid Ref Northing: 1234567

SENDER DETAILS

Name MR JAMES WEBB

Address
78 Manor Green Road
EPSOM
KT19 8LN

ABOUT YOUR COMMENTS

In what capacity do you wish to make representations on this case?

- ☐ Appellant
- ☐ Agent
- ☒ Interested Party / Person
- ☐ Land Owner
- ☐ Rule 6 (6)

What kind of representation are you making?

- ☐ Final Comments
- ☐ Proof of Evidence
- ☐ Statement
- ☐ Statement of Common Ground
- ☒ Interested Party/Person Correspondence
- ☐ Other

YOUR COMMENTS ON THE CASE

I am against the appeal proposals.

In the Appeal document on the HBC website (07/12/2017), the applicant James Madgwick says his partner is expecting a baby in March 2017. In the Gypsy Liaison Officer's Interview on the website (May 2107), JM says his partner is expecting a baby in September 2017. It should be incumbent on the Authorities to rigorously check the validity of these statements. We believe there was a Madgwick baby in September 2017, born to JM's sister not his partner.

The Planning Inspectorate

COMMENTS ON CASE (Online Version)

Please note that comments about this case need to be made within the timetable. This can be found in the notification letter sent by the local planning authority or the start date letter. Comments submitted after the deadline may be considered invalid and returned to sender.

Appeal Reference: APP/X1735/W/16/3156978

DETAILS OF THE CASE

Appeal Reference APP/X1735/W/16/3156978

Appeal By MR L MADGWICK

Site Address
Stables adjacent to Hollybank Cottage
Long Copse Lane
Emsworth
Hants
PO10 7UR
Grid Ref Easting: 1234567
Grid Ref Northing: 1234567

SENDER DETAILS

Name MR PHILIP WOODHAMS

Address
1 Barbary Lane
Ferring
WORTHING
West Sussex
BN12 5JB

Company/Group/Organisation Name Dr and Mrs Mason, Mr R Mason and Dr and Mrs Thomas

ABOUT YOUR COMMENTS

In what capacity do you wish to make representations on this case?

- ☐ Appellant
☐ Agent
☒ Interested Party / Person
☐ Land Owner
☐ Rule 6 (6)

What kind of representation are you making?

- ☐ Final Comments
☐ Proof of Evidence

- ☐ Statement
- ☐ Statement of Common Ground
- ☒ Interested Party/Person Correspondence
- ☐ Other

COMMENT DOCUMENTS

The documents listed below were uploaded with this form:

Relates to Section: REPRESENTATION

Document Description: Your comments on the appeal.

File name: Appeal Statement Complete Final.pdf

PLEASE ENSURE THAT A COPY OF THIS SHEET IS ENCLOSED WHEN POSTING THE ABOVE DOCUMENTS TO US

APP/16/00021 | Change of use from private equestrian yard to a mixed use comprising private equestrian yard and two pitch, private gypsy and traveller site (including amenity block and two touring caravan pitches).

Land and Stables adjacent to Hollybank Cottage, Long Copse Lane, Emsworth.

Statement of Objection to proposed development on behalf of Dr and Mrs D Mason, Mr. R. Mason and Dr and Mrs A. Thomas .

Hearing 6th February 2018

Philip Woodhams, B.Sc., MRTPI,
Town Planning Consultant,
1, Barbary Lane,
Ferring,
Worthing
West Sussex BN12 5JB

