
Horsham District Council

PLANNING COMMITTEE REPORT

TO:	Planning Committee South
BY:	Head of Development and Building Control
DATE:	10th March 2025
DEVELOPMENT:	Change of use of land to a 2No. pitch Gypsy/Traveller site comprising the siting of 1No. Mobile Home, 1No. Touring Caravan, and 1No. Dayroom per pitch (Retrospective).
SITE:	Land North West of Junipers, Harbolets Road, West Chiltington, West Sussex
WARD:	West Chiltington, Thakeham and Ashington
APPLICATION:	DC/24/1409
APPLICANT:	**Name:** Mr Michael Casey **Address:** C/O WS Planning & Architecture 5 Pool House Bancroft Road Reigate Surrey RH2 7RP United Kingdom

REASON FOR INCLUSION ON THE AGENDA: By request of West Chiltington Parish Council

RECOMMENDATION: To approve full planning permission subject to appropriate conditions and the completion of a Section 106 Legal Agreement within four months of the decision of this Committee, or such longer period as is agreed by the Director of Place acting reasonably and properly.

1. THE PURPOSE OF THIS REPORT

1.1 To consider the planning application.

DESCRIPTION OF THE APPLICATION

1.2 This application seeks retrospective planning permission for the change of use of land for the stationing of caravans for residential purposes and the erection of dayrooms ancillary to that use. This includes the provision of a new vehicle access to the centre of the site and the closure of the existing northern site access, and the laying of hardstanding throughout.

1.3 The site is split into two residential pitches, separated by the central single access serving both specific gypsy and traveller families. A close boarded fence has also been erected along the length and perimeter of the site. This has been considered by the Council's enforcement team who have determined that this is permitted development as it is set back from the road, and separated by planting and is therefore not fronting the highway.

1.4 The development proposals are the subject of an extant Enforcement Notice EN/20/0471 which alleged '*Without planning permission, the material change of use of the land to use for the stationing of caravans for residential occupation and associated operational development (hardstanding, utility pipes and septic tank)*'. This Notice was subsequently appealed. In determining the appeal, the inspector accepted the broad principle of development on this

site having regard to need, highways impact and landscape impact, but dismissed the appeal as water neutrality had not been demonstrated. The Inspector's conclusions were as follows:

'41. I have concluded that the use of the land for the stationing of caravans for residential occupation and associated operational development has resulted in modest harm to the intrinsic character and beauty of the landscape. Although the existing access has resulted in risk to the safety of the highway, this could be mitigated by requiring it be moved toward the centre of the site by condition. The personal circumstances of the occupiers of the site and needs of gypsies and travellers for accommodation within the district carry significant weight, such that they outweigh the harm I have found to the intrinsic character and beauty of the landscape.

42. However, the conflict with Policy 31 of the HDPF, Habitats Regulations and NPPF arising from an unacceptable risk of harm to the integrity of the Arun Valley SAC, SPA and Ramsar site as set out in the appropriate assessment outweighs all other considerations.

43. For the reasons set out above, I conclude that on balance the development does not accord with the development plan. The appeal on ground (a) therefore fails.'

1.5 The Enforcement Notice was therefore upheld, but with a variation in terms requiring the use of the land to cease and all caravans and paraphernalia to be removed within 12 months rather than 10 months. This current application has been submitted seeking to address the outstanding matter of water neutrality.

DESCRIPTION OF THE SITE

1.5 This site is situated on land to the north-west of a residential dwelling 'Junipers' and comprises a long narrow site fronting Harbolets Road, West Chiltington. It is situated outside of a built-up-area boundary within a countryside location.

2. INTRODUCTION

STATUTORY BACKGROUND

2.1 The Town and Country Planning Act 1990.

RELEVANT PLANNING POLICIES
The following Policies are considered to be relevant to the assessment of this application:

National Planning Policy Framework (Dec 2024)

Horsham District Planning Framework (HDPF 2015):
Policy 1 - Strategic Policy: Sustainable Development
Policy 2 - Strategic Policy: Strategic Development
Policy 3 - Strategic Policy: Development Hierarchy
Policy 15 - Strategic Policy: Housing Provision
Policy 16 - Strategic Policy: Meeting Local Housing Needs
Policy 21 - Strategic Policy: Gypsy and Traveller Sites Allocations
Policy 22 - Gypsy and Traveller Sites
Policy 23 - Strategic Policy: Gypsy and Traveller Accommodation
Policy 24 - Strategic Policy: Environmental Protection
Policy 25 - Strategic Policy: The Natural Environment and Landscape Character
Policy 26 - Strategic Policy: Countryside Protection
Policy 31 - Green Infrastructure and Biodiversity
Policy 32 - Strategic Policy: The Quality of New Development

Policy 33 - Development Principles
Policy 35 - Strategic Policy: Climate Change
Policy 36 - Strategic Policy: Appropriate Energy Use
Policy 40 - Sustainable Transport
Policy 41 - Parking
Policy 42 - Strategic Policy: Inclusive Communities

