

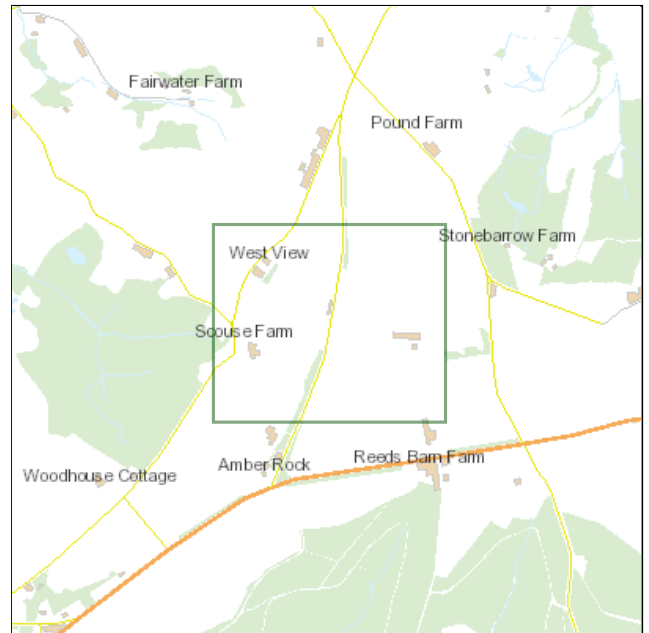
Ward Yarty

Reference 20/2825/COU

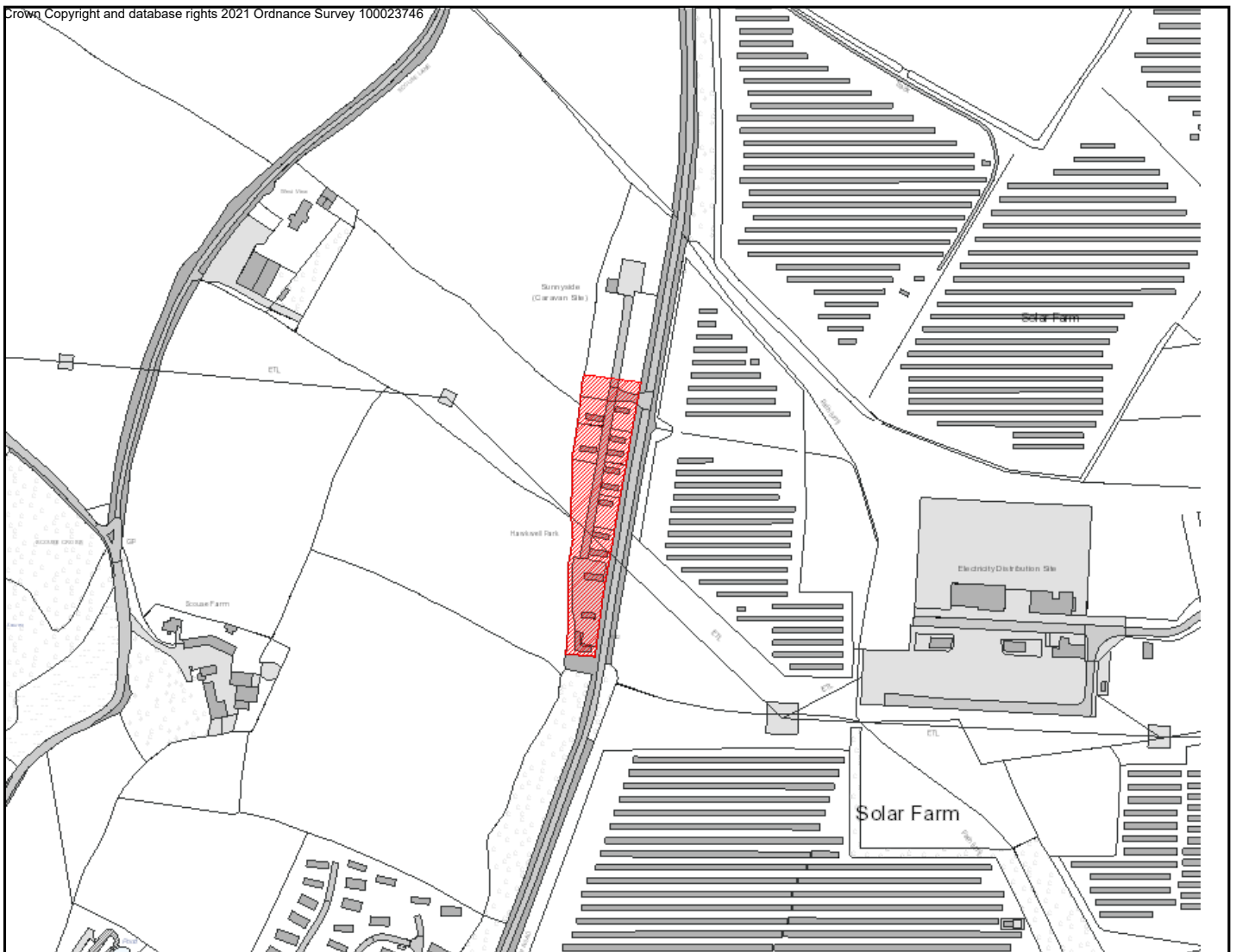
Applicant Ms Charmaine Lee

Location Hawkwell Park Wareham Road Hawkchurch

Proposal Retrospective application for retention of use of land as a residential caravan site without restricting the occupation to gypsies and travellers only.



