

**REPORT TO THE NORTHERN AREA
PLANNING COMMITTEE**

Report No.

Date of Meeting	14th March 2012		
Application Number	11/03790FUL		
Site Address	Rose Field, Hullavington		
Proposal	Change of use to a caravan site for occupation by six Gypsy and Traveller Families with associated works		
Applicant	Mr Tomney		
Town/Parish Council	Hullavington/St Paul Without		
Electoral Division	ByBrook	Unitary Member	Jane Scott
Grid Ref	391039 182452		
Type of application	FULL		
Case Officer	Tracy Smith	01249 706642	tracy.smith@wiltshire.gov.uk

Reason for the application being considered by Committee

The Area Development Manager considers it appropriate, given the scale of the site, in light of other current Gypsy and Traveller applications in the north eastern part of the county, the implications for the growth proposed in the context of the emerging Core Strategy and site allocations DPD and consistent with other recent Gypsy and Traveller applications, for the decision to be made by the Committee.

1. Purpose of Report

To consider the above application and to recommend that temporary planning permission is GRANTED subject to conditions.

Hullavington Parish Council strongly request that planning permission is refused for reasons outlined below in this report.

Malmesbury and St Paul Without Parish Council comment that approval or otherwise of the scheme turns on the suitability of the revised ingress/access arrangements for the site. The Parish Council does not consider itself to be qualified to judge and leave the appropriateness of the new proposal to the experts.

8 letters of objection have been received.

2. Main Issues

The proposal needs to be assessed against Policies C3, NE15 and H9 of the North Wiltshire Local Plan 2011, Policy DP15 of the Wiltshire and Swindon Structure Plan 2016 and government guidance in Circular 01/2006 "Planning for Gypsy and Traveller Caravan Sites".

Core Policy 47 of Wiltshire Core Strategy Pre Submission Document (February 2012), the emerging Gypsy and Traveller DPD as well as the recently published Planning Policy Statement Planning for Traveller Sites (the public consultation on which ended in early August) are material considerations.

DCLG *Designing Gypsy and Traveller Sites – Good Practice Guide* (May 2008) should also be considered in assessing the suitability of this site for Gypsy and Traveller Accommodation.

The key issues in the determination of this application are:

- Status of the development plan and policies therein
- Need
- Prematurity
- Basic Utilities
- Impact of the character and appearance of the area
- Sustainability/highways
- Drainage/flooding
- Human Rights Act
- Material considerations

3. Site Description

The application site lies in the open countryside approx. 1.2 mile north east of Hullavington. The site is relatively well screened via existing vegetation however, views of the site are afforded from the main A429 to Malmesbury and on the road from which the site takes its access. The appeal site is not within any designated areas i.e. AONB, Green Belt or Conservation Area.

The site is accessed off a road known as the C1 which has a junction with the A429 to the north and C33 (which also links onto the A429).

4. Relevant Planning History		
Application Number	Proposal	Decision
09/01934/FUL	Gypsy site for Irish families comprising six mobile homes and six touring caravans (partially retrospective). A copy of the appeal decision is contained in Appendix I. The appeal was dismissed solely on highway safety grounds.	Refused and dismissed at Appeal
09/00681/FUL	Gypsy site for Irish families comprising six mobile homes and six touring caravans. Refused for the following reason: <i>“1. The C1n access road by reason of its restricted width, poor alignment and sub-standard junctions with the A429 and C1 is considered unsuitable to service as a means of access to the proposed development.</i>	Refused
05/0784/FUL	New dwelling. <i>“1. The proposal if approved would constitute isolated and sporadic development within the countryside which would be detrimental to the character of the area and the rural</i>	Refused

	<p><i>amenity of the locality thereby being contrary to policy RH11 of the adopted Local Plan 2001.</i></p> <p><i>2. The proposal located remote from services and being unlikely to be well served by public transport, is contrary to the key aims of Planning Policy Guidance Note 13 which seeks to reduce growth in the length and number of motorised journeys.</i></p> <p><i>3. The C1 access lane road by reason of its restricted width, poor alignment and sub-standard junction with the A429 and the C33 is considered unsuitable to serve as a means of access to the proposed development.”</i></p>	
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5. Proposal

Planning permission is sought for the change of use of land to a caravan site for occupation by six Gypsy and Traveller Families with associated works. The associated works in this instance comprise the provision of three day/utility rooms on the three plots (at this stage) along the southern part of the site, hardstanding, erection of fencing and the installation of a Klargestor Biodisc sewage treatment plant.

Works commenced on the site in 2009 in the form of hardstanding with fences and walls together with one utility block. Touring caravans are intermittently present on the site. To this extent the change of use and some of the works are retrospective.

Since the application was submitted there have been revisions to the proposed access arrangements, including an elevated grass verge following discussions with highways officers.

