



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: 30 March 2023

Appeal Ref: APP/Z3825/W/20/3263152

Fryern Park, Fryern Park Farm, Fryern Road, Storrington RH20 4FF.

- 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 John Smith against the decision of Horsham District Council.
 - The application Ref DC/20/0600, dated 14 March 2020, was refused by notice dated 27 July 2020.
 - The development proposed is proposed partial Change of Use to Two Traveller Pitches including ancillary accommodation and car parking.
 - This decision supersedes that issued on 28 February 2022 (the previous decision). That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The previous appeal decision for this development proposal was quashed by order of the High Court on 13 July 2022 and so is required to be redetermined.

Main Issues

3. The main issues in this appeal are:
 - a) the effect of the proposal on the character and appearance of the area;
 - 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 other material considerations that would outweigh that harm and justify a development otherwise than in accordance with the development plan.

Reasons

a) Character and appearance

4. The site lies in the countryside outside the nearby settlement of Storrington. Located adjacent to an access road and public right of way (No. 2647) which runs westwards from Fryern Road, the site is to the east of the site of a previous appeal¹ for the change of use of yard to two traveller pitches including ancillary accommodation and parking. The site is presently hard surfaced, possibly with tarmac planings. To the north, there are equestrian buildings and

¹ APP/Z3825/W/19/3222341, decision issued 4 November 2019.

facilities beyond timber fencing. Laurel hedging is located along the site's southern boundary adjacent to a post and rail fence, while there are conifers and further hedging on the eastern boundary.

5. Nearby, one pitch was allowed at appeal² at land north of Oldfield Cottage, Fryern Road in 2014. Additionally, the appellant has highlighted that two pitches were approved at Oldfield Stables, 11 pitches were approved at Kingfisher Farm, West Chiltington, and three further pitches were approved at land at Oldfield Stables, Fryern Road.
6. Described as character area E1 Parham and Storrington Wooded Farmlands and Heaths within the Horsham District Landscape Character Assessment 2003, the site is within a Green Gap between Storrington and West Chiltington which is designated in the Storrington, Sullington and Washington Neighbourhood Plan 2018 - 2031 (made September 2019) (NP). The landscape surrounding the site is characterised by a pattern of small fields separated by hedging, many of which are paddocks. Buildings and trees are scattered across the wider landscape. Only limited long views are possible, due to hedging and trees.
7. The proposal would have a shared access with the adjacent permitted pitches onto the right of way and would comprise two gypsy and traveller pitches with space for two static caravans, two day rooms, a parking area and landscaping.
8. NP Policy 8 confirms that new development shall protect the views shown on the Green Gap and Views map. This map includes countryside protection view 3 which is referred to by the Council in their statement. NP Policy 9 seeks to resist development between Storrington and West Chiltington in line with Policy 27 of the Horsham District Planning Framework 2015 (HDPF). HDPF Policy 27 sets out a number of criteria focused on protecting landscapes from development which would result in the coalescence of settlements.
9. HDPF Policy 2, amongst other things, seeks to maintain rural character, while providing for the community's housing needs, including the temporary and permanent needs of Gypsies and Travellers, and retaining and enhancing landscape character. HDPF Policy 23 on Gypsy and Traveller accommodation sets out criteria on allocation of sites and for determining planning applications for non-allocated sites. Criterion e. of HDPF Policy 23 refers to development not having an unacceptable impact on the character and appearance of the landscape and being sensitively designed to mitigate any impact.
10. 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.
11. Paragraph 25 of the Planning policy for traveller sites (2015)(PPTS) confirms that local planning authorities should very strictly limit new traveller site

² APP/Z3825/W/19/3222341, decision issued 16 April 2014.

development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Criterion d) of PPTS paragraph 26 also notes that sites should not be enclosed with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