8th January 2018

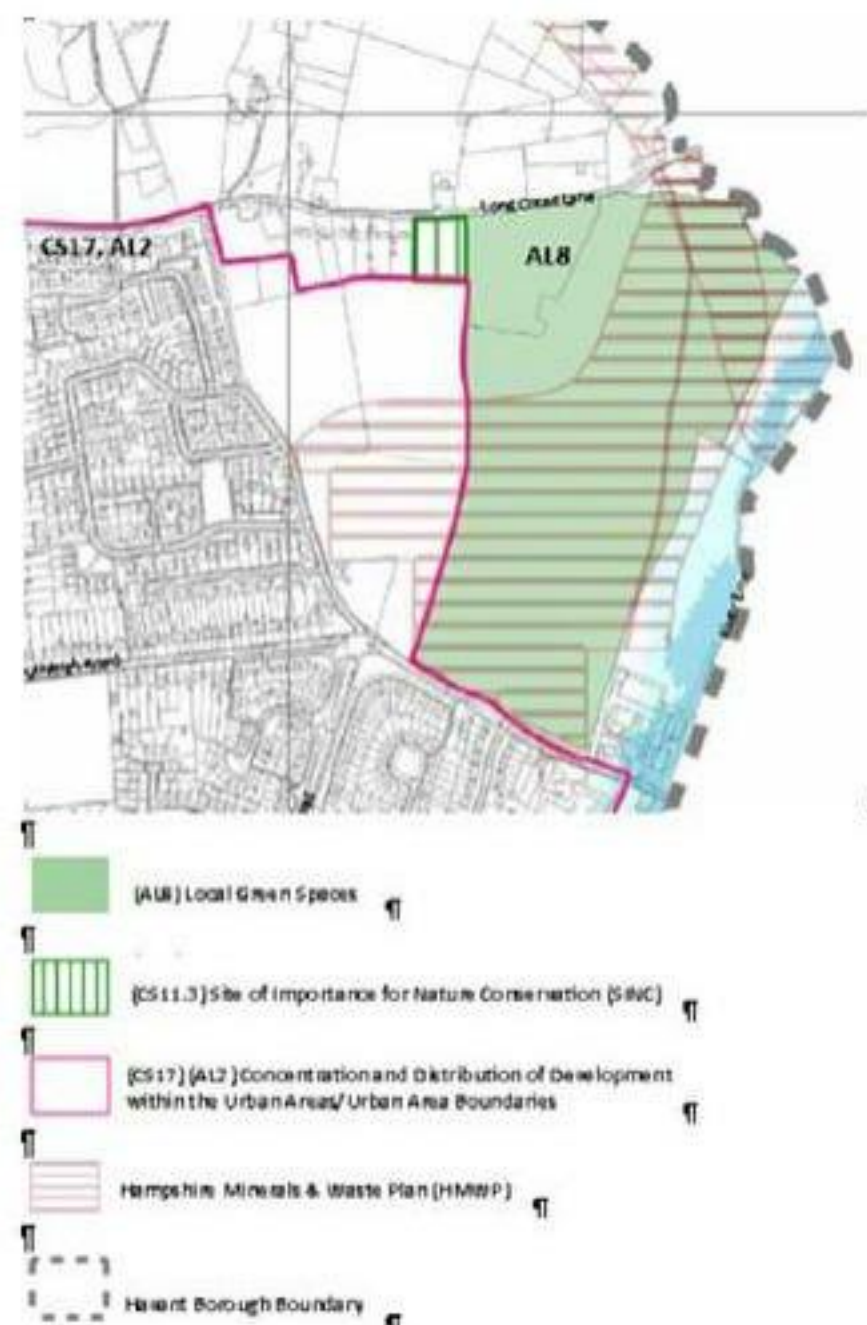
1 Introduction

- 1.1.1 I have been instructed by Dr and Mrs Mason who reside at Hollybank Cottage, immediately adjacent to the appeal site, Mr. R. Mason, 8 Roman Road, London W4 1NA, and Dr. and Mrs. A. Thomas of 52 Long Copse Lane who have instructed me to appear at the hearing on their behalf.
- 1.1.2 This statement firstly sets out the material context for the key issues which are likely to be of relevance to the Inspector's decision. Secondly these context matters will be drawn upon in a consideration of the key issues and from these I present my professional judgement of the appropriate determination of the appeal.
- 1.1.3 It is indicated in the appellant's statement of case lodged with the appeal that the appellant wishes this current appeal to proceed on the basis of a revision to the proposal through a reduction in the permanent dwellings from 2 to 1. They say that the Council are content with this proposed but it is considered that this amendment is not a matter for the Council, but one wholly at the discretion of the Inspector after taking into account whether persons will be prejudiced by such an amendment.
- 1.1.4 This statement proceeds on the basis that the appeal relates to the scope of development as originally subject of refusal. It seems to me that the amendment requested by the appellant is too substantial in kind to be acceptable under the Wheatcroft principles advised in PINS guidance. As will be seen below there is a later planning application for a single permanent dwelling which was refused permission in July and if the appellant wished to pursue that development the proper course would have been to lodge an appeal against that decision, and either pursue the two together or withdraw the appeal now before the Inspectorate. The case now submitted on behalf of my clients is on the basis of the appeal development as described when originally lodged.

