

**REPORT TO THE DEVELOPMENT CONTROL  
COMMITTEE**

Report No.

<b>Date of Meeting</b>	<b>26<sup>th</sup> November 2008</b>
<b>Application Number</b>	<b>08/02352/S73A</b>
<b>Site Address</b>	<b>Purdys Farm, Wood Lane, Braydon, Wiltshire SN5 0AH</b>
<b>Proposal</b>	<b>Change of Use of Land to Form a Two-Pitch Gypsy Caravan Site with Ancillary Hardstanding and Settlement Tank</b>
<b>Applicant</b>	<b>Mr and Mrs Lee and Mr and Mrs Bruce</b>
<b>Town/Parish Council</b>	<b>Purton/Lydiard Millicent</b>
<b>Grid Ref</b>	<b>404258 186285</b>
<b>Type of application</b>	<b>Section 73A</b>

**Reason for the application being considered by Committee**

This application has been submitted to the Committee for decision under the scheme of delegation in force after the 8<sup>th</sup> April 2002 because 5 letters of objection have been received

**Summary of Report**

This is a partially retrospective application for the use of the site to station two static caravans and two tourers to accommodate two gypsy families and to continue the use of stabling of horses.

The key issues to be considered are:

- Implications on DC Core Policy C3 and Gypsy Sites Policy H9
- Policy DP15 of the Wiltshire and Swindon Structure Plan 2016
- Central Government advice as contained in Circular 01/06
- Location, scale and impact of the development
- Highway safety
- The implications of Wiltshire and Swindon Gypsy and Traveller Accommodation Needs Survey and the Draft Regional Spatial Strategy
- Assess the merits of the development against the human rights of the individuals on the site

**Officer Recommendation**

Planning Permission be GRANTED subject to the conditions

<b>Contact Officer</b>	Alison Grogan	01249 706671	agrogan@northwilts.gov.uk
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## Proposal and Site Description

The site is located in the countryside along Wood Lane (C127) between Brinkworth and Braydon. There is a high hedge along the northern boundary of the site with the road, a close board fence along the eastern boundary and a post and rail fence along the boundary with the field/paddock to the south.

The site has been partially hardsurfaced and there is an existing stable block and a hay barn on the site. There is a field/paddock to the rear of the site and beyond that a wooded area known as Webb's Wood.

Planning History		
Application number	Proposal	Decision
00/01700/FUL	Hay Store	Permission
02/00328/FUL	Construction of Lake for Fish Farm and Stationing of Mobile Home	Withdrawn

## Consultations

**Purton Parish Council** – Comments are awaited.

**Lydiard Millicent Parish Council** - The Parish Council has reviewed the subject application and unanimously objects most strenuously to this flouting of Planning Regulations in an area of open countryside. The parish already hosts an Authorised Site with a capacity of 11 caravans at Four Oaks, which the applicants have been using for the last 3 winters; this implies that they are not without local site facilities.

The Parish Council considers that the presence of an existing, relatively large, site for Gypsies discharges any perceived requirement to permit additional facilities in the parish for Gypsies. Moreover, there is anecdotal evidence of Gypsies seeking to purchase more land in the parish and neighbouring parish of Lydiard Tregoz; the Council is therefore concerned that anything other than a prompt, firm refusal of this application by NWDC could lead to more illegal developments in our area.

**Wiltshire County Council Highways** – No highway objection subject to conditions.

**The Environment Agency** has no objections.

**Romani Gypsy Advisory Group (South West Region)** – Commented that they are aware of this family group who have been for the past few years wintering on a site within the District as well as travelling on and off to the area during the summer months. Confirm the gypsy status of the group.

## Representations

14 letters of objection from separate households have been received.

