



Unit D, Lunesdale, Upton Magna Business Park, Upton Magna, Shrewsbury, SY4 4TT

Planning Statement

Planning application for the 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 at Market Gardens, Clappers Lane, Fulking, Henfield BN5 9NH.

August 2015

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Applicant: Mrs Georgina Hearne

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- 2. Appeal Decision ref: APP/D3830/A/06/2008402 – Dated 26th September 2006 - Market Gardens, Clappers Lane, Fulking, Henfield**

1. INTRODUCTION

- 1.1. This supporting statement is submitted by Green Planning Studio Ltd on behalf of Mrs Georgina Hearne.
- 1.2. The application is for the 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. The latest planning permission on the site ref: 11/03936/FUL was a temporary permission for a maximum of 3 years which was granted on 2nd July 2012 and has subsequently expired.

2. SITE CONTEXT AND DESCRIPTION

- 2.1. The site lies in the South Downs National Park in an area of countryside near the centre of Fulking. It is located off Clappers Lane which forms its entranceway. The site is bounded on all sides by agricultural land. The nearest bus stop is 350m away and provides a regular service to the surrounding towns and villages and the services therein.
- 2.2. The application site has an area of 0.15 hectares in an ownership of 0.37 hectares. The entrance off Clappers Lane leads onto an open drive/parking area with adequate parking for a minimum of 2 no. vehicles of less than 3.5 T. The utility/ dayroom is located to the left of the entrance with the existing mobile home to the south east of the site and the tourer to the west of that.
- 2.3. The single storey utility/day room is positioned to allow convenient access to the stationed caravans during the day. The utility/day room provide facilities that enable the occupants of the caravans to minimize the recognised hazards associated with cooking and fire in the close confines of caravans and provide facilities for washing and bathing and the maintenance of basic hygiene.

- 2.4. The application site has been subject to multiple planning applications and the table below summarises the relevant planning history of the site.

Table 1 - Relevant Planning History

Application Ref	Description	Decision	Decision Date
F/64/802	The siting of a residential caravan.	Granted	23 February 1965
F/65/659	Agricultural store shed	Granted	26 November 1965
FK/7/74	Stationing of caravan	Granted	27 January 1975
FK/4/79	Renewal of temporary permission FK/7/74 for residential caravan	Granted	2 January 1980
FK/7/84	Renewal of temporary planning permission for residential caravan	Granted	21 December 1984
05/01874/FUL	Retrospective consent for the use of the land as a private caravan site for one gypsy family	Refused	22 December 2005
APP/D3830/A/06/2008402	Appeal against refusal of application ref: 05/01874/FUL	Allowed	26 September 2006
11/03936/FUL	Application for the 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.	Granted	2 July 2012

- 2.5. The most relevant are the 2 most recent permissions, a temporary permission granted on appeal in September 2006 and a second temporary permission granted in July 2012.

3. PROPOSAL

- 3.1. This planning application seeks permission for the 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.
- 3.2. The latest planning permission ref: 11/03936/FUL was a temporary permission for a maximum of 3 years which was granted on 2nd July 2012. The temporary permission expired on 2nd July 2015 and accordingly the current use of the site as a private caravan site for one gypsy family is unauthorised. This application seeks permission for the gypsy pitch that remains on the site since the expiration of the previous temporary permission.

4. PRINCIPLE ISSUES

- 4.1. The main issues are the effect of the development on the character and appearance of the South Downs National Park and the lack of available alternative sites.
- 4.2. The previous permissions that were granted on the site acknowledged that there was some harm to the character and appearance of the AONB and subsequently the South Downs National Park. This has not changed and is not contested by Green Planning Studio Ltd.
- 4.3. However, given the absence of available alternative sites, failure of policy due to the fact that the council failed to allocate sites for travellers as set out in government policy and the interference with the applicants Article 8 human rights that would result from an immediate cessation of the unauthorised use of the site, it was considered that these material

considerations outweigh any harm identified to character and appearance and permission was granted.

- 4.4. It is clearly stated in both the 2006 appeal decision and the 2012 decision notice that the reason for making both of these permissions temporary is to allow for land for alternative gypsy sites to become available. The decision notice of approved application 11/03936/FUL states the reason for the decision as;

'The Inspector granted the temporary planning permission in 2006 on the basis that this would allow the Local Planning Authority sufficient time to allocate sites for Traveller accommodation. In the intervening time no sites have been allocated by the Council for Traveller accommodation. The Inspector did consider that there was some harm to the area of outstanding natural beauty in 2006 from the proposal. At present there are no vacancies on any official sites in either East or West Sussex.'