2 Context

2.1 Site and Surroundings

- 2.1.1 The site has an area of about 0.36 hectares (less than the 0.8 ha reported in the application form) and lies on the north side of Long Copse Lane. For much of its length Long Copse Lane is a narrow rural lane, barely wide enough for two vehicles to pass, and mostly has a rural character typical of farmland.
- 2.1.2 Where housing is evident, mainly to its western end, this is for the most part conventionally designed housing from the interwar period. Closer to the urban area within Havant the character on the southern side changes to wholly suburban in character. However visually this suburban character area is separated from the vicinity of the application site where the rural character prevails.
- 2.1.3 A field diagonally opposite the application site is rough grassland and is shown on the Council's Proposals Map (see Appendix 3) as a Site of Importance for Nature Conservation. Other land south of the application site is open land under development as a Green Space (indicated on the extract from the Proposals Map below).



- 2.1.4 To the west the site adjoins Hollybank Cottage, which is a two storey dwelling with habitable room windows which overlook the application site at both ground and first floor. The photograph below shows the view from the first floor of Hollybank Cottage.



View of Appeal Site from 1st Floor Window Hollybank Cottage April 2016

- 2.1.5 With the exception of Hollybank Cottage the site is surrounded by open land having a countryside character and appearance. Elevated parts of the South Downs National Park are clearly visible from the vicinity of the application site, and it will be evident from this that the reverse will apply.
- 2.1.6 Shops, a primary school and a doctor's surgery are located in Westbourne village about 500 metres distance from the application site in an easterly direction. The school is about 700 metres distant and the village shops and surgery about 900 metres distant.

2.2 Planning History.

- 2.2.1 The full planning history is anticipated to be given by the Council in their case. This statement notes two previous applications..
- 2.2.2 Application number APP/16/01234 was similar to the appeal application but proposed one permanent dwelling instead of the two embraced by the current appeal. This application was refused permission on 6th July 2017 essentially on grounds of adverse impact on the character of the area in conflict with several material Development Plan policies.
- 2.2.3 At the time of submission of this statement it is understood that no appeal against this decision has been lodged and thus the period for lodging an appeal has expired.
- 2.2.4 Application APP/.10/74070 granted permission for a stable. The original 2010 permission embraced both the field subject of the current appeal together with the field immediately to the east. The stable block shown on the plan at that time was located within the field to the east. The same site plan was used in the 2014 application /appeal for the extension to the stable block and is subject to the same error of siting. The buildings that subsist today do not have the benefit of a planning permission being in a materially different position to those granted planning permission previously.
- 2.2.5 Drawing 1076/2 is based on the Ordnance Survey and seeks to show graphically the position described above. It is produced by firstly taking a *.pdf cropped extract of the site location plan accompanying the stable block application (10/74070). This does not have a scale bar and therefore the outline of the application site plus the outline of the curtilage of Willowbank Cottage was plotted in AutoCad and then scaled by a ratio based on the known common feature of the western boundary on the OS extract within the AutoCad drawing and the resultant extrapolation placed over the common known boundary feature. The plot of the appeal site plan was simply potted as that was a scaled drawing capable of accurate plotting. The area where the stables are shown in the 2010 application is materially outside the application site plan area and it is for this reason I conclude the stables do not have planning permission.

- 2.2.6 The foregoing is significant as the appellant seeks to draw comfort from the description of the site as Previously Developed Land. It seems to me to be axiomatic that any comfort to be drawn from such status should subsist only if they are lawful. As far as the writer is aware there is no lawful development certificate for the buildings, and in this circumstance the weight of any claims to the appellants interests on the basis of PDL status is substantially diminished.

