


Parish: Funtington	Ward: Lavant
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**FU/23/01845/FUL**

<b>Proposal</b>	Stationing of caravans for residential purposes, hardstanding and utility/dayrooms ancillary to 3 no. pitches.		
<b>Site</b>	Land to the West of Newells Farm Newells Lane West Ashling West Sussex		
<b>Map Ref</b>	(E) 479935 (N) 106871		
<b>Applicant</b>	Mr G Smith	<b>Agent</b>	Dr Angus Murdoch

**RECOMMENDATION TO DEFER FOR SECTION 106 THEN PERMIT**



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**1.0 Reason for Committee Referral**

1.1 Parish Council Objection – Officer recommends permit.

## **2.0 The Site and Surroundings**

- 2.1 The application site, known as Land to the West of Newells Lane, is located within the Parish of Funtington, to the north west of Newells Lane. It is an area characterised by sporadic residential, agricultural, and equestrian development. This includes the established Gypsy and Traveller sites on Newells Lane, West Ashling Road, and Scant Road East. The site is not located within the West Ashling Conservation Area and is approximately 300m to the south west of the border with the South Downs National Park.
- 2.2 The site is a broadly rectangular shaped parcel of land, setback from Newells Lane, and roughly central within the wider field. It is accessed via a shared internal gravel track and vehicle access onto Newells Lane. It lies within a field comprising several Gypsy and Traveller pitches and lies between the following sites subject to applications reference 23/02463/FUL and 23/02603/FUL. The existing development comprises the laying of hardstanding, erection of close board fencing (delineating each pitch), the siting of various static caravan, a stable block, and kennels. Immediately east of the site comprises a lawful Gypsy and Traveller site, of five pitches allowed at appeal (19/3220300).
- 2.3 The field benefits from a reasonable level of screening form the eastern hedgerow of tree boundary; however, filtered views of the development are visible. As the site subject to this application is set towards the centre of the site, it would benefit from screening by the existing lawful site of five pitches. The site, accessed from Newells Lane, can be seen in conjunction with the other authorised gypsy sites along Scant Road East and Tower View gypsy site. These views are possible from the south, particularly on the elevated vehicle bridge over the A27, due to the southwards incline of the wider fields.

## **3.0 The Proposal**

- 3.0 The proposal seeks planning permission for three Gypsy and Traveller pitches, each comprising of a static caravan, hardstanding for vehicle and touring caravan parking, bin and cycle storage with EV vehicle charging, and amenity grass areas and native hedgerow boundary planting.

## **4.0 History**

95/01438/CPO	PER	Construction of 2 ponds for nature conservation purposes with stockproof fences (Full Application).
05/00947/FUL	PER	Creation of new vehicular access and gate.
12/02325/FUL	REF	Erection of agricultural storage building.
12/04248/FUL	PER	Change of use of land from agriculture to equestrian (keeping of horses), including

		erection of associated stabling and permeable access track.
13/03782/FUL	PER	Proposed new field access crossing and gate.
13/03820/FUL	PER	Proposed hay barn and addition of shingle to existing access track.
13/04214/PNO	PPREQ	Proposed building for agricultural equipment storage, feed and bedding.
14/03994/FUL	PER	Erection of stable building with 6 no. loose boxes, plus tack and feed store and external manure area.
14/04121/COU	PER	Change of use to include an additional use of keeping horses and grazing.
15/03023/FUL	PER106	Change of use of land to a single pitch site including utility building for settled gypsy accommodation.
16/02649/FUL	PER	Retrospective application for erection of 2 no. stables for private use and installation of 20m x 20m winter turnout.
18/00402/FUL	REF	The use of land for the stationing of caravans for residential purposes, together with the formation of hardstanding and utility/dayrooms ancillary to that use.
19/03184/FUL	REF	Changes to hardstanding from that approved under application FU/14/03994/FUL.
19/02930/FUL	NDET	Use of land for the stationing of a caravan for residential purposes, together with the formation of hardstanding.
20/00950/FUL	REF	Use of land for the stationing of a caravan for residential purposes, together with the formation of hardstanding and associated landscaping.
20/00956/FUL	REF	Change use of land to residential for the stationing of caravans for Gypsy Travellers including stable, associated infrastructure and development.
20/03306/FUL	REF	The stationing of caravans for residential purposes together with the formation of hardstanding and utility/dayrooms ancillary to that use for 3 no. pitches.

20/00234/FUL	REF	Change of use of land for the stationing of 4 no. static caravans and 4 no. touring caravans for a Gypsy Traveller site, including parking, hard standing and associated infrastructure.
22/01444/FUL	REF	Change use of land for the stationing caravans for residential purposes, parking, hardstanding and associated infrastructure.

## 5.0 **Constraints**

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	NO
Tree Preservation Order	NO
EA Flood Zone	
- Flood Zone 2	NO
- Flood Zone 3	NO

## 6.0 **Representations and Consultations**

### 6.1 Parish Council (summarised)

Funtington Parish Council strongly object to this application.

APPLICATION FU/23/01845/FUL Stationing of caravans for residential purposes, hardstanding, and utility/dayrooms ancillary to 3 no. pitches.

This site was subject to an Appeal after a refused application, 20/03306/FUL, APP/L38815/W/21/3285488.

- Errors within the 'Earthcare' technical report – unclear how foul water will be disposed of.
- The applicant in his submission claims to be a G&T residing at Birdham yet in the nitrogen allocation agreement it notes he resides at 25 Kingsley Road, Eversley, Hook RG27 0LZ.
- The photographs of the site are historic.
- The site has already been developed.
- Planning Officers to consider how this area of land was before the gypsy and travellers unlawfully occupied it, and how the area has changed from being undeveloped open countryside to unsympathetic and out of character high walls, fences, and a great amount of hardcore rubble, that now destroy the once open rural landscape.
- If this application is approved then we will see more planning applications for the land adjacent to this site, which will increase the overall size of this site considerably.

- There is no shop, doctor's surgery, dentist, no train service or bus service, no welfare services, no playgroups, and no senior schools, it also has very few pavements and has just two streetlights.
- West Ashling has just one pub, a primary school, and a village hall.
- The roads into West Ashling are narrow country roads, West Ashling Road, Mill Road, Newells Lane and Watery Lane were not designed for a heavy flow of traffic.
- The village of West Ashling is in the South Downs National Park and a large part of the village is within a Conservation Area.

The Appeal took into consideration 3 issues:

1. Whether the development represents an acceptable form of development, having regard to the following matters: The character and appearance of the area, having regard to the cumulative impact of the development.
2. The effect of the development on recreational disturbance, water and nitrates; and
3. Whether any harm arising from the above matters is outweighed by any other material considerations.

In this recent Appeal the Inspector stated:

The development of any residential caravan site with any associated buildings and hardstanding, on previously undeveloped land, will inevitably result in some change to the character and appearance of the area. I find the change has resulted in harm by the generally unsympathetic use of internal fencing and the extensive hard surfacing on this and the other appeal sites. Nevertheless, even when considered cumulatively with the other appeals, the identified harm could not be said to be of a magnitude that it dominates the settled community.

For these reasons, I find moderate harm to the character and appearance of the area which conflicts with Policies 36, 45 and 48 of LP that seek to ensure that development respects and has minimal impact on the landscape and rural character of the area.

I have identified harm to the character and appearance of the area.

The Parish Council feel that this application is in conflict with Policies 36, 45 and 48 of the Local Plan and that the development causes harm to the character and appearance of this rural area.

In a recent Appeal in Chichester District - APP/L3815/W22/3303112 (application 21/03135/FUL) the Inspector felt that Policy 36 was very relevant to that Appeal, the Inspector stated:

While the evidence indicates that a school bus passes the appeal site, there is no evidence of any bus stop or frequent public bus service in the vicinity of the appeal site. Furthermore, there is a significant absence of footpaths and streetlights from the appeal site to Wisborough Green and Billingshurst. Consequently, it could not

reasonably be said that the appeal site has 'good access' to local services in the nearest settlements. While cycling from the appeal site to Wisborough Green or Billingshurst may occasionally be possible, this is not likely to be frequently contemplated given the width of the roads, and hence conflict with vehicles, and the absence of streetlights.

