



Appeal Decision

Hearing held and site visit made on 18 February 2020

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 13 March 2020

Appeal Ref: APP/L3815/W/19/3227455

Field South of Main Road, Main Road, Southbourne PO10 8EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs John Fuller against the decision of Chichester District Council.
 - The application Ref SB/18/03428/FUL, dated 21 December 2018, was refused by notice dated 22 March 2019.
 - The development proposed is described in the application form as the 'material change of use of the land for stationing of caravans for residential occupation for single pitch Gypsy site with facilitating development (hard standing and utility building).'
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Since the Council's decision in respect of the development proposed via application Ref SB/18/03428/FUL an appeal for three traveller pitches at Sidlesham was allowed.¹ Consistent with an earlier appeal decision at West Ashling,² the Inspector who determined the Sidlesham appeal found that there was evidence of 'significant unmet need' for traveller pitches in the District. The Council now accept that finding.
3. The main parties agree that a five year supply of deliverable sites for pitches relative to needs ('5YLS') cannot presently be demonstrated in line with paragraph 10 of Planning policy for traveller sites (published August 2015, 'PPTS2015').³ By consequence the Council no longer maintain the first reason for refusal given in their decision notice, which stated the opposite.
4. At the hearing the appellants presented a Unilateral Undertaking (dated 18 February 2020, the 'UU'). The UU contains an obligation, in the event permission were to be granted, that a financial contribution is made to mitigate ecological effects resulting from the proposal to the Chichester and Langstone Harbours Special Protection Area, the boundary of which touches Prinstead Lane a relatively short distance away from the appeal site.

¹ Ref APP/L3815/W/18/3209147.

² Ref APP/L3815/W/19/3220300.

³ References to travellers in this decision are to the planning definition of such persons in Annex 1 to PPTS2015.

5. By virtue of the UU, the Council no longer maintain the third reason for refusal given in their decision notice, namely that previously the proposal failed to make sufficient provision for mitigation.

Planning context

6. The appeal site, to the south of and accessed directly via the A259, is part of a wider field owned by the appellants. There have been two unsuccessful proposals for development at this site previously, in 1998 for a dwelling and in 2002 for three traveller pitches.⁴ The latter was dismissed at appeal (the '2002 appeal').⁵
7. Main Road, the A259 or Roman Road, represents the northern limit of the Chichester Harbour Area of Outstanding Natural Beauty ('AONB'), the boundaries of which are the same as at the time of its designation in 1964. Whilst the situation of the appeal site within the AONB remains unchanged, things have moved on in terms of policy and on the ground since 2002.
8. In 2002 the site fell within a 'strategic gap' designated in order to prevent settlement coalescence. That was set via policies C1 of the West Sussex Structure Plan 1993 and RE6 of the District Local Plan 1999. At that juncture Government Circular 1/94: Gypsy Sites and Planning, and Planning Practice Guidance 3: Housing, applied. None of those documents remain extant.
9. The development plan now includes policies of the Chichester Local Plan: Key Policies (adopted July 2015, 'LP') and of the Southbourne Parish Neighbourhood Plan (made 15 December 2016, 'NP'). Each proposal must be determined on its merits in accordance with the development plan unless material considerations indicate otherwise; any conflict between development plan policies must be resolved in favour of the latest to be adopted.⁶
10. I have had regard to various other material considerations including PPTS2015, the National Planning Policy Framework ('NPPF'), the Planning Practice Guidance ('PPG'), the Council's AONB Supplementary Planning Document (adopted May 2017, 'SPD'), the Chichester Harbour Management Plan third review (published March 2019, 'MP'), and the AONB Landscape Character Assessment (dated April 2019, 'LCA'). The LCA is evidence in support of a review of the LP underway, a process currently at a relatively early stage.

Main issue

11. Against the background above, the main issue is the effect of the proposal on the natural beauty of the AONB. In the event that I find that harm would result, I will gauge whether any material considerations in favour of the proposal would nevertheless justify allowing the appeal.

Reasons

Effect on AONB

12. Aside from a dilapidated caravan and miscellaneous items, the appeal site and wider field in which it sits are essentially open land used as a paddock.