RECOMMENDATION: Refusal



		Committee Date: 7th April 2021
Yarty (Hawkchurch)	20/2825/COU	Target Date: 03.03.2021
Applicant:	Ms Charmaine Lee	
Location:	Hawkwell Park Wareham Road	
Proposal:	Retrospective application for retention of use of land as a residential caravan site without restricting the occupation to gypsies and travellers only.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is before Members as the officer recommendation is contrary to the view of the Ward Member.

Hawkwell Park was originally granted planning consent in 2007 for occupation of the site by those that meet the definition of a gypsy/traveller. Indeed providing for the gypsy and traveller community was the main reason this site was granted for residential development despite its countryside location. This current planning application seeks to regularise the on-going breach of the occupation restrictions imposed at that time so that the pitches could be lawfully occupied by anyone.

After a number of years of gathering evidence on the nature of occupation of the site following complaints that various pitches were not being occupied by those from the gypsy and traveller community an enforcement notice was served last year requiring that occupation by those not of gypsy and traveller origin must cease. The reasons for serving the notice related to the on-going need for the site to meet the needs of the gypsy and traveller community and this being the justification for the development of the site despite its unsustainable location.

Strategy 7 of the Local Plan provides that no housing is acceptable in the countryside unless it is permitted by a specific Local Plan or neighbourhood plan policy. Policy H7 of the Local Plan permits gypsy and traveller sites in the countryside subject to a number of criteria being met. It is an earlier equivalent of this policy in the previous local plan that enabled this site to come forward in the first place. There is however no adopted local plan or neighbourhood plan policy that would enable the unrestricted occupation of the site as a matter of principle.

The site is isolated from services and facilities needed to serve occupiers day to day needs so that reliance would be on private modes of transport in conflict with

policy TC2 of Local Plan. There is also an identified ongoing need to provide occupation for the gypsy/traveller community and by reducing the availability of occupation to this community the proposal would conflict with this social element of the definition of sustainable development in the NPPF.

The proposal is recommended for refusal and as this recommendation.

CONSULTATIONS

Local Consultations

Clerk To Hawkchurch Parish Council

Hawkchurch Parish Council supports this application but suggests that permission is subject to the planning authority being satisfied that sewage treatment and water drainage is to an acceptable standard and does not have an adverse effect on the environment and adjacent land.

We would also suggest that if passed this site would no longer be an exception site, and therefore would be subject to either a S106 or CIL contribution.

We also feel that the planning authority should have some form of quality standard within its conditions, if it is minded to grant the application, to ensure that the high standards of accommodation on this site are maintained

Yarty - Cllr Paul Hayward

I have received a great deal of correspondence on this matter, and have met with the site managers on at least two occasions. I am happy to support this application as it will draw a line under what has been a most unfortunate series of events whereby the occupation of dwellings on site (earmarked for G&TC residents) has been provided to non G&TC persons, admittedly for the best of reasons ie to prevent harm to vulnerable people.

The proposals would allow the applicant to obtain access to the funding that is required to improve this site for the betterment of all residents and allow it to operate both as a G&TC and non-G&TC facility, whilst not noticeably affecting the tranquillity and serenity of the surrounding parish.

Having attended the Parish Council meeting on 19/1, I share some of the Councillors concerns and would suggest some carefully worded and well-thought out conditions relating to, but not limited to, drainage, plot numbers, and ratio between the different residential types permitted. Liaison with the applicant would be critical to ensure that the correct mix was achieved.

EDDC does have to safeguard its G&T site allocation numbers but also has a golden opportunity to work with the landowner to achieve both spaces for G&TC occupation when required, but also residences for others in need in this part of the district. There are moral, economic and social benefits of this COU.

Finally, I note that the PC has raised the issue of s106 contributions which were initially not payable as the site was classified "exempt". I would welcome a comment

from the EDDC S106 officer as to the veracity of this statement and the calculations for such contributions (if they are triggered by the COU approval). Thank you

Technical Consultations

Environmental Health

I have considered the application and do not anticipate any environmental health concerns.

Policy

I write with reference to the above application, on behalf of the Planning Policy section.

