

Heine Planning Consultancy

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My ref: J11-2019 enf

Your ref: 3230601

Date: 28.5.2020

Mr C Maxwell
Planning Inspectorate
Room 3b
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Mr Maxwell

Re: Enforcement/Planning Appeal
LPA: Winchester
Site: Southwick Ranch, North Boarhunt, Fareham
Appellant: Mr D Saunders

Thank you for your letter of 28 April 2020 with the start date for these appeals. As noted in the Enforcement Grounds of Appeal the Ground A appeal will follow that for the linked s78 appeal in so far as it concerns the breach as alleged ie for the siting of residential caravan and ancillary equestrian purposes. The s78 appeal also sought consent for a stable block, septic tank and utility block.

To date I have not had any comments from the Council on the draft Statement of Common Ground submitted with the s78 appeal.

I should like to provide the following update to the case already made for the Appellants.

Schooling

1- Prior to the Covid19 outbreak the Appellant's two children were attending Wickham CofE Primary school.

Generator noise

2- The Appellant has installed solar panels to reduce reliance on his generator. There were complaints about noise from the Generator in July 2019. However after visiting the site I contacted the Council on July 29th 2019 to confirm that Mr Saunders was only using a small Honda EG 1900x model sited in at the back of his site. It is no noisier than a

small lawn mower. It was possible to hold a normal conversation within 10m of the generator. With a gentle breeze from the South West I could barely hear it at the entrance to The Pebbles-at a distance of some 80m. I struggled to hear the noise outside Strawberry Barn to the south. I concluded that any concerns about noise disturbance was minimal and most probably exaggerated. I am not aware of any further complaints.

Solent Mitigation payment

3-With regards the third reason for refusal the Appellant paid the Solent Mitigation payment of £637 on 6.2.2019.

Nitrate issue

4-On 14 August 2019 I was contacted by the Council who pointed out that since both appeals were submitted Policy TR6 of the Council's Gypsy Traveller and Travelling Showpeople DPD has now been adopted and the Council suggested that a further application would be justified. I replied by letter dated 15.8.2019. I attach a copy. I did ask for confirmation that the Council would agree that if the proposal complies with TR6 no issue would be taken with the other policies relied on. The Council replied by email on 30 September 2019 to point out that any resubmitted application might require consideration of the concerns of Natural England with regards the nitrate/ nutrient issue which affects the Solent. This was not given as a reason for refusing the application or taking enforcement action. I was told that the Council were trying to find solutions to the issue and had arranged a meeting with Natural England. Other agents were expressing concern at the time that solutions could not be found to this concern, that this had caused a backlog of stalled application, a sub regional mitigation strategy could take a year before it is in place and there was conflicting advice issued by Natural England and EA. I have heard nothing further from Winchester Council and am still waiting to hear from the Council on this matter. I still do not know if this is to be relied on as an additional issue for this appeal or not. However I note this was not given as a reason for refusing a single storey Granny annex to the adjoining dwelling in February 2020 and does not appear to have been given as a reason for refusal in an appeal decision dated 15.11.2019 for two dwellings in North Boarhunt (PINs ref 3222006-dismissed). According to the officer report for a site at Hipley Road Hambledon dated 7.5.2020 it was agreed that this issue could be addressed by a Grampian condition in line with Winchester CC Position Statement on Nitrate Neutral Development.

TR6

5- Policy TR6 of the Traveller DPD acknowledges that there may be cases where an exception to countryside policies may be justified. It requires that permitted sites will be for Gypsy Travellers only complying with the 2015 PPTS definition, for persons who can demonstrate a personal or cultural need to be located in the area, and there is a lack of suitable accommodation. The Statement of Case addresses the Gypsy status of the Appellants. They have strong ties to this area having previously stopped on the Tynefield site. They moved onto the site due to the lack of other suitable accommodation and the October 2019 appeal decision for a site at Hambledon confirms that the Tynefield site is still in a derelict condition and not fit for habitation. It was agreed in 2019 that there was no suitable alternative sites available.