Summary of key points raised:

- Blatant disregard for the law, yet another example of illegal development of a green field site;
- Totally out of character with the surrounding area, more akin to an industrial estate than a rural woodland setting;
- Devaluation of properties in the vicinity;
- Already existing gypsy sites in the area both legal and illegal, suggest we do not need more;
- Previous applications to build have been turned down as the site is in the rural buffer zone;
- Could develop into a large site, what guarantee is there that the remainder of the land will not be sold to other gypsy families in due course;
- Work has already started and there is a temporary stop notice on the site;
- Only made aware of the application by neighbours as the notices have been taken down;

- Close to a dangerous bend, often an issue with parking on this corner blocking visibility, lane already a congested thoroughfare;
- No reason or benefit to the local area;
- Impact on local wildlife;
- Understood that gypsy site locations were down to the Council not private individuals;
- Site is not close to bus routes or schools to support two gypsy families
- No mains drainage.

## **Planning Considerations**

The application must be determined in accordance with the policies of the Development Plan unless material considerations indicate otherwise. These material considerations include Government advice, the particular circumstances of the site, the personal circumstances of the applicants, previous decisions for similar proposals in the District, previous applications on the site and the provisions of the Human Rights Act and Race Relations Act.

### Structure Plan and Local Plan Policies

The following policies are of particular relevance to this proposal:

Wiltshire and Swindon Structure Plan 2016

Policy DP15 states:

Special consideration should be given to bona fide proposals to provide caravan sites for gypsies. Such proposals should not be considered against other policies for towns and villages, due to their particular requirements. Suitable sites may be found both within and outside settlements. They will need to have a minimum impact on adjoining land uses and the natural and built environment, be well located to meet the needs of occupants and permitted business activities and provide acceptable access and services.

North Wiltshire Local Plan 2011

Policy C3 as follows:

New development will be permitted subject to the following criteria:

- i) Respect for the local character and distinctiveness of the area with regard to the design, size, scale, density, massing, materials, siting and layout of the proposal;
- ii) Respect for the quality of the natural and built environment, including the historic environment, archaeology and ecology of the locality and where necessary include measures for the preservation or enhancement of such features;
- iii) Avoid creating developments with unacceptable low levels of privacy and amenities and avoid the unacceptable loss of privacy and amenities to adjacent dwellings or other uses to the detriment of existing occupiers development;
- iv) Ensure access into and within the development is safe, minimises the risk from crime, and is convenient and attractive to pedestrians, cyclists, and people with disabilities;
- v) Incorporate energy conservation features and design principles to promote the use of renewable energy sources and prioritise the use of local, natural and recycled materials, provide satisfactory arrangements for efficient water supply, use and disposal and proposals for the storage, collection and recycling of refuse;
- vi) Promote sustainable patterns of development that will reduce the overall need to travel and support increased use of public transport, cycling and walking;
- vii) Have a satisfactory means of access, turning, car parking and secure cycle storage and not result in a detrimental impact upon highway or pedestrian safety;
- viii) Avoid overloading of existing or proposed services and facilities, the local road network or other infrastructure;
- ix) Avoid locations that would generate, or be subject to, a detrimental effect upon public health

or pollution to the environment by the emission or production of excessive noise, light intrusion, smoke, fumes, effluent, vibration, waste or litter.

Policy H9 states:

Proposals for the use of land for the stationing of residential caravans occupied by gypsies will be permitted provided that:

- i) It has reasonable access to local community facilities and services; and
- ii) It would not unreasonably prejudice the amenities of neighbouring residential occupiers and land.

Also relevant is The Report of the Panel Inspector into the Draft Regional Spatial Strategy which requires the provision of 48 gypsy pitches in North Wiltshire.

### Government Guidance

The latest Government advice is in Circular 01/06 which has been issued following general consensus that previous advice did not adequately address current issues.

The main advice of the Circular is to:

Create and support sustainable, respectful and inclusive communities where gypsies and travellers have fair access to suitable accommodation, education, health and welfare provision.

To increase significantly the number of gypsy and traveller sites in appropriate locations with planning permission to address under-provision over the next 3 – 5 years.

