

|                    |   |
|--------------------|---|
| Report to          | <b>Planning Committee</b>   |
| Date               | <b>14 February 2019</b>   |
| By                 | <b>Director of Planning</b>   |
| Local Authority    | <b>South Downs National Park Authority (Mid Sussex)</b>   |
| Application Number | <b>SDNP/18/05963/FUL</b>  |
| Applicant          | <b>Mr and Mrs J and G Hearne</b>  |
| Application        | <b>Material change of use of land for stationing of caravans for residential occupation with facilitating development (hard standing)</b> |
| Address            | <b>Market Gardens Caravan Site, Clappers Lane, Fulking, Henfield. West Sussex. BN5 9NH.</b>   |

---

**Recommendation: That planning permission be granted subject to the conditions set out in paragraph 10 of this report.**

---

### **Executive Summary**

Market Gardens is located on a rural road to the north east of the village of Fulking. The site currently has permission for two permanent pitches (2No static caravans, 2No touring caravans and 2No ancillary day rooms), with permission for the second pitch granted following a decision by the SDNPA Planning Committee on 18 January 2018 (SDNP/17/03762/CND).

The application seeks permanent permission for the siting of 2No further pitches on land to the south of the existing site. A pitch generally consists of one static mobile home, one touring caravan and a day room; in this instance 2No static caravans and 2No touring caravans are proposed only. The site would be retained as a private site for occupation by immediate members of the Hearne family.

Neither the Mid Sussex Gypsy and Traveller Accommodation Assessment (GTAA) (as amended July 2016) or the SDNPA'S Gypsy, Traveller and Travelling Showpeople Background Paper (GTTSBP) (2018 Update) identify any future need for the Mid Sussex area of the National Park. However, the Local Planning Authority must have regard to changes since this study was undertaken, and any personal circumstances of the applicants which might substantiate a specific need for additional caravans at the site. The application must also be weighed against other potential impacts on neighbouring land uses, landscape, and the special qualities of the National Park, and consideration given as to whether the cumulative impact of development is proportionate to the scale and context of the settled community.

In this instance, the personal circumstances of the applicants are well evidenced, and any adverse impact to neighbouring land uses, landscape, and the special qualities of the National Park is considered to be minor provided suitable mitigation is secured via condition. The two adult sons who would occupy the pitches have lived on the site since 2005, and the cumulative impact in the context of the settled community is considered acceptable.

Officers therefore recommend that permission be granted, subject to appropriate conditions securing measures including restriction of the pitches to personal use by the Hearne family, landscape mitigation and external lighting.

## **1. Site Description**

- 1.1 Market Gardens is located on a rural road to the north east of the village of Fulking outside of the village settlement boundary, which in any case will not be retained on adoption of the South Downs Local Plan. The site is located on the southern side of Clappers Lane approximately 240 metres to the north of the village junction with Edburton Road and Poynings Road.
- 1.2 The application site comprises a small grassed field to the south of the existing site currently used to site the 2No pitches that are currently inhabited by the family. The approved day rooms (from previous permissions) have not been constructed to date.
- 1.3 The site is accessed from Clappers Lane from the north via a private driveway. It is bounded along the western and northern roadside boundaries by a 1.8m fence, and the interior of the site is partially visible from the entrance on Clappers Lane. Other close range views are largely screened by trees and tall hedgerow.
- 1.4 To the east of the site is Lower Kents, where an application for conversion of a storage/office building to a dwelling under reference SDNP/17/00844/FUL was refused by reason of being unsustainable development in the rural area, and subsequently allowed at appeal. To the west of the site is The Conifers, which has permission for use as a private gypsy and traveller site consisting of 2No pitches (SDNP/14/03055/FUL). The nearest dwellings are sited to the west of Clappers Lane, some 80m distance from the site, and The Cabbage Patch, approximately 120m to the north east of the site.
- 1.5 The site lies within the scarp foot slope area as defined by the South Downs Integrated Landscape Character Assessment (ILCA) I2: Adur to Ouse Scarp Footslopes. Fulking is a characteristic spring line hamlet medieval in origin, located at the steep chalk scarp which forms a dramatic backdrop. The site is visible from the top of the scarp slope near Devil's Dyke which is over 1km distance away to the south.

## **2. Relevant Planning History**

- 2.1 The following planning history is relevant to the Market Gardens site:
  - F/64/802 The siting of a residential caravan. Approved 23 February 1965.
  - F/65/659 Agricultural store shed. Approved 26 November 1965.
  - FK/7/74 Stationing of caravan. 3 year temporary personal permission, approved 27 January 1975.
  - FK/4/79 Renewal of temporary permission FK/7/74. Further 3 year temporary personal permission, approved 2 January 1980.
  - FK/7/84 Renewal of temporary permission FK/7/74. Further 3 year temporary personal permission, approved 21 December 1984.

The permission expired on 31 December 1990.

- 05/01874/FUL Retrospective consent for the use of the land as a private caravan site for one gypsy family (the current applicants). Refused at the Mid Sussex planning committee on 22 December 2005 for reasons of visual impact, and lack of evidence to satisfy the criteria set out in Circular I/94 and Policy H14 of the Mid Sussex Local Plan in respect of the applicants' lifestyle.

Temporary permission was granted at a Public Inquiry in 2006, which expired on 26 September 2011.

- 11/03936/FUL Use of land for the stationing of caravans for residential purposes for 1 no. gypsy pitch together with a utility/ dayroom along with retention of existing storage sheds ancillary to that use. Approved 02 Jul 2012.

Temporary permission was granted which expired on 2 July 2015.

- SDNP/15/04159/FUL Use of land for the stationing of caravans for residential purposes for 1 No. gypsy pitch together with a utility/dayroom along with the retention of existing storage sheds ancillary to that use. Approved 19 November 2012 (for permanent use)
- SDNP/17/03762/CND Variation of condition 2 on planning consent SDNP/15/04159/FUL to increase the number of caravans to 2 mobile homes and 2 touring caravans and ancillary dayroom. Approved by SDNPA Planning Committee 18 January 2018.

2.2 The following planning history relates to the adjacent site The Conifers, which is also relevant:

- SDNP/14/03055/FUL Change of use of land to private gypsy and traveller caravan site consisting of 2No pitches, including hardstanding and associated development. Refused 17.02.2015 for reason of landscape harm and poor location in terms of local services.

