
APPLICATION NO.	18/02797/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	01.11.2018
APPLICANT	Mr Nathan Taylor
SITE	Land adjacent to Greenwood Cottages, Woodington Road, East Wellow, SO51 6DQ, WELLOW
PROPOSAL	Change of Use of land to a residential caravan site for a Gypsy Family with two caravans (one touring caravan and one static mobile home), installation of package treatment plant, the erection of an amenity building and associated landscaping
AMENDMENTS	<p>Received on 28.03.2024:</p> <ul style="list-style-type: none">• Amended proposed site plan <p>Received on 15.04.2021:</p> <ul style="list-style-type: none">• Updated information regarding the applicant's local connections <p>Received on 03.03.2021:</p> <ul style="list-style-type: none">• Amended nitrate neutrality mitigation <p>Received on 07.03.2019 and 09.05.2019:</p> <ul style="list-style-type: none">• Supporting information regarding status of applicant <p>Received on 21.02.2019:</p> <ul style="list-style-type: none">• Preliminary Ecological Appraisal
CASE OFFICER	Graham Melton

Background paper (Local Government Act 1972 Section 100D)

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1.0 INTRODUCTION

1.1 The Officer report and subsequent update paper previously presented to Committee members at the meeting of 12th October 2021 is attached to this report as **Appendix A**.

1.2 The application is presented again to SAPC to consider the following amendments and updates:

- An update with respect to the definition of Gypsies and Travellers in national planning policy following recent caselaw.
- An update with respect to the provision of pitches at the Borough level as set out in the Gypsy & Traveller pitch and Travelling Showpeople plot supply statement (September 2023).
- Amendment to the proposed mitigation measures to enable the development to achieve nutrient neutrality.
- The occupation of the application site by the applicant.

The impact of these changes on material planning considerations as set out in Section 2 below, and the officer recommendation has also changed with respect to introducing the refusal of the application in the event that the legal agreement is not signed by a certain date.

2.0 **PLANNING CONSIDERATIONS**

2.1 The previous report to SAPC on 12 October 2021 addressed the following material planning considerations and these remain unchanged by the proposed amendments and updates:

- Impact on the character and appearance of the area (paragraphs 8.22 to 8.25)
- Water Management (paragraph 8.36)
- Highways (paragraphs 8.55 to 8.57)
- Community Safety (paragraphs 8.58 to 8.60)
- Planning Balance (paragraphs 8.61 to 8.64)

2.2 However, the proposed amendments and updates do impact the following material planning considerations:

- Principle of development
- Impact on the amenity of the general area and residential property
- Ecology
- Other matters

2.3 **Principle of development**

Planning Policy for Travelling Sites (PPTS) – Criterion (b) of Policy COM13

The definition of Gypsies and Travellers and Travelling Showpeople for the purpose of planning policy has been amended to remove the words “or permanently” from the definition of Travellers and Travelling Showpeople in Annex 1 of the PPTS. The Government believe it is fair that if someone has given up travelling permanently then applications for planning permission should be considered as they are for the settled community within national policy rather than 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.

2.4 As set out in paragraphs 8.7 to 8.10 the Gypsy Liaison officer has previously concluded the applicant qualifies under the definition within the PPTS and there are no changes in circumstances since the drafting of the previous report to alter this conclusion.

2.5 Since the publication of the original officer report, recent caselaw has ruled against excluding people who have permanently ceased to travel but otherwise qualified under the definitions within the PPTS (Smith v. SoS for Levelling Up, Housing and Communities, November 2022).