The evidence is that public transport and pedestrian access to nearby settlements is very poor. The likelihood is that owing to the location of the appeal site and access arrangements, occupiers of the proposed Gypsy and Traveller pitch would be heavily reliant on the private motor vehicle for most day-to-day journeys.

For the above reasons, I find that the proposal would conflict with criterion 1 of policy 36 of the CLP. In addition to the above, there would be conflict with Policy H of the Government's Planning Policy for Travellers Sites 2015 (PPTS) which states that local planning authorities should very strictly limit new traveller site development in the open countryside that is 'away from' existing settlements.

This Appeal is very relevant to this application, West Ashling is not identified by CDC as being a 'Service Village'. Although the proposed site is near to a settlement (West Ashling), that settlement is not served by local busses, has no other forms of public transport and has no shops, or any walking access to any shops. There is no pavement from the proposed site to the village of West Ashling, and there are no street lights from the application site to the village of West Ashling. So, although the proposed site is near to a settlement, that settlement offers no services, so the proposed site is not sustainable located, this proposed site is in conflict with Policy 36 of CLP. Although there is an existing, permitted, gypsy settlement, adjacent to the application site, this new proposed site must be examined under the current relevant policies and not on what has previously been permitted under old policies.

We therefore conclude that this application is in conflict with Policy 36 of CLP.

On the 3 sites in West Ashling (Scant Road east, West Ashling Road and Newells Lane) there are now 43 authorised plots and 10 unauthorised plots. The application site, if permitted, would add a further 3 plots and would then permit the development of the adjacent sites, previously refused on appeal. If this application is granted in West Ashling there will be 46 authorised plots, 10 unauthorised plots and a potential additional 10 plots.

The PPTS advises 'local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community'.

The reality is that the sites in Newells Lane, Scant Road East and West Ashling Road (which are now all joined together as one large gypsy and traveller site) just keep on growing and are now comparable in size to the village of West Ashling. It is not far off the size of the village.

There was going to come a time when the large gypsy and traveller site in Scant Road, West Ashling Road and Newells Lane would dominate the nearest settled community and that a time would come when the very limited local infrastructure would become stretched beyond its limits, and we feel, as others do, that that time has long since been reached and exceeded.

We contend, therefore, that the gypsy and traveller community now dominate the nearest settled community, in contravention of paragraphs 14 and 25 of PPTS.

The land to the west of Newells Lane, prior to its occupation by gypsies and travellers, was open farmland, as is most of the Parish of Funtington today. The area is now untidy, due to the unauthorised depositing of hardcore rubble, the erection of domestic fencing, the erection of high industrial gates and the laying of tarmac, all of which has been carried out without Planning Approval. The current appearance of the land is due to the owners of the land carrying out development/operations on the land without planning approval. The now occupied sites do not enhance the environment or increase its openness and it seems quite likely that the application site will contribute more of the same. There are no large open spaces on the Appeal sites for children to play. Some of the existing adjacent plots are enclosed with razor wire topped metal fencing, large metal gates and high timber fencing and give the impression of deliberately isolating the occupants from the rest of the community of West Ashling.

We conclude that this application is in conflict of Policy H of PPTS.

We understand from Chichester District Council that it is often difficult to make sure that all of the Planning Conditions that are imposed on these gypsy and traveller sites are met.

One condition that it is hard for the Local Planning Authority to determine is the installation of the approved sewerage treatment plant, as the sewerage tank is underground, so it is difficult for a Planning Officer to check that the approved system has been installed.

The houses and fields to the south of the application site in Newells Lane now frequently experience flooding, due to run off from the hard standings created on these unauthorised sites, the ditches to the south of these Appeal sites also appear to contain raw sewerage, which could come from the installation of incorrect waste treatment plant on the surrounding sites.

There are no pavements or streetlights in Newells Lane, the lack of these amenities puts pedestrians walking along this lane at significant risk of being hit by a car. There are no streetlights along West Ashling Road. Appeal APP/R3705/W/18/3199987 was dismissed on the grounds that 'The proposal poses a risk to the children living on the site, particularly to the children who are eligible for the primary school.... The avoidance of harm to highways safety is also in the public interest and in this case is of direct relevance to all occupants of the appeal site'.

## 6.2 Natural England (summarised)

No Objection - Subject to Appropriate Mitigation Being Secured

## 6.3 Health and Safety Executive (summarised)

Do Not Advise Against, consequently, HSE does not advise on safety grounds, against the granting of planning permission in this case.

#### 6.4 Environment Agency

None received

#### 6.5 CDC Environmental Strategy (summarised)

##### *Further comments*

The lighting scheme for the site will need to take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding. We require that a bat box is installed on the building / trees facing south/south westerly positioned 3-5m above ground.

Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work). We would like a bird box to be installed on the building / and or tree within the garden of the property.

Any brush pile, compost and debris piles on site could provide shelter areas and hibernation potential for hedgehogs. If any piles need to be removed outside of the hibernation period mid-October to mid-March inclusive. The piles must undergo soft demolition. A hedgehog nesting box should be installed within the site to provide future nesting areas for hedgehogs

##### *Original comments*

Following submission of the Nutrient Neutrality Statement (June 2023) the proposal will cause an increase in nitrogen of 4.22 kg/N/yr. Due to this increase we require that mitigation is undertaken.

As detailed within the Nutrient Neutrality Report it has proposed that mitigation will be taking out of production 0.159ha of cereal production land and replanting as woodland. We require that the precise area within the shaded blue area is provided we can ensure no overlap between multiple mitigation sites. Once this has been confirmed this mitigation should be secured within the S106 agreement in perpetuity for 85 years.

We are satisfied that the HRA issue of recreational disturbance can be resolved as long as the applicant is willing to provide a contribution to the Bird Aware scheme, the standard HRA Screening Matrix and Appropriate Assessment Statement template can be used.

Due to the location of the site, the propose works and the records protected species and habitats within close proximity of the site there is a moderate likelihood that protected species and habitats could be disturbed / harmed by the proposal. Due to the this and prior to determination we require that an extended phase one habitat survey is undertaken on the site to determine if there is potential for protected species. If there is potential for protected species, then further surveys would be required. These surveys plus any



mitigation strategies required will need to be submitted as part of the planning application prior to determination.

Due to the requirements within Local Plan Policy 40: Sustainable Construction and Design, we require that a sustainability statement is submitted for this proposal. The statement will need to

demonstrate how the requirements of policy 40 will be met. This includes how the site will;

- Protect and enhance the environment
- Achieve a maximum consumption of 110l of water per day per person
- Complies with building for life standards or equivalent replacement
- Sustainable design including the use of re-used or recycled materials
- Minimise energy consumption through renewable resources
- Adapt to climate change
- Historic and built environment protected and enhanced
- Improvements to biodiversity and green infrastructure
- Maintain tranquillity and local character
- Provision of electric vehicle charging points

## 6.6 CDC Costal and Drainage (summarised)

The site is wholly within flood zone 1 (low risk), however, we are aware of run-off related, surface water flooding problems in the vicinity of this site. Therefore, appropriate surface water drainage and ensuring any hard surfaces are truly permeable is vitally important.

The documents submitted in support of this application suggest that the proposed means of surface water drainage is through on-site infiltration via permeable surfaces and soakage structures. This approach is acceptable in principle as it follows the hierarchy of preference as set out in Approved Document H of the Building Regulations and the SuDS Manual produced by CIRIA.

All driveways, parking spaces, paths and patios must be of permeable construction. The soakaways and permeable surfacing will need to be designed and constructed carefully to ensure there is no increase in off-site flood risk.

The proposal appears to be is to drain the mobile homes to soak-aways with permeable surfacing to the access road, and ground on which any homes/caravans are sited. We recommend that the application is not approved until construction details of the surfacing and soak-aways are submitted and approved.

On similar sites we have accepted a permeable sub-base (MOT Type 3) of sufficient depth (300mm+) below a permeable surfacing to minimise run-off. Additionally, there are certain construction materials that include fines (such as MOT Type 1 and road scalpings) that must be avoided; as when these materials become compacted, they become impermeable and will contribute to the run-off related problems in the vicinity of this site.

