



Appeal Decision

Hearing held (virtually) on 26 November 2024

Site visit made on 27 November 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/Z3825/W/24/3344082

Land west of The Deck House, Hill Farm Lane, Codmore Hill, Pulborough RH20 1BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Capelin against the decision of Horsham District Council.
 - The application Ref is DC/23/1166.
 - The development proposed is single pitch settled gypsy accommodation site.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was submitted by the appellant against the Council but was subsequently withdrawn. As such, there is no separate costs decision.

Preliminary Matters

3. The main parties agreed within the submitted Statement of Common Ground (SoCG) that there is a need for 79 pitches for Gypsy and Traveller households between 2023 and 2040 as identified through the Gypsy and Traveller Accommodation Assessment Targeted Update¹. It is also agreed that the Council is unable to demonstrate a 5 year supply of sites for Gypsies and Travellers against the requirement set out in the Planning Policy for Travellers Sites (PPTS) (2015) to identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against its locally set targets. I find no reason to reach alternative views in either respect.
4. Whilst the appellant is seeking permission for a pitch for an occupier or occupiers that comply with the definition of a Traveller as set out in Annex 1 of the PPTS (updated 2023) and would accept a condition to this effect, it was clarified that no intended occupiers have been identified at the present time. As such, there are no personal needs or circumstances to take into account.

Main Issues

5. The main issues in the appeal are the effects of the proposal on:
 - the character and appearance of the area;
 - the biodiversity interests of the site and surrounding area; and

¹ Opinion Research Services, 2024

- the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites (the Arun Valley Protected Sites).

Reasons

6. The appeal site is situated on the outskirts of Codmore Hill, Pulborough, outside of but adjoining the Built-up Area Boundary (BUAB) as defined by the policies map of the Horsham District Planning Framework (2015) (HDPF). It comprises a steeply sloping section with a tree-lined frontage onto Hill Farm Lane, with a more level area of paddock at the lower northern extent of the site.
7. The proposal is to change the use of the site to a residential use for one Gypsy and Traveller pitch. The associated works to facilitate the change of use are not detailed in the description of development but would include the provision of an access; engineering works to provide a level, hardsurfaced base; landscaping, and associated drainage infrastructure.

Character and appearance

8. The site is adjoined by a residential dwelling to its eastern side and other dwellings lie on the opposite side of Hill Farm Lane. The area has a semi-rural character which quickly transitions to a distinctly rural character to the west of the site.
9. The site slopes steeply down from its southernmost frontage onto Hill Farm Lane to the north. A paddock exists on a low lying area to the northernmost part of the site, roughly separated from the main part of the site by some low, scrubby vegetation. The lower slopes are also predominately covered in scrubby vegetation, whereas the side boundaries and frontage onto Hill Farm Lane are formed from a greater number of individual trees of various, largely deciduous species.
10. There are no topographical survey details submitted with the appeal, but it is clear from my site visit that the extent of engineering works to improve the access and provide a level platform for a caravan in the southern part of the site could not be described as minor in nature. The access required to enable delivery of a static caravan or manoeuvring of a vehicle towing a touring caravan would involve some tree clearance, surfacing of a track of a suitable gradient and provision of a sizeable area of broadly level hardsurfacing which will involve some cut and fill works to provide a level platform at an unknown elevation relative to surrounding features. Whilst the appellant indicates that no tree removals are proposed, there is no arboricultural assessment to corroborate that the development could proceed without the need for such and what protection measures would be needed. There would also inevitably need to be some form of enclosure around the platform for safety reasons, the details of which are unknown.
11. Given the way in which the site slopes down and is more open in views from the north, including from the footpath which passes by Fern Lodge, engineering works at the highest point of the site would be particularly prominent, as too would be the greater extent of visibility of such works from Hill Farm Lane. Even if reduced to the minimum possible to facilitate the change of use, the extent of the works necessary would still result in landscape character and visual harm, exacerbated by the siting of caravans

and domestic paraphernalia on an elevated and exposed platform. Given the scant detail in the evidence, the potential for such harms to be minimised through landscaping measures is unclear.

12. The use of a site development condition has been suggested, but the amount of information necessary to clearly understand the proposal and its implications exceeds what would be reasonable to address by such means.
13. In view of the above, the proposal would be harmful to the character and appearance of the area, contrary to, in particular, Policies 23(e), 25 and 33 of the Horsham District Planning Framework (2015) (HDPF). These Policies collectively seek to ensure that the landscape character of the district is protected, presume in favour of the retention of existing important landscape and natural features, for example trees and hedges, and with particular regard to Gypsy and Traveller pitches, ensure that they relate sympathetically to the local landscape and justify and mitigate against any losses that may occur through the development.