2.3 Development Plan

- 2.3.1 The material parts of the Development Plan comprise the Havant Core Strategy 2011 and the Havant Borough Local Plan (Allocations) 2014.
- 2.3.2 The Council submitted material policy extracts from these documents with their questionnaire and the Inspector is invited to refer to these rather than burden the process with unnecessary paperwork. On behalf of my clients the kernel of the material development plan policies is summarised below.

Havant Core Strategy 2011

Policy CS10 Gypsies, Travellers and Showpeople

- 2.3.3 This policy binds the commitment to allocate sites in a subsequent plan to meet numbers prevailing at the time it is engaged, and site selection as part of that exercise is to be in accordance with various criteria seeking avoidance of adverse amenity effect; provision of satisfactory access and parking; levels of traffic generation appropriate to the locality and not causing a hazard to road safety; reasonable access to facilities; and not located within the context of flood risk, effect on historic and natural environments, and having suitable contamination mitigation .

Policy CS 11 Protecting and Enhancing the Special Environment and Heritage of Havant Borough

- 2.3.4 This policy seeks to regulate development having regard to many factors. Of especial relevance is the maintenance of specified undeveloped gaps between settlements which include that between Emsworth and Westbourne.

Policy CS16 High Quality Design

- 2.3.5 This policy seeks to achieve a high standard of design and relevant factors in approaching this are set out. One of these points to the need for development to respond positively to local character in the vicinity of the development site

Policy CS17 Concentration and Distribution of Development within the Urban Areas

- 2.3.6 This policy seeks to make effective use of land and in this connection seeks to direct all development to defined urban areas. Development in the non urban areas will only be acceptable if there is conformity with national policy for development in the countryside.

Policy CS20 Transport and Access Strategy

- 2.3.7 This guides development within the context of transport objectives and includes a requirement that development is consistent with the “*Reduce Manage and Invest*” strategy. The policy also requires that development maintains “...or improves the range of transport modes accessible to the users of the development site with specific emphasis on public transport, especially high quality/frequency buses and includes walking and cycling where appropriate”.

Policy CS21 Developer contributions

- 2.3.8 This policy establishes the circumstance where Section 106 requirements will be merited. In this case it is understood the Council will be requiring a contribution to mitigation of impact in relation to nature conservation interests.

DM8 Conservation, Protection and Enhancement of Existing Natural Features

- 2.3.9 This policy contains a requirement to secure maintenance of sequences of all green spaces that contribute to the character of the borough

DM10 Pollution

- 2.3.10 This policy addresses a wide spectrum of potential pollution sources including light and noise, and includes criteria for weighing these aspects of proposed development. Light pollution will be restricted to the minimum necessary for operational and security purposes.

DM11 Planning for More Sustainable Travel

- 2.3.11 This policy is concerned with securing more sustainable travel patterns through every opportunity. Various devices are cited as means of achieving this including provision for cycle storage.

DM13 Car and Cycle Parking On Residential Development

- 2.3.12 This policy operates to restrict the grant of planning permission to circumstances only where there is conformity of car and cycle parking in accordance with standards.

Havant Borough Local Plan (Allocations) 2014

AL1 Presumption in Favour of Sustainable Development

- 2.3.13 This policy replicates the provisions of the NPPF paragraph 14 relating to Decision Taking. In essence, under AL1, permission should be granted in accordance with policies and where there are no relevant policies or they are out of date there should be a presumption in favour of the grant of planning permission unless there are compelling reasons pointing in a different direction.

AL2 Urban Area Boundaries and Undeveloped Gaps between Settlements

- 2.3.14 This policy defines the categories of development which will be permitted in the undeveloped gaps between settlements, including the appeal site. For permission to be granted under the auspices of this policy it must conform to specified categories – small scale householder development; where there is an overriding public need that cannot be accommodated elsewhere in the Borough; or meeting the policies for exceptional development in rural areas as defined in the NPPF.

AL8 Local Green Spaces

- 2.3.15 This policy is not listed in those set out in the Council's questionnaire but in the writer's view is material to a consideration of the appeal proposal. Policy AL8 is set out in full below.