12. Reference has been made by the appellant to the National Planning Policy Framework (the Framework) in respect of sustainable development, supporting a prosperous rural economy, reusing previously developed land well related to settlements, and achieving good design.
13. The Council has noted that the site has undergone substantial change from that suggested by historic aerial imagery. While the site would previously have had a more natural appearance, the site is bounded by trees and hedging to the east and the south which will mature over time and provide greater screening than at present. Notwithstanding this, the day rooms and caravans would be visible from the site access, both on the adjacent pitches and on the site subject to this appeal. However, this effect on the character and appearance of the area would be highly localised as a result of the range of boundary treatments partially screening the site. Though it would be visible to those walking, cycling or riding along the right of way, there would be only a brief and transient visual effect on passing the site access. Even this would be in a context of other caravans and adjacent equestrian structures. As such, I find that the proposal would not have a harmful effect on the surrounding landscape and would have no detrimental effect on the wider Green Gap given the level of containment of the site.
14. The Council has suggested that the cumulative effect of the proposed pitches, permitted pitches, and neighbouring equestrian facilities would give rise to increased vehicle activity, lighting and acoustic effects on the locality. While there would be likely to be an increase in vehicle movements and some noise associated with use of the proposed pitches and movement of vehicles, the effect on the tranquillity of the area would be limited as only two additional pitches are proposed. Furthermore, external lighting columns, cycle stores, and refuse stores could all be addressed by means of condition.
15. In conclusion, the proposal would not have a harmful effect on the character and appearance of the area. It would therefore not be contrary to HDPF Policies 2, 23, 25, 26, 32 and 33, NP Policies 8 and 9, and PPTS paragraphs 25 and 26 as outlined above.

b) Water neutrality

16. 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.
17. 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.

18. 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 decisions³.
19. Given the two pitches are proposed on a site where there was no previous water demand, 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.
20. The appellant was offered the opportunity to address water neutrality following the quashing of the previous decision. Despite indicating their intention to engage a specialist to address water neutrality, no further information was provided in mitigation. Without adequate mitigation in place, it cannot be demonstrated that water neutrality would be achieved.
21. 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 Framework, and the Regulations, insofar as they seek to protect and enhance biodiversity, including protected sites.

c) Other considerations

22. 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. No specific figures have been provided, but the Council has confirmed that it is unable to demonstrate a five year supply of specific, deliverable sites. Despite the small number of 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.
23. The site is close to a range of services and facilities and the proposal is also considered by the Council to be acceptable in respect of its effect on living conditions of neighbouring occupiers and on highway safety. I consider these matters to be neutral.

³ 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.

24. I also recognise that the appellant sought pre-application advice from the Council and that the site was submitted to the Council as part of the development of the Gypsy Traveller and Travelling Showpeople draft site allocations plan. I understand though that this has not been adopted by the Council.
25. No alternative sites or specific personal circumstances have been highlighted which might weigh in favour of the proposal. While there is no dispute that any future occupiers would be gypsies and travellers, I have only been advised that the two pitches would accommodate members of the same family as for the existing adjoining planning permission.
26. Dismissing the appeal would represent an interference with the potential homes of the future occupiers of the two pitches and with their family life such that Article 8 of the Human Rights Act 1998 is engaged. 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.

Planning balance

27. 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.
28. 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. I have not found harm to the character and appearance of the area, but I consider this to be neutral in the balance.
29. However, 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.
30. 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.
31. In relation to the PSED, due regard has been paid to minimising the disadvantages suffered by whoever the future occupiers of the additional two pitches would be, 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.

Other Matters

32. Storrington and Sullington Parish Council and local residents have raised concerns including breaches of planning conditions, the status of Lee Carter Racing Ltd, the absence of race horse rehabilitation, the use of the adjacent land for the storage of rubble, loss of a greenfield site and wildlife habitat, the previous condition restricting use of the adjacent land for two pitches, air pollution, and safety of the public right of way. I have not dealt with these matters further given my overall decision.
33. I also note that letters of support have been submitted in relation to how the land is kept tidy, the appellant's respectful behaviour to others, including walkers, cyclists and horse riders using the right of way, and advocating a diversity of cultures locally. However, none of these matters overcome my concerns in relation to water neutrality.

Conclusion

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

Joanna Gilbert

INSPECTOR