West Chiltington Neighbourhood Plan (Regulation 16):
Policy H1: Spatial Strategy and Built Up Area Boundaries
Policy H3: Quality of Design
Policy H4: Windfall Sites
Policy EH2: Flooding, drainage and new development
Policy EH3: Protection of Trees and Hedgerows

Horsham District Local Plan (2023-40) (Regulation 19):
Strategic Policy 1: Sustainable Development
Strategic Policy 2: Development Hierarchy
Strategic Policy 9: Water Neutrality
Strategic Policy 11: Environmental Protection
Strategic Policy 13: The Natural Environment and Landscape Character
Strategic Policy 14: Countryside Protection
Strategic Policy 17: Green Infrastructure and Biodiversity
Strategic Policy 19: Development Quality
Strategic Policy 20: Development Principles
Strategic Policy 24: Sustainable Transport
Policy 25: Parking
Strategic Policy 27: Inclusive Communities, Health and Wellbeing
Policy 40: Improving Housing Standards in the District
Strategic Policy 43: Gypsies and Travellers

Supplementary Planning Guidance:
Planning Obligations and Affordable Housing SPD (2017)
Community Infrastructure Levy (CIL) Charging Schedule (2017)

Planning Advice Notes:
Facilitating Appropriate Development
Biodiversity and Green Infrastructure

PLANNING HISTORY AND RELEVANT APPLICATIONS

DC/23/1135	Change of use of land for the stationing caravans for residential purposes and the erection of dayrooms ancillary to that use (Retrospective).	Application Refused on 08.09.2023
EN/20/0471	Without planning permission, the material change of use of the land to use for the stationing of caravans for residential occupation and associated operational development (hardstanding, utility pipes and septic tank).	Notice Issued 9 February 2021. Enforcement Appeal Dismissed. 24.05.2022

3. OUTCOME OF CONSULTATIONS

3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk.

3.2 **HDC Drainage Engineer:** More Information
[Summary]
The Application form states that surface water will be disposed via SuDS and soakaways. The Proposed Site Plan only shows the approximate location of the soakaway. However, no further information has been provided on this. The Application form states that surface water will be disposed via Sustainable Drainage Systems (SuDS) as well, but no further information has been provided on these either.

A surface water drainage strategy is required.

3.3 **HDC Environmental Health:** More Information
[Summary]
There is no information about disposal of sewage or surface water. There is potential for nuisance which could be controlled by conditions.

OUTSIDE AGENCIES

3.4 **Natural England:** No Objection- subject to appropriate mitigation being secured.

Natural England considers that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Arun Valley Special Area of Conservation, Special Protection Area and Ramsar site *https://designatedsites.naturalengland.org.uk/.*
- damage or destroy the interest features for which Amberley Wild Brooks and Pulborough Brooks Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation options should be secured:

- Installation of efficient fixtures and rainwater harvesting system in the proposed dayrooms.
- Purchasing of offsetting credits from the scheme at South Lodge Hotel.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

3.5 **Southern Water:** Comment
Standard advice RE Sustainable Drainage Systems
There are no existing public sewers in the vicinity of the proposed development. Under New Connections Charging it is the responsibility of the developer to provide the sewerage infrastructure up to the point of practical connection. The applicant is advised to investigate the feasibility of this connection or examine alternative means of foul sewage disposal in consultation with the appropriate authorities.

3.6 **WSCC Highways:** More Information
[Summary]

The applicant proposes a new vehicular access onto Harbolets Road. The plans have not demonstrated vehicular visibility for the proposed access. As Harbolets Road is subject to a speed restriction of 40 mph in this location, the Design Manual for Roads and Bridges (DMRB) CD-109 is the appropriate standard. This sets out a minimum stopping sight

distance (SSD) of 120m in both directions, taken from 2.4m from the back edge of the carriageway.

The applicant is requested to provide visibility splays of 2.4m x 120m for the proposed access point. These splays must intersect land only within control of the applicant or within the publicly maintained highway and must be drawn to the nearside edge of the carriageway in both directions. If visibility splays of 2.4m x 120m are not achievable, the applicant can support reduced splays with a seven-day speed survey.

3.7 **WSCC Fire and Rescue:** Comment
[Summary]
The nearest fire hydrant for the supply of water for firefighting is 230 metres away, 55 metres further than the 175 metre distance required for a domestic premises. If an alternative water supply for firefighting is to be considered it will need to conform with the details identified in Approved Document B (AD-B) volume 1:B5 section 14 and agreed with WSFRS.