Allowed on appeal 22 February 2016. The inspector's decision on this appeal is a material consideration, and appended at **Appendix 2** of this report. Salient points are referred to in the Planning Assessment.

2.3 The following planning history relates to the adjacent site Lower Kents:

- SDNP/17/00844/FUL Change of use and conversion of existing building from office to residential. Refused 27.06.2017 for reason of unsustainable development and landscape impact. Allowed on appeal 23.10.2018.

### 3. Proposal

3.1 The application seeks to extend an existing private Gypsy site to provide space for two further static homes and two touring vans. The caravans would be sited within a small paddock to the south of the existing yard, extending it southwards by approximately 40m, with a 10m buffer between the existing and new caravans, where a number of shared services, including a septic tank, gas tank, small shed and electric box, are currently sited. The new hard surfacing is proposed to be formed with a permeable surface, with concrete bases for the caravans. The site will be accessed via the existing access and driveway.

3.2 The site would remain as a private family site for occupation by members of the same family who meet the definition of Gypsy and Traveller under the Planning Policy for Traveller Sites (PPFTS) 2015. The two existing mobile homes are occupied by

- Mr and Mrs John and Georgina Hearne (the parents) with their two younger sons;
- Mr John Hearne (aged 23) and his wife Savannah

3.3 The two additional pitches are required for the two younger sons:

- James Hearne (aged 21) and his partner Tani (née Black from Guildford). The couple are to be married in May 2019;
- Jesse Hearne (aged 18) who will be needing his own caravan.

3.4 The family own the site and have lived on it since 2005. The two youngest sons currently share the double unit mobile home with their parents. The additional caravans would allow both sons to live independently whilst remaining part of the main family unit, in accordance with their traditional way of life. No commercial activities are currently undertaken on the site, and none are proposed.

#### 4. Consultations

4.1 **Dark Night Skies:** No objection.

4.2 **Drainage:** No objection subject to condition.

4.3 **Ecology:** No objection.

4.4 **Environmental Health:** No objection subject to conditions.

4.5 **Friends, Families and Travellers (National Charity):** Comments provided:

- The accepted statistic is that around 1 in 200 people are Gypsy or Traveller in the UK, however this is an average.
- There up to 1 in 100 Gypsy and Traveller people in the East, South East and South West counties.
- Gypsy families in Sussex are likely to be living in housing, with caravan sites generally in rural areas where the residents will form a higher percentage of the local population than average.

4.6 **Fulking Parish Council:** Objection.

- The majority of residents of Fulking object to the application.
- The proposal would consolidate development and be harmful to the nucleated character of the village.
- The development would significantly harm the character and scenic beauty of the National Park.
- If approved there will be six gypsy plots (12 caravans + amenity blocks) dominating the settled community of this small South Downs hamlet
- Will encourage more speculative caravan site developments in the National Park
- The site is visible from the Devils Dyke, Fulking Escarpment and the South Downs Way.
- There was no outstanding local need for sites at the last application, and it is understood that space is available for rent in the site at Small Dole.
- WSCC has significantly invested in improved drainage following flooding which is at least partly due to the reduced run-off and increased hardstanding from these sites.

4.7 **Highway Authority:** No objection, subject to conditions.

4.8 **Landscape Officer:** No objection, subject to conditions.

4.9 **Mid Sussex District Council (Development Manager):** Comments provided:

- The Planning Inspectors decision in respect of SDNP/15/00057/ENNOT & SDNP/14/03055/FUL for the adjacent site Land east of Market Garden (known as the Conifers), is relevant to the consideration of the above. Please have regard to:
  - The visual impact of the additional caravans being sited to the south of the existing development and its impact in views from the ridge of the Downs;
  - The consolidation of development in the area, its impact on the important nucleated character of the village and the visual harm to the SDNP; and
  - Whether the number of plots is now dominating the settled community.

4.10 **Southern Water:** No comment.

4.11 **WSCC Gypsy and Traveller Liaison:** Comments awaited (Members will be updated at the meeting).

## 5. Representations

5.1 15 letters of objection have been received from residents raising the following concerns:

### Principle

- The application conflicts with the Development Plan, National Planning Policy Framework ('the Framework') and Planning Policy for Traveller Sites.
- There is no outstanding need for sites, there is provision for traveller sites elsewhere and space to rent at Small Dole.
- Other villages in the National Park should share the responsibility.
- To improve social mixing and cohesion, sites should be provided in other villages rather than just expanding this site.

### Impact on Fulking and the settled community

- Fulking is a small village of less than 250 residents and no local facilities and has already absorbed as many gypsy/traveller sites as possible
- The previous applications for this site did not identify the need for additional homes and the Planning Inspector stated in 2016 that the quantity of caravans was reaching its maximum for the site.
- The development would result in a disproportionate and over-dominant site in relation to the immediate neighbours in Clappers Lane and is inappropriate and overbearing.
- The development would double the existing provision and is disproportionate in size to the local community.
- The development would place undue pressure on local infrastructure and increase sewerage and drainage problems.
- The development will increase traffic on a dangerous corner.
- Will set a precedent for other villages in the SDNP for other Gypsy and Traveller sites on agricultural land, which is not a development option available to other sections of the local community.
- The settled community are not able to accommodate their families in mobile homes.
- A planning application for a new dwelling for local resident was refused, and the Gypsy and Traveller sites are the only new development in Fulking to have gained planning consent.
- Previous objections to development on the site have been ignored.
- The Gypsy and Traveller permissions have tarnished the image of the SDNPA.
- The amenity of Fulking has not been afforded greater protection by the SDNP, as was expected.

### Landscape and visual impact

- The application will cause significant, permanent and irreversible harm to the character and appearance of the SDNP, with no public benefits to outweigh it.
- The view from Devil's Dyke for National Trust members and other visitors will be of a large stretch of tarmac.
- The site is an ugly scar when seen from the South Downs and has not been landscaped in a manner appropriate to the rural environment of the National Park.
- The development will contribute to light pollution and harm dark skies, and lights will shine directly into houses along Clappers Lane.

