

Chichester District Council

Planning Committee

05 April 2023

Planning appeal APP/L3815/W/22/3313480 - Land South East of Tower View Nursery, West Ashling Road, Hambrook Funtington

1.0 Contacts

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2.0 Recommendation

2.1 That the Planning Committee;

i) notes the information within the report, and

ii) agrees that the Council does not contest reason for refusal number two of appeal APP/L3815/W/22/3313480.

3.0 Background

3.1 In February 2019 planning permission was sought for the '*Relocation of 2 no. existing travelling show people plots plus provision of hard standing for the storage and maintenance of equipment and machinery, 6 no. new pitches for gypsies and travellers including retention of hard standing*' under application reference 19/00445/FUL. A recommendation was made to the 6th May 2020 Planning Committee to defer for S106 and then permit. The Planning Committee resolved to refuse the application for the following reasons:

- 1) The site is located within an cluster of existing gypsy and traveller pitches, the cumulative provision of an additional 6 pitches and plots, within the rural area which is characterised by sporadic residential development, would fail to respect the scale of and would dominate the existing settled community within this rural area. The proposal would therefore conflict with Policy 36 of the adopted Chichester Local Plan: Key Policies 2014-2029 and Policies and Annexe 1 of the Planning Policy Travellers Sites.
- 2) The proposal is located outside of any built up area boundary and is therefore within the open countryside and as such not well related to existing settlements with local services and facilities. The application is therefore contrary to Policy 36 of the Chichester Local Plan.
- 3) The site is located within the 5.6km 'zone of influence' of the Chichester and Langstone Harbours Special Protection Area where it has been identified that the net increase in residential development results in significant harm to those areas of nature conservation due to increased recreational disturbance. The applicant has failed to make sufficient mitigation against such an impact and therefore the proposal is contrary to Policy 50 of the Chichester Local Plan Key

Policies 2014-2029. The development would therefore contravene the Conservation of Habitats and Species Regulations 2017 and the advice in the National Planning Policy Framework.

- 3.2 A copy of the committee report and the minutes are appended to this report (Appendix 1).
- 3.3 The applicant submitted an Appeal, which the Planning Inspectorate confirmed as valid in September 2020. The Planning Inspectorate confirmed the appeal would be determined by way of the Written Representations procedure.
- 3.4 The Planning Inspectorate wrote to the Council on 27th February 2023 confirming the Inspector will be visiting the site on 19th April 2023 and requesting written updates on matters which may have changed given the time that has passed since the appeal was submitted.
- 3.5 In the process of considering a response to the Planning Inspectorate officers have reviewed reason for refusal 2 in light of recent appeal decisions, which are a material consideration. Following this, Officers are advising that there is a significant risk that costs will be awarded against the Council, in relation to Reason for Refusal 2.

4.0 Main Issue

- 4.1 The main issue is whether the Council will contest reason for refusal number two, in light of recent appeal decisions.
- 4.2 As set out above, Reason for Refusal 2 states:

The proposal is located outside of any built up area boundary and is therefore within the open countryside and as such not well related to existing settlements with local services and facilities. The application is therefore contrary to Policy 36 of the Chichester Local Plan.

- 4.3 On 6th January 2023 the Council received an appeal decision, reference APP/L3815/W/21/3268916, for an appeal against the refusal of application 20/00534/FUL for 'change of use of land to use as a residential caravan site for two gypsy families, including the laying of hardstanding, erection of boundary wall and, construction of two ancillary amenity buildings.' This appeal decision is attached as Appendix 2. The appeal was dismissed for reasons due to of the effect on the character and appearance of the area solely by reason of the stone and brick walls and gateposts, recreational disturbance, nutrient neutrality, and groundwater.
- 4.4 Contrary to the Council's reason for refusal, the Inspector finds that the proposal would be in an appropriate location having regard to access to local services and facilities, and therefore would not be contrary to Policy 36 of the Local Plan or paragraph 25 of the PPTS (Planning Policy for Traveller Sites).
- 4.5 The above appeal decision is a material consideration and officers consider this carries significant weight. The dismissed appeal site is less than 50 metres away from the appeal site subject of this report and is also for gypsy and traveler pitches.

