

21/0875/FFU

Reg. Date 26 July 2022

Windlesham & Chobham

LOCATION:	Land East Of Four Oaks Nursery, Highams Lane, Chobham, Woking, Surrey, GU24 8TD,
PROPOSAL:	Change of use of land to a Gypsy/Traveller site (two pitches) comprising the siting of 2 mobile homes, 2 touring caravans and erection of x2 ancillary utility rooms and installation of hard landscaping.
TYPE:	Full Planning Application
APPLICANT:	H. & M Woolford & Creese
OFFICER:	Navil Rahman

This application is being reported to the Planning Applications Committee under Part 3 – Section B, Paragraph 1.5 of the Constitution due to a recent appeal decision which was allowed at Oaks Farm, Philpot Lane within the Green Belt which is a material consideration in relation to the acceptability of this current planning application and a pending Enforcement Notice on the site. Therefore, given the circumstances outlined above, it is considered that the application should be determined by Planning Applications Committee.

RECOMMENDATION: GRANT permission, subject to conditions and a legal agreement

1.0 SUMMARY

- 1.1 The application relates to the change of use of land to a gypsy and traveller site, serving two pitches comprising two mobile homes, two touring caravans and the construction of two utility room buildings together with associated landscaping including the installation of hardstanding.
- 1.2 At present, two unauthorised caravan pitches exist upon the site, the case is therefore linked to an ongoing enforcement case. The existing caravans have been sited upon the land without permission since 2020 and are located within the 400m buffer zone of the Thames Basin Heath Special Protection Area (SPA).
- 1.3 This application proposes to relocate the pitches to the west of their existing siting outside the exclusion zone to the SPA. The application site is located to the rear (east) of the existing Four Oaks Nursery site off Highams Lane. The site is bounded to the south by the M3 motorway.
- 1.4 The proposed development represents inappropriate development within the Green Belt, resulting in harm to the openness of the Green Belt as well as to the character and appearance of this countryside location. The proposal is unsustainably located in transport terms. The proposal would not result in any harm to neighbouring amenity, the ecology of the surrounding area including the Thames Basin Heath SPA, nor unduly increase flood risk in the area. Despite the site's proximity to the motorway, subject to conditions there would be no adverse noise and air quality issues.
- 1.5 Weighing in favour of the proposal are the combination of the unmet need for alternative sites, future supply, lack of alternative available sites as well as the personal circumstances of the occupiers. These factors outweigh the harm to the Green Belt and the other identified harm. Furthermore, the conclusion is consistent with the recent

allowed appeal decision at Oaks Farm Philpot Lane, GU24 8HE. This appeal decision is a material consideration and should be considered when weighing up the acceptability of this development (see Annex A of this report). In this instance significant regard together with the unmet need should be given in support of this application.

- 1.6 It is therefore recommended that permanent planning permission is granted, subject to conditions and a legal agreement.

2.0 SITE DESCRIPTION

- 2.1 The application site relates to an open irregular shaped parcel of land situated outside of the settlement boundaries, north of the M3, and east of Highams Lane where it is accessed from. The site and the surrounding land lie in the designated Green Belt. The area south west of the site is Four Oaks Nursery, a former operational horticultural nursery, where the large greenhouses abut the blue line boundary of the application site. The wider surrounding area comprises of greenfield open fields, with detached dwellings sporadically found except for the Gordon Murray Automotive Headquarters.
- 2.2 Highams Lane is a 40mph road with no continuous footpath and only partially served by lighting. When exiting the site, heading north, the site does not benefit from any footpath or lighting. Moving south, an unmade footpath is found 0.3miles down the lane, with it being made with lighting around the junction of Valley End Road. Highams Lane benefits from an infant school (Valley End Infant School), and a Baptist Church whilst Coworth Flexlands Prep School and Nursery is 0.4miles north of the site on Chertsey Road. The nearest convenience stores are Hillview Convenience 2 Chertsey Road GU20 6ET 1.2 miles away, 32 Updown Hill, Windlesham GU20 6DX 1.3 miles away and Season Farm Shop London Road GU20 6LL 2.1 miles away.
- 2.3 The land contained in the red line boundary has an overall area approximately 0.84 hectares in size and comprises of a hardstanding to the north eastern aspect of the plot, where a now vacant sand school building and stable is located. Unauthorised touring caravans and tent like structures currently occupy the site on this area of extended hardstanding in use by the applicants. This is subject to an enforcement notice (pending determination of this application).
- 2.4 The northern part of the site, which relates to the access road falls within the 400m buffer zone of the Thames Basin Heath Special Protection Area (SPA) where there is a presumption against new residential units. The site is situated in Flood Zone 1 (low risk) and there are no other designations on or adjacent to the site.

3.0 RELEVANT PLANNING HISTORY

- 3.1 There is no relevant planning history.

