APPLICATIONS RECOMMENDED FOR DECISION

BURSLEDON, HAMBLE-LE-RICE & HOUND Thursday 02 February 2012 Case Officer Andy Grandfield

SITE: Land Adjacent to Ridge Farm, Grange Road, Bursledon, Southampton, SO31 8GD

Ref. F/09/66165 Received: 03/11/2009 (13/09/2011)

APPLICANT: Mr S Hewes

PROPOSAL: Change of use of land from agriculture to a mixed use of agriculture & a private gypsy caravan site (2 pitches) and associated hard standing

AMENDMENTS: None

RECOMMENDATION:

Subject to the receipt of contributions towards the provision of community infrastructure, sustainable transport and off-site public open space within the local area

PERMIT

CONDITIONS AND REASONS:

(1) The development hereby permitted shall be carried out in accordance with the following approved plans: Plan1, plan 2, plan 3, plan 4.
Reason: For the avoidance of doubt and in the interests of proper planning.

(2) Within one month of the date of this permission the post and rail fence of at least 1m in height shall be erected to the north of the western mobile home in the position indicated on plan 4 and thereafter retained. Reason: To separate the domestic curtilage from agricultural land.

(3) Within one month of the date of this permission details of the hedging between the domestic curtilage and agricultural land as indicated on plan 4 must be submitted to, and approved in writing by the Local Planning Authority. Such a

scheme must include a planting specification and schedule, and shall indicate the position, size, number, planting density and species of the hedging. The planting scheme must include details of phasing, timing and provision for management and maintenance during the first ten years from the date of planting. The scheme hereby approved shall be implemented within the current or next planting season. Reason: To ensure that the appearance of the development is satisfactory.

(4) The boundary hedging along the eastern, western and southern boundaries shall be retained in its entirety at a height no less than 3m in height. Reason: To protect the character and appearance of the locality.

(5) The permission does not authorise use of the land as a caravan site by any persons other than gypsies as defined in section 24(8) of the Caravan Sites and Control of Development Act 1960 (as amended). Reason: This permission has been granted due to the exceptional circumstances of the applicant.

(6) No part of the land outside the area cross hatched green on plan 3 shall be used as a gypsy caravan site and no structures or vehicles in association with this use shall be parked/stored here. Reason: The application has been permitted due to the exceptional circumstances of the applicant and further development/encroachment in the countryside would be contrary to policy.

(7) No more than two double mobile homes and two caravans kept for touring shall be stationed on the land at any one time. Reason: To protect the character of the area.

(8) No open storage of goods or materials ancillary to any business activities of the occupants of the mobile home shall take place within the area defined by the blue line as indicated on the approved 1:2500 location plan (Plan 1). Reason: To protect the character and appearance of the area.

(9) Not more than 1 commercial vehicle not exceeding 7.5tonnes (gross weight) used in connection with the occupation of occupant of either of the mobile homes on the land and not more than one trailer shall be kept on the land hatched green on plan 4 at any one time. Reason: To protect the character and appearance of the locality

Note to Applicant: It is considered that, subject to compliance with the conditions and any obligations attached to this permission, the proposed development is acceptable because it will not materially harm the character of the area, the amenity of neighbours or highway safety and the needs of the applicant and it is in accordance with the policies and proposals of the development plan, as listed below, and after due regard to all other relevant material considerations the local planning authority is of the opinion that permission should be granted.

The following development plan policies are relevant to this decision and the conditions attached to it:

Eastleigh Borough Local Plan Review 2001-2011 1.CO,2.CO,18.CO, 59.BE, 87.H

Under the Town and Country Planning [Fees for Applications and Deemed Applications][Amendment][England] Regulation 2008, a fee is now required for Discharge of Condition Applications.

N.B. Conditions not fully discharged, invalidate the planning permission

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Report:

This application has been referred to Committee by the Head of Development Control.

Description of application

1. This application is retrospective and is for the retention of two mobile homes on two pitches for a small extended Gypsy and Travellers family. The retention of the mobile homes would require a change of use of the site to a caravan site for gypsy use. The mobile homes would be for Mr & Mrs Hewes and the parents of Mr Hewes. Each unit measures approximately 11m x 6m.

2. The local planning authority (LPA) do not dispute that Mrs and Mrs Hewes, and Mr and Mrs Hewes senior are Gypsies for the purposes of paragraph 15 of Circular 1/2006 Planning for Gypsy and Traveller Caravan Sites.