Background and Strategic Position

In 2015 a Gypsy and Traveller Needs Assessment was produced on behalf of EDDC and our neighbouring Devon authorities. The needs assessment identifies how many pitches are required across the District between 2014 and 2034 and is the main source of evidence used in our subsequent work on the subject as well as being the primary evidence supporting the (now adopted) East Devon Local Plan at examination. Gypsies and Travellers are a protected minority under Equalities legislation and we have a legal obligation to ensure their housing needs are met appropriately.

In order to align with the East Devon Local Plan end-date, the projected need has been adjusted to run from 2014- 2031 and reflects the 6 permanent pitches granted permission since the assessment was carried out (previously the need was for 34 pitches, 22 of which were needed in the first 5 years). The key requirements for new sites:

- 28 new Gypsy and/or Traveller pitches are needed between 2014- 2031
- Of these 28 pitches, 16 were needed in the first 5 years (up to 2019)
- 4-5 emergency stopping places, each of 4-5 pitches are also required.

Extensive work has been undertaken to identify sites that could help to meet this need but, to date, very limited landowner interest has been shown and the production of an allocations Plan has therefore been put on hold whilst further work is undertaken although the demand for new pitches remains very high.

Comments on this application

Current Use

The application site at Hawkwell Park currently has planning permission for 12 Gypsy or Traveller pitches (as a result of 6 pairs of 2 mobile homes capable of occupation by unrelated Gypsy/Travellers being permitted on each of the original 6 pitches). Part of the site, not subject of this application, has permission for transit pitches to be occupied by Gypsy/Travellers.

Current Application

On 5 February 2020, EDDC issued the applicant with an enforcement notice stating that Condition 2 of planning permission 07/1853/COU and Condition 1 of planning

permission 10/0368/VAR have been breached because the site is being occupied by persons other than Gypsies or Travellers. An appeal Inquiry is in progress.

This application seeks planning permission for the continuation of the use of land as a residential caravan site for unrestricted residential occupation. No changes to the number of pitches is proposed.

Development Plan Policy

H7

The applicant states that Hawkwell Park is not appropriately located for permanent pitches and that no demand for Gypsy/Traveller pitches exists in this location. The appropriateness of the location was carefully considered when Hawkwell Park was first granted planning permission in 2007 and it was considered that it would serve a need in the East of the District and meet a demand from Travellers using the A35 and A358 and working in Dorset and Somerset as well.

Within a 15km radius of the site there are several Gypsy or Traveller families who have outgrown their existing sites (as a result of young adults starting their own families) as well as Travellers occupying an unauthorised site who have been served an enforcement notice. These Gypsies and Travellers have indicated that they wish to remain in the Axminster area and that Hawkwell Park is in their area of search. The Travellers subject to the enforcement notice would potentially require 4-5 pitches.

The Council uses 'Devon Home Choice' to allocate affordable housing and this doesn't take account of Gypsy/Traveller ethnicity. The Hawkwell Park pitches are not advertised to Gypsies/Travellers through this system- this does not indicate that there are no Gypsies/Travellers in housing need in this part of the District and further, I understand there are Gypsies/Travellers in bricks and mortar housing locally who would prefer to rent a pitch but understood none were available.

In 4.6.3 the applicant refers to several permissions/proposals that will meet some of the identified need. I have taken the Woodbury Salterton site into account in my figures above; the Weston site is located in a floodplain so is unlikely to receive a permanent permission (in which case the occupiers will add to the need figures) and the requirement at Cranbrook is currently awaiting the Inspector's report but 15 pitches are proposed, not 30.

Strategy 7

An unrestricted residential mobile home site in the open countryside would NOT comply with Strategy 7. Development was permitted on this site purely in order to meet a need for Gypsy and Traveller accommodation and address the inequality caused by a severe shortage of such accommodation and a need in this part of the District. Unauthorised use of the site does not justify permanent residential use.

Policy TC2

Accessibility of new development to a range of goods and services by a range of means alternative to the private car is a fundamental requirement of the NPPF and the Local Plan. New residential development, which I understand this to be as the current use is unauthorised, will only be permitted within Built-up Area Boundaries unless it meets one of a range of limited exceptional circumstances and a need is

identified for such housing, for example an agricultural workers dwelling, affordable housing or housing for Gypsies and Travellers. In each case the suitability of a site is further qualified by specific criteria.

I do not believe that unrestricted market accommodation is justified at Hawkwell park. This site is located in open countryside, some 6km from the nearest settlement offering everyday facilities (Axminster). I appreciate the applicants comments regarding the bus service, but it appears to operate only on Thursdays and only one bus- arriving at Axminster at 10.45 and departing at 1pm.

<https://bustimes.org/services/688-thorncombe-axminster> . Whilst this is better than no service it is not sufficient for anyone to access regular employment or education and occupiers will be dependent on the private car. The bus stop is along a rural lane which is unpaved for most of its length and a 6 minute timescale is based on a healthy, able bodied person (not eg someone with a pushchair or mobility impairment).

