



Appeal Decisions

Hearing Held on 7 September 2021

Site visit made on 8 September 2021

by N Thomas MA MRTPI

An Inspector appointed by the Secretary of State

Decision date: 19 January 2022

Appeal A Ref: APP/L3815/C/21/3270919

Land West of 4 The Paddocks, Common Road, Hambrook, Westbourne, Chichester, West Sussex

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr F Eastwood against an enforcement notice issued by Chichester District Council.
 - The enforcement notice, numbered WE/49, was issued on 3 February 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land to use as a residential caravan site.
 - The requirements of the notice are:
 - (i) Cease the use of the land as a residential caravan site,
 - (ii) Remove all of the caravans from the land, and
 - (iii) Break up the hardstanding in the approximate position shown on the attached plan and remove the resulting debris from the land.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/L3815/W/20/3259671

Land at 4 The Paddocks, Common Road, Hambrook, Westbourne PO18 8UP

- 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 Eastwood against the decision of Chichester District Council.
 - The application Ref WE/19/01985/FUL, dated 5 August 2019, was refused by notice dated 23 July 2020.
 - The development proposed is change of use of land to allow for the extension of an existing gypsy/traveller site comprising of an additional four mobile homes, four touring caravans and a dayroom.
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Decisions

Appeal A Ref: APP/L3815/C/21/3270919

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B Ref: APP/L3815/W/20/3259671

2. The appeal is dismissed.

Preliminary Matters

3. The site has been cleared of trees and hardstanding has been laid. Several static and touring caravans have been brought onto the site for residential use, with associated car parking. This is the subject of Appeal A and the deemed planning application.
4. Appeal B sought planning permission on a partly retrospective basis, described on the application form as the change of use of the land as an extension to an existing Gypsy/Traveller site, comprising of an additional four mobile homes, four touring caravans and two dayrooms. The proposed layout of the mobile homes/caravans does not reflect the layout which I observed at my site visit.
5. The appellant clarified that the scheme was revised during the consideration of the application. As a result, the smaller single dayroom building indicated on drawing numbers J003343-DD04A and DD03A was refused by the Council, rather than the larger double dayroom building shown on drawing numbers DD03 and DD04. The revised single dayroom was labelled as 'semi-detached' in error. I have therefore used a revised description of the development in the banner heading above to refer to the single dayroom. The appellant confirmed that drawing DD03B which indicates parking spaces and the locations for touring caravans was also provided to the Council prior to their determination of the application.
6. The Westbourne Neighbourhood Plan (NP) was approved at referendum prior to the sitting in 2021 and is therefore in force as part of the development plan. A copy of the relevant policy has been provided.
7. The Council advised that since the application the subject of Appeal B was refused, an additional area of concern has become apparent. This relates to the effect of new development on the water environment of the Chichester and Langstone Harbour Special Protection Area (SPA) which is a designated European Site (ES). I have considered this as a main issue in the ground (a) appeal and the s78 appeal.
8. The revised National Planning Policy Framework (NPPF) was published in July 2021. The parties have had the opportunity to comment on its implications for these appeals.

Gypsy/traveller status

9. The definition of 'gypsies and travellers' to whom the Government's Planning Policy for Traveller Sites 2015 (PPTS) is set out in Annex 1: Glossary. The Council does not dispute the gypsy/traveller status of those occupying the site. Information was provided by the appellant's agent giving personal details for the appellant and their family living on the site, and this was supplemented in oral evidence at the hearing. Based on the details, including the regularity and purpose of travel and the stated intention to continue to do so, I have no reason to doubt that the appellant and his family are persons of nomadic habit of life who meet the definition within the PPTS.