3. Amended plans have been secured that provide a clearly defined boundary to the north of the mobile homes.

4. The mobile homes were brought to the site in October 2009.

Site area

5. The application site is approximately 0.2ha whilst the entire land within the appellants ownership is 0.7ha.

Topography

6. The site is generally level.

Trees

7. The site is quite open with no trees of note on the site, although the boundaries are generally well screened by hedging.

Boundary treatment

8. The majority of the site boundaries to the south (track side), the west and part of the east side are defined by thick hedging of at least 3m high. The paddock to the rear is not separated from the rest of the site, whilst its boundary to the east is demarcated by a post and wire fence.

Site characteristics

9. The site is located behind a high hedge and large agricultural barn. Access is gained separately to the two mobile homes, with both offered a small area of garden and sufficient space for car parking. The eastern mobile home is located between the agricultural buildings at Ridge Farm and the metalled access track. To the north of the western mobile home is a large open paddock, beyond which is a tall evergreen hedge.

Character of locality

10. The application site is within designated countryside and is within the strategic gap. The site is located 310m along a metalled track accessed off Grange Road. Along this track are a two other sites used by gypsy families (3 mobile homes currently but two more proposed on Bay Farm), an industrial site used in association with the marine industry and three houses.

11. To the north is land associated with Pickwell Fruit Farm, whilst to the south are paddocks beyond which is the residential area of Netley.

Relevant planning history

12. Permission was granted for the retention of the agricultural barn in 2002.

13. To the east of the site is Bay Farm on which a mobile home was allowed at appeal in 1999. The inspector concluded that the retention of the mobile home and day rooms would not materially physically or visually reduce the strategic gap in this location or its effectiveness in separating settlements. The appeal site was considered to be within reasonable distance of facilities and there was a demonstrable need for a gypsy caravan site in this locality. In granting approval, the Inspector added conditions that restricted the use of the caravan site solely to those defined as gypsies, not more than 1 mobile home used for habitation and 1 caravan used for touring to be stationed here and not more than 2 commercial vehicles and 2 trailers to be parked on site.

14. At Bay Farm, the LPA have been asked to consider the retention of one mobile home and provision of two more mobile homes to be used by an extended gypsy family. This is also on the same agenda as the land adjacent to Ridge Farm application.

Representations received

15. No representation received.

Consultation responses

16. **Head of Regeneration and Planning Policy (Policy)**
17. The site is within the countryside and strategic gap. Policies 1.CO and 3.CO establish a presumption against development such as that proposed.
18. The site is along a track to Kestrel Farm and there are a variety of uses along the track to the east of the proposed development, these include residential and industrial. The adjoining sites have a history of enforcement action and many have established lawful use including the barn on the site and Gypsy related uses.
19. A nearby site which is a Gypsy caravan site was granted in 2009 F/08/62837.The proposed development must sits within the line of established development and not encroach any further into the countryside. The proposal would therefore not add materially to the impact on the strategic gap. Landscape details are required.
20. Policy 87.H applies to this application. The site is within a reasonable distance to local facilities including shops, schools and medical facilities. A consultation on revised national planning guidance for gypsy and traveller sites finished on 3rd August 2011 Planning for traveller sites. The intention of this guidance is to bring it in line with housing policies. There is an intention to revoke Circular 01/06 Planning for Gypsy and Traveller Caravan sites and replace it with this new guidance. Circular 01/06 at this stage remains extant however the draft revised guidance is a material planning consideration.
21. In terms of transport implications and accessibility, transportation and engineering comments should be sought. There should be conditions to restrict parking and amount of commercial vehicles on site. The curtilage to the mobile homes should also be defined.

    A Gypsy and Traveller Accommodation Needs Assessment (GTAA) was undertaken and completed in 2006 for the whole of Hampshire, this identified need for Gypsy and Traveller sites up to 2011. For Eastleigh the need was identified as 2 pitches up to 2011, this has been met through sites which have planning permission and established use. There is however likely to be future needs post 2011. Conditions should be applied to restrict this site as a caravan site for Gypsies.

22. **Head of Transportation and Engineering** – No objection in highway safety terms. The site does not have a very good access track and there are no footway connections to surrounding area, but no objection is raised.