- 2.6 It is understood the applicant has not permanently given up a nomadic habit of life and therefore, the recent caselaw does not impact the conclusion set out in the original officer report with respect to compliance with criterion (b) of Policy COM13. It is necessary however, to update the wording of the condition (no.2) limiting occupation of the development to those qualifying as Gypsies and/or Travelling Showpeople to ensure consistency with national planning practice.
- 2.7 The Gypsy & Traveller pitch and Travelling Showpeople plot supply statement September 2023 – Criterion (c) of Policy COM13
In September 2023 the Local Planning Authority (hereafter LPA) published a 'Gypsy & Traveller Pitch and Travelling Showpeople Plot Supply Statement'. 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 1st April 2023 to 31 March 2028.
- 2.8 This document is the most up to date policy position and confirms that the total need has increased since the 2017 Gypsy and Traveller Accommodation Assessment (hereafter GTAA) 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 LPA's current supply position is 1.1 years measured against the PPTS requirement of 5 years.
- 2.9 The LPA, as confirmed by the County Council Gypsy Liaison Officer, is not currently in a position 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, there is no alternate site available and the LPA cannot demonstrate a 5-year supply of deliverable pitches. The LPA's own evidence confirms that there is an unmet need, and as such the proposal remains compliant with criterion (c) of Policy COM13 through contributing to the delivery of pitches within the Borough to meet the identified need.
- 2.10 Conclusion on the principle of development
Following the assessment undertaken above in conjunction with the assessment previously undertaken in the original officer report, it is concluded that the development remains compliant with Policy COM13 as one of the policy exceptions listed under criterion (a) of Policy COM2 of the TVBRLP. Therefore, the principle of development is considered acceptable.
- 2.11 **Impact on the amenity of the general area and residential property**
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.*

2.12 Paragraph 8.46 of the original officer report set out the amount and status of applications for Gypsy & Traveller pitches within the Blackwater Ward of Test Valley and one pitch immediately adjacent to the Ward Boundary. This position has evolved since the publication of the original officer report with the updated position set out 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, Newtown Road, Newtown, Awbridge	09/01938/FULLS	1
Authorised Permanent	Treetops, The Frenches, East Wellow, Romsey	TVS.00684/11	1
Authorised Permanent	Land South Hazelwood Farm, Flowers Lane, Plaitford	19/01765/FULLS	1
Authorised Permanent	Land south of Wellow Way, Scallows Lane, West Wellow	18/02007/FULLS	2
Pending Consideration	Land Adjacent to The Orchard, Wellow Wood Road, Wellow.	21/02738/FULLS	1
Authorised Permanent	Land at Embley Lane, Embley Lane, East Wellow.	22/02694/FULLS	3
Pending – SAPC resolution to grant permission (occupied)	Wellow Wood Paddock Wellow Wood Road West Wellow.	23/01752/FULLS	2

Outside Ward:

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

- 2.13 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. The tables above confirm that within the Ward there are 18 pitches (including the application site). However, within 750m of the application site there are no other pitches, authorised or unauthorised.
- 2.14 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, all pitches (authorised, unauthorised and pending) make up 0.66% of the total number of residential units in the ward.
- 2.15 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 an additional pitch 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.

2.16 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)

- 2.17 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.

- 2.18 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.

2.19 Pollution

As set out in the section titled 'Ecology' below, the development is served by a package treatment plant in the absence of any available connection to mains sewerage. The ongoing maintenance of the package treatment plant will be secured through the completion of a legal agreement prior to issuing planning permission. As such, it is considered the development will not result in any materially significant polluting impact on the general amenity of the area.

2.20 Impact on neighbouring property

The alterations sought by the amended proposed site plan are limited to the removal of the previously proposed onsite reed bed, in addition to the relocation of the onsite package treatment plant to the south-west corner of the plot. It is therefore considered the previous assessment set out in paragraphs 8.40 to 8.43 of the original officer report (**Appendix A**) remain valid, with the assessment concluding there will be no significant harm to the amenity of neighbouring property.

2.21 Impact on potential future occupants

The amended proposed site plan demonstrates the provision of a significant amount of private amenity space located in the north-eastern end of the application site. Consequently, it is considered that the proposal provides an adequate amount of private amenity space for the future occupants of the site and as such complies with criterion (b) of Policy LHW4.

2.22 Conclusion on the amenity of the general area and neighbouring property

Following the assessment undertaken above in combination with the previous assessment set out in the original officer report (**Appendix A**), it is considered the development sufficiently provides for the general amenity of the area and neighbouring property, in accordance with Policies E8 and LHW4 of the TVBRLP.

