
Appeal Decision

Hearing held on 20 August 2015

Site visit made on the same day

by Isobel McCretton BA(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 April 2016

Appeal Ref: APP/L3815/W/15/3005107

**Land West of Harwood, Cemetery Lane, Woodmancote, Westbourne
PO10 8SB**

- 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 Ms Emily Barney against the decision of Chichester District Council.
 - The application Ref. WE/14/01217/FUL, dated 11 April 2014, was refused by notice dated 20 August 2014.
 - The development proposed is described as the redesign of an existing pitch including the removal of stables granted in permission WE/13/03867/FUL, and the additional use of land for the stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hardstanding and utility/dayrooms ancillary to that use.
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Decision

1. The appeal is allowed and planning permission is granted for the use of land for the stationing of caravans for residential purposes for 5no. gypsy pitches, together with the formation of additional hardstanding and utility/dayrooms ancillary to that use on Land West of Harwood, Cemetery Lane, Woodmancote, Westbourne PO10 8SB in accordance with the terms of the application, Ref. WE/14/01217/FUL, dated 11 April 2014, subject to the conditions set out in the Annex to this decision.

Procedural Matters

2. The description of development shown above is taken from the application forms. However, permission Ref. WE/13/03867/FUL has not been implemented and there are no stables on the site to be removed. The 'red line' application site in that permission is also different from that which is the subject of this appeal and there was a condition requiring the development to be carried out in accordance with the approved drawings. If this current appeal were to succeed, both permissions could not be implemented. Therefore, despite the representations on behalf of the appellant put forward at the Hearing, I have determined this appeal on the basis that it is for the stationing of caravans for 5no. gypsy pitches.
 3. After the submission of the appeal, on 14 July 2015, the Council adopted the Chichester Local Plan: Key Policies 2014-2029 (Local Plan). The emerging policies referred to in the Council's decision notice are therefore now part of the
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adopted development plan. At the Hearing, the Council advised that policies of the Chichester Local Plan First Review 1999 have now been superseded, though the settlement policy areas and boundaries have been carried forward and will be updated through Neighbourhood Development Plans and a Site Allocations Development Plan Document (DPD).

4. On 31 August 2015, shortly after the Hearing, the Government published an updated version of Planning Policy for Traveller Sites (2015 PPTS). The main parties were given the opportunity to comment in writing on the updated policy and any responses have been taken into account in this decision.
5. After the Hearing the appellant submitted a completed Unilateral Undertaking (UU) to the Council which would secure £696 towards the joint mitigation strategy outlined in Phase III of the Solent Disturbance and Mitigation Project which is concerned mitigate the adverse effects of the disturbance of birds in the Chichester and Langstone Harbours Special Protection Area. This UU accords with Local Plan policy 50 and s122 and of the Community Infrastructure Levy Regulations 2010.

Application for Costs

6. At the Hearing an application for costs was made by Ms Barney against Chichester District Council. This application will be the subject of a separate decision.

Main Issues

7. The main issues are the effect of the proposed development on the character and appearance of the area, and whether this is an appropriate location for a site for gypsies and travellers having regard to national and development plan policy for the location of sites and the local need for additional provision.

Reasons

Site and Surroundings

8. The appeal site lies on the northern side of Cemetery Lane. The general area is mainly open farmland but, to the east along Cemetery Lane, beyond an open field, is a ribbon of residential development behind which is an agricultural contractor's site. To the west is a travelling show person's plot (Ten Acres) and beyond this is a Council owned gypsy site with 17 permanent and 2 transit pitches. On the southern side of Cemetery Lane, slightly to the east of that gypsy site, is a cemetery with a small chapel and a dwelling. The western part of Cemetery Lane between Foxbury Lane and the gypsy site is metalled. Further to the east it is unmade until just before it meets South Lane.
9. The appeal site itself, which is part of a larger field of rough pasture in the appellant's ownership, is bounded by tall conifers on the western boundary with The Old Army Camp and there is a high native species hedge along the southern boundary with Cemetery Lane. An electricity power line crosses the southern part of the site on a roughly north-south line.
10. Planning permission was granted in April 2014¹ for the use of the land for the stationing of caravans for one gypsy pitch together with the formation of a hardstanding, utility/day room and a stable block. Prior to that, permission

¹ Re. WE/13/03867/FUL

had been refused (and dismissed on appeal) for the siting of seven mobile chalets and use of the site for tourism purposes.