23. Hound Parish Council – No objection

Policy context: designation applicable to site

- Outside Built-Up Area Boundary
- Within Strategic Gap

Development plan policies

- Eastleigh Borough Local Plan Review (2001-2011): 1.CO, 2.CO, 18.CO, 59.BE & 87.H
- Supplementary Planning Document: Quality Places
- Supplementary Planning Document: Planning Obligations

Planning policy guidance / statement

- PPS 1 – Delivering Sustainable Development
- PPS 7 – Sustainable Development in Rural Areas
- PPG 18 – Enforcing Planning Control
- Draft PPS – Planning for Travellers

Policy commentary

24. The above policies combine to form the criteria on which this application will be assessed with particular regard to the general principle of that proposed, including the current stance on Gypsy applications, the retrospective nature of the application, impact on the residential amenity of neighbouring properties, the accessibility of the site, parking and highway issues, as well as the visual and physical impact of the application on the character and appearance of the surrounding countryside.

Comment on consultation responses

25. See below

Comment on representations received

26. Nothing to add.

Assessment of proposal: Development plan and / or legislative background

27. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states: "If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

Principle

28. A number of saved policies within the Eastleigh Borough Local Plan Review (2001-2011) are relevant in this instance and are set out below.

29. Saved Policy 1.CO outlines the types of development considered appropriate for countryside locations, which includes development necessary for agricultural, forestry or horticultural purposes, outdoor recreational uses, public utility services, extensions to education or health facilities. It also requires any development to meet the other relevant policies and criteria of the local plan. The siting of the mobile homes in this instance is not for any of the above stated purposes.

30. Saved Policy 2.CO relates to strategic gaps and states that planning permission will only be granted for appropriate development which cannot be acceptably located elsewhere and which would not physically or visually diminish a local gap. This is a strategic gap between Southampton – Hedge End/Bursledon/Netley.

31. Saved Policy 18.CO relates to landscape character and states that 'Development which fails to respect, or has an adverse impact on the intrinsic character of the landscape, will be refused.'

32. Saved Policy 59.BE requires development to take full and proper account of the context of the site, including the character and appearance of the locality and not to unduly interfere with neighbouring uses or the amenity of neighbouring residential properties.

33. Saved Policy 87.H specifically relates to proposals for Gypsy sites and states that site will be considered acceptable provided they meet three criteria:

    i. they are within a reasonable distance of schools, medical services, shops and other facilities;
    ii. they should make appropriate provision for access and parking; and
    iii. they should not have an unacceptable impact on the character or appearance of the countryside.

34. The South East Plan remains extant although central Government has made clear its intentions to revoke it. There are also plans to revoke Circular 01/06: 'Planning for Gypsy and traveller caravan sites' which sets out the national planning stance on this issue. As this Circular is still in place it is a material consideration, however, its weight has been reduced to some degree.

35. The LPA has not allocated new gypsy sites within the draft local plan although it is likely there will be a need for some transient and permanent pitches during this plan period. The draft local plan does include a criteria based draft policy (DM53).

Retrospective Application

36. The application is retrospective in nature however, PPG 18 'Enforcing Planning Control' states "…that in assessing the need for enforcement

action, Local Planning Authorities should bear in mind that it is not an offence to carry out development without first obtaining planning permission. Section 73A of the 1990 Act specifically provides that a granting of planning permission may relate to development carried out before the date of the application" (paragraph 6). Furthermore, an application can not be refused on grounds that it is retrospective. When considering the development regard has to be had to Government guidance and the policies contained within the Development Plan.

Residential Amenity

37. Due to the proximity and orientation of the mobile homes in relation to existing neighbouring properties, there are not felt to be any issues of adverse impact upon the residential amenity of those neighbouring properties in terms of loss of privacy, light, outlook or general disturbance.

Accessibility

38. The first criteria of Policy 87.H states that Gypsy sites should be within a reasonable distance of schools, medical services, shops and other facilities. While the application site is within designated countryside it lays just outside of the urban edge to the north of Netley. As far as rural sites go, this is a fairly good location to access shops, schools, medical facilities and other community infrastructure in the centre of Netley some 2 – 2.5km away. These can be accessed via a footpath that crosses the fields to the south, there is also a bus service at the junction of Grange Road/Woolston Road 750m away. However, realistically most journeys to local facilities would be via car.

39. In 1999, the Inspector presiding over the Bay Farm appeal concluded that the distance to travel to facilities/bus stops was not significantly different to those journeys residents living in the northern part of the built up area would have to travel. He concluded that a range of day-to-day facilities are available within a reasonable distance from this site. As such, the development meets saved policy 87.H (i).

