

Parish: Chidham & Hambrook	Ward: Bosham
-------------------------------	-----------------

CH/16/02894/FUL

Proposal Variation of Condition 2 of planning permission CH/12/00458/COU - to make the temporary permission permanent.


Site Plot J Pond Farm Newells Lane West Ashling Chichester West Sussex PO18 8DF

Map Ref (E) 479650 (N) 106411

Applicant Mr C Sullivan

RECOMMENDATION TO DEFER FOR SECTION 106 THEN PERMIT



	<p>NOT TO SCALE</p>	<p>Note: Do not scale from map. For information only. Reproduced from the Ordnance Survey Mapping with the permission of the controller of Her Majesty's Stationery Office, Crown Copyright. License No. 100018803</p>
---	----------------------------	--

1.0 Reason for Committee Referral

Parish Objection - Officer recommends Permit

2.0 The Site and Surroundings

2.1 The application site is located within the Parish of Chidham and Hambrook. It is situated to the west of Newells Lane and south of the A27 trunk road. Land to the south of the main mobile home is in equestrian use, laid out in to paddocks, with a pond to the east of the site and a wooded copse area providing screening from Newells Lane.

2.2 Access is achieved via a Public Bridleway (WSx/3594/1), leading from Newells Lane. It serves two existing permanent gypsy pitches and 4 temporary gypsy pitch permissions. Access is provided from to the west corner of the site, with an area of hardstanding to the east, upon which the mobile home is stationed. A further Public Bridleway (WSx/260/2) is located to the south of the site, screened by trees and hedgerow to the boundaries of the paddock land between.

3.0 The Proposal

3.1 The application seeks the variation of condition 2 of planning permission CH/12/00458/COU, to make permanent the temporary five year permission granted on appeal for the change of use of land to a private gypsy and traveller caravan site comprising one mobile home and associated works.. No additional development within the site or change to the location of the mobile home is proposed.

4.0 History

12/00458/COU	REF Allowed on appeal. 5 Year Period EXP March 2018	Change of use of land to a private gypsy and traveller caravan site comprising one mobile home and associated works.
--------------	---	---

5.0 Constraints

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	NO
Tree Preservation Ord	YES
South Downs National Park	NO
EA Flood Zone	YES
- Flood Zone 2	NO
- Flood Zone 3	NO
Historic Parks and Gardens	NO

6.0 Representations and Consultations

Parish Council

Chidham & Hambrook Parish Council wish to OBJECT to this variation to planning permission as the conditions in the approval have not been met, there has been little

apparent effort to improve the visual appearance of the site or for the occupants to find alternative accommodation. Even if the conditions for the approval of temporary planning permission had been met in full, the Parish Council would not support a permanent residence at this site.

7.0 Planning Policy

The Development Plan

7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 and all made neighbourhood plans, including that for Chidham and Hambrook.

7.2 The principal planning policies relevant to the consideration of this application are as follows:

Policy 1: Presumption in Favour of Sustainable Development

Policy 36: Planning for Gypsies, Travellers and Travelling Showpeople

Policy 39: Transport, Accessibility and Parking

Policy 45: Development in the Countryside

Policy 48: Natural Environment

Policy 49: Biodiversity

Policy 50: Development and Disturbance of Birds in Chichester and Langstone Harbours
Special Protection Areas

7.3 Chidham and Hambrook Neighbourhood Plan

EM2 Protection of Chichester Harbour, nature conservation designated areas and related areas of special environmental value

EM3 Protection and enhancement of landscape, habitat and biodiversity.

DS3 Retention of areas of natural habitat / biodiversity.

National Policy and Guidance

7.4 Government planning policy now comprises the National Planning Policy Framework (NPPF), paragraph 14 of which states:

At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking:

For decision-taking this means unless material considerations indicate otherwise:

*- Approving development proposals that accord with the development plan without delay;
and*

- Where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in (the) Framework indicate development should be restricted.

7.5 Consideration should also be given to paragraphs 4 and 17 (Core Planning Principles),

7.6 In addition to the overarching policies in the NPPF, it is also relevant to have regard to the supporting document, Planning Policy for Travellers Sites (PPTS) August 2015. This document forms the basis of the assessment for this application.

