
APPLICATION NO.	22/02694/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	14.12.2022
APPLICANT	Mssrs Nolan And Quinn
SITE	Land At Embley Lane, Embley Lane, East Wellow, WELLOW
PROPOSAL	Change of use of land as a travellers caravan site consisting of 3 pitches, each containing 1 mobile home, 1 utility dayroom and 1 touring caravan, sewage treatment plant and associated development
AMENDMENTS	Amended plans received 29/03/23 & 09/05/23
CASE OFFICER	Mr Paul Goodman

Background paper (Local Government Act 1972 Section 100D)

[Click here to view application](#)

1.0 INTRODUCTION

1.1 The application was presented to SAPC (13th June 2023) at the request of a local ward member as it raises issues of more than local public interest. SAPC resolved to;

Delegate to Head of Planning & Building for completion of satisfactory consultation with Natural England and the addition/amendment of relevant conditions, and/or legal agreement/direct contributions to secure;

- *Submission of evidence that sufficient mitigation measures have been secured to enable the development to achieve nutrient neutrality.*
- *New Forest SPA contribution.*

Then PERMISSION [subject to conditions and notes of the man agenda report and additional condition:

15. The existing stable shall only be used for private equestrian purposes and not for any commercial riding, livery use or other business use. Reason: To enable the Local Planning Authority to regulate and control the development of land and to preserve the visual amenity of the area in accordance with Policies E1 and E2 of the Test Valley Borough Revised Local Plan (2016).

1.2 Following to resolution of SAPC the Council has received further representations on the planning application and a pre-action letter pursuant to the Judicial Review Pre-Action Protocol stating an intention to apply for judicial review.

1.3 Having considered the submissions, and following the publication of the Gypsy & Traveller pitch and Travelling Showpeople plot supply statement (September 2023) in the intervening period, the Council has taken the decision to return the application to SAPC with an updated recommendation.

1.4 The revised recommendation contains much of the same detail as the SAPC agenda of 13th June. A summary of the changes is as follows;

- Incorporation of the SAPC update paper of June 13th 2023.
- Addition of Condition 15 as per the SAPC resolution.
- Summary of additional representations received.
- Additional consideration of the Gypsy Status of the applicants and revised wording of Condition 2 to reflect best practice
- Consideration of the Gypsy & Traveller pitch and Travelling Showpeople plot supply statement (September 2023) and the need for pitches.
- Additional consideration of the need for the development to be located in the borough.
- Additional consideration of the representations regarding ecological impacts.

2.0 **SITE LOCATION AND DESCRIPTION**

2.1 The application site is situated in the countryside area of Wellow Parish and to the north western side of Embley Lane. The site is accessed via an existing access serving a recently constructed stable block.

3.0 **PROPOSAL**

3.1 The application proposes the change of use of land as a travellers caravan site consisting of 3 pitches, each containing 1 mobile home, 1 utility dayroom and 1 touring caravan, sewage treatment plant and associated development.

4.0 **HISTORY**

4.1 15/01109/FULLS - Proposed barn/tractor store. Closed as Invalid 01.06.2015.

4.2 15/02327/FULLS - Barn, gated access (retrospective) and hardstanding track (resubmission of 15/01268/FULLS). Permission 08.01.2016.

4.3 20/01697/FULLS - Change of use of land to equestrian and erection of stable block. Permission 06.11.2020.

4.4 21/00835/FULLS - Erection of new storage barn. Refused 12.05.2021. Appeal Allowed 23.11.2021.

4.5 22/01551/VARS - Vary condition 2 of 21/00835/FULLS (Erection of new storage barn) - to allow a change of materials to the cladding and roof. Permission 04.08.2022.

5.0 **CONSULTATIONS**

5.1 **Planning Policy & Transport (Policy) – Comment;**

- COM2 (and Proposals Map South) – the site lies outside the defined settlement boundaries, therefore is within the countryside. The proposal would be considered against criteria a) and b) of this policy. On the basis of the proposal, policy COM13, which is listed under criterion a), would be relevant.

- Policy COM13 sets out five criteria that would need to be complied with, each of which is considered below:
- Criterion a)
- Consideration will need to be given to the location of the site relative to services and facilities, such as schools and local shops (as referred to in paragraph 5.131). Reflecting paragraph 105 of the National Planning Policy Framework, it should be recognised that the availability of sustainable travel options will vary between urban and rural areas.
- *Criterion b)*
- The potential occupants will need to be recognised Gypsies or Travellers, in line with the definition provided within Annex 1 of the Planning Policy for Traveller Sites (PPTS). The submission sets out that the applicants are ethnic Irish Travellers and fulfil the definition set out in the PPTS in that they travel for work for between 3 and 6 months of the year.
- Should the application be considered favourably, it would be appropriate to apply a planning condition restricting the occupancy of the site to Gypsies or Travellers that comply with the definition within Annex 1 of the Planning Policy for Traveller Sites.
- *Criterion c)*
- The Gypsy and Traveller Accommodation Assessment (GTAA) was completed in 2017, with a base date of September 2016. It covers the period 2016-2036. This replaces the GTAA referred to in paragraphs 5.132, 5.133 and 5.135 of the adopted Local Plan. There remains a need for pitches for gypsies and travellers.
- The GTAA is being updated, however the outputs of this are not yet available.
- *Criterion d)*
- This criterion sets out that evidence is required to justify the reason for the proposal to be located within the Borough, with additional information of what this could comprise being set out within the supporting text (paragraphs 5.136 and 5.137).
- It is noted within the submission that the family lives in an extended family group comprising three generations. However, no information is provided in the context of this criterion. Additional information / evidence should be provided to justify the reason for the proposal to be located within the Borough.
- *Criterion e)*
- This matter is best assessed by the case officer.
- *National Planning Policy Framework (NPPF)*
- The NPPF is a material consideration. Section 2 sets out the approach to achieving sustainable development, with the three objectives of sustainable development (i.e. social, economic and environmental) set out in paragraph 8. Paragraph 62 of the NPPF recognises that the housing needs for different groups in the community should be assessed and reflected in planning policies, this includes reference to travellers, with a footnote referring to the Planning Policy for Traveller Sites.

- *Planning Policy for Traveller Sites (PPTS)*
- In addition to considering the NPPF, the policies contained within the PPTS also are a material consideration. Paragraph 4 of this guidance sets out the Government's aims in respect of Traveller sites. Policy H of the PPTS relates to determining planning applications for traveller sites and would be relevant, this includes paragraphs 22 to 28.
- *Hampshire Minerals and Waste Plan (2013)*
- The application site lies within a minerals and waste consultation area. Policy 15 sets out the approach to safeguarding mineral resources. The Mineral and Waste Safeguarding in Hampshire Supplementary Planning Document (SPD) (2016) should also be taken into account.
- *Emerging Local Plan*
- The Council's Local Development Scheme indicates that the need and provision for gypsy, traveller and travelling showpeople communities will be considered within the emerging Local Plan.
- The Draft Local Plan 2040 Regulation 18 Stage 1 was published for public consultation between 11 February and 8 April 2022. As the draft Local Plan is at an early stage in its preparation, only limited weight can currently be accorded to its content.
- Paragraphs 5.41 to 5.47 of the Draft Local Plan 2040 Regulation 18 Stage 1 relate to the gypsy, traveller and travelling showpeople communities. It sets out that policies will be set out in the next stage of preparing the Local Plan.
- *Wellow Neighbourhood Plan*
- The Parish of Wellow is designated as a Neighbourhood Area and it is understood that a Neighbourhood Plan is being prepared. At this stage, no weight would be attached to this matter.

5.2 **Planning & Building (Conservation) – No objection**

5.3 **Planning & Building (Landscape) – Comment;**

- The site has no landscape designations; however it is located in the countryside outside the settlement boundary. The site sits just outside the boundary of the Embley Park Historic Park and Garden.
- There are no public rights of way in close proximity to the site.
- The site is set back off the road and would use the existing access for the stable block. The site entrance off Embley Lane is shown on the plan to have established hedgerow, however when visiting the site, the entrance is open with only a post and rail fence providing no mitigation. It should be ensured that as part of the proposals that the entrance is gapped up with suitable planting to form a complete hedgerow barrier. Details to be submitted.
- Question the need for the access point at the north end of the site when there is already access adjacent the stables into the field. Northern access to be blocked up.