PUBLIC CONSULTATIONS

3.8 Representations:
One received objecting to the provision of gypsy sites in general.

3.9 **West Chiltington Parish Council**: Objection
The Parish Council continues to object to this scheme on the same grounds as previously:

- by reason of its scale, siting, and design, it represents a harmful urbanising form of development which is out of keeping with and detrimental to the rural character and appearance of the area. The proposal would therefore be contrary to policies 2, 23, 25, 26, 31, 32 and 33 of the Horsham District Planning Framework (2015).
- it fails to provide safe and convenient pedestrian access, and, on account of its isolated location (with no transport links, no nearby shops, school, or health care facility) it would represent unsustainable development within the countryside, contrary to policies 1, 2, 3, 23 and 26 of the Horsham District Planning Framework (2015) and would fail to meet the definition of sustainable development within the National Planning Policy Framework.
- the applicant has not demonstrated with a sufficient degree of certainty that the development does not contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction, contrary to Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 179 and 180 of the National Planning Policy Framework (2021).

  The Parish Council would also add that this site is not included in HDC's emerging Local Plan (2023) as a site for Travellers, there is no access to public sewers from the site and there is insufficient water supply for firefighting.

The Parish Council re-iterates its Holding Comment, that should the planning officer be minded to approve this application, it should be put before HDC Planning Committee (South) for consideration.

3.10 Member Comments:
None received

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

4.1 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and

family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

4.2 The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

Policy Background and Principle of Development:

6.1 Policy 23 of the Horsham District Planning Framework (HDPF) (2015) mandates the provision of 39 additional permanent residential pitches for Gypsies and Travellers between 2011 and 2017, with a commitment to meet further needs beyond this period as identified in the Council's Accommodation Needs Assessment. To address current and future unmet needs, specific sites were allocated for development. The identified sites, in addition to granted windfall proposals, therefore met the needs of the district at the time.

6.2 The Council began preparation of a revised Gypsy, Traveller and Travelling Showpeople Draft Site Allocations Development Plan Document – Preferred Strategy, in 2017 for the plan period beyond that of the HDPF. This set a pitch requirement for 60 gypsy pitches over a 10-year period (up to 2027), and a 15-year requirement for 78 pitches. The 10-year requirement, which is essential, includes a backlog of 40 gypsy pitches, a need for 1 pitch in years 1-5 (2017-2022) and a requirement for a further 19 pitches between 2022-2027. This document initially identified a supply of 68 gypsy pitches to meet the 10-year requirement need for 60 pitches. However, following the drafting of this DPD, the site at Bromeliad Nursery, Billingshurst was withdrawn, which meant the removal of 15 pitches from the 68 pitches identified. On this basis a supply of 60 pitches over the 10-year plan period (up to 2027) could not be demonstrated, and the document did not proceed to formal submission or adoption.

6.3 The Council progressed work on an updated Gypsy and Traveller Accommodation Needs Assessment (GTAA) in order to understand the latest position, and to develop an appropriate Gypsy and Traveller Policy as part of the Local Plan Review. Consultants were appointed in March 2019 to research the number of pitches currently in use in the district, as well as to identify what the current need for Gypsies and Travellers in the District is likely to be over the next 17 years. In January 2020, the 'Gypsy and Traveller Accommodation Assessment (GTAA) – Final Report' was published. This Report was part of the background evidence base that accompanied the Local Plan Review (Regulation 18) Consultation which ran from February to March 2020. The GTAA Report provides an evidence base for the provision new Gypsy and Traveller pitches and Travelling Showpeople plots for the period 2019 to 2036. The GTAA identifies that there is a need for 93 pitches for Gypsy and Traveller households over the plan period (2019-2036).

6.4 The need of 93 pitches for Gypsy Traveller Households stated in the GTAA dated January 2020 has been updated by Opinion Research Services for Horsham Council and published in December 2023. The update indicates a need between 2023-2040 (the plan period) for 128 pitches. This follows the result of the Lisa Smith Judgement where the Planning Policy

for Traveller Sites (PPTS) was updated in December 2023 to revert back to the 2012 PPTS planning definition of a Traveller by reintroducing those who have ceased to travel permanently due to education, ill heath, or old age into the definition (now referred to as the 2023 PPTS). This includes those who: a) meet the (PPTS) definition of 'gypsy and traveller' (79) and b) do not meet the definition (as per a) (20), and; c) are 'undetermined' (29). The Revised Gypsy and Traveller Accommodation Assessment (September 2024, ORS) document details a need to accommodate of 79 (50 in the first five years, and the remaining to 2040).

6.5 The above needs will be delivered by Policy 43 (Gypsy, Traveller, and Travelling Showpeople Accommodation) of the submitted Regulation 19 Horsham District Local Plan (HDLP) which states that the Council will meet the identified current and future accommodation needs of Gypsies, Travellers and Travelling Showpeople in Horsham District through the regularisation or intensification of existing sites, and through the allocation of new sites.

6.6 The Horsham District Local Plan Regulation 19 document was approved at the meeting of full Council on 11 December 2023. Consultation on the draft document took place between 19 January to 1 March 2024, and was formally submitted to the Planning Inspectorate on Friday 26 July 2024. Public hearings on the contents of the draft plan began in December 2024, though the hearing were paused on 12 December 2024 as further information was requested by the Inspector. The Council has since written to the Inspector and that it will be able to carry out any necessary Local Plan updates within the Government's preferred six-month timescale. This means that there is a pathway open to the Inspector to resume the hearings and progress the current Plan. The plan is expected adopted in the Autumn / Winter of 2025. The draft Local Plan has yet to be adopted and is of limited weight. It does however provide guidance with respect future policy direction, demonstrating that the identified need (as above) will be met through the safeguarding of existing sites, the allocation process, and windfall sites that accord with the criteria set out in policy 43. The site is listed within Strategic Policy 43 as a Site allocation for 3 pitches.