Biodiversity Interests

14. The site has mixed treed boundaries, including along the frontage and has some individual smaller trees within the site. Otherwise, it has relatively scrubby, low level vegetation extending down towards the north. Within the wider landscape, hedgerows and clusters of woodland sit between and amongst areas of pastureland. On the basis of the features present on site, it may be of some value as habitat or to support foraging for certain species.
15. The response on behalf of the Council indicates that the scrub habitat and boundary hedgerows could be suitable for Hazel Dormouse and trees and boundary habitat could be suitable for roosting, foraging and commuting bats. In regard to Great Crested Newt, note the site is within the Amber Impact Risk Zone in line with the Horsham District Council: Impact Risk Zones for Great Crested Newt District Level Licencing. In addition, there is a pond within 150 metres of the site and the habitat site appears to contain suitable terrestrial habitat. In regard to UK protected species, it is indicated that there is also a reasonable likelihood that reptiles or Badger could be present within the red line boundary, given the overgrown habitat present within the site.
16. There is no survey of the site that details its biodiversity value or use by individual species. Whilst the appellant's evidence asserts that the site is ecologically barren, it was confirmed verbally at the hearing that the author of such does not have any relevant ecology-related qualifications to substantiate that particular assertion. As such, in the absence of any clear evidence to the contrary, adopting a precautionary approach is the only means of ensuring the protection of any potential species or habitats that could be unduly harmed if the scheme were to proceed.
17. In view of the above, and in the absence of evidence to the contrary, the proposal would be harmful to the biodiversity interests of the site and surrounding area, contrary to, in particular Policy 31 of the HDPD. In this regard, the aims of Policy 31 are to refuse developments which are anticipated to have direct or indirect adverse impacts on sites or features for biodiversity unless the reason for the development clearly outweighs the need to protect the value of the site and the appropriate mitigation measures are provided.

Arun Valley Protected Sites

18. The River Arun and its floodplain contain habitats and species of international importance, recognised within the designations of the Arun Valley Protected Sites under the Conservation of Habitats and Species Regulations 2017, as amended, (Habitats Regulations). They support a series of wetland meadows, alluvial grazing marsh and former raised peat bog, dissected by a network of ditches. Variation in soils and water supply lead to a wide range of ecological conditions and hence a rich and diverse flora and fauna. The relevant qualifying features of the Protected Sites formally comprise wildfowl and waterbird assemblages, including Bewick's swan, shoveler, teal and wigeon; wetland invertebrates, as well as a range of rare flora, including duckweed, water-cress, milfoils, dropworts and pondweeds.
19. The conservation objectives for the Arun Valley Protected Sites are to ensure their integrity by maintaining or restoring the extent, distribution, structure and function of the qualifying habitats and species, the processes on which they rely and the population and distribution of those species within the sites. The hydrology of the Arun River is the major factor affecting the quantity, depth and flow of water within the Protected Sites, which in turn contribute to achieving the favourable conservation status of their qualifying features.
20. Water supply to Horsham District is largely provided by Southern Water from its Sussex North Water Resource Zone (WRZ) which is an area of serious water stress. Water abstraction within the WRZ is adversely affecting the integrity of the Arun Valley Protected Sites through the reduction in water levels and flow within their wetland habitats. Further developments within the WRZ would exacerbate the issue unless they are capable of demonstrating water neutrality.
21. As the appeal site would be supplied with water from the WRZ, impacts on the integrity of the Arun Valley Protected Sites cannot be screened out. Under Regulation 63 of the Habitats Regulations, I am therefore required to undertake an Appropriate Assessment (AA) of the implications of the proposed development, including consideration of any conditions or restrictions, such as legal obligations, to which it is proposed a permission should be given and to the manner in which it is proposed the development should be carried out.
22. In this case, the appeal has been submitted with a *Technical Note 1: Water Neutrality Statement*² which calculates the water demand for a single mobile home with two bedrooms with some water-efficient fixtures and fittings installed. The total additional water demand is calculated to be 158.78 litres. To offset this additional water demand and achieve neutrality, the appellant could offer to retrofit water efficiencies against another 3 bedroom dwelling that they own within the WRZ, based in West Chiltington. The retrofitting of this property with grey water recycling systems, rainwater harvesting and/or water reduction fittings is calculated to yield a saving of around 222.67 litres of water per day, which is more than enough to offset the additional water demands of a single caravan household on the appeal site.
23. The means by which water neutrality could be achieved is clear from the evidence. Whilst a planning obligation has not been submitted to secure water neutrality, given the sufficient evidence that such a prospect exists, it may be