2.23 **Ecology**

Offsite biodiversity: Solent Neutrality

Previously, a proposed mitigation strategy comprising the installation of a package treatment plant onsite and associated wetland was proposed to ensure the development achieves nutrient neutrality. However, an alternative scheme combining the installation of a package treatment plant onsite with the purchasing of TVBC credits from the strategic mitigation scheme at Roke Manor Farm has subsequently been identified.

2.24 Following the installation of the package treatment plant onsite, the development will produce a residual amount of 3.7 Kg/TN/yr as identified by the current version of Natural England's budget calculator tool. As a result, it is necessary for the development to secure 3.7 credits from the strategic mitigation scheme at Roke Manor Farm in Awbridge, which equates to a financial contribution of £11,100. These credits have been allocated from the third tranche of credits purchased by the Local Planning Authority.

2.25 An updated Appropriate Assessment was undertaken on the basis of the amended proposed mitigation strategy, with Natural England raising no objection subject to the Local Planning Authority securing the proposed mitigation measures. The officer recommendation set out below includes the requirement for a legal agreement to be completed securing the ongoing maintenance of the onsite package treatment plant and financial contribution towards the strategic credit scheme at Roke Manor Farm prior to the issuing of any planning permission. Alternatively, if this legal agreement is not completed within one month of the Planning Committee meeting then the application will be refused on the basis that sufficient mitigation has not been secured.

2.26 Offsite biodiversity: Recreational Pressure

New Forest SPA

As previously identified, a financial contribution of £1,300 is required to ensure sufficient mitigation preventing an adverse impact on the New Forest SPA is required to mitigate the development. This contribution will be secured as part of the legal agreement to be completed prior to the issuing of any planning permission. In the event the legal agreement is not completed within one month of the Planning Committee meeting, then a reason for refusal will be added on the basis that insufficient mitigation has been secured.

2.27 Onsite biodiversity

As noted below in the section titled 'Other matters', works have progressed since the previous Planning Committee meeting, and it is understood the applicant is now living onsite. As a result, the wording for condition no. 9 has been updated to secure the submission of an Ecological Management Plan (EMP) including any required remediation works within 3 months of the issuing of any planning permission.

2.28 **Other matters**

It is understood the works have commenced and the applicant is now living onsite and as such, the condition wording has been updated to reflect the submission of details within 3 months of the issuing of planning permission where applicable.

3.0 **CONCLUSION**

3.1 The development is considered acceptable and in accordance with the relevant policies of the TVBRLP and NPPF, subject to the completion of a legal agreement prior to the issuing of planning permission securing the proposed mitigation measures to achieve nutrient neutrality and avoidance of recreational pressure on the New Forest SPA.

3.2 However, given the length of time the application has been pending consideration, an alternative recommendation to refuse the application is listed in the event the aforementioned legal agreement is not completed within one month of the upcoming Planning Committee meeting.

4.0 **RECOMMENDATION**

4.1 **RECOMMENDATION A**

Delegate to Head of Planning and Building for completion of satisfactory legal agreement on or before 23rd May 2024 which secures the following:

- **Installation of package treatment plant and purchase of credits from strategic nitrate offsetting scheme at Roke Manor Farm.**
- **New Forest SPA contribution.**

Then PERMISSION subject to:

1. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

Site Location Plan (18_939_001)

Amended Proposed Site Plan (18_939_003 Rev C)

Proposed Elevations (18_939_005)

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

- 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 Policy COM13 of the Test Valley Borough Revised Local Plan (2016).

- 3. Only one mobile home and one touring caravan shall be stationed on the land at any time and no further mobile homes or caravans shall be introduced without the approval of the Local Planning Authority.**

Reason: In the interests of the landscape, residential and visual amenities of the area in accordance with Policies COM2, COM13, E1, E2 and LHW4 of the Test Valley Borough Revised Local Plan (2016).

- 4. No goods, plants or materials other than those relating to the residential, agricultural, or equestrian use of the land shall be deposited or stored on the land as identified on the approved plan.**

Reason: In the interests of the landscape and visual amenities of the area in accordance with Policies E1 and E2 of the Test Valley Borough Revised Local Plan (2016).

