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2 The Square
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11 November 2020

Our Ref: 20/00739/FUL

Your Ref: APP/L1765/C/20/3254261

Dear Ms Morris

Re: Lower Paddock, Bent Lane, Hambledon, Hampshire

I refer to the appeal at the above site and attach the Officer's Report for the planning application which I am submitting as the Council's substantive statement for this appeal. The Decision Notice is attached within Appendix A and the Officers Report is attached within Appendix B. In addition, I would like to make the following additional points in the context of the appellants' statement.

In paragraph 2.2 and 5.19 the appellant states that there was an existing gap in the hedge that was used to form the access onto the site. It is the Council's position that this is inaccurate as is demonstrated by Appendix D, a photo of the lane prior to the applicant clearing the existing hedge and forming a new access onto the site. It should also be noted that at the site visit the access was measured to be approximately 12m rather than the 9m as described by the appellant.

In paragraph 2.3, 5.13 and 5.18 the appellant states that the adjacent site is occupied by a farm and another gypsy family. It is the Council's view that this is inaccurate as the family in question are not considered to be gypsies or travellers as defined by Annex 1 of the Planning for traveller sites 2015 (PPTS). This site is also subject to a separate enforcement case and is not considered to be relevant to this case.

Paragraph 5.4 states that the site is not located within protected areas. The Council do not contest this however, it is the Council's view that the proposed would have impacts on the adjacent SINC and on the Solent SPAs via introduction of nitrates and phosphates into the watercourses from foul water. This is discussed further below.



The appellant makes reference in paragraph 5.11 to 5.13 to an appeal decision where a site is considered acceptable even though the site is isolated. It is the Council's view that each application is taken on its own merits. In this case the site is located in an area of scattered dwellings and more than a mile from the closest settlement. It should also be noted that there is no footpath or road lighting along the network of single track roads that are required to use to access the site. The Council therefore considered that the site is isolated and in an unsustainable location in this context.

In paragraph 5.14, 5.28, 5.29 and 5.30 the appellant states that the proposal would comply with paragraphs 109 and 111 of the NPPF stating that visibility splays of 2.4 by 43m are sufficient. It is the Council's view that the access to the site required visibility splays of 2.4m by 215m as is fitting a 60mph road such as Bent Lane. No information in the form of a traffic survey was submitted to demonstrate that a lesser measurement should be taken. The Highways Officer concluded that the required distance was not possible due to the layout of the road and therefore lead to reason for refusal 3 on the decision notice (Appendix A) as it was contrary to policy CP18 of the Winchester District Local Plan Part 1(LPP1).

The appellant argues in paragraph 5.17 that the site would allow a permanent base that would result in social and economic benefits to the area. The Council acknowledge that there would be a small benefit however this would also be the case if the appellant used one of the available places at designated sites.

The appellant indicates that the proposal would not harm the character of the area as the PPTS and CP5 (LPP1) state that gypsy and traveller sites should not be fully screened from view and additional planting would otherwise make this acceptable. They go on to further say that the removal of the existing hedge is a minor loss that should be acceptable. It is the Council's view that the loss of 12m of hedge is not a minor acceptable change but rather a notable change in the character of the area to its detriment. This is noted in Appendix B, where it is also noted that the removal of the topsoil was used to fill in a character feature of the area, a natural pond, resulting a reason for refusal (reason 2, Appendix A).

In paragraph 5.23 the appellant states that the council have not raised concerns regarding the impact of development on the nearby SINC's for adjacent sites. It is the council's view that where development is within 100m of a protected landscape feature an ecology report should be submitted to allow for an assessment to be made. The adjacent site was assessed at the time and, as previously stated, the residential use of the adjacent site is subject to a current enforcement investigation, however, as this is a separate case it is not considered to be relevant to the current case at hand. The issue of ecology was raised by the Case officer during application stage as shown in Appendix E. It is also considered that, as stated above, the proposal, and works that have taken place, have resulted in the loss of an ecological landscape feature (the natural pond) that likely has resulted in harm to the local ecology. However without the ecological information being submitted, this resulted in a reason for refusal within the decision notice (reason 3, Appendix A).

The appellant has stated that the removal of part of the existing hedge to form an access to the site in paragraph 5.25 -5.27 was not of a type protected under the Hedgerow regulations and caused no impact to protected species. It is the Council's view that the area removed was substantial and formed part of a green pathway between tree clusters. The species is known to be attractive to dormice which are known to be in the SINC adjacent to the site. The appellant further states that no ecological assessment was made and as the harm has already been done, the introduction of planning conditions should be suitable to mitigate. It is the Council's view that without an ecological assessment it is impossible to judge the harm to the local ecology or how and whether it is appropriate to mitigate the harm caused. This lack of information formed a reason for refusal on the decision notice (Appendix A, reason 3). It is noted that Hedgerow regulations refer to hedges of 20m or more in length. Should the start of the hedge be classed as the adjacent SINC, and the end being the entrance to Shirmal Farm, this is a distance of approximately 215m and therefore the removal or partial removal is subject to relevant permission being sought.