Background

10. The appeal site is adjacent to a gypsy and traveller site that gained planning permission¹ for 12 pitches, with a subsequent permission² for an additional site warden pitch. The appeal site is accessed through Plot 4 of the existing site and is part of an area covered by a woodland Tree Preservation Order (TPO)³.
11. The appellant stated that he and his family moved onto the site in July 2019 from the adjacent land at Plot 4 due to their need for additional pitches to accommodate their growing family. The Council stated that the appeal site was cleared, including the removal of trees, and hardstanding put down, in the period between April and June 2019. The planning application was submitted in early August 2019 and refused in July 2020 (the subject of Appeal B).
12. During the hearing, the Council advised that a Tree Replacement Notice (TRN) was served on 11 August 2021 with an effective date of 9 September 2021, unless an appeal is made against it beforehand. The appellant advised at the hearing that an appeal would be lodged.

The appeal on ground (a) and the deemed application and Appeal B

13. Although there are differences between the deemed planning application and Appeal B, the issues raised are broadly similar and I have considered them together. The main issues are:
 - The effects of the development on the integrity of the SPA,
 - The effect of the development on the character and appearance of the area, including the protected woodland,
 - Whether the development dominates or respects the scale of the existing settled community,
 - The general need for and supply of gypsy and traveller sites in the area,
 - The accommodation needs of the appellant, his family and their personal circumstances,
 - Other considerations including issues raised by third parties.

Effects on the SPA

14. The SPA is part of the Solent Maritime European Marine Site (EMS). Chichester and Langstone Harbours are two large estuarine basins, which form a sheltered intertidal area, offering extensive intertidal mudflats and sandflats with areas of seagrass beds, saltmarsh, shallow coastal waters, coastal lagoons, coastal grazing marsh and shingle ridges and islands. These habitats support internationally and nationally important numbers of overwintering and breeding bird species. The conservation objectives are to maintain and support the habitats, populations and distribution of the qualifying features in the site.

¹ Ref 13/03787/FUL

² Ref 14/03834/FUL

³ Ref WE/08/00121/TPO

Water quality

15. The conservation objectives of the qualifying features of the EMS have been found to be unfavourable, based on a number of attributes failing, including the nutrient water quality attribute. Other attributes were also found to be failing, such as seagrasses, their extent, distribution, rhizome structure and reproduction as well as biomass, and for the intertidal mud and sand features, their infaunal quality. A condition assessment for the SPA has not been undertaken, but a number of bird features are declining, which is likely to be due to site specific reasons rather than reflecting wider national or regional population trends.
16. While the cause of the site specific declines in the Solent Area is unknown, there are possible links to elevated nutrient loading. High levels of nitrogen and phosphorous is causing eutrophication, where dense mats of green algae and other effects on the marine ecology are caused and are impacting on the protected habitats and bird species. Additional nitrogen can be generated by new housing development that results in a net increase in population served by a wastewater treatment located where treated effluent discharges into the SPA, or any surface water body or groundwater that subsequently discharges into the SPA. The site is located within the catchment for Chichester Harbour and adds to the quantum of housing which creates additional wastewater that may discharge into the SPA. There is therefore a possible impact pathway from the foul sewage generated by the development, which contributes to eutrophication.
17. I am therefore satisfied that the caravan site is likely to have significant effects on the features of interest in the SPA, in combination with other development. Under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations), it is therefore necessary to undertake an Appropriate Assessment (AA). The Habitat Regulations require that permission for development may be granted only after it has been ascertained that it will not adversely affect the integrity of the ES.
18. Natural England (NE) is advocating a 'nutrient neutral' approach to development in its advice note of June 2020, whereby a nutrient budget is calculated, with a view to ensuring that development does not add to existing nutrient burdens, and thereby avoiding any impact on the ES. If it is not possible to ensure that the development is nutrient neutral, while applying a precautionary approach with a buffer, then mitigation is required to achieve nitrogen neutrality. This could be direct or indirect, and could include interceptor wetlands, so that a net zero change at the SPA is achieved.
19. The development is for mobile homes for which foul drainage is currently provided by a 'biotank'. The appellant explained that it discharges into the ground via a soakaway. The nutrient budget has not been calculated, but it seems unlikely that the development is nutrient neutral. Various alternative means of providing foul drainage were discussed at the sitting, but no detailed schemes have been provided. A sealed tank would not drain into the site, but it could add to the additional nutrients affecting the SPA via wastewater treatment plants and it is not clear how this could be controlled. A 'Biobubble' would remove 97.5% of the nitrogen, but in a similar way, it is not clear how the waste from this would be disposed of.