Policy AL8 Local Green Spaces

Planning permission will be granted for development proposals that protect or enhance the Local Green Spaces, as shown on the Policies Map.

Development proposals that would be harmful to these Local Green Spaces will not be permitted other than in very special circumstances.

2.3.16 The appeal site lies directly opposite a designated Green Space.

DM24 Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development

2.3.17 This policy seeks to enable the grant of planning permission only where appropriate mitigation measures have been set in place in respect of the Special Protection Area. It is understood the site lies within an area where recreational use of the SPA is considered by the Council to increase.

Update on Gypsy and Traveller Sites

2.3.18 The Local Plan (Allocations) did not make additional provision for Gypsy and Traveller sites as the prevailing evidence base indicated no requirement in Havant at that time. The Local Plan furnished an update on the overall position at paragraphs 2.31 – 2.35 and the Council's questionnaire indicates that these paragraphs have been sent to PINS.

2.3.19 There was need demonstrated in other nearby authorities and the Local Plan (Allocations) advised the intention to work jointly with these authorities to secure a supply in an appropriate location, and should this prove to be in Havant the Local Plan Review would embrace this task.

2.3.20 The written support material indicated that in the meantime the criteria set out in policy CS10 should be used to determine any applications coming forward in the meantime.

2.3.21 It is appropriate to emphasise that this is not a formal policy of the plan, and the Inspector in this appeal may find it of assistance to learn what one of his colleagues said in her report into the Examination of the Local Plan (Allocations):

Does the Plan address the needs of Gypsies, Travellers and Travelling Showpeople?

36. Policy CS10 of the CS sets out criteria for the location of sites for Gypsies, Travellers and Travelling Showpeople but delegates the allocation of sufficient sites for these groups to the Development Delivery (Allocations) DPD. This is to be based on the findings of the Hampshire Gypsy and Traveller Accommodation Assessment and Government Guidance. It is clear that this Plan, albeit with a different title to that referred to in Policy CS10, is the appropriate place to allocate these sites. However the most up to date study of need, the 2013 Travellers Assessment for Hampshire, concludes that there is no current need for additional permanent pitches in Havant and no projected future need up to 2027.

37. The Plan includes an explanation of this situation. It also states that the Council is working with neighbouring authorities in eastern Hampshire (Fareham, Winchester, Gosport and East Hampshire) to identify appropriate locations for 47 transit pitches and 16 pitches for travelling showpeople. Should any of these pitches need to be accommodated in Havant they will be allocated as part of a review of the Local Plan. It is clear that the eastern Hampshire authorities are continuing to work collaboratively to identify sites and it would be inappropriate for this Plan to make any allocations in advance of the work being brought to a conclusion. In these circumstances the Plan is justified and consistent with the CS.

2.4 Emerging Development Plan

Havant Local Plan 2036

2.4.1 Work has commenced on this plan which when adopted will replace the Core Strategy and the 2014 Local Plan (Allocations) document.

2.4.2 The Local Development Scheme (December 2017) informs us of a timetable as follows:-

	2017				2018				2019		
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
Evidence base											
Development of evidence base											
MDC sessions for the Denvilles-Emsworth site	★										
Draft Havant Borough Local Plan 2036											
Preparation of draft Local Plan											
Consultation on the Draft Local Plan					★						
Consideration of the consultation comments											
Pre-submission Havant Borough Local Plan 2036											
Preparation of the pre-submission Local Plan											
Pre-submission consultation							★				
Examination											
Submission of the plan to the Secretary of State											
Examination hearing sessions									★		
Receipt of Inspector's report and adoption											

- 2.4.3 The work already undertaken includes completion of a Gypsy and Travellers Accommodation Assessment by the Hampshire Consortium with a baseline assessment date of September 2016.
- 2.4.4 For Havant Borough the Assessment concluded that there was an extant unsatisfied need for one household (of the appellant) who, the study concluded, met the definition required by Government Policy. This was the sole need in Havant throughout the study period 2016 – 2036.
- 2.4.5 (The GTAA states that on the appellant's gypsy status the interviewer was satisfied that the appellant met the definition of Gypsy / Traveller. This finding conflicts with evidence accrued by my clients. An evidence note is attached in Appendix 1 and is drawn to the Inspector's attention who may wish to satisfy himself as to the appellant Gypsy / Traveller status.)
- 2.4.6 Paragraph 10 of the Local Development Scheme advises that the emerging local plan 2036 will be informed by the two evidence base documents referred to above.