11. The Council notes that there have been a number of applications for development of the Old Army Camp site for a 12-pitch gypsy and traveller site, a 5-pitch gypsy and traveller site and a 4-plot Travelling Showperson's site. All these applications were refused.

Proposed Development

12. It is proposed to lay out 5 pitches for gypsies and travellers, each accommodating one static and one touring caravan and a utility/day room (around 3.4m x 6.5m) with rendered walls and clay tiled roofs. Each pitch would be surrounded by post and rail timber fences, and the conifer hedge to the west and most of the hedge on the southern boundary, would be retained. The gateway would be set back from Cemetery Lane and, between the entrance and the 5 pitches, there would be a grassed amenity area. Tree and native species hedging is proposed along the eastern boundary and across part of the northern boundary up to a field gate. The site would be served by a mini package treatment plant for foul water/sewage located within the amenity area.

Character and Appearance

13. The site lies outside the settlement boundary for Westbourne as defined in the Chichester District Local Plan First Review (1999). Local Plan policy 45 permits development outside settlement boundaries where it requires a countryside location, providing it is well related to an existing farmstead or group of buildings or located close to an established settlement; it is complementary to, and does not prejudice any viable agricultural operations on a farm and other existing viable uses; and the scale, siting, design and materials of buildings would have minimal impact on the landscape and rural character of the area.
14. Policy 48 seeks to protect the natural environment and permits development subject to a number of criteria all being met: there is no adverse impact on the openness of the views in and around the coast, designated environmental areas and the setting of the South Downs National Park and the tranquil and rural character of the area; the development recognises distinctive local landscape character and sensitively contributes to its setting and quality; proposals respect and enhance the landscape character of the surrounding area and site and public amenity through detailed design; development of poorer quality agricultural land has been fully considered in preference to best and most versatile land; and the individual identity of settlements is maintained.
15. The site is within the Southbourne Coastal Plain landscape. Around the appeal site the landscape is quite flat and, for the most part, views are constrained by field hedges and trees. The immediate area is characterised by a mix of uses in well-screened compounds. There are some distant views towards the appeal site across the fields from Woodmancote Lane and Duffield Lane (an unmade road which is a public right of way (PRoW)), but in these views the proposed development would be seen in the context of the other developments and buildings along Cemetery Lane. Once the proposed landscaping and tree planting has matured it would be well screened and less apparent. Indeed, the proposed native planting to the eastern boundary would soften the visual

impact of the row of conifers on the boundary with the Old Army Camp which is not a typical feature of this landscape.

16. From Cemetery Lane (also a PRoW), the site would be visible through the gateway, though the proposed planting, the curve of the proposed access and the setback of the pitches behind the proposed amenity area would limit the views in. The development would again be seen in the context of a mix of uses in screened compounds along Cemetery Lane and would not be unduly intrusive. Moreover, there is an extant permission for a pitch and stables on the site which would all be closer to Cemetery Lane than any of the pitches proposed in this case.
17. The site adjoins existing development in the rural area and is close to the established settlement of Westbourne. The proposed development, on a wider holding of rough pasture owned by the appellant, would not prejudice other viable agricultural operations or uses. It would be small in scale and would not be a dominating feature. Overall, I find that, providing the proposed landscaping is put in place, the development would not harm the character and appearance of the area and would not conflict with Local Plan policies 45 and 48 in this regard.