- 4.5. And goes on to assert that;

'It is considered that it would be appropriate to issue a further temporary planning permission with the period being 3 years. This would allow the Council time to allocate sites for Travellers as set out in Government guidance.'

- 4.6. It is also clear from the Mid Sussex May 2014 GTAA that in this 9 year period of time since the appeal decision in 2006, no alternative sites have become available. Therefore the weight attributed to the unmet need is significantly greater than before, and outweighs any harm to the South Downs National Park.

- 4.7. Permission should be granted and it is the opinion of Green Planning Studio Ltd that another temporary permission would not be appropriate

and that there is no justified reason for the permission to be personal as any perceived harm to the South Downs National Park has already been outweighed by the failure of policy.

5. CONCLUSION

- 5.1. As indicated above Green Planning Studio Ltd consider that the absence of available alternative sites, failure of policy due to the fact that the council have failed to allocate sites for travellers as set out in government policy, and the interference with the applicants Article 8 human rights that would result from an immediate cessation of the unauthorised use of the site, these material considerations outweigh any harm identified to character and appearance and permission should be granted.

APPENDIX 1

**Planning Permission ref: 11/03936/FUL – Dated 02nd July 2012 –
Market Gardens, Clappers Lane, Fulking, Henfield**

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DCDECN

Ms Georgina Hearne
c/o Mr Matthew Green
Unit D Lunesdale
Upton Magna Business Park
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South Downs
National Park Authority

PLEASE NOTE:

This application lies within the **South Downs National Park**. The application has been determined by **Mid Sussex District Council**, acting as an agent for the South Downs National Park Authority. The South Downs National Park Authority reserves the right to call in any application during the process. If this should become necessary you will be informed in writing stating the reason for the call in. Further details regarding the agency agreement can be found on the Council's website at www.midsussex.gov.uk/sdnp

TOWN AND COUNTRY PLANNING ACT, 1990

PERMISSION

REFERENCE: 11/03936/FUL

DESCRIPTION: SOUTH DOWNS NATIONAL PARK APPLICATION FOR THE 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. (DESCRIPTION AMENDED 16TH DECEMBER 2011)

LOCATION: MARKET GARDENS, CLAPPERS LANE, FULKING, HENFIELD

DECISION DATE: 2 JUL 2012

The Council hereby notify you that they **GRANT** planning permission for the above development to be carried out in accordance with the submitted application and plans and subject to compliance with the following conditions:-

1. 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 (published March 2012).

Reason: To protect the character of the area as planning permission would not normally be granted for this development and to comply with Policy H14 of the Mid Sussex Local Plan.

2. The uses hereby permitted shall be carried on only by John and Georgina Hearne and their resident dependants, and shall be for a limited period being the period of three years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.

Reason: The Local Planning Authority would not normally grant permission for such a development in this location but under the circumstances prevailing it is considered reasonable to make an exception in this instance and to allow the development for a limited period and to accord with Policy H14 of the Mid Sussex Local Plan.

3. When the premises cease to be occupied by John and Georgina Hearne and their resident dependants or at the end of three years, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought on to the premises in connection with the use shall be removed, including the amenity building shown on plan numbers 07-053A-003 and 07-053A-004, and the land shall be reinstated in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character of the area as planning permission would not normally be granted for this development and to comply with Policy H14 of the Mid Sussex Local Plan and the aim of the NPPF to conserve this designated landscape.

4. No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, and of which no more than one shall be a static caravan or mobile home, shall be stationed on the site at any one time.

Reason: To protect the character of the area and to comply with Policy H14 of the Mid Sussex Local Plan and the aim of the NPPF to conserve this designated landscape.

5. Any mobile home stationed on the site shall be finished in an external colour, details of which have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character of the area and to comply with Policy H14 of the Mid Sussex Local Plan and the aim of the NPPF to conserve this designated landscape.

6. No commercial activities shall take place on the site including the storage of materials, except for activities associated with the keeping and breeding of horses.

Reason: To protect the character of the area and to comply with Policies H14 and B3 of the Mid Sussex Local Plan and the aim of the NPPF to conserve this designated landscape.

7. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

Reason: To protect the character of the area and to comply with Policies H14 and T4 of the Mid Sussex Local Plan and the aim of the NPPF to conserve this designated landscape.

INFORMATIVES

1. You are advised that the District Council determined this application on the basis of the following drawings:

07053A 001
07053A 002

Reason for Decision

1. A temporary planning permission for the use of the site as a private caravan site for one gypsy family (reference 05/01874/FUL) that was granted by the Planning Inspector expired on 26 September 2011.

