Eastleigh Borough Council

30 October 2017

Town and Country Planning Act 1990 (as amended)

Planning Inspectorate Reference No: APP/W1715/W/17/3181377

Local Planning Authority Reference No: F/17/80285

Appeal Site: Riverside Caravan Park, Satchel Lane, Hamble-Le-Rice, SO31 4HR

Name and Address of Appellant:
Mr Charles Birch
Birch's Group
Bluebell Woods
Ely Road
Landbeach
CB25 9NW

1.0 Particulars of the Appeal

1.1 This statement relates to planning application F/17/80285 which was received on 22 March 2017. The appellant was notified by the Council was deemed to be invalid and further information was sought as set out in the Council's letter dated 11 April 2017 (appendix 1).

1.2 The appellant's agent replied by email dated 12 April 2017 advising the current application proposed no changes to the use or physical details approved under previous permission (F/14/74903) or Certificate of Lawfulness (U/16/78020). Whilst a revised location plan was provided the remaining issues remained outstanding. Subsequent telephone conversations were held between the Council, the appellant and agent to explain why further information was required in May 2017. The information was not received; therefore the scheme was not validated nor was it determined.

1.3 The appeal has been submitted on grounds of non-determination.

2.0 Reason for Invalidation

2.1 On receipt of the application the proposal was described as ‘Change of use of land to residential caravan park’. The Council has an adopted Local Validation Checklist against which new applications are assessed and the current scheme was considered not to be in compliance with this (appendix 2).

2.2 The application contained a site location plan scale 1:1250, topographical survey with no scale and proposed site plan scale 1:500. The location plan illustrated 8no. caravans on the appeal site and the site plan was entitled “Extension to Riverside Park Home Site” included 6no. “proposed bases for park homes”. The supporting planning statement reference the approval of the Certificate of Lawfulness (U/16/78020) enabling all round use of the site for holiday purposes. The justification for the proposal was to allow for “second homes”, removing ambiguity (*although this is not expanded on in the submission*) and to provide an alternative form of housing in the absence of an up-to-date Development Plan and absence of a 5 year housing land supply.

2.3 The site history is somewhat complex as detailed below. In knowledge of a current enforcement case pertaining to changing of levels and loss of landscaping on an area of the caravan site to the east of the appeal site, the Council deemed it necessary to secure accurate topographical information (from which any level changes needed to facilitate the new units could be assessed) and landscape plans prior to validating the application. Furthermore, the location plan indicated a different number of pitches compared to the site plan, infringed copyright for it contained the Eastleigh Borough Council logo and the topographical survey submitted provided no details or measurements. A plan denoting boundary treatment was required to provide clarity on the extent of residential separation between the curtilage and the adopted highway, Satchell Lane, which immediately abuts the appeal site to the southwest.

2.4 The Council do concede that the site plan provided did include the parking arrangements for 6 no. mobile homes and therefore this should not have formed part of the reasons for making the scheme invalid.

2.5 In May 2017, a discussion was held with the appellant’s agent to clarify what information was required and why, after which the Council had anticipated a formal response; however, this was not forthcoming.

3.0 The Appeal Site and Surroundings.

3.1 The site is located within the Riverside Caravan Park which comprises mobile homes, touring caravans and camping opportunities. The caravan park has a site licence which permits the siting of 35 mobile homes. The access road from Satchell Lane leads to Riverside Caravan Park and also to Mercury Yacht Harbour.

3.2 The site is located in the countryside and at the time the application was submitted comprised of 8no. wooden chalets fronting a small tarmac spine road that leads to the wider caravan park. Each chalet had a decked frontage, a lawn to the front with a 1m strip of grasscrete (concrete) that runs parallel to the spine road. Within the site, the design is open plan and with limited boundary treatment; however the southwest (rear) boundary is defined by mature trees along Satchel Lane through which views of the site are achieved.

3.3 Since the submission of the application, the wooden chalets have been removed from site and new concrete bases constructed.

4.0 History

4.1 To provide context to the appeal site the Council has set out below the relevant history which relates to either the appeal site, the whole a caravan site (including the appeal site) and land immediately north of the appeal site which evidences material matters that are pertinent to this appeal.

4.2 WIR/7225 - Use of land for retention of caravan site, 65 caravans (40 Permanent and 25 holiday) office buildings, café, conveniences and sewage disposal plant (Red line includes appeal site but shows it without siting of any caravans etc. in other words empty). Temporary permission granted 2/3/60

4.3 WIR/8597 - Use of land as caravan site for a limited period expiring 1982 (Includes appeal site). Temporary permission granted 12/6/61 (makes no changes to caravan numbers approved in WIR/7225).