4.0 PROPOSAL

- 4.1 Planning permission is sought for the laying of 2,041 sq.m. of hardstanding facilitating the siting of two mobile homes, two touring caravans together with two utility buildings (for washing facilities) together with associated landscaping in conjunction with the change of use of the land for two gypsy and traveller pitches. Planning permission is sought on a permanent basis.
- 4.2 The proposed mobile homes would be situated approximately 30m from the buffer zone with the M3. The size of the proposed mobile homes would be in line with the Caravan Act (as amended) being of a maximum depth 20m, maximum width of 6.8m and internal floor to ceiling space no greater than 3.05m.

- 4.3 Each of the utility buildings would be 2m in depth by 3m in width with a maximum height of 2.6m sloping down to 2.3m. Post and rail fencing would be installed to the perimeter of the hardstanding standing at 1.1m in height with a 1m high hedging planted behind the fencing.
- 4.4 The proposal would also result in the removal of the existing sand school, relocation of the stables building and partial removal of hardstanding. The sand school and hardstanding would be replaced by 1,027sqm of soft landscaping. The area of hardstanding to be removed is currently occupied by the touring caravans and tent like structures which are subject to an enforcement notice. The proposal would therefore address the issues of the enforcement notice.
- 4.5 There would be two households residing on the site. 'Family 1' comprises of five members, two adults and their three young children. 'Family 2' comprises of four members, two adults and their two adult children.
- 4.6 Personal data relating to the applicant and family members is protected under the terms of the UK General Data Protection Regulations (GDPR) and Data Protection Act 2018 and therefore has not been included within the public papers.
- 4.7 The application has been supported by the following documents:
- Planning Statement
 - Arboricultural Impact Assessment
 - Noise Report

5.0 CONSULTATION RESPONSES

- 5.1 The following external consultees were consulted, and their comments are summarised in the table below:

External Consultation	Comments received
SCC Highways	<p>Raise no objection. Comment they do not consider the site an ideal location in respect of sustainable transport. suggest if proposal is refused sustainability grounds are included.</p> <p>See Annex B for a copy of their comments.</p> <p>Officer Response:</p> <p>The Council acknowledges that the residents would be reliant on private vehicle use to access day-to-day facilities. However, given the absence of any alternative sites, the applicants would be subject to roadside existence which would be considered more unsustainable in respect of local facilities and amenities as well as vehicle usage. The proposal relates to only two pitches and therefore would not represent many trips. The proposal raises no highway safety concerns and would therefore represent limited overall harm.</p>

Natural England	<p>No objections subject to proposal according with SPA mitigation strategy. Residential development must remain outside of the 400m exclusion zone.</p> <p>Officer response: The siting of the static and touring caravans, and dayrooms are situated outside of the 400m buffer zone. Only the existing access road into the site falls within the buffer zone, to which Natural England have raised no objection to.</p>
Chobham Parish Council	<p>Raise objection:</p> <ul style="list-style-type: none"> - Inappropriate development within the Green Belt - Personal circumstances and unmet need do not clearly outweigh the harm to the Green Belt - Proposed area of development outside of previously developed land area and would result in greater spread of development. - Fails to accord with Council's spatial strategy. - Fails to accord with principles of sustainability. Unsustainable location and fails to enhance quality of rural environment. - Risk of adverse impact to SPA. - Existing hardstanding is unlawful, and its removal would not compensate for effects of the development. - Risk of northern part of the site being used as residential curtilage where no net new residential development is permitted (SPA). - Failure to accord with Policy DM6 as it is not within the settlement area, and not on previously developed land. Is poorly located in sustainability terms, and no very special circumstances have been demonstrated. - Not an allocated gypsy and traveller (G&T) site. - Emerging local plan requires G&T sites to have at least three pitches. - Does not accord with Policy DM9 in terms of linkages, connections, and character. - Back land form of development unsuitable for emergency vehicles and refuse collection. - Unsuitable location in respect of noise and air quality with mobile homes more vulnerable particularly for children. - Loss of equestrian land should be resisted as it plays a positive role in the character and identity of Chobham. <p>If planning permission is granted the following conditions should be considered:</p>

	<ul style="list-style-type: none"> - Restriction of Permitted Development rights - Occupation limited to those meeting the definition. - No other activities to be authorised on the site. - Environmental health officers recommendations followed. - Consider personal permission. - Landscaping works to be applied. - Temporary permission to be considered. <p>Officer response:</p> <p>The proposal has demonstrated very special circumstances (see section 7.4 of the report) which weigh in favour of the proposal for the grant of planning permission. No objections have been raised by Natural England in respect of the Thames Basin Heath SPA nor from the Council's Environmental Health officers in respect of noise and air quality subject to conditions. Whilst it is recognised that the development would result in some harm to the character of the area, as well as being unsustainable in transport terms, balanced against the unmet need for gypsy and traveller sites, and absence of alternative sites together with the personal circumstances of the families it is considered that permanent permission should be granted. Furthermore, the recent appeal decision is a material consideration when weighing up the acceptability of the proposed development. Therefore, on this basis, planning permission should be granted.</p>
Windlesham Parish Council	<p>Raise objection. The application has not demonstrated any very special circumstances for development on the Green Belt. Noise concerns also raised, and any recommendations set out by the Environmental Health officer shall be undertaken prior to occupation.</p> <p>Officer response:</p> <p>See above officer response to Chobham Parish Council comments.</p>

5.2 The following internal consultees were consulted, and their comments are summarised in the table below:

Internal Consultation	Comments received
Environmental Health	<p>No objections raised.</p> <p>Recommend condition to ensure noise mitigation measures are installed to the</p>

	caravans. Recommend condition for air quality assessment to demonstrate development would accord with national air quality objectives.
Arboricultural Officer	Raise no objections.