5.2 A letter has also been received from Cllrs Colin Trumble and John Wilkinson, Ward Councillors for Fulking, strongly objecting to the application and raising the following concerns:

- As noted by Mid Sussex DC, the inspector's decision on Land east of Market Garden (known as the Conifers) (SDNP/15/00057/ENNOT & SDNP/14/03055/FUL) is a material consideration to this application, and was not taken into consideration with the previous application SDNP/17/03762/CND.
- The Inspector states that compared to Conifers, "Market Garden is much more open" and "as one walks along the escarpment... Market Garden can be clearly seen." Unlike Conifers, development will have an impact on the character and appearance of the countryside.
- The Inspector states that by allowing the appeal on the Conifers site, it would "clearly represent a consolidation of the development in this area and is therefore harmful to the nucleated character of the village and by extension to the character and scenic beauty of this part of the National Park."
- Since then, following SDNP/17/03762/CND there has been additional harmful consolidation of development the National Park would fail in its legal duty to conserve and enhance the countryside should it allow this application.
- The Inspector states that "No gypsy plots comes close to but do not dominate the settled community and that argument becomes stronger with further applications." Following SDNP/15/04159/FUL the situation is now even more dominant.
- There is a balance between the needs of the settled community and those of the Travelling community, and the Planning Committee should heed the needs of the settled community to ensure the Traveller community does not dominate this small village.
- The local settled community feel that the Traveller community get special treatment on planning issues given the recent refusal for a new dwelling for the accommodation of extended family (SDNP/18/01642/FUL).

5.3 A letter has also been received from the National Trust, raising no objection:

- There is some landscape and visual impact arising from the proposed development which requires appropriate mitigation, given the site's location in a sensitive part of the SDNP.
- An appropriate landscaping scheme using native species should be secured along the southern boundary of the site to supplement the existing vegetation.
- The extent of the hardstanding proposed seems excessive for a domestic parking area and should be reduced such that the majority of the existing paddock can be retained.
- Consideration should be given to use of a darker material for the cladding of the caravans and roofs so these are less of an "eye catcher" when viewed from Devil's Dyke and Fulking Escarpment.

## 6. Planning Policy Context

### National Park Purposes

6.1 The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas;
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well-being of the local community in pursuit of these purposes.

### National Planning Policy Framework and Circular 2010

6.2 The National Planning Policy Framework (2018) is considered holistically although the following sections are of particular relevance to the applications:

- Section 2: Achieving sustainable development
- Section 5: Delivering a sufficient supply of homes

- Section 11: Making effective use of land
- Section 12: Achieving well-designed places
- Section 15: Conserving and enhancing the natural environment

6.3 Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and the revised National Planning Policy Framework (NPPF) issued on 24 July 2018. The Circular and NPPF confirm that National Parks have the highest status of protection, and the NPPF states at paragraph 172 that great weight should be given to conserving and enhancing landscape and scenic beauty in national parks and that the conservation and enhancement of wildlife and cultural heritage are also important considerations and should be given great weight in National Parks.

6.4 The development plan policies listed in Section 7 have been assessed for their compliance with the NPPF and are considered to be compliant with it.

#### The South Downs National Park Partnership Management Plan

6.5 The South Downs National Park Partnership Management Plan 2013 is a material consideration in the determination of the application. The following policies are relevant:

- 1: Conserve and enhance natural beauty and special qualities of the landscape;
- 3: Protect and enhance tranquillity and dark night skies;
- 48: Support the role of town and villages;
- 50: Housing and other development.

### **7. Planning Policy**

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

7.2 The following saved policies of the Mid Sussex Local Plan (2004) are relevant:

- B1 – Design
- B3 – Residential Amenity
- B23 – Noise Pollution
- B24 – Light Pollution
- C1 – Protection of the Countryside
- C4 – Areas of Outstanding Natural Beauty
- H14 – Sites for Gypsies and Travellers
- ST5 – Parking Standards.

7.3 The Pre-Submission version of the **South Downs Local Plan** (South Downs Local Plan) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 for public consultation between 26<sup>th</sup> September to 21<sup>st</sup> November 2017, and the responses considered by the Authority. The Plan was submitted to the Secretary of State for independent examination in April 2018. The Submission version of the Local Plan consists of the Pre-Submission Plan and the Schedule of Proposed Changes. It is a material consideration in the assessment of this planning application in accordance with paragraph 48 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication. The Local Plan process is in its final stage before adoption with consultation on relatively minor Main Modifications due to start on 1<sup>st</sup> February 2019. Based on the very advanced stage of the examination the draft policies of the South Downs Local Plan can be afforded almost full weight.

7.4 The relevant policies are:

- SD1 – Sustainable Development
- SD4 – Landscape Character
- SD5 – Design

- SD6 – Safeguarding Views
- SD7 – Relative Tranquillity
- SD8 – Dark Night Skies
- SD19 – Transport and Accessibility
- SD33 – Gypsies and Travellers
- SD50 – Sustainable Drainage

#### Other Policy and Statutory Requirements

- 7.5 Planning Policy for Traveller Sites (PPTS) (2015), which sets out the Government’s Guidance for the provision of Gypsy and Traveller sites, should be read in conjunction with the NPPF (2018), and is a material consideration relevant to the determination of this application.
- 7.6 Human Rights are also a material consideration in planning applications for Gypsy and Traveller sites as legislated for in the European Convention on Human Rights as incorporated by the Human Rights Act 1998. Of particular relevance are Articles 8 (Respect for your private and family life, home and correspondence) and 14 (Protection from discrimination in respect of these rights and freedoms). Under the Human Rights Act (1998) case law has established that Local Authorities have a duty to “facilitate the gypsy way of life” for ethnic Gypsies and Travellers. The Equality Act 2010 also recognises Gypsies and Irish Travellers as ethnic groups and protects them against discrimination.
- 7.7 The Best Practice Guidance: Designing Gypsy and Traveller Sites (2008) was withdrawn by Government in 2015, however still provides useful guidance for the design of Gypsy and Traveller sites.

### **8. Planning Assessment**

- 8.1 The main issues for consideration are:
- The principle of development, including the need for sites and availability of alternative sites;
  - The suitability of the site;
  - Human Rights and the personal needs and circumstances of the applicants;
  - Impact on the settled community and amenity of neighbouring properties;
  - Landscape and visual impact;
  - Ecology and Dark Night Skies;
  - Flooding and drainage.

