



Appeal Decision

Hearing held on 5 October 2022

Site visit made on 5 October 2022

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2023

Appeal Ref: APP/L3815/W/22/3293116

Land east of Monks Hill, Monks Hill, Westbourne, West Sussex 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 J Pitman against the decision of Chichester District Council.
 - The application Ref WE/20/03164/FUL, dated 4 December 2020, was refused by notice dated 18 August 2021.
 - The development proposed is described as *'Change of use of land to a private gypsy and traveller caravan site consisting of 1 no mobile home, 1 no touring caravan, 1 no utility dayroom and associated development.'*
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to a private gypsy and traveller caravan site consisting of 1 no mobile home, 1 no touring caravan, 1 no utility dayroom and associated development at land east of Monks Hill, Monks Hill, Westbourne PO10 8SX, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. In July 2022 a further planning application with an identical description to the appeal proposal, and within the same site was submitted to the Council. This application remains undetermined. This submission was made in order that the issue of water neutrality, which was not fully addressed in the appeal proposal, could be resolved through negotiation with the Council. A common approach has now been agreed which has involved the production of a Nutrient Neutrality and Mitigation Strategy Report and also financial contributions in relation to the impact of a net increase in residential development on the Chichester and Langston Harbours Special Protection Area (SPA).
3. One way of achieving water neutrality is to take agricultural land out of active farming use, thereby removing its nutrients to the Harbour SPA. In this respect a local initiative, the East Droke Mitigation Scheme, would take 4.78ha of agricultural land out of use to provide off-site mitigation for new developments that would have a harmful impact on the Harbour. The proposed mitigation scheme would unlock a number of applications, including the appeal development, which have been unable to progress without a solution to the neutrality issue. The adoption of an overarching mitigation scheme would provide a model for other such initiatives.

4. Accordingly, on 21 December 2022 an overarching s106 legal agreement between Chichester District Council, the South Downs National Park Authority and John Ernest Holt. This prohibits the said land from being used for agriculture, secures a Habitat Creation Planting Scheme and also a Mitigation Land Contribution.
5. Natural England (NE), in its letter of 16 May 2023, responded to the Council's Habitat Regulation Assessment Screening Matrix and Appropriate Assessment (AA) undertaken as to whether the proposal would unacceptably affect the integrity of Chichester and Langstone Harbour Special Protection Area (SPA) and Ramsar, as well as Solent Maritime SPA. This concluded that the proposal would not result in adverse effects on the integrity of any of any of the said sites. NE indicates that it concurs with the assessment's conclusions, providing that all the mitigation measures put forward are appropriately secured on any planning permission granted.
6. This equally applies to the earlier planning application the subject of the current appeal as the negotiations which have continued between the appellant and the Council subsequent to the Hearing have resulted in common measures of mitigation being arrived at.
7. Refusal Reason no 3 is negated by a Unilateral Undertaking, completed on 27 July 2023, and for which the Council now confirms that it has received the necessary financial contribution towards the provision of access mitigation measures in respect of the SPA. The Council has indicated in correspondence also dated 27 July 2022 that it is satisfied that such mitigation is achieved through the obligation.

The Proposal

Main Issues

8. In light of the above the main issues set out below relate to 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 whether the creation of an additional pitch would unacceptably impact on the local settled community.

Reasons

National Policy and associated matters

9. 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.
10. 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.

11. 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.
12. The GTAA estimates a total net need for the provision of 94 pitches in the period 2018-2036. The need in the first five years, 2018-2023 is said to be for the provision of 66 permanent pitches.
13. There is no current local plan allocation for gypsy and traveller sites in the district 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.
14. As it stands, though, the Council accepts it cannot demonstrate a five year supply of deliverable sites for such accommodation.
15. At the Hearing the Council's witness indicated that the remaining unmet need of 33 pitches, plus the identified need from the GTAA of 6 pitches between April 2023 and March 2026, results in a total unmet need of 39 pitches between October 2021 and March 2026.
16. A new Local Plan is under preparation which, the Council witness indicated, would set out a strategy for responding to the identified need for gypsy and traveller accommodation.
17. The unmet need for gypsy & traveller sites within the Chichester district is a matter to which I ascribe considerable weight.

Character and appearance

18. The site lies outside the Westbourne settlement boundary, and approximately 340m of the South Downs National Park (SDNP) boundary to the east. It currently comprises pasture enclosed by a mixture of hedgerow, vegetation and close-boarded fencing.
19. The Council says that the development would result in a visually prominent and urbanising form of development that would fail to respond to or enhance the character and appearance of the locality, to the detriment of the rural and undeveloped character of the locality. The proposed areas of hardstanding and associated domestic paraphernalia are cited in this respect.
20. The appellant, for his part, considers that appropriate and effective landscaping which respects the surrounding area and quality would be sympathetic to the SDNP's setting, and would not impact on its openness. The existing mature boundary hedgerows which partly screen the site would be complemented by the intended landscaping, details of which are annotated on the site plan. I would consider these measures to be suitable and adequate given the site's relatively small size. Apart from the additional hedgerow proposed and the intended wildflower area I also note the intended installation of a permeable type hardstanding. Indeed, the site layout plan indicates an orderly arrangement.