6.0 REPRESENTATION

6.1 A total of three letters of neighbouring notification were sent on the 29 July 2022 to neighbouring residents, together with a site notice displayed at the site on the 29 July 2022. A total of five letters of representation were received as part of the public notification exercise, two raising objection and three in support. The comments are summarised and responded to below.

6.2 The table below summarises the material planning reasons for objection:

Material Reason for Objection	Officer Response
<u>Principle of Development</u>	
No very special circumstances demonstrated to outweigh the harm to the Green Belt.	Very special circumstances have been submitted and are considered in section 7.4 of the report where the personal circumstances together with the unmet need and lack of future supply weighing in favour of the proposal. Furthermore, the recent appeal decision is a material consideration in the determination of this planning application.
Lack of consultation carried out.	Statutory consultation requirements have been carried out in line with the Council's Statement of Community Involvement.
Application lacks detail in respect of drainage details, and mitigation measures in respect of harm to biodiversity.	The application relates to a minor development, and given development is limited to hardstanding, and the erection of two small buildings, it is considered detailed drainage design can be submitted at condition stage. A Construction Environmental Management Plan is recommended to ensure that any construction works do not impact local ecology.

6.3 The table below summarises the non-material planning reasons for objection:

Non-material Reason for Objection	Officer Response
Consider the presence of Gypsies and Travellers on the site will increase crime in the area.	There is no evidence to substantiate this claim. Due regard must be had to the Equalities Act 2010 and Public Sector Equality Duty.

6.4 The table below summarises the non-material planning reasons for support.

Reason for support	Officer Response
Use of this land creates a safer presence for other users.	This would need to be balanced against the impact of any activity on the site.
Applicants cause no nuisance.	This is noted.

7.0 PLANNING CONSIDERATIONS

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The application site is located within the Green Belt, as set out in the Proposals Map of the Surrey Heath Core Strategy and Development Management Policies 2012 (CSDMP). The proposal is to be assessed against the National Planning Policy Framework (NPPF) and its associated Planning Practice Guidance (PPG); as well as Policies CP1, CP2, CP7, CP11, CP14, DM6, DM9, and DM11 of the Surrey Heath Core Strategy and Development Management Policies 2012 (CSDMP); and Policy NRM6 of the South East Plan 2009 (as saved) (SEP); Circular 01/2006 Planning for Gypsy and Traveller Sites; Planning Policy for Traveller Sites 2023 (PPTS); and the Surrey Heath Gypsy and Traveller Accommodation Assessment 2018 (GTAA). In addition, advice in the Thames Basin Heaths Special Protection Area Avoidance Strategy SPD 2019 (TBHSPD) is relevant.

7.2 The main issues to be considered within this application are:

- Green Belt appropriateness and harm.
- Very Special Circumstances.
- Impact on character and appearance of the surrounding area.
- Impact on residential amenity.
- Highway impacts and sustainable transport.
- Impact on Thames Basin Heath SPA.
- Other Matters

7.3 Green Belt appropriateness and harm

7.3.1 Section 13 of the NPPF is relevant. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances and paragraph 153 states that substantial weight should be given to any harm to the Green Belt. Paragraph 16 of the PPTS also states that traveller sites (temporary or permanent) in the Green Belt are inappropriate development.

7.3.2 Paragraph 155 of the NPPF applies to this proposal because it sets out that certain other forms of development including b) engineering operations and e) material changes of use of land are not inappropriate where they preserve the openness of the Green Belt and do not conflict with the purposes of the Green Belt. This proposal relates to the material change of use of land including the site of the utility buildings, and the installation of hardstanding which would be considered an engineering operation.

7.3.3 The site as existing is a greenfield site, absent from any form of development. The material change of use would result in the siting of a total of two touring and two static caravans on site, two utility buildings together with associated residential paraphernalia including but not limited to, parked vehicles, external lighting, satellite aerials, utility requirements in the form of gas tanks, piping and wiring for the mobile homes as well as general residential activity. The introduction of these various structures would result in a reduction to the openness of the land from a spatial perspective.

7.3.4 The hardstanding would cause a degree of spatial harm by spreading development south. The proposed landscaping proposals which include the removal of areas of hardstanding and the sand school, in addition to hedge and tree planting would help to offset this harm to openness. However, the hardstanding would be an urbanising form of development on this existing greenfield land. By encroaching south into the countryside, it would also be contrary to one of the purposes of the Green Belt.