This site falls within a public potable water source protection zone (SPZ), therefore the Environment Agency should be consulted on the acceptability of infiltration drainage at this location (both for treated foul effluent and surface water)

## 6.7 Third party representations (summarised)

24 third party letters of objection have been received concerning the following matters:

- a) Endorsing the comments made by the Parish Council
- b) The proposal not being in keeping with the character of the area,
- c) Concern for loss of agricultural land and the land not being suitable for development.
- d) Health and safety risks including the lack of water treatment services, strain on waste disposal, and no guarantee for sewage disposal to be properly maintained as
- e) Road being unsafe with a lack of streetlights.
- f) Outstanding enforcement notices
- g) Other applications in the area should be viewed in conjunction.
- h) Freshwater water cress farm noted as requiring clean water, and that the business may be affected if the application is allowed.

## **7.0 Planning Policy**

7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029, the CDC Site Allocation Development Plan Document and all made neighbourhood plans. There is no made neighbourhood plan for Funtington.

7.2 The principal planning policies relevant to the consideration of this application are as follows:

### Chichester Local Plan: Key Policies 2014-2029

- Policy 1: Presumption in Favour of Sustainable Development
- Policy 2: Development Strategy and Settlement Hierarchy
- Policy 4: Housing Provision
- Policy 5: Parish Housing Sites 2012- 2029
- Policy 8: Transport and Accessibility
- Policy 32: Horticultural Development
- Policy 33: New Residential Development
- Policy 36: Planning for Gypsies, Travellers and Travelling Showpeople
- Policy 39: Transport, Accessibility and Parking
- Policy 42: Flood Risk and Water Management
- Policy 45: Development in the Countryside
- Policy 49: Biodiversity
- Policy 50: Development and Disturbance of Birds in Chichester and Langstone Harbours Special Protection Areas

### CDC Site Allocation Development Plan Document

### National Policy and Guidance

7.3 Government planning policy now comprises the revised National Planning Policy Framework (NPPF 2023), which took effect from 19 December 2023. Paragraph 11 of the revised Framework states that plans and decisions should apply a presumption in favour of sustainable development, and for decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protect areas of assets of particular importance provides a clear 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 policies in this Framework taken as a whole

- 7.4 The Planning Policy for Traveller Sites (PPTS) came into effect in August 2015 and should be read in conjunction with the NPPF. Paragraph 4 of the PPTS sets out the governments aims for in respects of traveller sites, including increasing the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply. Policy H of the PPTS relates to determining planning applications for traveller sites and requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. It also advises that applications should be assessed and determined in accordance with the Presumption in Favour of Sustainable Development and the application of specific policies in the NPPF and PPTS.
- 7.6 Consideration should be given to Sections 1 (Introduction), 2 (Achieving Sustainable Development), Section 4 (Decision making), 5 (Delivering a sufficient Supply of Homes), Section 9 (Promoting sustainable transport), 12 (Achieving Well-Designed and Beautify Places), 14 (Meeting the Challenge of Climate Change, Flooding, and Costal Change) and 15 (Conserving and Enhancing the Natural Environments) of the NPPF. In addition, the relevant paragraphs of the National Planning Practice Guidance have also been considered.

#### Chichester Local Plan 2021 - 2039: Proposed Submission (Regulation 19)

- 7.7 Work on the review of the adopted Local Plan to consider the development needs of the Chichester Plan Area through to 2039 is now well advanced. Consultation on a Preferred Approach Local Plan has taken place. Following detailed consideration of all responses to the consultation, the Council has published a Submission Local Plan under Regulation 19, which was approved by Cabinet and Full Council for consultation in January 2023. A period of consultation took place from 3rd February to 17th March 2023, and the Submission Local Plan is expected to be submitted to the Secretary of State for independent examination in early 2024. In accordance with the Local Development Scheme, it is anticipated that the new Plan will be adopted by the Council in 2024. At this stage, the Local Plan Review is an important material consideration in the determination of planning applications, the weight that can be attached to the policies contained therein is dependent on the significance of unresolved objection attributed to any relevant policy, commensurate with government policy at paragraph 48 of the NPPF (2023).
- 7.8 Relevant policies from the published Chichester Local Plan 2021 - 2039: Proposed Submission (Regulation 19) are:

- Policy S1 Spatial Development Strategy
- Policy S2 Settlement Hierarchy
- Policy NE2 Natural Landscape
- Policy NE5 Biodiversity and Biodiversity Net Gain
- Policy NE6 Chichester's Internationally and Nationally Designated Habitats
- Policy NE7 Development and Disturbance of Birds in Chichester and Langstone Harbours, Pagham Harbour, Solent and Dorset Coast Special Protection Areas and Medmerry Compensatory Habitat
- Policy NE8 Trees, Hedgerows and Woodlands
- Policy NE10 Development in the Countryside
- Policy NE15 Flood Risk and Water Management
- Policy NE16 Water Management and Water Quality
- Policy NE19 Nutrient Neutrality
- Policy NE20 Pollution
- Policy NE21 Lighting
- Policy H1 Meeting Housing Needs
- Policy H11 Meeting Gypsies, Travellers and Travelling Showpeoples' Needs
- Policy H12 Intensification sites
- Policy H13 Accommodation for Gypsies, Travellers and Travelling Showpeople
- Policy H14 Gypsy and Traveller and Travelling Showpeople site design policy.
- Policy P2 Local Character and Distinctiveness
- Policy P3 Density
- Policy P4 Layout and Access
- Policy P5 Spaces and Landscaping
- Policy P6 Amenity
- Policy T1: Transport Infrastructure
- Policy T2 Transport and Development
- Policy T3 Active Travel - Walking and Cycling Provision
- Policy T4 Parking Provision
- Policy A8 Land East of Chichester
- Policy A13 Southbourne Broad Location for Development

#### Other Local Policy and Guidance

7.9 Consideration has also been given to:

- Planning Obligations and Affordable Housing SPD (July 2016)
- Surface Water and Foul Drainage SPD (September 2016)
- CDC Waste Storage and Collection Guidance (January 2017)
- Chichester Landscape Capacity Study (March 2019)
- Landscape Gap Assessment for Chichester Local Plan Review 2035 (May 2019).
- West Sussex County Council Guidance on Parking at New Developments (September 2020)
- Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA) (2022)

7.10 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Protect and support the most vulnerable in society including the elderly, young, carers, families in crisis and the socially isolated
- Support communities to meet their own housing needs
- Support and promote initiatives that encourage alternative forms of transport and encourage the use of online services
- Promote and increase sustainable, environmentally friendly initiatives in the district
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

## **8.0 Planning Comments**

8.1 The main issues arising from this proposal are:

- i. Previous application and Planning Appeal
- ii. Principle of development
- iii. Impact upon the Settled Community
- iv. Design and Impact upon Visual Amenity/Character of Area
- v. Amenity of neighbouring properties and future occupiers
- vi. Impact upon highway safety and parking
- vii. Surface Water Drainage
- viii. High Pressure Gas Pipeline
- ix. Ecology
- x. Nitrogen
- xi. Recreational Disturbance
- xii. Human Rights and Personal Circumstances
- xiii. Planning Balance

### Assessment

i. Previous application and Planning Appeal

8.2 In December 2020 planning permission was sought for '*the stationing of caravans for residential purposes together with the formation of hardstanding and utility/dayrooms ancillary to that use for 3 no. pitches*' under application reference 20/03306/FUL. This application was refused under delegated powers on 7 June 2021. Please see **Appendix 1** for the decision notice. The Council's decision was subsequently appealed (21/3285488) (Appeal K) and considered via a joint hearing with (20/3259313, 20/3254259, 21/3267885, and 20/3266164) which considered a combined total of 10 Gypsy and Traveller pitches.

