

**AUTHORISATION TO ISSUE AN ENFORCEMENT NOTICE
UNDER SECTION 172 OF THE TOWN AND COUNTRY PLANNING ACT 1990**

Enforcement Notice ref. EN/2025/04

1. Premises/Land Subject To The Notice

‘PLOT 3’, LAND WEST OF STOVOLDS HILL, CRANLEIGH GU6 8UX as shown edged red on the attached plan (‘the Land’)

Land Registry Title Numbers: SY521996

2. Name and Address of Owner (if known)

SY521996*: ANTHONY MARTIN GRAY and PHILIP MARTIN GRAY of Trys Hill Farm, Lyne Lane, Lyne, Chertsey, Surrey KT16 0AJ

*Land Registry indicates that there is an application pending in HM Land Registry against this Title. Waverley Borough Council (‘the Council’) have obtained a backdated record showing the entries on the register of title on ‘16 SEP 2024’.

3. Name and Address of Occupier (if known)

Known occupants:

Matthew Doherty, ‘PLOT 3’, LAND WEST OF STOVOLDS HILL, CRANLEIGH GU6 8UX

Becky Stevens, ‘PLOT 3’, LAND WEST OF STOVOLDS HILL, CRANLEIGH GU6 8UX

4. Suspected Breach of Planning Control

Without planning permission:

- (i) The material change of use of the Land to a residential caravan site for occupation by Gypsies and Travellers.

And all the associated development facilitating the material change of use, which includes:

- i) The erection of fencing on the Land;
 - ii) The erection of an outbuildings;
 - iii) The installation of lighting
 - iv) The installation of services.
- (ii) An engineering operation comprising the laying of hardstanding within the area outlined in red on the attached plan.

5. Relevant Planning History

Ref no.	Proposal	Decision/Date
WA/2023/00470	Change of use of land to provide 1 gypsy pitch comprising 1no. static caravan and 1no. touring caravan, erection of day room, and construction of hardstanding to provide parking.	Refused 17/04/2023 Appeal pending
WA/2021/02307	Change of use to use as a residential caravan site for 4 gypsy/traveller families, each with two caravans, together with laying of hardstanding and erection of 4 No. amenity buildings (part retrospective).	Refused 04/01/2022

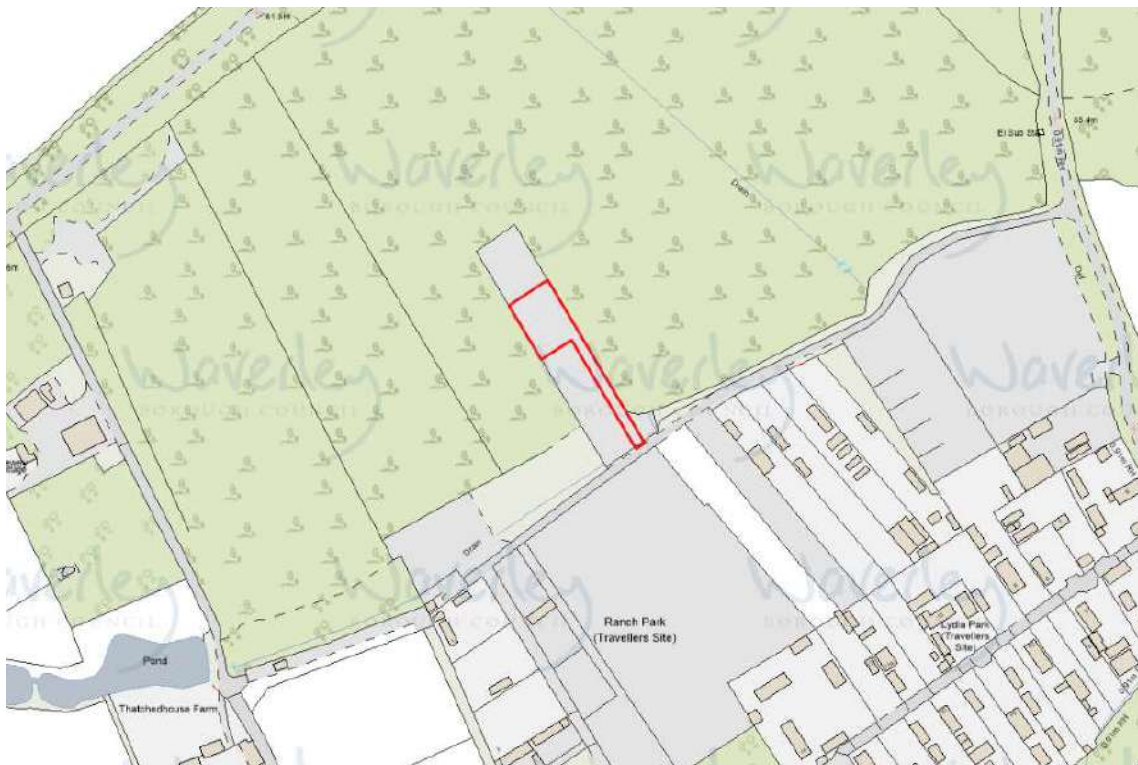
6. Action Initiated To Remedy Breach

The Land to which the Notice relates

'Plot 3' is part of a larger gypsy/traveller site that has been developed on land west of Stovolds Hill. The site has been subdivided into 4 roughly equal sized pitches/plots. The plots benefit from a shared access. This enforcement notice relates third plot accessible via the shared access. The following plan indicates the approximate extent of the each of the 4 plots (labelled 1-4):



This notice subject of this report relates to Plot 3 and the extent of land included within the notice is outlined in red on the below plan:



The significant activities to develop the plots was undertaken at the same time, and the plots are closely related and form one contiguous 'site'. The initial planning application for the site (ref. WA/2021/02307) also largely indicates the layout of plots on the site as they exist in their current form.

The access to all the plots at the site is obtained via a long-established existing track to the south of the plots. A further shared access track feeds north from this access track up the eastern side of the plots.

It is considered, however, that each plot should be treated separately for the purposes of any formal enforcement action due to the circumstances being different for each plot – particularly with regards to the personal circumstances of the occupants, as well as the planning application status for each of the plots.

Enforcement notices are being drafted concurrently in relation to the other Plots. As all notices include at least part of the shared access road serving the site, copies of all notices will need to be served of all known owners/occupants of each of the plots.

Background/Planning History

On 26 May 2021, complaints were received by the Council's Planning Enforcement Team alleging that an area of hardstanding was being created in an area west of Stovolds Hill, Cranleigh. A site visit conducted by Council officers was undertaken and it was established that an area of hardstanding was being created through the tipping of hardcore within the area identified in red on the plan below:



The below photograph – captured 29 May 2021 – shows the rubble tipped onto the site to form subbase for hardstanding:

Photographic record recorded 29 May 2021



Council officers visited the site again on 3 June 2021 where it was observed that caravans and trailers had been stationed on the land, in addition to additional materials to be used in the construction of hardstanding. A timber post and rail fence had also been partially constructed around the area where hardcore had been laid.

Photographs recorded 3 June 2021



Council officers engaged with the site owners/occupants, and it was established that the site had recently been purchased by Matthew Doherty on behalf of himself and his cousin.

On 4 June 2021, the Council issued a Temporary Stop Notice (TSN) in response to the development works undertaken. The TSN carried the following prohibitions:

- i) The stationing of any additional caravans on the Land*
- ii) The laying of any additional hardstanding*
- iii) The carrying out of any additional engineering works*
- iv) Cease the importation of any further materials*
- v) The use of the site for any use other than agricultural use*

The TSN took effect on 4 June 2021 and ceased to have effect of 2 July 2021.

On 5 July 2021, a retrospective planning application (ref. WA/2021/02307) for the *'Change of use to use as a residential caravan site for 4 gypsy/traveller families, each with two caravans, together with laying of hardstanding and erection of 4 No. amenity buildings (part retrospective)'* was submitted to the Council for consideration.

The Council sought injunctive relief and on 14 July 2021 was granted an interim Injunction by the High Court prohibiting the following activities on the land west of Stovolds Hill, Cranleigh:

- a. *Occupying the Land, whether in any caravan, mobile home, tent, any other structure intended for or capable of habitation, or how so ever.*
- b. *Bringing onto or keeping on the Land, a caravan, a mobile home, tent, or any other structure intended for or capable of habitation, or allowing any other person to do so;*
- c. *Installing or erecting on the Land any structure or building capable of or intended to:
be put to residential use; or
facilitate the other acts prohibited by this Order;*
- d. *Bringing onto the Land any hardcore or any other material for the preparation of hard surfaces;*
- e. *Installing, using or connecting on the Land, any services including running water, electricity or sewage connections;*
- f. *Carrying out any works on the Land including, but not limited to, the laying of hard standing;*
- g. *Allowing any persons to take up occupation of the Land; and*
- h. *causing, permitting or facilitating the change of use of the Land to include use as a site for stationing caravans for human habitation.*

The area subject of the Interim Order is outlined in red on the below plan:



Matthew Doherty, Mark Doherty and Barney Doherty were all named Defendants on the interim Order. The interim injunction was further extended on the 21 July and 14 September 2021.

Whilst the development undertaken on the site in 2021 appeared to facilitate a material change of use of the area subject of the Injunction order for the stationing of caravans for residential purposes, the site remained unoccupied throughout the remainder of 2021.

The Council refused planning application ref. WA/2021/02307 on 4 January 2022. No appeal was submitted against the Council's decision to refuse the application.

Between June and August 2022, the area subject of the injunction order was further developed with the site being occupied residentially. Additional caravans being bought onto the site, further operations to construct hardstanding undertaken and further fencing was erected at the site.

The Council sought further injunctive relief in relation to the land. Further interim orders were made in respect of the land 11 November 2022, 14 March 2023 and 21 March 2023. The matter proceeded to a final hearing in the High Court in June 2023 and a final Injunction Order in respect of the land was made on 6 September 2023 (High Court case ref. QB-2021-002721). However, certain named Defendants who were already occupied were released from the order: this included Matthew Doherty at Plot 3.

On 16 February 2023, a further planning application (ref. WA/2023/00470) was submitted in relation to the Land at Plot 3 only. Planning application WA/2023/00470 was refused by the Council on 17 April 2023. An appeal (ref. APP/R3650/W/23/3323108) was submitted against the Council's decision to refuse the application, and the appeal is still pending. The appeal was linked with appeals against other similar refusals in the vicinity, and the appeals are due to be heard by way of a Public Inquiry. The Public Inquiry initially opened on 12 November 2024; however, the Inquiry was adjourned and is due to reopen on 2 June 2025.

7. Reasons For Issue of Notice

The breach of planning control consisting of the material change of use of the Land constitutes development as described within S55(1) of the Town and Country Planning Act 1990 (as amended).

It appears to the Council that the breach of planning control consisting of the material change of use has occurred within the last ten years.

The breach of planning control consisting of the laying of hardstanding is an engineering operation and constitutes development as described within S55(1) of the Town and Country Planning Act 1990 (as amended).

It appears to the Council that the breach of planning control consisting of laying of hardstanding has occurred within the last four years.

Planning application ref. WA/2021/02307 was refused by the Council on 4 January 2022. The refusal carried 4 separate reasons for refusal. Most of the relevant planning considerations made as part of this planning application can be applied to the development that is subject of this enforcement notice. I attach copies of the decision notice and officer report for planning application WA/2021/02307 to this Authorisation as **Appendix JB01**.