#### Principle of Development

- 8.2 Paragraph 4 of the PPTS (2015) states the overarching aim of Government is to ensure fair and equal treatment for Gypsies and Travellers in a way that facilitates their traditional and nomadic life, whilst respecting the interests of the settled community. In pursuance of this aim, the Government seeks to promote more private traveller sites; increase the number of sites in appropriate locations to address under-provision and maintain an appropriate level of supply; and for Local planning authorities to have due regard to the protection of local amenity and environment. Paragraph 24 of the PPTS (2015) states that consideration of planning applications for traveller sites must also consider:
- The existing level of local provision and need for sites;
  - The availability (or lack) of alternative accommodation for the applicants;
  - Other personal circumstances of the applicant.
- 8.3 Gypsy and Traveller sites are sometimes located within countryside locations and may be considered as an exception to the general restraint imposed on development outside of settlement policy boundaries, subject to other considerations. The main development plan policies relevant to the determination of gypsy and traveller applications include saved policy



H14 of the Mid Sussex Local Plan (2004) and emerging policy SD33 of the Submission South Downs Local Plan (2018), both of which are consistent with the PPTS. Both saved and emerging policies support proposals for gypsy and traveller sites subject to a number of criteria including neighbour amenity; safe access; infrastructure and services; meeting local need; consideration of alternatives; and where development would not result in sites being disproportionate in size to nearby communities. Proposals are also subject to other policy considerations including landscape impact, which is considered in more detail below.

- 8.4 As acknowledged in the 2018 Gypsies and Travellers Government briefing paper there is a national shortage of suitable permanent and transit Traveller sites. Local Planning Authorities are required to provide up-to-date Gypsy and Traveller Accommodation Assessments (GTAA) which identify the need for and availability of all types of Gypsy and Traveller sites. There is no single overall assessment of the need for Gypsy and Traveller pitches in the South Downs National Park (SDNP), and evidence gathered in support of the emerging South Downs Local Plan has taken a proportionate approach in collating the findings of GTAAs prepared for the Local Housing Authority areas within the SDNP, each of which covers part of the National Park and land outside it.
- 8.5 Mid Sussex updated their GTAA in 2016, which assesses the current and future need for sites in Mid Sussex District for the period until 2031. Based on the findings of the GTAA (2016) and the subsequent grant of planning permissions at Market Gardens and The Conifers, the SDNPA'S Gypsy, Traveller and Travelling Showpeople Background Paper (GTTSBP) (2018 Update) does not identify any future need for the Mid Sussex area of the National Park. Specifically, the GTTSBP (2018) assesses the Market Gardens site as "already developed for Gypsy and Traveller use" with "no further capacity and / or no indication from landowner of desire for further development." The site has been safeguarded in the South Downs Local Plan.
- 8.6 Accordingly, Policy SD33 includes a criterion limiting support for unidentified sites to those meeting the identified need, summarised in Table 7.6 below:

| <b>Area (Within National Park)</b> | <b>Permanent Gypsy &amp; Traveller (G&amp;T) Pitch Need</b> | <b>Permanent Travelling Showpersons' (TS) Plot Need</b> | <b>Allocations in the Local Plan</b> | <b>Remaining Unmet Need</b>    |
|------------------------------------|---|---|--------------------------------------|--------------------------------|
| Brighton & Hove                    | 13  | 0   | 0                                    | 13 (G&T)                       |
| Coastal W Sussex                   | 0   | 0   | 0                                    | 0                              |
| Horsham                            | 0   | 0   | 0                                    | 0                              |
| <i>Mid Sussex</i>                  | 0   | 0   | 0                                    | 0                              |
| Lewes, Eastbourne, Wealden         | 6   | 0   | 5                                    | 1 (G&T)                        |
| Hampshire                          | 4   | 9   | 5 (G&T)                              | 9 (TS)                         |
| Winchester                         | 0   | 0   | 0                                    | 0                              |
| <b>Total</b>                       | <b>23</b>   | <b>9</b>  | <b>10</b>                            | <b>14 (G&amp;T)<br/>9 (TS)</b> |

- 8.7 However it is important to note that the GTAA is based on the survey evidence that was available at the time, and as reflected in the supporting text of policy SD33, there can be inherent difficulties in obtaining accurate data given the transient activities of some groups and the level of statistical information available at a National Park level. Furthermore, although GTAAs provide an assessment of the future need for sites over a period of time, the provision of sites for Gypsies and Travellers is rarely a static matter that can be concluded in its entirety through a Local Plan. The supporting text for SD33 also states that the currently identified need is subject to change as and any subsequent updates will need to be taken into account as appropriate.
- 8.8 The information submitted in support of the application contends that the survey undertaken in the preparation of the GTAA used a limited evidence base (15 interviews of households on 4 public sites), and that neither the Mid Sussex GTAA (2016) nor the SDNPA's GTTSBP (2018 Update) took into consideration the need arising from household formation within existing families. The GTAA failed to record the need for any additional pitches for the applicants' three sons who would have been aged 16-22 at the time the survey was undertaken. The applicants cannot recall any person visiting them to undertake a survey.
- 8.9 Saved policy H14 supports development proposals where a demonstrable local need exists. Policy SD33 supports proposals where there is no alternative available pitch which could be used in the locality. However, no alternative sites have been identified in the Mid Sussex area, or the wider National Park. Objectors to the proposal, including Fulking Parish Council, have raised that there are spaces available at the Small Dole Caravan Site, approximately 3.2m away. However, this is located almost entirely within the Horsham District Planning Authority area, with only a small section of the boundary falling within the SDNP, such that any available spaces would go towards meeting the identified need in Horsham District.
- 8.10 In the appeal decision for the adjacent site The Conifers, the Inspector stated that he was "not convinced that the need for gypsy sites can be so definitively constrained to what is, after all a landscape designation." He went on to state that although Paragraph 27 of the PPTS makes clear that the lack of a 5 year supply of sites is not a significant material consideration in National Parks, the fact that there is nowhere else in the area for the appellants to go, whether within or outside the National Park boundaries, is a "consideration of some weight."
- 8.11 In summary, notwithstanding the findings of the GTAA (2016) and the GTTSBP (2018), there is a clear, previously unidentified need for 2No additional pitches in this part of the National Park, with no alternative sites appearing to be available in the Mid Sussex District area, either within or outside the National Park.