Site Location

18. The 2015 PPTS states 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 goes on to state that sites in rural areas should respect the scale of, and not dominate, the nearest settled community, and avoid placing undue pressure on the local infrastructure.
19. Policy 36 of the Local Plan sets out a number of requirements for gypsy and traveller sites which must all be met. Sites are required to be well-related to (either within or close to) existing settlements with local services and facilities; have safe and convenient vehicular access; be able to achieve a reasonable level of acoustic privacy and amenity for both people living on the site and for those living nearby; not compromise the essential features of nationally designated areas of landscape, historic environment or nature conservation protection; avoid locations where there is a risk of flooding or which are adjacent to incompatible uses such as a refuse tip, sewage treatment works or significantly contaminated land; and, in rural and semi-rural areas, not dominate the nearest settled community.
20. The site is around 530m from the village of Westbourne and so future occupiers would have reasonable access to the facilities and services located there and bus services to other towns such as Emsworth and Chichester. There is no objection to the access from the Highway Authority and there would be reasonable acoustic privacy and amenity for future and nearby occupiers. There are no incompatible land uses in the vicinity and there is no risk of flooding. I have already found that, with the limited scale of the development, there would not be harm to the character and appearance of the area.
21. The Council argues that the proposed development would have an adverse effect on the nearby cemetery. The Council considers this to be a non-designated heritage asset, though it is not locally listed and the Council could

not point to any document in which it is identified as such. The inspector in an appeal² for 28 houses on a site further to the east, at the junction of Foxbury Lane and Cemetery Lane, found that the cemetery had a sense of separation and remoteness from the village and the activity within it, and that the open space around the cemetery added to the significance of the heritage asset. However, the site in this current appeal does not lie between the cemetery and the village and, because of the existing intervening land uses, would not have any adverse effect on the open space around the cemetery. At the Hearing it was established that the Council's actual concern was about the likely intensification of traffic using Cemetery Lane which would affect the tranquillity of the area and so have an adverse impact on people's experience of the cemetery.

22. Nevertheless, it was clear that the Council had not ascertained the level of traffic currently using Cemetery Lane. Neither had it calculated the likely traffic from the appeal site to demonstrate that any increase would be material. Bearing in mind that the Council has already granted permission for a pitch on this site, there would be a net increase of 4 pitches. Cemetery Lane provides access to a 19 pitch gypsy site, a travelling showman's yard, several residential properties and an agricultural contractor's compound. There are also a couple of field/farm accesses and, during the site visit, I saw that the agricultural contractor's site results in periodic use by heavy vehicles. Vehicles gaining access to all these sites pass the cemetery. There is no substantiated evidence that the proposed development would result in a material increase in traffic, or that this would have any discernable effect on the tranquillity of the cemetery. As such, I find that there would not be harm to the significance of this non-designated heritage asset.
23. The Council is also concerned that the cumulative effect of this proposal together with the existing site in Cemetery Lane and in other locations around Westbourne means that the local settled population is becoming dominated by traveller sites. There is no firm estimate of the number of pitches in the locality before me, but Westbourne is a village of some 2300 people. While there is another traveller site in Cemetery Lane this and the appeal proposal would amount to amount to 24 pitches. Other sites are dispersed around the local area, but I have seen no evidence that this amounts to a significant number of pitches. I am therefore not persuaded that, with the proposed development, travellers would comprise a disproportionate section of the population so that they could be said to dominate the settled community.
24. I therefore conclude that the location of the site would accord with Local Plan policy 36 and the 2015 PPTS.

Need for sites

25. The 2013 Gypsy and Traveller Accommodation Assessment (GTAA) commissioned by all the Sussex Coastal Authorities and the South Downs National Park Authority identified a need for 59 additional permanent pitches, of which 37 are required by 2017. An updated assessment of the 5 year supply in July 2015 identified an outstanding requirement for 7 pitches for the 2015-2020 period.

² APP/L3815/A/13/2205297 dated 14/4/14

26. At the Hearing it was strongly argued for the appellant that the GTAA figures, because of flaws in the methodology, gave a significant underestimate of need, that there was not a sufficiently robust consideration of the matter when the Local Plan was examined and so the Council does not have an adopted policy which is based on an accurate assessment of the need for sites in the area. The Council did not respond to the appellant's criticisms of the GTAA, but argued that the Local Plan had recently been found to be sound and that additional sites would be allocated in the forthcoming Site Allocations DPD.
27. Whether or not the GTAA under-represents the need for sites, there is evidently an immediate shortfall in available pitches to meet the need which the GTAA identified so that gypsies and travellers in the area find it hard to find accommodation on authorised pitches. The Site Allocations DPD is not likely to be adopted before mid-2017, but I have found that this site would accord with the criteria for site selection set out in Local Plan policy 36 which would be used in allocating sites. I therefore consider that the current need for pitches in the area adds weight in favour of the development.