The four reasons for refusal of planning application WA/2021/02307 as laid out on the decision notice are as follows:

1. *The permanent residential development proposed would encroach into the countryside and would be harmful to its intrinsic character and beauty. Moreover, the substantial projection into an otherwise undeveloped field would be harmful to the visual amenity of the Area of Great Landscape Value and the setting of the nearby Area of Outstanding Natural Beauty. Other considerations do not outweigh these harms, which would be contrary to policies RE1 and RE3 of the Local Plan (Part 1) 2018, and to paragraphs 174 and 176 of the NPPF 2021.*
2. *The proposed development would sit outside the established Lydia Park site boundary and would constitute an extension of this site. The scale of the resulting enlarged site, when taken together with the adjacent New Acres site to the south, would dominate the nearby settled community contrary to Policy C of the PPTS 2015.*
3. *In the absence of a site-specific ecological survey it is not possible to conclude that the impact of the proposed development to protected species would be acceptable. The proposed development would therefore conflict with policy NE1 of the Local Plan (Part 1) 2018, and paragraph 180 of the NPPF 2021.*
4. *In the absence of a site-specific flood risk assessment it is not possible to conclude that the proposed development would be safe for future occupiers, nor that there would be no increased flood risk elsewhere. The proposed development would therefore conflict with policy CC4 of the Local Plan (Part 1) 2018, and paragraph 167 of the NPPF 2021.*

Planning application ref. WA/2023/00470 was refused by the Council on 17 April 2023. This planning refusal also carried 4 separate reasons for refusal, which were largely commensurate with the reasons included within the WA/2021/02307 decision. I attach copies of the decision notice and officer report for planning application WA/2023/00470 to this Authorisation as **Appendix JB02**.

The four reasons for refusal of planning application WA/2023/00470 as laid out on the decision notice are as follows:

1. *The proposed development would encroach into the countryside and would be harmful to its intrinsic character and beauty. Moreover, the substantial projection into an otherwise undeveloped field would be harmful to the visual amenity of the Area of Great Landscape Value and the setting of the nearby Area of Outstanding Natural Beauty. Other considerations do not outweigh these harms, which would be contrary to policies RE1 and RE3 of the Local Plan (Part 1) 2018, and to paragraphs 174 and 176 of the NPPF 2021.*
2. *The proposed development would sit outside the established Lydia Park site boundary and would constitute an extension of this site. The scale of the resulting enlarged site, when taken together with the adjacent New Acres site to the south, would dominate the nearby settled community contrary to Policy C of the PPTS 2015.*
3. *In the absence of a site-specific ecological survey it is not possible to conclude that the impact of the proposed development to protected species would be acceptable. The proposed development would therefore conflict with policy NE1 of the Local Plan (Part 1) 2018, and paragraph 180 of the NPPF 2021.*
4. *In the absence of a site-specific flood risk assessment it is not possible to conclude that the proposed development would be safe for future occupiers, nor that there would be no increased flood risk elsewhere. The proposed development would therefore conflict with policy CC4 of the Local Plan (Part 1) 2018, and paragraph 167 of the NPPF 2021.*

Most of the relevant planning considerations made as part of the planning considerations made for the WA/2021/02307 and WA/2023/00470 planning applications can be applied to the development that is subject of this enforcement notice.

There have been changes to national planning policy and guidance since the date of WA/2023/00470 planning application decision. Updated data in respect of flood risk has also been provided by the Environment Agency.

Relevant Planning Constraints:

Countryside beyond Green Belt
Area of Great Landscape Value (AGLV)
Surrey Hills National Landscape (SHNL)
EA Surface Water – High Chance of Flooding
Tree Preservation Order (ref. 07/21)

Relevant Development Plan Policies and Guidance:

There have been changes in planning policy since the WA/2023/00470 application decision that include changes to both the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) – with both documents receiving relevant updates in December 2024.

The relevant development plan policies that apply to the development within this enforcement notice comprise:

Waverley Borough Local Plan (Part 1) (LPP1): Strategic policies and sites (adopted February 2018):

Policies: SP1, SP2, ST1, AHN4, RE1, RE3, TD1, NE1, NE2, CC2 & CC4.

Waverley Borough Local Plan (Part 2): Site Allocations and Development Management Policies (adopted March 2023) (LPP2):

Policies DM1, DM4, DM11, DM15, DM12 and DM37.

Bramley Neighbourhood Plan 2017-2032 (Adopted 13 January 2022) (BNP): BNP-G3 and BNP-E3

Other Guidance:

National Planning Policy Framework (2024) (NPPF)
National Planning Practice Guidance (NPPG)
Planning Policy for Traveller Sites 2024 (PPTS)
Waverley Borough Council Gypsy and Traveller Accommodation Assessment 2018 (GTAA)
Surrey Landscape Character Assessment (2015)
Waverley Landscape Review (2014)
Natural England's National Character Assessment
Surrey Hills Area of Great Landscape Value (AGLV) review (2007)

Principle of Development

Policy SP1 of LPP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development.

The occupants of the land meet the definition of “gypsies and travellers” as defined within the PPTS. As such Policy AHN4 is engaged.

Policy AHN4 of LPP1 states that provision shall be made for Gypsies, Travellers and Travelling Showpeople in accordance with the Waverley GTAA and allocates specific sites to meet the identified need are allocated within LPP2.

Policy AHN4 says that allocations or proposals for permanent sites will only be permitted if:

- Safe and convenient access to the site can be provided;
- There is easy and safe access to the strategic road network and the site does not generate traffic of an amount or type inappropriate for the roads in the area;
- The site is able to accommodate on site facilities for the parking and manoeuvring of vehicles and storage, play and residential amenity space;
- The site is located within a reasonable distance of local facilities and services including schools and health facilities;
- The site does not have an unacceptable impact on the physical and visual character of the area or on the amenities of neighbouring land uses;
- The site is capable of being provided with essential services; and
- It accords with other policies in the Plan.

The Planning Policy for Traveller Sites 2015 (PPTS) sets out the Government’s guidance for provision of Gypsy and Traveller sites.

Paragraph 25 of the PPTS states that local planning authorities should consider the following issues amongst other relevant planning matters when considering planning applications for traveller sites:

- a) The existing level of local 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 specific criteria used to guide the 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
- e) That they should determine applications for sites from any travellers and not just those with local connections

Paragraph 26 of the PPTS states local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing

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

Need for Gypsy and Traveller accommodation.

National planning policy relating to the provision of gypsy and traveller sites is set out in the PPTS. Paragraph 28 of the PPTS states *“If a local planning authority cannot demonstrate an up to date 5-year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply”*.

Paragraph 11(d) of the NPPF states that permission should be granted where there are no relevant development plan policies, or the policies in this Framework that protect areas or assets of particular importance (outlined within footnote 7 of the NPPF) provides a strong reason for refusing the development proposed, or where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Following the 2022 judgment in the Court of Appeal in the case of *Smith v SSLUHC & Ors*, the government reverted to the definition of Gypsies and Travellers used in the previous 2012 version of the PPTS. A revised PPTS was published on 12 December 2024, that again updated the definition of “gypsies and travellers” for planning purposes. This new definition now includes *“all other persons with a cultural tradition of nomadism or of living in a caravan”*.

Waverley Borough Council's Gypsy and Traveller Accommodation Assessment 2018 (GTAA) identified a need of 27 pitches for gypsies meeting the 2015 PPTS definition over the plan period 2017-32. This figure was since revised to 37 pitches to reflect the outcome of planning appeals at Pollingfold Place* and East View Cottages**, which established that an additional 10 households (8 previously defined as unknown and 2 additional) met the definition.

Between 2017 and 2022 there was an identified need for an additional 26 pitches. 50 pitches – an overprovision of 24 – were granted during this period. A further 5 pitches were required between 2022 and 2027, and 13 pitches were granted in 2022/2023. When this 8-pitch overprovision is added to the previous overprovision of 24 pitches, it results in an overall overprovision of 32 pitches for the period 2022-27, with much of this period still left to run.

Waverley's GTAA identified a need for 61 pitches in total***, which was revised to a need of 63 in view of the additional need of 2 pitches identified at Pollingfold Place. Planning permissions for a total of 63 pitches have already been granted by the Council between 2017-23 and an additional pitch remains extant at Bridge View (WA/2015/0189). Furthermore, the adopted Waverley Local Plan Part 2 (2023) (LPP2) allocates a further 14 pitches within the Borough, for a total of 78 new pitches within the plan period up to 2032. As such, where every unknown or non-2015 PPTS definition household identified in the GTAA requires provision, this provision would be exceeded.

The Council can thus not only demonstrate a 5-year supply of pitches, but a supply of pitches throughout the plan period to 2032, and as such, little weight can be afforded overall need within the Borough.

**APP/R3650/W/19/3230531*

***APP/R3650/A/13/2206225*

****27 pitches for gypsies/travellers meeting the 2015 PPTS definition, 24 where the definition status was unknown, and 10 for gypsies/travellers not meeting the 2015 PPTS definition.*

Location of development/sustainability of location

Policy SP2 of LPP1 sets out the spatial strategy for the Borough up to 2032 and seeks to focus development at the four main settlements, and to maximise opportunities for the redevelopment of suitable brownfield land for housing.

Policy ST1 of LPP1 requires that development schemes are located where opportunities for sustainable transport modes can be maximised, reflecting the amount of movement generated, the nature and location of the site and recognising that solutions and measures will vary from urban to rural locations.

Paragraph 13 of the PPTS states that local planning authorities should ensure that traveller sites are sustainable economically, socially, and environmentally. Local planning authorities should, therefore, ensure that their policies:

- a) promote peaceful and integrated co-existence between the site and the local community
- b) promote, in collaboration with commissioners of health services, access to appropriate health services
- c) ensure that children can attend school on a regular basis
- d) provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment
- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development
- f) avoid placing undue pressure on local infrastructure and services
- g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans
- h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.

Paragraph 26 of the PPTS states that Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the Development Plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

Policy AHN4 of Local Plan Part 1 advises a sequential approach to allocating sites for Gypsies, Travellers and Travelling Showpeople as follows:

- Providing additional pitches within available existing authorised sites;
- Suitable extensions to available existing sites
- Use of available land within settlements or other available and suitable brownfield land outside settlements;
- Other available and suitable land that does not fall within the above three categories. This sequential approach is applied to ensure that accommodation needed for travellers and travelling showpeople is provided in the most suitable locations with the least impact on the environment.

Policy DM15 of LPP2 states that development in rural areas should not be isolated from everyday services and facilities, while maximising opportunities for walking and cycling and seeking to avoid dependency on private vehicles.

The closest substantial settlement to the Land is the village of Dunsfold, which is sited approximately 1.5km away, to the southeast. However, Dunsfold has limited provision of facilities and services. It is the larger settlement of Cranleigh (located ~3.5km away from the Land to the west) providing a more extensive services and facilities. Transport from the Land to the nearest services and amenities is largely limited to private car. There are no train stations close to Stovolds Hill and local bus routes are limited, however, there is a school bus that serves Stovolds Hill that picks up and drops off children living in the locality on school days. Overall, opportunities for walking, cycling and other means of sustainable transport from the Land to local facilities and services are limited.

Whilst ready access to facilities and services from the site by sustainable transport modes is limited, this fact must be considered against paragraph 110 of the NPPF, which acknowledges that different policies and measures are needed for various communities, with opportunities to promote sustainable transport solutions differing between urban and rural areas. Furthermore, the PPTS recognises and permits the principle of development of traveller sites in rural locations. It would be typical for rural residents to travel distances of several kilometres by private vehicle to access local facilities and services. Officers have not observed means to support sustainable transport methods at on the Land, for example, electric vehicle charging points or bike

stores, however, these provisions are commonly secured by way of a condition if permission were to be granted for a residential use of the Land.

Considering the above, although the site is located some distance from everyday services and there is some conflict with Policy ST1 of LPP1, this fact must be tempered against the relevant guidelines within the NPPF and PPTS and as such, the Land is not so inaccessible by sustainable transport modes as to be in a wholly unsustainable location for a residential use.

The Land is located within the countryside and in an area that is at high risk of surface water flooding. The development is also considered to have an impact relating to the domination of the gypsy/traveller settlements at Stovolds Hill on the nearest settled community. These matters are discussed separately in expanded detail under separate headings below in this report.