#### Suitability of the site

- 8.12 Paragraph 25 of the PPTS (2015) 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. Saved Policy HD14 supports development proposals for Gypsy and Traveller sites where a convenient and safe means of access can be provided; the site is readily capable of being serviced; and is within a reasonable distance of local services and facilities. Policy SD33 supports development proposals for Gypsy and Traveller sites where the site is capable of being provided with infrastructure such as power, water supply, foul water drainage and recycling / waste management without harm to the special qualities of the National Park; that provide sufficient amenity space for residents; and have a safe vehicular and pedestrian access from the public highway and adequate provision for parking, turning and safe manoeuvring of vehicles within the site.

- 8.13 There is no shop or school in Fulking, and the village scored very low in the SDNPA's Settlement Facilities Assessment (2015) in terms of access to local facilities and services and is generally remote from local services, shops, and means of public transport. However, in the Conifers appeal decision the Inspector did not consider the area to be "open countryside that is away from existing settlements". The proposal for two additional pitches would require their occupants to travel by car, however the level of traffic generation would not be substantial, and the Highway Authority have advised that it is unlikely that any adverse impacts will result from the proposal, although additional stationing of caravans and mobile homes over the above named proposal would not be supported. As the applicants already live on the site, there would be little difference to the current arrangements, and the family make shared trips to services in Henfield and Hurstpierpoint. There is adequate parking and turning space within the site to accommodate the additional pitches.
- 8.14 The site already benefits from the necessary infrastructure, which would be shared. The submitted site plan is considered to represent an appropriate site design and layout, with sufficient space between caravans to comply with licensing requirements.
- 8.15 In summary, the site represents an extension of an existing site, rather than a new independent planning unit, and there would be a physical and functional link to the approved site with shared use of existing facilities. The site is considered to be capable of supporting the additional caravans in terms of both access and infrastructure, and therefore suitable as a Gypsy and Traveller Site, subject to other material considerations which are considered below.

#### Human Rights and Personal Needs and Circumstances

- 8.16 The provisions of Articles 8 and 14 of the European Convention on Human Rights as incorporated by the Human Rights Act 1998 are important material considerations, and under Article 8, the applicant's sons have the right to respect for their private and family life, and homes. Article 14 protects the enjoyment of human rights and freedoms without discrimination on any ground such as race, social origin or other status. Paragraph 24 of the PPTS also makes it clear that the personal needs of the applicant must be taken into consideration when determining planning applications for Gypsy and Traveller sites.
- 8.17 The personal circumstances of the applicants are clearly evidenced in the detail of the application, which states that the family has been living at the site since 2005, and are now settled in the area and part of the local community. All three sons attended Upper Beeding Primary School and Steyning Grammar School (secondary school), and John Hearne gained a qualification in brick laying from Brinsbury College.
- 8.18 The additional pitches would be for immediate family members who already live on the site, and would allow the Hearne family to continue living as an extended unit in accordance with their traditional way of life. Given that the elder son will be getting married later in 2019, and the youngest in the near future, it is no longer appropriate or feasible for all family members to reside in a single mobile home. Without the two additional pitches, the two younger sons would be forced to leave the site with little prospect of finding anywhere else to live locally.
- 8.19 The Local Planning Authority has no reason to dispute the evidence provided, and it is therefore considered that the applicants' personal needs and circumstances are a material consideration of considerable weight.

#### Impact on the Settled Community and Neighbour Amenity

- 8.20 Respect for the interests of the settled community is an important planning consideration, and forms part of the overarching aim of PPTS (2015). Paragraph 14 of the PPTS (2015) states that when assessing the suitability of sites in rural or semi-rural settings, LPAs should

ensure that the scale of such sites does not dominate the nearest settled community. Saved policy H14 supports Gypsy and Traveller development proposals where the proposal would not result in uses which would adversely affect the residential amenity of nearby properties. Policy SD33 supports Gypsy and Traveller development proposals that do not result in sites being over-concentrated in any one location or disproportionate in size to nearby communities; and do not cause, and are not subject to, unacceptable harm to the amenities of neighbouring uses and occupiers.

- 8.21 Concerns have been raised by Fulking Parish Council, the Ward Councillors and local residents in regard to the dominating and disproportionate cumulative impact that a total of 6 pitches (4 existing and 2 proposed) would have on the small settled community of Fulking. Objectors have also drawn attention to the Inspector's comments in the 2016 appeal decision for the adjoining Conifers traveller site that three gypsy plots comes close to but does not dominate the settled community, and that argument becomes stronger with further applications.
- 8.22 It is acknowledged that the additional pitches represents a growth in size of the existing site, however, given that the pitches are not for new family members from outside the existing community of Fulking, the net gain in terms of population is minor, and limited to the future dependents of the two sons. Restriction of the use of the pitches to the Hearne family, and the number of pitches that may be allowed on site to a total of 4 may be secured via condition.
- 8.23 Concerns have also been raised by residents in regard to the development being dominant and overbearing in relation to immediate neighbours in Clappers Lane, however the site is already well screened along its boundaries such that issues of privacy with adjoining land uses is considered to be minimal. The site is also bounded to the west and south by parcels of agricultural land, with the closest residential property sited some 80m distance the other side of Clappers Lane. Although the provision of the additional pitches may result in some additional traffic movements, given that the site is only used for residential purposes, noise impacts are not considered to be significant. The Environmental Health officer has no objection to the proposal. In the Conifers appeal decision, when considering sustainability of development, the Inspector also comments that there is no suggestion that the site, along with the Market Garden site, would dominate the local community.
- 8.24 Further concerns have been raised that the Traveller members of the community have been given preferential treatment over members of the settled community in Fulking. The Local Planning Authority considers all planning applications on their individual merits, and in accordance with the relevant development plan policies, which are different for Gypsy and Traveller sites.
- 8.25 In summary, it is considered that the proposed development is acceptable, and would not infringe the rights of the applicant, the settled community or neighbouring residents to the development.