8.3 The planning appeals, for this site and the adjacent sites were dismissed. The Inspector opined the following in their Planning Balance:

*'The planning balance on this and the other sites is very finely balanced. On the one hand there are a number of factors set out above that weigh significantly in favour of*

*the development. These include the contribution of additional gypsy and traveller pitches, meeting the personal needs for this family for a settled base, the lack of alternative sites alongside other social and economic benefits.*

*However, on the other hand and set against these benefits, is the moderate harm I have identified to the character and appearance of the area and the clearly significant harm, stemming from the uncertain position regarding the mechanism, to offset any harm resulting from nutrient discharge to the SAC. Accordingly, I find that on balance, this identified harm is not outweighed by those matters advanced in support of the proposal.'*

- 8.4 The Inspector found there to be moderate harm to the character and appearance of the area and significant harm resulting from the unmitigated increase in nitrogen entering the Chichester Harbour. It is Officers view that if the Inspector had been considering the moderate harm to the character and appearance of the area alone (i.e., if nitrogen mitigation has been provided), it is unlikely this would have been found to outweigh the number of factors that weigh significantly in favour of the development.
- 8.5 This application is identical to the Appeal scheme, except that it now provides nitrogen mitigation, which is detailed further below and has been found acceptable by both Natural England and Officers. Consequently, as set out in the sections below, it is Officers view that in the absence of any fundamental reason to indicate otherwise, the planning balance now falls firmly in favour of granting permission.
- 8.6 Whilst Officers and the Planning Committee are considering a new planning application, the findings of the Inspector are a significant material consideration for this application. It is likely to constitute unreasonably behaviour, if the Council were to raise issues with this application given that it is identical to the Appeal scheme and the only significant harm identified has been resolved. It would be difficult to substantiate a reason for refusal relating to issues previously examined by the Inspector, in the absence of a significant material change in circumstance, which is something Officers do not consider to be the case.

ii. Principle of development

- 8.7 In October 2023 the Levelling-Up and Regeneration Bill ("LURB") received royal ascent. The LURB replaces Section 38(6) of the Planning and Compulsory Purchase Act 2004 in favour of new Section 38(5A) - (5C) which states any determination to be made under the planning Acts, regard is to be had to (a) the development plan, and (b) any national development management policies. It goes onto advice determination must be made in accordance with the development plan and any national development management policies unless material considerations strongly indicate otherwise. If to any extent the development plan conflicts with a national development management policy, the conflict must be resolved in favour of the national development management policy. The amended legislation gives statutory weight to 'national development management policies' (which do not form part of the development plan) and states that material considerations must 'strongly' outweigh the development plan and any national development management policies to warrant departure. Where the development plan conflicts with a national development management policy, national policy should take precedence.

- 8.8 The Housing Act 2004 placed a duty on Local Authorities to produce assessments of accommodation need for Gypsies, Travellers and Travelling Showpeople (GTTS), and outlined how their needs would be met. This requirement was revoked by the Housing and Planning Act 2016 through the removal of Paragraphs 225 and 226 of the 2004 Act. The requirement is now in the Planning Policy Traveller Sites (PPTS), Paragraph 4(a) and the Housing Act (1985) which requires an overall assessment of accommodation need for Caravan Dwellers, and the revised National Planning Policy Framework (NPPF) which requires an assessment of all Travellers.
- 8.9 Policy H of the PPTS relates to determining planning applications for traveller sites and requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. It also advises that applications should be assessed and determined in accordance with the Presumption in Favour of Sustainable Development and the application of specific policies in the NPPF and Planning Policy H of the PPTS.
- 8.10 Policy 36 of the Local Plan is the most relevant Development Plan Policy for assessing applications for Gypsy and Travellers pitches. The policy sets out the need for pitches and plots for the period up to 2027, although it is established that the pitch/plot targets within the policy are out-of-date and that the latest evidence, in the form of the Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA) 2022 should form the basis for assessing the level of need. The criterion-based assessment within Policy 36, carries a reasonable amount of weight, with the inspector for appeal reference 20/3256647 concluding they were not out of date. It is nevertheless acknowledged they do not precisely replicate the requirements of national policy, rather, they are broadly in accordance, and it is considered reasonable to attach weight to them within the assessment of this application.
- 8.11 The GTAA 2022 has been produced as part of the evidence base for the emerging Local Plan 2021-2039. It has identified a requirement for a 104 pitches additional pitches, needed in the first five-year period (December 2022 – December 2027) and a further 22 in the five years beyond after December 2027. In the first five years, this equates to an average delivery rate of 21 pitches per annum. However, as the base date for the GTAA is 2022, these figures are required to be adjusted to the to reflect a base date of 1 April 2023 for the new 5-year supply calculation. This figure incorporates the undersupply of pitches in 2022/23 as well as the requirement for 2028 (one year beyond the first five-year period). In essence, this leaves a total of 93 pitches to be provided in the 2023 – 2028 period.
- 8.12 Since April 2023, 19 pitches have been approved (ref 23/01476/FUL, 23/01477/FUL, 23/00086/FUL, 19/00445/FUL (appeal 19/3271433), 20/03164/FUL (appeal 20/3293116) and 21/00051/FUL (appeal 21/3311285). In addition, there are two sites (five pitches) which are yet to have been implemented/fully completed (20/00785/FUL and 20/01330/FUL), and one site (14/01217/FUL) (five pitches) identified within the Pitch Deliverability Assessment as yet to be completed. Therefore, whilst the five-year supply figure remains at 93 pitches, the partially implemented sites, and the six applications totalling 19 pitches are material considerations as they contribution towards that unmet need. However, whilst this may be the case, it remains the case that at least **74 pitches need to be provided between the time of writing and April 2028.**

- 8.13 The emerging Local Plan does all that it can to meet the need identified, including assigning plots to suitable strategic allocations. Namely the Policy A8 (Land East of Chichester), A10 (Land at Maudlin Farm), A11 (Highgrove Farm, Bosham), A13 (Southbourne Broad Location for Development) and Policy H11 includes a requirement of three Gypsy and Traveller pitches on any non-allocated site of 200 dwellings or more. In addition, Policy H12 looks at intensifying existing sites, identifying seven sites suitable for intensification, whilst also advising additional caravans on existing authorised sites which have adequate facilities and would not result in overcrowding of sites will be supported. However, if the need is to be met, the plan acknowledged considerable reliance inevitably must be placed upon windfall sites, owing to the lack of sufficient options for making suitable allocations to meet the outstanding need. The assumption is that windfall sites will need to continue to come forward to ensure the outstanding need can be met.
- 8.14 In each of the following recent appeal decisions, 20/3254057 and 20/3257880 (Melita Nursery), 21/3268916 (Scant Road), 21/3272950 (Common Road), 21/3267477 (Monks Hill), 22/3293116 (Land East of Monks Hill), 20/3259313, 20/3254259, 21/3267885, 21/3285488 and 20/3266164 (Newells Lane), and 22/3303112 (Newpound) Inspectors found there to be a significant unmet need within the district and absence of a five-year supply (contrary to Policy B of the PPTS), which was found to be of critical importance and significant material consideration, in favour of granting planning permission. In the case of the Newells Lane Appeals the Inspector concluded the unmet need *“has increased considerably since the last GTAA and represents a very significant shortfall and, to my mind, represents a failure of policy which weighs heavily in support of the development”*. *The findings of these appeal decisions are a significant material consideration”*.

#### Assessment against Policy 36

- 8.15 In assessing the suitability of sites for allocation in the Gypsy, Traveller, and Travelling Showpeople Site for the purposes of determining planning applications, proposals will be supported where it can be demonstrated that all the following criteria have been met:
- 1. It is well related to existing settlements with local services and facilities. Sites should either be within or close to such settlements or with good access to major roads and/or public transport thus affording good access to local services.**
- 8.16 The location of the application site lies within a suitable distance to local services and facilities, has good access to the major road network and lies approximately 3 miles from Southbourne, which provides a greater range of services. It is appreciated the West Ashling itself offers limited services; however, the distance to Southbourne and services is not excessive or contrary to the aims of this criterion.
- 8.17 This location has been found to be sustainable in previous Appeal decisions, including 19/03220300 and again more recently in 21/3268916 (Land south of The Stables), which is immediately west of the application site. In the latter appeal, the Inspector opined the following:



