



Appeal Decision

Hearing held on 2 August 2022

Site visit made on 2 August 2022

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21/02/2023

Appeal Ref: APP/L3815/W/21/3267477

Meadow View Stables, Monks Hill, Westbourne PO10 8SX

- 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 Frank Wickens against the decision of Chichester District Council.
 - The application Ref WE/20/00785/FUL, dated 17 March 2020, was refused by notice dated 21 October 2020.
 - The development proposed is described as '*Change of use of land for use as extension to Gypsy caravan site for the stationing of 6 additional caravans, including no more than 3 static caravans/mobile homes, together with laying of hardstanding and erection of 3 no. amenity buildings.*'
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land for use as extension to Gypsy caravan site for the stationing of 6 additional caravans, including no more than 3 static caravans/mobile homes, together with laying of hardstanding and erection of 3 no. amenity buildings at Meadow View Stables, Monks Hill, Westbourne PO10 8SX, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. Refusal Reason no 2 is negated by a Unilateral Undertaking made whereby a financial contribution will be made towards the provision of access mitigation measures in respect of the Chichester and Langston Harbours Special Protection Area (SPA). The Council has indicated in correspondence dated 29 July 2022 that it is satisfied that such mitigation is achieved through the obligation.

Background

3. In January 2016 planning permission was granted following a successful appeal (APP/L3815/W/15/3006346) against the Council's decision to refuse planning permission for the material change of the use of the land for stationing of caravans for residential occupation with associated hardstanding and a utility block.
4. The permission was subject to several conditions, including one which required that no more than two caravans (of which no more than one shall be of the static type) shall be stationed on the site at any one time. The appellant lives

in this site's static caravan, but the home is now overcrowded and additional accommodation is now needed for the appellant's family and dependents.

Main Issues

5. These are whether the proposal represents an acceptable form of development having regard to the following matters:
 - national policy, and local need for gypsy and traveller accommodation;
 - the character and appearance of the area, having regard to its countryside location; and
 - the proposal's effect on the SPA, with particular regard to nitrate neutrality.

Reasons

National Policy and associated matters

6. National policy is contained in the government's Planning Policy for Traveller Sites, 2015 (PPTS) which states that applications should be assessed and determined in accordance with the presumption in favour of sustainable development. In addition, Councils should very strictly limit new traveller site developments in the open countryside that is away from existing settlements.
7. Policy H of the PPTS says that Councils should, amongst other things, consider the level of need for additional gypsy and traveller accommodation and the availability of alternative accommodation. Accordingly, it indicates that Councils should identify and annually update a supply of deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets
8. The 2019 Coastal West Sussex Gypsy and Traveller Accommodation Assessment (GTAA) identifies existing authorised provision as comprising two public sites, accommodating a total of 41 permanent pitches, and 32 private sites accommodating a total of 96 permanent pitches. In addition, there were six sites with a temporary planning permission comprising a total of 7 pitches, and three unauthorised sites containing a total of 16 pitches.
9. The GTAA estimates a current need for 35 pitches for households which meet the definition, and a total net need for the provision of 94 pitches in the period 2018-2036 for households who meet the PPTS definition. The need in the first five years, 2018-2023 is said to be for the provision of 66 permanent pitches.
10. The Council's Site Allocations Development Plan Document (2019) makes no provision for gypsy and traveller sites but, following on from the GTAA, a Gypsy, Traveller and Travelling Showperson Site Allocations Development Plan Document, to allocate sites to meet the identified need, is now under preparation. The Council has undertaken a 'call for sites' and is currently also carrying out a review of the current GTAA.
11. As it stands, though, there is no land allocated for the provision of gypsy & traveller sites in the district, and the Council accepts it cannot demonstrate a five year supply of deliverable sites for such accommodation. It was put to me at the Hearing that there will be a total unmet need of 39 pitches between October 2021 and March 2027.

12. Accordingly, a signed Statement of Common Ground (SOCG), produced at the Hearing, showed an agreement between the main parties that a 5 year supply of viable gypsy sites cannot currently be demonstrated.
13. The unmet need for gypsy & traveller sites within the Chichester district is a matter to which I ascribe considerable weight.