#### Landscape and Visual Impact

- 8.26 The first statutory purpose of National Parks, which takes precedence, is to conserve and enhance the natural beauty and wildlife of the area. Paragraph 170 of the NPPF (2018) requires development to contribute to and enhance the natural environment by protecting and enhancing valued landscapes. Further to this, great weight should be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty (paragraph 172).
- 8.27 Paragraph 26 of the PPTS (2015) states that local planning authorities should attach weight to layout and landscaping that will positively enhance the environment, and increase its openness, rather than seek to enclose sites with so much hard landscaping, high walls or

fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

- 8.28 Saved policy HI4 supports Gypsy and Traveller development proposals where there would be minimal impact on the character and appearance of the countryside especially those areas with special characteristics. Other relevant development plan policies include saved policy BI and emerging policies SD4 'Landscape Character' and SD6 'Safeguarding Views.' Policy BI requires proposals to demonstrate a sensitive approach and respect the character of the locality in which they take place. SD4 supports development where the design, layout and scale of proposals conserve and enhance the existing landscape character, and the individual identity of settlements is not undermined. SD6 supports development that conserves and enhances views from publically accessible areas within, into and out from settlements which contribute to the viewers' enjoyment of the National Park, and views from public rights of way, open access land and other publically accessible areas.
- 8.29 In this instance, the site is well screened from close range views along Clappers Lane and nearby footpaths due to the strong vegetation structure and sunken nature of a number of the roads. The proposed single storey caravans are likely to be partially visible from Poynings Road through a field gate, although the existing boundary hedge along the site's southern boundary provides some screening. However, the site is visible from wider viewpoints along the chalk ridge including South Downs Viewpoint 2: Devil's Dyke (near Trig point), SDNP Landmark 11: Hillfort at Devil's Dyke, the South Downs Way National Trail and other public rights away, views from which form one of the National Park's special qualities.
- 8.30 Concerns have been raised by Fulking Parish Council and the Ward Councillors in regard to the impact of development on the character and appearance of the countryside, particularly since approval SDNP/17/03762/CND for the additional pitch such that further development would certainly be harmful.
- 8.31 The submitted information states that there is no requirement in national or local policy for Traveller sites to be hidden, however, as with all development, it is important to consider landscape and visual impact, given the location of development within a National Park. The information includes an assessment of viewpoints for the previous application proposals, however the Landscape officer has also visited the site and viewpoints, and made her own independent assessment.
- 8.32 Objectors have highlighted some of the Inspector's comments concerning landscape harm in the 2016 appeal decision for the adjoining Conifers traveller site. The Inspector commented that the Market Gardens site is much more open, and although barely visible from the Devil's Dyke viewpoint the site can be seen when walking along the escarpment. The Inspector concluded that the development of the Conifers site would form part of an existing scatter of development, and being well screened, would have a limited impact on the visual quality of the countryside.
- 8.33 The Landscape officer has advised that the existing caravans at Market Gardens are visible from these sensitive viewpoints (approx. 1km distance), and there is a risk that further development could have some adverse cumulative visual impact, that would undermine the rural character of the area and the low density settlement pattern. The area of proposed hardstanding also appears excessive and not in keeping with the village character. However, the strong structure of existing vegetation will integrate the proposals to a degree, and further planting along the site's southern boundary as indicated on the site plan will reduce the visual impact. In addition, providing the extent of hardstanding is reduced and a muted colour for the mobile homes secured, the adverse visual impact would be minor. Officers therefore consider that providing the advice of the Landscape officer is addressed via conditions, the development would have minor visual impact, and conserve the landscape character of the area.

- 8.34 Development in this instance involves the use of land for the purpose of siting caravans. The design characteristics of these are not directly subject to planning requirements, however, in locations which are highly sensitive in visual and landscape terms the use of conditions to restrict colour may be acceptable. The acceptability relates to the merits of the application and applying the relevant tests of being necessary; relevant to planning and to the development to be permitted; enforceable; precise and; reasonable in all other respects. Having assessed the application, it is considered justifiable in this instance to condition the appearance of the mobile homes on this particular site based on the views of officers. Furthermore, this was an approach taken by the Inspector on the adjacent site in the 2016 appeal decision, where he included a condition requiring “any mobile homes and day rooms on the site shall only be finished in colours that have first been agreed in writing by the Local Planning Authority.” As such, this adds further weight to including this condition in the recommendation.
- 8.35 Concerns have also been raised in regard to the impact of consolidated development on the village’s nucleated settlement pattern, and the design and appearance of development which would damage the cultural heritage of Fulking. Objectors have highlighted some of the Inspector’s comments in the 2016 appeal decision, such that the provision of additional pitches in the location would clearly represent a consolidation of development in this area which could be harmful to the nucleated character of the village and by extension to the character and scenic beauty of this part of the National Park.
- 8.36 It is acknowledged that the settlement of Fulking is nucleated, however the siting of caravans is not an irreversible form of development in the same way that a permanent dwelling would be. The closest listed building, The Cabbage Patch, is separated from the site by the adjacent Conifers site, and trees and hedge boundaries prevent any clear views or obvious association between the two sites. As such, the proposal is not considered to detrimentally affect the setting of the listed building. The location of the site is also not considered to affect the setting of the Conservation Area.
- 8.37 In summary, the landscape and visual impact from development is considered to be minor, subject to reinforcement of the landscaping proposals and reduction of hardstanding which may be secured via condition.

#### Ecology, Trees and Dark Night Skies

- 8.38 The site comprises a grazed paddock which is regularly mown, and there are no trees that would be impacted by development. As such, there are no ecology concerns in regard to the proposals.
- 8.39 Part 15 of the NPPF (2018) draws attention to the duty to protect the natural environment and to the opportunities for its enhancement. Paragraph 170 states that when determining planning applications, local planning authorities should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and sites of biodiversity value in a manner commensurate with their statutory status. Emerging policies SD2 Ecosystem Services and SD9 Biodiversity and Geodiversity also seek to secure enhancements to existing habitats, and the creation of new habitat. A condition to secure a scheme of ecological enhancements is considered reasonable to ensure a net gain in biodiversity.
- 8.40 Policy SD8: Dark Night Skies of the Submission South Downs Local Plan (2018) carries considerable weight. The site is located within the Dark Skies Intrinsic Zone of Darkness (EIa), which is classified as ‘dark sky’ and includes isolated areas that may not be connected to the main core. In these areas, glazing should be kept to a minimum, and external lighting should be limited to timed and/or sensor-controlled lighting designed and shielded to minimise light spillage. External lighting should only be used when needed.

- 8.41 In this instance, no external lighting is proposed. The inherent design and materials used in caravans means that internal light will be confined to the immediate development area, and if external lighting complies with dark skies requirements development will have minimal impact on sky quality. The restriction of external lighting may be secured via condition.