6.7 In terms of the Council's current policy position: Policy 23 is now considered to be 'out of date', thus the Council is unable to demonstrate a five year supply of pitches. Paragraph 28 of the PPTS (updated December 2024) outlines that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply. Paragraph 11 of the NPPF states that the presumption in favour of sustainable development should apply where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed or any adverse impacts of doing so would *significantly and demonstrably outweigh the benefits*, when assessed against the policies in this Framework when taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and provision affordable homes, individually or in combination. Additional changes have taken place under the most recent changes to PPTS including the definition of Gypsies and Travellers for the purposes of planning policy, where as amended includes *'Persons of nomadic habitat of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependent's educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling show people or circus people travelling together.'*

6.8 Policy C of the PPTS relates to sites in rural areas and the countryside, with paragraph 14 stating that *'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'*. Paragraph 26 of the PPTS continues that local planning authorities *'should very strictly limit new traveller site development in open countryside that is away from*

existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure'.

6.9 As the Regulation 19 HDLP presently holds limited weight in the determination of applications, policies contained within the HDPF remain relevant for consideration. As above, as the Council cannot currently demonstrate a five-year housing land supply for traveller sites, restrictive housing policies are afforded reduced weight in the overall planning balance (further detailed below). However, Policy 23 (Gypsy and Traveller Accommodation) seeks to resolve specific issues regarding un-allocated sites (rather than the principle of a development), and states that the following criteria (a-e in subsequent sections of this report) will be taken into consideration when determining the allocation of land for Gypsies, Travellers and Travelling Showpeople and any planning applications for non-allocated sites. In terms of the site's location, the Policy states that it must be demonstrated that:

d. The site is located in or near to existing settlements, or is part of an allocated strategic location, within reasonable distance of a range of local services and community facilities, in particular schools and essential health services;

6.10 A number of recent appeal decisions for gypsy and traveller sites have considered the location of these sites. The Inspector recognised under APP/Z3825/W/21/3284138 (DC/20/1488) Valewood Farmhouse, Mobile Home, Valewood Lane, Barns Green, that the lane connecting the site to the village has no pavements or lighting. However, it was noted that the site was not a significant distance to Barns Green and the lane has good forward visibility, where there is a reasonable prospect of trips to and from the village being made by means other than by motorised transport. The Inspector thereby concluded that the location of the site was acceptable.

6.11 In considering the appeal under reference APP/Z3825/W/20/3265226 Hillybarn Farmhouse (DC/20/1993), The Mount, Ifield, the Inspector recognised that residents of site were unlikely to walk to facilities given the separation distances. Also, only a limited bus service travels along Ifield Wood to Horsham and so it was unlikely to provide a realistic travel option for most trips. The development was considered to be within a reasonable cycling distance of Crawley, although it was recognised that this would be an unattractive choice of transport for many journeys, particularly during inclement weather. As such, it was noted likely that occupants of the development would be highly reliant on the private car. However, the Inspector considered that occupants of Gypsy and Traveller sites would have less opportunity to travel by foot, cycle or public transport as they are allowed outside settlements under HDPF policy 23 and the PPTS. In light of the policy context, the short car journeys to Crawley were considered to add in favour of the development. It was thereby concluded that the site would be a suitable location for the development.

6.12 Under APP/Z3825/W/22/3290615 at Redgates, Burnthouse Lane, Lower Beeding (DC/21/1233), the Inspector noted that the nearby narrow and twisting lanes lack facilities for pedestrians, with no footways or street lighting, although due to their nature, traffic speeds are unlikely to be high. It was noted that there are public rights of way that provide shorter routes to nearby villages, but these are unlikely to be readily useable on a daily basis or throughout the year as they are unlit and may not be easily accessible. The Inspector noted that it was likely that most journeys would be made by the private car, with these likely to be relatively short. While the site is not in or near to an existing settlement or part of a strategic allocation, it was recognised to be within a reasonable distance of a range of local services and community facilities in nearby villages by car. It was acknowledged that the PPTS and relevant development plan policies do not specifically refer to avoiding reliance on the private car. The Inspector was therefore of the view that the site was a suitable location for the development due to its accessibility to local facilities and services.

6.13 In the case of the Pear Tree Farm appeal APP/Z3825/W/22/3311819 (DC/21/1796), the Inspector found the proposal for a settled gypsy accommodation site with five pitches to align with policies supporting accommodations for gypsies and travellers. Although the site is outside the Built Up Area Boundary, the Inspector concluded that it met sustainability criteria for access to local services and facilities, with no major traffic or safety concerns. In addition, the Inspector concluded that the development's visual impact on the surrounding countryside would be minimal. Due to existing tree cover and hedgerows, the site would remain largely screened from public view, and the increased activity was not seen as harmful to the rural character.