20. I may consider any conditions or other restrictions which could mitigate the harm. In paragraph 5.4 of its June 2020 advice note NE states that to ensure that it is effective mitigation, any scheme for neutralising nitrogen must be certain at the time of AA so that no reasonable scientific doubt remains as to the effects of the development on the international site. In view of the requirement to apply the precautionary principle to impacts on ESs, it is necessary to have certainty that any mitigation measures will achieve their aims.
21. The appellant has suggested that any necessary mitigation measures could be secured through a condition, and that this could be worded in such a way as to require the use to cease and the development to be removed if appropriate details are not provided and installed within an appropriate timeframe. However, no details have been provided of the proposed method of foul drainage, nor of any possible mitigation measures. While NE initially⁴ commented that a condition could be imposed, their subsequent comment⁵, having viewed the appellant's submission, was that it would not be acceptable to secure effective mitigation within six months to a year after planning permission is granted. I can have no certainty that effective mitigation could be achieved within an acceptable timeframe, to avoid harm to the SPA.
22. The appeals are not comparable to an application⁶ that was recently considered by the Council at Hopedene for a single private gypsy plot. In that case the application was accompanied by a nitrate budget report and mitigation was included for the additional nitrogen that would result.
23. I cannot therefore conclude that the development, in combination with other plans and projects, would not have adverse effects on the integrity of the ES. I can only grant permission if there are no alternative solutions or imperative reasons of overriding public interest and compensatory measures. I have not been advised that any of these circumstances apply.

Recreational Disturbance

24. The SPA is an attractive site for public recreation, which can cause disturbance to internationally and nationally important overwintering and breeding bird species. A growing population in the area increases the use of the coastline and harbour for recreation, which in turns leads to increased disturbance of the feeding and breeding birds in the harbours. Birds take flight or stop feeding and may take some time to resume their normal activity, reducing their ability to survive the winter or to breed successfully. The result of allowing the appeals would be additional residents in the area who may visit the SPAs and cause disturbance. In combination with other residential development in the area, it is likely to have significant effects on the SPA.
25. In partnership with other authorities and organisations, a Solent Recreation Mitigation Strategy⁷ has been produced to manage the potential impacts of increased recreational pressure on the SPA. To achieve mitigation, developers can make a financial contribution on a sliding scale to fund a package of wardens, education, green infrastructure improvements and monitoring. The appellant has provided a copy of a signed and dated unilateral undertaking

⁴ Email dated 1 November 2021

⁵ Email dated 6 December 2021

⁶ Ref WE/20/00047/FUL

⁷ Bird Aware Solent December 2017

which undertakes to make the required payment for the development. However, as I have found that the development is likely to be harmful to the SPA through the impact on water quality, I have not considered this further.

Conclusion in relation to effects on the SPA

26. In the absence of appropriate avoidance or mitigation measures and applying the precautionary principle, adverse effects on the integrity of an ES cannot be excluded, consent can only be granted if the remaining tests in the Habitats Regulations can be met. There is no evidence that the remaining tests can be met in this case and the development therefore conflicts with the Habitats Regulations.
27. It is also in conflict with Policy 50 and criterion 4 of Policy 36 of the Chichester District Council Local Plan July 2015 (CDLP) insofar as they seek to protect the SPA from significant effects. The development is also in conflict with the NPPF.