The Inspector granted the temporary planning permission in 2006 on the basis that this would allow the Local Planning Authority sufficient time to allocate sites for Traveller accommodation. In the intervening time no sites have been allocated by the Council for Traveller accommodation. The Inspector did consider that there was some harm to the area of outstanding natural beauty in 2006 from the proposal. At present there are no vacancies on any official sites in either East or West Sussex.

Given the harm the Inspector identified to the AONB it is not considered that it would be appropriate to grant a permanent planning permission for this proposal. However given the absence of alternative sites, the fact that the Council has not allocated sites for Travellers as set out in Government policy and the interference with the applicants Article 8 Human Rights that would result from an immediate cessation of the current unauthorised use of the site, it is not considered that it would be either reasonable or expedient to serve an enforcement notice requiring the immediate cessation of the current unauthorised use of the site.

It is considered that it would be appropriate to issue a further temporary planning permission with the period being 3 years. This would allow the Council time to allocate sites for Travellers as set out in Government guidance. It would also not interfere with the applicants Article 8 rights as they would not lose their home.

This information is only intended as a summary of the reasons for grant of planning permission. For further detail on the decision the planning file is available to view on the Council's website via the Online Planning Register.



Head of Economic Promotion and Planning

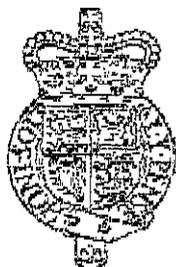
Signed on behalf of the South Downs National Park Authority

NB: IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ACCOMPANYING THIS FORM

PEFULZ

APPENDIX 2

**Appeal Decision ref: APP/D3830/A/06/2008402 – Dated 26th September 2006 -
Market Gardens, Clappers Lane, Fulking, Henfield**



Appeal Decision

Inquiry opened on 20 June 2006

Site visit made on 21 June 2006

by **Richard Clegg** BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State for
Communities and Local Government

The Planning Inspectorate
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Date: 26 September 2006

Appeal Ref: APP/D3830/A/06/2008402

The Caravan, The Market Garden, Clappers Lane, Fulking

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs J Hearne against the decision of Mid-Sussex District Council.
- The application Ref FK/05/01874/FUL, dated 16 August 2005, was refused by notice dated 28 December 2005.
- The development proposed is a private caravan site for one gypsy family.
- The inquiry sat for four days: 20-21 and 30 June, and 30 August 2006.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Procedural Matters

1. On the application form, the location of the site is given as The Caravan, Clappers Lane, whereas on the appeal form it is referred to as The Market Garden, Clappers Lane. The main parties agreed that the site should be known as The Caravan, The Market Garden, Clappers Lane, and I have identified it accordingly in the appeal details above.
2. The appellants have already occupied the site, and at the time of the inquiry a mobile home with an attached element having the appearance of a conservatory was positioned by the eastern boundary. At the site visit, the dimensions of the overall structure were measured, and it was subsequently agreed that with the addition of the 'conservatory', the width of the structure exceeded that specified for a caravan in the Caravan Sites Act 1968. The main parties further agreed that the structure as then assembled did not form part of the proposal before me.

Main Issues

3. I consider that the main issues in this appeal are:
 - (i) The effect of the development on the character and appearance of the Sussex Downs Area of Outstanding Natural Beauty (AONB).
 - (ii) Whether the proposal would be consistent with policies concerning the provision of gypsy sites.
 - (iii) Whether personal circumstances support the proposal.

Planning Policy

4. The Development Plan includes Regional Planning Guidance for the South East (RPG9), the West Sussex Structure Plan 2001-2016 and the Mid-Sussex Local Plan. The appeal site
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lies within the Sussex Downs AONB. Policy E1 of RPG9 explains that priority should be given to the protection of areas designated at international or national level for their landscape quality, which include AONBs. In the Structure Plan, Policy CH1 makes it clear that development should maintain and, where possible, enhance the character of the settlements and different areas and features of the County. Proposals should also reflect and, where possible, reinforce the character of the main natural character areas, one of which is the South Downs (of which the Sussex Downs form part). Policy CH2 is specifically concerned with AONBs. Here, development should not be permitted unless their natural beauty, distinctive character and remote and tranquil nature is maintained and, where possible, enhanced. Development for proven local needs should be permitted provided that it would be consistent with the purpose of the AONB. The second part of Policy NE2 addresses the scope of housing policies in Local Plans. There should be an appropriate mix of dwelling types in different locations, taking into account, amongst other matters, the need of specific groups, and the justification to the policy specifies that provision should be made for the needs of gypsies.