- 7.3.5 The land would not be directly visible from any public vantage points, owing to its proximity from Highams Lane and the absence of public rights of way close to the site. Views to the site would be limited to users of the adjacent sites, which currently consists of the open fields directly west and Four Oaks Nursery to the south west. North of the site is a large open field which is bounded by mature trees where it abuts the blue line boundary of the application site, whilst directly south is the M3. The proposal would result in limited visual harm to the openness of the Green Belt.
- 7.3.6 The development would, therefore, in both spatial and visual terms erode the openness of the Green Belt to this undeveloped site and is inappropriate development. Contrary to the applicant's assertion, there is no evidence to suggest that this site is previously developed land. Even if it were then the applicant would still need to demonstrate no further harm to openness and the proposal would still be inappropriate development.
- 7.3.7 For the reasons above, the proposal represents inappropriate development within the Green Belt, and Very Special Circumstances would therefore be required to outweigh this substantial harm.

7.4 Very Special Circumstances

- 7.4.1 Paragraph 153 of the NPPF states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In addition to the significant Green Belt, as identified in section 7.3 above, there would be other harm as explained in sections 7.5, 7.6 and 7.7 of this report. This includes harm to the character and appearance of the surrounding area. The site would also be unsustainably located in transport terms.
- 7.4.2 Paragraph 24 of the PPTS indicates that local planning authorities should consider the following issues amongst relevant matters when considering planning applications for traveller sites:
- (a) The existing level of provision and need for sites.
 - (b) The availability (or lack) of alternative accommodation for the applicants.
 - (c) Other personal circumstances of the applicant.
 - (d) That the locally specified criteria used to guide allocation of sites in plans, or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites; and
 - (e) That they should determine applications from sites from any travellers and not just those with a local connection.
- 7.4.3 Paragraph 27 of PPTS sets out that if a local planning authority 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 but clarifies that an exception to this is where the proposal is on land designated as Green Belt. Paragraph 16 of the PPTS sets out that within the Green Belt, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm to establish very special circumstances.

Need for and provision of Gypsy and traveller sites.

- 7.4.4 There is a national need for more gypsy and traveller sites. Paragraph 63 of NPPF outlines that the housing need for different groups in the community should be reflected in planning policies. PPTS (Paragraph 10) indicates that in developing their Local Plan, authorities are expected to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets.

- 7.4.5 Paragraph 1.14 of the Council's GTAA has an identified need for 32 Gypsies and Travellers meeting the planning definition set out in the PPTS, and 14 Travelling Show people plots over the period 2020 – 2040, with most of that need falling within the first five years of the plan period. Against the identified need, the Council is anticipating a shortfall of 26 gypsy and traveller pitches and 14 Travelling Showpeople plots. In addition, there is a need for one pitch for Gypsies and Travellers of unknown status and 32 Gypsies and Travellers not meeting the planning definition and one pitch for Gypsies and Travellers whose status is unknown. The Council is currently in the process of preparing a new Local Plan for the Borough to cover the period up to 2038. In line with the guidance contained within PPTS, the Council should endeavour to allocate sufficient sites to meet as a minimum the needs identified in the first 5 years of the plan following adoption.
- 7.4.6 To date, two permanent pitches have been delivered against the Council's identified needs, giving rise to a shortfall of 30 pitches against the identified need for those meeting the planning definition, and a shortfall of 63 pitches overall. This is considered to represent a very significant level of unmet need.
- 7.4.7 The Council has undertaken an extensive portfolio of work to identify sites suitable to address the Council's unmet need, including (but not limited to) undertaking a detailed review of Council and other public owned land. In line with guidance contained within PPTS, the Council should endeavour to allocate sufficient sites to meet as a minimum the needs identified in the first 5 years of the plan following adoption. However, the identification of sites has been particularly challenging given the environmental constraints faced by the Borough and the availability of suitable land.
- 7.4.8 Three potential Gypsy and Traveller sites were identified across the Regulation 18 Draft Local Plan: Preferred Options (2019-2038) consultation and subsequent Regulation 18 Draft Local Plan Additional Site Allocations for Gypsies and Travellers and Travelling Showpeople consultation, providing for a maximum of 25 pitches in total. This paper sets out that some of the identified needs may also be met through windfall sites. Notwithstanding this, emerging evidence undertaken since the consultations indicates that two of the three sites, comprising c.20 pitches in total may not be deliverable. As a result, at this time it is unlikely that the Council will be in a position to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites within its Local Plan, with a significant shortfall against its identified needs for those meeting the planning definition in the region of 25 pitches, and 58 pitches overall.
- 7.4.9 In view of the challenges faced by the Council, the Council has engaged with its neighbouring authorities under the Duty to Co-operate however to date, no authorities have suggested that they would be able to assist in taking any unmet needs from Surrey Heath, with several other authorities facing similar constraints to delivery.
- 7.4.10 It is therefore acknowledged that the Council currently has a very high level of unmet need, does not have a 5-year supply of sites and is unable to suggest any alternative pitches for the applicants. The combination of these factors is considered to weigh significantly in favour of the proposal.