Character and appearance

28. The site is in a rural area which is characterised by open rolling farmland and small blocks of woodland. There are several public rights of way nearby, including Bridle Lane to the east, and another public bridleway which leads from Common Road towards the edge of the South Downs National Park to the north.
29. The aerial photographic evidence submitted with the appeals indicates that the site was previously wooded prior to being cleared. A number of trees have been lost, which formed part of the protected woodland. This has resulted in a reduction in the amount of tree cover which detracts from the contribution made to the locally distinctive landscape character.
30. Despite the loss of trees, the site is still fairly well screened from Common Road and the public bridleway to the north, due to the dense tree belt alongside the road outside the appeal site. It is screened from the wider area by woodland to the west and south, and by the existing gypsy and traveller site to the east. The development extends the already intensively developed traveller site at The Paddocks, which contrasts with the open rural character of the surrounding open farmland and airfield. However, due to its location within the wooded area, the effect on the character and appearance of the surrounding area is limited.
31. The current layout of static caravans and the proposed layout with Appeal B indicate that even with the addition of the dayroom there would be sufficient space for an appropriate landscape planting scheme, that could supplement the screening from Common Road and replace some of the lost tree cover.
32. The development is likely to increase the level of activity at the site, giving rise to increased noise and vehicle movements, which detracts from the tranquillity and rural character of the area. However, the PPTS acknowledges that new sites may be within the countryside, and as a modest addition to the existing site the harm to the tranquil and rural character of the area is limited.
33. There is some harm through the loss of protected trees but in the wider context of the site and in view of the potential for replacement planting, I conclude that the development is not significantly harmful to the character and appearance of the area, including the protected woodland. It is therefore not in

conflict with CDLP Policies 36, 45 and 48, insofar as they seek to protect the rural character of the countryside.

Scale of the development

34. CDLP Policy 36 includes a number of criteria to be considered in determining applications for pitches or plots for gypsy, traveller and travelling showpeople. Criterion 6 requires that in rural or semi-rural areas sites should not dominate the nearest settled or gypsy, traveller and travelling showpeople communities. NP Policy OA3-1 also sets out criteria to be considered for such development and includes criterion c) which requires that development does not result in sites being over-concentrated in any one location or disproportionate in size to nearby communities. The PPTS in paragraph 25 states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements, and ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community.
35. The site is in the open countryside, with an airfield on the other side of Common Road, while the wider area is mostly open farmland with scattered development. Woodmancote is a small hamlet a short drive away from the appeal site, while Funtington and Westbourne are larger villages a similar distance away.
36. The appellant explained at the sitting that to the west of the appeal site is land occupied by travelling showpeople, and land to the south is occupied by gypsies. There are further gypsy, traveller and travelling showpeople sites in the area, including at Cemetery Lane which is between Westbourne and Woodmancote, and on West Ashling Road where there are 41 permitted pitches. There is also an undetermined appeal at Hopedene, adjacent to The Paddocks, for one pitch.
37. According to the Council, the parish of Westbourne has the second highest proportion of gypsy/traveller and travelling showpeople pitches in the District, with 45 pitches or plots compared with 1002 dwellings identified as paying council tax. The neighbouring parish of Funtington has the highest proportion, with 41 pitches and 704 dwellings registered for council tax. Permission has been granted and implemented for four pitches on Cemetery Lane but they have not yet been occupied. On Newells Lane, a further 4 pitches were permitted and works begun but they have not yet been occupied.
38. The appeals would provide homes for four families, and in the context of the existing settled communities in the nearby area, this is a minor addition. In terms of the resulting scale of the traveller site as a whole, the appeals would add a modest number of pitches to a relatively small site, in a location that is distinctly separate from the nearest settlements. Taking this into consideration, and having toured the surrounding area, I am satisfied that the appeal development does not result in a cumulative level of harm. I do not therefore agree that the development results in an overconcentration of gypsy and traveller sites in the area. I conclude that the development respects the scale of and does not dominate the nearest settled community. It is therefore not in conflict with CDLP Policies 1, 2 and 36, NP Policy OA3-1 or the guidance in the PPTS, insofar as they seek to ensure that traveller sites do not dominate the nearest settled communities.