⁴ Applications Ref 98/00949/FUL and SB/01/01850/FUL.

⁵ Ref APP/L3815/A/01/1078593.

⁶ Section 38 of the Planning and Compulsory Purchase Act 2004 as amended.

Enclosed by established hedgerows, the site falls beyond the settlement boundary for Southbourne and Prinstead to the east, albeit abutting it. The settlement boundary here is drawn along an overgrown strip of land beside No 12 Jubilee Mews. Jubilee Mews was created in place of the former Harvest Home Inn around 2002.⁷

13. The settlement boundary for the nearest village to the west, Hermitage, is drawn around the plot of No 123a Main Road a few hundred metres away. On the ground, however, its built form extends slightly closer. At what has become Parham Place obliquely opposite the appeal site, 20 dwellings have recently been created. That has effectively extended Southbourne and Prinstead westwards into the former strategic gap.
14. Parham Place, along with Nos 171 and 181 Main Road and Tuppenny Barn, a farm shop, results in a more-or-less continuous string of development between Southbourne and Hermitage along the northern side of the A259. There is also a handful of historic properties cut out of fields falling between the appeal site and Hermitage on the southern side of the Roman Road.
15. More broadly several settlements of varying scales are located along the A259 between Chichester and Havant. Some blur into one another; the Inspector who determined the 2002 appeal described how there was 'considerable ribbon development along the A259'. I also visited a site by Nutbourne Park, close to the A259 and also within the AONB, where two traveller pitches were permitted at appeal in 2013.⁸
16. The site falls within character area 'H1, Havant to Chichester Coastal Plan' as identified in the LCA. The LCA defines landscape quality in character area H1 as 'moderate'. On account of the broadly level topography, established hedgerows, and other properties including Thornham House, there is no appreciable intervisibility between the appeal site and harbourside. The site therefore does not contribute strongly towards the special qualities of the landscape identified in the MP, the focus of which is predominantly on the AONB closer to Chichester Harbour.
17. The proposal is for relatively low-lying development next to the defined settlement boundary within a comparatively modest field. Site access is, and would be, off a layby near a bus stop. Caravans and the proposed utility room would bear some similarity to agricultural or utilitarian buildings and structures in the wider landscape. Some four or five years ago the appellants planted conifer hedging along the site frontage, which are intended to be retained.
18. However the proposal would inherently result in the introduction of significant built development on land that is presently open, natural and consistent in character with adjacent fields to the south and west. By virtue of those qualities, although there is some other development nearby, the appeal site appears clearly part of the landscape rather than being a natural adjunct or extension to Southbourne and Prinstead.

⁷ Whilst the Inn is shown on plan 0601/01 related to the 2002 appeal, the previous Inspector was aware of the implications of redevelopment in that location (as reasoned in paragraph 12 of that decision).

⁸ Ref APP/L3815/A/12/2186455.

19. The field in which the appeal site falls has existed for some time in its present form. However the scheme would arbitrarily subdivide it. In itself that would result in a greater contrast with the 'medium to large scale arable' fields which predominate in landscape character area H1.⁹ I also note that smaller hedged paddocks, although not inimical to rural character, are noted in the LCA to be somewhat at odds with the agrarian history to the landscape.¹⁰
20. The SPD, MP and LCA all identify how the gradual urbanisation of the countryside, or linear development along the A259, has eroded landscape character over time. If anything, as referenced above with regard to Parham Place, such pressures have increased since 2002. That, in my view, places significant importance on preserving a sense of openness and separation between settlements where that remains. That objective is still reflected in LP policy 43, criterion 3. NPPF paragraph 172 sets out how Areas of Outstanding Natural Beauty have the 'highest status of protection' in respect of landscape and scenic beauty; 'moderate' landscape quality does not indicate that a moderate level of protection should also be applied.
21. Hedging along the site frontage, and additional planting proposed, would afford some screening of the proposal. However the mobile home would be set centrally within the appeal site, square-on to the A259, and relatively close to the pavement. The touring caravan and utility block are intended to be set closer still to the site frontage. Consequently, and on account of the height of the utility block and potential height of caravans,¹¹ natural screening would only be partial (and would itself impede glimpsed views of hedgerows punctuated by trees to the south which hint at a wider rural setting).
22. The site arrangement now proposed is likely to be similarly prominent as the 2002 scheme, where the caravans in that instance were proposed to be aligned side-on and tucked close by the strip of land by Jubilee Mews. Moreover, on account of its strategic location, the A259 is a busy route, with the bus stop by the access to the site benefitting from regular services. Some services, I saw, run double-decker buses. The site is therefore in a location that will naturally be passed by a significant number of individuals, some of whom will view the site from an elevated perspective.
23. Whilst established hedgerows run alongside the A259, they tend to comprise native or self-seeded species. The LCA sets out the importance of conserving hedgerows as part of landscape character, with the SPD specifically recommending the use of native hedgerows.¹² Few of the species recommended in the SPD are evergreen, and all are of a rugged scrubby character as opposed to a finer more domestic quality (a setting in which conifer hedging is commonly used).
24. The proposal would also, at times, result in a significantly greater intensity of use of the site than at present. Vehicular parking is proposed directly beyond the site access where there would be a line of sight from the A259. The scheme also entails the provision of extensive hardstanding. Consequently, in my view,

