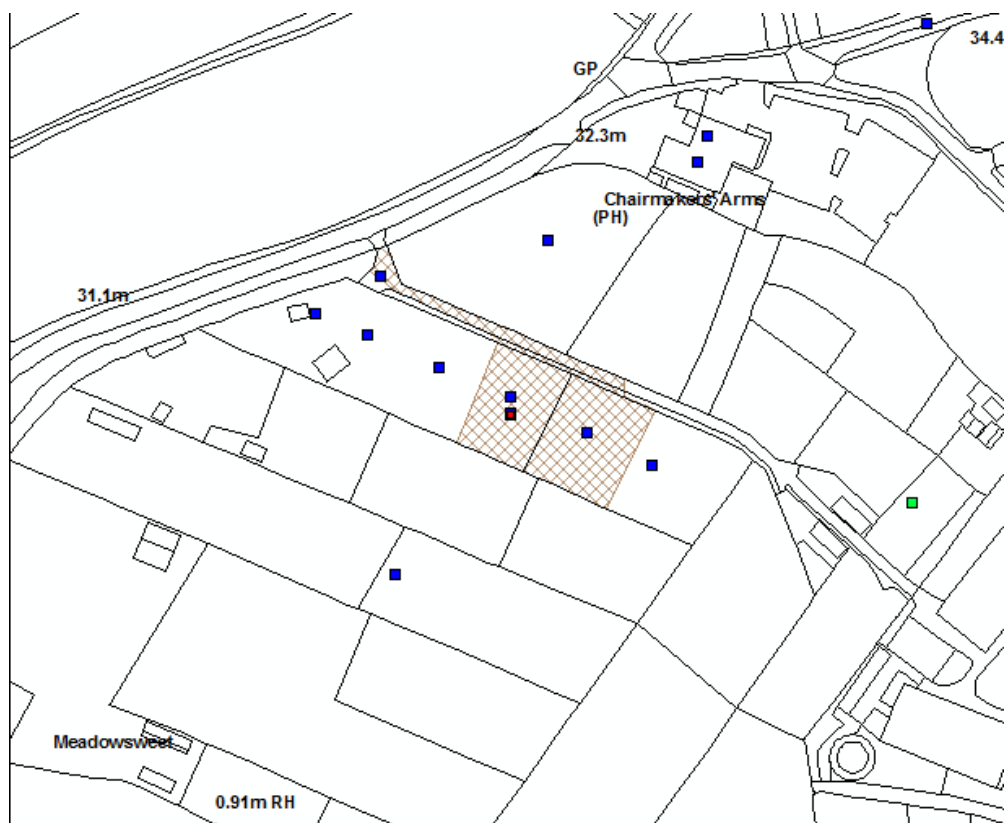


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Case No: 19/02469/FUL
Proposal Description: Creation of two Gypsy/Traveller Pitches comprising 1 Mobile Home, 1 Touring Caravan and 1 Dayroom for each pitch, and associated works. . Temporary permission until 2024
Address: Land Rear Of Chairmakers Arms Hipley Road Hambledon Hampshire
Parish, or Ward if within Winchester City: Denmead
Applicants Name: Messrs Connor & Wall
Case Officer: Rose Lister
Date Valid: 8 November 2019
Recommendation: Application Permitted

Link to Planning Documents : <https://planningapps.winchester.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q0N2M5BPHOS00>



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General Comments

Parish Council's request for application to be determined by Planning Committee, see Appendix 1

Application is reported to Committee as the number of objections received contrary to the officer's recommendation.

Site Description

The site is located off Hipley Road to the rear of the Charimakers Pub close to the small hamlet of Worlds End. There is a continuous row of housing along Forest Road within reasonably spacious plots, but residential development is otherwise sporadic. There are occasional rural buildings. The Chairmakers Pub is located 72m north of the site on the corner of Fareham Road with Forest Road. Otherwise the surrounding area is characterised by open countryside behind hedge and tree lined roads. This includes the approach to the sites where there are paddocks and expansive water meadows opposite the access track.

There are 8 plots on this site, Plots 1 and 2 are vacant, the other plots are occupied. There is a line of mature trees by the entrance that serve to screen the pitches from the road with additional hedge planting to the boundaries. There is a horse paddock to the north of the site creating a separation from the pub to the north. The surrounding area is distinctly rural with development limited to farm buildings, sporadic residential and the pub to the north.

Proposal

The proposal is retrospective, for the creation of 2 pitches to serve the Gypsy and Travelling community. Each pitch would comprise 1 mobile home, space for 1 touring caravan, a dayroom and associated works.