Principle of Development

6.14 The application seeks consent to retain two existing pitches, each containing one static home and one touring caravan and associated day rooms and landscaping work. The site and use were subject to an enforcement notice and subsequent appeal as referred to above (ref EN/20/0471 and APP/Z3825/C/21/3271264 + APP/Z3825/C/21/3271265). The applicants/ occupiers are the same families as they were at the time of the appeal.

6.15 The principal concerns of the use that were raised by the Council related to the resultant landscape harm, highways matters, and water neutrality. The Inspector concluded that the use does amount to '*some modest harm to the intrinsic character and beauty of the landscape'* (para 19) and that highways matters could be adequately addressed by way of condition (para 23). However, the Inspector considered the appellant's personal matters and concluded that whilst the site would result in some landscape harm, these personal matters would outweigh the harm identified. Ultimately, the appeal was dismissed on water neutrality grounds as '*the conflict with Policy 31 of the HDPF, Habitats Regulations and NPPF arising from an unacceptable risk of harm to the integrity of the Arun Valley SAC, SPA and Ramsar site as set out in the appropriate assessment outweighs all other considerations'* (para 42).

6.16 Subsequently to this appeal decision, application DC/23/1135 was submitted which failed to sufficiently address water neutrality and was refused on water neutrality grounds only. In addition, since the appeal decision, this site has been included in the list of 'site allocations' within the Regulation 19 Horsham District Local Plan (HDLP) for three pitches. The HDLP currently holds limited weight in decision making.

6.17 As above, the Council are not currently able to demonstrate a five-year housing land supply to accommodate an identified need of Gypsy and Travelling Showpeople sites within the district. It is recognised that there is a lack of deliverable sites for gypsies and travellers, and there remains an identified need for such accommodation within the district. These matters are of significant weight in the consideration of the application, and weigh in favour of granting planning permission.

6.18 Water neutrality matters aside (considered later), in light of the Inspector's decision regarding (in particular) personal circumstances, and on the basis of these matters set out above, the proposed development is considered acceptable in principle, subject to all other considerations as discussed below.

Character, Design and Appearance:

6.19 Policy 23(e) of the HDPF states that development for non-allocated gypsy / traveller sites must demonstrate that:

e. The development will not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and is sensitively designed to mitigate any impact on its surroundings.

6.20 In addition, Policies 25, 32, and 33 of the HDPF promote development that protects, conserves and enhances the landscape and townscape character from inappropriate development. Proposals should take into account townscape characteristics, with development seeking to provide an attractive, functional and accessible environment that complements the locally distinctive character of the district. Buildings should contribute to a sense of place, and should be of a scale, massing, and appearance that is of a high standard or design and layout which relates sympathetically to the landscape and built surroundings.

6.21 Policy 34 of the Horsham District Planning Framework states that development affecting the setting of a listed building will not be permitted where it would have an adverse impact on the setting or special architectural character or appearance of a listed building.

6.22 Policy 33(2) continues that development shall be required to ensure that it is designed to avoid unacceptable harm to the amenity of occupiers/users of nearby property and land.

6.23 Paragraph 27 of the PPTTS (2024) states *'When considering applications, local planning authorities should attach weight to the following matters:*

a) effective use of previously developed (brownfield), untidy or derelict land

b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness

c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children

d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community'

6.24 The Council's Landscape officer previously raised some concerns in relation to the landscape impact of the development but also suggested detailed conditions that could be included with a permission that would mitigate most of this concern.

6.25 As explained above, the landscape impact of this proposal has previously been considered by the Planning Inspectorate through the previous enforcement appeal. The inspector stated at paragraphs 18 and 19 that:

'18. It was suggested that a condition requiring a landscaping scheme could be provided. Such a scheme could result in the removal of a substantial proportion of the hardstanding and provide additional landscaping, which would reduce the effect of the use of this land on the character and beauty of the landscape. Additional landscaping should include ensuring the frontage hedge is retained or replaced with a similar hedge that screens views into the site from the road to a large extent.

19. Despite the ameliorating effect of the proposed condition, I conclude that the development would continue to cause some modest harm to the intrinsic character and beauty of the landscape. As such, it is contrary to Policies 2, 23, 25, 26, 31, 32 and 33 of the Horsham District Planning Framework (HDPF) and the NPPF. These policies seek development to protect, conserve and enhance the rural character and landscape of the area. Gypsy and traveller sites should not have an unacceptable impact on the character and appearance of the landscape and should be sensitively designed to mitigate any impact on their surroundings.'

6.27 However, despite finding some modest landscape harm, the Inspector concluded in the planning balance that:

'The personal circumstances of the occupiers of the site and needs of gypsies and travellers for accommodation within the district carry significant weight, such that they outweigh the harm I have found to the intrinsic character and beauty of the landscape.'