Personal circumstances.

- 7.4.11 Article 8 of the Human Rights Act 1998 states that everyone has a right to respect for their private and family, their home and correspondence. Article 3(1) of the United Nations Convention requires that the best interests of the children shall be a primary consideration (however not the primary consideration) and no other consideration can be regarded as inherently more important.

- 7.4.12 The PPTS defines gypsies and travellers 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. The applicants forming the two households meet this definition.
- 7.4.13 The families have resided to the northern part of the site, without permission, since 2020. The children of family 1 are enrolled in local schools, and similarly in respect of their GP and dentist. It is widely recognised that there would be significant benefit to the educational needs of children as well as access to medical care from a settled base. This would weigh in favour of the proposal and in the best interests of the children.
- 7.4.14 In respect of the employment of the residents, it has not been shown that the applicants could not attain employment opportunity elsewhere or that the applicants have any economic benefit to staying in this location i.e. having a settled business base etc.
- 7.4.15 Notwithstanding this, the best interests of the children are a primary consideration as is the medical welfare of the family and the adverse impact of not granting permission would be great. The personal circumstances demonstrated in this case weigh significantly in favour of the proposal.

Appeal decision

- 7.4.16 Appeal ref.APP/D3640/W/23/3326420: (Accommodation, Oaks Farm Philpot Lane, GU24 8HE) which was allowed on a temporary 5-year basis November 2023 is also a material consideration, which needs to be considered when weighing up the VSC for the proposed development.
- 7.4.17 The appeal site also lies within the Green Belt, whilst the family also consists of young children who would have been subject to roadside existence if the appeal had been dismissed. Similar to this application, the proposal was considered inappropriate within the Green Belt, harmful (albeit limited) to the character and appearance of the area, whilst being located in an unsustainable location.
- 7.4.18 The Planning Inspector acknowledged that Surrey Heath was unable to demonstrate a 5-year supply of gypsy and traveller sites, having a shortfall of 59 pitches at the time of writing (see paragraph 44). It was also acknowledged that there was a likelihood for windfall sites to come forward to help meet the need in the short term (see paragraph 46). The unmet need, lack of alternative sites, together with the 'lack of certainty' over future provision was attributed significant weight in support (see paragraph 47 and 61).
- 7.4.19 Given the significant proportion of land outside of the settlement boundaries (76%) lied within the Green Belt there was a significant likelihood that development within the Green Belt would need to come forward to meet the Council's unmet need (see paragraph 62). It was also acknowledged that there was a likelihood for windfall sites to come forward to help meet the need in the short term (see paragraph 46).
- 7.4.20 The personal circumstances of the family given the alternative of roadside existence was also attributed significant weight in support (see paragraph 53) whilst the dismissal of the appeal would result in considerable harm to the best interests of the children (see paragraph 63). Whilst temporary personal permission was granted, this was owing to the flood risk harm (Flood Zone 2 and 3) associated with the proposal, which had failed to demonstrate safe access and exit from the site in a flood event. This application differs as it falls within an area with a low probability of flooding (Flood Zone 1) and raises no flood risk concerns.
- 7.4.21 Having assessed the findings of the Oaks Farm decision there are clear parallels to this application. Given the weighting of matters by Inspector Davies in Oaks Farm,

officers are of the view that significant material weight should be given to support the approval of this current planning application.

7.5 Impact on the character and appearance of the surrounding area and trees

- 7.5.1 Policy DM9 of the CSDMP promotes high quality design. Paragraph 26 of the PPTS states that weight should be attached to sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness.
- 7.5.2 The site as existing is a greenfield site containing unauthorised caravan pitches, hardstanding and other related paraphernalia including a disused sand school. The site is subject to current enforcement action; however, progress of the related appeal has been postponed pending determination of this application.
- 7.5.3 The material change of use proposed by this application would result in the creation of two gypsy and traveller site pitches. Each pitch would be served by a mobile home, a touring caravan and a utility building on a hardstanding area created to accommodate them. This would effectively result in the caravans and related paraphernalia moving from their current position on the site (which is within the 400m exclusion zone of the TBHSPA) to the south west.
- 7.5.4 The hardstanding would cause a degree of spatial harm by spreading development south. The proposed landscaping proposals which include the removal of areas of hardstanding and the sand school, in addition to hedge and tree planting would help to offset this harm to openness. However, the hardstanding would be an urbanising form of development on this existing greenfield land. By encroaching south into the countryside, it would also be contrary to one of the purposes of the Green Belt.
- 7.5.5 The site would not be directly visible from any public vantage points, owing to its location south of Highams Lane, the intervening Four Oaks Nursery development and the absence of public rights of way close to the site. Views to the site would be limited to users of the adjacent sites, which currently consists of the open fields directly west and Four Oaks Nursery to the south west. North of the site is a large open field which is bounded by mature trees where it abuts the blue line boundary of the application site, whilst directly south is the M3.
- 7.5.6 Officers therefore conclude the proposal would result in limited visual harm to the openness of the Green Belt and to the character and appearance of the site and its environs.
- 7.5.7 The proposal would introduce development to an otherwise open, verdant area of land where the absence of development is characteristic of the rural environment in which it is situated.
- 7.5.8 The site currently contains a sand school, area of hardstanding and stable building which aerial photography shows has existed on the site from at least the year 2000 (although it is recognised that further hardstanding has been installed on site in recent years). The proposal would seek to remove the sand school and areas of hardstanding (totalling 1,027sqm) and replace this with grassland, whilst 1m high hedging would be installed to the perimeter of the hardstanding and along the SPA 400m buffer together with tree planting.
- 7.5.9 The proposed use of hedging and planting would represent a benefit over the existing situation as would the removal of 1,027 sq.m. of hardstanding/sand. However, this benefit would not overcome the harmfulness of the installation of 2,041 sq.m. of hardstanding (net 1,014 sq.m) together with the siting of the caravans, the utility