SPD

The SPD provides guidance on the optimum layout for new sites. Government guidance does not specify minimum pitch sizes. Hawkwell Park is an existing site and the current layout (effectively doubling the number of pitches by allowing two mobile homes for occupation by different families per pitch) was supported by a Planning Inspector at appeal. He considered that there was sufficient space for Gypsy or Traveller families, including amenity space. The SPD recognises that in some instances it will not be possible to provide the optimum amount of space and that this is not necessary where pitches are to be used by small households.

NPPF

The NPPF requires the LPA to maintain planning policies that reflect the size, type and tenure of housing needed for different groups in the community. The local plan achieves this and the policies are monitored to ensure that a constant supply of appropriate housing is delivered. There is no differentiation between bricks and mortar housing and residential mobile homes with permanent permission- they are all classed as dwellings and mobile homes would be acceptable on sites allocated for residential development (subject to the usual design criteria etc). The applicant has not submitted any evidence to suggest that there is a specific need for residential mobile homes in the District, beyond suggesting that they can contribute to the supply of affordable housing. The Council's policy, in line with the NPPF, is to locate affordable housing where there is a demonstrable need and in the best location based on social, economic and environmental considerations eg. Where residents will have access to community/family support, local employment, facilities and services and minimise environmental harm. The location of Hawkwell Park in open countryside, away from an existing settlement, does not comply with these considerations. Again, it was only permitted in this location because it met the needs of a very specific group, protected under the equalities legislation. In addition the applicant does not suggest that the site be restricted to those in need of affordable housing and an unrestricted permission could not require this.

5.2.7 I am not aware of any Local Plans in this area that support the provision of residential mobile home parks/sites in the open countryside and the applicant does not suggest any locations for such developments. I do not consider that permanent residential sites of this type are a form of 'rural diversification' as supported by Government Guidance as the NPPF and other guidance direct residential development to sustainable locations.

6.4 suggests that the site requires considerable investment and this is only possible if a permanent unrestricted permission is forthcoming. It does not explore alternative options if the applicant no longer wishes to operate a Gypsy/Traveller site including the site being returned to its original state.

The applicant goes on to suggest that the application would meet various social and environmental objectives. It is considered that these would be better met on a site within or adjoining a settlement with a range of services and facilities that do not require residents to travel considerable distances. I am unable to support this application and recommend that it be refused due to the loss of Gypsy and Traveller pitches and the creation of residential development in open countryside, contrary to District and National policy.

Other Representations

None received to date.

PLANNING HISTORY

Reference	Description	Decision	Date
07/1853/COU	Residential gypsy caravan site of 2 pitches, 4 seasonal transit pitches and conversion of stables to amenity unit	Approved	29.10.2007
10/0386/VAR	Removal of conditions 5, 6 and 7 of permission 07/1853/COU to allow permanent residential occupation	Approved	05.07.2010
10/0443/COU	Use of land to form 5no transit pitches for occupation by five gypsy families, each with two caravans, including the laying of hardstandings, erection of amenity building and installation of underground cess tank.	Approved	11.02.2011
11/1893/FUL	Re-location of access and closing up of existing access Approval with conditions	Approved	28.10.2011

13/0308/VAR	Variation of condition 4 of planning permission 07/1853/COU to allow the provision of 6no additional residential pitches, each accommodating up to two caravans	Refused and dismissed at appeal	18.06.2013
15/2015/VAR	Variation of condition 2 of planning permission 07/1853/COU to facilitate the unrestricted occupancy of 6 permanent pitches	Refused	09.10.2015
16/1376/VAR	Variation of condition 4 of planning permission 07/1853/COU to allow the provision of 5 no. additional gypsy/traveller pitches each accommodating no more than one household, with no more than 2 no. caravans per pitch (of which no more than one shall be a static caravan)	Refused	25.10.2016
19/0999/CPE	Certificate of Lawfulness to establish lawful use of part of Hawkwell Park in breach of a gypsy/traveller occupancy restriction condition (imposed within Condition 2 of planning consent 07/1853/COU)	Refused	08.08.2019

Summary of the above planning history:

Planning permission was originally granted in October 2007 (07/1853/COU) for the seasonal use of this site for gypsies and travellers comprising 2 static pitches; 4 transit pitches and the conversion of the stable block to a utility building.

Subsequently in 2010 planning permission was sought to vary conditions imposed on the earlier approval to allow permanent residential occupation of the approved transit pitches, this application (10/0368/VAR) was approved. Conditions 2 and 3 imposed on the variation application itself and which sought to ensure only one static and one touring van were permitted on each pitch and that the occupants of these needed to be related were appealed and this appeal was allowed. The result of that appeal means that the 6 permitted permanent pitches can be occupied by 12 static caravans, allowing permanent residential occupation by up to 12 unrelated gypsy/traveller families.

Also in 2010 a separate application (10/0443/COU) was approved granting permission for the creation of 5 additional gypsy/traveller transit pitches (at the northern end of the site). This application was approved and conditioned restricting each pitch to transit caravans and restricting occupation by any one person or persons to no more than 3 months.