Impact on the countryside, visual character, and AGLV

The Land is located within the Countryside beyond the Green Belt outside of any defined settlement. Policy RE1 of the LPP1 states that in this area the intrinsic character and beauty of the countryside will be recognised and safeguarded in accordance with the NPPF. Paragraph 187 of the NPPF states, among other things, that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and recognise the intrinsic character and beauty of the countryside. Paragraph 189 states great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues.

Both Policy TD1 of the LPP1 and Policy BNP-G3 of the Bramley Neighbourhood Plan (BNP) require development to be of high-quality design and to be well related in size, scale and character to its surroundings. Policy DM1 of LPP2 states development should not cause harm to existing environmental assets such as areas of landscape value. DM4 of LPP2 states that development should make the most efficient use of land, while being sympathetic and responsive to the prevailing character of development.

Policy DM15 of LPP2 states that development in rural areas should recognise the natural beauty and undeveloped character which is intrinsic to the open countryside, together with the distinctive character and pattern of development in areas of urban-rural transition and rural settlements, while making efficient use of land.

The Land is located within a locally designated Area of Great Landscape Value (AGLV) and is within the Low Weald National Character Area (Natural England's National Character Assessment), with values typical of the Low Weald National Character Area.

Policy RE3 of the LPP1 states that the AGLV will be retained for its own sake and serve as a buffer to the AONB, until there is a review of the Surrey Hills AONB (now Surrey Hills National Landscape) boundary, whilst recognising that the protection of the AGLV is commensurate with its status as a local landscape designation. It is considered that the Land is situated within a 'valued landscape' for the purposes of Paragraph 187 of the NPPF.

Plot 3 is located in an open field approximately 200 metres south of the boundary with the Surrey Hills National Landscape (SHNL) (formerly the Surrey Hills AONB), which is to the north of Dunsfold Road. As such, the Land is within the setting of the SHNL. Hascombe Hill - located within this nationally important landscape - sits at an elevated position to the north of the road and overlooks the Land and much of the other gypsy/traveller development on Stovolds Hill. Policy P6 of the Surrey Hills Management Plan states that development that would spoil the setting of the AONB by harming public views into or from the AONB will be resisted.

Plot 3 is located in the middle of a developed 'strip' of land comprising for plots/pitches. This development is situated to the north of a private access road off Stovolds Hill to the east. All the developed land within this strip is unauthorised and the authorised condition of the land – including Plot 3 – forms part of an area of natural open countryside. The land at the south of Plot 3, comprising the access, was formerly a wooded stream corridor, which was removed as part of the unauthorised works to develop the site. The main rest of the plot formerly comprised open grassland/scrubland.

The development of Plot 3 is visible both from parts of Dunsfold Road to the north, which is a busy B-road, and the roadside verges are open access land, as well as from the private access road and residential development to the south. In the views of the development from the south, the development readily visible with views of Hascombe Hill in the background, which sits at an elevation position to the Land. The development can also be seen from parts of Hascombe Hill, including parts of public footpaths no. 277, 279 and 533, as well as Byway no. 278. The tops of the caravans on the Plot can be seen and draw the developed gypsy/traveller settlement closer to public viewpoints on the Dunsfold Road and Hascombe Hill.

The construction of hardstanding on the Land, as well as the stationing of caravans, erection of fencing and parking of vehicles introduce visually intrusive elements that are incongruent with the open countryside to which it is situated.

Plot 3 is located on a wider field that serves as the remaining buffer between the existing gypsy/traveller settlement on Stovolds Hill and the SHNL and the development represents encroachment and intrusion into the open countryside, as well erosion of the prevailing natural landscape character in this location. The development thusly fails to preserve – nor enhance – the character of the landscape, either in its immediate or

wider setting and the development represents expansion of development into the natural terminal buffer before the SHNL to the north.

Policies P1 of the Surrey Hills Management Plan and BNP-E3 of the BNP relate to safeguarding dark skies and light pollution. Both policies seek to minimise the impact of development of light pollution. As the development of Plot 3 does not benefit from planning permission - where appropriate conditions can typically be utilised to restrict and control lighting at the site - the residential use of the Land gives rise to uncontrolled light pollution within this rural area in the setting of the SHNL.

Considering the above, the development of Plot 3 fails to recognise, or safeguard the intrinsic character and beauty of the countryside and fails to preserve or enhance the landscape character of the area within an AGLV and the setting of the SHNL. As such, the development conflicts with Policies TD1, AHN4, RE1 and RE3 of LPP1, Policies DM1, DM4 and DM15 of LPP2, Policies BNP-G3 and BNP-E3 of the BNP, Policies P1 and P6 of the Surrey Hills Management Plan, as well as the requirements of the NPPF.

Domination of the settled community

Paragraph 14 outlines Policy C of the PPTS, which states that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community. This provision is repeated again at paragraph 26 of the PTTS, stating “*Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community*”.

The Land is located to the north of existing gypsy and traveller sites on Stovolds Hill, which together form a largely contiguous gypsy/traveller settlement of approximately 12 hectares in area. The wider locality of Stovolds Hill is characterised by sparsely distributed residential dwellings and agricultural properties. The small hamlet of comprising of approximately 15 dwellinghouses – situated to the south on Stovold Hill – constitutes the nearest settled community.

As already identified, the existing gypsy/traveller settlement comprising various sites at Stovolds Hill is substantial in scale. The development of Plot 3, though only comprising a single pitch, extends the existing gypsy/traveller settlement at Stovolds Hill into the open countryside to the north and entails a physical encroachment beyond the lawful boundaries of the settlement.

Whilst the scope of the single pitch at Plot 3 may appear modest in isolation, the cumulative effect of this development, when considered in addition to and as an expansion of the existing sites to the south, the development further exacerbates the disparate spatial relationship between the gypsy/traveller settlement and the nearest settled community on Stovolds Hill. The development extends into open countryside,

rather than consolidating or infilling within the existing gypsy/traveller settlement and does not respect the spatial limits of the existing gypsy/traveller settlement.

For these above reasons, the development of Plot 3 does not respect the scale of, and further dominates, the nearest settled community, contrary to Policy C and Paragraph 26 of the PPTS.

Flood Risk

Policy CC4 of LPP1 states that development must be located, designed and laid out to ensure that it is safe; that the risk from flooding is minimised whilst not increasing the risk of flooding elsewhere; and that residual risk are safely managed. Policy CC4 also states that planning permission will only be granted where it is demonstrated that where sequential and exception tests have been undertaken and passed, development at risk of flooding will need to ensure that flood mitigation measures are integrated into the design both on-site and off-site. Policy CC1 (Climate Change) of LPP1 states that development will be supported where it contribute to the mitigating and adapting to the impacts of climate change, including measures that address the issues of flood risk through the application of Policy CC4.

Policy DM1 of the Waverley Local Plan (Part 2) states that development should avoid significant harm to the health or amenity of occupants of nearby land and buildings, and future occupants of the development, including by way of an increase in flood risk.

The NPPF requires that development be directed towards areas of lowest flood risk and that a sequential risk-based approach should be taken to individual applicants in areas known to be at risk now or in future from any form of flooding. Paragraph 175 states *'The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).'*

Paragraph 177 of the NPPF states where it is not possible for development to be located in areas with a lower risk of flooding, the exception test may have to be applied, having regard to the potential vulnerability of the site and the type of development proposed, in line with *Annex 3: Flood Risk Vulnerability Classification*, which identifies caravans, mobile homes and park homes intended for permanent residential use as highly vulnerable forms of development.

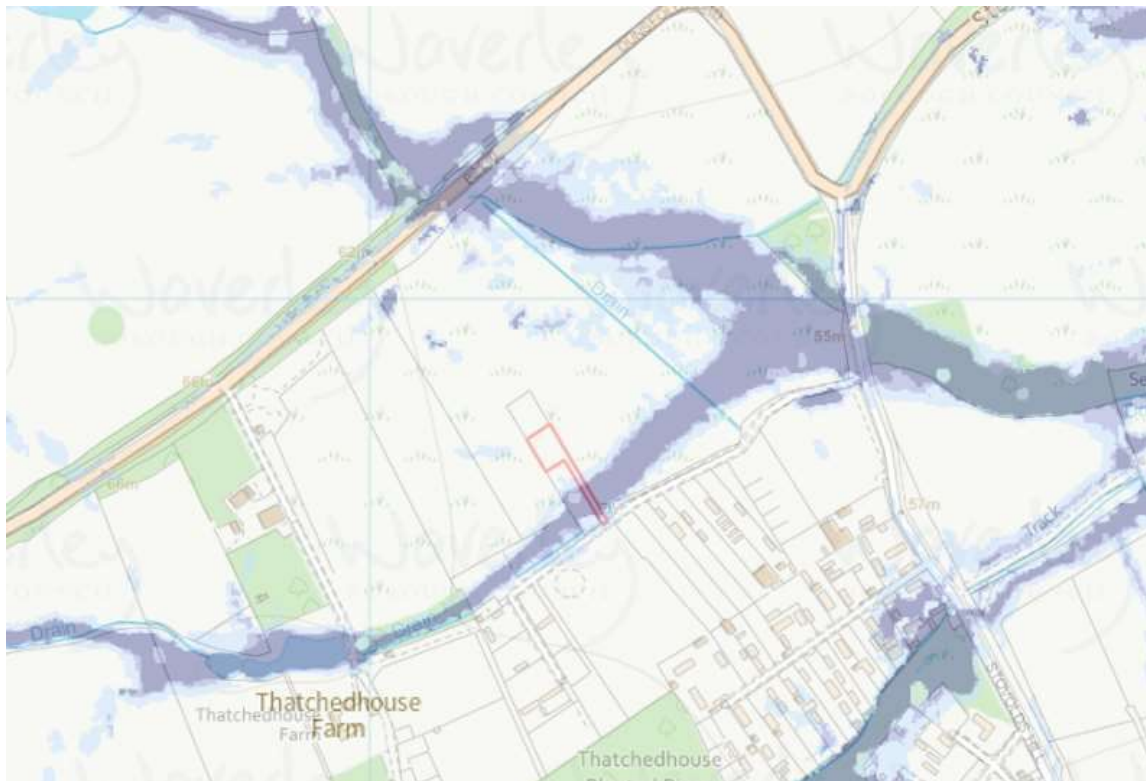
Paragraph 178 of the NPPF states that the exception test should be informed by a site-specific flood risk assessment, and that to pass the exception test it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk; and the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The Land is partially situated within an area identified as being at high risk of surface water flooding according to the Environment Agency Flood Maps. The areas identified as high risk includes part of the access to Plot 3. Other parts of the access are within areas deemed to be at medium risk and low risk of surface water flooding.

The following key and plan show the relevant site area of Plot 3 (in red) laid over the relevant surface flood data from the Environment Agency Flood Maps:

Surface water map

Yearly chance of flooding



Officers have witnessed surface water flooding occur at the site, where the site access meets the private access road to the south, following a period of heavy rainfall. The

following photograph, captured 27 November 2024, show the extent of flooding observed at the access:



Surface water flooding at access to Plot 3.

There is an open water course running along the southern extent of the Land, which forms part of an ordinary watercourse that runs along the northern side of the private access track that serves the development. The unlawful development appears to have been undertaken with scant regard to the watercourse, with hardstanding having been constructed over the top of it. It is not evidenced that the watercourse in this location has been adequately culverted to allow water to run through it.

No site-specific flood risk assessment was undertaken prior to the unlawful development being undertaken. Nor was any flood risk related documentation submitted with any of the planning applications for the development of the Land. However, a Flood Risk Assessment (92834-ImageanDesign-Stovolds Hill) by Unda Consulting Limited dated July 2023 ('the FRA') was provided as part of the appeal against the Council's decision to refuse planning application WA/2023/00470.