It should also be noted that this is contrary to paragraphs 2.2 and 5.19 where the appellant states that there was an existing gap in the hedge.

In paragraph 5.32 the appellant states that a lack of identified need should not be a reason for refusal as this is subject to change. The council do not disagree with this as is demonstrated within the Traveller DPD. However, it is the Council's view that sites should be in appropriate locations that would not result in harmful impacts. This case has demonstrated that there would be harm to the character of the area, ecology and highways, indicating that it is not a suitable location for development.

The appellant questions the results of the 2016 GTAA (paragraphs 5.28 to 5.41) but this was accepted as a suitable assessment by the Inspectors that examined both the Local Plan Part 1 (which sets the traveller pitch target) and the Traveller DPD (which identifies provision to meet traveller needs). The appellant refers to an appeal decision at Durley Street (Appendix PBA7) but this pre-dates the examination and adoption of the Traveller DPD. The issues raised by the appeal decision were discussed at the Traveller DPD examination but did not lead the Inspector to change the GTAA assessment of pitch requirements or to make additional provision.

It can be seen by reference to Appendix B of the Traveller DPD (pages 34-35) that considerably more gypsy and traveller pitches are expected to be delivered through existing consents and the DPD than the total need identified in the GTAA. Even if the contribution of Tynefield is discounted, there remains 'over-provision'.

Notwithstanding the above, it is clear that the appellants were not resident in the District at the time of either the GTAA or the Traveller DPD, so their needs would not have been specifically identified. It is the purpose of policy TR6 to enable previously-unidentified needs to be addressed if the relevant criteria of the policy are satisfied. Therefore, the merits of the GTAA are largely irrelevant to this appeal and in any event the Council has commissioned an update of the 2016 GTAA to inform its review of the Local Plan/Traveller DPD that has recently commenced.

Very little information on the applicant's personal needs was provided with the original planning application. The appellant's statement makes clear that the appellants have travelled over large parts of the country and within various parts of Hampshire. At no time have they previously lived in the Denmead locality. Policy TR6 is aimed at providing for those people that can demonstrate a need to be located 'in the area' and is intended to apply to a very local area. Clearly, being a District-wide policy the maximum extent of 'the area' is Winchester District (which does not include Southampton, Fareham, Marchwood, etc.), although the Council would argue that it should be applied much more locally (i.e. to Denmead and its immediate surroundings).

The proposed development is within Winchester District where foul water is distributed into the European designated areas Solent SPAs/Ramsar sites via water treatment plants. In accordance with advice from Natural England and as detailed in Policy CP16 of the Winchester City Council Local Plan Part 1 Joint Core Strategy a net increase in housing development within Winchester District is likely to result in impacts to the integrity of those sites through a consequent increase in Nitrates. The applicant was asked to supply a nitrate calculation to demonstrate whether the proposal would result in a surplus, neutral or deficit of nitrates. This was not provided however as the proposal would have resulted in an additional 2 dwellings it is considered likely that the proposal would have resulted in a surplus of nitrates. At the time of the application assessment there was not a mechanism in place to mitigate the impact of nitrates on the Solent SPAs and therefore without a mitigation package available it was considered appropriate not to include the impact of nitrates on Solent SPAs within the reasons for refusal. The Council is now in a position to offer a mitigation package through a Grampian condition and/or a S106 agreement as detailed in the Winchester City Council Nitrate Position Statement (Appendix F).
The Council respectfully ask that this be taken into consideration.

An appeal is also made in respect of ground(s) (b), (f) as set out at Section 174(2) of the 1990 Act for case reference 20/00067/COU - APP/L1765/C/20/3254261.

In respect of ground b – with the questionnaire we have provided copies of the Stop Notice that was served which is why the appellants are contending that the breach of control has not occurred.

In respect of ground f – steps ii and iii are not excessive as the level of harm has been identified in the main planning case. The contention that leave a field land-locked and, incapable of beneficial use has little to no planning merit as the land is agricultural.

The Inspector is respectfully requested to dismiss this appeal. If however the Inspector is minded to allow the appeal the planning authority requests that the following conditions are attached to the permission (within Appendix C).

Yours sincerely

Rose Lister

Case Officer

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