REF. NO. F/13/71899

PLANNING APPLICATION REPORT

DESCRIPTION/ ADDRESS	-	Construction of single storey 3/4 bed dwelling, following demolition of existing mobile home & outbuilding Bay Farm Grange Road Bursledon Southampton SO31 8GD

SITE VISIT DATE – 11.02.13

ARE PLANS ACCURATE? – yes

HAVE ALL NECESSARY NEIGHBOURS BEEN CONSULTED? – yes

THE SITE AND ITS SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks permission for the construction of an 'L' shaped detached dwelling following the demolition of the existing twin mobile home and ancillary outbuilding.
SITE AREA	The application site is approximately 2436.9 sq metres.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	24.36.9sqm (41d/ha)
TOPOGRAPHY	The site is generally level.
TREES	The site is quite open with no trees of note on the site.
BOUNDARY TREATMENT	The majority of the site boundaries are fencing and hedging, which is to a height of approximately 3m.
SITE CHARACTERISTICS	The site is split into three main areas, the applicant's mobile home that was allowed at appeal in 1999, with its day room, barn and garden are all located within the southern part of the site. To the north is an area used for caravan storage and a polytunnel and beyond this is the site recently approved for accommodation 3no. mobile homes, 3no. touring caravans and 3 day rooms.
CHARACTER OF LOCALITY	The application site is within designated countryside and is within the strategic gap. The site is located 450m along a metalled track accessed off Grange Road. Along this track are two other sites for gypsy families an industrial site used in association with the marine industry and three houses. To the north is land associated with Pickwell Fruit Farm, whilst to the south are paddocks beyond which is the residential area of Netley.

RELEVANT PLANNING HISTORY

REFERENCE	DESCRIPTION	DECISION

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RELEVANT PLANNING HISTORY

REFERENCE	DESCRIPTION	DECISION
F/10/66559	Change of use of land to gypsy caravan site accommodating 3no. mobile homes, 3no. touring caravans and 3 day rooms	Approved 21/2/12
35996/002	RETENTION OF ANCILLARY AMENITY BUILDING	Approved 21/6/01
35996/001	RETROSPECTIVE APPLICATION FOR USE OF LAND AS GYPSY CARAVAN SITE FOR ONE FAMILY (ONE TWIN UNIT MOBILE HOME)	Refused 21/9/99, allowed at appeal 7/12/99

REPRESENTATIONS RECEIVED

SOURCE	SUMMARY OF CONTENT
None	

CONSULTATION RESPONSES

CONSULTEE	SUMMARY OF RESPONSE
Hound parish council	No response received to date
Head of Regeneration and Planning Policy and Design	Comments dated 12th Feb 2013: New guidance, the 'Planning policy for traveller sites' document was published in March 2012 alongside the National Planning Policy Framework. Policy H paragraph 20 states: Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Local Planning Policies The current development plan consists of the South East Plan and saved policies from the Local Plan Review 2001-2011. Eastleigh Borough Local Plan Review 2001-2011 – saved policies: The site is located within the countryside and therefore development of a permanent dwelling at this location is contrary to policy 1.CO which seeks to protect the countryside from urbanising development. Saved policy 14.CO states that replacement of mobile home parks with permanent accommodation will not be permitted. Whilst it is recognised the existing dwelling is classified as a caravan, many qualities are shared between caravans and mobile homes, and reasons for not allowing them to be replaced by permanent accommodation are equally applicable. Other material considerations Emerging Plan:

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CONSULTATION RESPONSES

CONSULTEE	SUMMARY OF RESPONSE
	The emerging Eastleigh Borough Local Plan 2011-2029 is currently at pre-submission stage. Principles of protection of countryside from urbanisation and for permission not be given for replacement of mobile homes with permanent dwellings are continued through policies S8 and DM26 (iv) respectively. Officer Comment In addition to policy points raised above. It is noted that a relatively recent application approved the site for gypsy accommodation rather and not for a permanent dwelling. Concern is raised that construction of a permanent dwelling may not remain for use by the gypsy community if sold on the general market and would represent a loss and therefore a reduction of suitable sites for gypsies and travellers.

POLICY CONTEXT

DESIGNATION APPLICABLE TO SITE
Outside Built-Up Area Boundary Within Strategic Gap

DEVELOPMENT PLAN POLICIES & EMERGING LOCAL PLAN POLICIES AND SPD'S

Eastleigh Borough Local Plan Review (2001-2011): 1.CO, 2.CO, 8.CO,18.CO, 59.BE & 87.H
Pre Submission Consultation Eastleigh Borough Local Plan 2011-2029: S8, DM1, DM26, DM30
Supplementary Planning Document: Quality Places
Supplementary Planning Document: Planning Obligations

NATIONAL PLANNING POLICY GUIDANCE

National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to form the criteria against which this application will be assessed with particular regard to the general principle of that proposed, including the current stance on Gypsy applications, impact on the residential amenity of neighbouring properties, the accessibility of the site, parking and highway issues, as well as the visual and physical impact of the application on the character and appearance of the surrounding countryside.