*“...The site’s future occupiers would be unlikely to be able to walk safely to the limited facilities in West Ashling. There would be likely to be a reliance on the private motor vehicle for trips to services and facilities in the nearest settlements. However, ...it is not uncommon for such uses to be in rural settings and for site occupiers to be reliant on the private car for most of their day-to-day journeys. The distances involved in this appeal are not excessive by rural standards. This is consistent with paragraph 105 of the Framework which confirms that opportunities to maximise sustainable transport solutions will vary between urban and rural areas”. The Inspector concludes “The proposal would be in an appropriate location, having regard to access to local services and facilities. It would therefore not be contrary to Local Plan Policy 36 and paragraph 25 of the PPTS”.*

8.18 Similarly, the Inspector for Appeal ref 20/3259313, 3254259, 3267885,3285488 and 3266164, which were heard via a join Hearing in January 2023, for this site and sites adjacent to it, which all share the same vehicle access onto Newells Lane, the Inspector opined the following in respects of the site location:

*“The site is located outside the settlement boundary, in an area characterised by agriculture, open countryside interspersed by some agricultural and equestrian buildings, together with sporadic residential development that includes some existing residential caravan sites. West Ashling lies 0.6 km from the site, where there are some of the local facilities, such as a pub and school that are generally accepted to serve a local community. Accordingly, I do not consider that the site is ‘away from existing settlements’ for the purposes of the PPTS”.*

8.19 Conversely, the Inspector for 22/3303112 (Newpound) considered the distance of the Appeal site from the nearby settlements of Wisborough Green and Billingshurst to be “significant” and the site to be “not sustainably located”. The distance in this Appeal was not significantly greater than the distance found to be acceptable by the above Inspector and the distance for this application. However, it is Officers view that the Inspector for 22/3303112 (Newpound) was considering the establishment of an entirely new Gypsy and Traveller pitch, in a location where there were none. This is materially different context to one of an established Gypsy and Traveller settlement, where proposals seek additional pitches to meet demands in growth. It is also noted that the Newpound site lies to the far north of the Chichester District, whereas this application site lies to the south, closer to the City Centre (sub- regional centre) and Southbourne (settlement hub) which provide a wider range of services. Consequently, in light of the Inspectors findings for the various appeals in the immediate context of the application site, and the material differenced to the Newpound Appeal, the proposal is compliant with criterion 1 of the Policy 36.

**2. Has safe and convenient vehicular access, be suitable in terms of topography and be in a location where the necessary infrastructure already exists or can reasonably be provided.**

8.20 The proposal has safe vehicle access, via the existing access track, which joins Newells Lane. The proposal would utilise an existing access, which serves a wider Gypsy and Traveller site where there are existing services, including water and electricity.

**3. Be able to achieve a reasonable level of visual and acoustic privacy for both people living on the site and for those living nearby. The site will provide an**

**acceptable level of amenity for the proposed residents and will not have an unacceptable level of impact on the residential amenity of the neighbouring dwellings.**

8.21 The proposal is considered capable of complying with this criterion, as detailed further below.

**4. Not compromise the essential features of nationally designated areas of landscape, historic environment, or nature conservation protection.**

8.22 The site does not comprise a nationally designated landscape, historic environment, or nature conservation protection area.

**5. Avoid locations where there is a risk of flooding, or which are adjacent to incompatible uses such as a refuse tip, sewage treatment works or significantly contaminated land.**

8.23 The site is suitably located when considering the above criteria.

**6. That in rural and semi-rural areas sites should not dominate the nearest settled or Gypsy, Traveller and Travelling Showpeople communities.**

8.24 The proposal for three additional pitches is not considered to be of a scale which would dominate the existing settled community. This is detailed further below.

8.25 In considering the above, Policy 36 of the Local Plan is out of date in terms of its delivery targets and therefore the identified need within the GTAA 2022, including the requirement to provide 74 pitches between the time of writing and April 2028 and the recent findings of multiple Inspectors are significant material considerations. In addition, whilst the Emerging Local Plan seeks to allocate a number of pitches strategic allocations and any non-allocated sites above 200 dwellings, it is accepted, windfall sites, such as this will come forward, in addition to the strategic allocations, to help the Council deliver the identified need with the district. Perhaps most significantly, this proposal has already been found acceptable by the Planning Inspectorate, who cited numerous benefits of the proposal, including the provision of additional pitches helping to address the significant unmet need. Whilst the Inspector found moderate harm to the character and appearance of the area, it is Officers' view this would not be outweighed by the benefits of the scheme, particularly given the only significant harm (impact on protected sites due to increasing nitrogen) has been satisfactorily addressed. As such, it is therefore considered the principle of development is acceptable, subject to the material considerations set out below.

iii. Impact upon the Settled Community

8.26 Paragraph 25 of the PPTS advises 'local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

8.27 The proposal seeks permission for three Gypsy and Traveller pitches, each containing one static caravan, amenity building, space for vehicle and touring caravan parking, lawned amenity space, native hedgerow boundary planting and

stable block. There are approximately 43 authorised and a further 10 unauthorised pitches within the wider Gypsy and Traveller settlement, which covered approximately 4 hectares. Three additional pitches would increase the number of pitches within this location, and within the parish; however, it would remain the case that the number of pitches and the area in which they cover would not exceed the relatively extensive, settled community, either in numerical terms or land area. There has been no evidenced provided of undue pressure on the school, local services, or road network from the Gypsy and Traveller population. Similarly, whilst Officers are aware of local tension there is limited evidence available, and the Council is unable to demonstrate that the proposed development would materially exacerbate any tensions such that it would present a reasonable reason to resist the application. The issues raised in respects of outstanding enforcement notices cannot reasonably form part of the decision-making process for this application. As a consequence, the proposal would not result in a form of development which would dominate the settled community.

8.28 As set out below, the matter of dominance within Funtington, including the three pitches subject to this current application, have been robustly considered by Inspectors. It was examined in following appeals, 21/3268916 (Scant Road), 20/3259313, 20/3254259, 21/3267885, 21/3285488 and 20/3266164 (Newells Lane) and 20/3721433 (Tower View) all of which lie within the established Gypsy and Traveller development within Funtington. In every Appeal the increase in the number of pitches, 2 (Scant Road), 10 (Newells Lane) and 6 (Tower View) were not found to result in a form of development which would dominate the settled community.

8.29 The Inspector for 21/3268916 (Scant Road) opined the following:

*“It is evident from the data provided by the Council and FPC that there is a high concentration of gypsy and traveller pitches, both authorised and unauthorised, in and around West Ashling and in the wider parish. However, without detailed survey work to understand the true size of the gypsy and traveller population locally with reference to the number of occupants per pitch, the population figures provided by FPC are simply estimates*

*The proposal would numerically increase the existing numbers of gypsies and travellers resident locally by only a very small number. Furthermore, the proposal would fill a narrow gap between other pitches and would be seen together with existing pitches on Scant Road East, but not from West Ashling itself or from West Ashling Road. It would not be closer to existing sporadic residential development than existing gypsy and traveller sites. Its visual and spatial effect on the surrounding settled community would not therefore be harmful in scale, despite the loss of a formerly wooded area. Additionally, there is no evidence before me that there is any undue pressure on local infrastructure, including road capacity.*

*In conclusion, the proposal, together with nearby gypsy and traveller sites, would not dominate the settled community. It would comply with Local Plan Policy 36 and paragraphs 14 and 25 of the PPTS as set out above.”*

8.30 The Inspector for 20/3259313, 3254259, 3267885, 3285488 and 3266164 (Newells Lane), opined the following:

*“Whilst the site must be considered on its own merits, it must also be assessed in the context of what is happening with the other appeals before me. In the event that all of these appeals were to be allowed and subject to conditions, there would undoubtedly be an increase in the number of pitches.*

*Residential caravan development is often designed at greater density than more traditionally built residential schemes and that is the case here. However, this and the other appeal sites are generally well screened from Newells Lane and the existing sites by existing hedging and fencing. I recognise the concern about these sites coalescing with existing sites.*

*The development of any residential caravan site on previously undeveloped land will inevitably result in some change to the character and appearance of the area. I find the change has resulted in harm by the generally unsympathetic use of internal fencing and the extensive hard surfacing on this and the other appeal sites.*

***Nevertheless, even when considered cumulatively with the other appeals, the identified harm could not be said to be of a magnitude that it dominates the settled community.** Moreover, I consider that the appearance of the site could be improved through a suitable hard and soft landscaping condition, on this and the other appeal sites.*