- A landscape design statement has been submitted with an indicative planting plan; through condition a detailed hard and soft landscape plan is required. In conjunction with this a landscape management plan is required to ensure the successful establishment of all new planting along with the ongoing maintenance of the existing planting.

5.4 **Planning & Building (Ecology) – Comment;**

- This application is now supported by a Preliminary Ecological Appraisal (Pro Vision, January 2023), which I am satisfied represents the current condition of the site. The submitted PEA appears to be a redacted copy, as there are sections blacked out within the submitted document. I would ask for a non-redacted copy is submitted to the LPA ecologist to review.
- Section 5.6 stipulates that lighting should not exceed 1-3 lux over boundary features, such as hedgerows, trees and woodland. Given the proximity to the Mottisfont Bats SAC and sensitivity of associated barbastelles to artificial lighting, I would advise lighting should not exceed 0.2 lux over these features, and must be in accordance with measures outlined within the Bat Conservation Trust and the Institute of Lighting Professionals (Guidance note 08/18 Bats and artificial lighting in the UK). I would advise that further information regarding the proposed lighting is submitted prior to consent, to demonstrate that this requirement can be achieved within the current site plan.
- I also note that the Arboriculture Officer has raised a concern due to the proximity of mature trees to the proposed plots. I would raise similar concerns. It is outlined in the report that a buffer planting has been proposed, however there is no indication or justification that this will be sufficient to protect and retain the trees on site. I would also ask for further details regarding the protective measures to ensure hedgerows and mature trees will not be impacted during the construction and operational phase of the development.
- It is outlined within section 5.12 of the submitted report that *“the area directly adjacent to the woodland (Spouts Copse) will be retained as paddock and will not form part of the recreational space for the dwellings, which are separated from the field by fencing and hedging”*. It is not evident from the proposed plans that the area between the proposed site and woodland will be retained as paddock, and that there will be no access from the proposed site to the adjacent woodland. The proposed fencing (wooden post and rail, 1.2m height) is not considered likely to form a significant barrier for recreational access. I would raise concern regarding the long-term impacts on Spouts Copse from increased recreational access, and other impacts such as the introduction of garden waste, non-native species and predation from domestic animals. These impacts do not appear to have been fully assessed and addressed within the current submission, and I would advise that further assessment of the likely impacts to adjacent woodland habitats is submitted, along with any required mitigation measures. I would ask for a more substantive and formalised buffer to the woodland as part of the proposed mitigation measures.

5.5 **Planning & Building (Trees) – Comment**

- The submitted arboricultural information is an impact statement only that shows the hardstanding and buildings are just outside the RPA of the tree line. However, the proposed hedge is inside the RPAs. And no method statement has been submitted to demonstrate how the development is to be built and the landscaping undertaken without detriment to the trees.
- An arboricultural method statement which complies with BS:5837:2012 is required to demonstrate how the development can be built and lived in afterwards is required, this would preferably be required up front as part of this application but could be secured by condition, if minded to grant consent.
- The site is a large open field with few features, with the tree line being one of few visual features. It would be more appropriate if the proposed developments were moved away from the trees. Their current location is very close to trees, which will still increase in size, branches will overhang the site and the roofs of the mobile homes, which are a lighter construction to standard house construction. The trees will drop debris and leaves. The current location of the mobile homes close to the trees will put pressure on them to be pruned or felled to prevent damage and debris falling on them, it would be more appropriate to afford the trees suitable separation from the development.

5.6 **Housing and Environmental Health (Environmental Protection) – No objection.**

5.7 **HCC Highways – No objection**

5.8 **Natural England – No objection, subject to obligations to secure nitrate mitigation.**

5.9 **Gypsy Liaison Officer**

- Since commencing employment with Hampshire County Council in 2005 and previously with Wiltshire Council with hands on responsibility for four permanent residential sites and Unauthorised Encampment matters, I have known the Nolan and Quinn families in general including various members of the Irish Traveller community who have been related to both the applicants' families either directly or by marriage.
- The question of Irish Traveller ethnicity is without question with regards to both the planning applicants and during conversation I informed the applicants that Hampshire County Council now has responsibility for one council site in the north of the county and currently there are no pitches available with six applicants on the waiting list.
- I enquired about local facilities in the area which would allow easy access for shops and medical facilities and was informed that the Irish Traveller community are well used to travelling for the purposes of accessing facilities and in any case all they currently require is within a relatively short distance of the site in question.

- Due to the lack of local, regional, and national pitch and transit site availability I was informed that the home base would not solely be used as a place for the Nolan and Quinn families to commute to work and return home daily but would be somewhere for the families to establish a settled lifestyle with access to local school and medical facilities particularly when the menfolk were away seeking work.
- During my visit I did inform the applicants that any evidence they could produce to prove local connection and a traveling lifestyle possibly showing for economic purpose would be very helpful for the planning officer to have site of and consideration prior to any planning committee.
- Based on the interviews and evidence thus far, my view is the applicants have a cultural lifestyle of living in traditional caravans and a history of travelling for economic purpose but would like to settle down to establish a more stable lifestyle and I conclude that after consideration of all the facts, my balanced view is that the applicants are of Irish Traveller ethnicity and satisfy the status required for current planning purposes.

5.10 HCC Lead local Flood Authority – No comment;

- As this application relates to a site which is a residential application less than 0.5 hectare in size/fewer than 10 dwellings, we would consider this as a minor application and outside of our remit.

5.11 Historic England – No comment;

- Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application. We suggest that you seek the views of your specialist conservation and archaeological advisers.

5.12 The Gardens Trust

- We have looked at the sparse accompanying documentation, which makes no mention that the application site lies immediately to the north of the Grade II registered park and garden (RPG) of Embley Park. There is an existing travellers site nearby and we have objected to previous applications to extend it.
- It is not clear from the information provided whether the proposals will intrude visually on the listed landscape. Whilst the application appears to be reasonably sympathetic in its approach and does not in itself seem to present any problem, we are not able to tell at this stage whether it will be visually intrusive. Subject to that caveat we do not wish to comment further on the proposals at this stage. We would however emphasise that this does not in any way signify either our approval or disapproval of the proposals.

6.0 REPRESENTATIONS Expired 24.05.2023

6.1 Wellow Parish Council – Objection;

- The applicant hasn't identified that the proposers are travellers,
- There is no evidence to justify a local connection to Wellow,
- There are already many travellers sites in Wellow,

- The site is remote from all facilities and
- Councillors are concerned that the space proposed could lead to more development in the future

6.2 **Romsey & District Society (Planning Committee) – Objection;**

- The proposal is subject (inter alia) to policy COM13 of the Revised Borough Local Plan. We consider that the planning statement report in the application makes no significant reference to satisfy the terms of that policy, in particular with reference to:
 - Site is required to be where services and facilities are accessible - no such facilities are available in the proposed location;
 - Potential occupants are to be recognised to be gypsies, travellers or travelling show people – one statement is given that the applicants are ethnic Irish travellers but no other specific details are given;
 - The proposal should help to meet the identified need - no supporting information is given with the application;
 - No evidence is given to substantiate any reason as to justify how the proposal is to be located within the Borough.
- Taking account of such significant deficiencies of the submission, we support the views of the local residents in this instance.

6.3 **Letter from Wessex Planning on behalf of Embley Lane residents**

- First and foremost, the application has been submitted with a red line that encroaches onto Jays Farm. No Certificate B has been submitted and the application is therefore invalid.
- Secondly, whilst elevations of the three brick-built day rooms have been provided, there are no elevations of the mobile homes or touring caravans within the submission.
- It is the Embley Lane residents' firm belief that it would be premature to grant planning permission prior to the completion of the Gypsy and Traveller Accommodation Assessment (GTAA) assessment.
- The National Planning Policy Framework seeks to site development in areas that are near to facilities and amenities and accessible by means other than the private car. This site cannot be considered anything other than remote from facilities or amenities.
- The Embley Lane residents have carried out their own Land Registry research which identifies Mr Nolan as associated with an address in High Wycombe, a social housing unit owned by the London and Quadrant Housing Trust.
- A traveller site in Epping Forest (Woodside Place, Woodside, Thornwood, Epping CM16 6LJ) was also given a personal planning permission for the applicant and his family. There is a building company whose contact address is given as this site and several enforcement notices are also associated with this site.
- In addition, a Dover Council 2020 report on Gypsy and Traveller Site Options mentions an offer by a 'Felix Nolan' to add an additional 10 pitches on top of an existing 8 pitches at Alkham Valley Road, Alkham. The LPA is urged to investigate whether this is yet another address available to the applicant.