8.0 Planning Comments

8.1 The main issues arising from this proposal are:

- i) Principle of a permanent Gypsy Pitch
- ii) The continuation of a personal occupancy restriction
- iii) Impact on Character and Appearance of area
- iv) Biodiversity implications and impact on protected species

Assessment

- i) Principle of a permanent Gypsy Pitch

8.2 The site benefits from a temporary planning permission, allowed at appeal (reference APP/L3815/A/12/2177735/NWF ref. CH/12/00458/COU). In allowing the appeal the Inspector restricted the use of the land as a gypsy pitch for a temporary five year period. The relevant condition required all associated development to be removed from the land and cessation of that use at the end of this period, 13th March 2018.

8.3 At that time, in reaching her decision the Inspector considered that the use resulted in a landscape impact. However weight was given to the need for gypsy and traveller pitches in the locality; the lack of site allocations for gypsy and traveller development within the Development Plan, and that it was a sustainable location. Her conclusion was that the immediate need outweighed any landscape harm, and therefore temporary permission was granted.

8.4 The Council does now have a 7.3 year supply of gypsy and traveller pitches. As with any proposed development, this must be weighed against the policy context and any potential harm that may arise as a result of the (continued) use of the land. Notwithstanding the Council's current supply of gypsy and traveller pitches, the Local Planning Authority is no longer progressing a Site Allocation Development Plan Document (DPD) at this stage, leaving a need for 5 further pitches to fulfil the identified need for the current plan period. Whilst not a decisive factor in the determination of further applications it must be weighed in the balance, in the context of the suitability of any proposed site.

8.5 The Inspector on the previous appeal considered the site to be sustainable in the context of its use as a gypsy and traveller pitch. In the absence currently of a DPD to identify how the remaining gypsy and traveller needs up to the end of the plan period will be met, and having regard to the existing permanent pitches in this location site, the principle of the continued use of the site as a gypsy and traveller pitch is considered acceptable, subject to the assessment of other relevant material considerations

- ii) The continuation of a personal occupancy restriction

8.6 The applicants are accepted as meeting the definition of gypsies and travellers as set out in Government guidance in 'Planning Policy for Traveller Sites' (PPTS). The temporary permission granted on appeal was subject to a condition which tied the use solely to their occupation and any dependents. The 2012 Government Planning Practice Guidance sets out

when it is appropriate and reasonable to use conditions to limit the benefits of the planning permission to a particular person or group of people. The guidance is clear that unless the permission otherwise provides, planning permission runs with the land and it is rarely appropriate to restrict a development otherwise. It goes on to state that 'there may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified on planning grounds because of who would benefit from the permission'. This would include the provision of gypsy and traveller pitches.

8.7 It is considered that restricting any permanent permission to an individual and their family would, when assessed against the 6 tests as set out in the Planning Practice Guidance, not meet the guidance in its current form. It would however be appropriate to condition any permanent permission to occupation by gypsies and travellers as defined in Annexe 1 of the PPTS. This would be compliant with Policy 36 of the Chichester Local Plan and PPTS, which seeks to safeguard the future use of sites for gypsy and travellers.

iii) Impact on Character and Appearance of Area

8.8 The site previously formed part of the strategic gap as identified in the Chichester Local Plan 1999, this designation was not continued within the Chichester Local Plan 2014-2029. This is a material change in the policy context in assessing the character of the site and impact of the development. Whilst it remains important to maintain the 'gap' between Chichester and Emsworth, a policy restriction on most development is no longer appropriate, instead regard must be had to the character of the area as a result of the amount and form of existing permanent development at Pond Farm and the effect that a permanent use in this location would have on this character.

8.9 The current mobile home is in part visible from the two public bridleways; it is however viewed contextually as part of the two permanent pitches to the west of the application site. Additional planting is proposed as part of this application, including a 2.5m native buffer plantation to the bridleway to the south and the existing planting to the north enhanced with native species. Some additional planting is also proposed to the west and east providing further screening. It is considered that with the level of landscaping proposed and having regard to the permanent pitches that exist at 'Pond Farm', that the mitigation would address the landscape impacts that exist.