Policy TR6 also requires that sites are in sustainable locations well related to existing communities, as defined by Policy CP5, and comply with the requirements of Policy TR7. JCS policy CP5 Sites for Gypsies, Travellers and Travelling Showpeople requires that sites are well related to existing communities to encourage social inclusion and sustainable patterns of living while being located so as to minimise tension with the settled community and avoid over concentrations of sites in any one location, accessible to local services and avoid placing an unreasonable burden on local facilities and services, and avoid harmful impacts on nearby residential properties. This site lies on the edge of North Boarhunt where there are other caravan sites including Gypsy and Showmen sites. There are few facilities in North Boarhunt but it is only a short drive to Wickham where all essential facilities are available. The children attend the local school in Wickham which has helped the family to feel part of their local community. The site is located down a no through track with a large nursing home on the road frontage and two other dwellings either side of the site. Whilst there have been complaints from a neighbour these have been investigated by the Council and no further action was considered necessary (eg complaints about the noise of the generator). Since occupying their land the Appellants have experienced anti social behaviour by others including piles of manure were tipped next to their site boundary, the surface water drainage pipe which passes under the access track was deliberately blocked with wood and plastic, damage to the rear hedge/fence, theft of their rubbish bins, threats of damage to the site and racist taunts. Some of these concerns have been reported to the Council/ police. If permission is granted it is hoped such complaints will pass as the community become more accepting of the new development and the site occupants. With other persons living in caravans in North Boarhunt there is no reason to believe this is a use of land which can not co exist peacefully with other residential properties. Indeed, it is to be noted that there are at least 3 mobile homes in the grounds of the care home at the start of the track and a LDC was applied for and issued on 2.3.2020 to the owner of Strawberry Barn (adjoining plot) to use the land within the small curtilage of the dwelling house for the stationing of a mobile home to be occupied in conjunction with the main dwelling to provide incidental accommodation for the applicant's mother. A separate application for a single storey building to be used for purposes ancillary to the main dwelling was refused 14.2.2020 due to its proposed size, scale and location outside the settlement boundary. (LPA ref 19/02774/HOU).

Policy TR6 also requires sites to comply with the requirements of TR7 which is a criteria policy. There is no issue with access and parking on site. Environmental and other issues listed (drainage, waste disposal, lighting) can be addressed by suitable conditions and the Solent recreation mitigation strategy payment has been made. The site is not unduly intrusive and is capable of being screened with planting appropriate to the area. There is space on site for the keeping of a horse and children's play equipment. Bins are taken to the end of the lane. I can see no reason to take issue with any of these criteria.

Appeal decision

6-On 9 October 2019 an appeal decision was issued for another site in Winchester at Hambledon which is about 3 miles from the appeal site. I attach a copy. This appeal

considered Policy TR6 and confirmed that there is a lack of suitable alternative accommodation. At para 51 the Council admitted that the Tynefield site relied on to meet the 5 year need is now in private ownership and in 'a derelict condition' and 'not fit for habitation'. This is as reported in my Statement of Case submitted with the s78 appeal for this site in February 2019. The Inspector concluded at para 53 that the Tynefield site relied on can not be considered deliverable as it is unavailable. At para 58 the Inspector was of the view the weight to be attached to Intentional Unauthorised Development was limited as there is no suitable alternative site and a need for more pitches. It was agreed that a temporary period of 5 years would be appropriate due to progress with the Local Plan and need to find sites.

GTAA update

7- In late March 2020 I was contacted by ORS who have been asked to update the need assessment for sites in Winchester and were needing to contact my clients. ORS confirmed that their ability to carry out survey work has been hampered by the Covid19 outbreak.

Ground G

8- The EN gives the Appellant just 28 days to comply with the EN. In the grounds of appeal it was argued that this was unreasonably short and a period of 12 months would be more proportionate and reasonable.

Since March 2020 the Covid19 pandemic has served to highlight the particular difficulties faced by the homeless and in particular Gypsy Travellers and all local authorities should be seriously reassessing how policy failure impacts on the specific risks and vulnerabilities of those who do not have any where lawful to live eg

- overcrowding in trailers and on sites, with shared use of toilets, washing and kitchen facilities
- limited or no access to additional trailers for the purpose of shielding or self isolation
- closure of public toilets/ leisure centre/ pubs/ laundrettes and services used by roadside families for toilets/ washing.
- hostile attitude and distrust of communities to those moving from place to place
- inability to keep up to date with changing public health messages due to digital exclusion or poor literacy
- difficulties of home educating young children when the parents lack basic literacy/ numeracy and access to educational materials.
- more likely to have underlying health conditions with need for medication and higher risks of poor mental health and suicide especially if unable to exercise their nomadic lifestyle or meet with extended family
- financial insecurity due to loss of income and less experience of claiming benefits
- less likely to have capacity for food storage in small touring caravans necessitating frequent shopping trips with no scope for home deliveries.
- difficulties securing gas/ liquid fuel or card top ups for fuel.

The combined impact of all these factors is risk of poverty and social isolated which can be exacerbated by the need to self isolate, socially distance and shield.

There is current uncertainty in relation to how long restrictions may remain in place due to this health pandemic and the ability to comply with the requirements of the notice. The situation is fluid and it is not known when a hearing will be arranged (if at all) and a decision issued. But no families should be evicted from land with no where to go whilst the Covid19 pandemic remains in place. This site is providing the only home for a family with young children. I consider a period of 12 months is the minimum that should be considered if the Ground A / s78 appeal is not successful. Under s173a of the Act the Council does have discretionary powers to extend the period of compliance should this be necessary and appropriate.

Yours Sincerely

Mrs Alison T Heine

Enc.

Letter dated 15.8.2019 from Heine Planning to Winchester Council re adopted policy TR6

October 2019 appeal decision, Hambleton