- Whilst it is understood that TVBC do not have a 5 year supply of traveller/gypsy sites there is an emerging plan which will address this issue. As mentioned above, it would be premature to allow this site prior to the completion of such plan, and contrary to local resident's expectations of a consultative plan-led planning system.
- This site is located within open countryside and no justification has been given for the applicants' requirement to locate on this particular site. The LPA need to be satisfied that there is sufficient justification for the travellers to have chosen this particular site over less remote sites or existing traveller sites in the area. Located.
- The provision of 9 units (3 x mobile homes, 3 brick-built utility dayrooms and 3 touring caravans) would completely overwhelm and destroy the countryside character of this site.
- TVBC would find it difficult to refuse subsequent applications for an extension of this site if this first application is approved. Subsequently there would be a valid concern that the occupants of the caravan site would dominate the settled community in Embley Lane. There are already several traveller sites in Wellow, and the cumulative impact of another site would begin to overwhelm the existing settled community.
- The lane is an unusually narrow single-track lane not at all suitable for the manoeuvring of large caravans, mobile homes and utility day rooms. One of the reasons for allowing the nearby residential redevelopment of Home Farm was due to the benefit provided by the removal of large HGVs associated with the lawful industrial use of the land which had evolved from a former agricultural use.
- With no way of comprehensively ensuring that this site does not extend into the blue land, the harm to the landscape character caused by this initial proposal would be magnified over time, as additional caravans are brought onto the land.
- No decision can be made on this application without, at the very least, a preliminary appraisal that identifies the habitats on site, and therefore the likely presence or absence of protected species. There are two water bodies within 500m of this site (Embley Lake and Willow Lake), and no assessment of these has been made for Great Crested Newts, which are known to travel long distances between water bodies. Bats are known to roost in Spouts Copse, an area of protected ancient woodland just 70 metres from the site, and no assessment has been made of their flightpaths, and whether the proposal will disturb these. No assessment has been made of the hedgerows, and the dormice or birds that are known to use these as their foraging and nesting corridors. No assessment has been made as to whether there are badgers or reptiles on the site or in nearby woodland, which may use the site for foraging and no assessment has been made in terms of potential impacts on the nearby watercourse to the west of the site. The ecological information submitted with the application is wholly inadequate.
- In addition to the general amenity issues of noise and light pollution from the use of this site as a caravan park, and its associated security lighting, the natural environment would be a great risk from the proposals.

- No nitrate budget calculation has or can be carried out without the required two year test certificates, and therefore no clear assessment can be made as to the level of nitrate/phosphate mitigation required. The Habitat Regulations require certainty that mitigation proposals will be effective.
- Embley Park is immediately adjacent to the site, and is an important Grade 2 listed historic park, which also contains several Grade 2 Listed Buildings. The proposal does not make a positive contribution to either sustaining or enhancing the significance of the heritage asset and is therefore directly contrary to Local Plan policy E9.

6.4 **39 representations of Objection received;**

Principle of Development

- Development is not essential in the countryside.
- Excessive number of gypsy plots in the Wellow area.
- Revised assessments of provision and need should be completed before the application is determined.
- Lack of evidence to demonstrate traveller status and connection to local area.
- Unclear if the application is for 3, 6 or 9 families due to numbers of mobile homes, touring caravans and dayrooms.

Sustainability

- Site is an unsustainable location remote from services

Character

- Impact on the historic character of the area. Specifically the listed Embley Park landscape.
- Impact on the rural and tranquil character of the lane.
- Plans do not show the elevations of mobile homes or touring caravans.

Highways

- Additional highways movements in conjunction with development at Home Farm.
- Embley Lane is not suitable for large vehicles
- Impact on safety of walkers and cyclists using Embley Lane
- Works to widen existing access.
- Additional flood impact on the highway

Amenity

- Impact of viticulture activities of adjacent vineyard on the occupants of the site resulting in restrictions on vineyard operations
- Overlooking
- Noise impacts

Environment

- Submitted ecological report omits reference to waterways and ponds in proximity to the site and does not include reference to some protected species found in the area.
- Nitrate impacts
- Impact of discharge from treatment plants
- Lack of ecological surveys
- Biodiversity checklist has not been completed correctly
- Loss of habitats and impact on protected species and biodiversity
- Impact on water courses and downstream lakes.
- Impact of external lighting on wildlife

Other matters

- Submitted site plan is inaccurate
- Previous stable development has been constructed to excessive standards and never been used for equestrian purposes.
- Potential for future development for more mobile homes.
- Remainder of the site should be limited to equestrian activities by legal agreement and permitted development rights removed by Article 4 direction.
- Commercial activities on site should be restricted
- Increased crime and anti-social behaviour.
- Development would prevent operation of adjacent vineyard.
- Impact on electricity supply in Embley Lane

6.5 **REPRESENTATIONS (Reported in the Update Paper for SAPC of 13th June 2023)**

Four additional letters of objection have been received (summarised):

Conflict with development plan

- Open countryside - an area not intended for general development
- Contrary to policy of concentrating residential development nearer the heart of existing settlements where communal services are available
- Previous applications from the settled community for residential use of the meadow have been refused.

Character & Appearance

- will undermine the lives of the settled community a number of whom are 4th and 5th generation
- Will undermine the ability of vineyard to operate as a going concern and local employer as too close to
- vine biocide spraying area and affect ability to attract visitors to view the vines

Highways

- Inadequate assessment by Highways both on infrastructure and impact of increased volumes
- No appreciable assessment of vehicle or pedestrian safety:

- Narrow lane, blind bends not suitable for HGVs as per Highways signage
- Single track in most places with few passing areas making it extremely difficult for large cars and vans
- Tanners Lane junction already an accident blackspot due to rising 90-degree blind bend
- Many incidents not recorded as people do not want to involve police
- No pavements
- Traffic levels already due to increase significantly due to Home Farm development and will be increased
- further (estimated additional minimum 150 movements per week) by caravans and commercial vehicles (flatbed/ vans) used for Traveller employment

Site suitability

- Site has 1 in 23 (4.3%) slope. Will require significant dig out or fill in to achieve flat pitches
- Rudimentary utilities. There is no mains drainage or gas so dependent on regular deliveries of LPG or oil.
- Lack of local amenities or recreational facilities on site or within safe, paved, easy reach. No regular bus services.

Ecology and Drainage

- Impacts on biodiversity and ecology are underestimated as the preliminary ecology survey was conducted during winter and contains errors and omissions
- Nitrate offset calculation underestimated: based 2.4 person average occupancy level when occupancy will be significantly higher i.e. 4 or 5 per pitch
- Regular flooding of lane at entrance to field and adjacent lane
- Water table around the lane is very high (underground springs inadequately drained)
- Additional hard standing runoff and outflow from water treatment plants will only add to the burden and soakaways, ditches and associated drainage will not cope with additional levels
- Area remaining for equestrian use inadequately protected by post and rail fencing – high probability of recreational scope creep by residents

Local Connection

- Traveller Liaison Officer report inadequate – based on general opinion and not documented evidence
- Applicants unknown to the local traveller and gypsy community and have failed to evidence their “need” to locate here
- Previous ownership and access to traveller sites and conventional housing outside the county
- Evidence of traveller site / conventional housing development for resale
- Evidence of failure to observe past planning conditions on previously owned traveller sites and failure to implement enforcement actions.

- Long established businesses operating in Wolverhampton, Epping Forest and High Wycombe
- Test Valley Driveways Ltd incorporated and registered in Southampton 6 months after field acquired to create illusion of being locally based
- Application imports demand from outside area – unreasonable pressure on already insufficient provision with Wellow already carrying a higher number of pitches in relation to other parts of the Borough
- A trojan horse for commercial development - £410k purchase price for 3 pitches – suggests future ambition.
- three phase powered supply has been installed in the field which indicated the owner is making provisions for further development

Discrimination

- The recommendation to approve is discriminatory to members of the settled community and highly prejudicial to the Test Valley Borough Councils long term interests and those of the residents of the Test Valley. It may therefore also be considered irrational and indeed in breach of legitimate expectation by the settled community.
- The planning application should not be considered against the PPTS and should be considered under the standard planning policies applied to members of the settled community. To not do so would be discriminatory.
- The granting of planning permission should be considered discriminatory towards the settled community in that a two tier planning process will occur where easier tests of suitability and validity will be applied to applications from those members of or purporting to be travellers and gypsies.