buildings, and the necessary residential paraphernalia. The combination of these additions would represent a change to the existing natural environment. The degree of harm to the character of the area would however be limited, owing to the position of the site away from any public vantage points and neighbouring sites limiting views of the proposal.

- 7.5.10 As such, the proposal would result in some harm to the natural character and appearance of the surrounding area, contrary to the objectives of Policy CP2 and DM9 of the adopted Surrey Heath Core Strategy and Development Management Policies Document 2012.

7.6 Impact on residential amenity

- 7.6.1 Policy DM9 of the CSDMP 2012 states that development should respect the amenities of the adjoining properties and uses.

- 7.6.2 The application site is isolated from neighbouring residential development with Lake House, the property to the north west of the site situated approximately 155m (as the crow flies) away from the site. The change of use of the land would introduce a change to the level of activity on the site, however given the proposal relates to two pitches, it is considered that there would be no significant noise and activity disturbance, nor any harm to the air quality to warrant an objection.

- 7.6.3 The proposal would be situated close to the M3 motorway and therefore future residents would be subject to the associated noise and air pollution impact. The Council's Environmental Health officers have reviewed the application raising no objection subject to noise mitigation condition to ensure the internal living environment is of an acceptable quality as well as an air quality assessment to be submitted prior to commencement to ensure the development meets relevant air quality guidance.

- 7.6.4 As such, the proposal would satisfy the objectives of Policy DM9 of the CSDMP.

7.7 Highway impacts and sustainable transport

- 7.7.1 Policy CP11 and DM11 of the CSDMP are relevant. Policy DM6 of the CSDMP advises that gypsy and traveller sites should be accessible to public transport, cycling and pedestrian networks and facilities for the day to day needs of the occupants including education, healthcare, and shopping. This policy also indicates that very special circumstances, which clearly outweigh the identified harm, would need to be applied to such accommodation in the Green Belt. Paragraph 13 of the PPTS makes clear that local planning authorities should ensure that traveller sites are sustainable economically, socially, and environmentally. This includes reducing the need for travel.

- 7.7.2 The site benefits from an established access point from Highams Lane, and the area of hardstanding provides sufficient space for parking and manoeuvring of vehicles which would be considered acceptable. The County Highways Authority has therefore raised no objection on highway safety grounds.

- 7.7.3 The application site lies outside of the settlement boundaries and sits approximately 218m from Highams Lane (when following the proposed access to the site). Highams Lane is a 40mph road with no continuous footpath, with no safe or convenient areas of refuge and only partially served by lighting. There are no public transport connections in reasonable walking distance with the nearest stop a 25-minute walk away. The applicant's would therefore be heavily reliant on the need for private vehicle use for access to day-to-day amenities and services.

- 7.7.4 In this this respect, the site is poorly located in respect of local shops, services, and transport links, making it a less than sustainable location for new development, although it is recognised that access to local shops and services is not an

unreasonable distance away, rather it is the lack of highway infrastructure to access these amenities.

- 7.7.5 The proposal would encourage unsustainable patterns of travel and reliance on private vehicles to access the goods and services necessary for day-to-day life. The development would therefore be contrary to Policy DM6 and CP11 of the CSDMP and paragraph 13 of the PPTS. However, this needs to be considered against other material considerations in support of this planning application as highlighted in the report.