The FRA was provided to make an assessment in respect of flood risk to Plot 3, as well as Plot 4, and an adjacent site subject to planning application ref. WA/2022/02766 (also refused, and being considered at appeal). However, the basis of the report and

assessment for Plots 3 and 4 show inaccurate application boundaries and as such, the findings of the FRA are inaccurate. Furthermore, the access to Plot 3 includes areas deemed at high, medium, and low risk of surface water flood risk.

The information submitted with the appeal does not adequately address the need for a Sequential Test (ST), which is required for the highly vulnerable form of development in this location. The absence of an ST fails to establish whether a sequentially preferable site exists.

The development is situated in an area prone to surface water flooding and by virtue of the works undertaken in the watercourse, has altered the local drainage regime. The FRA submitted with the planning appeal fails to accurately define post-development flood extents or address climate change impacts. The FRA fails consider the alterations to an established watercourse, and whether this alteration will increase flood risk elsewhere. Without this information, the extent of increased flood risk, potential harm to life and property, and environmental impact cannot be determined.

With the absence of any site-specific evidence submitted to the contrary, the development undertaken at Plot 3 is deemed highly susceptible to risk from surface water flooding. Safe access and egress to Plot 3 during surface water flood events has not been demonstrated. The residential occupation of caravans on the land is development that is deemed a highly vulnerable form of development to flood risk, the local planning authority is unable to conclude that the development would not significantly harm the living conditions of occupiers due to the risk of flooding, or that the development has not increased flood risk elsewhere and so undermines wider consideration of public safety contrary to the relevant requirements of Policies AHN4, CC1 and CC4 of LPP1, Policy DM1 of LPP2 and the requirements of the NPPF.

Design Principles for Gypsy and Traveller Sites

Policy AHN4 of LPP1 seeks to ensure that the site is able to accommodate on site facilities for the parking and manoeuvring of vehicles and storage, play and residential amenity space. Policy TD1 states that the Council will ensure that new development is designed so that it creates safe and attractive environments that meet the needs of users and maximise opportunities to improve the quality of life and health and well-being of current and future residents by the provision of:

- private, communal and public amenity space
- on site play space provision (for all ages)
- appropriate facilities for the storage of waste

Policy DM37 of LPP2 sets out that unless families are sharing facilities, sites should measure at least 500m², and that each pitch should provide:

- a) A utility building

- b) An amenity area
- c) Hard standing for a trailer, touring caravan and another vehicle.
- d) Landscaping
- e) Access that promotes the ease of movement whether walking, cycling or driving
- f) Sufficient provision for waste management

Plot 3 is demarcated on-site by a post and rail fence. The pitch is spacious, measuring approximately 650sqm in area. The pitch contains ample space for the siting of a static caravan, a touring caravan and for the parking and manoeuvring of vehicles.

There is no clear provision for landscaping providing amenity space on Plot 3, and it is not evident how waste is managed or stored in relation to the residential occupation of the Land. It is acknowledged, however, that these elements could be controlled by way of a planning condition if planning permission was granted for the residential use of the Land.

Considering the above, with the absence of conditions to appropriately control the provision of appropriate facilities, the development conflicts with Policies AHN4 and TD1 of LPP1 and Policy DM37 of LPP2.

Ecology and Biodiversity

Paragraph 187 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Paragraph 193 states that when determining planning applications, local planning authorities should apply the following principle: if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Policy NE1 of LPP1 states that the Council will seek to conserve and enhance biodiversity. Development will be permitted provided it retains, protects and enhances biodiversity and ensures any negative impacts are avoided or, if unavoidable, mitigated. NE1 states that particular regard will be had to a hierarchy of important sites within the Borough, being: international designations, national designations and then local designations (including any other Priority habitats not expressly identified within the policy itself).

Policy NE2 of LPP1 states that the Council will seek to protect/enhance benefits to the existing river corridor and canal network, including landscaping, water quality or habitat creation and that that this will be partially achieved, on development sites, by retaining or creating undeveloped buffer zones to all watercourses of 8 metres for main rivers and 5 metres for ordinary watercourses. Policy NE2 also states that the Council will

seek, where appropriate, to maintain and enhance existing trees, woodland and hedgerows within the Borough.

Policy DM1 of LPP2 states that development should not cause harm or damage to existing environmental assets such as areas of ecological value and maximise opportunities to enhance such assets. Policy DM11 states that development should retain woodland, important trees, groups of trees and hedgerows, and to adequately protect trees and hedgerows during all phases of development to avoid damage. Policy CC2 of LPP2 states that the Council will seek to promote sustainable patterns of development and reduce the level of greenhouse gas emissions by incorporating measures that protect and, where possible, enhance the biodiversity value of the development.

The development of the Land was initiated by the laying of hardcore to form a sub-base for hardstanding and this operation commenced in late May 2021. The condition of the land immediately to the north of the private access track where development has occurred was a mixed broadleaf deciduous woodland and a watercourse forming a wooded stream corridor, with the rest of the Land to the north comprising grassland/scrubland – together, this forms the baseline condition of the site prior to development occurring. The undeveloped land to the north of the formerly wooded area is open grassland. The development of the Land has resulted in the loss of deciduous woodland (being a Priority Habitat) and hardstanding has been constructed in/over an ordinary watercourse, which runs close to the southern boundary of the Land.

The development appears to have been undertaken without regard to any impacts or harm to the habitat or biodiversity of the Land. The development of Plot 3 has resulted in the loss of deciduous woodland Priority Habitat and a watercourse at the site access. Scrubby open habitat has been lost by the development of the rest of Plot 3. This harm to habitat has not been avoided, mitigated or compensated for. The absence of sufficient species surveys of the land means that it is not possible to make an informed decision with respect to impact on protected species.

In the absence of sufficient information relating to the ecology impacts of the development on the ecology of the site, including the loss on Priority Habitat or protected species, the development conflicts with Policies AHN4, NE1 and NE2 and CC2 of the LPP1, Policy DM1 of LPP2 and the requirements of the NPPF.

Intentional unauthorised development

The Department for Communities and Local Government policy statement 2015 introduced planning policy to make intentional unauthorised development (IUD) a material consideration that would be weighed in the determination of planning applications and appeals from 31 August 2015.

In a letter dated 21 August 2015, the Chief Planning Officer of the (then) Department for Communities and Local Government in England issued a planning policy statement which stated the following:

“The government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action.

For these reasons, this statement introduces a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This policy applies to all new planning applications and appeals received from 31 August 2015.

The government is particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt.

After six months we will review the situation to see whether it is delivering our objective of protecting land from intentional unauthorised development.”

The statement noted that the situation would be reviewed after six months, but this review did not occur. This statement was reiterated in a Written Ministerial Statement (WMS) on 17 December 2015. While the WMS was not time-bound and was not incorporated into the NPPF, it has not been formally withdrawn and remains a material planning consideration.

The owners began development the Land in late May 2021. Shortly after a hard surface was installed touring caravans were sited on the land. This development was undertaken without planning permission. Site visits to the Land were conducted by Council officers and the Council sought Injunctive relief from the High Court. An interim injunction order prohibiting development of the land was initially obtained on 14 July 2021, and a subsequent interim order was made on 21 July 2021. Copies of the interim orders were properly served by Council officers on the land. No further development was then undertaken on the Land, residential occupation of the land ceased and the Land remained unoccupied for the remainder of the duration of 2021.

Planning application ref. WA/2021/02307 (*‘Change of use to use as a residential caravan site for 4 gypsy/traveller families, each with two caravans, together with laying of hardstanding and erection of 4 No. amenity buildings (part retrospective)’*) was submitted to the Council for consideration in September 2021. The applicant for the planning application was Mr Matthew Doherty. Planning application ref.

WA/2021/02307 was refused by the Council by way of decision notice on 4 January 2022.

Given the decision made in respect of the WA/2021/02307 planning application, proper service of the Interim orders, and the submission of the planning application, the Council is satisfied that Matthew Doherty would have been aware of the requirement for planning permission to develop the Land and reside on the land prior to the residential occupation of the land re-commencing in 2022. Furthermore, additional development has been undertaken on the Land since the residential occupation resumed, including the laying of top dressing on the hard surface, the installation of services, the erection of structures and erection of additional fencing.

The level of harm caused by the development has been outlined earlier within this report, and the development of the land exemplified the type of harm described within the WMS. In addition to the clear visual harm to a valued landscape, within the setting of the SHNL, the development has destroyed a Priority Habitat and likely has caused ecological harm as a result. Thusly, there has been no opportunity to limit or mitigate the harm caused (such as through biodiversity net gain).

Considering the above, it is regarded the IUD undertaken on the Land must be given consideration in the planning balance.

Personal circumstances, Human rights, the Public Sector Equality Duty (PSED) and the best interests of the children

Council officers have made enquiries into the personal circumstances of the occupants of the Land and documentation relating to the personal circumstances of the occupants have been submitted as part of the High Court proceedings for the Injunction case, as well as the planning appeal relating to the development of the Land. These circumstances must be appropriately considered.

Plot 3 is occupied by Matthew Doherty, his partner Becky Stevens and their six children (aged 2 – 15 years old). Matthew Doherty previously occupied the pitch on his own, and Becky Stevens and the children visited him there (having previously lived in bricks and mortar accommodation in Esher). However, it is understood that his partner, Becky Stevens and the children have now moved onto Plot 3.

Two of the children on-site are enrolled in school, and have admission confirmed for schools locally in Cranleigh. Furthermore, the younger children will be of school age within next 1-3 years. One of the children has complex medical issues that requires fast, ready access to medical facilities.

Matthew Doherty has advised that he has close family members that live close by at Lydia Park that serve as a support network.

The occupants of Plot 3 meet the PPTS definition of gypsies and travellers are in an ethnic minority, which is a protected characteristic under the Equality Act 2010. The Public Sector Equality Duty (PSED) – provided within Section 149 of the Equality Act 2010 - means that the Council, as a public authority, must have due regard to the aims of eliminating discrimination and other prohibited acts; advancing equality of opportunity; and fostering good relations between persons who share a relevant protected characteristic and those who do not.

In terms of the education needs of the children, it is acknowledged that having a settled base has clear benefits in terms of educational outcomes. Avoiding the general hardship of a possible roadside existence would be in the best interests of the children.

Furthermore, having a settled base would allow the family unit to all reside on the same site, and provide a stable environment for the children to continue with their education, provide opportunity for the family to enrol with a GP. When having regard to the child with complex medical needs living on the site, the requirement for a settled base is particularly crucial to enabling ready access to medical facilities should they be required if any medical emergency arises.

Article 8 of the European Convention on Human Rights (ECHR) is incorporated into UK law through the Human Rights Act 1998 and provides that everyone has the right to respect for their private and family life, home, and correspondence. The duty to facilitate the gypsy way of life is part of that, and Article 8 must also be considered in the context of Article 3(1) of the United Nations Convention on the Rights of the Child. This states that the best interests of the child shall be a primary consideration.

Requiring the cessation of the residential use of the Land would give rise to an interference with the occupants' Article 8 rights. Any such interference must be in accordance with the law, necessary in a democratic society in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Summarising the above, substantial weight must be afforded to the best interest of the children and significant weight afforded to the overall personal circumstances of the occupants of the Land in considering the planning balance and enforcement action taken in respect of the development of the Land.

Planning balance

Substantial weight is attributed to the impact of the visual character of the area (including the impact on countryside and the AGLV), and the harmful effects caused by the development within the Surrey Hills National Landscape (SHNL). The development fails to recognise or safeguard the intrinsic character and beauty of the countryside and fails to preserve or enhance the landscape character of the area. The

development, conflicting with the requirements of both national and local policy regarding its impacts on the character of a valued landscape and being within the setting of the SHNL, conflicts paragraph 189 of the NPPF. As such, the harm caused by the development by its failure to conserve or enhance the landscape to which it is situated within the setting of the SHNL places it in conflict with the relevant development plan policies and the NPPF.