To identify and make provision for the resultant land and accommodation requirements.

To help avoid gypsies and travellers becoming homeless through eviction from unauthorised sites, without an alternative to move to.

The Circular recognises that the whole process must begin and be guided by the Local Authority assessing gypsy and traveller accommodation needs, which will then be used to identify and allocate suitable sites, where necessary. Where there is unmet need but no available alternative gypsy and traveller site provision, but there is a reasonable expectation that new sites are likely to become available at the end of that period which will meet the need, the Circular states that Local Planning Authorities should give consideration to granting temporary permission.

Whilst the siting of gypsy sites in rural setting is acceptable in principle, the Circular still recognises that other considerations such as, the scale of the facility, impact on the settled community and local infrastructure and issues of sustainability are important.

### Gypsy and Traveller Accommodation Needs Assessment

Under the Housing Act, the Authority now has a duty to assess the accommodation needs of gypsies. The production of a gypsy and traveller accommodation needs survey (GTANA) will in the future determine the strategy of the District Council in assessing whether there are sufficient gypsy sites in the District and where there is an identified shortfall, to identify and allocate new sites.

The Wiltshire and Swindon (GTANA) study was commissioned jointly by Swindon Borough Council and the five Wiltshire Local Authorities (including the County Council) in November 2005 and was undertaken by independent consultants. The final report was issued in early 2008.

The study (GTANA) reports that there is a need for further gypsy and traveller pitch provision in the Wiltshire and Swindon sub region. In relation to North Wiltshire, this need equates to 24 residential (including Minety) and 12 transit pitches in this District. The outcome of the study is part of the evidence base for any future Wiltshire Core Strategy. It has also been used by the South West

Regional Planning Body, who have undertaken a review of the additional pitch requirements for gypsies and travellers in the South West, to set the figures for pitch provision in the Regional Spatial Strategy, which will be binding on this Authority. The Inspectors report into the Draft Regional Spatial Study has identified a need for 48 pitches. This Council's Executive has resolved to challenge this assessment.

Having established a need, the next stage of the process is to identify and allocate sites, which can be occupied by gypsies and travellers. Following a study by consultants the council identified six possible sites on public land. It has now been resolved that none of these should be pursued and a further analysis of sites is being undertaken on the basis of site search criteria.

### Gypsy Status

The Romani Gypsy Liaison Officer has confirmed the gypsy status of the two families and has also stated that due to the time spent travelling and residing in the area they are part of the Wiltshire Romani gypsy community.

### Sustainability

Circular 01/06 makes it clear that sustainability is a large consideration with respect to the development of gypsy caravan sites. Paragraphs 64 to 66 establish that the sustainability considerations for gypsy sites are substantially different from other developments and that consideration should be given to factors such as access to health, education and shops and peaceful co-existence with the local community.

The village of Purton and the town of Wootton Bassett are approximately 3 - 4 miles away, both offer a wide range of facilities including shops, healthcare facilities, schools, pubs and food outlets. Additionally, Brinkworth which is slightly nearer has some facilities albeit on a smaller scale. It is acknowledged that the majority of the journeys to and from the site would be reliant on the use of a private motor vehicle as the nearest bus stop is on the B4042 at Callow Hill approximately 1.9 km away. However, Circular 01/06 states that issues of sustainability should not only be considered in terms of transport mode and distances from services. In recent appeals at Chelworth Lodge and Minety for gypsy sites, both Inspectors considered the benefits in terms of sustainability from having a settled base, which would enable regular access to schools and medical care.

The limited access to public transport and lack of footways and lighting around the site will mean there is greater reliance on the private motor car, however, as stated above when considered against the broader criteria in Circular 01/06 it is considered that the harm would be outweighed by the other identified sustainability benefits outlined in the Circular.

### Highway Safety

The access appears to have good visibility and the Highways Authority have raised no objection subject to conditions.