7.8 Impact on Thames Basin Heath SPA

- 7.8.1 Policy CP14 of the CSDMP sets out that all new (net) residential development within five kilometres of the SPA is considered to give rise to the possibility of likely significant effect. Proposals will be required to provide appropriate measures in accordance with the AAP. This includes contributions towards SAMM measures. The proposal is not liable for CIL and therefore SANG contribution would also be required.
- 7.8.2 Unlike the existing unlawful siting of caravans, the proposed development would be located outside of the 400m buffer zone of the Thames Basin Heath SPA, and no objections have been raised by Natural England in respect of the siting of the development subject to mitigation measures being secured in accordance with the AAP.
- 7.8.3 The applicant has confirmed that the SAMM and SANG contribution would be secured through a legal agreement prior to the determination of this application. Subject to the signing of the legal agreement the proposal satisfies the objectives of Policy CP14 of the CSDMP, Policy NRM6 of the SEP, the NPPF and advice in the AAP.
- 7.8.4 As such, based on the above, the proposal is considered acceptable in respect of Policy CP14 of the CSDMP.

7.9 Other Matters

- 7.9.1 Policy DM10 of the CSDMP indicates that development will be expected to reduce the volume and rate of surface water run-off. The site is in a low-risk area of flooding (Zone 1) and therefore does not require the submission of a Flood Risk Assessment. The proposal would result in the replacement of natural land with hardstanding. To ensure that the proposal would not increase flood risk, a condition requiring the implementation of SuDS (and hardstanding to be made permeable) shall be attached in the event of a grant of permission.
- 7.9.2 The proposed siting of the caravans, buildings and hardstanding is outside of any designated ecological areas. Whilst close to the 400m buffer zone of the Thames Basin Heath SPA, the proposed scale of the works would be considered modest given it would largely relate to the installation of hardstanding. Notwithstanding, it would be prudent for a construction environmental management plan condition to be applied to ensure any impact to local ecology is mitigated where necessary. The proposal would therefore accord with Policy CP14 of the CSDMP.

7.10 Planning balance

- 7.10.1 The proposed development is inappropriate development within the Green Belt which will cause harm to the openness of the Green Belt. In accordance with the provisions of the NPPF, this is afforded significant and substantial weight on the balance to be struck.
- 7.10.2 The development will lead to a loss of openness notwithstanding that views of the development will be limited. The development will have an urbanising effect on this

countryside site, albeit the harm will be limited to views from surrounding sites. Significant weight is given to this harm.

- 7.10.3 The site is remote from access to services and facilities necessary for day to day living without reliance on private motor vehicles. This is attributed medium weight in the balance as the site is not isolated or a significant distance from services and facilities.
- 7.10.4 Very significant weight is attributed to the fact that the Council is unable to demonstrate either a 5-year supply of available pitches, or any alternative sites in the foreseeable future. Very significant weight is given on balance as despite the extensive work undertaken to date in terms of the emerging local plan, the Council is unable to identify that it will meet its future needs. Together, very substantial weight is given to the lack of existing supply and the lack of potential future supply of available pitches to meet the demonstrated need.
- 7.10.5 Given the lack of availability of alternative pitches, should planning permission be refused, the families would be likely to resort to roadside living. This would undoubtedly lead to significant disruption to the children's educational needs. The rights of the children in this case attribute very significant weight in the balance to be struck. In addition, the residents have medical needs which would be significantly impacted if they had to resort to roadside living. This is also attributed significant weight.
- 7.10.6 Therefore, whilst the proposed development would conflict with policy it is considered in this case that the significant unmet need for gypsy and traveller pitches within the borough along with the personal circumstances of the applicants is sufficient to outweigh objections to the development. This is consistent with the recent allowed appeal decision at Oaks Farm where there are clear parallels to this application.
- 7.10.7 It is considered that the proposal should be granted planning permission.

8.0 PUBLIC SECTOR EQUALITY DUTY

- 8.1 Under the Equalities Act 2010 the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of age, disability, pregnancy, race, religion, sex, and sexual orientation.
- 8.2 With regard to future occupier Gypsy/Traveller status, particular consideration should be given to provision 3b of the Public Sector Equality Duty which specifies that: .."having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular to the need to...take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it."
- 8.3 The need in question is for Gypsy and Traveller pitches, which has been established as being unmet in the Borough. The granting of planning permission for this development would therefore make a significant contribution to meeting the need for gypsy/traveller pitches in the Borough and would significantly contribute to parts (b) and (c) of the PSED by providing an increased number of pitches specifically for Gypsies and Travellers which has the potential to integrate with the settled community and foster good community relations.
- 8.4 This planning application has been processed and assessed with due regard to the Public Sector Equality Duty. The proposal is not considered to conflict with this duty.

9.0 CONCLUSION

- 9.1 The proposal would represent inappropriate and harmful development within the Green Belt causing further harm to the openness of the Green Belt. The proposal would also

result in limited harm to the character and appearance of the surrounding area. Residents would be dependent on private vehicle use. However, very special circumstances by way of unmet need, lack of supply, lack of alternative sites and the best interests of the children and health of the family weigh significantly in favour of the proposal and permanent planning permission is therefore recommended. This is consistent with the recent allowed appeal decision at Oaks Farm where there are clear parallels to this application and significant weight on the same basis needs to be applied to this application.