4.6 In reaching that conclusion the Inspector comments:

“Amongst other things, paragraph 25 of the Planning policy for traveller sites (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. Local Plan Policy 36 includes criteria for determining applications for gypsy and traveller pitches. Criterion 1 confirms that sites should be well related to existing settlements with local services and facilities. Sites should either be within or close to such settlements or with good access to major roads and/or public transport thus affording good access to local services.”

“Lying in Funtington parish, the site is in the countryside and outside any settlement boundary. It is south of West Ashling Road, north of the A27, and east of Scant Road East. Authorised gypsy and traveller pitches lie to the north, south, east and west. The village of West Ashling is located to the north-east.”

“An appeal for a gypsy and traveller site for 10 caravans was allowed south of the site in 2017. That appeal referred to it being common ground that the site was reasonably well related to services and facilities.”

“In terms of nearby services and facilities, the closest settlement is West Ashling, some 0.8 miles away. There are only limited services and facilities there, including The Richmond Arms (a public house and restaurant), Funtington Primary School, and a bus stop on Mill Road. However, there are no regular bus services. Furthermore, there are no footpaths to the village and the roads are generally unlit. Some 3 miles from the site, Southbourne has a greater range of services, including healthcare, shops and a secondary school. Nutbourne and Bosham offer the closest railway stations.”

“In the circumstances described, the site’s future occupiers would be unlikely to be able to walk safely to the limited facilities in West Ashling. There would be likely to be a reliance on the private motor vehicle for trips to services and facilities in the nearest settlements. However, as highlighted in the costs and appeal decisions supplied, it is not uncommon for such uses to be located in rural settings and for site occupiers to be reliant on the private car for most of their day-to-day journeys. As noted in the Shawbury appeal, this extent of reliance on use of the car is not unusual in a mainly rural area. Furthermore, and as in the Shawbury appeal, the distances involved in this appeal are not excessive by rural standards. This is consistent with paragraph 105 of the Framework which confirms that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. I see no reason to deviate from the Inspector’s findings for the neighbouring 2017 appeal that the site is reasonably well related to services and facilities.”

4.7 Given the proximity of the appeal site to the site referenced above the same circumstances apply. As such, Officers do not consider it would be reasonable to continue to continue to pursue reason for refusal number two as in light of the Inspectors decision there are no material planning grounds to justify this.

4.8 Also material is the costs decision reference APP/L3815/W/20/3254057, dated 28th July 2022, where in allowing costs relating to an appeal for the change of use for

siting of residential caravans for 7 Gypsy Traveller pitches, the Inspector was critical of the Council for not having regard to findings of previous appeal decisions in terms of sustainable locations, stating that:

“It is stated that regard has been had to this appeal decision. However, this is not borne out by the wording of the Council’s first reason for refusal. There is no evidence before me that the Council had proper regard to this decision.”

“In terms of the consideration of and application of Policy 36, I find unreasonable behaviour.”

- 4.9 It is the Officer’s view that there would be no justifiable reason to take a different approach to the acceptability of location in terms of access to facilities and services, when taking into consideration the outcome of the appeal APP/L3815/W/21/3268916 detailed above. Therefore, it would be unreasonable to maintain, some 3 years after the application was refused and circumstances have changed, that the site lies in an unsustainable location.

5.0 Conclusion

- 5.1 The recent appeal decisions are material considerations which carry significant weight. Appeal decisions have found the location to be acceptable in terms of its access to facilities and services. Costs have previously been awarded against the council for unreasonable behaviour by failing to have regard to previous appeal decisions in the consideration and application of Policy 36. It is recommended that the Planning Committee;

**i) notes the information within the report, and
ii) agrees that the Council does not contest reason for refusal number two of APP/L3815/W/22/3313480.**

Background information:

The application, and all submitted appeal documents, can be viewed online at:

[19/00445/FUL | Relocation of 2 no. existing travelling show people plots plus provision of hard standing for the storage and maintenance of equipment and machinery, 6 no. new pitches for gypsies and travellers including retention of hard standing. | Land South East Of Tower View Nursery West Ashling Road Hambrook Funtington West Sussex](#)

Appendices:

Appendix 1: Committee Report and minutes for Land South East of Tower View Nursery – 6 May 2020 Planning Committee

Appendix 2: Appeal Decision APP/L3815/W/21/3268916 Land south of The Stables, Scant Road East, Hambrook, West Ashling, Chichester PO188UB