5. The Inset of the Local Plan Proposals Map for Fulking shows that the appeal site lies to the east of the boundary of the built up area. Under Policy C1, land outside settlements is classified as a countryside area of development restraint. Here, development is restricted to certain specified categories, including proposals supported by another policy of the Local Plan. Within the AONB, the aim to conserve and enhance natural beauty is the overall priority (Policy C4). Only proposals complying with this aim should be permitted. Development in the AONB should be restricted to that reasonably necessary for a use which has to be located in the countryside, proposals which are essential for local social and/ or economic needs, or that which would be in the national interest and for which no suitable sites are available elsewhere. Policy H14 provides for gypsy sites subject to compliance with a series of criteria. These include requirements that there should be minimal impact on the character and appearance of the countryside and a demonstrable local need.
6. The draft South East Plan was submitted to the Government earlier this year. Policy C2 reflects Policy E1 of RPG9, and explains that the emphasis should be on small-scale development proposals which are sustainably located and designed.
7. I have also had regard to national policy, including that contained in ODPM Circular 01/2006 - Planning for Gypsy and Traveller Caravan Sites, Planning Policy Statement 1 (PPS1) - Delivering Sustainable Development, Planning Policy Guidance Note 3 (PPG3) - Housing, and PPS7 - Sustainable Development in Rural Areas.
8. A designation order for the creation of a South Downs National Park was submitted and signed in 2002, and the appeal site lies within the designated area. Following a public inquiry into objections, a Ministerial announcement is expected later this year. At present, the site remains in an AONB, but I note that PPS7 makes it clear that national parks and AONBs both have the highest status of protection in relation to landscape and scenic beauty.

Reasons

Gypsy Status

9. Gypsies are defined in Circular 01/2006 as 'Persons of nomadic habit of life, whatever their race or origin, including such persons who on grounds only of their own or their family's or

Appellants' educational or health needs or old age have ceased to travel temporarily or permanently,....'. The site is occupied by Mr and Mrs Hearne and their three children. Mr Hearne carries out groundwork and surfaces drives, and travels to seek jobs in Kent and the London area. He owns a number of horses, which are kept elsewhere, and visits fairs three or four times each year to deal in horses. Overall, I heard that these periods spent travelling amounted to about four months each year, and during school holidays the whole family travel together for about 6-8 weeks. From what I have heard and read, I find that there is a clear pattern to the travelling undertaken by the appellants and their family, and I consider that they are gypsies for the purpose of planning policy.

Character and Appearance

10. The village of Fulking lies at the foot of the South Downs escarpment, which forms a backdrop to the settlement and its surroundings. Residential development extends along the west side of Clappers Lane, and there is sporadic development along the road beyond the built-up area, including a new pavilion at the nearby Preston Nomads Cricket Club. However, open land along Clappers Lane separates the site from the settlement, and it lies within the open setting on the east side of Fulking. A stoned surface has been laid across the northern part of the site and the mobile home stands here close to the eastern boundary. The appellants also have a touring caravan, which is currently on a friend's land, but which they wish to bring to The Market Garden. They had no objection to conditions requiring the approval of a site plan and a landscaping scheme, specifically involving a reduction in the extent of the hardstanding. As it is the intention to keep a few horses on the southern part of the site, I anticipate that the stationing of caravans and the parking of vehicles would continue to take place on the northern part. In this position, the caravans and vehicles would not be unduly prominent in distant views from the Downs, given the extent of tree and hedgerow cover around the site. The cover in the vicinity also restricts short distance views. I have taken into account the appellants' intention to reduce the extent of the hardstanding and to remove the conservatory from the mobile home; nevertheless, the mobile home itself can be seen in filtered views from Clappers Lane to the west, and from the stretch of road which passes the access the presence of the caravan site is readily apparent. I consider that the proposal would consolidate development along this part of Clappers Lane and represent encroachment into the countryside. It would impinge on the attractive setting of Fulking, and it would not be consistent with conserving and enhancing the natural beauty of the AONB, which is a primary purpose of designation. As the site lies within the AONB, it is of particular importance that the landscape is protected.
11. I heard that prior to its acquisition by the appellants, the site had operated as a market garden for many years, and the previous owner had occupied a caravan on the land. This is still present, in an extremely dilapidated condition, in the south west corner. That caravan had been the subject of a series of temporary planning permissions for its residential use, the last of which expired in 1990. However, the former owner, Mr Huet, continued to live there until his death in 1997. The appellants argued that, in consequence, a caravan could continue to be used for residential occupation on the site or alternatively simply stationed there, and reference was also made to the possibility of re-use as a market garden, with the associated erection of structures such as sheds and polytunnels.
12. There was no suggestion that there had been any residential use of Mr Huet's caravan since his death, and on the information before me it does not seem that the residential use of the