8.31 Finally, the Inspector for 20/3721433 (Tower View), opined the following:

*“The appeal site is within a cluster of Traveller sites, some of which appear to be authorised, and I note that similar uses exist in the wider Parish. The Council points to the differing and higher densities of occupation on the existing and proposed sites when compared to the more dispersed pattern of bricks and mortar housing in the postcode areas containing and adjacent to the appeal site. However, the same could be said of most Traveller uses in rural areas where they are situated away from a settlement boundary, and neither PPTS nor the Local Plan policies establish that such sites are unsuitable for such uses in principle. Moreover, the appeal site is spatially and visually contained, and physically separate from bricks and mortar dwellings. For these reasons, the proposed development would not “dominate” the nearest settled community if the term is understood as relating to those dispersed dwellings rather than adjacent settlements, in terms of being the most influential, conspicuous, prevailing, obvious, or commanding or controlling element in the wider area. Neither, for these reasons, would the modest expansion of authorised pitches that the proposed development would bring about to the cluster within which it is situated lead to cumulatively harmful effects in terms of dominance.*

*If a wider view of the nearest settled community were to be taken, as set out in the Parish Council’s appeal response, and according to the analysis of the area included therein, there are over twice as many bricks and mortar houses (193) when compared to caravans (90) in the West Ashling area. However, it is unclear how many of the estimated number of caravans are stationed on authorised sites, and moreover, some would appear to be outside the immediate ‘cluster’ related most directly with the appeal site, and rather are dispersed throughout the wider parish. A more recent estimate supplied by the Parish Council and based on an analysis of 2011 Census data and information relating to planning applications and enforcement activity suggests that there are 178 households in West Ashling and its immediate surroundings, with some 58 pitches/plots (with some 17 of these apparently*

*unauthorised) on the wider cluster within which the appeal site sits. Again, this points to more than twice the number houses for the settled community when compared to Traveller provision. **In any event, the proposed development would only give rise to a modest increase in pitches, and associated caravans, so that even on the basis of the numerical analysis supplied by the Parish Council it would not lead to the dominance** which Local Plan and national policies seek to avoid.*

*Accordingly, these considerations, taken together lead me to the conclusion on this main issue that **the appeal scheme would respect the scale of, and not dominate, the nearest settled community.** There would therefore be no conflict with either Policy 36 of the Local Plan or the PPTS insofar as they relate to these considerations.”*

8.32 In considering the findings of three independent Inspectors, who have considered the issue of dominance within seven separate Appeals, for a total of 18 additional pitches (including the three subject to this application), there is no compelling evidence to suggest an alternative view should be taken to that of the Inspector, or to suggest the three pitches would dominate the nearby settled community. There is no evidence which suggests the proposal would put undue pressure on local services and therefore the proposal would be of an appropriate scale and respect the scale of and would not dominate the settled community. Consequently, the proposal would accord with Paragraph 25 of the PPTS and Policy 36 of the Chichester Local Plan.

iv. Design and Impact upon Visual Amenity/Character of Area

8.33 Paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, and create places with a high standard of amenity for existing and future users.

8.34 Paragraph 25 of the PPTS advises that Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Policy 48 of the Chichester Local Plan requires, amongst other considerations, proposals respect and enhance the landscape character of the surrounding area and site.

8.35 The application site lies to the north-west of Newells Lane, with the main internal access taken from the lane. There are three internal spur tracks, that largely run parallel to each other and Newells Lane. The proposal lies to the northern end of the internal spur track, adjacent to the existing five pitch site. The sites would be accessed from the spur track to the west, which each plot having its own access. The pitches are broadly rectangular in shape, mostly laid to lawn with a central area of hardstanding for vehicle parking, bin and cycle storage. The static caravans and amenity buildings would be positioned towards the eastern boundary of the plots, allowing for a back-to-back configuration with the existing pitches to the east.

8.36 The pitches are comparable in size to the existing pitches and other within the neighbouring sites. The plans indicate the site would be enclosed by a hedgerow boundary; however, it is anticipated this would likely be bolstered by some form of fenced boundary. It is considered appropriate for details of any boundary to be secured via condition, with Officer's preference being for a post and rail fence with

hedgerow boundary. There is adequate space within the site to accommodate this, and this application could provide an opportunity to obtain a more visually appealing boundary than the current close board fencing.

8.37 As the pitch is set back from Newells Lane, it is generally well screened by the intervening hedgerow and authorised pitches. In addition, the fenced subdivision of the wider site, albeit one which Officers hope will become softened with more appropriate fencing and hedgerow planting, also helps to filter views of the proposal. It is possible to view the wider site, given undulating landscape; however, these are typically at some distance, further south along the lane where you are afforded views of the wider site rather than just these individual pitches.

8.38 The Inspector for 20/3259313, 20/3254259, 21/3267885, 21/3285488 and 20/3266164 (Newells Lane) opined the following in relation to the impact upon the character of the area.

*“The development of any residential caravan site on previously undeveloped land will inevitably result in some change to the character and appearance of the area. I find the change has resulted in harm by the generally unsympathetic use of internal fencing and the extensive hard surfacing on this and the other appeal sites. Nevertheless, even when considered cumulatively with the other appeals, the identified harm could not be said to be of a magnitude that it dominates the settled community. Moreover, I consider that the appearance of the site could be improved through a suitable hard and soft landscaping condition, on this and the other appeal sites.*

8.39 In reaching the above conclusions, the Inspector considered the cumulative development of 10 additional pitches. Individually, the harm resulting from the individual applications will be less. The Inspector also recognises the use of planning conditions could help to improve the current situation and secure a suitable hard and soft landscaping plan.

8.40 The current proposal would result in a degree of change and introduce additional build form, hard surfacing, and boundary treatments to what was a previously undeveloped field. This will result in a level of harm to the landscape and rural character of the area. However, any harm to the character of the area must be considered in the context of the wider Gypsy and Traveller, which undoubtedly forms part of the character of this area. The perceived harm would also be reduced as the development would not read in isolation, but in the context and backdrop of a lawful Gypsy and Traveller plots and therefore cannot be more than moderate. Consequently, the proposal would have an impact upon the landscape and rural character, conflicting with Policy 45 and 48 of the Local Plan.

v. Amenity of neighbouring properties and future occupiers

8.41 The NPPF states at Paragraph 135 that planning should ensure a good quality of amenity for existing and future users (of places). Policy 36 of the Chichester Local Plan states that proposal will be support where they provide an acceptable level of amenity for the proposed residents and will not have an unacceptable level of impact on the residential amenity of the neighbouring dwellings. Paragraph 26 of the PPTS

states that when considering planning application local planning authorities should attach weight to sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase openness. Furthermore, the paragraph states the promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children is a material consideration.

8.42 The pitches are appropriate in size and scale and provide adequate parking/storage, lawned areas and landscaping, which ensures they will result in an adequate level of amenity of the future occupiers. The pitches are positioned to ensure they do not give rise to an unacceptable impact upon the amenities of neighbouring properties, in terms of their outlook, privacy or available light. The pitches are of appropriately distanced from the existing pitches to the north and west and the nearest neighbouring dwelling lies a notable distance to the south.

8.43 Consequently, the proposal is considered to result in an acceptable level of amenity for existing and future occupiers of the development and therefore accords with Paragraph 135 of the NPPF, Paragraph 26 of the PPTS and Policy 33 of the local Plan.

vi. Impact upon highway safety and parking

8.44 Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Additionally, Policy 39 of the CLP asserts that development should be designed to minimise additional traffic generation.

8.45 The proposal utilises an established vehicle access onto Newells Lane which appears to be working safely and allows the intended occupants to safely enter and exit the site in a forward gear. The proposal is not considered to give rise to a significant intensification in vehicle movements and adequate vehicle parking is available on-site. Consequently, the proposal would result in an acceptable impact upon the highways network would accord with Paragraph 115 of the NPPF and Policy 39 of the CLP.

vii. Surface Water Drainage

8.46 The site is wholly within Flood Zone 1 (low risk); however, Officers are aware of run-off surface water flooding issues within the vicinity of this site. Therefore, appropriate surface water drainage and ensuring any hard surfaces are permeable is important.