Relevant Planning History

13/00696/FUL - Proposed use of land to provide 8 plots for gypsy/traveller families a total of 8 mobile homes, 8 touring caravans and 8 day rooms on land at Forest Road – withdrawn

14/00180/FUL - Use of land to provide 8 no. plots for gypsy/traveller families, 8 no. mobile homes, 8 no. touring caravans and 8 no. day rooms – refused. Appeal dismissed. This application confirmed that 8 pitches on this site is not considered acceptable.

17/01862/FUL - 2 residential mobile homes and 2 touring caravans – pending consideration

17/01191/FUL - Provide 4 no. gypsy/traveller pitches – pending consideration

There is a recent enforcement appeal decision, (APP/L1765/C/18/3201565, App/L1765/C/18/3201566, APP/L1765/C/18/3201567 and APP/L1765/C/18/3201570, 28th August 2019) regarding plots 3,4,7 and 8 that has concluded that the site at Tynefield in Whitley is not yet inhabitable and as such there is a current shortfall of Gypsy and Traveller sites until this becomes available. As such, though the site at the rear of the

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Chairmakers Arms is not considered acceptable in the long term, for a short period until Tynefield becomes available or other sites become allocated, this site will suffice.

Consultations

Environment Agency:

No comment received

WCC Service Lead for Environmental Services - Drainage:

No objection subject to condition 8 for details of the foul and surface water drainage

'The site is within Flood Zone 1 and is at very low risk of surface water flooding. The site is within Source Protection Zone 1, foul drainage that is not reliant on sewers must be approved by the Environment Agency.

Surface water drainage must prioritise infiltration tests which are required for sizing the soakaways appropriately.'

HCC Highways:

No objection to the application - 'Access to the application site is via a track from Fareham Road (C50), which is a classified road subject to the national speed limit.

The site access is of adequate geometry with satisfactory visibility. The Highway Authority considers that the resultant increase in vehicle movements generated by the development can be safely accommodated at the access and will not result in a detrimental impact on the safety or operation of the local highway network.'

.

WCC Service Lead for Environmental Services - Landscape

Objection - It is considered that the circumstances have not changed from the previous appeal decision (APP/L1765/A/14/2224363).

WCC Service Lead for Built Environment - Strategic Planning:

The proposal is for a site which is outside any defined settlement and within the countryside, where planning policies would not normally allow for residential development. Provision is made to meet identified traveller needs which have been established until 2031 (Policy DM4) and sites have been permitted or allocated in the Traveller Development Plan Document to meet the identified need. The DPD has been subject to examination and is now adopted, and the Council can show that the need for gypsy accommodation established in policy DM4 has been met and demonstrate a 5-year supply of sites for gypsies and travellers.

The Traveller DPD includes a criteria-based policy (TR6) which could be applied in cases such as this and may enable the application to be approved if its criteria are met. The information provided on accommodation needs, lack of alternative sites and personal circumstances should be taken into account in determining whether the proposal meets the requirements of policy TR6 and the criteria of policies CP5 and TR7.

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Representations:

Parish Council Objection for the following reasons:

- Recent appeal granted for only 4 pitches
- Unsuitable location
- Contrary to Neighbourhood plan
- Impact on countryside
- Contrary to policy MTRA4

10 letters received from 9 households objecting to the application for the following material planning reasons:

- The proposal is contrary to policy
- There are other sites available
- Access is unacceptable
- The site is over developed
- Lack of drainage
- Light pollution
- Impact on/loss of trees
- Impact of ecology
- Loss of tranquillity
- Impact on the countryside

Reasons aside not material to planning and therefore not addressed in this report

- The occupiers do not shut the access gate that prevents horses escaping onto the road.

Relevant Planning Policy:

Winchester Local Plan Part 1 – Joint Core Strategy

MTRA4 – Development in the Countryside

CP5 – Sites for Gypsies, Travellers and Travelling Showpeople

CP16 - Biodiversity

CP20 – Heritage and Landscape Character

Winchester Local Plan Part 2 – Development Management and Site Allocations

DM1 – Location of New Development

DM4 – Gypsies, Travellers and Travelling Showpersons

DM15 – Local Distinctiveness

DM16 – Site Design Criteria

DM17 – Site Development Principles

DM18 – Access and Parking

DM23 – Rural Character

National Planning Policy Guidance/Statements:

National Planning Policy Framework

Winchester District: Gypsy, Traveller and Travelling Showpeople DPD

Denmead Neighbourhood Plan

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Planning Considerations

Principle of development

Paragraph 47 of the NPPF requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise

The application site is located outside of a settlement boundary where countryside policies apply.

