



Appeal Decision

Site visit made on 3 March 2023

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2023

Appeal Ref: APP/Z3825/W/20/3265710

Land at junction of Hill Farm Lane and Stane Street, Codmore Hill, Pulborough RH20 1BW.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Chatfield against the decision of Horsham District Council.
 - The application Ref DC/20/0636, dated 27 March 2020, was refused by notice dated 1 December 2020.
 - The development proposed is change of use of land for the provision of four (4) no. pitches for gypsies and travellers.
 - This decision supersedes that issued on 1 March 2022 (the previous decision). That decision on the appeal was quashed by order of the High Court.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The previous decision for this development proposal was quashed by order of the High Court on 13 July 2022 and so is required to be redetermined.
3. An application for costs was made when the Inspector dealt with the now quashed previous appeal decision. As the costs decision was not quashed, I have not dealt with the costs decision. No further costs applications were made as part of the redetermination process.
4. I have taken the description of development from the appeal form as the main parties are in agreement that the scheme changed from the six pitches proposed initially to four pitches during the application process.

Main Issues

5. The main issues in this appeal are:
 - a) whether the proposal, together with nearby gypsy and traveller sites, would dominate the settled community;
 - b) the effect of the proposal on the Arun Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site in relation to water neutrality; and
 - c) if harm would be caused to the above issues, whether there are public benefits or other material considerations that would outweigh that harm

and justify a development otherwise than in accordance with the development plan.

Reasons

Effect on settled community

6. Adjoining the A29 Stane Street, the settlement of Codmore Hill is primarily residential, with a restaurant located on Stane Street and housing along Stane Street and smaller roads, including Masons Way. The larger settlement of Pulborough lies some 1.1km away along Stane Street. There are schools, healthcare facilities, shops and a railway station in Pulborough. Bus stops lie some 100 metres from the site and allow access to Pulborough and beyond.
7. Located close to the junction of Hill Farm Lane and Stane Street, the site bounds Codmore Hill's defined built-up area. The site was previously used for storage and car parking. Planning permission DC/19/0845 for two pitches for gypsies and travellers and the erection of a shared day room was granted in September 2019. Two static caravans were on the site at the time of my visit.
8. A residential property at Orchard Cottage adjoins the site to the west, while other houses and a restaurant are to the south and east. On the opposite side of Stane Street, Forge Cottage and The Old Forge are Grade II listed buildings. The nearby residential properties are mixed in design, form, and materials.
9. The site is accessed from a lay-by on Hill Farm Lane over which the appellants have a right of way. With the exception of the vehicular access, the site is bounded by soft landscaping, with trees and vegetation adjoining the eastern boundary to Stane Street, and more recent hedging and post and rail fencing to Hill Farm Lane. Trees along the site's southern boundary are protected by a Tree Preservation Order, although I understand that some protected trees, hedging and shrubs have previously been removed. The site's northern boundary is bounded by soft landscaping and trees outside the site, while the western boundary consists of a close-boarded fence and hedging.
10. The proposal would comprise the change of use of the land for the provision of four pitches. Each pitch would accommodate one static caravan, one touring caravan and two parking spaces.
11. Paragraph 14 of the Planning policy for traveller sites (2015)(PPTS) states that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community. Additionally, PPTS paragraph 25 confirms that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. It also notes that local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing undue pressure on the local infrastructure.
12. Policy 22 of the Horsham District Planning Framework 2015 (HDPF) safeguards existing sites and identifies provision of sites through various means, including extending existing sites and redesign of existing sites to make more efficient use of the site to deliver additional pitches. HDPF Policy 23 sets out criteria for allocating land for Gypsies, Travellers and Travelling Showpeople and for assessing planning applications on non-allocated sites. Particular reference has

been made by the Council to criterion e. of HDPF Policy 23, which requires development to not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and be sensitively designed to mitigate any impact on its surroundings.