As identified already within this report, part of the Land is at high risk of surface water flooding. Caravans intended for permanent residential use are highly vulnerable forms of development. It has not been demonstrated that sequential and exception tests are passed. Safe access and egress to Plot 3 during surface water flood events has not been demonstrated. The development results in unacceptable flood risk and this matter should also be attributed substantial weight, conflicts with the and provides a strong reason to refuse permission in terms of paragraph 11 of the NPPF, and substantial weight is afforded to the flood risk on the Land.

In the absence of sufficient information in respect of ecology the true impact on the ecology and biodiversity of the Land is unknown. The development has resulted in the loss of deciduous woodland Priority Habitat and a watercourse at the site access, and other habitat has been lost through the development of the Land This harm to habitat has not been avoided, mitigated or compensated for. The likely impacts on the ecology and biodiversity of the site should be afforded significant weight.

Significant weight is also attributed to the impact of the development in terms of its exacerbating the domination of the gypsy/traveller the nearest settled community, which is in clear conflict with the requirements outlined the PPTS.

Moderate weight is also attributed to the development of the land being intentional unauthorised development.

Moderate weight is also given to the fact that there is conflict with Policies AHN4 and TD1 of LPP1, Policy DM37 of LPP2 which, together, outline good design principles for gypsy and traveller sites, however, it is acknowledged that appropriate landscaping and waste management facilities could be secured by way of condition if planning permission was granted for the residential use of the Land.

The Council can demonstrate a five-year supply of deliverable sites for travellers and as such, no weight can be attributed to the general need for gypsy/traveller pitches within the Borough.

Weighed against the identified harms of the unlawful development is the consideration that it clearly would be in the best interests of the children on site not to require cessation of the residential use of the Land. Substantial weight is afforded to the bests interest of the children and significant weight is also afforded to the occupants overall

identified personal circumstances, within the context of human rights considerations and the Public Sector Equality Duty, and who would benefit from a settled base.

Notwithstanding this, the Council is aware that caravans being made available for rent on sites already benefiting from planning permission within the immediate vicinity at Stovolds Hill, and as such, the Council consider that a potential displacement of the site occupants away from the area or having to live a roadside existence is an unlikely prospect if they were made to leave the Land.

Given the extensive level of harm identified in relation to the development of the Land it is not considered unreasonable to serve an enforcement notice to address the breaches of planning control – including to require the cessation of the residential use of the Land. Any benefits that may arise from permanent residential occupation of the Land and the best interests of the children are not outweighed by the identified substantial harm to the countryside, visual character of the area, flood risk, domination of the settled community – nor the other identified harms.

In acknowledging that the occupants of the site will have a right of appeal against the service of an enforcement notice and will need to plan for alternative accommodation, it is felt that providing sufficient periods for compliance in respect of the cessation of the residential use of the Land would not be unreasonable. It is regarded that balancing the personal circumstances of the residents against the wider public interest is a proportionate response.

Conclusion

It is concluded that unlawful development of the Land conflicts with the Development Plan for the following reasons:

The development of the Land fails to recognise or safeguard the intrinsic character and beauty of the countryside and does not respect or enhance the landscape character of the area, which is an Area of Great Landscape Value and a valued landscape within the setting of the Surrey Hills National Landscape. As such, the development conflicts with Policies AHN4, RE1 and RE3 of LPP1, Policies DM1, DM4 and DM15 of LPP2, Policies BNP-G3 and BNP-E3 of the BNP, Policies P1 and P6 of the Surrey Hills Management Plan, as well as the requirements of the NPPF.

The material change of use of the Land to a residential caravan site, which represents an expansion to the envelope of the existing gypsy/traveller development at Stovolds Hill is considered to dominate the nearest settled community, contrary to Policy C of the PPTS.

The development undertaken on the Land is a highly vulnerable form of development and part of the Land is deemed to be at high risk of surface water flooding. The local

planning authority is unable to conclude that the development would not significantly harm the living conditions of occupiers due to the risk of flooding, or that the development increases flood risk elsewhere and so undermines wider consideration of public safety contrary to the relevant requirements of Policies AHN4, CC1 and CC4 of LPP1, Policy DM1 of LPP2 and the requirements of the NPPF.

The development of the Land has been undertaken without proper regard to the likely impacts on the ecology of the Land, including the impact caused by removal of deciduous woodland (Priority Habitat) and impact on a watercourse. With insufficient information relating to the ecology impacts of the development on the ecology of the site, the Council is unable to consider that scale of harm to ecology caused, or the potential impact on protected species. The development therefore conflicts with Policies AHN4, NE1 and NE2 and CC2 of the LPP1, Policy DM1 of LPP2 and the requirements of the NPPF.

The development of the Land as a traveller pitch fails to include adequate provision for amenity or landscaped areas. It is not evident how waste is managed in relation to the residential occupation of the Land. As such, the development conflicts with Policy AHN4 and TD1 of LPP1 and Policy DM37 of LPP2.

Considering the above, the unlawful development of the Land has been undertaken in conflict with Policies AHN4, RE1, RE3, TD1, NE1, NE2, CC1, CC2 and CC4 of LPP1, Policies DM1, DM4, DM11, DM15 and DM37 of LPP2, Policies BNP-G3 and BNP-E3 of the Bramley Neighbourhood Plan, Policies P1 and P6 of the Surrey Hills Management Plan, Policy C of the PPTS and the requirements of the NPPF.

Weighed against the harm is the personal circumstances of the occupants, who would benefit from having a settled base. However, it is considered that the major harms identified arising from the unlawful development are significant enough to justify formal enforcement action. Having regard to the PSED, and the particular requirement for public authorities to have due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it (s149(1)(c) of the Equality Act 2010), it is considered that to not take enforcement action when the development results in the significant harms identified would undermine relations between people who do and do not share a protected characteristic.

The council does not consider that planning permission should be given for the development because planning conditions could not overcome the planning harm identified (save for the identified harm in respect of lack of landscaping or waste management facilities). The Council do not consider that there are any steps short of those required by this notice which can be taken to remedy the breach of planning control.

It is acknowledged that there is a planning appeal (ref. APP/R3650/W/23/3323108) pending in relation to the residential use and associated development of Plot 3. A Public Inquiry in respect of this appeal due to recommence on 3rd June 2025. Notwithstanding this, it is considered expedient to serve an enforcement notice in relation to the land at this juncture as the construction of hardstanding on the land first commenced in late May 2021, and the service of an enforcement notice now will ensure that this element of the development cannot be regarded as time immune for enforcement (when having regard to Section 171B of the Town and Country Planning Act 1990 (as amended)).

Expediency of Enforcement

Where breaches of planning control are suspected, decisions to act will be based on the lawfulness of the development, the expediency of taking action and in accordance with:

- a) The Development Plan
- b) The Local Planning Enforcement Plan, as adopted, and
- c) Other material considerations

Given the conflict with the Council's development plan and national planning policy it is considered that it would be proportionate and expedient that an Enforcement Notice is issued to remedy the breach in accordance with the NPPF and Policy DM12 of LPP2.

8. Human Rights Implications

Consideration must be given to the impact of any decision in relation to Article 1 of the First Protocol: Protection of Property (peaceful enjoyment of possessions) & Article 8 of the ECHR (the right to respect for private and family life, home and correspondence).

It is recognised that enforcement action would result in an interference with the landowner's and occupiers use of the Land. The personal circumstances of the occupants of the Land have already been considered as part of the 'Personal circumstances, Human rights, the Public Sector Equality Duty (PSED) and the best interests of the children' and 'Planning balance' sections of this report.

The proposed enforcement action will also impose a burden on the owners because of the need to remove works and development associated with the residential use of the land and remove hardstanding from the land. The above Articles referred to allow for the enforcement of such laws as are deemed necessary to control the use of property in accordance with the general interest. In communications with the owners/occupiers and their agents, the Council has made it clear that action to enforce planning control will be taken if deemed necessary. The objections to the unauthorised

development referred to above are serious ones, which cannot be overcome by imposing conditions on a grant of planning permission. The wider public interest, with particular regard to the impact on the visual character of the area and the countryside, flood risk, domination of the nearest settled community and ecology can only be safeguarded by the taking of enforcement action. The Council must have due regard for similar interests of those who may object to the development, and of the public interest in sustaining an effective system of planning control in support of democratically derived planning policies. In all circumstances, it is considered that this action is necessary. It does not place a disproportionate burden on the owner or occupiers and is not an unjustified interference.

9. Steps To Be Taken To Remedy The Breach

- 1) Cease the use of the Land as a residential caravan site
 - 2) Remove from the Land:
 - (i) All mobile homes/caravans and touring caravans
 - (ii) All structures
 - (iii) All domestic paraphernalia
 - (iv) All services provided for the purposes of residential accommodation
 - (v) All fencing and gates
 - (vi) All lighting fixtures
 - 3) Remove the hardstanding (including that constructed over and within an ordinary watercourse) in the area outlined in red on the attached plan.
 - 4) Remove from the Land all resultant materials arising from compliance with step (3) above.
 - 5) Restore the land to its condition before the breach took place.
-

10. Recommended Period For Compliance

Six months

Signed By:

John Bennett

Date: 17/04/2025

John Bennett

Senior Planning Enforcement Officer

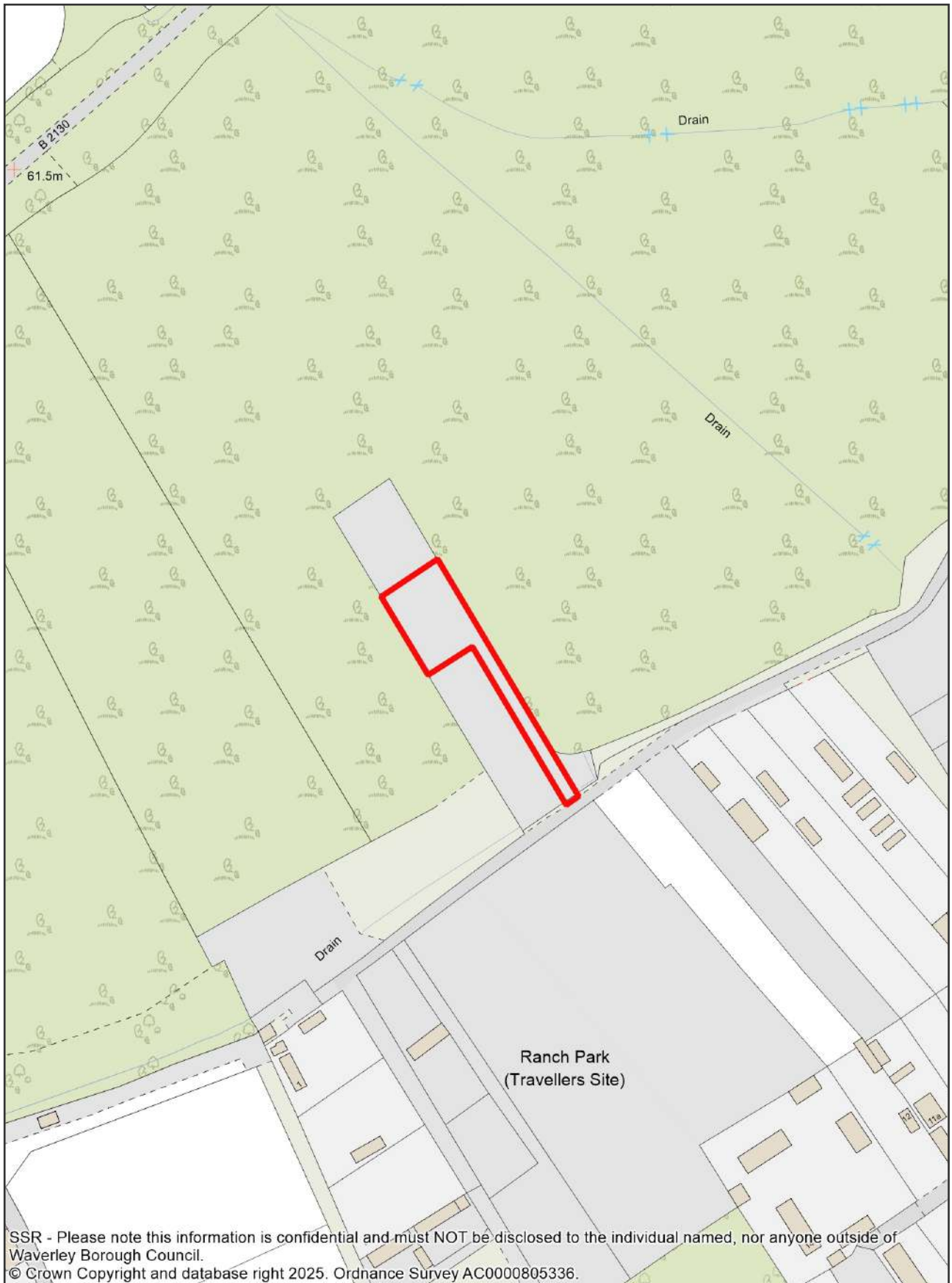
Authorised By:

17 April 2025

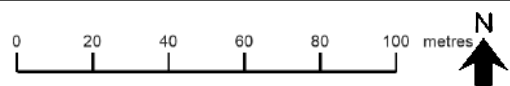
C Upton-Brown

Date:

Claire Upton-Brown, Assistant Director of Planning



Planning Enforcement Notice ref. EN/2025/04



Waverley Borough Council
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'Plot 3', Land West of Stovolds Hill,
Cranleigh GU6 8UX

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Mr Zac Ellwood
Head of Planning & Economic Development

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04 January 2022

TOWN AND COUNTRY PLANNING ACT 1990 (as amended) – WA/2021/02307

Waverley Borough Council as Local Planning Authority under the provisions of Part III of the Town and Country Planning Act 1990 (as amended), **DO HEREBY** signify their **REFUSAL** of planning permission for the development specified in the form of application deposited by you with the Council on 05/07/2021 and described in the First Schedule.

FIRST SCHEDULE

Change of use to use as a residential caravan site for 4 gypsy/traveller families, each with two caravans, together with laying of hardstanding and erection of 4 No. amenity buildings (part retrospective).

LAND NORTH OF LYDIA PARK CENTRED COORDINATES 502149 137873
 STOVOLDS HILL
 CRANLEIGH

SECOND SCHEDULE

The reasons for the decision of the Council to refuse permission for the development are:

1. The permanent residential development proposed would encroach into the countryside and would be harmful to its intrinsic character and beauty. Moreover, the substantial projection into an otherwise undeveloped field would be harmful to the visual amenity of the Area of Great Landscape Value and the setting of the nearby Area of Outstanding Natural Beauty. Other considerations do not outweigh these harms, which would be contrary to policies RE1 and RE3 of the Local Plan (Part 1) 2018, and to paragraphs 174 and 176 of the NPPF 2021.
2. The proposed development would sit outside the established Lydia Park site boundary and would constitute an extension of this site. The scale of the resulting enlarged site, when taken together with the adjacent New Acres site to the south, would dominate the nearby settled community contrary to Policy C of the PPTS 2015.



3. In the absence of a site-specific ecological survey it is not possible to conclude that the impact of the proposed development to protected species would be acceptable. The proposed development would therefore conflict with policy NE1 of the Local Plan (Part 1) 2018, and paragraph 180 of the NPPF 2021.
4. In the absence of a site-specific flood risk assessment it is not possible to conclude that the proposed development would be safe for future occupiers, nor that there would be no increased flood risk elsewhere. The proposed development would therefore conflict with policy CC4 of the Local Plan (Part 1) 2018, and paragraph 167 of the NPPF 2021.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Zac Ellwood', written in a cursive style.

Mr Zac Ellwood
Head of Planning & Economic Development

Informatives:

1. The Council confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements of the National Planning Policy Framework.

WA/2021/02307 – Change of use to use as a residential caravan site for 4 gypsy/traveller families, each with two caravans, together with laying of hardstanding and erection of 4 No. amenity buildings (part retrospective) at LAND NORTH OF LYDIA PARK CENTRED COORDINATES 502149 137873 STOVOLDS HILL CRANLEIGH

Applicant:	Mr Matthew Doherty
Parish:	Bramley CP
Ward:	Bramley Busbridge and Hascombe
Case Officer:	James Kidger
Neighbour Notification Expiry Date:	14/10/2021
Expiry Date/Extended Expiry Date:	30/08/2021
RECOMMENDATION	That permission be REFUSED

1. Site Description

The application site comprises a rectangular parcel of land adjacent the northerly boundary of the Lydia Park gypsy and traveller site. It is bound by the existing access track to the south, and undeveloped open ground to the north, east and west.

2. Proposal

Permission is sought for the change of use of the land to residential and the siting of four traveller pitches with associated access provision and landscaping. Development commenced at the end of May and the Council has subsequently obtained an injunction to prevent the applicants from completing it or occupying the site.

3. Relevant Planning History

- WA/2021/02392 – five pitches on a site to the south – currently under consideration.
- WA/2020/1382 – four pitches on a site to the north-east – currently under consideration.
- WA/2020/1866 – nine pitches on a site to the south – approved 29th November 2021.
- WA/2020/0516 – five pitches on a site to the east – approved 1st October 2021.
- WA/2020/0551 – seven pitches on a site to the east – approved 14th July 2021.
- WA/2019/1265 – nine pitches on a site to the south-east – approved 19th February 2020.
- WA/2018/1364 – two pitches on a site to the south-east – approved 18th January 2019.

- WA/2017/0176 – three pitches on a site to the south-west – allowed on appeal 13th August 2018.
- WA/2016/0179 – three pitches on a site to the south-east – allowed on appeal 4th December 2017.

4. Relevant Planning Constraints

- Agricultural Land (Grade 3)
- Area of Great Landscape Value (AGLV)
- Countryside beyond Green Belt
- Surface Water Flooding

5. Relevant Development Plan Policies and Guidance

Waverley Borough Local Plan Part 1: Strategic Policies and Sites (February 2018)

Policies SP1, SP2, ST1, AHN4, RE1, RE3, TD1, NE1, CC1, CC2, and CC4.

Waverley Borough Council Local Plan 2002 (retained policies February 2018)

Policies D1, D4, and RD9.

Bramley Neighbourhood Plan (post-referendum draft)

Policy BNP-E3.

Other guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Planning Policy for Traveller Sites (PPTS)

WBC Gypsy and Traveller Accommodation Assessment (2018)

Interim 5-year Traveller Accommodation Supply Position (Dec 2021)

6. Consultations and Town/Parish Council Comments

- Bramley Parish Council: Objection on the grounds that no further allocations have been made at this site, that the development would be located north of the drainage ditch and would intrude upon an undeveloped area, and that there would be an increase in the visibility of the wider site from Dunsfold Road.
- Private Sector Housing: No objection.

Officer note: the response from private sector housing raises various regulatory issues which are not planning matters.

7. Representations

One (1) representation has been received making the following comments:

- Works already undertaken have adversely affected the landscape, biodiversity, trees, screening, drainage, watercourses, and could cause land contamination;
- The site comprises what was unspoiled agricultural land and is within close proximity to the AONB;
- The site is exposed and will be especially noticeable on a seasonal basis;
- Loss of trees has exposed elements of the wider Lydia Park site to the AGLV and AONB, and has damaged the beauty of the landscape;
- Various inconsistencies in the application form;
- Surface water run-off from deposited hardcore may adversely affect neighbouring land;
- Proposed design and materials not in keeping with the Surrey Vernacular;
- 2m close boarded fencing is incongruous in the countryside and is insufficient to screen the site;
- Tree felling was in contravention of the Wildlife and Countryside Act 1981 and should also have been subject to a Forestry Commission licence;
- No acknowledgement of existing watercourse within application;
- Watercourse has been filled in, which may cause flooding upstream;
- Marshy wetland in close proximity to application site provides habitat for significant biodiversity;
- Endangered Wood White Butterfly is found at Thatched House Farm and may be/have been present on the application site;
- Land ownership matters;
- Potential for light pollution; and
- Four pitches on the relatively small plot would be overcrowded and would constitute unsustainable development.

8. Planning Considerations:

Principle of development

Countryside

The intrinsic character and beauty of the countryside is recognised by local and national policy. Of the former, policy RE1 aims to safeguard countryside land, while the PPTS at paragraph 25 sets out that new traveller sites in open countryside should be strictly limited. Though the site would be adjacent to an existing traveller settlement it is not allocated in the development plan, nor is it part of the emerging Local Plan Part 2.

Unlike recent permissions in the vicinity, which comprised infill developments on land between existing pitches, the proposed development would be outside the approximate boundary – formed of the access track and watercourse on a NE-SW

axis – of the wider Lydia Park site and would constitute a clear encroachment of the countryside. The drawings submitted show four mobile homes with associated touring caravans, amenity buildings, hardstanding, and boundary treatments, stacked perpendicular to the existing boundary and thus accentuating the visual impact. The site would have the appearance of a caravan park and would be recognisably developed. This is considered visually harmful to the undeveloped, intrinsic beauty of the surround, while the associated intensification of use would erode its tranquil character.

The site is within the AGLV and would be visible from the wider surround, particularly in longer views from the north-west, including from Hascombe Hill. Though it would be perceived in the context of the larger Lydia Park site, its substantial projection into an otherwise undeveloped field would give it a prominence over and above that of the previously permitted infill developments. There would thus be a degree of harm to the AGLV and the setting of the AONB.

The proposed development would form an extension of the wider Lydia Park site and the adjacent New Acres site to the south. When considered as a whole, this area would be significantly greater in scale than the settled community further to the south. This would conflict with Policy C of the PPTS, which sets out that traveller sites in rural areas should not dominate the nearest settled community.

Need and provision

Policy AHN4 sets out the Council's approach to accommodation for gypsies and travellers, to meet the need identified within the Traveller Accommodation Assessment. The latter document, published in 2018, sets out the need for traveller pitches in the Borough. The figures within the document have since been amended to reflect the outcome of a planning appeal at Pollingfold Place*, which established that an additional 7 households met the PPTS definition of gypsies and travellers.

Between 2021 and 2026 there is a need for an additional 5 pitches for gypsies and travellers who meet the definition. To date 12 pitches have been granted planning permission to contribute towards meeting this need. Between 2017 and 2020 there was a need for an additional 25 pitches to be provided. This need was exceeded by planning permissions granted for 29 additional pitches. This resulted in an overprovision of 4 pitches between 2017 and 2020. By rolling these 4 pitches forward to the five year period 2021-2026, it means 16 pitches have been provided against the identified need for 5 pitches.

Subsequent to this calculation a further 9 pitches have been granted at Lydia Park under WA/2020/1866. There is already, therefore, an overprovision of 20 pitches for the period 2021-2026, with the majority of this period left to run.

The Council can thus demonstrate a 5 year supply of pitches. This does not in itself prevent the grant of further pitches, but does mean that little weight can be given to need.

Alternative accommodation and personal circumstances

The applicant has provided confidential information relating to the personal circumstances of the families who would occupy the proposed pitches.

It is accepted that the applicants require a permanent base and that this would be beneficial for them and their families. However, given the substantial supply of pitches as set out above, and in particular the 21 pitches granted on Lydia Park this year alone, the Council does not accept that alternative accommodation – likely in the immediate vicinity – could not be found.

Other matters

The proposed site is considered safe and convenient both for vehicular and pedestrian access, would link with the strategic road network, and would not generate an inappropriate level of traffic. There would be adequate space for vehicles, storage, and residential amenity, local services would not be excessively distant, and essential services could be provided. The remaining criteria identified in policy AHN4 would thus be met, though in itself this is a neutral factor in the balance.