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caravan without planning permission continued for a sufficient length of time to provide immunity from enforcement action. However, the caravan itself has now remained on the land for almost 16 years since the expiry of the last planning permission, clearly exceeding the 10 years time limit for enforcement action. The appellants, though, wish to station two caravans on the site, and it is likely that outdoor domestic activities would result in a certain amount of paraphernalia being accommodated in the area near them. In comparison with the continued storage of a single caravan on the site, I consider that the appeal proposal would have a greater impact on this rural location. Insofar as the reintroduction of a market garden is concerned, there is no substantive evidence before me to support this possibility, yet for a fall-back position to carry significant weight there must be a reasonable prospect of the use concerned being implemented. In any event, I do not consider that a market garden would have as great an impact on the surrounding area as the caravan site. Whilst a market garden may result in the erection of some agricultural sheds and polytunnels, such features are not untypical in the countryside, whereas a caravan site with the accoutrements of residential activity would have a more urbanising effect in this location beyond the boundary of the built-up area. Consequently, I do not regard any of the alternative positions advanced by the appellants as providing significant support for the appeal proposal.

13. I conclude that the appeal proposal would harm the natural beauty of the Sussex Downs AONB, and that it would detract from its character and appearance. In this respect, therefore, it would conflict with Policy CH2 of the Structure Plan and Policy C4 of the Local Plan.

Policies concerning the Provision of Gypsy Sites

14. The Circular explains that rural settings, which are not subject to special planning constraints, are acceptable in principle for gypsy sites, but in AONBs, the objectives of the designation should not be compromised by such development. Criterion (a) in Policy H14 of the Local Plan specifies that proposals should not conflict with policies for the protection of areas of countryside with special characteristics. All of the District outside the built-up areas is included within a countryside area of development restraint, but it is clear from the justification to Policy C1 that whilst there is a policy of restraint in the countryside generally, certain locations require additional protection. I do not, therefore, regard the countryside area of development restraint as co-extensive with those areas of countryside with special characteristics which are likely to be more sensitive to new development proposals. The AONB, however, is such an area, and I have found that the proposal would harm its character and appearance. Accordingly it would fail to satisfy the first criterion of Policy H14 and it would conflict in this respect with the provisions of the Circular.
15. Policy H14 requires there to be a demonstrable local need for gypsy accommodation (criterion (e)). No information from a gypsy and traveller accommodation assessment (GTAA) is yet available. A consultant has been appointed to undertake this work for the County, and the results are expected by early next year. The emerging South East Plan refers to 786 caravans on unauthorised sites in July 2005, and describes an identifiable unmet need throughout the region. At district level, the bi-annual count of the same date records 26 caravans on unauthorised encampments. Whilst previous counts give lower figures, the District Council's records show unauthorised encampments occurring regularly during the year, with figures of 51, 19 and 10 for the years 2003-2005. These records, though, do not provide a complete picture. After 2002-03 the Council ceased

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comprehensive recording of unauthorised encampments on private land. The records for 2003 and 2004 refer to encampments on public land, although I heard that sites on private land which is visible are counted, and the information for 2005 relates simply to land owned by the District Council. However, the text accompanying the 2005 figures records that a significant number of traveller encampments on privately owned land and on highways and bridleways had been reported to the Council. In addition, the schedule of private gypsy sites in Mid-Sussex prepared by the Council (Document 9) reveals unauthorised use of land. Two of the five sites are unauthorised and a third has four caravans compared with a limit of two. The information before me indicates that there is a continuing pattern of unauthorised use of land by gypsies in Mid-Sussex, and the figures available do not necessarily portray the true extent of the situation.

16. There are four public gypsy sites in Mid-Sussex with a combined capacity of less than 30 pitches. The County Council Gypsy Liaison Officer has reported that three are settled family sites with no turnover. On the fourth, she estimated that about 3-4 vacancies arise annually, and a number of vacancies also occur on other County sites. However, there is a waiting list of 30-40 at any one time. In neighbouring East Sussex there are no vacancies and a waiting list for the public sites.
17. There have been few planning applications for gypsy sites in the District, but the Council acknowledged that there appears to be an unmet need for gypsy accommodation. The records of unauthorised sites are incomplete and, moreover, there is no information on household formation, which is an important component of need. Having regard to all the circumstances, including the existing level of provision, I have no doubt that there is a clear need for gypsy accommodation in the locality.
18. The facilities and services available in Fulking are extremely limited and do not include shops, a school or a doctor's surgery. There are shopping facilities at Henfield, where the appellants' family are registered with a doctor, and at Upper Beeding, where the three children attend the primary school. These settlements are about 6km from the site, and Fulking is situated off the main road network and is only served by a limited bus service. Having regard to the position of the appeal site in this rural area, I do not consider that it is within a reasonable distance of local facilities and services as sought by criterion (d) of Policy H14. The appellants pointed out that the same relationship to facilities and services applied to the settled community of the village. However, the more appropriate comparison would be with proposals for new permanent housing, rather than with existing development, and in this respect PPG3 indicates that the location and accessibility of sites to jobs, services and shops by modes of transport other than the car is an important consideration in assessing the suitability of sites for residential development.
19. The Circular explains that sustainability should not only be considered in terms of transport mode and distances from services. However, it does point to locations in or near settlements with access to local services for first consideration by local planning authorities. Specific factors which should be taken into account include easier access to health services and regular school attendance, and these are both more likely to be achieved close to a higher order settlement. As the site is for a single family, it would respect the scale of Fulking and it should not disturb the social balance in the locality: from what I have heard I have no reason to believe that the gypsy site would not co-exist peacefully with the local community. Similarly, given the size of the development, I do not anticipate that it would