#### Flooding and Drainage

- 8.42 Concerns have been raised in regard to sewerage and drainage problems that have occurred as a result of the increased hardstanding on both the application and adjacent Conifers sites.
- 8.43 The MSDC Drainage officer has advised that the site is in Flood Zone 1 and deemed as being at low fluvial and pluvial flood risk. The main contributor to the historic flooding at is run-off from a number of agricultural and Downs fed catchments which culminate at Clappers Lane. The proposal seeks to manage surface water through the use of permeable surfacing which can assist in reducing run-off rates. There is therefore no drainage objection, subject to conditions securing the permeable construction of the hardstanding, and foul and surface water drainage and disposal.

### **9. Conclusion**

- 9.1 Notwithstanding the lack of need for pitches identified by the Mid Sussex GTAA (2016) and the South Downs (GTTSBP) (2018 Update), the applicants have identified personal circumstances which clearly evidence an existing need. The additional pitches would therefore meet a local need that cannot be accommodated elsewhere either in Mid Sussex or the South Downs National Park, and allow the Hearne family to live as an extended unit in accordance with their traditional way of life.
- 9.2 The site is suitable for the proposed use and the proposal would make shared use of existing facilities. Subject to conditions including a restriction of use for family members only, reinforcement of landscaping proposals and restriction of external lighting, the proposal is not considered to result in a detrimental impact upon the special character of the wider National Park Landscape and is supported by the relevant policies of the Mid Sussex Local Plan (2004), the emerging South Downs Local Plan: Submission (2018), the NPPF (2018) and the PPTS (2015).
- 9.3 Officers acknowledge that the provision of two additional pitches would result in there being a total of six traveller pitches in Fulking, which is a small settlement with limited services. However, the additional pitches proposed will be occupied by members of a single family unit who already live on the site, and have been members of the Fulking community since 2005. It is therefore considered that the cumulative impact of development would not be dominant or out of proportion with the settled community, and would not demonstrably lead to an unacceptable number of Gypsy and Traveller sites harmful to the character and appearance of the local area, or the interests of the settled community. The proposal is therefore recommended for approval.

### **10. Reason for Recommendation and Conditions**

- 10.1 The application is recommended for approval subject to the following conditions:

#### General conditions

- I. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended). / To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the approved plans unless otherwise agreed in writing by the Local Planning Authority.

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

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any Order amending or revoking and re-enacting this Order, no additional buildings, structures or partitions shall be erected or installed at the site without prior planning permission from the Local Planning Authority.

Reason: In the interests of amenity, and to prevent unsustainable development that would not comply with planning policy.

#### Use

4. The permission does not authorise use of the land as a caravan site by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites (updated August 2015).

Reason: To protect the character of the area as planning permission would not normally be granted for this development.

5. The occupation of the site hereby permitted shall be carried on only by the following: Mr John Hearne and Mrs Georgina Hearne; their three sons John, James and Jesse Hearne; and resident dependents only.

Reason: Due to the specific circumstances of the Hearne family.

6. There shall be no more than 2No pitches on the site identified on the approved site plan (dated 19.11.2018), and on each of the pitches no more than one mobile home/static caravan and one touring caravan shall be stationed at any time.

Reason: To protect the character and amenity of the area and to control the level of residential use.

7. No commercial activities shall take place on the site including the storage of materials or plant relating to a commercial activity, except for activities associated with the keeping and breeding of horses.

Reason: To protect the character and amenity of the area.

#### Construction

8. No work for the implementation of the development hereby permitted shall be undertaken on the site except between the hours of 08:00 and 18:00 on Mondays to Fridays inclusive and 08:00 hours and 13:00 hours on Saturdays, and no work shall be undertaken on Sundays, Bank and Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the area.

9. No burning of any materials from site clearance or during construction shall take place on the site.

Reason: In the interests of the amenity and the landscape character of the area.



10. Prior to the commencement of the development hereby permitted, a detailed scheme of hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. All such works as may be approved shall then be fully implemented in accordance with the approved development. The scheme shall include details of:
- i) Mitigation planting with locally appropriate native species along the southern boundary;
  - ii) Hard surfacing materials which shall be of permeable construction compliant with sustainable drainage requirements;
  - iii) Enclosures, gates, and boundary treatments, including the proposed post and rail fence;
  - iv) Reduction in the amount and extent of hardstanding (such that the majority of the existing paddock is retained.)

No impermeable hardstanding (aside from the concrete bases for the mobile homes), shall be laid on the site at any time.

Thereafter the development shall be undertaken in full accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

All soft landscaping shall be carried out in the first planting and seeding season following the first occupation of the building, or the completion of the development, whichever is the sooner. All shrub and tree planting shall be maintained free from weeds and shall be protected from damage by vermin and stock.

Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of biodiversity and the amenity of the landscape character of the area.

11. Any mobile home located on the site as identified on the approved site plan (dated 19.11.2018), shall be of a suitable muted colour and any replacement thereof shall also comply with this requirement.

Reason: In the interests of the amenity and the landscape character of the area.

12. Prior to the commencement of the development hereby permitted, details of the proposed foul and surface water drainage and means of disposal shall be submitted to and approved in writing by the local planning authority. The extension/building shall not be occupied until all the approved drainage works have been carried out in accordance with the agreed details

Reason: To ensure satisfactory foul water arrangements.

#### Ecology and Dark Night Skies

13. No external lighting shall be installed on the additional caravans without the prior consent of the Local Planning Authority.

Reason: In order to prevent light pollution and to protect the local setting of the SDNP Dark Skies Designation.

14. A detailed scheme of biodiversity enhancements to be incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include measures such as

- i) Locally appropriate planting
- ii) Creation of wildlife features such as habitat piles
- iii) Provision of bat and bird boxes

Development shall subsequently proceed in accordance with any such approved details.

Reason: To enhance biodiversity, in accordance with the planning authority's duty under the Natural Environment and Rural Communities Act 2006.

#### Informatives

- 1. The colour of the mobile homes shall be of a muted colour such as cream, grey or light brown in order to limit landscape and visual impacts.
- 2. All native reptile species receive legal protection under the Wildlife and Countryside Act 1981 (as amended). It is highly advisable to undertake clearance of mature garden sites outside the reptile hibernation period (typically October – March). Reptile habitat such as compost heaps/log piles/hedge and scrub bases and other refugia (such as piles of garden waste and general debris) should be removed carefully during the reptiles' active season (broadly April to September) so as not to disturb any hibernating animals. Longer grass and other vegetation should be carefully and sensitively directionally strimmed and then mown during the active season prior to groundworks, in order to allow any reptiles present to leave the area of their own accord.