6.6 REPRESENTATIONS (following SAPC resolution of 13th June 2023)

6.7 Letter from Wessex Planning on behalf of Embley Lane residents (6th September 2023)

- Failure to gather publicly available information to ensure that applicants meet the planning definition of travellers under the PPTS.
- Lack of evidence that demonstrates any genuine medical or educational need for the applicants to be located in Test Valley Borough.
- Failure to present a true picture the number of Traveller and Gypsy sites within Wellow Parish. The initial Planning officer report omitted to include 17 travelling showmen pitches in Gardeners Lane, thereby underplaying / misrepresenting to the Councillors, the number of traveller and gypsy related sites already in the Parish.
- The PPTS at paragraph 25, states that LPAs should 'very strictly limit new Traveller sites in open countryside'. The site does not meet the sustainability requirements.
- If a permission is granted based on the reasons given for needing to settle in this area, and the currently spurious claims of medical need and children's schooling have not been properly interrogated and confirmed, TVBC would have granted permission against the advice of the PPTS to strictly limit such sites.

- Caravans are not well insulated acoustically and since the applicants moved onto site (without planning permission) their presence has changed the peaceful tenor of the lane with activities not consistent within a rural setting.
- Failure to protect and conduct a full ecology survey of the meadow and surrounding hedges and tree lines and protect the wider meadow and wildlife populations.
- Inappropriate ecological survey works and impacts on protected species and Mottisfont Bats SAC.

6.8 **Email from Wessex Planning on behalf of Embley Lane residents (3rd October 2023)**

- There is public information (electoral registration) available to confirm:
- That Martina Quinn lived at Granary Cottage, Dark Lane, Cross Green, Wolverhampton, WV10 7PN between 2009 and 2016, and Tony Quinn lived at the same address between 2009 and 2013
- That Felix Nolan lived at Dulas, Hawthorne Lane, Codsall, Wolverhampton WV8 2D in 2021.
- This is not indicative of travelling in the required sense. The applicants have been long term residents in one location, in bricks and mortar residences nowhere near Hampshire. As well as having no local connection, this hardly supports the notion of a transient, nomadic life, which is a key characteristic needed to qualify.
- The need for this particular site has not been proven. My clients simply wish to have the information presented to the LPA interrogated in the same manner as they might interrogate this information themselves. They believe that there is a duty upon the LPA to investigate further, rather than accept the information being presented. Otherwise, there is insufficient information or sufficient contradictory information such that a positive determination of the application cannot lawfully be made both for this reason, and for the other reasons stated in the LBA.

7.0 **POLICY**

7.1 Government Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Planning Policy For Traveller Sites (PPTS)

7.2 Test Valley Borough Revised Local Plan (2016)(RLP)

COM2 (Settlement Hierarchy)
COM13 (Gypsies, Travellers and Travelling Showpeople)
T1 (Managing Movement)
T2 (Parking Standards)
E1 (High quality development in the Borough)
E2 (Protect, conserve and enhance the landscape character of the Borough),
E5 (Biodiversity)
E7 (Water Management)
E8 (Pollution)
E9 (Heritage)
LHW4 (Amenity)

T1 (Managing Movement)
T2 (Parking Standards)

7.3 Supplementary Planning Documents (SPD)

New Forest SPA Mitigation- Interim Framework
Gypsy and Traveller Development Plan Document [emerging]
Gypsy & Traveller pitch and Travelling Showpeople plot supply statement
(September 2023)

8.0 **PLANNING CONSIDERATIONS**

The main planning considerations are

- The principle of the use;
- Gypsy status of the family;
- The need for such sites in the district;
- The availability of alternative sites;
- Impact on the visual amenities of the area;
- Ecology and Protected Species
- Amenities of neighbouring properties and the occupiers of the site.
- Highway implications.

8.1 **Principle of Development**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

8.2 COM2 presents the way the settlements, classified in the settlement hierarchy, will develop in the future. COM2 seeks to promote a sustainable pattern of development and to restrict development to areas within settlement boundaries, unless the proposal is considered to be appropriate within the countryside as set out in COM8-COM14, LE10 and LE16-LE18, or whether the proposal is considered to be essential to be located in the countryside.

8.3 The planning application has been submitted on the basis that the site will be used as three gypsy plots and thus Policy COM13 of the RLP is relevant. COM13 allows for the placing and development of single or groups of gypsy caravans subject to a range of criteria (a-e);

- a) it is located where services and facilities are accessible; and
- b) the potential occupants are recognised as gypsies, travellers or travelling showpeople; and
- c) the proposal helps meet the identified need; and
- d) evidence is provided to justify the reason for the proposal to be located in the Borough; and
- e) the site is of sufficient size to provide for accommodation; parking; turning and, where relevant, the servicing and storage of vehicles and equipment.

8.4 Paragraph 25 of the PPTS has introduced the word 'very' in that "LPA's should very strictly limit new traveller site development in open countryside that is away from existing settlements." However, the PPTS offer no guidance on how the word 'very' is interpreted. It is clear that the Government is adding an emphasis that Traveller sites in the countryside should be strictly limited. The application site falls within the designated countryside area.

8.5 **COM13**

Criteria a)- Accessibility to services and facilities

Whilst the application site is situated outside of the defined settlement boundary it is well related to existing services. Wellow benefits from a number of local facilities including a school, food stores and public houses. Representations have raised concern regarding the sustainability of the site and proximity to services. However, proposed site is situated as close to those facilities as many of the nearby residential properties. This includes the development of a nearby site at Home Farm for residential properties which was considered suitable in terms of its sustainability. In addition, the proximity of the site to services is comparable to numerous other sites considered under Policy COM13 and found to be accessible in accordance with the policy. As a result, the site is considered to be accessible in relation to local facilities.

8.6 Criteria b)- Gypsy Status

The definition of Gypsies and Travellers and Travelling Showpeople for the purpose of planning policy has been amended (PPTS December 2023) to reinstate the words "or permanently" from the definition of Travellers and Travelling Showpeople in Annex 1 of the PPTS. The PPTS states "In determining whether persons are "Gypsies and Travellers" for the purpose of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) Whether they have previously led a nomadic habit of life
- b) The reasons for ceasing their nomadic habit of life
- c) Whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

8.7 The PPTS states that for the purposes of planning policy "gypsies and travellers" means:

Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

8.8 The applicants and prospective occupiers of the site are identified in the application submission as follows;

- A. Mr Felix Nolan is married to Rebecca (nee Quinn - 28 years of age) who has health issues, and they have two children a girl of 5 years and a boy of 2 years.

- B. Mr Tony Quinn is married to Martina (nee Smith – Irish) who has health issues. He has two children who live away from the family unit, a son of 24 years and a daughter of 18 years.
He also has a daughter living with him Mary (31 years) who is separated from her partner and has with her three children girls aged 7 / 4 / and 1 years respectively.
- C. Mr Tony Quinn (32-year-old son of the applicant) is married to Shannon (nee Dunn - 29 years of age) and they have one son 10 years and two daughters 8 years and 2weeks old.
- 8.9 The Gypsy Liaison Officer has visited the site and had detailed discussions with the applicants. The Liaison Officers advice indicates that since commencing employment with Hampshire County Council in 2005 and previously with Wiltshire Council with hands on responsibility for four permanent residential sites and Unauthorised Encampment matters, they have known the Nolan and Quinn families in general including various members of the Irish Traveller community who have been related to both the applicants' families either directly or by marriage.
- 8.10 The Gypsy Liaison Officer has advised that the Irish Traveller ethnicity of the applicants is without question. Furthermore, the Liaison Officer concludes that the applicant has a cultural lifestyle of living in a traditional caravan and a history of travelling for economic purpose but would like to settle down to establish a more stable lifestyle and is of Gypsy and Traveller status as required for current planning purposes.
- 8.11 Representations have raised concern that the applicants do not meet the definition of a Gypsy/traveller as per the PPTS. Specific concern is raised regarding the applicants' links to other sites and suggested residence in bricks and mortar accommodation. Representations have referenced several properties in High Wycombe, Codsall (Wolverhampton), Cross Green (Wolverhampton) and Epping. These sites are discussed in more detail in reference to criteria d) below but in relation to the gypsy status of the applicant it is not considered that there is any weight of evidence that would result in a conclusion contrary to the advice of the Liaison Officer and the previous conclusion that the applicants meet the definition. The Council has undertaken a review of publicly available information regarding ownership and planning history of the sites. In addition, evidence has been submitted of electoral registration for some of the properties.
- 8.12 Firstly, some of the addresses referenced are authorised gypsy sites and as a result cast no doubt on the status of the applicants. One of the Epping addresses previously stated to formerly be occupied by Mr Nolan's mother is confirmed to be owned by a housing association. As previously advised one of the sites was occupied by Mr Nolan's former wife. The two properties in Codsall do appear to have been recently developed with planning permission. There is some indication that they may have been occupied by the applicants for a short period, but they do not retain an ownership interest in the site. The most longstanding associations with previous addresses appear to have been