Emsworth Neighbourhood Plan

- 2.4.7 The Regulation 14 pre consultation draft Emsworth Neighbourhood Plan process was undertaken in a period expiring in mid December 2017. The Regulation 14 version of the plan includes a policy as set out in the following extract.

POLICY L5

Avoiding Settlement Coalescence

Housing development proposals of a non-strategic nature will only be permitted if they do not impinge on the current gaps between Emsworth and its neighbouring settlements, nor encroach on the protected landscape area to the north or the waterfront area to the south.

2.5 Government Policy.

2.5.1 Government policy is principally found in “Planning Policy for Traveller Sites” 2015. Key provisions considered material to the determination of this appeal are summarised below.

- ❖ The overarching aim of Government policy is the fair and equal treatment of travellers facilitating their nomadic way of life whilst respecting the interests of the settled community. (paragraph 3)
- ❖ To achieve this overarching aim the governments underlying aims include increasing permissions for sites in appropriate locations to address and maintain appropriate supply; to reduce settled community / traveller community tensions; to secure access to facilities from the sites provided for the traveller community; and have due regard to the protection of local amenity and environment. (paragraph 4)
- ❖ An evidence base to inform the preparation of Local Plans should follow the requirements set out in the policy. (paragraph 7)
- ❖ Local Plans requirements include the provision of a 5 year supply of deliverable sites and protection of local amenity. (paragraph 10)
- ❖ Criteria should be set to guide land allocation policies and where there is no need foreseen criteria based policies should be secured in case sites come forward. (paragraph 11)
- ❖ Local Plan policies should ensure the three strands of sustainable development (economic, social and environmental) are met including promotion of peaceful and integrated co-existence between the settled and travelling community(paragraph 13)
- ❖ Applications are to be assessed having regard to the presumption in favour of sustainable development and relevant policies of the NPPF together with the policies of the Policy for Travellers (paragraph 23)
- ❖ Factors to be taken into account in determining planning applications embrace level of provision and need; availability or otherwise of alternative accommodation; other personal circumstances of the applicant; local policy criteria which form the policy to be applied when individual sites come forward; inclusion of all travellers not just those with local connections. Subject to best interest of children, personal interests and need will not form very special circumstances in the consideration of any other harm. (paragraph 24)
- ❖ Local Planning Authorities are required to strictly limit traveller development in open countryside away from existing settlements or outside areas allocated in development plans. (paragraph 25)
- ❖ In decision taking weight is to be attached to various factors including use of previously developed land, landscaping and layout to increase the openness, avoidance of excessive hard landscaping. (paragraph 26)
- ❖ Absence of a five year supply is a significant material consideration in a planning decision (paragraph 27)
- ❖ Planning authorities should consider the scope for overcoming objections by the use of conditions or obligations. (paragraph 28)

2.5.2 The National Planning Policy Framework also has relevance. Core principles (para 17) include at bullet point 4 a requirement to always seek to secure high quality design and a good standard of amenity for all occupants of land and buildings. Bullet point 4 requires account to be taken of the different character of areas noting the need to recognise the intrinsic character and beauty of the countryside.

3 The Appellant and Personal Circumstances

3.1.1 The appeal is lodged on behalf of Mr. L. Madgwick. The applicant for the relevant application was Mr. J. Madgwick. This would appear to breach statute as it is the writer's understanding that only the applicant may appeal.

3.1.2 The appellants statement of case when lodging the appeal claimed that the appellant's partner was expecting her first baby and relevant facts surrounding this then anticipated event needs to be explored at the hearing. For the purpose of my analysis I will assume that the balance of matters needs to take into account the presence of an infant, but the facts will need to be verified at the time of the hearing.