Policy MTRA4 sets out the criteria for acceptable development within the countryside. The application is not for business or tourism uses, nor is the application for a agricultural/forestry worker. It is therefore considered that the application would not meet this policy.

The site is not allocated as a gypsy/traveller site and lies outside the settlement boundaries. Policy TR6 of the Traveller DPD states that use for traveller accommodation will only be permitted in certain circumstances.

The site must be for occupation by persons identified as gypsies or travellers within the PPTS who can demonstrate a personal or cultural need to be located in the area and there is a lack of other suitable accommodation. In addition, sites must be in sustainable locations well related to existing communities, as defined by Policy CP5 of the Winchester District Local Plan Part 1 2013 and comply with the requirements of Policy TR7 which contains provisions applicable to all sites. The scheme will be assessed against these policies in subsequent sections of this report.

The recent appeal for 4 plots demonstrated that there was of a lack of alternative suitable accommodation to serve the identified need. Tynefield Caravan Park in Whiteley is allocated for 18 pitches; however a recent appeal decision has found that the site is unfit for habitation. It has also been demonstrated that the applicants have been on the waiting list for these sites for some time. The adopted DPD is considered to be valid until 2031 and while some of the allocations may not currently be available it is considered that they will be coming forward within the DPD period and therefore the 5 year Housing Land Supply for Gypsy, Traveller and Travelling Show people is considered to be intact.

However in the short term it is accepted that there is a lack of suitable alternative sites to serve the identified need.

The Denmead Neighbourhood Plan 2011-2031 was made on 1 April 2015. Annex B proposes that the development of two new sites for travellers accommodation will be supported provided that (i) each comprises a self-contained site of no more than 2 or 3 pitches or plots (ii) they are located in close proximity to the settled traveller community in Old Mill Lane and adjacent to the existing traveller site at West Fork in Bunns Lane, and (iii) they will accord with all relevant policies in the Neighbourhood Plan and Winchester Development Plan. Criterion (ii) is not fulfilled, but at the recent appeal the Council confirmed that the Annex is not adopted as policy forming the development plan for the area. It is a statement of intentions rather than a policy requirement. Moreover, it is not consistent with the more recently adopted Traveller DPD. In relation to the recent appeal

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the Inspector gave the Denmead Neighbourhood Plan little weight in relation to the development. A similar approach is therefore taken in relation to the current scheme.

However notwithstanding the above, it is acknowledged that at present there is a current lack of other suitable sites for the applicants.

Impact on character of area and neighbouring property

In terms of detail assessment of the suitability of the site policy CP5 of the LPP1 sets out the criteria for suitable sites for pitches, these include:

- Sites being well related to existing settlements
- Avoiding over-concentration of sites in any one location
- Accessible by local services
- Avoid harmful impacts on nearby residential properties
- Be capable of accommodating acceptable facilities

In addition policy TR7 of the DPD provides a set of general requirements in relation to access and parking; environmental and general criteria for developments to satisfy.

It has been established through the recent appeal decision that the site is located near enough to the small settled community of Worlds End to become integrated without being too close to cause tension with other residents.

Whilst the Inspector concluded that the development results in reliance upon the car to access services and facilities and so there is an issue of accessibility but in the context of a rural area it is not a major issue as it would only generate short journeys. The Inspector accepted that the site was not unsustainable taking into account environmental, economic and social issues including the social benefits to individuals in having a settled base. The Inspector concluded that the site was a suitable location for gypsy and traveller families and where peaceful and integrated co-existence with the local community is capable of being achieved.

Whilst the additional 2 plots will increase the presence of development in this area it is not considered to lead to an overconcentration of sites in this location relative to the size and scale of the existing settled community of Worlds End.

Based upon the findings of the most recent appeal it is considered that the site is in a suitable location for such development and in principle is in a location that would support additional plots from an accessibility and sustainability perspective.

Policy TR7 of the DPD requires that play areas for children are required. One of the applicants has a young family and at the site visit a dedicated play area was evident. The other applicant has grown children and therefore a dedicated space is not considered necessary at this stage. However there is sufficient space on the plot for a dedicated area to be provided should other users require.

In terms of impact on the character and appearance of the surrounding area the Inspector critically assessed the visual impact of the development and found significant harm to the surrounding area could be demonstrated. Whilst he accepted that some of this harm could be mitigated to some degree by the imposition of conditions regarding layout of the sites

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and limit the presence of commercial vehicles his conclusion was that the development would be harmful. However the Inspector ultimately judged that a temporary permission was acceptable as it resulted in lesser harm given the short term need to find suitable sites.