13. HDPF Policy 26 looks to protect the countryside, with criteria on suitable types of development and effect on character. HDPF Policy 26 outlines that a proposal must be of a scale appropriate to its countryside character and location, and should not lead, either individually or cumulatively, to a significant increase in the overall level of activity in the countryside, and protects, conserves, and/or enhances the key features and characteristics of the landscape character area in which it is located. HDPF Policies 25, 32 and 33 also expect development to be sympathetic to the character and distinctiveness of the site and to protect, conserve and enhance landscape character.
14. The site is in a semi-rural location proximate to residential properties. The site already has planning permission for two pitches. The proposal would introduce two additional static caravans, two touring caravans and a further four car parking spaces. A further four permitted pitches are located north of the site at Blackgate Lane, but these are some 400 metres away.
15. Notwithstanding the likely increase in the density and presence of caravans and vehicles within the site, the site is partially screened by planting from Stane Street and Hill Farm Lane. Additional screening is proposed along the boundary with Orchard Cottage, as is planting within the site to screen the proposed pitches from one another and surrounding the refuse storage area. The Council's Arboricultural Officer has confirmed that the provision of replacement trees subject to a detailed landscaping and planting plan would satisfactorily conclude the matter of the aforementioned tree and vegetation removal. Accordingly, and given the varied nature of nearby housing, I find that the proposal would neither appear to be visually dominant nor detrimentally affect the character and appearance of this part of Codmore Hill.
16. Concern has been raised by the Council with regard to biodiversity net gain and the provision of soft landscaping on site. This matter would be addressed by condition, if the appeal were to be allowed.
17. In relation to the number of homes in Codmore Hill, there is considerable disparity in the figures provided by the main parties, ranging from circa 15 homes to circa 120 homes. While I do not seek to quantify the exact number of homes in Codmore Hill, it was evident from my site visit that Codmore Hill is significantly larger than circa 15 homes.
18. Though the Council has referred to the absence of a day room, pitches can and do come forward without a day room. If a day room was required later, this would be the subject of a separate application to the Council. Furthermore, the Council has mentioned the need for future residents of the site to use local services and facilities. Although this would undoubtedly be the case, I see no difference between the site's future residents and other local residents in this regard, even if no day room were provided. There is no evidence before me which would indicate any undue pressure on local infrastructure or that excessive noise would be generated. Even accounting for the nearby pitches at Blackgate Lane, I consider that the proposal would not have a dominant effect on the local community and surrounding area within Codmore Hill because of its limited cumulative scale.

19. In conclusion, the proposal, together with nearby gypsy and traveller sites, would not dominate the settled community. It would comply with HDPF Policies 23 and 26 and paragraphs 14 and 25 of the PPTS as set out above.

Water neutrality

20. The site is within the Sussex North Water Supply Zone (SNWSZ), where some supplies are sourced from groundwater abstraction. Natural England has identified that it cannot be concluded that existing abstraction in the SNWSZ is not having a negative effect on the integrity of the Arun Valley SAC, SPA and Ramsar site. This site consists of low-lying grazing marshes protected under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The site provides internationally important habitats for rare and diverse plants, aquatic and invertebrate fauna, and for winter wading birds.
21. Natural England's Position Statement for Applications within the SNWSZ (September 2021 – Interim Approach) advises that plans and projects affecting sites where an existing adverse effect is known will be required to demonstrate, with sufficient certainty, that they will not contribute further to an existing adverse effect. The Position Statement therefore advises that applications will need to demonstrate water neutrality within the SNWSZ. The Position Statement also confirms that the securing of water neutrality is a matter which needs to be resolved at a strategic level and Natural England is working with the relevant authorities to achieve this.
22. This change in circumstances occurred on 14 September 2021 after the planning application was determined by the Council, but prior to the previous decision. The previous decision was later quashed. I have had regard to the grounds upon which the previous decision was quashed and to other relevant appeal decisions¹.
23. Given the two additional pitches proposed, there would be likely to be an effect on water abstraction due to increased demand from residents. This may result in damage to habitat for protected species. The effects would arise from development either alone or in combination with other projects, such as other residential development. Appropriate assessment under Regulation 63 of the Regulations is therefore required. As a part of appropriate assessment, I must consider any avoidance or mitigation measures that might be necessary.
24. The appellants were offered the opportunity to address water neutrality following the quashing of the appeal decision. The appellants confirmed that they are unable to overcome this issue and demonstrate water neutrality on the site as there would be a water demand from the additional static caravans which cannot be offset on site or elsewhere. They consider that until a strategic solution is found that enables applicants to contribute to offsetting schemes, water neutrality cannot be demonstrated in this case. No strategic approach has been provided in this instance. Without adequate mitigation in place, it cannot be demonstrated that water neutrality would be achieved.
25. I conclude therefore that the proposal would have a likely significant effect on the Arun Valley SAC, SPA, and Ramsar site in relation to water neutrality, in conflict with HDPF Policy 31, paragraphs 179 and 180 of the National Planning

¹ APP/Z3825/C/21/3271264 and APP/Z3825/C/21/3271265, decisions issued on 24 May 2022; and APP/Z3825/W/21/3284138, decision issued 18 July 2022.