4.4 Z/16487/001/00 - Use of land as a caravan site (Includes appeal site but limits the use of land to tents, stationing of site wardens caravan or persons travelling with caravan where caravan is brought onto site for not more than 14 consecutive nights and weekend only from 1st Nov to 1st March) Permitted 7/6/82:

4.5 Z/16487/002/00 - Change of use from residential and holiday caravan site to residential caravan site only (Includes appeal site.) Refused 13/9/82 on grounds

of its countryside location and requirement for the retention of existing recreation facilities. Refers to the caravan site in three portions A, B and C, with (C) being for touring caravans on this, the appeal site. **Appeal T/APP/5230/A/83/2959/PH2** (appendix 3) was dismissed on 16/8/83 with the inspector concluding there no material evidence to demonstrate a need or demand for permanent residential caravan park but there was an important need for the recreational function (holiday and touring caravans) to be provided and preserved.

4.6 Z/16487/005/00 - Use of land for siting of mobile holiday homes with associated landscaping and parking. (Refers to land north of the application site but is relevant to the proposal the subject of this appeal). Permit 14/11/89 subject to a condition restricting no caravans on the site at any time between 1st November and 1st March. At the subsequent appeal against this decision (determined 11 Oct 1990 – appendix 4) submitted against this condition, the inspector noted that whilst this condition was unreasonable did note that the permanent residential use of the mobile homes would conflict with countryside policies in the local plan. The inspector considered the **condition to restrict the homes to holiday use was justified** and allowed the appeal but varied condition 3 of the consent to: ***The mobile homes shall not be occupied other than as holiday accommodation***.

4.7 Z/16487/011/00 - Relief of condition 5 of planning permission 16487/1 to allow caravans to be used as holiday accommodation. Condition 5 required caravans not to be occupied between November to March except at weekends. (land referred to in this application includes application site currently under consideration) Permitted 30/9/97 subject to conditions restricting use to holiday caravans/mobile homes and not as permanent residential accommodation.

4.8 Z/16487/013/00 - Relief of condition 1 of planning permission 16487/11 to allow use of one static caravan as permanent wardens unit. Permitted 15/12/2000 subject to conditions which require remainder of caravans to be used for holiday accommodation only. Whilst outside of the appeal site, it reinforces permission to use caravans all year round but as holiday accommodation only.

4.9 F/13/73579 – Alterations and extension of existing access road and formation of new parking spaces. The proposal encompasses the larger part of the caravan site to the east of the appeal site, as well as the access road to this appeal site and the mobile homes within it. The application was permitted 06 March 2014

4.10 F/14/74903 - Alterations and improvements to access road and formation of new parking spaces (Phase 2 - Plots 1A - 1F). This scheme includes the first length of the improved access road approved under F/13/73579 as well as parking for the mobile homes located on phase 2. This was approved 1 July 2015 with a condition clarifying that the approval solely relates to the access road

and parking and does not planning permission for the holiday chalets indicated on the plans.

4.11 U/16/78020 - Certificate of lawful development for an existing use: **Use of land for the stationing of mobile homes all year round for the holiday use only** was allowed on 28 October 2016. The Council determined this based on evidence received from Members of EBC and the Parish Council, as well as members of the public, the Council's internal records and a site visit. (Appendix 5)

5.0 Relevant Planning Policies

5.1 Saved policies from adopted Eastleigh Borough Local Plan (2001 – 2011) (appendix 6)

- 1.CO is a criteria based policy that seeks to protect development outside of the urban edge unless, amongst other crierion, its necessary for agriculture / horticulture and a countryside location is required; or an outdoor recreational use and does not require hardstanding or structure that would harm the character of the area.

- 14.CO recognises the contribution of existing mobile home seeks to affordable housing. Whilst not supporting new mobile home parks the policy seeks to safeguard the stock of lower cost housing in the Borough, to maintain the availability of alternative forms of housing and to prevent visually intrusive housing development on isolated sites in the countryside, planning permission will not be granted for the replacement of mobile home parks in the countryside by permanent housing.

- 59.BE is a general development policy requiring to be appropriate in design, scale, siting and appearance, to protect the character of the locality and the amenity of residents.

- 159.TA supports appropriate sustainable tourism proposals including (iii) an improved range of quality inspected and registered accommodation.