The general need for and supply of gypsy and traveller sites in the area

39. Paragraph 4a of the PPTS sets out the Government's aim in respect of traveller sites that local planning authorities should make their own assessment of need for the purposes of planning. CDLP Policy 36 states that the Gypsy and Traveller and Travelling Showpeople Assessment (GTAA) (2013) (Phase 1) identifies the potential need for permanent pitches and plots for the period 2012 to 2027 as 59 additional permanent residential Gypsy and Traveller pitches of which 37 are required before 2017. Where there is a shortfall in provision, sites will be allocated within the Gypsy, Traveller and Travelling Showpeople Site Allocation Development Plan Document (DPD). The Council's annual monitoring will ensure provision is provided at the appropriate time.
40. The Council has granted planning permission for 63 pitches since September 2012, and has therefore met and exceeded the need identified in the policy. However, I have been provided with several appeal decisions⁸ in the District which conclude that the Council does not have a 5 year supply of sites. This is because a revised GTAA was published in 2019 which identified the requirement for further pitches. At the sitting, the Council stated that the GTAA 2019 identified a need for 94 pitches over the period to 2036, with 66 needed in the five years to 2023.
41. Although the Council accepted it could not demonstrate a five year supply, at the sitting it advanced an argument that the sites that had been approved or allowed on appeal since 2012 had not contributed towards meeting the identified need as they did not provide pitches for those people identified as needing pitches in the GTAA. Hence the results of the more recent GTAA indicating an increased need. The Council argued that it follows that the appeal development would not help to meet the identified need, as The Paddocks was not a site that was identified as having a need for additional pitches. Be that as it may, the policy does not differentiate between occupiers whose needs were identified at the time of the GTAA, and those whose need for pitches arose after the GTAA was carried out. The fact remains that there is a shortfall in the supply of pitches, and that this development would make a modest contribution towards reducing it.
42. The Council confirmed that there are potentially an additional 42 pitches in the system, either as applications or appeals. However, even if they were all approved or allowed there would still be an unmet need for pitches in the District.
43. There are two publicly owned sites gypsy and traveller sites in the District. The Council confirmed that there were no public pitches available, but could not advise on the extent of any waiting list. However, in the 2020 appeal decision⁹ the Inspector noted that there were 90 individuals registered across West Sussex as seeking publicly-owned pitches, although this figure was not broken down by District. In the 2019 appeal decision¹⁰, the appellant had reported that he was 80th on the Council's waiting list for a public site, and that turnover was estimated to be about 1-2 per cent annually. I have not been advised that there has been any significant reduction in the waiting list since then, it

⁸ Refs APP/L3815/W/18/3209147 and APP/L3815/W/18/3209145, APP/L3815/W/19/3227455

⁹ APP/L3815/W/19/3227455

¹⁰ APP/L3815/W/18/3209147 and APP/L3815/W/18/3209145

therefore seems unlikely that space will become available for the appellant and his family in the foreseeable future on a publicly owned site.

44. In order to meet the shortfall in supply, the Council is considering the deliverability of additional pitches or plots on existing sites, in particular those where occupiers identified a need for additional pitches through the GTAA. This may involve expanding or intensifying existing sites through reconfiguration. There has been a call for sites for consideration for future allocations. It is anticipated that the new Local Plan will be submitted for examination by Autumn 2022. It is intended that a Gypsy and Traveller Development Plan Document will be published with site allocations, and adoption is anticipated by April 2023. As a result of the shortfall, and in the absence of allocations in a local plan, the Council acknowledged that it was likely that additional sites would come forward through the development management process, and would have to be considered against the relevant criteria-based policies in the development plan.
45. Paragraph 27 of the PPTS makes clear that if a local planning authority cannot demonstrate an up-to-date five year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. It is for the decision-maker to attribute such weight as is considered appropriate in the given circumstances. In this particular case, I note that the Council is in the process of considering the potential to expand or intensify existing sites. However, the absence of a five year supply warrants significant weight in the light of the appreciable deficit in supply and with the shortfall unlikely to be remedied until the new Local Plan is in place, estimated to be within the next 3 years.