6.28 The Inspector's judgement on this matter carries significant weight in the consideration of this application and Officers advise that there are no material considerations that would lead an alternative conclusion.

6.29 To ensure a satisfactory appearance to the site a detailed hard and soft landscaping condition requiring further details to be submitted and approved by the Council is recommended to ensure, in particular, the following:

- appropriate and additional native hedgerow and tree planting along the less vegetated boundaries with Harbolets Road – planted in double staggered rows at 5 plants per linear metre
- Additional soft landscaping within the site including wildflowers, flowering lawns and trees.

Amenity Impacts:

6.30 Policy 33 of the HDPF, *inter alia*, seeks to ensure that proposed development does not result in unacceptable harm to the living conditions of nearby occupiers/users of land in respect of a possible loss of privacy, natural light and/or disturbance.

6.31 With regard to the degree of separation to nearby dwellings, and the presence of intervening features, it is not considered that the proposed development would result in an unacceptable loss of natural light and/or loss of privacy to occupiers of nearby land and property.

6.32 The proposed development would be expected to result in some degree of disturbance to nearby occupiers/users of land in terms of an increase in vehicle movements, construction activity and external lighting, though, it is not considered that the effects of a development of this scale would amount to unacceptable harm, especially with the inclusion of appropriately worded conditions regulating lighting, construction and business activity. The proposal, therefore, is compliant with the requirements of HDPF Policies 32 and 33 in this regard.

Highways Impact:

6.33 HDPF Policy 40, *inter alia*, provides that development will be permitted provided that it is appropriate in scale to existing transport infrastructure, maintains the existing transport system, includes opportunities for sustainable travel and to minimise the distance people need to travel. Development, further, should provide for a safe and suitable access for all highways users.

6.34 The Highways impact of this proposal has been previously considered by the Planning Inspectorate through the enforcement appeal. The appeal was considered on the basis of site access being in its current position on the northern corner of the site closest to the neighbouring dwelling at Broadford. The inspector identified that visibility splays could not be provided as they would extend onto land outside of the appellant's control. The inspector concluded by stating that a condition could ensure an alternative access is secured in the centre of the site's frontage onto Harbolets Road, thereby overcoming this concern.

6.35 The currently proposed site plan submitted with this application (drawing no. 23_1275_003) includes this central access point with the existing northern-most access point to be permanently closed with a physical barrier (e.g. hedging and fencing). The existing vehicle crossover will be reinstated as a verge. This aligns with the appeal decision. Appropriate visibility splays of 2.4m x 120m in both directions have now been demonstrated to meet the requirements set out in the Highways Authority consultation response. Accordingly, the

revised access point meets the requirements of the appeal inspector and the Highways Authority and is therefore considered compliant with policy 40 of the HDPF.

Water Neutrality:

6.36 Horsham District is situated in an area of serious water stress, as identified by the Environment Agency. In September 2021, Natural England released a Position Statement which advised all local authorities within the Sussex North Water Supply Zone that it cannot be concluded that existing water abstraction within the Sussex North Water Supply Zone is not having an adverse effect on the integrity of the Arun Valley SAC/SPA/Ramsar sites near Pulborough. The Position Statement advises the affected local authorities that developments within the Sussex North Supply Zone must not therefore add to this impact, and to achieve this, all proposals must demonstrate water neutrality. The definition of water neutrality is the use of water in the supply area before the development is the same or lower after the development is in place.

6.37 In assessing the impact of development on protected habitat sites such as those in the Arun Valley, decision makers must, as the competent authority for determining impact on such sites, ensure full compliance with the Conservation of Habitats and Species Regulations 2017 (known as the Habitat Regulations). The Regulations require that a Habitats Regulations Assessment (HRA) be carried out to determine if a plan or project may affect the protected features of a habitats site, before the grant of any planning permission. Section 70(3) of the Regulations requires that planning permission must not be granted unless the competent authority (Horsham District Council) is satisfied that the proposed development will not adversely affect the integrity of the affected habits site. Section 63 of the Regulations sets out the process by which an HRA must take place.

6.38 The requirements of Section 70(3) are reflected in paragraph 193 of the NPPF, which states that '*if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused'*. The application site falls within the Sussex North Water Supply Zone which draws its water supply from groundwater abstraction at Hardham (near Pulborough), adjacent to the Arun Valley sites. The water abstraction issues raised by the Natural England Position Statement are therefore material planning considerations relevant to the proposal. Given the requirements of the Habitat Regulations and paragraph 193 of the NPPF, adverse impact on the integrity of the Arun Valley sites must be given great weight in decision making. In order to demonstrate that no adverse impact will occur at the Arun Valley sites, all new development within the supply zone must demonstrate water neutrality, i.e., that water consumption from the site when occupied will not increase water abstraction in the Arun Valley.