Parking and Highway Issues

40. The Head of Transportation and Engineering has raised no objection to the on site provision of the parking needs associated with this development. The concerns about lack of footpath provision along Grange Road to Ingleside are noted, but there is an alternative path, albeit across a field. In addition, the applicant has been asked to make a contribution towards Sustainable Transport measures, which could include improving accessibility to local facilities.

41. The application is therefore considered to meet the requirements of saved Policy 87.H (ii).

Impact on Countryside

42. The third criterion of saved Policy 87.H states that proposals should not have an unacceptable impact on the character or appearance of the countryside, something reiterated by saved policies 18.CO and 2.CO of the local plan. This is also supported by saved policy 59.BE which states that proposals must take full and proper account of the context of the site and surrounding area.

43. The application site lies within open countryside that gently rises from the urban area of Netley towards Portsmouth Road, some 1.5 km to the north. The wider character of the area is drawn from the openness of the countryside, its agricultural activities and its contracts to the relatively densely developed urban areas to the south. The site as a whole can be seen from the urban edge, but a slight rise and fall in the topography, together with the existing dense hedging prevents views from Grange Road or Portsmouth Road.

44. There has been a history of unlawful developments along this track which have extended northwards from the metalled track. Through recent planning applications, the LPA have secured defined northern boundaries on adjacent sites – Home Farm, Ridge Farm industrial estate and land at Bay Farm which is currently under consideration. Through approving boundary details and new landscaping, the LPA have sought to address the encroachment of unacceptable development in to the open countryside.

45. This current application allows the LPA to clearly record and define the northern most boundary for development at this site. Amended plans have been secured that clearly demarcate the “residential” curtilage from the adjoining paddock. The mobile homes are not set as far in to the site as that permitted at Home Farm or under consideration at Bay Farm. The homes are well screened by the existing hedging and agricultural barn to the front of the site.

46. Due to the scale of the mobile homes, their siting within a cluster of other structures and the limited views from public vantage points, the visual and physical impact of the two mobile homes is not significantly harmful to the character of the area or the objectives of the strategic gap.

47. On balance, the mobile homes and other associated structures on the application site respect the character and appearance of the site and the surrounding countryside, and are not overly prominent and visually diminishing of the Strategic Gap. The development complies with saved policies 2.CO, 18.CO, 59.BE and 87.H of the adopted local plan.

Human Rights and Race Relations

48. The vulnerable position of gypsies as a recognised minority is a material consideration in planning under Human Rights Law. Section 19A of the Race Relations Act prohibits racial discrimination by Local Authorities in

carrying out their planning functions, it also actively seeks to eliminate unlawful discrimination and promote good race relations between gypsies and the settled communities. Neither the Human Rights or Race Relations Acts give gypsies the right to have sites which would contravene planning control, however if the proposal complies with planning policy a Local Planning Authority can not refuse the application on the basis of the applicants gypsy status.

Planning obligation / considerations

49. The applicant has not sought temporary permission as such this change of use is to be considered as a permanent application for use of the site by a gypsy family. The needs for, and use of, local facilities by the family living on site will be the same as that generated by those living in a dwellinghouse, as such the LPA should secure financial contributions towards local infrastructure in accordance with Circular 05/05, saved policies 101.T, 147.OS and 191.IN of the Local Plan and guidance contained within the Planning Obligations SPD.

50. The LPA have a Community Investment Programme (C.I.P) which identifies local projects that can be secured through planning obligations. In this instance are to be secured to facilitate the delivery of community infrastructure, sustainable transport and public open space initiatives within the local area that directly relate to the needs of the families who will occupy this site.

Other material considerations

51. The LPA are not proposing a personal permission to the applicant and his family. Through securing an unrestricted permission the site contributes to meet a local need for the provision of permanent gypsy pitches, which could not be delivered if the scheme were to be subject to a personal permission. The circumstances of the applicant, that of providing accommodation for his family so they can live as a family unit, are not so unusual to justify a personal permission. It is essential however that the site is limited to those persons defined as gypsies.