- 160.TA proposals to expand or develop tourism or leisure facilities in the countryside are supported in they comply with countryside policy 1.CO, avoid visually intrusive car parking areas or buildings, accessible and well served by non-car modes of transport, and secure appropriate planting schemes.

5.2 The policies within the Submitted Eastleigh Borough Local Plan (2011-2029) can be afforded very little weight as, although the Submission Local Plan has not been formally withdrawn, the Council has confirmed that it has decided to prepare a new local plan which will cover the period up to 2036. With regard to this appeal, the new policies essentially echo those of the current plan and are not considered to affect the recommendation put forward. Submitted policy S9 seeks to restrict development in the countryside (reflecting the requirements of 1.CO). DM1 is a general development policy (reflecting 59.BE), DM26 states within the countryside new dwellings and replacement of mobile homes with dwellings is not supported (expands on 1.CO). DM31 seeks to prevent the loss of existing recreational facilities (reflects the requirements of 159.TA and 160.TA)

5.3 The Council are in advanced stages of preparing an emerging Local Plan (2016 – 2036) that identifies the need for development and infrastructure; appropriate development sites (including housing); areas of environmental protection; and policies to guide individual developments. The Local Plan will be the statutory document against which individual planning applications at Eastleigh Borough Council determined. Subject to ongoing monitoring of the programme to ensure that the appropriate evidence and engagement is completed prior to the Council making a formal decision on the 'proposed submission' Local Plan, the Council expect formal consultation on the emerging plan to be February 2018, examination in public June - November 2018 and adoption in early 2019.

6.0 Statement of Case

6.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that "...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." This application must, therefore, be assessed against the policies contained within the development plan.

6.2 The starting point for considering and determining planning applications is the development plan, which comprises of the Saved Policies of the Eastleigh Borough Local Plan Review (2001-2011).

6.3 This is an unusual appeal in that it is for a proposal that was not validated and therefore not formally determined by the Council. Furthermore, as a non-validated planning application a full suite of consultee responses, including third party representation, has not been secured within the timescale for the submission of the Council's statement of case.

6.4 In forming an opinion on the proposal the Council has had regard to the comments of consultees expressed on the proposals for the alterations and extensions of the access road and provision of parking spaces (F/13/73579 and F/14/74903).

6.5 Whilst not forming part of the considerations at that time, both the Borough's ecologist and highway officer referenced the change in mobile homes from 8no to 6no. and their potential for residential use. The Borough's ecologist raised no objection to this; however the Borough's highway officer required two parking spaces per mobile home to be provided along with 4no. visitor parking spaces to comply with adopted residential parking standards. This has been indicated on the submitted "Site Plan as Proposed Revision B" and therefore no objection is raised on car parking grounds to the scheme that is at appeal.

Principle of change of use to permanent residential caravan park

6.6 The adopted Local Plan does not contain a specific policy for proposals for the siting of new mobile homes, residential caravans or residential caravan parks. It is therefore appropriate and reasonable to apply the same policies and criteria as for permanent housing within the countryside.

6.7 The appeal site lies outside of the urban edge and within an area designated as countryside. As such, Saved Policy 1.CO of the adopted Local Plan (2001-2011) is of relevance. This policy contains a presumption against new development within the countryside that does not comprise an appropriate extension to an existing building or use, unless it is for specified agricultural, recreational or public utility purposes. The objective of this policy is to not only protect the countryside for its own sake but also to prevent the visual and physical sprawl of towns and villages, whilst at the same time supporting the provision of development that is genuinely appropriate for such a location. This policy is consistent with the provisions of the NPPF, in particular Paragraph 17. The provision of mobile homes/chalets can contribute to the wider recreational uses of the site as holiday units,; however, the permanent residential use of these caravans as either affordable/alternative housing or "second homes" as suggested by the appellant would not be in accordance with the provisions of 1.CO.

6.8 The National Planning Policy Framework (NPPF) is a significant material consideration in the decision making process. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development (Para. 6). Sustainable development is defined as containing three dimensions: economic, social and environmental (Para. 7) which should not be taken in isolation, because they are mutually dependent (Para. 8). Paragraph 14 sets out a presumption in favour of sustainable development, with Paragraph 197

requiring that in assessing and determining development proposals, local planning authorities should apply this presumption. In doing so, due weight should be given to relevant policies in existing local plans according to their degree of consistency with the NPPF (Para. 215). For decision taking, the aforementioned presumption in favour of sustainable development, as set out in paragraph 14, means:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- Specific policies in this Framework indicate development should be restricted.