Planning permission was granted in October 2011 for the relocation of the site access to its current position and the closing up of the original site access at the southern end of the site.

An appeal was dismissed in April 2014 for a variation of condition which would have allowed 6 additional residential gypsy/traveller pitches, each capable of accommodating up to two caravans.

15/2015/VAR - Variation of condition 2 of planning permission 07/1853/COU to facilitate the unrestricted occupancy of 6 permanent pitches was refused due to the loss of dedicated gypsy/traveller provision where there is still an identified unmet need and on-going demand for such accommodation within the district. To allow the loss of gypsy/traveller pitch provision conflicted with the government aim to address under provision and maintain an appropriate level of supply of gypsy/traveller sites, thereby failing the social role of sustainable development to meet the needs of present and future generations. Additionally, to allow unrestricted dwellings in this location, which has limited facilities and services and no access to them without sole reliance on the private motor vehicle, fails to accord with the environmental role of sustainable development in moving toward a low carbon environment.

Planning application 16/1376/VAR - sought to facilitate increased accommodation on the site. This was refused due to there being insufficient information to demonstrate how surface/foul water would be accommodated from the increased flow. At the time it was also considered that the current provision of plots on the site was sufficient to meet the needs of the gypsy and traveller community in the area.

The certificate of lawfulness 19/0999/CPE failed to establish a continuous breach of the occupancy condition over a ten year period and so was refused. Accordingly while it may have been the case that a breach had occurred, on the balance of probability, there was a lack of evidence that this had accrued over the requisite time period to be immune from enforcement action.

An appeal by Ms Charmaine Lee, against the Enforcement Notice at Hawkwell Park also known as Hunters and Stables Caravan Park Inspectorate reference: APP/U1105/C/20/3248557 is currently pending with an Inquiry date set for this July. It has been put forward that if this planning application is successful then this appeal would be withdrawn.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies **D1 (Design and Local Distinctiveness)**

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

Strategy 27 (Development at the Small Towns and Larger Villages)

D2 (Landscape Requirements)

EN5 (Wildlife Habitats and Features)

Strategy 7 (Development in the Countryside)

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 2 (Scale and Distribution of Residential Development)

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

H7 (Sites for Gypsies and Travellers)

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

Neighbourhood Plans

Hawkchurch (not made)

Other guidance

East Devon Gypsy and Traveller Design and Layout Supplementary Planning Guidance

ANALYSIS

The site is located approximately 1 mile southeast of Hawkchurch and 4 miles east of Axminster. Hawkchurch Country Park (a holiday park) is located approximately 500m to the south and there are other isolated dwellings in the vicinity.

The existing planning permission is for 6 permanent pitches, located to the southern end of the site access, and mainly to the east side of the central access track and 5 no. transit pitches located to the north of the site access and either side of the central access track. In addition to the permanent pitches to the south of the site entrance there is also a utility block (former stable building) at the southern end of the site and a play/amenity area to the west side of the access track. To the north of the site entrance and beyond the existing transit pitches, on the western boundary is a small

utility building and east of this on the eastern site boundary and separated by a gravelled turning area is a sewage treatment plant.

The planning authority issued an enforcement notice on the applicant stating that Condition 2 of planning permission 07/1853/COU and Condition 1 of planning permission 10/0368/VAR have been breached because the site is being occupied by persons other than gypsies or travellers.

Principle Issues

The proposal seeks planning permission to alter the occupancy tie which covers the permanent pitches so that anyone can occupy the allocated pitches without restriction.

In support of this proposal, in the main, the applicant has put forward that (in summary);

- i) The local plan fails to account for unrestricted housing of caravans in the countryside and that as such para 11(d) of the NPPF is engaged i.e. the presumption in favour of sustainable development.
- ii) That the proposal would cater for the retired population and/or provide low cost housing.
- iii) That according to the standards of the councils own SPD the site fails to meet these and should therefore be released.
- iv) That there is no material difference in terms of modes of transport to facilities and services needed day to day by occupiers so that there would be no resulting harm from the change in occupation.

The East Devon Local Plan was adopted in January 2016 and contains a suite of strategies and policies for the allocation of housing within the district tailored to the specific geographical, social, economic, and environmental factors.

Strategy 7 of the adopted Local Plan is a rural restrictive policy which states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.

Strategy 7 applies to all development including housing within caravans or otherwise. For example, a Strategic Housing Market Assessment (SHMA) was produced as an evidence base for the relevant housing policies of the Local Plan. This document does not differentiate between types of accommodation type (for example bricks and mortar or otherwise) as it is based on needs alone (for example bedroom numbers). It is left for developers to then produce the schemes to meet this identified need and so the SHMA does not impose types of development to allow for flexibility in this approach. Therefore the development plan caters for all types of housing needs within the district.