⁹ LCA paragraph 4.4.104.

¹⁰ Paragraph 4.4.113.

¹¹ Given as 3.56m on plan 3 and in line with section 13(2) of the Caravans Site Act 1968 as amended respectively.

the proposal would result in an incongruous domestic appearance to the site, jarringly out of keeping with prevailing character.

25. Whilst I accept that there have been changes to policy and on the ground, my reasoning above leads me to broadly the same view as the Inspector in 2002: the appeal site is a prominent location, within an element of the AONB important to preserve in the face of ribbon development. The proposal would artificially subdivide an existing field to the detriment of openness, introduce significant development in a site broadly consistent with natural character, and result in an incongruous domestication of the landscape.
26. Whilst there are certain moderating factors, as noted in paragraphs 16 and 17 above, I therefore conclude that the scheme would result in significant harm to the natural beauty of the AONB. I saw that the site at Nutbourne related to the 2013 appeal referenced above is not comparable; that site is set down in the topography, next to a park home site and private lane, and imperceptible from the A259. The proposal therefore conflicts with the relevant provisions of NP policy 7, LP policies 36 and 43 and of NPPF paragraph 172. In summary those policies seek to at least conserve landscape and scenic beauty, the latter indicating that 'great weight' should be accorded to that objective.

Other matters

Site supply relative to needs

27. LP policy 36, informed by a Gypsy and Traveller Accommodation Assessment undertaken in 2012 ('GTAA2012'), identifies the 'potential need' for 59 permanent pitches over a 15 year period to 2027. As a simple average that amounts to about 4 pitches a year. In the light of pressing needs that existed at that time, LP policy 36 also sets out that of total forecast needs 37 pitches were required to 2017 (amounting to around 7.4 pitches annually over a five year period).
28. Whilst pitch requirements in LP policy 36 are not expressed as a maximum, I am told that between 2012 and 2017 a total of 82 traveller pitches were granted permission in the District. The GTAA2012 indicated that 50% of pitch provision should be publicly provided, however I understand that no such pitches have been brought forward since 2012. Demand for traveller sites has therefore outstripped intended provision by a significant margin.
29. An updated study of traveller needs has recently been prepared in support of the emerging plan ('GTAA2018'). In headline terms the GTAA2018 points to a likely need of 94 traveller pitches over an 18 year period to 2036. As a simple average that amounts to about 5 pitches a year, reflecting that traveller needs have risen since 2012. That is despite the change between PPTS2015 and the previous iteration of that document published in 2012 ('PPTS2012'), in that those who have ceased travelling permanently no longer fall within the planning definition of travellers.
30. The Council accept that they cannot demonstrate a 5YLS relative to needs forecast in the GTAA2018, indicating at the hearing a potential forward supply amounting to about three years. That is based on 19 pitches having been permitted since 2018. It appears that forward supply is reliant on private provision; there are a dozen applications with the Council for traveller pitches

at present. That is notwithstanding that, at the time of the hearing, 90 individuals were registered across West Sussex as seeking publicly-provided sites.