² Motion, dated 09 February 2024

possible to impose a negatively worded condition to secure such prior to any first use or development of the site. As such, the proposal adheres to Policy 31 of the HDPF. Amongst other things, Policy 31 of the HDPF seeks to give particular consideration and protection to the hierarchy of sites and habitats in the district, and in particular, special protection areas and special areas of conservation.

Other Matters

24. I note that the main parties agree that the site is suitably located in relation to local services and the range of facilities required for day-to-day living. I find no reason to disagree and consider that the site would be well located adjacent to the existing settlement and even taken with existing pitches in the surrounding area, the number of pitches would not dominate the settled community.
25. Pulborough Parish have produced a neighbourhood plan, the *Pulborough Neighbourhood Plan*, which owing to water neutrality complications, has only been able to proceed to examination stage but not to referendum. The main parties agreed that limited weight can be attributed to its policies, and I find no reason to disagree.
26. The Council has an emerging Horsham District Local Plan 2023 – 2040 (emerging Local Plan) which has been through its Regulation 19 consultation stage and for which the examination in public is due to commence imminently. Whilst the SoCG mentions the proposed strategic policy 43 which will aim to deal with Gypsy and Traveller proposals, the parties agree that the policies of the emerging Local Plan only attract limited weight at the current time. Similarly, my view is that the policies attract limited weight for decision making purposes.

Planning balance and conclusion

27. The scheme would be harmful to the character and appearance of the area and would result in harm to the biodiversity interests of the site and surrounding area. Whilst the scheme would comply with other policies of the HDPF and planning conditions could be used to avoid other harms, including to the Arun Valley Protected Sites, I still find that the proposal would conflict with the Development Plan when considered as a whole.
28. The PPTS advises that the inability of a Council to demonstrate an up to date 5 year supply of deliverable pitches should be a significant material consideration when considering applications for the grant of temporary planning permission. However, it can also form a significant material consideration where permanent planning permission is sought, as in this case. As such, I attach significant weight to the absence of a five year supply of Gypsy and Traveller pitches, including an element of existing unmet need, absence of alternative available pitches and the total of 79 pitches needed for PPTS-compliant Travellers for the period 2023 to 2040.
29. The Council's emerging Local Plan may go some way to addressing this through positively prepared allocations that go beyond the current criteria-based Policy 23 of the HDPF, but given its stage of production, it may still be unlikely to do so in the short-term.

30. However, I find that the other considerations in this case, even when taken together, do not clearly outweigh the harm such as to indicate that a decision should be taken other than in accordance with the development plan.
31. I have given consideration to the imposition of a condition limiting the use of the site to a temporary duration. The provision of a pitch on a temporary 3 or 5 year basis would be beneficial and would be likely to allow for the emerging Local Plan policies to take effect. The harm to the character and appearance of the area would be reduced to a time-limited duration, and thus, the weight to attach to this harm is reduced. However, a temporary permission would limit the ability to secure sufficient landscaping measures to mitigate such effects and would not avoid or limit the harms to the biodiversity interests of the site or surrounding area. For this reason, the overall balance does not weigh in favour of a grant of permission on a temporary basis either.
32. For the reasons given above the appeal should be dismissed.

H Nicholls

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Phil Rowe BA Hons, BTP (Planning)

PROwe Planning Solutions

FOR THE LOCAL PLANNING AUTHORITY:

Mr Robert Hermitage

Principal Planning Officer
(Development Management)

Mrs Ines Watson

Specialist Team Leader
(Landscape Architect)

Mr Mark McLoughlin

Principal Planning Officer
(Strategic Planning)

DOCUMENTS SUBMITTED:

Document 1

Revised conditions schedule

Document 2

Gypsy and Traveller Accommodation
Assessment Targeted Update 2024

Document 3

Gypsy and Traveller Accommodation
Assessment 2023

Document 4

Emerging Local Plan Policy 43

Document 5

Planning Inspector comments on emerging
Local Plan policies