10.0 RECOMMENDATION

GRANT subject to the following conditions and legal agreement:

1. The development hereby permitted shall be begun within one year of the date of this permission.

Reason: To prevent an accumulation of unimplemented planning permissions and in accordance with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004.

2. The proposed development shall be built in accordance with the following approved plans:

Plan drawings:

Received 3 August 2021

J003950-DD-04
J003950-DD-02

Received 10 February 2021

J003950-DD-05
J003950-DD-02

Received 26 July 2022

J004047-DD-04
J003950-DD-06 Rev A
J003950-DD-03 Rev C
J003950-DD-01 Rev A

Documents:

Received 15 November 2021

Noise Impact Assessment

Received 10 February 2021

Arboricultural impact assessment
Supporting Statement

Reason: For the avoidance of doubt and in the interest of proper planning and as advised in ID.17a of the Planning Practice Guidance.

3. The site shall be occupied by no more than two gypsy pitches, each comprising no more than one mobile home, one tourer caravan and one day room.

Reason: For the avoidance of doubt and in the interest of proper planning and as advised in ID.17a of the Planning Practice Guidance.

4. The accommodation hereby approved shall only be occupied by persons meeting the definition of "gypsies and travellers", as defined in Annex 1 of Planning Policy for Traveller Sites 2015 (or any planning policy statement replacing or superseding that statement).

Reason: To ensure the approved gypsy pitches are retained for their designated purpose in perpetuity and to protect the countryside and visual amenity of the area and to accord with Policies CP1, CP2, CP7, DM6 and DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012, the National Planning Policy Framework, and the Planning Policy for Traveller Sites.

5. Within 3 months of the date of this permission, the proposed hardstanding as shown on drawing no. J003950-DD-03 Rev C received 26 July 2022 shall be installed in accordance with the approved plan.

Within 3 months of the installation of the proposed hardstanding, the existing hardstanding and sand school as shown on drawing no. J003950-DD-02 received 03 August 2021 shall be demolished and removed and the land restored in accordance with the landscaping scheme approved under condition 6.

6. With 3 months of the date of this permission, full details of soft and hard landscaping shall have been submitted to and approved in writing by the Local Planning Authority.

The approved details shall be carried out as approved and implemented within 3 months of the date of the approval. The scheme shall include indication of all hard surfaces, walls, fences, access features, the existing trees, and hedges to be retained, together with the new planting to be carried out and the details of the measures to be taken to protect existing features during the construction of the development.

The existing trees and hedges to be retained, together with the new planting to be carried out and the details of the measures to be taken to protect existing features during the construction of the development.

Any landscaping which, within 5 years of the completion of the landscaping scheme, dies, becomes diseased, is removed, damaged or becomes defective in anyway shall be replaced in kind.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012.

7. With 3 months of the date of this permission, a detailed Construction Environmental Management Plan (CEMP) document has been submitted to and approved in writing by the Local Planning Authority.

- a) Map showing the location of all the ecological features
- b) Risk assessment of the potentially damaging construction activities
- c) Practical measures to avoid and reduce impacts during construction
- d) Location and timing of works to avoid harm to biodiversity features
- e) Use of protected fences, exclusion barriers and warning signs.
- f) Details of proposed means of dust suppression and emission control
- g) Details of proposed means of noise mitigation and control
- h) Construction material and waste management
- i) Procedure for implementing the CEMP

Reason: To mitigate the impact of the construction activities on ecology and biodiversity, in accordance with Policies CP14 of the Surrey Heath Core Strategy and Development Management Policies Document 2012 and the National Planning Policy Framework.

8. Within 3 months of the date of this decision, a scheme for the disposal of foul and surface water drainage from the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be carried out as approved and implemented within 3 months of the date of the approval.
9. No external lighting shall be installed at the site.

Reason: To enable the Local Planning Authority to retain control over any external lighting impact, and in the interests of visual amenity of this rural location, ensuring development does not erode the verdant character of surrounding area and to accord with Policies CP1 and DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.

10. The mobile homes shall comply with BS 8233:14 including the
 1. Walls and roof to be of construction and materials to provide a noise attenuation of 45 and 44 dBRw respectively.
 2. Windows and door glazing to be of specification to provide a minimum of 45dBRw sound reduction.
 3. Windows of habitable rooms to be provided with acoustic trickle vents, or a similar through the wall product, offering a minimum of 44Dn,e,w sound reduction capability when open.

Reason: In the interests of the amenities enjoyed by the occupiers of the dwellings and to accord with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.

11. Prior to commencement of the development an air quality assessment shall be submitted and approved by the local planning authority. The assessment should demonstrate that the national air quality objectives would not be exceeded at the proposed development. Where any objective is exceeded, a scheme of mitigation shall be submitted and approved by the local planning authority and retained.

Reason: To safeguard the health of the future occupiers in accordance with paragraph 192 of the NPPF.

Informative(s)

1. This Decision Notice is a legal document and therefore should be kept in a safe place as it may be required. A replacement copy can be obtained, however, there is a charge for this service.

This page is intentionally left blank