52. It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and / or legislative background.

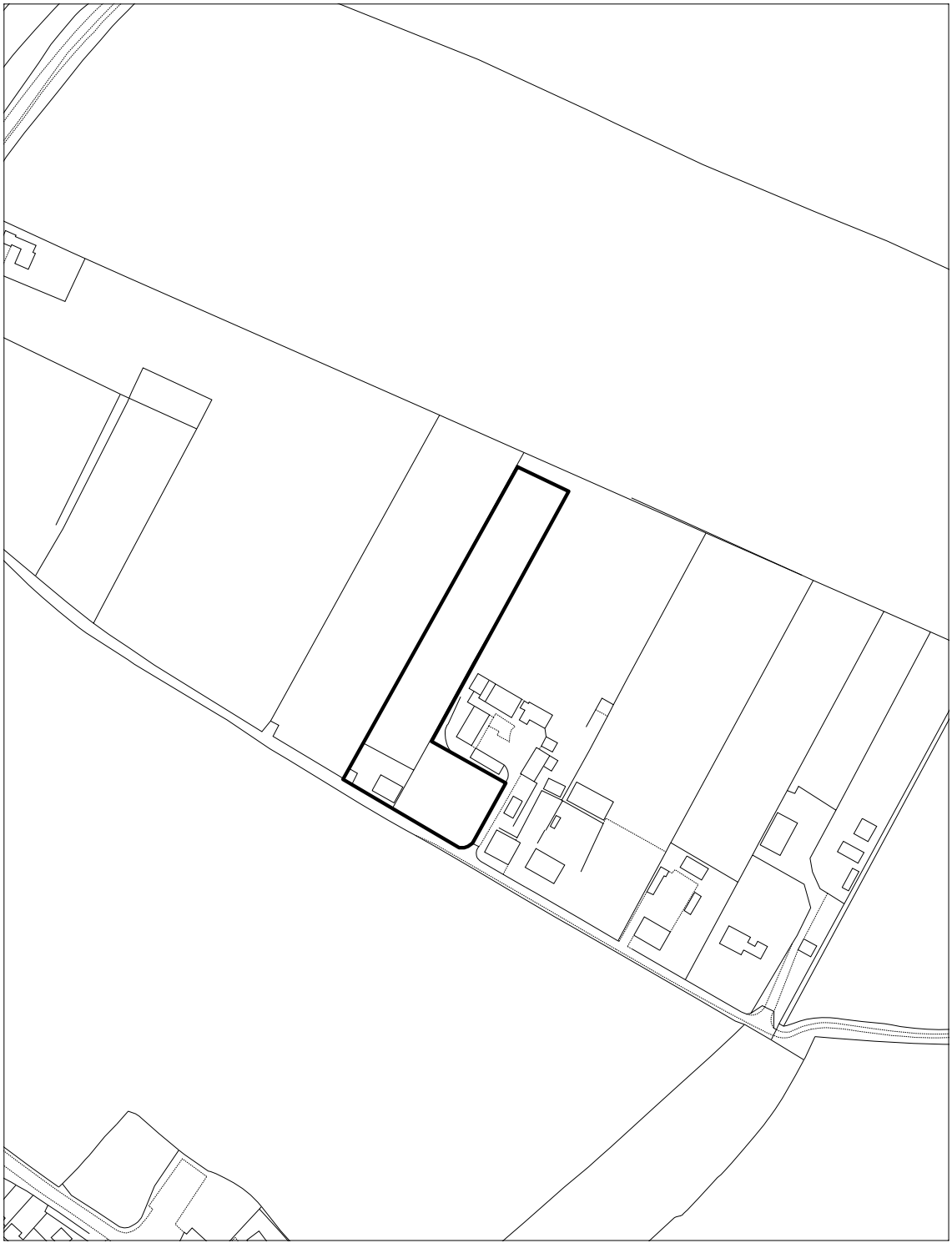
Conclusion

53. For the reasons given above the application is recommended for approval subject to conditions and to the applicant securing contributions towards community infrastructure, off site public open space and sustainable transport measures in accordance with Circular 05/05, saved policies 101.T,

147.OS and 191.IN of the Local Plan and guidance contained within the Planning Obligations SPD.

54. Should these contributions not be secured within 3 months of the date of this permission, the application should be refused solely for the following reasons

55. “The proposal does not make contributions towards the provision of essential off-site open space works, community infrastructure or sustainable transport works, the need for which will increase as a direct result of the development proposed. The proposals are therefore contrary policies 101.T, 147.OS and 191.IN of Eastleigh Borough Local Plan Review 2001-2011, Supplementary Planning Guidance on Planning Obligations and the provisions of Government Circular 05/05 and PPG13: Transport”



EASTLEIGH BOROUGH COUNCIL

Development Control

Scale 1:2500

Map Ref SU4609NE

Date 24/01/2012

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