4 Discussion and Conclusions

4.1.1 As stated above the submission on behalf of the objectors relates to the appeal as lodged. Whilst an amended approach has been sought by the appellant this would appear to be at variance with the thrust of the Inspectorate's advice in the August 2016 appeal guidance, and it remains to be seen whether the Inspector accepts the request from the appellant.

4.1.2 Having regard to the foregoing the key issue is whether the appeal proposal conflicts with relevant provisions of the development plan and if so whether there is any material consideration of sufficient force to outweigh that conflict.

4.1.3 Key development plan policies relate to the preservation of open countryside, the maintenance of a gap between Emsworth and Westbourne, the impact on the area of Green Space to the south, design generally but including the sustenance of residential and visual amenity, sustainable transport patterns and parking, including cycle parking. Policy CS 10 is regarded as being spent pending the review of the Local Plan now in hand.

- 4.1.4 On the impact on the protection of countryside and maintenance of the open gap between settlements (AL2, CS11, CS17) it is considered that the proposed development manifestly undermines these policies to the point of conflict, and in such circumstance a need under law to refuse development is triggered. The protection of the countryside as it stands would be wholly in accordance with national planning policy also. AL8 seeks to protect Local Green Spaces from harm and together with DM8 which indicates the need to take into account the sequence of land it is submitted that the appeal proposal would undermine the thrust of these policies.
- 4.1.5 On design CS16 requires design of buildings to reflect local characteristics. It is submitted that this is not secured by the application proposal and that would, if my submission is accepted point to a need in law to withhold planning permission. It is further submitted that the design is of such poor quality that the amenity of the adjacent dwelling would be undermined to a degree which is in conflict with the protection of amenity which is one of the core principles of national policy. The plan shows the design to be indicative, and the status is not made clear, but it is submitted that little if any credence has been made to local design vernacular.
- 4.1.6 Several policies seek sustainable patterns of development by promoting the use of the urban areas, and directing development to areas where there is scope for utilising transport modes other than the private car. It is the writer's judgment that the appeal development falls far short of the thrust of the objectives for planning which underly these policies. The appeal plans do not appear to make any provision for cycle parking and storage which would seem to breach relevant policy on this.
- 4.1.7 It is submitted that on the basis of the extant development plan policies planning permission should not be granted in view of the conflict evident.
- 4.1.8 Before a final conclusion can be tabled statute points to a need to take into account whether there is any material consideration which would indicate that such conflict is outweighed.

- 4.1.9 The appellants position in the grounds of appeal is that there is a need for accommodation which outweighs the conflict with the development plan. The alleged need is not quantified, but a recent GTAA points to an unmet need of 1 unit. Whilst the appeal proposal would meet this need, it would do so in a manner doubly more intensive than the need merits. It would also be at the expense of permanently undermining the overall policies that apply, and the weight of the satisfaction of need must be seen in the context of an emerging Local Plan Review within a stated timescale which would deliver allocation of the required sites through the plan process.
- 4.1.10 The appellant appears to call in support of his case that the site is previously developed land. This is not well founded. Firstly the development currently in place appears to be unauthorised. Secondly there is nothing in the definition of previously developed land or related national policy that indicates the whole of a curtilage becomes a candidate for development. I also have reservations about the agricultural status of the site at present. If horse grazing is the primary use (in whole or part) this would appear to undermine inclusion of the site as previously developed land.
- 4.1.11 .Having regard to the foregoing the Inspector is invited to refuse planning permission on the basis that there is clear conflict with prevailing planning policies and there is no need of sufficient weight to overthrow this conflict.

Appendix 1

Evidence regarding the personal circumstances of James Madgwick and his partner.

In reaching decisions about whether or not to grant planning permission, planning considerations are often balanced against the personal circumstances of the family. Below is evidence regarding the latter.

Evidence regarding their homelessness

The Masons, (who live at Hollybank Cottage adjacent to the proposed site), and the Poirriers (who are the next nearest neighbours), have observed the site since the refusal of APP/16/00021 in April 2016. They have been assisted by another neighbour during some periods of their absence.