COMMENT ON CONSULTATION RESPONSES

Please see report below

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COMMENT ON REPRESENTATIONS RECEIVED

n/a

PLANNING OBLIGATION/CONSIDERATIONS

In accordance with the requirements of National Planning Policy Framework and the guidance contained within policies 101.T, 147.OS and 191.IN of the Eastleigh Borough Local Plan Review (2001-2011) and DM8, DM23, DM32, DM37 of the Eastleigh Borough Council Local Plan Pre Submission (2011 - 2029).

This application is subject to developer's contributions to offset the impact of the development on local infrastructure. Contributions are required towards the provision of social and recreational facilities, off-site public open space and transportation infrastructure in the local area.

As this has not been secured then a reason for refusal is recommended on the application.

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Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

> *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

A number of saved policies within the Eastleigh Borough Local Plan Review (2001-2011) are relevant in this instance and are set out below.

Saved Policy 1.CO outlines the types of development considered appropriate for countryside locations, which includes development necessary for agricultural, forestry or horticultural purposes, outdoor recreational uses, public utility services, extensions to education or health facilities. It also requires any development to meet the other relevant policies and criteria of the local plan. The siting of the mobile homes in this instance is not for any of the above stated purposes.

Saved Policy 2.CO relates to strategic gaps and states that planning permission will only be granted for appropriate development which cannot be acceptably located elsewhere and which would not physically or visually diminish a local gap. This is a strategic gap between Southampton – Hedge End/Bursledon/Netley.

Saved Policy 8.CO allows the replacement of existing dwellings in the countryside which enjoy a lawful residential use provided (i) the dwelling is not as a result of a temporary permission; (ii) its appropriate in design, respects the countryside, not disproportionate to neighbouring properties, no greater physical or visual impact on the countryside; (iii) includes removal of existing dwelling; and (iv) no additional units of accommodation are created.

Saved Policy 18.CO relates to landscape character and states that 'Development which fails to respect, or has an adverse impact on the intrinsic character of the landscape, will be refused.'

Policy 59.BE of the Local Plan requires development to take full and proper account of the context of the site including the character and appearance of the locality and be appropriate in mass, scale, materials, layout, design and siting. It also requires a high standard of landscape design, have a satisfactory means of access and layout for vehicles, cyclist and pedestrians, make provision for refuse and cycle storage and avoid unduly impacting on neighbouring uses

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through overlooking, loss of light, loss of outlook, noise and fumes.

Saved Policy 87.H specifically relates to proposals for Gypsy sites and states that site will be considered acceptable provided they meet three criteria:

i. they are within a reasonable distance of schools, medical services, shops and other facilities;
ii. they should make appropriate provision for access and parking; and
iii. they should not have an unacceptable impact on the character or appearance of the countryside.

The South East Plan remains extant although central Government has made clear its intentions to revoke it. There are also plans to revoke Circular 01/06: 'Planning for Gypsy and traveller caravan sites' which sets out the national planning stance on this issue. As this Circular is still in place it is a material consideration.

The LPA has not allocated new gypsy sites within the draft local plan although it is likely there will be a need for some transient and permanent pitches during this new plan period. The draft local plan does contained a criteria based policy (DM30) related to Gypsies and Travelling Showman that states proposals for Gypsy sites will be permitted which:

i. are able to accommodate both residential use and where necessary the range of economic activities and vehicles associated with residents mobile lifestyles without unacceptable impact on local amenities, road safety, heritage, landscape or biodiversity interests;
ii. have safe and convenient access to services and facilities to serve the residents, including education, health facilities and shops;
iii. have or can be provided with utility services; and
iv. have vehicular access to and from the strategic road network adequate to accommodate mobile residential units and any vehicles/machinery associated with residents working activities.

The scale of the site should not dominate the nearest settled community.

S8 – Presumption against new development subject to consideration of other policies and identification of countryside gap. Permission will be granted for development related to (ii) accommodation for gypsies (Policy DM30) but not for development in countryside gaps that will physically or visually diminish the gap or have an urbanising effect detrimental to the openness of the gap, the character of the countryside or separate identities of the adjoining settlements. In permitting development in the countryside, the council will seek wherever possible to (a) avoid impacts on rural character, intrinsic character of the landscape and biodiversity of the area; (b) secure long-term beneficial management practices that will enhance the landscape and biodiversity of the countryside.

DM1 – reflects much of that set out in saved policy 59.BE

DM26 – allows the replacement of existing dwellings in the countryside which enjoy a lawful residential use provided (i) the dwelling is not as a result of a temporary permission; (ii) the dwelling is not disproportionate to neighbouring properties or its plot, (iii) includes removal of existing dwelling and the new dwelling is on the same footprint as the existing and (iv) no additional units of accommodation are created. The Policy also goes on to state that permission will not be given for the extension or replacement of rural workers dwellings that exceed the original size or the

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replacement of mobile homes with permanent dwellings.