It is considered the location, current use, and context of the site would mean the proposal would not result in the loss of the best and most versatile agricultural land, nor result in the fragmentation of an agricultural holding.

The proposed pitches would provide an adequate standard of accommodation for future occupiers and would not be unduly detrimental to the amenity of neighbours.

No ecological appraisal has been submitted. Although the appraisal submitted in relation to land to the north-east (WA/2020/1382) does not indicate the presence of protected species, and no further information was requested for previous permissions on land to the south and east, in this case information from a third party suggests the presence of Wood White butterflies in the vicinity. As this is a protected species under the Wildlife and Countryside Act 1981 it is not considered unreasonable to require that its presence or otherwise is ascertained prior to any grant of permission. Consequently, in the absence of such information it is not possible to conclude the development to be acceptable on ecological grounds.

The site is within an area at low (1 in 1000 year) risk of surface water flooding. Policy CC4 requires the submission of a site-specific flood risk assessment for developments in such areas. In the absence of this, it is not possible to conclude the proposed development to be acceptable from a flood risk standpoint.

Planning balance

The proposed scheme would introduce a permanent residential form of development into the countryside which would be harmful to its intrinsic character and beauty. This

would clearly conflict with policy RE1 and attracts significant weight. Moreover, there would be harm to the AGLV contrary to policy RE3, and the additional pitches would add to a traveller site which is already greater in scale than the nearby settled community. In addition, further information is required in respect of ecology and surface water flooding, in the absence of which it is not possible to conclude the development to be acceptable.

Set against these harms is the provision of four additional pitches, and the improvement in quality of life which would accrue to the applicants resulting from a settled base. Little weight can be attached to either of these points given that, respectively, the supply of pitches is comfortably in excess of target, and the significant number of pitches recently granted at Lydia Park itself gives the applicants options for alternative accommodation which would achieve a similar benefit.

No other consideration thus outweighs the identified harms, and as such the proposed development is considered unacceptable.

Recommendation

That permission be REFUSED for the following reasons:

1. The permanent residential development proposed would encroach into the countryside and would be harmful to its intrinsic character and beauty. Moreover, the substantial projection into an otherwise undeveloped field would be harmful to the visual amenity of the Area of Great Landscape Value and the setting of the nearby Area of Outstanding Natural Beauty. Other considerations do not outweigh these harms, which would be contrary to policies RE1 and RE3 of the Local Plan (Part 1) 2018, and to paragraphs 174 and 176 of the NPPF 2021.
2. The proposed development would sit outside the established Lydia Park site boundary and would constitute an extension of this site. The scale of the resulting enlarged site, when taken together with the adjacent New Acres site to the south, would dominate the nearby settled community contrary to Policy C of the PPTS 2015.
3. In the absence of a site-specific ecological survey it is not possible to conclude that the impact of the proposed development to protected species would be acceptable. The proposed development would therefore conflict with policy NE1 of the Local Plan (Part 1) 2018, and paragraph 180 of the NPPF 2021.
4. In the absence of a site-specific flood risk assessment it is not possible to

conclude that the proposed development would be safe for future occupiers, nor that there would be no increased flood risk elsewhere. The proposed development would therefore conflict with policy CC4 of the Local Plan (Part 1) 2018, and paragraph 167 of the NPPF 2021.

Informatives:

1. The Council confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements of the National Planning Policy Framework.

Case Officer James Kidger Signed: Date: 14 December 2021

Agreed by Team or DC Manager.....Kathryn Pearson.....Date:...04/01/2022.....

Time extension agreement in writing seen by signing off officer:

Yes **No** N/A

Agreed by Development Manager or Head of Planning Services

.....

This report has been agreed under the delegated authority by the Head of Planning Services.

Decision falls within(1q) of the Scheme of Delegation

.....KP..... (initialled by Authorising officer)

Graham Powell
Imageon Designs Ltd
1734 LA CANNERIE
MORAINVILLE JOUVEAUX
FRANCE
27260

Claire Upton-Brown
Executive Head of Service - Planning
Development

Case Officer: James Kidger
Tel. No: 01483523270
Email: james.kidger@waverley.gov.uk

17 April 2023

TOWN AND COUNTRY PLANNING ACT 1990 (as amended) – WA/2023/00470

Waverley Borough Council as Local Planning Authority under the provisions of Part III of the Town and Country Planning Act 1990 (as amended), **DO HEREBY** signify their **REFUSAL** of planning permission for the development specified in the form of application deposited by you with the Council on 21/02/2023 and described in the First Schedule.

FIRST SCHEDULE

Change of use of land to provide 1 gypsy pitch comprising 1no. static caravan and 1no. touring caravan, erection of day room, and construction of hardstanding to provide parking.

LAND NORTH OF LYDIA PARK
STOVOLDS HILL
CRANLEIGH

SECOND SCHEDULE

The reasons for the decision of the Council to refuse permission for the development are:

1. The proposed development would encroach into the countryside and would be harmful to its intrinsic character and beauty. Moreover, the substantial projection into an otherwise undeveloped field would be harmful to the visual amenity of the Area of Great Landscape Value and the setting of the nearby Area of Outstanding Natural Beauty. Other considerations do not outweigh these harms, which would be contrary to policies RE1 and RE3 of the Local Plan (Part 1) 2018, and to paragraphs 174 and 176 of the NPPF 2021.
2. The proposed development would sit outside the established Lydia Park site boundary and would constitute an extension of this site. The scale of the resulting enlarged site, when taken together with the adjacent New Acres site to the south, would dominate the nearby settled community contrary to Policy C of the PPTS 2015.

3. In the absence of a site-specific ecological survey it is not possible to conclude that the impact of the proposed development to protected species would be acceptable. The proposed development would therefore conflict with policy NE1 of the Local Plan (Part 1) 2018, and paragraph 180 of the NPPF 2021.
4. In the absence of a site-specific flood risk assessment it is not possible to conclude that the proposed development would be safe for future occupiers, nor that there would be no increased flood risk elsewhere. The proposed development would therefore conflict with policy CC4 of the Local Plan (Part 1) 2018, and paragraph 167 of the NPPF 2021.

Yours faithfully

A handwritten signature in black ink, appearing to read 'C. Upton-Brown', with a long horizontal flourish extending to the right.

Claire Upton-Brown
Executive Head of Service - Planning Development

Informatives:

1. The Council confirms that it seeks when assessing planning applications to work with applicants in a positive and proactive way, in line with the requirements of Paragraph 38 of the National Planning Policy Framework. In this case the development proposed is unacceptable in principle.

WA/2023/00470 – Change of use of land to provide 1 gypsy pitch comprising 1no. static caravan and 1no. touring caravan, erection of day room, and construction of hardstanding to provide parking at LAND NORTH OF LYDIA PARK STOVOLDS HILL CRANLEIGH

Applicant:	Mr Matthew Doherty
Parish:	Bramley CP
Ward:	Bramley Busbridge and Hascombe
Case Officer:	James Kidger
Neighbour Notification Expiry Date:	23/03/2023
Expiry Date/Extended Expiry Date:	17/04/2023
RECOMMENDATION	That permission be REFUSED

1. Site Description

The application site comprises a square parcel of land within an open field some way beyond the established northerly boundary of the Lydia Park gypsy and traveller site. It is bound by undeveloped ground to the north-east and unauthorised traveller development to the north-west, south-east, and south-west.

2. Proposal

Permission is sought for the change of use of the land to residential and the siting of one traveller pitch with associated access provision and landscaping. Development commenced at the end of May 2021 and has been partially implemented, with both the access and hardstanding complete and two touring caravans in situ. The Council have obtained an injunction to prevent the applicant from undertaking further development pending the outcome of court proceedings, and a similar part retrospective application – WA/2021/02307 – was refused in January 2022.

3. Relevant Planning History

- WA/2023/00443 – three pitches on a site to the south-east – currently under consideration.
- WA/2023/00371 – one pitch on a site to the north-west – refused 6th April 2023.
- WA/2022/02766 – three pitches on a site to the east – refused 7th December 2022.
- WA/2020/1382 – four pitches on a site to the north-east – appeal (ref. APP/R3650/W/22/3297332) dismissed 16th September 2022.
- WA/2021/02392 – five pitches on a site to the south-east – approved 13th July 2022.
- WA/2021/03196 – two pitches on a site to the south-east – approved 27th May 2022.

- WA/2021/02307 – four pitches on a site to the east – refused 4th January 2022.
- WA/2020/1866 – nine pitches on a site to the south-east – approved 29th November 2021.
- WA/2020/0516 – five pitches on a site to the east – approved 1st October 2021.
- WA/2020/0551 – seven pitches on a site to the east – approved 14th July 2021.
- WA/2019/1265 – nine pitches on a site to the south-east – approved 19th February 2020.
- WA/2019/0515 – four pitches on a site to the south – approved 4th October 2019.
- WA/2018/1364 – one pitch on a site to the south-east – approved 18th January 2019.
- WA/2017/0176 – three pitches on a site to the south-west – allowed on appeal 13th August 2018.
- WA/2016/0179 – three pitches on a site to the south-east – allowed on appeal 4th December 2017.

4. Relevant Planning Constraints

- Agricultural Land (Grade 3)
- Area of Great Landscape Value (AGLV)
- Countryside beyond Green Belt
- Surface Water Flooding
- Tree Preservation Order (TPO)

5. Relevant Development Plan Policies and Guidance

Waverley Borough Local Plan Part 1: Strategic Policies and Sites (February 2018)

Policies SP1, SP2, ST1, AHN4, RE1, RE3, TD1, NE1, CC1, CC2, and CC4.

Waverley Borough Local Plan Part 2: Site Allocations and Development Management Policies (March 2023)

Policies DM1, DM2, DM4, DM5, DM9, DM11, DM15, and DM37.

Bramley Neighbourhood Plan (January 2022)

Policy BNP-E3.

Other guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Planning Policy for Traveller Sites (PPTS)

WBC Gypsy and Traveller Accommodation Assessment (GTAA) (2018)

6. Consultations and Town/Parish Council Comments

- Alfold Parish Council: Objection on the grounds that all the reasons for refusal given under WA/2022/02766 continue to apply, namely countryside and landscape harm, domination of nearby settled community, and the absence of ecological and flood risk information.
- Bramley Parish Council: Objection on the grounds that the development would harmfully expand the existing site into an undeveloped field within the AGLV, and that there is no shortfall of traveller sites in the borough.
- Private Sector Housing: No objection.

Officer note: the response from private sector housing raises various regulatory issues which are not planning matters.

7. Representations

One representation has been received neither objecting to nor in support of the proposed development, but making the following comments:

- No separation between the deposited hardcore and land belonging to Thatched House Farm. Adequate drainage needed to prevent run-off onto fields used for organic farming.
- Fencing or bunding required in order to prevent domestic material entering the fields which could harm livestock.
- Access to the site has been facilitated by filling in the watercourse adjacent the access track from Stovolds Hill. The watercourse conveys water from the ponds at Thatched House Farm toward Stovolds Hill and ultimately the River Wey, and should be restored in order to prevent the flooding of both the application site itself and nearby land including Thatched House Farm and pitches at Weeping Willows.
- Fields and woodland adjacent the site provide important wildlife habitat and should be assessed.
- Should permission be granted, conditions should be imposed to mitigate the landscape impact.

8. Planning Considerations:

Principle of development

Countryside

The intrinsic character and beauty of the countryside is recognised by local and national policy. Of the former, policy RE1 aims to safeguard countryside land, while the PPTS at paragraph 25 sets out that new traveller sites in open countryside should be strictly limited. Though the site is adjacent to an existing traveller

settlement it is not allocated in the development plan, nor is it part of the recently adopted Local Plan Part 2 (LPP2).