8.47 The documents submitted in support of this application suggest that the proposed means of surface water drainage is through on-site infiltration via permeable surfaces and soakage structures. This approach is acceptable in principle as it follows the hierarchy of preference as set out in Approved Document H of the Building Regulations and the SuDS Manual produced by CIRIA. The static caravans would be drained to soak-aways with permeable surfacing to the access road within each pitch.

8.48 In order to ensure adequate surface water drainage scheme, and to ensure the proposal would deliver adequate permeable surfacing, a pre-commencement condition has been recommended to secure the necessary details. The LPA has on

similar sites accepted a permeable sub-base (MOT Type 3) of sufficient depth (300mm+) below a permeable surfacing to minimise run-off, together with conformation that no fines (MOT Type 1 and road scalplings) would be used, as these can become impermeable once compacted. This matter has been discussed with the planning agent/applicants, who are happy with this approach and the suggested condition.

8.49 Consequently, it is accepted that a suitable surface water drainage scheme can be achieved, although construction details of the proposed surfacing are required to be submitted and agreed prior to construction. As a suitable scheme can be achieved, it is considered appropriate to secure these details via condition and therefore subject to future compliance with the suggested condition, the proposal complies with Policy 42 of the Local Plan.

viii. High Pressure Gas Pipeline

8.50 The site is located in close proximity to a high-pressure gas pipeline operated by Southern Gas Network. Officers have undertaken an assessment via the Health and Safety England (HSE) tool for LPAs, with the outcome being HSE does not advise on safety grounds, against the granting of planning permission in this case. This aligns with the findings of the adjacent pitches (19/3220300) which concluded the proposed pitches were suitably located relative to the pipeline. Consequently, the proposed pitches would not give rise to any undue safety concerns.

ix. Ecology

8.51 Policy 49 of the Chichester Local Plan requires the biodiversity of the site to be safeguarded. The Councils Environmental Strategy Officer has reviewed the proposal alongside the Preliminary Ecology Assessment (PEA), and they are satisfied with the conclusions and mitigation set out within the PEA. Additional suggestions for on-site biodiversity enhancement and mitigation measures, including the provision of bat and bird boxes, infilling gaps within existing hedgerows and the protection of existing hedgerows during construction can be adequately secured via condition. A condition requiring details to be submitted for external lighting, will help to mitigate any impacts resulting from additional upwards light spill.

8.52 A condition has been suggested to secure the EV charging points, and cycle storage indicated on the site plan. In addition, a landscaping condition has been suggested to secure details of the boundary hedging. Consequently, subject to future compliance with conditions, the proposal would adequately safeguard the biodiversity of the site and accord with Policy 49.

x. Nitrogen

8.53 The proposal comprises new residential development, which would be served by an on-site package treatment plan (PTP) where it is accepted that the treated effluent from the development will eventually discharge into a European or internationally designated protected site, with the potential for harm to be caused to those sites by the overall increase in nitrate levels. It is Natural England's view that the cumulative increase in nitrate levels from development is likely to have a significant effect on



such designated sites. This is therefore directly connected to the increase in wastewater from the development.

- 8.54 In such instances, the implications from the proposed development (that is the nutrient content of the discharge), together with the application of measures to avoid or reduce the likely harmful effects from the discharge, are required to be tested by the by the Local Planning Authority (LPA) via an Appropriate Assessment (AA) to assess the impact on the designated sites in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended).
- 8.55 To assist the LPA with its AA the application has been accompanied by a Nutrient Neutrality Statement and Mitigation Strategy which details the proposed development gives rise to an increase of 4.22 kg N/yr. In order to offset this increase, the mitigation proposes the removal of 0.159 ha of agricultural land from agricultural production and the establishment of a mosaic habitat. The mitigation scheme forms part of a larger mitigation scheme at Droke Lane, East Dean, Chichester, which is established and is subject to an overarching legal agreement facilitating the sale of credits. The report indicates the applicants entered into an agreement to purchase the necessary credits.
- 8.56 The mitigation has been tested via an AA, in consultation with Natural England, who raise no objection, subject to securing the proposed mitigation. The overarching agreement allows for a planning condition to be utilised to secure the provision of a Notice of Purchase to the LPA as evidence of the sale of credits to the applicant, and thus the offsetting of the additional nitrogen. Consequently, the proposal has made adequate provision for the offsetting of the likely significant impact on the Chichester & Langstone Harbour Special Protection Area (SPA), Chichester Harbour Site of Special Scientific Interest (SSSI), Chichester & Langstone Harbours Ramsar site and Solent Maritime Special Area of Conservation (SAC). It therefore complies with the Conservation of Habitats and Species Regulations 2017 and Policy 49 of the Local Plan.

xi. Recreational Disturbance

- 8.57 The site falls within the 'Zone of Influence' for the Chichester and Langstone Harbour Special Protection Area (SPA) whereby any increase in residential development is likely to have significant environmental impacts on this internationally important designation. To offset any impacts of this additional overnight accommodation it is necessary for a financial contribution towards the Bird Aware Strategic Mitigation Scheme to be secured through a planning obligation. An AA has been undertaken to consider the appropriateness of the financial contribution, together with the nitrogen mitigation (as above) and Natural England has raised no objection.
- 8.58 The application is recommended to be deferred for the completion of a Unilateral Undertaking (UU), to secure the requisite fee. The applicant has indicated their agreement to enter into the UU. As such, upon the completion of the UU the proposal would comply with Policy 50 and the requirements of the Habitat and Protected Species Regulations 2017, and the proposal would be acceptable in this respect

xii. Human Rights and Personal Circumstances

8.59 The Human Rights of the applicants and those within the settled community have been considered under Article 8 and Article 1 of the First Protocol of Human Rights. The application has been assessed, upon its own merits in line with National and Local Planning Policy, with a decision issued accordingly. The Coastal West Sussex Gypsy and Traveller accommodation Assessment (GTAA) December 2022 requires the LPA to have regard to the following factors when considering an application:

1. do the children of the applicant go to the local school
2. do the applicants have a particular medical condition that requires them to live on this site
3. are they members of the established community already on this or adjacent sites or is this just a speculative application?

8.60 The applicant's planning statement advises the proposal seeks three pitches for an extended Romany Gypsy Family. The applicant George and Karla Smith and their son Kingy. George Smith Jr and Jodie Smith, and their young baby. Josie Hughes (daughter of George and Karla Smith) and her four children.

8.61 The three pitches would allow the extended family to re-establish a settled base following their eviction from the unlawful site in Birdham. The new pitches would provide a settled base for the adults to access healthcare and other services. It would also facilitate schooling for the families children, particularly Josie Hughes four children who attend local schools. Article 3 of the United Nations Convention on the Rights of the Child (UNCRC) establishes the concept of the 'best interest of the child' and there is a statutory duty on any public authority, to consider the best interests of the children in decision making. In this instance, it is acknowledged this settled base would be in the interests of the children, as it would facilitate ongoing school attendance. As such, the personal circumstances of the applicant weigh significantly in favour of granting this permission.

### xiii. Planning Balance

8.62 The Council cannot demonstrate a five-year land supply to meet an up-to-date locally assessed need (rather than the target in the Local Plan Policy 36), which is a significant material consideration of significant weight. The proposal complies with the six criteria set out within Policy 36 of the Local Plan, which seeks to direct Gypsy and Traveller development to appropriate locations within the district. The location, and density of development has previously been found to be appropriate and proportionate to the scale of the settled community (i.e., not dominating) and would neither exceed the settled community, either in numerical terms or area. The proposal would result in some impacts upon the character and landscape; however, this could be ameliorated to an extent though the use of planning conditions to secure appropriate landscaping and boundary treatments. The proposal would also read in the context of an established site, rather than an in isolation, and the cumulative impacts of the proposal and surrounding proposals have been considered. The proposal would also establish a settled base for a Romany Gypsy family, allowing them to access healthcare, other services, and schooling for children, which is undoubtably within the best interests of the child. The proposal would also contribute towards the significant unmet need for Gypsy and Traveller sites.

