

Planning Committee

1 March 2023

Update/Amendment/Correction/List

Revised procedure for councillors wishing to overturn officer recommendations at the Planning Committee (as approved by full Council on 22 February 2023)

If, during the debate on an application, it is apparent that Committee members do not support the officer's recommendation, the Chairman shall ask if any Committee member wishes to propose a motion contrary to the officer's recommendation, subject to the proviso that the rationale behind any such motion is based on material planning considerations. Any such motion must be seconded by another Committee member.

- Where such a motion proposes a refusal, the proposer of the motion shall be expected to state the harm the proposed development would cause in planning terms, together with the relevant planning policy(ies), where possible, as the basis for the reasons for refusal. In advance of the vote, the Chairman shall discuss with the relevant officers, the proposed reason(s) put forward to ensure that they are sufficiently precise, state the harm that would be caused, and refer to the relevant policy(ies) to justify the motion. The Committee shall take a separate vote on each proposed reason for refusal, following which the Committee shall take a vote on the motion to refuse the application based on all of the agreed reasons.
- Where such a motion proposes approval, the proposer of the motion shall be expected to state why the proposed development would be acceptable in planning terms, together with the relevant planning policy(ies), where possible. In advance of the vote, the Chairman shall discuss with the relevant officers the proposed reason(s) put forward to ensure that the planning reason for approval is sufficiently precise to justify the motion. In addition, the Committee shall discuss and agree the substance of the planning conditions necessary to grant a permission before taking a vote on the motion to approve.
- Where such a motion proposes deferral, (for example for further information/ advice) the Committee shall discuss and agree the

reason(s) for deferring the application, before taking a vote on the motion to defer.

If the motion is not seconded, or if it is not carried, the Chairman will determine whether there is an alternative motion and, if there is not, the Chairman will move the officer's recommendation and ask another Committee member to second the motion. That motion will then be put to the vote.

22/P/00367 – (Page 93) – The Firs, Ash Green Road, Ash, Guildford, GU12 6JJ

The above application has been deferred owing to needing more time to consider the application and needing to make further engagement with consultees with regard to the culverting of the water course.

21/P/02589 – (Page 73) – Unit 3C, King's Court, Burrows Lane, Gomshall, Shere, GU5 9QE

Conditions

Conditions 9 and 10 amended as follows:

Condition 9:

Prior to occupation of the new residential units hereby approved, a scheme for protecting the proposed dwellings from noise from the adjacent residential and commercial units shall be submitted to and approved in writing by the local planning authority. The agreed details shall be implemented before any permitted dwelling is occupied unless an alternative period is agreed in writing by the authority.

Reason: As occupiers of the development, without such a scheme, are likely to suffer from noise to an unacceptable degree.

Condition 10:

No works shall take place to install the new balcony at first floor or amenity area at ground floor until detailed drawings of the new balcony (including balustrade design, materials and finish) to the first floor flat and boundary treatment to the amenity area for the ground floor flat (including design and height of proposed fencing) have been submitted and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: To ensure that the external appearance of the building is satisfactory.

22/P/00738 – (Page 123) – Ipsley Lodge Stables, Hogs Back, Seale, Guildford, Surrey, GU10 1LA

Relevant Planning History

It is noted that on p.130 of the agenda the relevant planning history section has not been updated to show the status of the recent applications and did not reference the withdrawn application. It should read:

21/P/01640 – Change of use of land for the proposed creation of 4 Gypsy/Traveller pitches, comprising the siting of 4 Mobile Homes, 4 Touring Caravans, and the erection of 4 Dayrooms, and the formation of a new access.
- refused - no appeal was lodged against this decision

21/P/00505 - Erection of two 3-bedroom houses and two mobile home pitches.
refused - no appeal was lodged against this decision

20/P/01710 - Change of use of land for the proposed creation of 4 Gypsy/Traveller pitches, comprising the siting of 4 Mobile Homes, 4 Touring Caravans, and the erection of 4 Dayrooms – withdrawn.

Conditions

On p.124 of the agenda an un-numbered condition has been inserted into the report under the recommendation to approve and should be omitted.

**Summary of The Pines, Green Lane East, Normandy, GU23 2JL Appeal
Decision (attached)**

Appeal A (APP/Y3615/W/21/3287182) Appeal B (APP/Y3615/W/21/3287186)

Two applications were made on 4 March 2021 in respect of both sites (A and B), seeking the permanent occupation of both sites for the stationing of caravans for residential purposes for gypsy pitches. These were both refused and are the subject of these appeals.

Appeal A - 21/P/00454, dated 4 March 2021, was refused by notice dated 17 May 2021. The application sought planning permission for variation of condition 3 of planning consent 10/P/00507 (approved on appeal on 14/06/2011) for the use of land for stationing of caravans for residential purposes for 1 gypsy pitch, with ancillary utility/day room, to allow permanent occupation of the pitch on the site without complying with conditions attached to planning permission Ref 15/P/02363, dated 5 March 2018.

The conditions in dispute are Nos 1 and 2 which state that:

- (1) *The use hereby permitted shall be carried on only by the following individuals: John Searle (senior) and John Searle (junior) and their dependants and shall be for a limited period being the period of three (3) years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.*

- (2) *When the premises cease to be occupied by those named in condition 1) above, or at the end of three (3) years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to 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.*

Appeal B - Ref 21/P/00456, dated 4 March 2021, was refused by notice dated 17 May 2021.

