



Appeal Decision

Site visit made on 18 September 2023

by H A Orr MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2023

Appeal Ref: APP/L3815/W/22/3311285

The Stables, Cemetery Lane, Woodmancote, Westbourne PO10 8QB

- 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 B Lamb against the decision of Chichester District Council.
 - The application Ref WE/21/00051/FUL, dated 09/12/2020, was refused by notice dated 18 May 2022.
 - The development proposed is to increase number of permitted caravans from 1no static and 1no tourer to 2no static and 2no tourers and retention of stable block.
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Decision

1. The appeal is allowed, and planning permission is granted to increase the number of permitted caravans from 1no static and 1no tourer, to 2no static and 2no tourers and retention of stable block at The Stables, Cemetery Lane, Woodmancote, Westbourne PO10 8QB, in accordance with the terms of planning application, Ref WE/21/00051/FUL, dated 09/12/2020 and subject to the conditions set out on the attached schedule.

Background and preliminary matters

2. The appeal site comprises a moderate sized parcel of land to the north of Cemetery Lane. Close to the frontage there is an existing and permitted residential caravan with associated hard surfacing and a tourer. The planning application sought to introduce a second static caravan, and a tourer with the retention of the stable block built to the rear of the caravans. At the time of my site visit there were two pitches, comprising one static caravan on each, one touring caravan and a timber stable block. The remainder of the wider site appeared to be used as grazing land.
3. To the west of the site there is an area of relatively open countryside, with the more urban development of Westbourne beyond. To the east there are several other residential caravan sites and business premises with housing beyond. The cemetery lies to the southwest.

Main Issues

4. The Council's main reasons for refusing the planning application were: the effect of the development on the settled population; and secondly the effect of the development on the Chichester and Langstone Harbours Special Protection Area (CLHSPA) and the Maritime Special Area of Conservation (SMSAC).

5. However, during the course of the appeal, the Council took the decision to withdraw both of these reasons, conceding in the Statement of Common Ground (SoCG), that there was no longer any sound reason why planning permission should not be granted, subject to appropriate conditions. Consequently, a Hearing was no longer considered to be necessary and I have considered the appeal on the basis of the written evidence and a site visit.
6. Notwithstanding this, Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 states, that the competent authority may agree to the plan or project, only after having ascertained that it will not adversely affect the integrity of any European site, or European offshore marine site (as the case may be). The CLHSPA and SMSAC are both designated sites. Thus, given the Council's changed position, the main issue remaining for the decision maker, is the effect of the development on recreational disturbance, water and nitrates.

Reasons

Appropriate assessment

7. It is not in dispute that the development is sited within the 5.6 km 'Zone of influence' of the CLHSPA. The SPA takes its significance from the internationally important numbers of wintering wildfowl and wading birds, including Grey Plover, Dunlin and Redshank. Its ongoing unfavourable and declining condition means that this development has the potential to harm this area of conservation, due to increased recreational disturbance. Policy 50 of the Chichester Local Plan: Key Policies 2014 -2029 (2015) (LP) requires new development to mitigate the impact of this increase, either through a package of bespoke avoidance/mitigation measures, or a financial contribution towards formal mitigation strategies for the CLHSPA.
8. The appellant has provided a signed unilateral undertaking dated 7 June 2023, to pay the sum of £870.00 as a financial contribution to the Bird Aware Solent Mitigation Scheme, in respect of access mitigation measures for the CLHSPA, together with a fee of £130 as an administrative and monitoring fee to the Council. The Council has since confirmed that this payment has been made in full. Accordingly, I am satisfied that any adverse impact has been mitigated via the financial contribution to the Bird Aware Solent Mitigation Scheme, in accordance with Policy 50. Natural England has confirmed that they are satisfied with this approach.
9. Turning now to nitrate neutrality. Due to the increase in wastewater from the development, there is the potential for the development to have a significant detrimental effect on the SMSAC. The appellant submitted a Nitrate Mitigation Proposal with the application, which identified that 0,912 kg of nitrogen per year would need to be offset.
10. This scheme proposed that an appropriate level of mitigation could be achieved by fencing and re-wilding some 0.114 hectare (ha) of land, that lies within the appellant's ownership. This proposal included the planting of new broad leaf trees at the rate of 100 per ha and the permanent retention of the remainder as wild meadow grassland.
11. Further consultation with Natural England has confirmed that this satisfactorily demonstrates that the development can achieve nitrogen neutrality. It is

therefore necessary to impose a condition to ensure that this scheme is firstly carried out and then maintained and retained for the lifetime of the development.