Character and appearance and local policy context

14. The site is an open field paddock set behind the small piece of land which contains the static caravan where the appellant lives. The latter is screened from Monks Hill with hedgerow which then curves round to also screen the existing site from the access driveway. The driveway serves both sites and also the stables that are located eastwards, beyond the appeal site.
15. At my site visit I noted that the appeal site is effectively screened by an established hedgerow from a small recreation ground immediately to the south which, surrounded by railings, contains play apparatus and is regularly used by children. The playground lies just beyond the Westbourne settlement boundary and, given the proximity, whilst the appeal site is termed by the Council as 'open countryside' this is not necessarily how it appears in its contextual setting, given also the establishment of the approved adjoining caravan site, as mentioned. That said the appeal site is an open paddock which, given the adjacent stables, performs an essentially rural function.
16. The Council says that the development would result in a significant intensification in use which, due to the resultant hard-surfacing, will have an urbanising effect and would result in an over-concentration of gypsy pitches in what it describes as a 'prominent location.'
17. Policy 36 of the Chichester District Local Plan: Key Policies 2014-2029 (LP) requires that gypsy and traveller developments should be well related to existing settlements, have a safe and convenient vehicular access, should not compromise the essential features of nationally designated areas of landscape and requires that development would provide for a reasonable level of visual and acoustic privacy for occupiers and neighbours alike. Also, it says that in rural and semi-rural areas such sites should not dominate the nearest settled or, for that matter, other gypsy and traveller sites.
18. The more general policy concerning the 'Natural Environment', LP policy 48, reinforces the requirements of policy 36 in saying that planning permission will be granted where it can be demonstrated that, amongst other things, there would be no adverse impact on the setting of the South Downs National Park, nor the tranquil and rural character of the area. Proposals should also respect and enhance the landscape character of the surrounding area and public amenity through detailed design. The individual identity of settlements, actual or perceived, should be maintained and neither should the integrity of predominantly open and undeveloped land between settlements be undermined.
19. The boundary of the South Downs National Park is significantly distanced to the east, being some 350m from the appeal site and, although the site can be glimpsed from a public footpath that lies between, the stables perform an effective buffer in this regard.

20. The Westbourne Neighbourhood Plan 2017-2029 (NP) was adopted in June 2021 and now forms part of the development plan. In terms of gypsy and traveller provision paragraph 4.5.17 says that the development of further sites in the Westbourne area for gypsy and traveller purposes would be “premature and disproportionate for Westbourne”. In this connection, it was put to me at the Hearing that there are now some 45 pitches in Westbourne, which represents approximately 22% of all existing pitches in the Chichester District Council area. Accordingly, the NP gives the view that dispersal of gypsy and traveller pitches across the Chichester District area would likely minimise the impact of development.
21. The stated figure and percentage may be the case, although I note that the NP is incorrect in stating that the Council is able to demonstrate a five year land supply for gypsy and traveller pitches. This might have been the case at the time the text was written but the Council has confirmed that this is no longer the position.
22. NP policy OA3: ‘Community Balance’ says that development to meet the needs of the gypsy and traveller community will be permitted where, amongst other things, this does not result in sites being over-concentrated in any one location or disproportionate in size to nearby communities and can demonstrate a local connection. The said over-concentration referred to might be the case within Westbourne as a whole, but in the immediate locality, certainly on this stretch of Monks Hill, I only witnessed the small adjoining site, occupied by the appellant, in such use.
23. Although there would be some degree of harm to the character of the landscape, I consider this more to do with change. In the setting I have described, this would not be significant and, as such, with limited undue visual intrusion, I consider that the development is not significantly harmful to the surrounding rural character. Accordingly, I find that the objectives and requirements of LP policies 36 and 48 would not be compromised. Further, I am also satisfied that the advice in PPTS paragraph 25 is here met.