through the registration of companies run by the applicants. However, this does not in itself demonstrate occupation of those properties or the lack of a nomadic lifestyle. It is not unusual for applicants to use a fixed postal address to register a business. Indeed, a similar arrangement appears to be in place in relation to the current site with the applicant's business being registered at a Southampton address.

- 8.13 The additional representations have raised concern permission could be granted based 'spurious' claims of medical need and children's schooling. As is made clear in the PPTS a person who has temporarily ceased to travel on grounds only of their own or their family's or dependants' educational or health needs or old age would continue to meet the definition. The submitted information makes clear that the applicants continue to travel for economic purposes. As is described at para 8.7 two of the wives are stated to have health problems. It is understood that the families are now registered at local surgeries. Minimal weight has been applied to the stated health problems and the conclusion that the applicants meet the definition is not reliant on the personal health circumstances of the applicants.
- 8.14 In addition, the PPTS definition is clear that a temporary cessation of travelling for the educational needs of dependants is provided for. In this case in this case each family has school age children and the applicants have expressed their desire that the children are provided with a formal education. The applicant has advised that the children are now attending nursery/school in Wellow and Romsey.
- 8.15 Consideration of the additional information provided following the previous SAPC has not resulted in a change in the conclusion that the applicants meet the definition as set out in the PPTS. The application is therefore considered to comply with criteria b) of Policy COM13.
- 8.16 Criteria c)- Identified Need
At paragraph 27, the PPTS recognise that "if an LPA cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission." However, the application is not made for a temporary permission. The PPTS does not specify the weight to be afforded the lack of a five year supply when considering proposals for permanent pitches.
- 8.17 The Gypsy and Traveller Accommodation Assessment (GTAA) was completed on behalf of the Council in 2021, with a base date of September 2020. It covers the period 2020-2036. This replaces the GTAA referred to in paragraphs 5.132, 5.133 and 5.135 of the RLP and the GTAA 2017. Based on the findings of the GTAA (2021), there is an identified need for pitches for gypsies and travellers.

- 8.18 In September 2023 the Council published a 'Gypsy & Traveller Pitch and Travelling Showpeople Plot Supply Statement' (Appendix A). This statement provides a summary of the current level of need for new pitches and the five-year supply position of deliverable Gypsy and Traveller sites and Travelling Showpeople within the Borough. This document is for the period from 1 April 2023 to 31 March 2028.
- 8.19 This document is the most up to date policy position and confirms that the total need has increased since the GTAA (2017) and is currently 44 pitches for Gypsy & Travellers over the period 2020-2036 with 34 pitches needed within the first five-year period of the GTAA (2021). The document also confirms that the Council's current supply position is 1.1 years measured against the PPTS requirement of 5 years.
- 8.20 The Council's Local Development Scheme (LDS) was most recently updated in June 2018. This indicated the intention to undertake a Regulation 18 stage consultation on a Gypsy and Traveller DPD in quarter 4 of 2018, with the emerging DPD being incorporated into the next Local Plan after this stage. The Draft Local Plan 2040 Regulation 18 Stage 1 was published for public consultation between 11 February and 8 April 2022. As the draft Local Plan is at an early stage in its preparation, only limited weight can currently be accorded to its content.
- 8.21 The Local Planning Authority, as confirmed by the County Council Gypsy Liaison Officer, is not currently able to identify or offer an alternative site for these families to move to. Furthermore, it is unlikely that any suitable sites will be identified or allocated in the short term as identified within the recently published 'Gypsy & Traveller Pitch and Travelling Showpeople Plot Supply Statement'. As a result of this there is no alternate site available, the Council cannot demonstrate a 5-year supply of deliverable pitches. The Council's own evidence confirms that there is an unmet need, as such the proposal complies with criteria c) of Policy COM13.
- 8.22 Criteria d)- Reason for the proposal to be located in the Borough
Criterion d) requires that evidence is provided to justify the reason for the proposal to be located in the Borough.
- 8.23 Para 5.137 of the RLP lists examples of specific reasons to locate within the Borough and reads as follows;
- In considering applications it will need to be demonstrated that there is a specific reason to locate within the Borough. This could include the lack of availability of alternative accommodation, a local connection or their employment requires them to be at that location. This would help justify a countryside location where there is generally a restriction on development.*
- 8.24 Representations have generally interpreted criterion d) as requiring a local connection to satisfy the requirement. However, this is a misunderstanding of the policy which makes a broader provision.

8.25 This issue was addressed specifically by the Inspector who reviewed the revised local plan. In the report (Test Valley Borough Council Revised Local Plan, Inspector's Report December 2015 para 132 & 133) the Inspector made the following comments;

132. Part of the explanatory text to the submitted policy referred to a limitation to those with local connections. However, PPTS advises that applications should be determined from any travellers and not just those with local connections. The proposed modification (MM/5/12) is necessary to make this clear.

133. Subject to this modification, the policy is appropriate and justified by the available evidence.

8.26 The proposed modification (MM/5/12) was made and reflects the adopted para 5.137 of the Local Plan. For the plan to be considered sound, and not conflict with the national policy expressed in the PPTS, that the Inspector did not accept a limitation requiring local connection. Local connection is one way that an applicant could comply with criterion d) but the criteria also includes, but is not limited to, examples of the lack of availability of alternative accommodation or employment needs. The Inspector's reference is to Paragraph 24e of the PPTS which states local planning authorities should; "...determine applications for sites from any travellers and not just those with local connections."

8.27 As a result, it is not considered that a reason for refusal based on a lack of local connection could be justified. However, the representations regarding the applicant's connection to other areas remain relevant in considering the availability of alternative accommodation and have been subject to further review.

8.28 Representations have raised specific concerns in relation to the applicant's association with addresses in High Wycombe, Epping, Codsall, Coven and Dover. These associations are stated to relate to both occupation of other travellers sites, bricks and mortar accommodation and associations with the businesses operated by the applicant.

8.29 The County Council Gypsy Liaison Officer was consulted on the application and has provided a detailed response to the Council. This consultation response confirmed that, at the time of the original submission, Mr Felix Nolan was at a site in Tadley with his uncle and has been there for 'some months'. The association with Epping was raised by the Liaison Officer. The applicant is said to have confirmed that he did have a site in Epping, Essex, on which he lived with his former wife and child but left when they divorced and sold his ownership to a fellow Irish Traveller some four years ago. Mr Quinn was stated to be living together with his family with a cousin in the Chichester area close to the border between Hampshire and East Sussex and has been there for the last year.

8.30 Following the resolution of the June committee the applicants have moved onto the site and, at the time of reporting, are resident in touring caravans located on the existing gravel area. The applicants have also confirmed that they have registered with local doctors surgeries, the children have enrolled in schools in the borough and are paying Council Tax.

8.31 Following the concerns raised the applicants have provided some further details as follows;

- The Quadrant Housing address (High Wycombe) Is Felix Nolan's mother's address and has been used as a care of address by Felix.
- Felix Nolan did own part of the Woodside Place site in Epping (planning reference 1993/13) but following his divorce in 2014, Felix left that site and moved away. That site is no longer available to him and has not been for a number of years.
- Granary Cottage (Coven) was Tony Quinn's address. There are on-going criminal proceedings in which Mr Quinn and his family are the victims which are set for trial. The family left that property under duress and cannot return. The property was for sale on the market and was vacant for 2 years before being sold last year.
- Dulas, Hawthorn Lane (Codsall), belongs to Felix's brother, John Nolan. Felix has Lasting Power of Attorney over his brother's affairs as John is a resident of a Mental Health Hospital. Felix registered to vote from that property in 2021. The property is not available to the family.
- 75 Chapel Lane, High Wycombe is the former address of Felix Nolans mother.
- The site in Dover has nothing to do with these Applicants: Felix Nolan is a common name amongst Irish Travellers; the Felix Nolan in Dover is a different individual to this Applicant.