### The Character and Appearance of the Area

The site is in a rural location and Circular 01/2006 states, at paragraph 54, that sites in rural settings, where not subject to special planning constraints, are acceptable in principle. This is reiterated in Policy H9 of the North Wiltshire Local Plan 2011 and acknowledged in Policy DP15 of the Wiltshire and Swindon Structure Plan 2016.

The site is well screened from the road by the existing trees and hedge along the boundary to the north. The site plan shows that planting is proposed along the other boundaries of the site and this can be controlled by condition if planning permission were to be granted. It is considered that given the small scale of the development the proposal would not be particularly intrusive in the countryside and additional planting would further mitigate against any impact.

There is an existing stable block and a hay barn on the site, which are used by the applicants for their

horses. The paddock/field to the rear of the site is also under the control of the applicants and it is used for grazing the horses.

Concerns have been raised by objectors regarding the impact on wildlife in the area and the District Ecologist was contacted to ascertain whether an Ecology Survey was required. The District Ecologist verbally stated that whilst there were records of brown harestreaks and a badger set in the area, the set was far enough away and the proposal will not have an impact, therefore, no survey would be required.

### Residential Amenity

The nearest residential properties to the site are Pear Tree Cottage to the South-West of the site and a pair of semi-detached properties, 1 and 2 Wood Lane to the East. Whilst there are hedges and fences screening the site, it is acknowledged that the development will be partially visible from these neighbouring properties. However, given the distance and screening it is considered that there are no overlooking issues and the development will not unreasonably prejudice the amenities of the adjoining neighbours.

Given the small scale of the proposal, the use of the site will not have an unacceptable impact on the amenity of neighbouring properties in terms of noise and disturbance. It is noted that concerns have been raised by objectors that the site may grow to a much larger site, however, each application must be dealt with on its individual merits and this application is for two gypsy families.

### Personal Circumstances

It is stated in the supporting information submitted with the application that both families have young children, which will soon be entering education, and therefore a more stable and settled existence is required. The oldest child has already started at a school in Wootton Bassett, which it is stated, already accommodates other gypsy children, making it more comfortable and enabling the school to provide for the particular needs.

It is appreciated that the families will need to have access to the necessary healthcare facilities, but no specific needs in this respect have been put forward.

Whilst the particular needs of the families have been taken into account, these are not considered to be so exceptional as to create an overriding need for location at this particular site which would outweigh other considerations.

### Human Rights

In determining this application the Committee is required to have regard to the Human Rights Act 1998. This is particularly relevant as the Human Rights Act 1998 (Article 8) states that everyone has the right to respect for his private and family life, his home and his correspondence. It further goes on to say that there shall be no interference by a public authority with the exercise of this right, except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. Any interference in those rights by a public authority must be lawful and proportionate.

The Act further emphasises that the enjoyment of the rights and freedoms in the convention, shall be secured without discrimination (Article 14) and no person shall be denied the right to education. (Article 2). In this instance there are clearly children of school age who have a right to education and residents who need access to social/health care. These circumstances have to be considered together with the merits or dis-benefits of the development, taking into account the public interest in the proper application of planning policies.

### Race Relations

The policies of the Structure Plan and Local Plan recognise the special needs of gypsies as a distinct

racial group by allowing gypsy sites in locations unacceptable for other forms of development. This application has been considered under these policies and complies with the obligations under the Act.

## **Conclusion**

The applicants have gypsy status and a site in the open countryside could be acceptable under adopted policies. Given the small scale of the development, the site is not unacceptably harmful to the character and appearance of the area and nor would it have an overriding detrimental impact on the residential amenity of neighbouring residents. Whilst the occupiers of the site would be reliant on the private motor car, the development would provide a permanent base allowing access to education and medical care, as advised in Circular 01/06.