Nitrate Neutrality

24. The Council consulted Natural England (NE) on the implications of the development proposal at the application stage. No objection was raised, subject to appropriate mitigation being secured. The Council then carried out a Habitat Regulation Assessment Screening Matrix and Appropriate Assessment (AA). Setting aside the fact that the site is within the 5.6km Zone of influence for Chichester and Langstone Harbours Special Protection Area – mitigation for which has since been secured through a financial contribution – the AA concluded that the proposed provision of nutrient reduction measures on-site through a reed-bed along with tree planting, as is proposed, would comprise measures sufficient to ensure nutrient neutrality.
25. At this point it had been calculated that the Nitrogen Load Budget for the development would equate to 3.84 Kg TN/yr. In March NE revised its standard advice, and the adjusted calculation indicates a consequential marginal increase of 0.24 Kg TN/yr
26. A precautionary approach is usually adopted when carrying out an AA. As the ‘competent authority’ – which, having previously being the Council, now passes to me in my role as decision maker for the appeal – I must assess whether the

effect on the Chichester and Langstone Harbours SPA, with respect to nitrate neutrality, would be significant. As a starting point, it is assumed that such an effect would be unless there is objective evidence to the contrary.

27. In this particular instance, and having had regard to NE's additional comments, I note it is proposed that a package sewage treatment plant would discharge into reed-beds within the site or, if necessary, using the land beyond the site which is also under the appellant's ownership and control. In addition, trees would also be planted along the appeal site's eastern boundary. The appellant has provided calculations to show that the combination of reed beds and tree planting would significantly reduce the Nitrogen Load Budget and if the area set aside for tree planting was widened – still upon land under the appellant's control – the development could potentially reach towards nitrate neutrality.
28. At the Hearing the Council witness indicated that the revised calculations did not suggest that the development's effects in this regard would be significant. Further, given that the mitigation measures would be employed if not on-site then on adjacent land under the appellant's ownership, the Council suggested that a planning condition to achieve these objectives could be effectively imposed. This would require, prior to any development taking place, that a detailed scheme of nitrogen offsetting mitigation be submitted to and approved in writing by the local planning authority. This would also require that the agreed methods of mitigation reached shall be managed, maintained and monitored.
29. In the circumstances, subject to the observance of the condition I shall impose in this regard, due to its wording and requirements, I am satisfied that there would be no significant effects on the integrity of the Chichester and Langstone Harbours SPA with regard to nutrient neutrality.

Other considerations

Personal circumstances

30. It is proposed that additional accommodation will be provided for the appellant's children and also a small grandchild who currently reside within the existing single mobile home on the adjoining site. The best interests of the children, that is the need to safeguard and promote their welfare and education, are a primary consideration. Further, the accessibility to health care that a settled base secures is a benefit to the family as a whole.
31. Given the absence of available gypsy sites in the borough it is hardly surprising that no viable alternative accommodation has been suggested that might be suitable. Indeed, I have received no details as to the existence of any such accommodation. In this connection it was held in the judgement of *South Cambridgeshire DC v SSCLG & Brown* [2008] EWCA Civ 1010 that in seeking to determine the availability of alternative sites for residential gypsy use, there is no requirement in planning policy, or case law, for an applicant/appellant to prove that no other sites are available or that particular needs could not be met from another site. The lack of alternative sites is therefore a consideration that weighs in favour of the appellants.
32. It is clear that the shortfall of gypsy and traveller sites is significant. Accommodation by way of a settled base, rather than a roadside existence, can

only be beneficial, and I consider that the development provides suitable accommodation consistent with this.

Interested parties

33. I have given due regard to both the various written representations made and also those given verbally at the Hearing, from certain interested parties. Particular areas of concern have been raised, many of which are discussed throughout this decision letter.
34. I note the grievance that there is a high concentration of gypsy and traveller sites both in the parish of Westbourne and also the neighbouring parish of Funtington. However, this must be balanced against the unmet need for such within the wider Chichester district. In the circumstances it is inevitable that reliance will be placed on sites such as this.
35. Mention has also been made of anti-social behaviour having arisen from the appellant's occupation of the adjoining site. If this is the case then the Council does hold regulatory and remedial powers in this respect. The police could be involved in more serious instances. Accordingly, such matters – certainly to the degree that they were explained to me – cannot reasonably influence my decision.