The local authority has undertaken a review of ownership information and planning history for the sites raised in representations. Whilst there appear to be some discrepancies in the details provided by the applicant none of the sites above are currently owned by the applicants (A right of access appears to persist for Felix Nolan at Dulas/Hideaway in Codsall but the sites have otherwise been sold). As a result there is no available information that would demonstrate that these sites are available to the applicants to occupy.

8.32 On the issue of Felix Nolan being a common name, it is understood from the applicant's agent and the Gypsy Liaison Officer that the first-born son in the Nolan extended, and large family(s) is always christened Felix.

8.33 The applicants have also provided further statements of relatives living in Hampshire, and that the applicant's sister was born in Southampton. Mr Nolan is stated to have stayed on numerous sites within Hampshire. A supporting letter has been provided by Mr Thomas Nolan (Ringwood) the applicants uncle stating that the applicant has stayed with them on and off over a period of 20 years. A supporting letter has also been provided by Mr John Nolan (Tadley) stating that Mr Nolan lived with them during his childhood and more recently.

- 8.34 The applicants have provided information demonstrating family links to the wider Hampshire area, albeit not near the application site or Test Valley Borough. However, as detailed above, the provisions of criterion d) go beyond a local connection. In this case it is necessary to consider if the applicants have alternative accommodation available. The Council have undertaken land registry and planning history checks on all the addresses provided and the applicants are not shown to currently own any of the properties. As a result they cannot be considered as alternative accommodation to the application site.
- 8.35 There is no known availability in the Borough or in close proximity to it. The County Council Gypsy Liaison Officer has confirmed that Hampshire County Council has responsibility for one permanent residential site and currently there are no pitches available with six applicants on the waiting list. On the basis of the evidence available and the advice of the Liaison Officer it is accepted that there is a lack of available alternative accommodation available to the applicants. As a result the proposals comply with criterion d) of COM13.
- 8.36 Criteria e)- Site Size
The site is considered to be large enough to accommodate a suitable layout and provide for any ancillary facilities common to sites in this use. In this respect the proposal complies with criteria e).
- 8.37 **Character and Visual Amenity**
Given the location of the site development of the site will not be highly visible from public vantage points on Embley Lane. The plots are set back approximately 40m from Embley Lane at the nearest point adjacent the vehicular access to the neighbouring site, and approximately 80m from the access to the application site. The existing access provides the most significant view of the site, although views will be in the context of the existing stable building and gravel driveway. Wider views from the west/east along Embley Lane are limited by the existing boundary hedgerow planting, with vantage points limited to a few gaps in the tree line.
- 8.38 It is proposed that the site be enclosed by a post and rail fencing with new hedgerow and tree planting outside. Following on from the Landscape Officers comments these areas have been expanded and strengthened. The new hedgerow and woodland planting will further limit public views in the long term.
- 8.39 The proposals also include three detached ancillary buildings to serve each plot. The relationship with the proposed caravans and extent of accommodation proposed is not considered to be out of scale with the proposed use of the site. The proposed buildings are of a modest size (9m length, 5m width and 3.8m height). Overall, the proposed development is considered to have no significant detrimental impact on the character of the area and complies with policies E1 and E2 and of the TVBLP 2016.

8.40 **Arboriculture**

The application site is bordered by mature tree lines to the west, east and adjacent the highway to the south. In addition, the site is bordered to the north by the larger Spouts Copse woodland. None of the adjacent trees are subject to preservation orders. The Tree Officer raised some initial concern that the application was not supported by a suitable assessment of the existing trees and that the mobile homes were situated too close to root protection areas.

8.41 Following the submission of additional information, the development has been demonstrated to be outside of the root protection areas of the trees to the east. The Tree Officer has advised that an arboricultural method statement be secured by condition. The Tree Officer has advocated that the development be moved further from the trees to minimise any future pressure to fell. However, the proposed arrangement can be accommodated without harm and relocation further west would likely be more prominent in public views.

8.42 The proposed development would have no adverse impact on the existing trees and is considered to comply with Policy E2 and of the TVBLP 2016.

8.43 **Ecology & Protected Species**

8.44 Solent and Southampton Water SPA – Solent Neutrality

There is existing evidence of high levels of nitrogen and phosphorus in the water environment across the Solent, with evidence of eutrophication at some designated sites. An Integrated Water Management Study for South Hampshire was commissioned by the Partnership for Urban South Hampshire (PUSH) Authorities to examine the delivery of development growth in relation to legislative and government policy requirements for designated sites and wider biodiversity. This work has identified that there is uncertainty regarding whether any new housing development does not contribute to net increases in nutrients entering these designated sites.

8.45 As such, the advice from Natural England is that the applicants for development proposals resulting in a net increase in dwellings are required to submit the nitrogen budget for the development to demonstrate no likely significant effect on the European designated sites due to the increase in waste water from the new housing.

8.46 To address this issue, Test Valley Borough Council has implemented a strategic nitrate offsetting mitigation scheme whereby a scale of developer contributions has been agreed that would fund its ongoing delivery of a nitrate offsetting scheme. This strategic scheme comprises the offsetting of agricultural land previously utilised for the purposes of pig farming, located at Roke, Awbridge

8.47 Following the implementation of this strategic offsetting scheme at Roke, a substantial net reduction in nitrate loading within the Solent catchment area has been achieved. This overall net reduction is utilised as nitrate 'credits', whereby a tariff of financial contributions is calculated based on the cost of implementing and maintaining the strategic offsetting scheme per kg/TN/yr saved.

- 8.48 A Habitat Regulations Assessment (HRA) has been prepared and referred to Natural England who have raised no objection. Following satisfactory completion of consultations with Natural England and by securing the implementation of this off-site mitigation the development will not result in adverse effects on the Solent designated site through water quality impacts arising from nitrate generation. The recommendation reflects the need to complete the consultation and secure the credits before any permission is issued.
- 8.49 New Forest SPA
The development will result in a net increase in residential dwellings within 13.6km of the New Forest SPA. This distance defines the zone identified by recent research where new residents would be considered likely to visit the New Forest. The New Forest SPA supports a range of bird species that are vulnerable to impacts arising from increases in recreational use of the Forest that result from new housing development. While clearly one new house on its own would not result in any significant effects, it has been demonstrated through research, and agreed by Natural England that any net increase (even single or small numbers of dwellings) would have a likely significant effect on the SPA when considered in combination with other plans and projects.
- 8.50 To address this issue, Test Valley Borough Council has adopted a strategy whereby a scale of developer contributions has been agreed that would fund the delivery of measures to address these issues. With respect to the New Forest, a new strategic area of alternative recreational open space is being delivered that would offer the same sort of recreational opportunities as those offered by the New Forest. Therefore, it is considered necessary and reasonable to secure the appropriate contributions by s106 legal agreement/direct payment.
- 8.51 Protected Species
Following some initial concern by the Ecology Officer the application is now supported by a Preliminary Ecological Appraisal (Pro Vision, January 2023). The Ecology Officer has advised that this presents an accurate picture of the ecological conditions at the site.
- 8.52 The Ecology Officer did however raised some specific areas of concern. Firstly in relation to external lighting the potential impact on foraging bats. Section 5.6 of the Ecological Appraisal stipulates that lighting should not exceed 1-3 lux over boundary features, such as hedgerows, trees and woodland. Given the proximity to the Mottisfont Bats SAC and sensitivity of associated barbastelles to artificial lighting, the Ecology Officer has advocated for limited lighting levels and that what lighting is permitted be in accordance with measures outlined within the Bat Conservation Trust and the Institute of Lighting Professionals (Guidance note 08/18 Bats and artificial lighting in the UK). A condition has been applied requiring details to be approved prior to the installation of any external lighting.