12. Accordingly, for the above reasons I am likewise satisfied that, subject to compliance with the imposed conditions, the development will not affect the integrity of the CLHSPA, or the SMSAC, either alone or in combination with other plans and projects in relation to urbanisation and recreation. There is thus no conflict with Policies 49 and 50 of the LP

Other matters and conditions

13. Policy 36 of the LP, specifically deals with the needs of gypsies and travellers by setting out criteria to assess the suitability of sites. These criteria are therefore relevant to the assessment of this appeal. From the evidence the Council are now raising no concerns regarding the location of the development. They have found no harm to the character and appearance of the area, or the living conditions of the site occupiers, or other local residents. No highway, flooding or any other concerns were raised. In light of this, together with my observations at the site visit, I have no reason to take a different view and find the development accords with Policy 36.
14. Several matters were raised by third parties in response to the planning application. Whilst I acknowledge concerns regarding the number of pitches in the area, the proposed development has already been found to be acceptable in this regard, thus it does not alter my decision.
15. I have considered the list of conditions agreed by the parties at Appendix 1 of the SoCG, in the light of the advice in Planning Policy Guidance. I have altered the wording provided where necessary for clarification purposes. The standard condition that limits the lifespan of the planning permission is not required due to the retrospective nature of the development. However, as the development is not fully implemented in respect of the second tourer, a condition specifying the approved plans is still necessary to provide certainty.
16. The Council accept that they are unable to demonstrate a 5 year supply of pitches, so this additional pitch will contribute towards the Council's unmet need. Accordingly, a condition limiting the occupation of this additional pitch, to Gypsies and Travellers is required. I consider that conditions restricting the number, type of caravans, commercial vehicles and uses, are all required in the interests of protecting the semi-rural character and appearance of the area and the living conditions of nearby residents.
17. In the interests of protecting the environment, a condition to ensure that the nitrate mitigation scheme is carried out in full, within a reasonable timeframe and then maintained and retained for the lifetime of the permission is necessary. However, I consider that a period of 6 months is a more reasonable time to carry out the mitigation measures, source, plant and protect the required trees during the next planting season.
18. The Council have suggested a condition requiring that the stables to be used only for domestic use of the occupiers of the caravans and shall not be sold or let separately. I acknowledge that the stables should be restricted to uses that are ancillary to the residential use. However, a condition that fetters the

appellant's lawful rights to dispose of his land is not considered to be necessary.

Conclusion

19. There are no material considerations that indicate that the application should be determined other than in accordance with the development plan as a whole. For the reasons given above, I therefore conclude that the appeal should be allowed, subject to the attached schedule of conditions.

Hilary Orr

INSPECTOR

Schedule of conditions.

1. The development hereby permitted shall be built in accordance with the approved plans: 3D – Proposed site plan; 2C – Block plan; 1C - location plan; and 4 – Stable building; received by the Council on 14th January 2021. The development shall be completed in accordance with the approved plans unless otherwise agreed by the Local Planning Authority.
2. Within 6 (six) months of the date of this decision, the required nitrogen mitigation shall have been fully implemented, in strict accordance with the Drawing 3 REV D – Proposed Site Plan and the Nitrate Budget Report V2 March 2022. Thereafter, these mitigation measures shall be retained and maintained in accordance with the protection and maintenance methods set out within the Nitrate Budget Report V2 for lifetime of the development.
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 who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, or permanently, but excluding members of an organised group of travelling showpeople, or circus people travelling together as such.
4. There shall be no more than two pitches on the site and on each pitch there shall be no more than two caravans stationed at any time, of which only one caravan shall be a static caravan.
5. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans, and they shall not exceed 3.5 tonnes in weight.
6. No commercial activities, including the storage of materials, burning of any item or waste materials of any kind may take place at the site, other than the storage of materials in vehicles authorised to be parked on the site.

7. The stables hereby permitted shall only be used in connection with the residential occupation of the site.

End of schedule