6.9 Paragraph 47 of the NPPF requires local planning authorities to identify a five year supply of deliverable housing sites, whilst paragraph 49 states that “housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

6.10 The Council’s latest published 5-year housing supply position statement (September 2017) sets out a supply of 5.26 years (appendix 7). This supply has been considered in a recent planning appeal pertaining to a major residential development 1 km north of the appeal site on a countryside site at Land South of Mallards Road, Bursledon (APP/W1715/W/16/3156702). The Planning Inspector, in reaching his conclusion, was satisfied that the Council was able to demonstrate the required five-year supply of deliverable housing sites.

6.11 The adopted Local Plan (2001 – 2011) does not contain a rural exception policy and as such there is no local policy support to support more affordable residential units outside of the defined urban edge.

6.12 Mobile home parks in the countryside can make an important contribution to the dwelling stock of Eastleigh, enabling people to have a home who either cannot afford to buy or rent a permanent dwelling or who do not wish to live in a permanent dwelling (para 1.10 Local Plan 2001 – 2011). However, the Council can demonstrate a required five-year supply of deliverable housing sites and is well advanced in preparing an emerging local plan (2011 – 2036). There is no requirement to engage paragraph 14 of the NPPF on the basis of the Local Plan being out of date or contrary to paragraph 47.

6.13 Policies 159.TA and 160.TA support sustainable tourism facilities and the proposals to expand or develop tourism or leisure facilities in the countryside are supported in they comply with countryside policy 1.CO. The history of the appeal site is far from clear with permission granted for the appeal site to be used for tents, warden's caravan and touring caravans but at some time circa 2000, wooden chalets being provided on site. The Certificate of Lawfulness issued in October 2016 regularised this and the use of this area has remained for recreational and leisure purposes i.e. a holiday use.

6.14 Tourism and recreational uses contribute to the economy and diversity of the Borough, especially on the Hamble peninsular where such uses compliment the thriving marina industry. The loss of this part of the site for visitors and tourists would cause detriment to the tourist accommodation base within this area which is in direct conflict with saved policies 159.TA and 160.TA.

6.15 Furthermore, no evidence has been provided to demonstrate there is no longer need for this form of tourist accommodation on this site or within the locality that would outweigh the aforementioned tourism and countryside policies.

Impact on the character and appearance of the locality.

6.16 The appellant states the mobile homes fall within the definition of a caravan and satisfy 3 separate tests as detailed in section 29 of the Section 29 (1) of the Caravan Sites and Control of Development Act 1960, as modified by Section 13 (1) of the Caravan Sites Act 1968 and further amended From 1 October 2006 in England The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006. Subject to the replacement 6no. mobile homes / chalets abiding by these tests, the Council would not challenge the legalities of these caravans. Therefore, as a physical form, the appearance of the actual "caravan/chalet" would not be different whether in permanent residential use or used as a holiday let.

6.17 However, the residential use of the chalet and its immediate environ would be materially different from that experienced as a holiday let. It is to be expected that the residential use of the units could result them in them being permanently occupied for 12 months of the year, whereas their use as holiday lets, which are less likely to be occupied during winter months. This would increase activity on the site, which is not only visible from the public highway but would also result in an increase in traffic movements due to increased usage of the site. Furthermore, the lack of a safe and lit footpath along Satchell Lane or public transport provision would encourage people to use their cars even if only going to Hamble-le-Rice village itself.

6.18 The occupation of the chalets are not proposed to be restricted to retired residents or those over a certain age who may not need to commute to work or distances for leisure activities. As a more affordable form of residential unit, the chalets would be attractive to single people or first time buyers who find more traditional housing unaffordable. Such owners are likely to be more active and be more reliant on their car on a more regular basis.

6.19 As a residential unit it is anticipated there would be greater pressure for private curtilages to be created, boundary fences to be erected and external areas used for storage and domestic paraphernalia that would not be necessary or associated with a holiday use of the chalets. The site is visible from the public highway especially during winter months and would have an appearance more akin to a small group of dwellings in the countryside rather than (pre-removal of the wooden chalets) as a holiday park. This visual impact is apparent from the access road leading to the Mercury Yacht Harbour and the approach to the remainder of the caravan park.

6.20 The intensification of activities on site and the inevitable increase in movements especially in winter months would alter the character and appearance of the appeal site to detriment of its rural setting and in be contrary to saved policy 59.BE of the Local Plan (2001 – 2011).