It is clear that there is an unmet need for gypsy site provision in the District and in such circumstances a temporary permission may be justified, however, as the proposal generally complies with policy and bearing in mind Inspectors comments on recent appeal decisions it is recommended that permanent planning permission be granted subject to conditions.

## **Recommendation and Proposed Conditions/Informatives**

Planning Permission be GRANTED subject to the following conditions:

1. The development hereby permitted shall be carried out strictly in accordance with the approved plans subject to such minor amendments to the development as may be approved in writing under this condition by the local planning authority.

Reason: To ensure that the development is implemented in accordance with this decision in the interests of public amenity, but also to allow for the approval of minor variations which do not materially affect the permission.

2. This permission does not authorise use of the land as a caravan site by any other persons other than Gypsies, as defined in Section 24(8) of the Caravan Site and Control of Development Act 1960 as amended (or any Act revoking or re-enacting that Act).

Reason: In order to define the permission and prevent unauthorised uses.

3. No more than four (4) caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than two (2) shall be a static caravan or mobile home and no more than two (2) shall be touring caravans, shall be stationed on the site at any time. The site being defined by the red line on the 1:1250 scale plan submitted with the application.

Reason: It is important for the local planning authority to retain control over the number of caravans on the site in order to safeguard interests of visual and residential amenity in accordance with policies C3 and H9 of the North Wiltshire Local Plan 2001 Wiltshire Local Plan 2011.

4. No More than two commercial vehicles shall be kept on the site for use by the occupiers of the caravans hereby permitted, and each shall not exceed 3.5 tonnes in weight.

Reason: In the interests of residential amenity, highway safety and the character of the countryside.

5. Except for the keeping of commercial vehicles as defined in condition 4, above, no commercial activity or use, including the storage of materials and waste, shall be carried out on the site.

Reason: In the interests of residential amenity, highway safety and the character of the countryside.

6. Notwithstanding the provisions of the town and Country Planning (General Permitted development order 1995 (as amended) (or any order revoking , re-enacting or modifying that Order), no gates, fences, walls or other means of enclosure shall be erected other than in accordance with condition 7

Reason: In the interests of the appearance and character of the rural area

7. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) and (iv) below:

- (i) Within 3 months of the date of this decision a scheme for:
  - The means of foul and surface water drainage of the site;
  - Proposed and existing external lighting on the boundary of and within the site;
  - The landscaping of the site, including details of species, plant sizes and proposed numbers and densities, together with seeded/turfed areas;
  - Details of any hard-surfaced area such as driveways, parking areas and footpaths;(hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
- (ii) Within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) If an appeal is made in pursuance of (i) above, the appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
- (iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Reason: In the interests of the visual amenity of the area and to ensure the creation of a pleasant environment for the development and to comply with Policy C3 of the North Wiltshire Local Plan.

8. At the same time as the site development scheme required by condition 7 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of five years of the proposed planting commencing at the completion of the final phase of implementation as required by that condition; the schedule to make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

Reason: In the interest of the amenity of the area.

9. Any entrance gates erected shall be hung to open away from the highway only and shall be set back a minimum distance of 4.5m from the carriageway edge.

Reason: In the interests of Highway safety.

10. The driveway between the edge of the carriageway and the gates shall be maintained in perpetuity as being properly consolidated and surfaced (not loose stone or gravel).

Reason: In the interests of highway safety.

Informative:

1. This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or



structures and may also lead to prosecution.

#### Plan References

Site Location Plan at 1:1250 scale and Block Plan at 1:500 received 13th October 2008

#### Reason for Decision

The development is considered to have limited impact on the amenity of the surrounding area and amenity of local residents or highway safety and therefore is considered to comply with Policies C3 and H9 of the North Wiltshire Local Plan 2011.

<b>Appendices:</b>	<b>NONE</b>
<b>Background Documents Used in the Preparation of this Report:</b>	<b>1.03 1.20 2.02 2.25 4.02 4.04 5.02 5.05</b>