The application for planning permission for the use of land for the stationing of caravans for residential purposes for 1 No. gypsy pitch together with a utility/dayroom ancillary to that use without complying with conditions attached to planning permission Ref 15/P/02364, dated 5 March 2018.

The conditions in dispute are Nos 1 and 2 which state that:

- (1) The use hereby permitted shall be carried on only by the following individuals: Jade Searle and her dependants and shall be for a limited period being the period of three (3) years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.*
- (2) When the premises cease to be occupied by those named in condition 1) above, or at the end of three (3) years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to 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.*

The Inspector found that the openness of the Green Belt had been reduced as a result of the development and would continue be reduced through the ongoing use of the sites, and the development and caravans associated with this. In the context of the rural edge, but in close proximity to existing development the Inspector concluded that the development would result in moderate harm to the openness and the purpose of including land within the Green Belt.

The Inspector accepted that Guildford Borough Council can demonstrate a supply of deliverable sites sufficient to provide 5 years' worth of sites against its locally set target and that this target includes those persons who would fall outside of the Planning Policy for Traveller Sites (PPTS) Annex 1 definition of a traveller.⁽¹⁾

However, the Inspector went on to point out, that whether or not there were alternative sites available is a relevant matter and that alternative accommodation would need to be suitable, affordable, available and

acceptable. The Inspector noted that the Council is seeking to deliver a number public pitches during the plan period, however, it was confirmed that there are currently no alternative pitches available that the sites' occupants could move to in the short-term.

The Inspector referred to caselaw which established that there was no burden on the appellant to prove that there are no alternative pitches or sites available and whilst in this case the appellants were not on the waiting list for a Council site, 17 people were already on the waiting list, (although it was accepted that this could not be relied upon to provide an accurate assessment of need as it may include those currently residing on private sites but looking to move to a public site for example). However, due to the absence of alternative sites in the short term, this could lead to the occupants of the site having to resort to an unauthorised roadside encampment or doubling up on pitches occupied by extended family, neither of which the Inspector considered to be satisfactory.

The Inspector referred to Article 3 of the United Nations Convention on the Rights of the Child which requires a child's best interests to be a primary consideration, and no other consideration must be regarded as more important or given greater weight than the best interests of any child. In this case, whilst the Inspector acknowledged that it would certainly be in the best interests of the children on the site to continue to have access to education and health care from a settled base, she also acknowledged that it was also not uncommon for children to move schools or change GPs when their families move home.

The Inspector concluded that in the absence of suitable, acceptable, and affordable alternative locations to which the occupants could move to in the short-term, (should the appeals be rejected), the families would be either forced into a roadside existence or into doubling up with other family members, with likely issues around overcrowding arising. The Inspector considered that this would have a negative impact upon the child on that site attending school. In addition, having no settled base would not give the pre-school aged children currently residing on the sites an optimal start in life. The Inspector also found that it would cause some inconvenience in terms of medical care. This result, she considered would not be in the best interest of the children.

The Inspector also found that that despite the sites being located outside the defined settlement boundary, they are not detached from the settlement,

given their proximity to development both within and adjacent to the boundary. Whilst concerns were raised that this may set a precedent for similar forms of development, she concluded that any such proposal would have to be assessed on its own individual planning merits.

In this appeal, the sites were located within the Green Belt and the applicant sought unrestricted occupation of the site; as such the Inspector rightly stated that the personal circumstances of the occupants of the site would not be a factor to weigh against the harm to the Green Belt and that the other considerations put forward in favour of the proposals did not outweigh the harm to the Green Belt sufficiently to amount to the very special circumstances to allow the permanent occupation of the sites on an unrestricted basis.

However, taking into account the Public Sector Equality Duty and the best interest of the children residing on the site which is a primary consideration, as well as the right to respect private and family life enriched under Article 8 of the Human Rights Act, the Inspector considered whether a personal permission would be appropriate and able to amount to very special circumstances to justify the proposal. It was considered that should a personal permission be granted it is likely that the sites would remain occupied in the long-term with the harm to the Green Belt arising from this to be similarly long-term, and in the Inspector's view, not dissimilar to the permanent occupation of the site; and as such the personal circumstances were not considered to outweigh the harm to the Green Belt.

In this instance it was considered that a temporary permission would reduce the period in which the actual harm to the openness of the Green Belt would occur. Given the sites occupants had changed in the case of appeal site A and that there were children residing on both sites, whose best interests would not be served should the appeal be dismissed, the Inspector concluded that this would be sufficient to amount to the very special circumstances to outweigh the Green Belt harm and that a further temporary permission should be granted for both sites. This would enable the occupants of the sites time to find suitable alternative accommodation whilst allowing for more delivery of sites through the Local Plan and that three years should be a sufficient time period within which this could take place.

(1) Court of Appeal in *Smith v SSLUCH & Ors* found the definition in Annex 1 of the PPTS to be unlawful on the basis that it discriminates against those gypsies and travellers who have permanently ceased to travel due to age and / or disability.