Planning Balance

36. The proposal would contribute to meeting the identified local need for gypsy and traveller accommodation. The proposal is described as an extension to an existing gypsy site, and will accommodate members of the appellant's family who currently reside in the static caravan on the existing site.
37. In addition to the recognised need within Chichester district for gypsy and traveller accommodation the Council also acknowledges that there are a significant number of people on the waiting list for gypsy and traveller sites. In fact, I understand that more people are on the waiting list than the number of actual pitches, and there is no alternative accommodation for such persons available in this regard. I note that the issue of alternative accommodation, and its availability is disputed – reference having been made to five vacant pitches locally in Cemetery Lane – but I have not been provided with any firm evidence to demonstrate that this is the case, nor the suitability of such.
38. I afford significant weight to the above matters.
39. I am satisfied that the development is of a scale appropriate to meet the accommodation need identified, and its location would not, either singularly or cumulatively, cause significant harm to the character of the area or the surrounding landscape. This is consistent with the advice in PPTS paragraphs 14 and 25. In this connection I have also noted the proximity of Westbourne with its various shops and facilities, which include a primary school and a doctor's surgery.
40. Concerns have been expressed by interested parties as to highway safety and I note that although the local highway authority had no overriding concerns a preference was given that a condition be imposed restricting occupancy to the appellant's family. The reasoning given is to ensure that the access is 'safe and suitable'. Nonetheless, I note that this is an existing vehicular access and, in terms of highway safety, no compelling details of any traffic accidents in the

immediate vicinity of the access point were produced at the Hearing. Further, the Council raises no concerns as to the suitability of the access when taking account of the increased number of caravans. At my site visit I noted the existing sight lines and the visibility splays provided and, on the basis that this is a small-scale development, I concur with this view.

41. In the above connection I have also had regard to paragraph 111 of the National Planning Policy Framework (the Framework) which says that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In the absence of any technical or empirical evidence to this effect I am satisfied that the proposed development is to an acceptable degree.
42. Local residents have expressed concerns that allowing the development would set a precedent for similar developments. Indeed, the current proposal follows on from the 2016 planning permission. Obviously, though, in the event of any further development proposals the situation, and both the planning impacts resulting, and merits arising, would need to be reassessed and balanced out.
43. In its setting, as mentioned, I do not find that significant adverse effects would result from the development. The landscape would not reasonably be enhanced by the development, but as this is only a relatively small site, I consider that any harm arising can be satisfactorily mitigated.
44. I find that the development is in accordance with the national PPTS and, in the circumstances, is not in material conflict with Policies 36 and 48 of the District's Local Plan. With reference to the Westbourne Neighbourhood Plan, and policy OA3 thereto, I accept that the Parish might have a disproportionate number of pitches relative to the District as a whole but this is likely down to land availability and pressures therefrom. Neither would the scheme, subject to the conditions imposed, be in material conflict with the objectives of paragraph 174 of the Framework.
45. On all three main issues I therefore conclude that the proposed development would accord with both national and local policy, and would not be harmful to local character nor the setting of the surrounding landscape. Adequate mitigation measures on the nitrate issue would also be employed. Indeed, having had regard to all matters raised I do not consider that the objections, either individually or cumulatively, should outweigh my conclusions.

Conclusion and Conditions

46. For the above reasons I conclude that the development should be allowed and planning permission granted. In terms of conditions imposed I have considered those agreed and put forward by the parties against the advice in the government's planning practice guidance (PPG) and the discussions at the Hearing itself.
47. I have not found that there is conflict with the development plan's policies in terms of the appeal site's location, subject to satisfying other issues. Accordingly, I do not consider that it is necessary for the permission to be subject to a time limitation condition. Nonetheless, it is necessary to restrict the occupation of the site to gypsies and travellers, to limit the number of the caravans and to prevent separate occupation of the amenity or day rooms.