Draft reason for refusal

6.21 The application was not validated and the Council has not made a formal decision at the time the appeal was submitted, as such reasons for refusal are referred to as draft. Since the appeal was lodged, the Council has reviewed the proposal, and consider it against the adopted Local Plan and national guidance. The Council finds the scheme to be contrary to the Development Plan for the following draft reasons;

1.1. The proposal would result in the use of the chalets for an unrestricted residential use outside of the urban edge for which there is no overriding social, economic or environmental need, as such is therefore contrary to Saved Policies 1.CO of the Eastleigh Borough Local Plan Review (2001-2011), and the provisions of the National Planning Policy Framework.

1.2. The proposals result in an inappropriate and unjustified use with associated activities, including increased traffic movements and provision of domestic paraphernalia which would have an unacceptably urbanising and visually intrusive impact upon the designated countryside, to the detriment of the character, visual amenity, and the quality of the landscape of the locality. The application is therefore contrary to Saved Policies 1.CO and 59.BE of the

Eastleigh Borough Local Plan Review (2001-2011), and the provisions of the National Planning Policy Framework.

1.3. The proposal would result in the loss of a caravan site used for holiday lets to the detriment of recreational use of the site and tourism within the Hamble peninsular. The application is therefore contrary to Saved policies 159.TA and 60.TA of the Eastleigh Borough Local Plan Review 2001-2011.

1.4. The site is considered to be in an unsustainable and poorly accessible location such that the development would not be adequately served by sustainable modes of travel including public transport, cycling and walking. The application is therefore contrary to the requirements of Saved Policy 100.T of the Eastleigh Borough Local Plan Review 2001-2011 and Paragraphs 17 and 35 of the National Planning Policy Framework.

The appellant's grounds for appeal

7.0 The appellant has not explicitly stated the grounds of appeal. However, the appellant has provided reasoning for submitting the application which form the basis of the appeal.

7.1 The potential to provide permanent homes – The Council has established that the latest published 5-year housing supply position statement (September 2017) sets out a supply of 5.26 years. There is no requirement to seek to deliver additional forms or tenure of residential units outside of the urban edge to meet the requirements of the NPPF. Whilst abutting the urban edge the site is not considered sustainable due to the limited opportunities to access the site by means other than private car.

7.2 Meet the requirements of the purchases who wish for secondary homes that do not comply with "holiday uses" – Neither national or local planning policy requires provision to made for secondary homes, either within or outside of the urban edge,

7.3 Removing ambiguity of the Certificate of Lawfulness – the Certificate was approved on 28 October 2016 for use of the appeal site for stationing of mobile homes all year round. Planning application Z/16487/001 permitted the use of the site for tents, warden's caravan and touring caravans but at some time circa 2000, wooden chalets were provided on site. The Certificate of Lawfulness issued in October 2016 regularised this and the use of this area has remained for recreational and leisure purposes i.e holiday use. The Council do not believe this wording to be ambiguous and an appeal has not been submitted to challenge the wording used within the Certificate.

7.4 The position on housing need generally in the district – as referenced the Council has established a 5 year housing land supply and will be under taking public consultation on the emerging local plan (2011 2036) in the New Year. The emerging local plan has been draft after a thorough assessment of housing needs within the Borough.

Conclusion.

9.0 The Local Planning Authority has considered the proposed change of use of land for residential caravan park and for the reasons set out above find the proposal contrary to the saved policies of the Development Plan.

9.1 The Inspector is respectfully asked to uphold the draft reason for refusal.

9.2 If the inspector is minded to approve the scheme, on a without prejudice basis, the Local Planning Authority has set out conditions that they would wish to see attached to any permission (appendix 8)

Appendices

1.0 Council letter dated 11 April 2017 informing the scheme is invalid

2.0 Local Validation Check List

3.0 Appeal decision - T/APP/5230/A/83/2959/PH2 (planning application Z/16487/002/00)

4.0 Appeal decision –reference illegible (planning application Z/16487/005)

5.0 U/16/78020 - Certificate of lawful development for an existing use: Use of land for the stationing of mobile homes all year round for the holiday use

6.0 Saved policies Eastleigh Borough Local Plan (2001 – 2011) and policies with submitted Eastleigh Borough Local Plan (2001 – 2029)

7.0 Eastleigh Borough Council Five Year Housing Land Supply Position Statement (September 2017) – pages 1 to 4 only (appendices excluded)

8.0 Recommended conditions