Policy Framework (the Framework), and the Regulations, insofar as they seek to protect and enhance biodiversity, including protected sites.

c) Other considerations

26. Paragraph 60 of the Framework states that it is important that a sufficient amount and variety of land can come forward for homes where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. Paragraph 62 of the Framework also confirms that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies, including travellers. Footnote 38 to paragraph 74 of the Framework makes it clear that a five year supply of deliverable sites for travellers should be assessed separately, in line with the PPTS.
27. The PPTS confirms that local planning authorities should identify and annually update a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. Although no site allocations plan has progressed locally as outlined in HDPF Policy 22, the Council published its Gypsy and Traveller Accommodation Assessment in January 2020, which identifies a need for 93 pitches from 2019 to 2036. Although no specific figures have been provided, the Council has confirmed that it is unable to demonstrate a five year supply of specific, deliverable sites. Despite the small number of additional pitches proposed, they would contribute towards reducing the identified need. The unmet need for gypsy and traveller pitches is of significant importance. I afford this significant weight.
28. The absence of special circumstances has been referred to by the Council in the reason for refusal, but it is unclear what such special circumstances would consist of. The site does not lie within the Green Belt where it is necessary to establish if very special circumstances would outweigh any identified harm.
29. No alternative sites or particular personal circumstances have been highlighted which might weigh in favour of the proposal. However, dismissing the appeal would represent an interference with the potential homes of the future occupiers of the two additional pitches and with their family life such that Article 8 of the Human Rights Act 1998 is engaged.
30. As required by Section 149(1) of the Equality Act 2010, the Public Sector Equality Duty (PSED) is also applicable as the future occupiers are likely to be gypsies and travellers and would therefore have a protected characteristic. There is therefore a need to have due regard to eliminating discrimination, advancing equality of opportunity and fostering good relations.

Other matters

31. The Council has referred in its officer report to harm, albeit less than substantial harm, to the setting of Grade II listed Forge Cottage and The Old Forge on Stane Street. The application does not appear to have been advertised accordingly. If I was determining the appeal differently, I would have covered this matter in further detail, but I have not as it would not alter my overall decision.
32. I note concerns from local residents, Codmore Against Rural Decline, The Pulborough Society, and Pulborough Parish Council with regard to matters including overcrowding, importation of soils, living conditions of neighbouring

occupiers, highway safety, drainage, and refuse. However, it has not been necessary to address these matters in detail.

Planning balance

33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that development should be in accordance with the development plan unless material considerations indicate otherwise. I have found that there is conflict with the development plan with regard to the likely significant effect on the Arun Valley SPA, SAC and Ramsar site in relation to water neutrality.
34. The shortfall in the delivery of gypsy and traveller sites in the district and the provision of two further pitches for gypsies and travellers is a significant material consideration. The effect of the proposal on the settled community is neutral in the balance.
35. Given the importance of protecting the integrity of the Arun Valley SAC, SPA and Ramsar site, I find that the benefits indicated would not be sufficient to justify the proposal in the light of the harm identified and would not justify a decision otherwise than in accordance with the development plan. Furthermore, it would not be suitable to allow either a temporary or a personal permission, as either option would give rise to harm to the Arun Valley SAC, SPA and Ramsar site, which would not be mitigated.
36. The human rights interference associated with my findings is in accordance with the law and is necessary to protect environmental interests which is a legitimate objective. The public interest cannot be achieved by means that cause less interference with human rights. As such, dismissing the appeal is a proportionate response in these circumstances and a violation of rights under Article 8 would not occur.
37. In relation to the PSED, due regard has been paid to minimising the disadvantages suffered by the future occupiers of the additional two pitches insofar as they are different to those without a relevant protected characteristic. Although the appeal is to be dismissed, these considerations have been at the forefront of the decision-making process. The outcome is a proportionate one.

Conclusion

38. For the reasons set out above, the appeal is dismissed.

Joanna Gilbert

INSPECTOR