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place undue pressure on the local infrastructure. The provision of a permanent base here would avoid the prospect of unauthorised encampments elsewhere, and as Mr Hearn generally travels to seek work in the London area and Kent, it would not cause long-distance travelling. The Circular also refers to flood risk in relation to sustainability, but no concerns about the proposal have been raised in this respect.

20. The remaining criteria of Policy H14 concern access and the effect on the living conditions of neighbours, and similar considerations are included in the Circular. The Parish Council, CLAG and local residents all express concern about the effect of the proposal on highway safety. This part of Clappers Lane is narrow with no footways or lighting. However, it is subject to a 20mph speed limit. Furthermore the site access is located on a short stretch of road between two sharp bends, and I anticipate that the alignment of the road will curtail speeds. Traffic uses this part of Clappers Lane to reach the nearby cricket club. There is only sporadic development further along the road, and there is nothing before me to indicate that it is a heavily trafficked route. Visibility is restricted from the access to the left, but given the usage of the road and the constraints on speed imposed by the bends, I do not consider that the additional traffic generated by a caravan site for a single family would have a material effect on highway safety. The appellants had no objections to conditions restricting commercial activities, the parking of vehicles over 3.5 tonnes in weight, and requiring details of external lighting to be included in a landscaping scheme. With these safeguards, the appeal proposal would not unacceptably harm the living conditions of nearby residents.
21. The proposal is consistent with many of the provisions of the Circular and Policy H14, although I find that there is conflict in respect of the effect on the ACNB, and it does not satisfy all the criteria for sustainability. Policy H14 was prepared in the context of the former circular, 1/94, which explained that authorities should make a quantitative assessment of the amount of accommodation required and, wherever possible, identify locations suitable for gypsy sites. Circular 01/2006 makes the position even clearer: GTAAAs are to be undertaken and site specific allocations to be included in a development plan document. There is no evidence that an assessment of accommodation needs or a search for sites has been carried out in Mid-Sussex. Nevertheless it is clear that there is a general need for gypsy accommodation, and the failure of the previous policy approach to bring land forward increases the importance I attach to need. I conclude that the proposal would not fully comply with policies concerning the provision of gypsy sites, but that the general need for accommodation is a significant factor in its support.

Personal Need and Circumstances

22. Prior to occupation of The Market Garden in August last year, the appellants were based at the Withy Patch gypsy site near Lancing. They left because of concerns about its suitability for a family. The site is adjacent to the A27 and the appellants were worried about the safety of their children. Disturbances on the site and anti-social behaviour associated with a nearby toilet block caused further concern. The conditions at Withy Patch were not disputed by the Council, and from what I have read and heard they do not appear to have been well suited to a young family. In any event, the pitch occupied by the appellants has now been taken, and they do not have the option of being able to return there. Enquiries were made about a number of locations, but no other suitable site was found. The purchase

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of the appeal site was made possible by money left to Mrs Hearn, and I heard that the appellants do not have the finances to acquire another site.

23. Following completion of the GTAA, the Council expects to identify gypsy sites and include these in a development plan document by the end of 2010. More than half of Mid-Sussex is designated as AONBs, which are likely to be more sensitive locations for the siting of gypsy sites. The appellants did not suggest that it would not be possible to identify sites elsewhere in the District, and the Council clearly expects to be able to make allocations in accordance with the approach set out in Circular 01/2006. However, neither of the main parties was able to identify any suitable alternative accommodation at the present time. In the circumstances, I consider that if the family had to leave the site immediately, they would be likely to resort to unauthorised encampments.
24. The appellants explained that their children are all settled at Upper Beeding Primary School, and a letter from the headteacher confirms this and their regular attendance. There is nothing before me to indicate that only the school at Upper Beeding would be able to provide satisfactorily for the children's education, but I agree that a settled base is important to ensure stability in education. A brief general reference was made to the health needs of gypsies, but no specific health arguments were advanced in support of the appeal proposal. As with education, however, a settled base is important to facilitate effective access to health facilities.
25. There is a clear need for a permanent base for the family, to which education and healthcare arguments contribute. At the present time there is no alternative accommodation available for the appellants' family, and it is likely to be about five years before sites come forward through the preparation of the local development framework. Policy CH2 of the Structure Plan and Policy C4 of the Local Plan both provide for development within the AONB which is essential to meet a local social need, and I conclude that the personal needs of the family support the continued occupation of the appeal site for a limited period.