Accommodation needs and personal circumstances

46. The appellant occupied Plot 4 and bought the appeal site to accommodate his growing family, as the plot was too small to accommodate additional caravans while meeting requirements for spacing between caravans and was becoming too cramped.
47. The intended occupiers of the pitches include the appellant's son, who has health and educational needs that are being met through living on the site, due to its proximity to extended family who assist with education and ongoing healthcare which is accessed locally. If the appeals are unsuccessful they would either have to return to Plot 4 or leave the site. Returning to Plot 4 would result in cramped conditions. If they leave the site they would have to stop by the road or park up illegally which would be disruptive to education and healthcare. It would be in the best interests of the child to remain on the site, which is a primary consideration.
48. The Parish Council and the District Council referred to alternative privately owned sites in the area. However, the appellant explained that the sites are either not available to him or are not affordable.

Other considerations

49. The Written Ministerial Statement (WMS) issued on 17 December 2015 confirmed the introduction of a national planning policy that intentional

unauthorised development is a material consideration to be weighed in the determination of planning applications and appeals.

50. The appellant was not aware of the need for planning permission when the site was prepared with hardstanding and the caravans were moved onto the site. He applied shortly afterwards when he was advised to do so. The appellant has not undertaken additional works to those that are necessary to create a habitable environment for their family. The driveway and hardstanding are required to give all weather access and parking.
51. I give some weight to the fact that the appellant intentionally occupied the site without first seeking planning permission, but he applied shortly afterwards. Moreover, the 1990 Act makes provision through s73A for a grant of retrospective permission and through enforcement appeals on ground (a), and I note that planning enforcement is intended to be remedial not punitive. I therefore give this consideration moderate weight.

Planning Balance

52. As adverse effects on the integrity of an ES cannot be excluded, consent can only be granted if the remaining tests in the Habitats Regulations can be met. There is no evidence that the remaining tests can be met in this case. This on its own is sufficient for me to conclude that the development is unacceptable. Therefore, even though it does not cause significant harm to the character and appearance of the area and respects the scale of existing settlements, and taking into account the matters that are more positive in support of the development, this does not overcome the serious conflict with the Habitats Regulations.
53. The local need for sites exceeds local supply, and it is unlikely that the Council will make provision for increased supply in the near future. There are personal circumstances which make it beneficial for the appellant and his family to remain on the site, and it would provide a settled base which would be beneficial for the health and education of the appellant's son. I give these considerations significant weight. However, in view of the conflict with the Habitats Regulations, I do not find that the conditions are present for a permanent permission to be granted.
54. I have considered whether a temporary and/or personal permission would be appropriate. A temporary permission would allow for a Local Plan to be adopted with allocations for gypsy and traveller sites. A personal permission would ensure that the appellant and his family benefit from the permission in view of their personal circumstances. However, a temporary permission would allow the adverse effects on the integrity of the SPA to continue, and would not therefore overcome the conflict with the Habitats Regulations.
55. If I dismiss the appeals, the outcome would be that Mr Eastwood and his family would have to leave the site, and revert to their previous living arrangements on Plot 4, which is too small to accommodate the growing family and would therefore be cramped. Alternatively, the appellant would be forced to live on the roadside or park up illegally. This would interfere with the family's right to respect for private and family life and the home. In addition, the appellant's son's education and healthcare would likely to be disrupted. I have had due regard to equality and the elimination of discrimination in the Public Sector

Equality Duty under the Equality Act 2010, but this does not override the need to comply with the Habitats Regulations.