Unlike recent permissions in the vicinity, which comprised infill developments on land between existing pitches, the proposed development would be outside the approximate boundary – formed of the access track and watercourse on a NE-SW axis – of the wider Lydia Park site and would constitute a clear encroachment of the countryside. The drawings submitted show a mobile home and amenity building with associated space for a touring caravan and parking, hardstanding, and boundary treatments, located well beyond existing authorised development and thus accentuating the visual impact. The site would have the appearance of a caravan park and would be recognisably developed. This is considered visually harmful to the undeveloped, intrinsic beauty of the surround, while the associated intensification of use would erode its tranquil character.

The site is within the AGLV and would be visible from the wider surround, particularly in longer views from the north-west, including from Hascombe Hill within the AONB. Though it would be perceived in the context of the larger Lydia Park site, its siting toward the middle of an otherwise undeveloped* field would give it a prominence over and above that of the previously permitted infill developments. There would thus be a substantial degree of harm to the AGLV and the setting of the AONB.

The proposed development would form an extension of the wider Lydia Park site and the adjacent New Acres and Hilltops sites to the south, and would expand the developed envelope considerably. When considered as a whole, this area would be significantly greater in scale than the settled community further to the south. This would conflict with Policy C of the PPTS, which sets out that traveller sites in rural areas should not dominate the nearest settled community. The most recent traveller caravan count (January 2023) found 92 static caravans compared to approximately 20 dwellings.

*three other developments have taken place north of the track, but all are unauthorised.

Need and provision

The GTAA identified a need of 27 pitches for gypsies meeting the PPTS definition over the plan period 2017-32. This need has since been revised to 37 to reflect the outcome of planning appeals at Pollingfold Place* and East View Cottages**, which established that an additional 10 households (8 previously defined as unknown and 2 additional) met the definition.

Between 2017 and 2022 there was a need for an additional 26 pitches. 50 pitches – an overprovision of 24 – were granted during this period. A further 5 pitches are required between 2022 and 2027, and 7 have so far been granted. When this 2 pitch overprovision is added to the previous overprovision of 24 pitches, it results in an

overall overprovision of 26 pitches for the period 2022-27, with the majority of this period left to run.

Recent case law (*Lisa Smith v SSLUHC & Ors [2022] EWCA Civ 1391*) cast doubt on the robustness of the PPTS definition, but did not find it unlawful. Even including non-PPTS gypsies, however, the Council still considers it has an adequate supply of pitches. The GTAA identified a need for 61 pitches in total^{***}, now considered 63 in view of the additional 2 identified at Pollingfold Place. Against this, permissions for 57 pitches have been granted 2017-22, an additional pitch remains extant at Bridge View (WA/2015/0189), and the recently adopted LPP2 allocates a further 15, for a total of 73. Even in extremis, therefore, where every unknown or non-PPTS household identified in the GTAA requires provision, this provision would be met. In fact, it would be exceeded, with an overprovision of 10 pitches in this scenario. It is noted in this context that the Inspector who recently examined LPP2 had regard to the *Smith* judgement and was content that the Council's supply position remained robust. Neither did he find the GTAA to be out of date.

The Council can thus demonstrate a 5 year supply of pitches in either scenario. This does not in itself prevent the grant of further pitches, but does mean that little weight can be given to need.

*APP/R3650/W/19/3230531

**APP/R3650/A/13/2206225

***27 pitches for gypsies meeting the definition, 24 where the definition status was unknown, and 10 for gypsies not meeting the definition

Alternative accommodation and personal circumstances

The submitted personal statement sets out that the applicant's children and former partner live in a traditional flat, and the applicant seeks a settled base in order to be actively involved in the children's upbringing and to provide support and assistance. The implication is that the application site would be close to the flat, though this is not stated. The applicant states that the land was affordable and located near members of his extended family living on the wider Lydia Park site.

It is accepted that the applicant would benefit from a permanent base. However, given the substantial supply of pitches as set out above, and in particular the 28 pitches granted at Lydia Park within the last two years, the Council does not accept that alternative accommodation – likely in the immediate vicinity – could not be found. Moreover, the Council considers that some further infill opportunities remain within the existing site envelope, for example those currently under consideration as part of WA/2023/00443.

Other matters

Policies AHN4 and DM37

The proposed site is considered safe and convenient both for vehicular and pedestrian access, would link with the strategic road network, and would not generate an inappropriate level of traffic. There would be adequate space for vehicles, storage, amenity, a utility building, a degree of landscaping, and waste management. Local services would not be excessively distant and essential services could be provided. The remaining criteria identified in policies AHN4 and DM37 would thus be met, though in itself this is a neutral factor in the balance.

Agricultural land

It is considered the location, current use, and context of the site would mean the proposal would not result in the loss of the best and most versatile agricultural land, nor result in the fragmentation of an agricultural holding.

Amenity

The proposed pitches would provide an adequate standard of accommodation for future occupiers and would not be unduly detrimental to the amenity of neighbours.

Ecology

No ecological appraisal has been submitted. Although no ecological information was requested for previous permissions on land to the south and east, information from a third party received in relation to the previous application at the site (WA/2021/02307) suggests the presence of Wood White butterflies in the vicinity. As this is a protected species under the Wildlife and Countryside Act 1981 it is not considered unreasonable to require that its presence or otherwise is ascertained prior to any grant of permission. Consequently, in the absence of such information it is not possible to conclude the development to be acceptable on ecological grounds.

Flood risk

The site is within an area at low (1 in 1000 year) risk of surface water flooding, and an ordinary watercourse flows across the southerly element. Policy CC4 requires the submission of a site-specific flood risk assessment for developments in such areas. In the absence of this, it is not possible to conclude the proposed development to be acceptable from a flood risk standpoint. It is further noted that the watercourse appears to have been obstructed as part of the development already carried out, leading to an increase in flood risk elsewhere.

Trees

The site is covered by an area TPO which was made shortly after development commenced. By this point, however, most of the trees in the vicinity – essentially those adjacent the access track from Stovolds Hill – had already been removed by the applicant. Given that the majority of the development has already taken place it is no longer possible to assess the impact from an arboricultural perspective, or to require protective measures. However, damage to any remaining trees may leave the landowner(s) liable under the relevant legislation.

Submitted planning statement

The bulk of the submitted planning statement critiques previous planning decisions at Lydia Park, with the applicant considering the Council's use of the access track as the de facto boundary to be arbitrary and leading to what is described as inconsistent decisions. In the Council's view, however, there is a clear distinction as a matter of fact and degree.

There are three areas of land pertinent here. The first is that of the original Lydia Park development, application reference WA/1994/0128, which was granted by the Secretary of State in 1997. The second is the field to the north, previously separated from the original Lydia Park site by substantial hedging, which was undeveloped until the grant of permissions on appeal in 2017 and 2018 (APP/R3650/W/17/3169996 and APP/R3650/W/17/3180635 respectively). This field terminates at the access track and subsequent permissions upon it have been granted by the Council. The third is the land north of the access track, of which the application site forms part, which extends from the track to the Dunsfold Road. This land is undeveloped apart from the unauthorised sites currently subject to enforcement action.

The Council did not consent to the initial developments on the land south of the track (the second area described above), which were allowed on appeal at a time when the Council could not demonstrate an adequate pitch supply. These developments extend up to the track, which in turn is bound on its northerly side by the watercourse and tree line*. Together, these three features – track, watercourse, and trees – clearly distinguish the more developed land to the south from the undeveloped land to the north.

There is thus a clear distinction between development south of the track, on an already partially developed field, where additional development would be bound on two or three sides by existing pitches and would not further extend the overall site envelope, and development on a separate and hitherto undeveloped area of land, which would expand the site envelope considerably. This distinction was accepted by the Inspector who dealt with the recent appeal** on land to the north-east of the application site.

*many of the trees in the vicinity were removed by the applicant when the development commenced. Those that remain have been protected via TPO.

**APP/R3650/W/22/3297332, paragraph 13 of the appeal decision.

Human rights

Article 8 (1) of the Human Rights Act 1998 provides that everyone has the right to respect for his private and family life, his home and his correspondence. Article 8 (1) is balanced by Article 8 (2), which allows interference with those rights where the interference accords with the law and is necessary in a democratic society in the wider public interest, in terms of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of rights and freedoms of others.

Article 8 does not give a right to be provided with a home, nor does it go so far as to allow an individual's preferences for their place of residence to override the general interest and the right is thus not absolute. Interference with the right can be justified if the interference is for a legitimate aim, in accordance with the law and necessary in the public interest. The aim of preventing development which is on balance harmful is considered legitimate, and would both be in accordance with planning law and necessary in the public interest. Whether the interference is justified is dependent upon whether it is proportionate to the legitimate aims pursued.

Planning balance

The proposed scheme would introduce a permanent residential form of development into the countryside which would be harmful to its intrinsic character and beauty. This would clearly conflict with policy RE1 and attracts substantial weight. Moreover, there would be harm to the AGLV and the setting of the AONB contrary to policy RE3 (substantial weight), and the additional pitch would expand the envelope of a traveller site which is already greater in scale than the nearby settled community (substantial weight). In addition, further information is required in respect of ecology and drainage/flood risk, in the absence of which it is not possible to conclude the development to be acceptable.

Set against these harms is the provision of one additional pitch, and the improvement in quality of life which would accrue to the applicant resulting from a settled base. Little weight is attached to the former given that the Council can demonstrate a considerable oversupply of pitches. In view of the further information within the submitted personal statement, moderate weight is now attached to the latter. However, this is tempered by the large number of pitches recently granted at Lydia Park itself, which gives the applicant options for alternative accommodation which would achieve a similar benefit.

No other consideration thus outweighs the identified harms. Moreover, a temporary permission is not considered suitable as the needs of the applicant are not obviously short-term. Interference with the human rights of the applicant via the refusal of planning permission is therefore pursuant to a legitimate aim, necessary in the public interest, and a proportionate response in the circumstances.

Recommendation

That permission be REFUSED for the following reasons:

1. The proposed development would encroach into the countryside and would be harmful to its intrinsic character and beauty. Moreover, the substantial projection into an otherwise undeveloped field would be harmful to the visual

amenity of the Area of Great Landscape Value and the setting of the nearby Area of Outstanding Natural Beauty. Other considerations do not outweigh these harms, which would be contrary to policies RE1 and RE3 of the Local Plan (Part 1) 2018, and to paragraphs 174 and 176 of the NPPF 2021.

2. The proposed development would sit outside the established Lydia Park site boundary and would constitute an extension of this site. The scale of the resulting enlarged site, when taken together with the adjacent New Acres site to the south, would dominate the nearby settled community contrary to Policy C of the PPTS 2015.
3. In the absence of a site-specific ecological survey it is not possible to conclude that the impact of the proposed development to protected species would be acceptable. The proposed development would therefore conflict with policy NE1 of the Local Plan (Part 1) 2018, and paragraph 180 of the NPPF 2021.
4. In the absence of a site-specific flood risk assessment it is not possible to conclude that the proposed development would be safe for future occupiers, nor that there would be no increased flood risk elsewhere. The proposed development would therefore conflict with policy CC4 of the Local Plan (Part 1) 2018, and paragraph 167 of the NPPF 2021.

Informatives:

1. The Council confirms that it seeks when assessing planning applications to work with applicants in a positive and proactive way, in line with the requirements of Paragraph 38 of the National Planning Policy Framework. In this case the development proposed is unacceptable in principle.

Case Officer James Kidger

Signed: Date: 14 April 2023

Agreed by Team or DC Manager

Kimberly Corps

Date: 14 April 2023

Time extension agreement in writing seen by signing off officer:

Yes

No

N/A

~~Agreed by Development Manager or Head of Planning Services~~

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This report has been agreed under the delegated authority by the Head of Planning Services.

Decision falls within 1a.(*number reference*) of the Scheme of Delegation

KC (initialled by Authorising officer)