48. The conditions restricting the tonnage of vehicles stationed at the site and that prohibiting commercial activities at the site represent standard restrictions, whilst the conditions requiring the implementation of a site development scheme, and also the observance of the submitted Ecological Appraisal, are required to ensure that the development is properly implemented to address certain concerns. The related condition requiring that the approved car parking layout shall be laid out prior to occupation also serves to ensure this. However, given the nature of the development, I see no reasonable need for the provision of electrical charging points.
49. The conditions requiring details be submitted regarding the appearance of the day/amenity buildings and also that relating to foul and surface water drainage, similar to the reasons for the above conditions, would secure a satisfactory standard of development.
50. Finally, the reasons and necessity for the condition relating to nitrate neutrality have already been discussed.

Timothy C King

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos. 001 (Site Plan), 002, 003, 004 and 005 (Location Plan).
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites, August 2015 (or its equivalent in replacement national policy).
- 4) No more than 6 (six) caravans shall be stationed on the site at any one time, of which no more than 3 (three) should be of the static variety. The caravans stationed on the site shall comply with the definition of caravans as set out in section 29 of the Caravan sites and Control of Development Act 1960 and Section 13 of the Caravan Sites Act, as amended.
- 5) The use of the day/amenity rooms hereby permitted shall only be incidental to the use of the mobile homes and shall not be occupied as a permanent means of habitable accommodation at any time.
- 6) No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.
- 7) No commercial activities shall take place on the land, including the storage of materials unrelated to the residential use of the land.
- 8) Notwithstanding any details submitted no development/works shall commence above slab level to the proposed amenity buildings until a full schedule of all materials and finishes and samples thereof to be used for external walls and roofs of the building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved schedule of materials and finishes.
- 9) The development hereby permitted shall be carried out in strict accordance with the Preliminary Ecological Appraisal which accompanied the application, produced by Abricon Ltd;
- 10) No development shall take place until a site development scheme has been submitted to, and approved in writing by, the local planning authority. The scheme shall show:
 - a) details of the on-site car parking layout to be provided;
 - b) details of a fences buffer strip to be erected and maintained around all hedgerows during the construction phase;
 - c) details of bat and bird boxes and the infilling of any gaps within the existing hedgerows using native hedge species; and
 - d) details of any external lighting intended for installation.

The development shall thereafter be implemented in accordance with the approved scheme.

- 11) No part of the development hereby permitted shall be occupied until the car parking area has been laid out in accordance with the site plan and the details specified on the application form. These spaces shall be retained thereafter for the parking of cars.
- 12) No development shall take place until a scheme of nitrogen offsetting mitigation has been submitted to and approved in writing by the local planning authority. The scheme shall include the following:
 - a) A location plan showing the exact positioning of the broad leaf tree planting or reed bed within the application site or within land under the ownership of the appellant;
 - b) The size, species and number/density of the broad leaf trees;
 - c) The size and construction details of the reed bed;
 - d) A detailed scheme for the ongoing management and maintenance and monitoring of the chosen methods of mitigation; and
 - e) A scheme for the ongoing monitoring of the offsetting mitigation, to include the provision of photographs to the local planning authority, to be produced annually from the operative date until the twenty year date: and every five years thereafter, for the lifetime of the development.

Thereafter, the nitrogen mitigation scheme shall be fully implemented prior to the first occupation of the caravans hereby permitted, and the measures retained, maintained and managed in accordance with the agreed management scheme.

- 13) No development shall take place until detailed schemes for the foul and surface water drainage of the site have been submitted to, and approved in writing by, the local planning authority. The approved foul and surface water drainage schemes shall be implemented prior to the first occupation of the site, and they shall be retained thereafter.

APPEARANCES

FOR THE APPELLANT:

Philip Brown (agent)
Frank Wickens (appellant)

FOR THE LOCAL PLANNING AUTHORITY:

Calum Thomas (Senior Planner)
Martin Mew Principal Planner)

INTERESTED PARTIES

Gerry Ashton
Jane Ashton
Frank Campbell
Richard Hitchcock (Westbourne Parish Council)