6.39 As this application is retrospective the site is considered to have 'zero' lawful water usage, and is currently ineligible for access to water credits from the emerging Local Authority-led water offsetting scheme (aka SNOWS). The applicant's water neutrality strategy proposes reduced water usage fixtures and fittings and rainwater harvesting to serve the toilets and washing machines. This will result in a water usage of 83.53 l/p/d or 314.06 litres per day in total that needs to be off-set.

6.40 The strategy proposes to off-set this residual water usage through the purchase of 315 'water credits' from a private water credit scheme at South Lodge Hotel, Lower Beeding, RH13 6PS. This offsetting scheme proposes the sinking of a borehole to service the Hotel. This strategy has previously been assessed through various applications by the Council and Natural England and is considered to be an acceptable approach subject to the completion of the relevant s106 legal agreement to secure this mitigation. The availability of credits from this scheme will not double-count any offered for other developments in the water supply zone.

6.41 The Council has undertaken a formal appropriate assessment of the Water Neutrality Strategy and applicant's water off-setting report. In response, Natural England have confirmed their agreement with the Officer conclusion that the use of borehole abstractions at South Lodge Hotel to offset the Hotel's water use would not effect the integrity of the Arun Valley sites and that further details as to the quality of abstractions can be reserved for later approval via condition. Subject to relevant conditions and s106 obligations it is considered that the Council can grant planning permission in accordance with its duties pursuant to Regulation 63 of the Habitats Regulations and the associated provisions of HDPF Policy 31.

Other Matters:

Drainage and Flood Risk:

6.42 The site is not within a designated flood zone or area susceptible to surface or ground water flooding. Given this, matters of foul surface water disposal are appropriate to be considered under planning condition, with the indicated proposal being to manage surface water via an onsite soakaway. It is unclear how foul water is to be treated, with Southern Water noting that there are no public sewers in the vicinity of the site. Foul water could though be managed via a septic tank or equivalent, a matter than can be addressed by condition.

Ecology

6.43 Policy 31 of the HDPF states that development will be supported where it demonstrates that it maintains or enhances the existing network of green infrastructure. Development proposals will be required to contribute to the enhancement of existing biodiversity, and should create and manage new habitats where appropriate.

6.44 The enforcement appeal decision is silent on the impact that the development may have had on ecological quality of the site. Historic aerial photos do show that there has been a loss of green vegetation/ grassland on the site. However, due to the silence in the appeal decision, being only refused on water neutrality grounds it is not considered possible to refuse this application on the retrospective ecological impact that may have occurred, despite the potential impact that it may have already had. To be in compliance with HDPF policy 31, it is recommended that the proposed landscaping condition includes a requirement for ecological enhancements to be submitted for approval.

Biodiversity Net Gain (BNG):

6.45 Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) mandates that every development must achieve at least a 10% Biodiversity Net Gain (BNG), unless the development qualifies as exempt under the Biodiversity Gain Requirements (Exemptions) Regulations 2024, and that every planning permission granted for the development of land in England shall be deemed to have been granted subject to the condition that development may not be begun unless a Biodiversity Gain Plan has been submitted to the planning authority and the planning authority has approved the Plan.

6.46 The Biodiversity Gain Plan must show how the development will achieve the required minimum 10% BNG using the statutory biodiversity metric tool and must demonstrate how the habitats will be managed and maintained for 30 years, starting from the date the development is completed. Off-site gains and significant on-site enhancements will be secured over this period by way of a Legal Agreement.

6.47 Currently, the statutory requirement to achieve a minimum 10% BNG does not apply to retrospective development under Section 73(A) of the Town and Country Planning Act. Therefore, as this application is retrospective the statutory BNG condition cannot be applied.

Conclusions and Planning Balance:

6.48 The Council cannot currently demonstrate a five-year land supply for gypsy sites, and at present there remains an identified undersupply of available sites within the District. Paragraph 11(d) states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted '*unless the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination*.' It is therefore recognised that the proposal would go some way to addressing the identified need. This is a material consideration of significant weight in the overall planning balance.

6.49 The inspector's consideration of the enforcement appeal is also of significant weight, with the inspector concluding that the proposal does amount to '*some modest harm to the intrinsic character and beauty of the landscape'* (para 19) and that highways matters could be adequately addressed by way of condition (para 23). However, the Inspector considered the appellant's personal matters, and concluded that whilst the site would result in some landscape harm, these personal matters would outweigh the harm identified. The sole matter of dispute was water neutrality, which has now been demonstrated through use of a private water credit scheme at South Lodge Hotel in Lower Beeding.

6.50 In light of water neutrality having been demonstrated, and the Inspectors decision, the proposed development is now considered acceptable subject to the conditions set out below and the s106 legal agreement to secure the off-site water neutrality measures.

7. RECOMMENDATIONS

7.1 To approve full planning permission, subject to the completion of a s106 legal agreement and the conditions set out below:

Conditions:

1 Plans list

2 **Regulatory Condition:** Within three months of the date of this decision, a drainage strategy detailing the proposed means of foul water disposal shall be submitted to and approved in writing by the Local Planning Authority. Within three months of the scheme being approved, the approved scheme shall be implemented and thereafter retained as such.