Conditions

28. I have considered the need for conditions in the light of the advice in the Planning Practice Guidance and the discussion at the Hearing. The numbers in brackets [] refer to the relevant condition in the Annex.
29. To provide certainty I will impose a condition specifying the relevant approved drawings [2].
30. In view of the fact that I have found that the proposal accords with the PPTS and the Local Plan policies for the location of traveller sites, I consider that it is not necessary for temporary permission to be granted. It is, nonetheless, necessary to restrict the occupation of the site to gypsies and travellers [3], to limit the number of caravans [4] and, for clarity, to prevent separate residential occupation of the day rooms [16].
31. In the interests of the appearance of the site and/or the amenity of the area, I shall impose conditions requiring the submission and implementation of a landscaping scheme, details of the proposed gate and fence at the entrance and retention of the hedge along the boundary with Cemetery Lane [7, 8, 9, 13]. I shall also require approval of the details of the materials for the utility/day rooms and the hard standings for each pitch [5], waste and recycling storage and disposal [10], the foul water/sewerage system and its ongoing maintenance [6] and external lighting [11]. For the same reasons it is also necessary to prevent commercial activities on the land, the stationing/storage of vehicles over 3.5 tonnes, the burning of waste and the construction of additional walls and fences [14, 17,].
32. To provide satisfactory living conditions, I consider it is necessary to require that the hardstandings and the foul water/sewerage system are provided prior to the first occupation of each pitch [12].
33. Because of the nature of the proposed use I do not consider that it is necessary to impose conditions in respect of oil and chemical storage. Nor do I consider that it is necessary to impose a condition withdrawing permitted development rights for further hardstandings as this right only extends to dwellinghouses; any such development would require planning permission.

Conclusion

34. For the reasons given above I conclude that the appeal should be allowed.

Isobel McCretton

INSPECTOR

Annex

Conditions for Appeal Ref: APP/L3815/W/15/3005107

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Except as may be required by other conditions, the development hereby permitted shall be carried out in accordance with the following approved plans: 13_575A_001, 13_575A_003, 13_575A_004.
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the DCLG Planning Policy for Traveller Sites (August 2015).
- 4) No more than 10 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 5 shall be a static caravan) shall be stationed on the site at any time.
- 5) No day/room utility building shall be constructed on any of the pitches until details of materials, including samples, for the external finishes of the building and the hardstanding have first been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until a scheme showing the proposed means of foul water disposal, including all necessary on and off-site works, and ongoing maintenance and management has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in full accordance with the approved scheme prior to the occupation of any of the pitches hereby approved and shall thereafter be retained.
- 7) No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include a planting plan and schedule of plants noting species, plant sizes and proposed numbers/density. In addition all existing trees and hedgerows on the land shall be indicated together with measures for their protection in the course of development. The scheme shall include seeding with Native British Wildflower Flora mix appropriate to the soil and climate of the site and shall make particular provision for the conservation and enhancement of biodiversity of the site. The scheme shall be designed to achieve levels of shelter/windbreak, shade

- and drought resistance to accord with the expected climate changes during the lifetime of the development.
- 8) No development shall take place until details of the proposed gate and fencing at the site entrance, including elevations and material samples, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
 - 10) No development shall take place until a scheme showing the proposed means of storage and disposal of waste and recycling has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 11) Prior to the first occupation of the development hereby permitted a scheme for external lighting shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme. No other external lighting shall be installed without the prior written approval of the local planning authority.
 - 12) No mobile home shall be occupied until the hardstanding and the foul water sewerage system for that pitch has been provided in accordance with the approved details.
 - 13) The existing hedge along the southern and western boundaries shall be retained and any part of the hedge which is removed without consent or becomes severely damaged or diseased during a period of five years from the date of the completion of the development shall be replaced in the next planting season with a hedge of a similar size and species.
 - 14) No commercial activities shall take place on the land, including the storage of materials. No vehicles over 3.5 tonnes shall be stationed, parked or stored on the land at any time.
 - 15) No burning of waste shall take place on the land at any time.
 - 16) The day rooms hereby permitted shall not be occupied as permanent means of habitable accommodation at any time.
 - 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no fences, gates or walls or other means of enclosure, including bunding, shall be erected or placed within/to the boundary of the appeal site.
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