The current proposals will add to the harm to the surrounding countryside but the effect is reduced somewhat as the sites are sandwiched between the permitted schemes reducing the overall intrusive nature of the development.

The decision to recommend planning permission should be weighed up against the other material planning considerations for the development.

Highways

Policy TR7 of the DPD also relates to access and parking. There is an existing access to the site which serves paddocks and other gypsy/traveller pitches that have been granted temporary permission under the above stated recent appeal decisions. The site has suitable geometry and visibility splays to safely access Forest Road. Each pitch would have suitable parking and turning areas for vehicles that would allow for vehicles to enter and leave the site in a forward gear. Acceptable visibility splays are achievable. It is therefore considered that the proposal would not have an unacceptable adverse impact on other highways users.

Personal circumstances

The applicants have put their names down to be housed in other allocated sites but have been on the waiting list for some time. The appeal of August 2019 relating to other plots on the same site has concluded that in the short term there is no other place for the families to go as the larger allocation site at Tynefield is currently unavailable.

In the event of planning permission for a generic gypsy and traveller site not being justified then the personal circumstances of the appellants and their families are a material consideration to be taken into account if considering a temporary or personal planning permission.

Each applicant has a family with children in local education. The application site would enable consistent access to medical and educational services. Should the children need to leave their schools then this will cause them major disruption and potentially interfere with their education. This carries substantial weight.

It has been established that the best interests of children are a primary consideration with no other consideration being inherently more important.

As regards Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights the appellants and their children are currently living on the application site, albeit without the benefit of planning permission. Refusal of the application would result in their removal from the sites and interference with their home and private and family life. These are qualified rights and it is necessary to consider whether it would be proportionate to refuse planning permission in all the circumstances of each case.

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There is the wider public interest in addressing the harm to the character and appearance of the area and in securing compliance with the development plan.

Other Matters

Nitrates - Excess levels of nitrates can damage freshwaters and the marine environment by a process known as 'eutrophication', promoting excessive growth of algae that chokes other life and leading to harmful effects on the SPA. Development within Winchester District that would result in over night accommodation or excessive amounts of nitrates, such as dwellings, require nitrate calculations to demonstrate a deficit, neutral or surplus of nitrates being generated on site. Developments that would result in a surplus of nitrates therefore require mitigation to prevent harm to the SPAs in the district. As such a Grampian condition in line with the Winchester City Council Position Statement on Nitrate Neutral Development has been agreed to secure appropriate mitigation.

Equality - Due regard should be given to the Equality Act 2010: Public Sector Equality Duty. Public bodies need to consciously think about the three aims of the Equality Duty as part of the process of decision-making. The weight given to the Equality Duty, compared to the other factors, will depend on how much that function affects discrimination, equality of opportunity and good relations and the extent of any disadvantage that needs to be addressed. The applicants share a protected characteristic and the Local Planning Authority has taken into account the need to avoid discrimination.

Conclusion

The Inspector for the recent enforcement appeal decision states that currently, while there are sites within the DPD that have yet to come forward, there is a current lack of available plots to meet the current need. Therefore, sites are required on a temporary basis, to accommodate the relevant demographic, until such a time as the other sites within the DPD come forward or other sites are allocated through the Local Plan review.

The enforcement appeal of last year has identified that the use of the site is harmful to the surrounding area and therefore as a permanent use of the site the proposal is not considered acceptable.

The proposal would see an additional 2 pitches on the site for a temporary period. The location of the plots, between the 4 already granted a temporary permission (until 2024), is considered preferable to other areas of the site as a whole. The insular intensification of use within the site is considered preferable than an external expansion resulting in increased harm over a larger area. Therefore, while the proposal would result in harm to the area indicating that a permanent use of the site for this purpose is not considered acceptable, the temporary nature of the use in the location proposed is considered acceptable.

The previous enforcement appeal decision has highlighted the sustainability of the site and links of the applicants to the area giving additional weight to this. The applicants in this case have similar circumstances where their children go to the local schools/nurseries and they rely on the local health care services for ongoing treatment.

These links and the requirement for temporary sites that has been identified, can be

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given significant weight in this case.

Therefore, while it is acknowledged that the proposal would result in harm to the area, the circumstances of the applicants and the demonstrated need for sites until the full potential of the DPD has been realised, or further acceptable sites have been allocated within the Local Plan review, indicates that a temporary use of the site can be supported.