In about June 2016, the applicant's father Les Madgwick started to live in the caravan that is unlawfully parked on the site. In November 2016 the father replaced the original mobile home that had been brought onto the site unlawfully in December 2015 with a new and larger mobile home. Since then people have been living in the new unlawful mobile home.

The neighbours observed that Les Madgwick lived on the site most of the time, whereas the applicant James Madgwick appeared to stay only infrequently (about once a week) and his partner Pasha Green hardly at all. It was noticeable that she was present around 20th March 2017 when the Gypsy Liaison Officer (GLO) conducted his interviews.

After the HBC Development Management Committee meeting on 29th June 2017 that refused the revised application APP/16/01234, the HBC Planning Dept. suggested that the neighbours kept a diary of the nightly occupancy of the mobile home. This has been done, and the diary covers a substantial percentage of the nights from June 2017 to the present.

Considering the 6 months from June to November 2017 inclusive, occupancy has been monitored on 128 nights during this period. Of these, James Madgwick stayed 33 nights (26%), Pasha Banks stayed 22 nights (17%) (always when James Madgwick was present), Les Madgwick stayed 53 nights (41%), and on 46 nights (36%) no-one stayed.

These figures show that the young couple have been living together in the mobile home only 1 night in 6 over this period, and considerably less during the previous year. They must have been living elsewhere when they were not at the site, so that they cannot be homeless. If they really were homeless, they would have lived at the site virtually all of the time. Their behaviour is more akin to a family trying to acquire a country residence to supplement their town house.

It is interesting that the occupancy pattern has changed over the last few weeks since just before 05/12/2017 when the Appeal against the APP/16/00021 judgment was announced. Of the 26 nights monitored during this short period, James Madgwick stayed 16 nights (62%), Pasha Banks stayed 7 nights (27%) (always when James Madgwick was present), Les Madgwick stayed no nights at all, and on 10 nights (38%) no-one stayed. This appears to be a belated attempt by the couple to show that they can live in the mobile home by themselves all the time. However, the couple's joint occupancy is still less than 1 night in 3 for this short period, and during the previous 18 months it was on average less than 1 night in 6.

These observations are at odds with the statement that the couple had been living on the site for previous 12 months, given in para. 6 of the Gypsy Liaison Officer’s Interview Summary (May 2107). They are also in contradiction to the statement in the applicant’s APP/16/00021 Appeal Statement, section 112 (07/12/2017), which says that the applicant and his partner have moved onto the site because they are homeless. These documents contain no evidence supporting the homelessness claim. They also contain no verifiable proof that he is actually nomadic. In the GLO’s report, the applicant stated that he could provide written letters to prove where he had been, but these have never been produced. He seems no more nomadic than many local residents who go away on holiday or use a touring caravan.

Several further facts also do not support the homelessness claim. In the Portsmouth Electoral Roll for 2017, the applicant is stated to be living with his parents in a 3-bedroom house owned by his parents in King William Street, Portsmouth (fig. 1), and has been living there since 2008. In an article in the Portsmouth Evening News on Thursday 14th April 2016, his address is also given as this house in Portsmouth. The Land Registry also states that, when the applicant bought the 1-acre site adjacent to Hollybank Cottage, he gave his address as King William Street, Portsmouth



Fig. 1.



Fig. 2.

It also appears from Companies House records that the directorship of Hampshire Truck and Plant has been transferred to James Madgwick from his father, so that he is now a company director (fig. 2). James Madgwick drives a Mercedes with a personalised number-plate. The setting up of the mobile home must have entailed a substantial amount of expenditure.

From all the above facts, it appears that James Madgwick has the lifestyle of a successful young businessman rather than that of a nomadic gypsy who is homeless.

Evidence regarding their baby

In the applicant's APP/16/00021 Appeal document, section 112 (07/12/2017), it is stated that his partner is expecting a baby in March 2017 (sic). In para. 6 of the Gypsy Liaison Officer's Interview Summary (May 2107), it was stated that his partner is expecting a baby in September 2017. No MATIB certificates were produced by the applicant to provide proof of either of these pregnancies. The neighbours saw her on numerous occasions during 2017, but never saw her pregnant, or with a baby. Was either of these babies ever born?