31. However the GTAA2018 is based on 78 interviews with traveller households relative to 180 existing pitches in the District. That is, assuming each pitch relates to a single household, a limited return rate of around 43%. GTAA2018 paragraph 9.11 explains that, of the 78 households surveyed, 57 continued to meet the PPTS2015 definition of travellers described above (some 73%). Conversely the GTAA2018 sets out, based on an approximation of national trends, that only 25% of households who were not interviewed would likely continue to meet the PPTS2015 definition of travellers. That differential approach is difficult to reconcile, and indicates that needs are likely to be higher.
32. Given the relationship of pitch provision to forecast demand in the 2012GTAA, the number of applications and appeals in play,¹³ and demand for public provision, in my view the GTAA2018 indication that 94 pitches will be required to 2036 is likely an under-estimation. Therefore the extent of shortfall relative to a robust 5YLS requirement in line with PPTS2015 paragraph 10 is likely substantial, with the Council's latest Local Development Scheme indicating that the submission of a new plan for the District incorporating traveller pitch allocations is only intended to be submitted for examination in mid-2022.

Personal circumstances

33. The appellants are of Romany Gypsy heritage. I am required to have due regard to the need to advance equality of opportunity between persons who share a protected characteristic and those who do not.¹⁴ I note that a particular local connection to an area is not a pre-requisite of seeking planning permission for a pitch; the initial question being whether a site is acceptable for such a use.¹⁵
34. Mr Fuller travels across the country sharpening scissors. Whilst that has been his principal employment for the past twenty years or so, he and his wife have also previously undertaken various other work across a wide geography. That pattern results in the appellants moving between transit sites, including St Joseph's Caravan Site in Moreton Valence, Gloucestershire, and friends' land. In that context the appellants fall within the PPTS2015 definition of travellers, which is not contested by the Council.
35. I am told that Mr and Mrs Fuller own no other land. They have advanced the proposal with the aim of having an authorised site that they can make use of from time-to-time, including on occasion to look after a grandchild with particular learning needs.¹⁶ There is inherent uncertainty and inconvenience in their current pattern of travelling, for example regarding transit site availability. I am mindful of the duty under Article 8 of Human Rights Act 1998 to facilitate a nomadic way of life in that context. The disadvantages faced by

¹³ At Keynor Lane and West Ashling referred to initially, and those referenced in paragraph 2.3 of the appellants' statement of case as yet to be determined.

¹⁴ Under section 149 of the Equality Act 2010 as amended.

¹⁵ As referenced in *South Cambridgeshire District Council v SSCLG & Ors* [2008] EWCA Civ 1010 and in appeal Ref APP/Y9507/C/17/3179213 brought to my attention by the appellants.

¹⁶ A primary consideration under Article 3(1) of the United Nations Convention on the Rights of the Child 1989.

travellers relative to the settled community are well documented, and I understand that the St Joseph's site is likely to be redeveloped soon. Accordingly personal circumstances are clearly relevant and of some significance.