56. The right to respect for home and private life are qualified rights under Article 8 of the Human Rights Act 1998, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. The best interests of the child are a primary consideration. This means that no other consideration can be inherently more important. However, their importance or weight may alter on analysis of their specific circumstances and their interests can be outweighed by other factors when considered in the context of the case. The interference would be in accordance with the law and in pursuance of a legitimate aim: the protection of the SPA. Given the circumstances overall, I conclude that a refusal of planning permission would be proportionate and necessary. It would not unacceptably violate the family's rights under Article 8. The protection of the public interest cannot be achieved by means that are less interfering of their rights.

Conclusions for Appeal A ground (a) and Appeal B

57. For the reasons set out above, Appeal A on ground (a) therefore fails, and Appeal B should be dismissed.

Appeal A ground (g)

58. The ground of appeal is that the period for compliance with the requirements of the notice is too short. The appellant argued in writing that 12 months would be more appropriate as there are no available sites for the appellant, although this was increased to 18 months in submissions at the hearing to provide more time to find an alternative site and in the interests of healthcare.
59. In view of the harm that is likely to be caused to the SPA by retaining the development I consider that six months strikes a reasonable balance between the interests of the appellant and the need to bring to an end the breach of planning control. It also gives sufficient time to explore with the Council alternative means of foul drainage. The appeal on ground (g) therefore fails.

Conclusion

60. For the reasons given above, I conclude that Appeal A should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended. I shall dismiss Appeal B.

N Thomas

INSPECTOR

APPEARANCES:

For the appellant:

Alan Masters LLB

Brian Woods BATP MRTPI Planning Consultant

Paul Roberts Consultant Arboriculturalist Connick Tree Care

Mr F Eastwood

For the Local Planning Authority:

Calum Thomas BA (Hons) Geography Senior Planning Officer

Martin Mew BA (Hons) Geography MSC Spatial Planning Principal Planning Officer

Steve Jarman BSc (Hons) Dip TP Senior Research Executive Insight Team

Interested Persons:

Richard Hitchcock - Chair of Westbourne Parish Council

Roy Briscoe - District Councillor

HEARING DOCUMENTS

DOCUMENTS SUBMITTED DURING THE HEARING:

- Document 1 Appeal decision Ref APP/L3815/W/19/3227455 Field South of Main Road, Main Road, Southbourne PO10 8EA from the appellant
- Document 2 Appeal decision Ref APP/L3815/W/18/3209147 and APP/L3815/W/18/3209145 Land south of Recreation Ground at junction of Keynor Lane and Selsey Road, Keynor Lane, Sidlesham, Chichester PO20 7NG from the appellant
- Document 3 List of persons notified of the appeals by the Council
- Document 4 Matters of clarification response to pre-hearing note received from the Council
- Document 5 Chichester and Langstone Harbour Special Protection Area (SPA) received from the Council
- Document 6 Agreed Statement of Common Ground
- Document 7 European Site Conservation Objectives for Chichester and Langstone Harbours Special Protection Area Site Code: UK9011011 from the Council
- Document 8 Bird Aware Solent Recreation Mitigation Strategy December 2017 from the Council
- Document 9 Westbourne Neighbourhood Plan 2017-2029 Post Examination Version June 2021 from the Council

Document 10 Copy of Tree Preservation Notice Ref TPO WE/08/00121/TPO from the Council

Document 11 Copy of Tree Replacement Notice (TRN) Ref WE/55 from the Council

Document 12 Certificate of Service of TRN Ref WE/55 from the Council

DOCUMENTS SUBMITTED AFTER THE HEARING:

Document 13 Solent Recreation Mitigation Partnership Seventh Annual Report on Implementation from the Council

Document 14 Letter from Chichester District Council dated 13 September 2021 and unsigned Unilateral Undertaking

Document 15 Signed and dated Unilateral Undertaking from the appellant

Document 16 Email from Natural England dated 1 November 2021

Document 17 Email from appellant dated 5 November 2021 in response to Document 16

Document 18 Email from Natural England dated 6 December 2021

Document 19 Email from Planning Inspectorate dated 6 January 2021 closing the hearing