- 8.53 The Ecology Officer also raised some concern that the area between the proposed site and woodland would be retained as paddock, and that there will be no access from the proposed site to the adjacent woodland. However the application proposes no change of use of the paddock land which, whilst in the ownership of the applicant, is not within the application site. No change of use would be provided for by the current application and it is not considered reasonable to make any assumption regarding potential recreational use beyond the permitted paddock or the introduction of garden waste, non-native species and predation from domestic animals as per the Ecology Officers comments. It is not considered that any additional buffer to the woodland could be justified in the context of the application as proposed.
- 8.54 Representations have raised further concern regarding impacts on nearby water courses and ponds and a wider scope of species associated with those habitats. However as is described above consideration of the application must be limited to the area proposed which is contained within the northern boundary of the existing field. It is not appropriate to draw conclusions regarding activities or impacts beyond the scope of the application.
- 8.55 Representations received following the June SAPC resolution have also raised concern that the proposed development would have an adverse impact on the Mottisfont Bats SAC. Impact on the Mottisfont Bats SAC was considered in the Councils Habitat Regulations Assessment to which Natural England raised no objection. In addition to the Ecology Officers advice on protected species the proposed development is considered to have no adverse impact on the Mottisfont Bats SAC.
- 8.56 The existing gated access into the field will be used and no additional hedge clearance is required. The proposals also include planting of new boundary native species hedging and the additional woodland, which is a welcome biodiversity enhancement. The proposed development is not likely to result in a loss of priority habitat or have any adverse impact on protected species and therefore complies with Policy E5 of the Revised Test Valley Local Plan.
- 8.57 **Highways**
The Highways Officer has advised that the level of traffic generation would not represent an unacceptable impact upon highway efficiency, given that whilst touring caravans would be likely on site, they would not necessarily make up daily traffic movements. The Highways Officer did however require further details demonstrating safe access and visibility could be achieved and with regard to internal manoeuvring within the site. The application has since been supported by additional details demonstrating the required visibility splays and vehicle tracking.
- 8.58 The proposed parking arrangement would meet the required standard and, subject to a condition requiring the retention of visibility splays, the proposed scheme is considered to have no significant detrimental impact on highways or pedestrian safety and accords with the relevant T policies of the TVBRLP 2016.

8.59 **Amenity**

The proposed pitch, whilst in a countryside location, is located between residential properties. The nearest properties have adjoining boundaries to the wider ownership but are situated approximately 180m west (The Laundry House), 85m Northeast (Jays Farm) and 80m east (Embley Manor). Given the separation distances between the site and the nearest residential dwellings the proposed development would not result in an adverse impact on the amenities of other residential properties as a result of overshadowing, overlooking or overbearing impact.

8.60 Noise

Representations have raised concern regarding the impact of noise associated with both residential and commercial use of the site. It is not considered that the residential use of the site would generate levels of noise sufficient to adversely impact on the amenities of neighbouring properties. The submitted application proposes no commercial uses and any unauthorised uses cannot be considered as part of the application. Whilst some degree of disturbance is inevitable during and construction work, they would be temporary. Subject to a condition restricting commercial use without further permission, the proposed development is considered to have no significant adverse impact on amenity and complies with TVBRLP Policies LHW4 and E8.

8.61 Vineyard

Representations have raised concern regarding the impact of the proposed development on the operation of the adjacent vineyard site and potential impact on the occupiers of the proposed development from the vineyard. In terms of the impact on the operation of the vineyard, with regard to pesticides the relevant code of practice states that the safest conditions in which to spray are when there is a steady force 2 light breeze blowing away from any sensitive areas or neighbours' land. The Environmental Protection Officer has advised that overspray is covered by The Plant Protection Products (Sustainable Use) Regulations 2012 which require that the application of plant protection products (PPP) must be confined to the land, crop, structure, material or other area to be treated and the spray must not drift outside the area of application. These matters are beyond the scope of the planning application and subject to the separate legislation.

8.62 The increased insect population associated with the vineyard is a natural association with it and a similar situation could occur if the land was farmed for other fruit, flowers or herbs. The use is not considered to be an unusual rural activity or a use abnormally attractive to insects that would warrant refusal of the application.

8.63 Dominating the settled community

Paragraph 14 of the PPTS states:

When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.

8.64 It is acknowledged that there are authorised, unauthorised and pending applications for Gypsy & Traveller pitches within the Blackwater Ward of Test Valley and there is also one pitch immediately adjacent to the Ward Boundary. These sites are listed in the table below.

Within Ward:

Status	Address	Reference	Pitches
Authorised Permanent	The Orchard, Wellow Wood Road, West Wellow	15/01639/FULLS	1
Authorised Permanent	Little Acorns, Goddard Close, West Wellow	15/02958/FULLS	1
Authorised Permanent	Woodview Farm, Salisbury Road	14/01373/FULLS	1
Authorised Permanent	Wellow Wood Paddock, Wellow Wood Road	14/01282/FULLS 15/01814/VARS	2
Authorised Permanent	Love Acre, Newtown Road, Awbridge	09/02118/FULLS	1
Authorised Permanent	Jactar, Newton Road, Newton, Awbridge	09/01938/FULLS	1
Authorised Permanent	Treetops, The Frenches, East Wellow, Romsey	TVS.00684/11	1
Pending (occupied)	Land Adjacent to The Orchard, Wellow Wood Road	19/01831/FULLS	1
Pending – SAPC resolution to grant permission (unoccupied)	Land South Hazelwood Farm, Flowers Lane, Plaitford	19/01765/FULLS	1
Pending (occupied)	Land Adjacent Greenwood Cottages, Woodington Road	18/02797/FULLS	1
Authorised (occupied)	Land south of Wellow Way, Scallows Lane, West Wellow	18/02007/FULLS	2

Outside Ward:

Status	Address	Reference	Pitches
Authorised Permanent	Furb, Newtown Road, Awbridge	10/00404/FULLS	1

It is not clear from Government Guidance whether the use of the term ‘scale’ reflects a single large encampment or the cumulative number of individual sites in an area.

- 8.65 The table confirms that within the Ward there are 17 pitches (including the application site) of which 10 are authorised. None of the sites are in close proximity to the application site. In addition a further application (23/01752/FULLS) for 2 pitches is to be considered at the SAPC of 28th November 2023.
- 8.66 According to the April 2019 Blackwater Ward Profile there are a total of 2580 properties in the Ward. Based on this figure and the information contained in the table above, the authorised pitches make up 0.3% of the total number of residential units in the ward. If all pitches (authorised, unauthorised and pending) were included this would rise to 0.66%.
- 8.67 The PPTS does not define 'dominate'. It is therefore useful to have regard to the dictionary definition which states:

to be the most powerful or important person or thing in it.

Taking into consideration the above it is considered that there would be difficulty in arguing that three additional pitches on this site within the local population would dominate - either numerically, or in 'concentration' with other nearby traveller sites, to the nearest settled community. It is considered that there would be no conflict with the PPTS in this regard.

8.68 Appeal Decisions

The two most recent appeal decisions relating to Gypsy & Traveller accommodation in the Ward relate to the following applications:

1. 15/01639/FULLS- Jays Orchard, Wellow Wood Road (Appeal Allowed)
2. 15/01814/VARS- Wellow Wood Paddock, Wellow Wood Road (Appeal Allowed)

- 8.69 Both appeal Inspectors considered the issue of whether the individual proposals would dominate the settled community. In application 15/01639/FULLS the Inspector was of the view that granting planning permission would not result in the settled community being dominated and allowed the appeal.
- 8.70 When assessing the appeal for 15/01814/VARS the Inspector took a different view and concluded that there was some potential for a cumulative impact and this could undermine the first criteria of Para 13 of the PPTS. However, the inspector only afforded this some weight in the planning balance. In this appeal the Inspector concluded that despite this possible conflict with the PPTS and the Council not having a shortage of Gypsy sites in the Borough, the appeal should be allowed.

Travelling Showpeople Sites

A representation received following the previous SAPC has queried the original SAPC report, specifically that it omitted to include 17 travelling showmen pitches in Gardeners Lane, thereby misrepresenting the number of traveller and gypsy related sites already in the Parish. However, this criticism is misconceived. The PPTS makes a clear distinction between gypsies/travellers and travelling showpeople for the purpose of planning and the two groups should not be conflated.