Strategy 7 provides that no housing is acceptable in the countryside unless it is permitted by a specific Local Plan or neighbourhood plan policy. There is no adopted neighbourhood plan relating to this matter and no specific local plan policy allowing

residential caravan sites. In contrast Local Plan Policy H7 provides that permission for permanent and transit sites for gypsies and travellers will be granted if the relevant criteria is met. It is on the basis of a similar policy in the previous local plan that Hawkwell Park was established and it remains policy compliant as a gypsy and traveller site, however its use for unrestricted residential accommodation would not be compliant with the Local Plan.

The applicant contends that Policy H7 is not a relevant policy to consider as it applies to 'new' development for gypsy and traveller sites. Policy H7 focuses on the delivery of additional gypsy and traveller pitches to meet the needs identified in the district for the plan period and removing existing pitches can only act to increase those needs and so is clearly contrary to the aims of Policy H7 even though it does not expressly seek to prevent the loss of existing pitches.

The appellant's suggestion that the gypsy accommodation as it stands today would be unlikely to comply with the standards set in the gypsy and traveller sites SPD document does not weigh in favour of this proposal. The SPD cannot be retrospectively applied to development for a gypsy/traveller site which has already been granted planning consent.

This SPD states at para 1.13 that;

A design policy is needed to establish what the Council expect to see in terms of the design and layout of new sites although it is acknowledged that, as all sites will have different characteristics, it will need to be applied with a degree of flexibility. The policy will include criteria relating to the quality of a site and facilities that it must include in order to meet the needs of the Gypsy and Traveller communities. The policy would apply to all sites seeking to gain planning permission, whether allocation or windfall.

In its early days it is understood that the site successfully operated as a gypsy and traveller site and provided a good level of amenity to its occupants. The applicants appear to be arguing that the 2010 appeal decision which allows the originally approved 6 pitches to effectively be occupied as 12 restricts the ability of occupants to have touring caravans as well as trucks and other work vehicles. However the site does not have to be occupied as 12 pitches and the needs of individual gypsy and traveller families will vary depending on age, family size, life style, occupation etc.

The applicant has advanced an argument that the proposal would meet a social need by catering for those that are either retired, or in need of low cost accommodation however, no formal means of legal mechanism, tie or Heads of Terms has been submitted which would seek to ensure that this would be the case. Nor is it clear how such restrictions would be justified if the principle of general occupation of the site were to be accepted.

The applicants argument that there are no relevant policies in the Local Plan that address this circumstance is simply not the case as the policies of the plan that control general housing apply to all types of housing regardless of their construction. As a result their argument that the NPPF supports there application is considered to be flawed and the so called 'tilted balance' is not engaged.

Gypsy and traveller need within the district

It has been put forward by the applicant that the Local Plan refers to the RRR Consultancy Ltd study that was carried out in 2015 which advised there was a requirement for 37 gypsy and traveller pitches across the plan period. Since the study was carried out two permissions were granted in 2015 for single pitches which has brought the requirement down to 35. Permission has since been granted for 4 additional pitches near Woodbury Salterton (16/0201/FUL), and a site suitable for 30 pitches is to be provided at Cranbrook. Additionally temporary permission was granted on appeal (APP/U1105/C/16/3146167-73) in February 2017 for a mobile home and two touring caravans in Weston near Honiton. Taking into account the requirement for 30 pitches in Cranbrook in the west of the District, this indicates that the need across the plan period for the remainder of the District is already met.

This assessment is however flawed primarily because an assumption has been made that 30 pitches are to be provided at Cranbrook when the Local Plan only required up to 30 pitches to be provided with the decision being made through the Cranbrook Plan DPD to provide only 15 pitches at the new town. This was partly to address community concerns but also because the needs assessment showed a more immediate need for the remaining 15 pitches that Cranbrook could not meet due to the longer term delivery timetable for the expansion areas.

Local authorities have a statutory requirement to undertake reviews of housing needs in their district and such reviews must include assessments of the accommodation needs of Gypsies and Travellers residing in or resorting to their district. This is the origin of the term 'Gypsy and Traveller Accommodation (Needs) Assessment' (GTAA).

The Planning Policy for Traveller Sites (PPTS) expects local authorities to make a quantitative assessment of the need for Gypsy and Traveller sites in their area and make provision to meet that need through their policies and decisions.

In 2015 a Gypsy and Traveller Needs Assessment was produced on behalf of EDDC and our neighbouring Devon authorities. The needs assessment identifies how many pitches are required across the District between 2014 and 2034 and is the main source of evidence used in our subsequent work on the subject as well as being the primary evidence supporting the (now adopted) East Devon Local Plan at examination. Gypsies and Travellers are a protected minority under Equalities legislation and we have a legal obligation to ensure their housing needs are met appropriately.