21. 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.
22. 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.
23. The site can be glimpsed from a public footpath that lies close to the SDNP, although it is proposed that native hedgerow be planted on the site's eastern boundary which will perform a screening function to this end.
24. 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.
25. 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.
26. 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 a site beyond to the south, known as Meadow View Stables, in use for such purposes. This site was the subject of a successful appeal (*APP/L3815/W/21/3267477*) in February 2023, which involved an extension to the existing small gypsy caravan site for the stationing of an additional three mobile homes. This, therefore, represents the nearby site's limited expansion.

27. The fact that the site is not isolated from the existing settlement of Westbourne means its location is not at odds with the PPTS advice. I am also satisfied that the degree of accommodation proposed is only modest and will not reasonably result in any significant adverse impact to the existing settled community.
28. Allowing the current appeal and granting planning permission for this limited development would result in some degree of harm to the character of the landscape, but I consider this more to do with a perception from change. In the setting I have described, this would not be significant and, as such, with little 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.

Other considerations

Personal circumstances

29. It is proposed that accommodation will be provided for the appellant's family, which includes four children, two of which are of school age. 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 settled accommodation brings is a benefit to the family as a whole.
30. 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.
31. It is clear that the shortfall of gypsy and traveller sites is significant. Accordingly, 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

32. 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.
33. I note the grievance that there is a high concentration of gypsy and traveller sites in the parish of Westbourne – put to me as “45 pitches and growing...” – and the claim that there are four vacant pitches in the locality. It is not made clear to me why the said pitches may have lain vacant, but also, any local concentration of pitches 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.

34. It was also mentioned that since the appellant bought the site he has dumped rubble and metal items at the site. This might have been the case but any such deposits can be tidied up.
35. A point was made that the entrance to the site is considered dangerous to it being positioned on a bend in the road. However, at my site visit I noted that this curve is reasonably gentle and, moreover, the local highway authority has not raised any objections as to highway safety implications. Further, 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, and restriction by way of condition can be imposed.

Planning Balance

36. The proposal would contribute, albeit in a small way, to meeting the identified local need for gypsy and traveller accommodation.
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 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. Local residents have expressed concerns that allowing the development would set a precedent for similar developments. Indeed, the current proposal follows on from the recent successful appeal at Meadow View Stables. Obviously, though, in the event of any further development proposals the situation, and both the planning impacts resulting and any merits arising, would need to be reassessed and balanced out.
41. 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. Conditions can be imposed to achieve this.
42. 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.

43. On the two 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. Neither do I consider that it would unacceptably impact on the settled community. Further, as mentioned, 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

44. 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.
45. 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 room.
46. 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 condition requiring that the approved car parking layout shall be laid out prior to occupation, along with an Electric Charging point, also serve to ensure this.
47. 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.
48. Finally, condition 12 is based upon wording agreed with the Council Solicitor and has been used for other applications issued by the Council. It required the provision of a Notice of Purchase, as defined within the s106 Agreement, which is essentially a proof of purchase of the correct amount of credits to offset the level of nitrogen, and a map showing which of the 114 total credits have been sold to the appellant, Mr Pitman.

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. Y
- 2) The development hereby permitted shall be carried out in accordance with drawing nos. 2008MO_000, 2008MO__001, 2008MO_200, 2008MO_201, 2008MO_300. Y
- 3) The site shall not be occupied by any persons other than gypsies and travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document). Y
- 4) No more than 2 (two) caravans shall be stationed on the site at any one time, of which no more than 1 (one) 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) No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.
- 6) No commercial activities shall take place on the land, including the storage of materials unrelated to the residential use of the land.
- 7) Notwithstanding any details submitted no development/works shall commence above slab level to the proposed day room building 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.
- 8) The use of the utility dayroom hereby permitted shall only be incidental to the use of the mobile home and shall not be occupied as a permanent means of habitable accommodation at any time.
- 9) The development hereby permitted shall be carried out in strict accordance with the methodology and mitigation outlined with the Ecological Assessment Rev 01 and Mitigation Statement, prepared by the Ecology Co-op, unless otherwise agreed in writing by the local planning authority.
- 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;
 - b) details of covered and secure cycle parking spaces;
 - c) the installation of a bat brick/box affixed to either the day room or in a tree sited within the site , facing a south/south westerly point, and positioned between 3-5m above ground;

- d) the installation of a bird box to the day room or in a tree sited within the site;
- e) the provision of a hibernaculum within the site;
- f) the infilling of any gaps within existing hedgerows using native hedge species;
- g) details of a fences buffer strip that shall be erected and maintained around all hedgerows during the construction period; and
- h) 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, including the installation of 1 no. Electric Vehicle charging point. These car parking spaces and the charging point shall be retained thereafter.
- 12) No development shall commence unless the Council has received the Notice of Purchase in accordance with the requirements of the legal agreement between Chichester District Council, the South Downs National Park Authority and John Holt, dated 21 December 2022 in respect of the Credits Linked Land identified in the appellant's Nutrient Neutrality and Mitigation Strategy Report dated 18 April 2023.
- 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:

Dr Angus Murdoch (agent)
Joe Pitman (appellant)

FOR THE LOCAL PLANNING AUTHORITY:

Calum Thomas (Senior Planner)
Sascha Haigh (Senior Planner)

INTERESTED PARTIES

Gerry Ashton
Jane Ashton
Richard Hitchcock (Westbourne Parish Council)
Rhodri Crandon