### **11. Crime and Disorder Implication**

- 11.1 It is considered that the proposal does not raise any crime and disorder implications.

### **12. Human Rights Implications**

- 12.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised. The assessment of this application has been carried out without prejudice or discrimination and it is not considered that the proposals would interfere with Human Rights. The proposed development would not infringe the rights of the applicant, the settled community or neighbouring residents to the development.

### **13. Equality Act 2010**

- 13.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

### **14. Proactive Working**

- 14.1 In reaching this decision the Local Planning Authority has worked with the applicant in a positive and proactive way, in line with the NPPF.

**TIM SLANEY**

**Director of Planning**

**South Downs National Park Authority**

Contact Officer:

Stella New

Tel:

01730 819216

email:

[stella.new@southdowns.gov.uk](mailto:stella.new@southdowns.gov.uk)

Appendices

1. Site Location Map
2. Appeal Decision for SDNP/15/00057/ENNOT and SDNP/14/03055/FUL

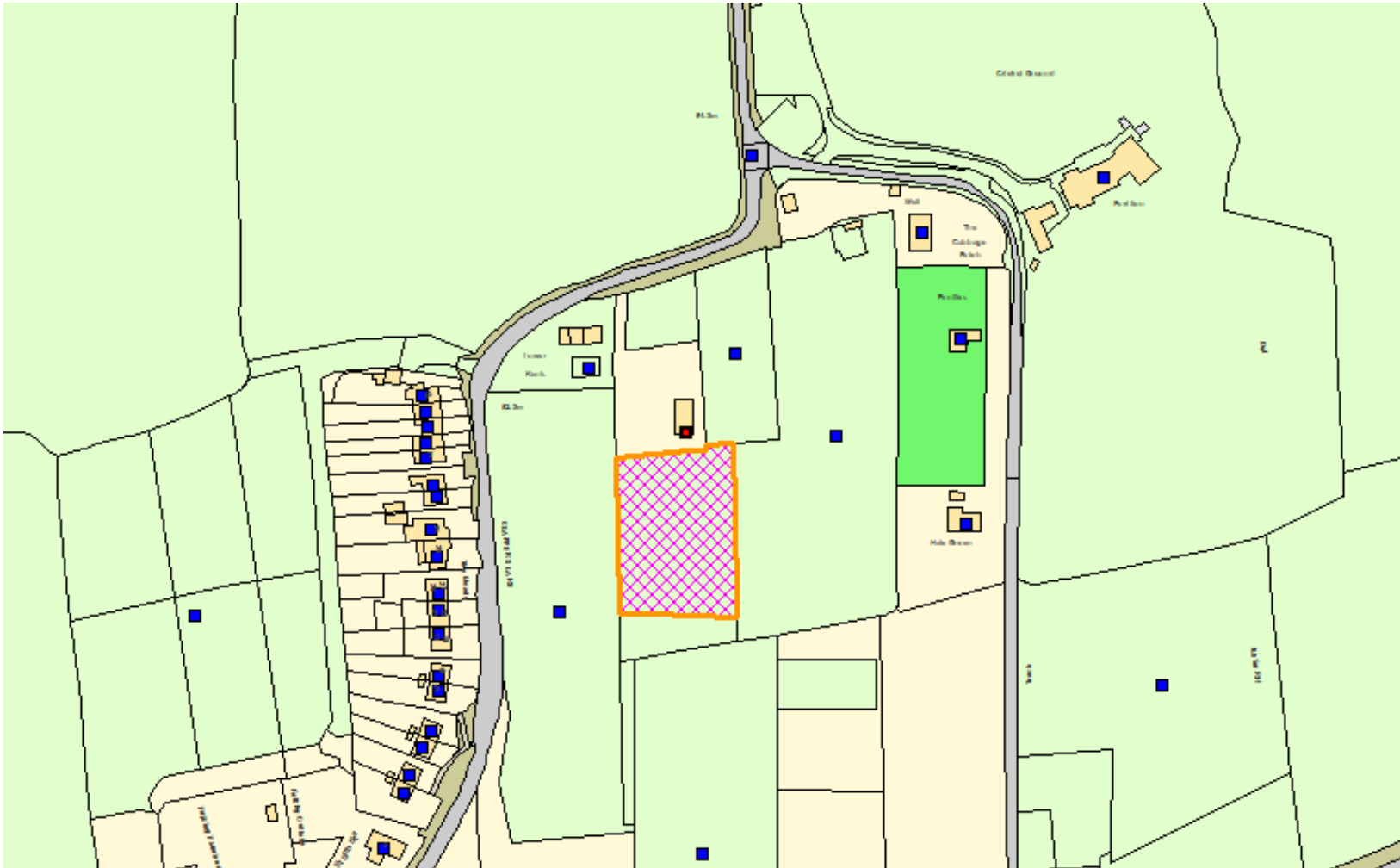
SDNPA Consultees

Legal Services, Development Manager.

Background Documents

[All planning application plans, supporting documents, consultation and third party responses](#)  
[National Planning Policy Framework \(2018\)](#)  
[South Downs National Park Partnership Management Plan 2013](#)  
[Mid Sussex Local Plan \(2004\)](#)  
[South Downs Submission Local Plan \(2018\) \(and Main Modifications\)](#)  
[South Downs Integrated Landscape Character Assessment 2005](#)  
[Mid Sussex Gypsy and Traveller Accommodation Assessment 2016](#)  
[SDNP Gypsy, Traveller & Travelling Showpeople Background Paper 2018](#)  
[Planning Policy for Traveller Sites \(PPTS\) \(2015\)](#)  
[European Convention on Human Rights as incorporated by the Human Rights Act 1998](#)  
[Designing Gypsy and Traveller Sites Best Practice Guide \(2008\)](#)  
[Best practice for assessing the accommodation needs of Gypsies and Travellers: Joint Paper \(June 2016\)](#)  
[Gypsies and Travellers Briefing Paper \(May 2018\)](#)

**Agenda Item 11 Report PC09/19 Appendix I**  
**Site Location Map**



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. South Downs National Park Authority, Licence No. 100050083 (2012) (Not to scale)