8.10 It is not considered that the proposal would result in additional or more harmful visual impacts than the two permanent pitches that exist adjacent. It would form a group of low-key gypsy and traveller sites that would be well contained, with minimal public views, particularly when boundaries are enhanced with the landscaping proposed.

8.11 It is subsequently concluded that the proposal would be compliant with local and national development plan policies and the PPTS, which seeks to ensure that new development does not have an adverse landscape impact, subject to conditions to ensure the provision of appropriate landscaping.

iv) Biodiversity implications and impact on protected species

8.12 The site is located within 5.6km of the Chichester and Langstone Harbour Buffer Zone and any net increase in residential development, including gypsy and traveller sites, there would be a contribution required to offset harm by new permanent residential development. Whilst the application site is currently in residential use, becoming permanent would require

a contribution and completion of a signed Unilateral Agreement. The applicants have agreed to enter into such an agreement and the obligations would be met.

Significant Conditions

8.13 Guidance within the PPG advises that in the determination of a s.73 application to vary an existing condition it is possible to impose new conditions, provided the new conditions do not materially alter the development that was subject to the original permission. As such it would be important to attach a landscape condition to ensure the landscaping is carried out in accordance with the submitted landscape plan within the next planting season and to restrict the use of the site to gypsy and travellers as defined within Annex 1 to the PPTS.

Conclusion

8.14 Based on the above assessment, it is considered that the proposal by reason of the sustainability of the site, the minimal landscape impacts, particularly when viewed in context with the permanent sites and the supplementary landscaping proposed; and the need for 5 further pitches within development plan period, that the proposal would comply with development plan policies and therefore the application is recommended for approval.

Human Rights

8.15 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account when reaching this recommendation and it is concluded that the recommendation to permit is justified and proportionate.

Equalities

8.16 In reaching this conclusion officers have given particular weight to the Equality Act 2010 which states in section 29 that 'a person must not, in the exercise of a public function [which includes the determination of planning applications] do anything that constitutes discrimination, harassment or victimisation'. Officers have sought guidance as to the extent to which this section requires 'positive discrimination' or indeed requires weight to be given to the disabilities of an applicant above and beyond weight normally accorded to 'personal circumstances', but have not been able to identify any government advice or case law which is relevant.

"In addition to the provisions of section 29 of the Act, s149 of the Act provides the following: Public sector equality duty:

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

These duties are triggered by the exercise of functions which include the determination of planning applications that have equality implications. This section must be treated as

engaged in this particular case and therefore 'due regard' must be given to the applicant's particular needs. It is not sufficient to have equality in mind at a general or policy level.

However, the duties do not require a particular outcome. What the decision making body chooses to do once it has had the required regard is for it to decide subject to the ordinary constraints of public and discrimination law.

In conclusion, the actual needs of the applicant need to be weighed against the harm that this development would cause to neighbours, along with all of the material planning considerations. The decision must be proportionate in the light of all the circumstances of this case".

RECOMMENDATION

PERMIT WITH S106 subject to the following conditions and informatives:-

1) The development hereby permitted shall not be carried out other than in accordance with the approved plans: A1, A2 and A3 with reference CH/12/00458/COU

Reason: To ensure the development complies with the planning permission.

2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of DCLG Planning Policy for Traveller Sites (August 2015) As amended.

Reason: To accord with the terms of the application and to ensure satisfactory planning of the area.

3) The landscaping as detailed in plan no TDA/1969/01 submitted with this application, shall be carried out within the first planting season following the date of decision. Any trees or plants which, within a period of 5 years after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the locality and of the environment of the development.

4) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be static caravan) shall be stationed on the site at any time.

Reason: To accord with the terms of the application and in the interests of proper planning.

5) No commercial activities shall take place on the land, including storage of materials.

Reason: In the interests of neighbouring amenity and to ensure the protection of this countryside location.

6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: To accord with the terms of the permission and in the interests of protection of this countryside location.

For further information on this application please contact Caitlin Boddy