In order to align with the East Devon Local Plan end-date, the projected need has been adjusted to run from 2014- 2031 and reflects the 6 permanent pitches granted permission since the assessment was carried out (previously the need was for 34 pitches, 22 of which were needed in the first 5 years). The key requirements for new sites according to the planning policy team are:

- 28 new Gypsy and/or Traveller pitches are needed between 2014- 2031
- Of these 28 pitches, 16 were needed in the first 5 years (up to 2019)
- 4-5 emergency stopping places, each of 4-5 pitches are also required.

Extensive work has been undertaken to identify sites that could help to meet this need but, to date, very limited landowner interest has been shown. In the absence of sites to be allocated the production of an allocations plan has therefore been put on hold whilst further work is undertaken. The demand for new pitches remains very high and so the focus has turned to the Council acquiring land itself to deliver gypsy and traveller pitches with a £1million budget set aside for this purpose. Unfortunately no suitable sites have come forward to enable this direct delivery to happen to date.

The applicant refers to several permissions/proposals that will meet some of the identified need. The Woodbury Salterton site has been taken into account in the figures above; the Weston site is located in a floodplain so is unlikely to receive a permanent permission (in which case the occupiers will add to the need figures) and the requirement at Cranbrook is currently awaiting the Inspector's report but 15 pitches are proposed, not 30.

The applicants argue that there is no demand for gypsy and traveller pitches at this site and that is why they have allowed others to occupy the site. They have however submitted no evidence to demonstrate that it has been marketed to the gypsy and traveller community indeed evidence gathered during enforcement investigations of the site show that it has been widely marketed for general occupation. In addition the site had gathered a reputation for a number of years locally for anti-social behaviour associated with a number of non-gypsy and traveller residents. The occupation of the site by those from the settled community and the social problems arising from them will no doubt have put many gypsy and traveller groups off occupy pitches there. It is however considered that bringing the site back into its intended use for only gypsies and travellers combined with the better management of the site being seen in recent times could make it an attractive location for the travelling community once again.

The applicants go on to argue that the 2015 Gypsy and Traveller Needs Assessment identified that the need for pitches was primarily in the western part of the district and note that this was sited as a reason for refusing additional pitches at the site. It is indeed the case that the majority of the remaining need is considered to be in the western part of the district but this is on the basis that the Hawkwell Park site is meeting much of the need in the eastern part of the district. If this is taken out of use for these purposes then the nature of the needs across the district are changed.

Given that there is still a high demand for gypsy pitches, the difficulties of a lack of land owner interest in providing gypsy and traveller pitches and a lack suitable sites coming onto the open market; the loss of existing pitches would be particularly unfortunate. Although not currently being used as gypsy and traveller pitches an enforcement notice is in place to address that situation such that they can be brought back into their intended use and help to meet the needs of the gypsy and traveller community in the district. These factors weigh heavily against releasing the site for general occupation.

Distance to services and facilities to meet the day to day needs of occupants.

The location of the development is isolated from day to day services and facilities needed by occupiers. This would result in an increased need to travel by private

modes of transport. The situation in respect of gypsy/travellers sites is materially different in planning terms.

The NPPF's aim to significantly boost the supply of housing does not mean that housing development in the countryside or inappropriate areas would be acceptable. There is a requirement to ensure that such provision of housing is located in suitable and sustainable locations, in accordance with policies of the NPPF as a whole. One of the core principles of the NPPF are that patterns of growth should be managed to make fullest possible use of public transport, walking and cycling. Furthermore, the NPPF states that there should be an emphasis on using sustainable modes of transport. It is reasonable to give weight to these policies as the PPTS states that decisions on traveller's sites should have regard to the policies of the NPPF.

The adopted Local Plan does not include the nearest settlement of Hawkchurch within the list shown at strategy 27 (Development of Small Towns & Larger Villages) and is therefore not a settlement viewed as a location as retaining a suitable level of services and infrastructure to accommodate future growth. Strategy 7 of the local plan aims to protect the character of the countryside with restrictions to the types of development that will be permissible in these areas. As the proposal is not within a designated settlement boundary the proposal lies within the countryside and should be subject to rural restrictive policies and this would accord with the thrust of the NPPF to recognise the countryside's intrinsic character and beauty.

Hawkwell Park was granted under a policy in the previous Local Plan that allowed residential development in the countryside specifically to meet the needs of the gypsy and traveller community. It would not have been granted under that policy framework for general housing purposes because it is located 'away' from any settlement which contains a suitable level of services and facilities; Axminster is around 3 miles with Lyme Regis 4-5 miles away. Hawkchurch is approximately half a mile to the north.

The site is not within suitable walking distance to services and facilities within Hawkchurch and/or Raymonds Hill (both of which have not retained their built up area boundary under the adopted local plan) for unrestricted occupants. The surrounding route network does not benefit from pavements or lighting so that day to day pedestrian use would not be a realistic prospect. As the previous Inspector (under appeal APP/U1105/A/13/2204344) noted the site is relatively far from Axminster, Lyme Regis and Hawkchurch itself - all of which have limited services.