Recommendation

Application Permitted subject to the following condition(s):

Conditions

1. The use hereby permitted shall be for a limited period being the period until 28th August 2024. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.

Reason: A residential use has been approved on land defined as countryside in the local plan (which would not normally be permitted) in order to meet an identified need for traveller accommodation which cannot yet be met in an alternative area.

2. The site shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015, (or any subsequent definition that supersedes that document).

Reason: A residential use has been approved on land defined as countryside in the local plan (where such uses would normally be resisted) in order to meet an identified need for traveller accommodation which cannot be met in an alternative way.

3. No more than two caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, of which no more than one shall be a static caravan, and no further caravans shall be placed at any time anywhere within the site.

Reason: In the interests of the amenities of the area.

4. No external lighting shall be put in place or operated on the site at any time other than has been previously submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the area.

5. No vehicle over 3.5 tonnes shall be stationed parked or stored on the site.

Reason: In the interests of the amenities of the area.

6. No commercial activity shall take place on the land including the storage of materials.

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Reason: In the interests of the amenities of the area.

7. Within 1 year of the date of this permission the following must be submitted to an approved in writing by the Local Planning Authority:
 - a) A water efficiency calculation which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to and approved in writing by the Local Planning Authority
 - b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European sites by the development and be implemented in full prior to first occupation and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and
 - c) All measures forming part of that mitigation have been secured and submitted to the Local Planning Authority.

Reason: To accord with the Conservation of Habitats and Species Regulations 2017, and Policy CP11, CP16 and CP21 of the Winchester District Local Plan Part 1.

8. Within 3 months of the date of this decision detailed proposals for the disposal of foul and surface water shall be submitted to the Local Planning Authority for approval. The approved details shall be fully implemented within 6 months.

Reason: To ensure satisfactory provision of foul and surface water drainage.

Informatives:

1. This permission is granted for the following reasons:

The development is in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

2. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Local Plan Part 1 Joint Core Strategy; CP5, CP13.

Local Plan Part 2: DM4, DM15, DM16, DM17, DM23.

Traveller DPD (2019) - TR6 and TR7.

High Quality Places SPD (2015)

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3. In accordance with paragraphs 186 and 187 of the NPPF, Winchester City Council (WCC) take a positive and proactive approach to development proposals focused on solutions. WCC work with applicants/agents in a positive and proactive manner by;
- offering a pre-application advice service and,
 - updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

Appendix 1

Closing Date for Comments: 13 December 2019

Location: Land Rear of Chairmakers Arms, Hipley Road, Hambledon.
Proposal: Creation of two Gypsy / Traveller Pitches comprising 1 Mobile Home, 1 Touring Caravan and 1 Dayroom for each pitch and associated works.

Comments:

The Parish Council of Denmead, by a unanimous decision, raised a STRONG OBJECTION to this proposal and cited the following reasons:

- Further to the Appeal which had been lodged with the Planning Inspectorate by the Appellants against Enforcement Notices served by WCC, the decision notice had recently been issued to grant temporary permission to allow only 4 plots to remain on the site.
- This land is an unsuitable location for the material change of use and would harm the character of the countryside and would significantly detract from the tranquillity of the locality by reason of noise, general activity, including numerous vehicle movements and lighting. Winchester District Local Plan Part 2, Policy DM14 states under Local Distinctiveness that "developments should respect the qualities, features and characteristics that contribute to the distinctiveness of the local area."
- As stated in the 'made' Denmead Neighbourhood Plan 2011-2031, provision of travellers' accommodation should comprise of sites in close proximity to existing settled travelling communities, as this provides the best opportunity for integration of newcomers to Denmead.
- Damage would be caused to the rural nature of the area, which is valued for its ancient character. The area would thereby become suburbanised and harm the characteristic. The Parish Council of Denmead therefore seeks to protect and enhance this area, which is within the Ancient Forest of Bere, and to "Retain the rural character of the local minor roads... resist development which further fragments the restoration of the former Forest of Bere..." as stated in WCC's Landscape Character Assessment.
- The proposal is unsustainable and for which there has been no essential agricultural need identified, as set out in Policy MTRA4 of the Winchester District Local Plan Part 1.

Request for application to be considered by Committee:

(NB: Case Officer to forward form to Head of Planning Control if this section completed)

Should there be a conflict of views between Members comments and the Case Officer, Members would wish for this matter to go to the Development Control Committee.

Signed: *L J Merriman ~ Deputy Clerk*

Date: 12.12.2019