Conclusions

26. The proposal would be harmful to the character and appearance of the Sussex Downs AONB. This is a national designation whose primary purpose is to conserve and enhance natural beauty, and the impact of the continued use of The Market Garden as a gypsy caravan site on its surroundings is a significant factor. For this reason, the proposal would conflict with aspects of national and local policy concerning the provision of gypsy sites, and it would not be fully consistent with criteria on sustainability. However, the proposal would comply with many of the provisions of Circular 01/2006 and Policy H14 in the Local Plan. In particular, a general need for gypsy accommodation in Mid-Sussex provides significant support.
27. Given the harm to the AONB, I do not consider that permanent occupation of the site at Clappers Lane would be appropriate, notwithstanding the extent of policy compliance. Although Policy CH2 of the Structure Plan and Policy C4 of the Local Plan provide for development in the AONB to meet a local need, they also make it clear that proposals should be consistent with the purpose of the AONB. The appellants' family does, though, have a clear need for a base, and there is no alternative accommodation available at the present time. [This situation alters the balance to support continued use for a limited period, which would enable land for gypsy sites to come forward] in accordance with the approach

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established by the Circular. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed on this basis.

28. Representations were made to the effect that the appellants' rights under Article 8 of the European Convention on Human Rights would be violated if the appeal were dismissed. As I have decided to allow the appeal and grant planning permission for a temporary period, the appellants will not lose their home as a result of the decision, and there will be no interference with their rights.

Conditions

29. I have already referred to conditions concerning the duration of the planning permission, commercial activities, the parking of commercial vehicles and landscaping, all of which I intend to impose. The duration of the planning permission should cover the length of time required to bring sites forward in a development plan document. The Council expect to have reached this position by the end of 2010, and consequently I agree with the main parties that a period of five years is appropriate. As the balance in favour of a temporary permission is dependent on the personal needs of the appellants' family as gypsies, conditions limiting occupation to the family and to gypsies are necessary. To safeguard the appearance of the area, it is important that the land is reinstated after the use as a caravan site ceases. For the same reason, the number of caravans should be limited to two, the caravan formerly occupied by Mr Huet should be removed, and the colour of the mobile home and a site plan should be submitted for approval.
30. There was considerable discussion about the form of a condition restricting commercial activities. The submitted version in Document 9 would permit activities connected with horse grazing and/ or breeding, since the appellants own a number of horses and Mr Hearne explained that he wished to keep two on the southern part of the land. The Council and local residents are concerned about the potential scale of this activity, but as the number of horses is likely to alter during the year due to breeding, a restriction on this basis would not be appropriate. I consider that the size of the paddock and the absence of buildings will effectively serve to limit the extent of horse related activities. As it is the keeping of horses rather than grazing which may be a commercial activity, I shall amend the suggested condition accordingly. In the interest of highway safety it is important that the first part of the access is finished with a sealed surface. There were suggestions that the number of vehicles at the site should be limited. I intend to impose the condition agreed by the main parties preventing vehicles over 3.5 tonnes being kept at the site. With this in place, I do not consider that a further restriction on vehicles is necessary for either highway safety or residential amenity reasons in respect of a site for a single family.

Formal Decision

31. I allow the appeal, and grant planning permission for a private caravan site for one gypsy family at The Caravan, The Market Garden, Clappers Lane, Fulking, in accordance with the terms of the application, Ref FK/05/01874/FUL, dated 16 August 2005, and the plans submitted with it, subject to the following conditions:
- 1) The permission does not authorise use of the land as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006.