Planning balance

36. There is evidence of significant unmet need for traveller sites in Chichester, an imbalance which is likely to persist for some time. Allowing the appeal would not only be beneficial in redressing that imbalance in a limited way, but also to the appellants who, in their own words, are advancing in years. An authorised pitch or settled base would reduce the uncertainty they currently experience in travelling from site to site. An enclosed private pitch with outside space and facilities would be a conducive environment for looking after their grandchild. Against the context in paragraphs 33 to 35 above, the proposal would assist in facilitating a nomadic habit of life, afford greater convenience in caring for a child, and thereby advance equality of opportunity.
37. In general terms limited availability of sites may circumscribe the ability of travellers to exercise a nomadic habit of life. I acknowledge that much of the District is similarly protected as the appeal site, or via other designations, which will to some extent limit options for future provision (planned or that which emerges via individual decisions). PPTS2015 paragraph 23 sets out how applications should be assessed in accordance with the presumption in favour of sustainable development, as set out in NPPF paragraph 11. On account of my reasoning in paragraphs 27 to 32 above, it is reasonable to describe the pitch requirements in LP policy 36 as out-of-date.
38. However NPPF paragraph 11.d) sets out how decisions should be approached where 'the policies which are most important for determining the application are out-of-date' (my emphasis), and the development plan must be considered as a whole. In this instance LP policy 43 and NP policy 7, both concerning the AONB, are of equal relevance as LP policy 36. Those are all, in my view, policies which are most important for determining the appeal.
39. LP policy 36, criterion 4, sets out how development should 'not compromise the essential features of nationally designated areas of landscape'. That remains aligned with the approach in NPPF paragraph 172. The use of the phrase 'essential features' does not expressly indicate that a different approach should be taken to proposals for traveller pitches compared to other development: that phrase is not specifically defined, nor does that element of LP policy 36 relate solely to the AONB.
40. Neither LP policy 43 nor NP policy 7 replicate the specific phrase in NPPF paragraph 172 that 'the scale and extent of development within these designated areas should be limited'. However in substance they are nevertheless consistent; neither of those development plan policies expressly prevent limited development appropriate to landscape character. Moreover NP policy 7, the latest element of the development plan of relevance to this case to be adopted, aligns with NPPF paragraph 172 and reflects the phrasing of section 85 of the Countryside and Rights of Way Act 2000 as amended (which requires that regard is had to conserving and enhancing natural beauty). Notwithstanding that the pitch requirement in LP 36 is based on superseded

evidence, for the above reasons I do not consider, taken as a whole, that the most important policies in this instance are to be regarded as out-of-date.

41. In that context, the existence of greater need at a District level than forecast supply does not outweigh the harm that would result to the AONB. The proposal would have modest benefits in terms of supply and result in clear and specific harm. The adverse effect to landscape character would remain considerable even were the life of the permission limited by way of temporary condition. Moreover, as reflected by the appeal at Nutbourne in 2013, there are degrees of sensitivity within protected landscapes.
42. Furthermore the appellants have now maintained a nomadic habit of life for several decades without owning an authorised pitch. There is nothing to indicate that dismissing the appeal would impede their ability to maintain that way of life on broadly the same basis. The prospective loss of a transit site in Gloucestershire does not weigh strongly in favour of allowing permanent provision here, and represents one of a number of sites previously used by the appellants.
43. As I understand it the appellants' grandchild lives with her mother elsewhere, and there is nothing of substance before me to indicate that an authorised site here is essential, either in terms of location or amenities, to meet the needs of the appellants' grandchild. The appellants have not made the case there are other significant personal circumstances, such as securing access to services and facilities, or related to dependents intending to live with them, that would be compromised by dismissing the appeal. Consequently personal circumstances do not represent an exceptional occasion where development may be permissible subject to a personal condition.¹⁷
44. Whilst the proposal would have certain benefits, in my view those benefits are insufficient to overcome the harm that would result or to justify a temporary or personal permission. Consequently, and noting the provisions of the UU and that the Council does not contend that the proposal would be unacceptable in other respects, no other material considerations are sufficient to outweigh my finding in the main issue as to the unacceptability of the development proposed. Whilst bearing in mind the need to eliminate discrimination and promote equality of opportunity, in my view the effects of dismissing the scheme on the appellants are necessary and proportionate.

Conclusion

45. For the above reasons, having considered the development plan as a whole, the approach in the NPPF, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Thomas Bristow
INSPECTOR

¹⁷ With regard to PPG Reference ID: 21a-015-20140306.

APPEARANCES

FOR THE APPELLANTS:

Mr J Fuller	Appellant
Mrs J Fuller	Appellant
Alison Heine	Agent

FOR THE LOCAL PLANNING AUTHORITY:

William Price	Chichester District Council
Daniel Power	Chichester District Council

HEARING DOCUMENTS

- 1) Unilateral Undertaking dated 18 February 2020 regarding ecological mitigation,
- 2) Aerial photograph of the appeal site and surroundings dated 2020,
- 3) Site and block plans related to 2013 appeal decision at Nutbourne Ref APP/L3815/A/12/2186455,
- 4) Three conditions additional to those in section 8.1 of the Council's statement of case advanced by the Council in the event the appeal were to be allowed.