The Inspector opined;

'Nevertheless, with an absence of convenient public transport, journeys from Hawkwell Park to many essential services would have to be made by private car. In these circumstances, I conclude that the appeal site is not in a sustainable location in terms of the criteria set by either the Framework or PPTS'.

There has been no material change in circumstances 'on the ground' to now come to a different conclusion in this regard to change the view that the site would be within a suitable location in relation to distances to services and facilities. It is established from

the outset of the PPTS that in taking decisions local planning authorities should also have regard to the policies in the NPPF so far as relevant, and as with the previous appeal mentioned above, it is reasonable to again give weight to the unacceptable distances to services and facilities.

The more relaxed approach to the location of gypsy and traveller sites is a recognition of their nomadic habit of life and a common desire to live close to nature. The site also enabled them to live close to the A35 which is a known route for gypsies and travellers travelling east/west through the district. These factors combined with the difficulties of identifying suitable sites to meet the needs of the gypsy and traveller community led to the site being granted permission originally. However a key point is that planning policy even today provides for a clear distinction between open market housing in the countryside and for accommodation for the gypsy/traveller community. This difference provides for a materially different set of criteria which is seen in the policy distinction between the two types of accommodation. There is sufficient land available and allocated in the local plan to meet the general housing needs of the district, however it has consistently been very difficult to find suitable available sites to meet the needs of the gypsy and traveller community.

Other matters

Concern has been expressed regarding the drainage situation on the site. However the release of an occupancy tie should not change (i.e. increase) foul water produced and therefore it is not a focus of this planning application to remedy.

The proposal does not create additional residential accommodation as it would simply lift restrictions on the occupation of accommodation that already exists. As a result it would not generate any additional CIL or S106 liabilities.

The applicant identifies a need for low cost rental housing in the district that this site could help to address. There is no doubt that there is an acute need for this type of housing but there is a similarly acute need for gypsy and traveller pitches which this site was designed to meet and could do so again. The key difference is that there can be a justification for locating gypsy and traveller pitches in this rural and unsustainable location due to the absence of suitable alternative sites particularly given the cultural and lifestyle needs of the gypsy and traveller community. The needs of the settled community for low cost rental housing can be met elsewhere, however we are not currently aware of alternative sites where the needs of the gypsy and traveller community can be met.

Conclusion

There remains a clear unmet need for gypsy/traveller sites within the district which weights against relinquishing this site for unfettered occupation. Hawkwell Park was only granted permission in a location that is not well located in terms of services and facilities in order to meet the unmet needs of the gypsy and traveller community that could not be met in more sustainable locations. This proposal seeks to remove the restrictions which limit its occupation to the gypsy and traveller community thereby undoing the logic of it being granted permission in the first place. As a result the issues

with the site and its sustainability are considered to be material to this application and weigh against it.

Paragraph 8 of the NPPF outlines that there are three objectives to sustainable development: economic, social and environmental. The NPPF explains that these objectives should be undertaken in concert in order to achieve sustainable development. The proposal is considered to fail in delivering the social role, in that it would restrict the existing supply of gypsy/traveller housing required to meet the identified needs of present and future generations. Additionally, the location of the development, divorced from services and facilities would fail in delivering the environmental role in moving toward a low carbon economy.

The main reason why the site was consented for pitch provision was to facilitate accommodation for gypsy/travellers. Given the inherent transitory lifestyle that this community leads this site was considered a suitable location to meet these specific needs within the district at the time of determination. The location of the site is unsuitable for general occupation due to the rural restrictive policies of the development plan. There are no material considerations, either in isolation or cumulatively, to outweigh the clear steer of the development plan in this instance.

As such a recommendation of refusal is made.

RECOMMENDATION

REFUSE for the following reason:

1. The unrestricted occupancy of permanent pitches would result in the loss of dedicated gypsy/traveller provision where there is still an identified unmet need and on-going demand for such accommodation within the district. To allow the loss of gypsy/traveller pitch provision would conflict with the government aim to address under provision and maintain an appropriate level of supply of gypsy/traveller sites thereby failing the social role of sustainable development to meet the needs of present and future generations. Additionally, to allow unrestricted dwellings in this location, which has limited facilities and services and no access to them without sole reliance on the private modes of transport, fails to accord with the environmental role of sustainable development in moving toward a low carbon environment. The variation of the conditions would be contrary to policies Strategy 7 (Development in the Countryside) and TC2 (Accessibility of New Development) of the Local Plan. The Local Planning Authority considers that the adverse impacts of this development in terms of its isolated location and loss of gypsy/traveller site provision demonstrably outweigh the limited benefits when assessed against the policies within the development plan considered in context and as a whole. To relinquish the gypsy/traveller tie would also be contrary to the Planning Policy for Traveller Sites and the National Planning Policy Framework.

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

Plans relating to this application:

	Location Plan	06.01.21
South	Block Plan	06.01.21
North	Block Plan	06.01.21

List of Background Papers

Application file, consultations and policy documents referred to in the report.