8.63 The proposal has demonstrated it would provide biodiversity enhancements and can achieve nitrogen neutrality through the use of an off-setting credit scheme. The applicants have also confirmed their agreement to enter into a financial contribution towards the Bird Aware recreational disturbance mitigation scheme, ensuring the proposal would not adversely impact the designed sites. An adequate surface water drainage scheme can also be achieved, subject to securing the details condition.

8.64 The moderate harm identified to the landscape would not outweigh the significant benefits of delivering three additional pitches and therefore the recommendation falls in favour of recommending permission be granted.

### **Conclusion**

8.65 In considering the above, the absence of a five-year supply, together with a significant unmet need for Gypsy and Traveller pitches, identified within the GTAA 2022 and the absence of significant harm to arise from the development the proposal is acceptable subject to conditions and S106 planning obligation.

### **RECOMMENDATION**

**DEFER FOR SECTION 106 THEN PERMIT** subject to the following conditions and informatives:-

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Decided Plans"

Reason: For the avoidance of doubt and in the interests of proper planning.

3) The site shall be occupied only by persons meeting the definition of gypsies and travellers as defined in Appendix 1 of the Planning Policy for Traveller Sites, updated 19 December 2023 (or its equivalent future replacement national policy).

Reason: Permission would not normally be granted for such development in this location but in granting permission exceptionally the Local Planning Authority have had regard to the particular circumstances relating to the proposal.

4) No more than 6 caravans shall be stationed on the site at any time, of which no more than 3 shall be a static caravan. All such caravans stationed on the site shall comply with the definition of caravans as set out in Section 29 of the Caravan Sites and Control of Development Act 1960 and Section 13 of the Caravan Sites Act 1968.

Reason: Permission would not normally be granted for such development in this location but in granting permission exceptionally the Local Planning Authority have had regard to the particular circumstances relating to the proposal and in the interests of amenity

5) No development shall commence unless the Council has received the Notice of Purchase in accordance with the requirements of the legal agreement between CDC, SDNPA and John Holt dated 21.12.2022 in respect of the Credits Linked Land identified in the Nutrient Neutrality Assessment and Mitigation Strategy Report (14.06.2023) submitted with the application.

Reason: To demonstrate that suitable mitigation has been secured in relation to the effect that nitrates from the development has on protected sites

6) **No development shall commence until** details of the proposed overall site wide surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design shall follow the hierarchy of preference for different types of surface water drainage disposal systems, as set out in Approved Document H of the Building Regulations and the SuDS manual produced by CIRIA. The details shall include a section drawing of the proposed permeable surfacing with suitable permeable sub-base (MOT Type 3 or similar) of sufficient depth below. The surface water drainage scheme shall be implemented as approved unless any variation is agreed in writing by the Local Planning Authority. The site shall not be occupied until the complete surface water drainage system has been implemented in accordance with the approved surface water drainage scheme.

Reason: The details are required pre-commencement to ensure that the proposed development is satisfactorily drained.

7) **Notwithstanding any details submitted no development/works shall commence on the construction of the amenity buildings,** until a schedule of all materials and finishes to be used for external walls, roofs, windows and doors of the building(s) have been submitted to and approved in writing by the Local Planning Authority. Upon submission of the details to the Local Planning Authority samples of the proposed materials and finishes shall be made available for inspection on site, unless otherwise agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved schedule of materials and finishes unless any alternatives are agreed in writing via a discharge of condition application.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of amenity and to ensure a development of visual quality.

8) **No part of the development hereby permitted shall be first occupied until** the vehicle parking and turning spaces have been constructed in accordance with the approved plan. These spaces shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the development

9) **No part of the development hereby permitted shall be first occupied until** the covered and secure cycle parking spaces have been provided in accordance with the approved plans (2012NE 000 and 2012NE 200). Thereafter the cycle parking shall be retained for that purpose in perpetuity.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies

**10) No part of the development hereby permitted shall be occupied until** refuse and recycling storage facilities have been provided in accordance with the approved plan ((2012NE 000 and 2012NE 200). Thereafter the refuse and recycling storage facilities shall be maintained as approved and kept available for their approved purposes in perpetuity.

Reason: To ensure the adequate provision of onsite facilities in the interests of general amenity and encouraging sustainable management of waste.

**11) No part of the development hereby permitted shall be first occupied until** 3.no Electric Vehicle (EV) charging points have been provided in accordance with plans and details that shall first have been submitted to and approved by the Local Planning Authority. Thereafter the Electric Vehicle Charging point shall be retained for that purpose, indefinitely and unless otherwise agreed in writing by the Local Planning Authority via a discharge of condition application.

Reason: To provide alternative sustainable travel options in accordance with local and national initiative to reduce carbon emission and current sustainable transport policies

**12) The development hereby permitted shall not be first brought into use** until a scheme detailing hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include plans showing details of the hard surfacing material, a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities, and details of the proposed infrastructure and regime for watering and ongoing maintenance. The approved scheme shall be carried out in the first planting season after practical completion or first occupation of the development, whichever is earlier, unless otherwise first agreed in writing by the Local Planning Authority. Any trees or plants which, are removed, die, or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity and of the environment of the development

**13) Prior to first occupation of the pitches hereby approved** the associated boundary treatments shall be provided in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- a) scaled plans showing the location of the boundary treatments and elevations, and
- b) details of the materials and finishes.

Thereafter the boundary treatments shall be maintained as approved in perpetuity.

Reason: In the interests of protecting the rural character of the area.

14) The Air Source Heat Pumps hereby permitted shall not be first installed until full manufactures details, including operating noise levels have been submitted to and approved in writing by the Local Planning Authority. Once approved, these sustainability measures shall be fully implemented within the proposed development and thereafter retained in perpetuity for their designated use.

Reason: To minimise the impact of the development upon climate change

15) The development hereby permitted shall not be first brought into use until the following ecological enhancements have been implemented

1. The integration of a bat and bird box into each of the amenity buildings hereby approved
2. The provision of hedgehog nesting boxes within each pitch.

Thereafter, the ecological enhancements shall be retained and maintained in perpetuity.

Reason: In the interests of securing a biodiversity enhancement.

16) The following ecological mitigation measures shall be adhered to at all times during construction.

1. Any brush piles, compost and debris piles on site could provide shelter areas and hibernation potential for hedgehogs and shall only be removed outside of the hibernation period (mid-October to mid-March inclusive).
2. If any works need to take place to the trees or for vegetation clearance within the site, works should only be undertaken outside of the bird breeding season which takes place between 1st March 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).

Reason: In the interests of protecting biodiversity and wildlife.

17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) no external illumination shall be provided on the site other than in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the proposed location, level of luminance and design of the light including measures proposed to reduce light spill. Thereafter the lighting shall be maintained in accordance with the approved lighting scheme in perpetuity.

Reason: In the interests of protecting wildlife and the character of the area.

18) Notwithstanding the provisions of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking ,re-enacting or modifying that Order) no walls, fences or other means of enclosure (including bunding) other than those shown on the approved plans or those approved under Condition 9 above shall be erected within or on the boundary of the

site unless details of their height, materials and location shall have previously been submitted to and approved in writing by the local planning authority.

Reason: In the interests of visual and neighbour amenity

19) No commercial activities shall take place on the site at any time, including the storage of materials, and no burning of any item or waste materials of any kind may take place at the site.

Reason: In the interests of protecting the amenity of the surrounding area.

20) No more than one commercial vehicle per plot shall be kept on the land for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.

Reason: In the interests of protecting the amenity of the surrounding area.

21) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no area of hardstanding other than those shown on the approved plans or those approved under Condition 12 shall be laid on the site unless details of their materials and location shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual and neighbour amenity

## Decided Plans

The application has been assessed and the decision is made on the basis of the following plans and documents submitted:

Details	Reference	Version	Date Received	Status
PLAN - LOCATION AND BLOCK PLAN	2012NE 000		04.08.2023	Approved
PLAN - PROPOSED ELEVATIONS AND PLAN	2012NE 200		04.08.2023	Approved
PLAN - APPLICATION PHOTOGRAPHS	2012NE 201		04.08.2023	Approved
PLAN - PROPOSED BIN AND BIKE STORE	201		29.08.2023	Approved

## INFORMATIVES

1) The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

For further information on this application please contact Calum Thomas on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RYVDVMER12N00>