Reason: As this matter is fundamental to ensure that the development is properly drained and to comply with Policy 38 of the Horsham District Planning Framework (2015).

3 **Regulatory Condition:** Within three months of the date of this decision a detailed surface water drainage scheme including a Surface Water Drainage Statement, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall be fully coordinated with the landscape scheme. Within three months of the scheme being approved, the approved scheme shall be implemented and thereafter retained as such.

Reason: As this matter is fundamental to prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance in accordance Policies 35 and 38 of the Horsham District Planning Framework (2015).

4 **Regulatory Condition:** Within three months of the date of this decision full details of all hard and soft landscaping works shall have been submitted to and been approved, in writing, by the Local Planning Authority. The details shall include plans and measures addressing the following:

(a) Details of all existing trees and planting to be removed and retained
(b) Appropriate and additional native hedgerow and tree planting along the less vegetated boundaries with Harbolets Road – planted in double staggered rows at 5 plants per linear metre
(c) Additional soft landscaping within the site including wildflowers, flowering lawns and trees
(d) Details of all hard surfacing materials and finishes
(e) Details of all external lighting
(f) Details of Ecological and Biodiversity Enhancements

The approved landscaping scheme shall be fully implemented in accordance with the approved details within the first planting season following the approval of the details. Unless otherwise agreed as part of the approved landscaping, no trees or hedges on the site shall be wilfully damaged or uprooted, felled/removed, topped or lopped without the previous written consent of the Local Planning Authority until 5 years after completion of the development. Any proposed or retained planting, which within a period of 5 years, dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory development that is sympathetic to the landscape and townscape character and built form of the surroundings, and in the interests of visual amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

5 **Regulatory Condition:** Within three months of the date of this decision evidence shall be submitted to and been approved in writing by the Local Planning Authority that the approved water neutrality strategy (cgs civils dated 14th August 2024) for each pitch has been implemented in full. The evidence shall include the specification of fittings and appliances used, evidence of their installation, details of the rainwater harvesting system installed including a minimum 35 days storage capacity, and completion of the as built Part G water calculator or equivalent. The installed measures shall be retained as such thereafter, or to a similar improved water performance.

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraph 193 of the National Planning Policy Framework (2024), and to enable the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

6 **Regulatory Condition:** Within three months of the date of this decision, details for the provision for the storage of refuse and recycling facilities shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided within three months of the approval of these details and thereafter be retained for use at all times.

Reason: To ensure the adequate provision of recycling facilities in accordance with Policy 33 of the Horsham District Planning Framework (2015).

7 **Regulatory Condition**: Within three months of the date of this decision a fire hydrant(s) to BS 750 standards or stored water supply (in accordance with the West Sussex Fire and Rescue Guidance Notes) shall be installed, connected to a water supply with appropriate pressure and volume for firefighting, and made ready for use in consultation with the WSCC Fire and Rescue Service. The hydrant(s) or stored water supply shall thereafter be retained as such.

Reason: In accordance with fire and safety regulations in accordance with Policy 33 of the Horsham District Planning Framework (2015).

8 **Regulatory Condition:** This permission does not authorise use of the land as a caravan site by any persons other than Gypsies and Travellers, as defined in Annex 1 of Planning Policy for Traveller Sites (Department for Communities and Local Government 2024).

Reason: To enable the Local Planning Authority to control the use of the site and in accordance with Policy 21, Policy 22 and Policy 23 of the Horsham District Planning Framework (2015).

9 **Regulatory Condition**: There shall be no more than two pitches on the site with no more than one mobile home/static caravan (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) stationed on each pitch at any time. There shall be no more than one touring caravans stationed on each pitch at any time and these shall not be occupied by any person at any time whilst stationed on the application site.

Reason: To avoid an overcrowded appearance and to secure satisfactory standards of space and amenity and to enable the Local Planning Authority to control the use of the site, in accordance with Policy 21, 22, 23 and 26 of the Horsham District Planning Framework (2015).

10 **Regulatory Condition:** No external lighting or floodlighting shall be installed other than with the permission of the Local Planning Authority by way of formal application.

Reason: In the interests of the amenities of the locality and in accordance with Policy 33 of the Horsham District Planning Framework (2015) and as these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

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11 **Regulatory Condition:** No industrial, commercial or business activity shall be carried out on from the site, including the storage of materials.

Reason: In the interests of amenity and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

12 **Regulatory Condition:** No Heavy Goods Vehicles (defined as any vehicle having 3 axles or more and with a weight exceeding 3,500kg) shall operate to or from the site or be stationed, parked or stored on the site at any time.

Reason: In the interest of highway safety and amenity in accordance with Policies 33 and 40 of the Horsham District Planning Framework (2015).

13 **Regulatory Condition:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or Orders amending or revoking and re-enacting the same, no additional gates, fences, walls, or other means of enclosure shall be erected or constructed on the site.

Reason: In the interests of amenity in accordance with Policy 33 of the Horsham District Planning Framework 2015.