- 5. The external materials to be used in the development hereby permitted, shall be in accordance with the materials specified on the approved plans and application form.**

Reason: To ensure the development has a satisfactory external appearance in the interest of visual amenities in accordance with Policy E1 of the Test Valley Borough Revised Local Plan (2016).

- 6. Within 3 months of the development hereby permitted, full details of hard and soft landscape works have been submitted and approved. Details shall include where appropriate: finished levels, means of enclosure and hard surfacing materials. Soft landscape works shall include:**

- planting plans;**
- written specifications (including cultivation and other operations associated with plant and grass establishment);**
- schedules of plants, noting species, plant sizes and proposed numbers/densities.**

Within 3 months of the Local Planning Authority issuing approval, the works shall be completed in accordance with the approved details.

Reason: To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance Policies E1 and E2 of the Test Valley Borough Revised Local Plan (2016).

- 7. Within 3 months of the date of the development hereby permitted, a schedule of landscape implementation and maintenance for a minimum period of 5 years shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for the phasing of the implementation and ongoing maintenance during that period in accordance with appropriate British Standards or other recognised codes of practise. Within 3 months of the Local Planning Authority issuing approval, the works shall be completed in accordance with the approved details. Reason: To ensure the provision, establishment and maintenance to a suitable standard of the approved landscape designs to create and maintain the appearance of the site and enhance the character of the development in the interest of visual amenity and to contribute to the character of the local area in accordance with Policies E1 and E2 of the Test Valley Borough Revised Local Plan (2016).**
- 8. Within 3 months of the date of the development hereby permitted, an Ecological Management Plan (EMP) including a scheme of remediation measures, shall be submitted to and approved in writing by the Local Planning Authority. Within 3 months of the Local Planning Authority issuing approval, the works shall be completed in accordance with the approved details. Reason: To avoid impacts to protected species and to conserve and enhance biodiversity, in accordance with Policy E5 of the Test Valley Borough Revised Local Plan (2016).**
- 9. In the event that contamination is found at any time during the installation of the structures hereby permitted and associated landscaping works, the presence of such contamination shall be reported in writing to the Local Planning Authority without delay and development shall be suspended on the affected part of the site until a remediation scheme for dealing with that contamination has been submitted to and approved by the Local Planning Authority. The approved remediation scheme shall be implemented and, if requested, a verification report, for the purpose of certifying adherence to the approved remediation scheme, shall be submitted to the Local Planning Authority prior to the site being brought in to use. Reason: To ensure a safe living environment in accordance with Policy E8 of the Test Valley Borough Revised Local Plan (2016).**

Note to applicant

- 1. 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.**

OR

RECOMMENDATION B

In the event that the legal agreement has been not completed on or before 23 May 2024 then the application is REFUSED for the following reasons:

- 1. The development by means of its nature, location and scale could have likely significant effects upon the nearby Solent and Southampton Water European Designated Site which is designated for its conservation importance. In the absence of a completed legal agreement securing the proposed mitigation, the applicant has failed to satisfy the Council that the proposal would not adversely affect the special interest of the Solent and Southampton Water European Designated Site, therefore the application is contrary to Policies COM2 and E5 of the adopted Test Valley Borough Revised Local Plan (2016) and the Conservation of Habitats and Species Regulations 2017 (as amended).**
 - 2. The application site lies within close proximity to the New Forest SPA which is designated for its conservation importance. The application has not secured any mitigation in accordance with the Council's adopted 'New Forest SPA Mitigation - Interim Framework'. As such, it is not possible to conclude that the development would not have an in-combination likely significant effect on the interest features of this designated site, as a result of increased recreational pressure. The proposed development is therefore contrary to the Council's adopted 'New Forest SPA Mitigation - Interim Framework', Policies COM2 and E5 of the adopted Test Valley Borough Revised Local Plan (2016) and the Conservation of Habitats and Species Regulations 2017 (as amended).**
-