The proposal is considered to conflict with relevant Development Plan policies.

Principle

The principle of a new residential dwelling in the countryside is contrary to the Policies of the adopted and draft local plans. In particular the development is contrary to Policy 1.CO as the development is not necessary for agricultural, forestry or horticultural purposes, outdoor recreational uses, public utility services, extensions to education or health facilities. The criteria of Policy 8.CO does not apply to this application because although it is a site with lawful use for a gypsy site including mobile home and outbuilding, it is not classed as a dwelling. The Design and Access statement constantly quotes 'replacement dwelling' or 'dwelling' (paragraphs 4.4, 5.1, 5.2, 5.3). This is not the correct description for the existing permitted use or that which occupies the site. The application does not make reference to the applicants gypsy status nor the original appeal decision and restrictive conditions. Policy DM26 of the emerging local plan that sets the criteria for replacement dwellings in the countryside states that permission for the replacement of mobile homes with permanent dwellings will not be allowed.

The applicant's mobile home was allowed at appeal in 1999 where the inspector concluded that the retention of the mobile home and day rooms would not materially physically or visually reduce the strategic gap in this location or its effectiveness in separating settlements. The appeal site is within reasonable distance of facilities and there was a demonstrable need for a gypsy caravan site in this locality. In granting approval, the Inspector added conditions that restricted the use of the caravan site solely to those defined as gypsies, not more than 1 mobile home used for habitation and 1 caravan used for touring to be stationed here and not more than 2 commercial vehicles and 2 trailers to be parked on site. The Inspector stated that should the Kempsters leave, the site would continue to contribute to the stock of gypsy sites in the locality for which there is a general need.

Concerns are raised with regards to the replacement of the mobile home with a permanent dwelling as it would result in the loss of the gypsy site and set a dangerous precedent for similar development in the Borough if allowed. The nature of gypsy sites is transient and therefore a permanent structure is not considered to support the ability of other gypsy families accommodating the site in the future. The Local Planning Authority acknowledges that a gypsy family may choose at times to live in a traditional house but Court decisions have established that even in these situations the gypsy heritage remains. It may be that Mr Kempster and his family wish to live in a traditional dwelling but this is not considered sufficient justification to allow a dwelling on the above site. Regard has been given to Planning Circular 11/95: Use of conditions in planning permission, paragraph 28, provides guidance in respect of the enforceability of conditions. Taking this guidance into account, the imposition of a restrictive use condition i.e. for gypsy occupancy, would be impracticable to enforce due the difficulties in monitoring who would be residing at the property.

The mobile home was allowed on the basis that the appellant wanted to be located close to his family and was able to access day to day necessities, services and facilities from this location. Although the inspector considered an urban site could be found to house the family, at the time it was considered to be a costly option that was not compatible with the commercial element of the appellant's lifestyle. On this basis, it is argued that should there now to be a need to live in a brick dwelling, then this could be met by the existing housing stock.

The applicant's justification for the development is that the mobile home is 'falling into disrepair'

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and as such a rebuild offers the most sustainable and economically viable option. Mobiles homes are temporary in nature and therefore it is expected that there will be a need for repair work or a replacement with a new mobile home. On this basis, this is not considered sufficient reasoning in allowing an exception to policy as this does not outweigh the harm for allowing the construction of a new residential dwelling in this countryside location.

Impact on strategic gap

As well as being contrary to Policy 1.CO due to the principle reason set out above, Policy 2.CO states that planning permission will only be granted for appropriate development which cannot be acceptably located elsewhere. Whilst the Inspector concluded that the retention of the mobile home and day rooms would not materially physically or visually reduce the strategic gap in this location or its effectiveness in separating settlements, the siting of a permanent and larger structure is considered to have an urbanising and detrimental impact on the openness of the gap. The Inspector considered the mobile home to form part of the enclave of existing development, not being distinguishable as an isolated feature unrelated to other buildings and land uses (paragraph 22). However the proposed dwelling is considerably larger in its appearance than the mobile home and visually would appear incongruous and unrelated to the surrounding agricultural and caravan structures. On this basis, the development would physically and visually diminish the strategic gap.

Residential amenity

Due to the position of the proposed development in relation to existing neighbouring properties, there are not felt to be any issues of adverse impact upon the residential amenity of those neighbouring properties in terms of loss of privacy, light, outlook or general disturbance.

OTHER MATERIAL CONSIDERATIONS

Also of relevance is the pre-submission Eastleigh Borough Local Plan 2011-2029. While not yet adopted it does carry weight by virtue of being intended as the current local plan's replacement. With regards to this application, the new policies essentially echo those of the current plan and are not considered to affect the recommendation put forward.

CONCLUSIONS

Recommend refusal.