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- 2) The use hereby permitted shall be carried on only by John and Georgina Hearne and their resident dependants, and shall be for a limited period being the period of five years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
- 3) When the premises cease to be occupied by John and Georgina Hearne and their resident dependants or at the end of five years, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought on to the premises in connection with the use shall be removed, and the land shall be reinstated in accordance with a scheme to be submitted to and approved in writing by the local planning authority.
- 4) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, and of which no more than one shall be a static caravan or mobile home, shall be stationed on the site at any one time.
- 5) Any mobile home stationed on the site shall be finished in an external colour, details of which have been submitted to and approved in writing by the local planning authority.
- 6) No later than two months from the date of this decision, the caravan which was positioned in the south west corner of the site at the date of the inquiry, and which was formerly occupied by Mr Huet, shall be removed in its entirety from the site.
- 7) No later than six months from the date of this decision, the site shall be laid out in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The caravans shall be positioned thereafter in accordance with the approved details.
- 8) No later than two months from the date of this decision, a scheme of hard and soft landscaping, including external lighting, shall be submitted to the local planning authority for approval in writing. All the works shall be carried out in accordance with a programme which has been approved in writing by the local planning authority.
- 9) No commercial activities shall take place on the site including the storage of materials, except for activities associated with the keeping and breeding of horses.
- 10) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 11) No later than three months from the date of this decision, the vehicular access shall be finished with a sealed surface for a distance of at least 5m from the highway boundary, in accordance with a scheme to be submitted to and approved in writing by the local planning authority.

Richard Clegg

INSPECTOR

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APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr D Smith of Counsel Instructed by Miss A Atkins, Administration Manager.
He called
Mr S King BSc(Hons) Senior Planning Officer.
DipTP MRTPI

FOR THE APPELLANTS:

Mr A Masters of Counsel Instructed by Dr C Beresford-Webb.
He called
Mr J Hearne Joint appellant of The Caravan, The Market Garden,
Clappers Lane, Fulking, Henfield, West Sussex.
Mrs G Hearne Joint appellant of The Caravan, The Market Garden,
Clappers Lane.
Mr M Green Beresford-Webb Associates, 4 Bourton Road, Much
Wenlock, Shropshire, TF13 6AJ.

INTERESTED PERSONS:

Councillor R. I. Rowland Chairman, Fulking Parish Council, and of Furzefield,
Clappers Lane, Fulking, Henfield, West Sussex.
Councillor J Worsley Member of the South Downs Joint Committee, Victorian
Barn, Victorian Business Centre, Ford Lane, Ford,
Arundel, West Sussex, BN18 0EF.
Mr D Hood BSc(Hons) DipUD MSc Associate Director, HLL Humberts Leisure, Pavilion
MRTPI View, 19 New Road, Brighton, East Sussex, BN1 1UF.
Representing the Clappers Lane Action Group.
Mr A Brooks Local resident of Hillbrook, Clappers Lane, Fulking,
Henfield, West Sussex, BN5 9NH.
Mr N Cooper Local resident and member of CLAG, 9 Clappers Lane,
Fulking, Henfield West Sussex, BN5 9ND.
Mrs R Cooper Local resident of Coombes, The Street, Fulking,
Henfield, West Sussex, BN5 9LX.
Mr R Corner Local resident and member of CLAG, Fulking House,
The Street, Fulking, Henfield, West Sussex, BN5 5LU.
Mr H Diamond Local resident of Downside, Poynings Road, Fulking,
Henfield, West Sussex, BN5 9NE.
Mr R Linford Local resident and member of CLAG, Bramble Cottage,
43 Clappers Lane, Fulking, Henfield, West Sussex, BN5
9ND.
Mr T Sadka Local resident and member of CLAG, The Old
Farmhouse, The Street, Fulking, Henfield, West Sussex,
BN5 9LH.
Mr J Sapsted Local resident of The Old Bakehouse, Fulking, Henfield,
West Sussex, BN5 5LU.

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DOCUMENTS SUBMITTED AFTER THE INQUIRY OPENED

- Document 1 Statement of common ground.
- Document 2 Appendices to Mr Hood's proof of evidence.
- Document 3 Extracts from the Structure Plan. Submitted by Mr Smith.
- Document 4 Extracts from the Local Plan. Submitted by the Council.
- Document 5 Appeal decisions concerning the siting of caravans at Marigold Farm, Ansty and Meadow Wood, Cuckfield. Submitted by Mr Smith.
- Document 6 Appeal decision concerning the use of land as a gypsy caravan site at Toll Bar, Doncaster.
- Document 7 Bundle of e-mails between the Council and West Sussex County Council concerning public gypsy sites and unauthorised encampments. Submitted by Mr King.
- Document 8 List of suggested conditions. Submitted by the Council.
- Document 9 Schedule of private gypsy sites in Mid-Sussex. Submitted by Mr King.
- Document 10 Note of telephone conversation on 30 June 2006 between Mr King and Mr Hughes of Horsham DC concerning the appellants' occupation of land in Horsham. Submitted by Mr King.

PLANS

- Plan A Extract from Local Plan Proposals Map. Submitted by Mr King.