8.71 **Flood Risk**

Representations have raised concern that the development would result in increased flooding of the highway. Specifically the representation indicates that the previous development of the stable block on the site, by the former, owners, disrupted the previous drainage and has resulted in surface water flowing from the adjacent property of Kings Farm onto the highway. The site is not situated within an identified flood zone and the LLFA have declined to comment as a result of the small scale of development. Whilst the proposals would increase the amount of hardstanding in the existing field it is also proposed to plant additional woodland adjacent the Kings Farm access which was the subject of concern. Consideration of the development must be limited to the proposals the subject of the application. It would not be reasonable to seek to redress any impact from the stable development through the current application. In considering the development of the three pitches proposed, given the location and scale of the development it is considered unlikely to result in any significant increase in flood risk in the area.

8.72 **Other Matters**

8.73 Validity of the Application

Concern was raised in relation to the original submission that the application site edged red on the site location plan included land in the ownership of the neighbouring property. Following further investigation this was confirmed. As a result, a revised site location plan was submitted and consideration of the application ceased and was re-started including re-advertisement. The application as considered now is properly made and valid to be determined.

8.74 Minerals Safeguarding

The application site lies within a minerals safeguarding area as identified by Policy 15 of The HHC plan and The Mineral and Waste Safeguarding in Hampshire Supplementary Planning Document (SPD) (2016). The purpose of the policies is to safeguard areas of potential mineral extraction. In this instance the site is so small as to not represent any significant potential for mineral extraction and the commercial value of extraction at this scale would very likely be economically unviable.

8.75 Crime

Representations have raised concern regarding personal safety and crime associated with the proposed development. These concerns appear to be mainly derived from a perception of the gypsy and travelling community, an assumption of the character of the occupant. No factual evidence has been submitted to demonstrate that a level of antisocial behaviour or criminal incident is inevitable or highly likely and whilst crime is a material consideration, the PPTS reiterates that the Government's overarching aim 'is to ensure fair and equal treatment for travellers'. Therefore, it is no more acceptable for gypsies and travellers to be assumed as the perpetrators of crime than it is for other members of society, with the investigation of criminal activity being the responsibility of the Police force.

9.0 **CONCLUSION**

- 9.1 The applicant meets the definition of a Gypsy in the PPTS 2023, there is an identified need for pitches in the Borough and the Local Planning Authority is not currently in a position to identify or offer an alternative site for this family to move to.
- 9.2 The Gypsy & Traveller pitch and Travelling Showpeople plot supply statement (September 2023) makes clear that the Council does not have a current 5 year supply.
- 9.3 The proposals comply with the requirements of TVBRLP Policy COM13 and the PPTS 2023. In this case the unmet need is considered a strong material consideration in favour of granting permission and there are no material planning considerations that would outweigh such a conclusion.
- 9.4 Any potential impacts on the special interest of the Solent and Southampton Water SPA and New Forest SPA can be mitigated and the mitigation secured prior to permission being granted.
- 9.5 The proposal is in accordance with the policies of the development plans taken as a whole. There are no material considerations which indicate that a decision should be taken other than in accordance with the development plan.

10.0 **RECOMMENDATION**

- 10.1 **Delegate to Head of Planning & Building for completion of satisfactory consultation with Natural England and the addition/amendment of relevant conditions, and/or legal agreement/direct contributions to secure;**

- **Submission of evidence that sufficient mitigation measures have been secured to enable the development to achieve nutrient neutrality.**
- **New Forest SPA contribution.**

Then PERMISSION subject to:

1. **The development hereby permitted shall be begun within three years from the date of this permission.**
Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. **The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, or permanently, but excluding members of an organised group of travelling showpeople, or circus people travelling together as such.**
Reason: It is necessary to keep the site available to meet that need in accordance with Test Valley Borough Revised Local Plan (2016) Policy COM13.

- 3. No more than six caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, comprising no more than three static and three touring caravans.**
Reason: To accord with the terms of the application and to ensure satisfactory planning of the area in accordance with Test Valley Borough Revised Local Plan (2016) Policy COM13.
- 4. No commercial, industrial or business activities shall take place on any part of the site, including the storage of materials and goods.**
Reason: In the interests of neighbouring amenity and to ensure the protection of this countryside location in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1, E2 & LHW4.
- 5. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.**
Reason: To accord with the terms of the permission and in the interests of protection of this countryside location in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1, E2 & LHW4.
- 6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure (other than those permitted by this permission) shall be erected within the or on the site.**
Reason: In order that the Local Planning Authority can exercise control in the locality in the interest of the local amenities and to ensure the protection of important boundary features in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1 & E2.
- 7. No development shall take place until full details of hard and soft landscape works have been submitted and approved. Details shall include:**

 - 1) Hard surfacing materials;**
 - 2) Planting plans;**
 - 3) Written specifications (including cultivation and other operations associated with plant and grass establishment);**
 - 4) Schedules of plants, noting species, plant sizes and proposed numbers/densities;**

The landscape works shall be carried out in accordance with the approved details.
Reason: To enable the development to respect, complement and positively integrate into the character of the area in accordance with Test Valley Borough Revised Local Plan (2016) Policies E1 and E2.
- 8. The Day Room buildings hereby permitted shall be used for purposes ancillary to the use of the land as a gypsy and traveller site and shall not be occupied as a permanent means of habitable accommodation at any time or used for any commercial activities.**
Reason: To comply with the terms of the application and to protect the amenities and character of the area in accordance with Test Valley Borough Revised Local Plan (2016) Policy COM13.

- 9. Prior to the commencement of development the visibility splays, as shown on the approved plan TV/AJW/725/1/002 shall be provided. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) these visibility splays shall be maintained in accordance with the approved details at all times. Reason: In the interest of highway safety in accordance with Test Valley Borough Revised Local Plan (2016) Policy T1**
- 10. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers
TDA.2803.01 A
TDA.2803.02
TDA.2803.03 E
TDA.2803.04
TV/AJW/725/1/002
16474-HYD-XX-XX-SK-S-0001 P1
Reason: For the avoidance of doubt and in the interests of proper planning.**
- 11. Details of any external lighting shall be submitted to and approved in writing by the local planning authority prior to first installing any such lighting. External lighting will need to be in accordance with measures outlined within the Bat Conservation Trust and the Institute of Lighting Professionals (Guidance note 08/18 Bats and artificial lighting in the UK). Development shall be carried out in accordance with the approved details.
Reason: To ensure the favourable conservation status of protected species in accordance with Policy E5 of the Test Valley Revised Local Plan DPD.**
- 12. Development shall proceed in accordance with the measures set out in the Preliminary Ecological Appraisal (Pro Vision Ecology, Jan 2023). Thereafter, the mitigation and enhancement measures shall be permanently maintained and retained in accordance with the approved details.
Reason: To ensure the favourable conservation status of protected species in accordance with Policy E5 of the Test Valley Revised Local Plan DPD.**
- 13. No development shall take place (including site clearance and any other preparatory works) until a scheme for the protection of trees to be retained has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location and specification of tree protective barriers. Such barriers shall be erected prior to any other site operations and at least three working days' notice shall be given to the Local Planning Authority that it has been erected.
Note: The protective barriers shall be as specified at Chapter 6.2 and detailed in figure 2 of B.S.5837:2012 unless otherwise agreed in writing with the Local Planning Authority.**

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with Test Valley Borough Revised Local Plan policy E2 (2016).

- 14. Before the development hereby permitted is commenced details, including plans and cross sections, shall be submitted to and approved by the Local Planning Authority of the existing and proposed ground levels of the development and the boundaries of the site and the height of the ground floor slab and damp proof course in relation thereto of the day rooms. Development shall be undertaken in accordance with the approved details.**

Reason: To ensure satisfactory relationship between the new development and the adjacent buildings, amenity areas and trees in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1.

- 15. The existing stable shall only be used for private equestrian purposes and not for any commercial riding, livery use or other business use. Reason: To enable the Local Planning Authority to regulate and control the development of land and to preserve the visual amenity of the area in accordance with Policies E1 and E2 of the Test Valley Borough Revised Local Plan (2016).**

Notes to applicant:

- 1. The development hereby permitted shall be carried out and completed strictly in accordance with the submitted plans, specifications and written particulars for which permission is hereby granted or which are subsequently submitted to, and approved in writing by, the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.**
 - 2. In reaching this decision Test Valley Borough Council (TVBC) has had regard to the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
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