The proposal will provide a site for an extended family who travel as one to provide support for one another and comprise both elderly relatives and children

6. Consultations

Hullavington Parish Council –re-emphasises its concerns the same as with previous application and strongly request the planners to refuse the application and refute the suggestion that the road is the only cause for concern, for the following reasons:

- Development was previously refused for a single dwelling
- Sporadic and remote development, outside the red line, would create unwelcome precedent
- Area susceptible to flooding, with water pooling both on the road and within the site, with implications for contamination from septic tanks, despite what is stated on the revised application
- Dangerous access to C31
- No pavement to C31
- Electricity connections – noise and contamination objections if generator is used
- Contamination of land – Wiltshire Council has reported contamination of land – particularly asbestos

Senior Highways Engineer – *“It is generally assumed that the highway boundary extends to the centreline of the hedge and this is reflected in our highway records. At the site entrance I consider that the highway boundary is 2.4m from the edge of carriageway. The carriageway width is 4.3m. Any new gate will need to be set back behind the highway boundary. The existing brick pillars are located on the highway and would need to be removed.*

This means that a total distance of 6.6m will exist between the gates and the far side of the carriageway, easily sufficient space for a vehicle to make the undesired turn, even with the suggested mounding of the opposing verge. To prevent this, high kerbs (eg Marshalls Titan) will need to be installed along the exit line between the gate and the carriageway edge, together with suitable end treatments, and the verge built up behind the kerb. In my opinion this, together with the submitted mounding of the opposing verge, would be sufficient to prevent the right turn out of the site.

As a suitable solution is available a Grampian condition would be reasonable. I would suggest 2 months for submission of details and completion within 2 months of approval of those details. A legal agreement would not be required as we have a simple licensing arrangement for minor works of this nature. However any contractor would need to have the necessary roadworks certification together with adequate third party liability insurance and the license would not be issued without proof of these.”

Spatial Planning – detailed comments are on the file and website. Comments are incorporated within this report.

The conclusions state: In conclusion, permitting 6 pitches at Rose Field would be consistent with adopted policies in the North Wiltshire Local Plan and Wiltshire and Swindon Structure Plan. In relation to Circular 01/06 there are questions outstanding about the site in relation to safe pedestrian and vehicular access and the availability of GP or other health services. These same outstanding issues arise in relation to the emerging core strategy policy. **If safe pedestrian and vehicular access cannot be achieved the site would be contrary to national guidance and emerging core strategy policy and should be refused.** If safe and convenient pedestrian and vehicular access can be achieved occupants of the site do not have access to GP or other health services in Hullavington.

Circular 01/06 also brings in the question of the existing level of provision and need for sites in the area. In relation to the proposed changes to the South West Regional Spatial strategy need in the north Wiltshire area has been met for the period 2006 to 2011. In relation to the emerging policy in the Wiltshire Core Strategy there is an outstanding need for 9 pitches in the west HMA. This site could contribute to this outstanding need if it is in the right location. However, there remains uncertainty as to whether the right range of services and facilities are available to the occupants within an acceptable distance of the site. This will only become clear as the detailed methodology for the selection of sites is developed through the Gypsies and Travellers site allocations DPD. **If, therefore, issues in relation to safe pedestrian and vehicular access to the site can be resolved, it is recommended that a temporary permission for 3 years is granted. In this way the site could be assessed as part of the emerging development plan process.**

These comments have not considered the question of over development on the site in relation to DCLG *Designing Gypsy and Traveller Sites – Good Practice Guide* (May 2008)

It should be noted that these comments were made prior to the receipt of an appeal decision allowing 3 pitches (8 caravans) at Littleton, Semington (adjacent to the West Wiltshire Crematorium). An addendum to the comments was requested in light of the above appeal decision and this is also on the file and website and confirms that the recommendation is not altered. The Semington appeal and costs decisions are contained in Appendix II to this report.

Environmental Health Officer – no comments from a public health or health protection perspective. I note that the proposal needs to be connected to the water supply and that it proposes to use a septic tank. The use of a septic tank would be subject to the Environment Agency approval and I would raise no objections subject to their agreement. There is no record of contaminated land but as it has been raised by local residents, this matter should be conditioned.

Land Drainage Engineer – new surface water flood risk mapping confirms part of the site is susceptible to shallow flooding and relates to 1:30 year events and 1 in 200 year events both shallow and deep. Soakaways must be designed properly in accordance with DB 365 Soak Away Design and I would recommend that the caravans are elevated. The 1:200 year shows most of the area affected by shallow flooding to be located within the adjacent roads.

Wessex Water – Have confirmed that the site is in a non-sewered area and that a connection to the water mains is required. Discussions with Wessex Water have confirmed that the applicant is in discussions with regards a connection to the system some 1000 metres distance but no further discussions, actions have taken place to establish the costs of the connection and its viability.

Environment Agency – no objections.

7. Publicity

The application was advertised by site notice, press advert and neighbour consultation.

8 letters of objection have been received on the following grounds:

- Isolated development in the open countryside
- Flooding/drainage
- Highway safety and practicalities of access arrangements
- Area not scheduled for development
- Photographs of the site not how the site is now
- Application same as previous refusal
- Previous refusals shouldn't even be considered
- If approved it should be subject to a S106 agreement like all other developments
- Approval would set a precedent
- Contamination on the land
- Electricity connection or use of generators
- Function/features of day/utility rooms
- Inaccuracies in the design and access statement
- No indication of the number of people on the site
- Clarification of a mix of fencing on the site
- Provision for 24 cars on the site is excessive

8. Policy Context

Current Policy and Advice:

- PPS3 Housing June 2011
- Circular 01/06 Planning for Gypsy and Travellers
- Wiltshire and Swindon Structure Plan 2016 – saved Policy DP15
- North Wiltshire Local Plan 2011 – saved Policy H9

Emerging Policy – material considerations:

- PPS Planning For Traveller Sites Consultation Draft – Summer 2011
- National Planning Policy Framework Consultation Draft – Summer 2011

- Gypsy and Traveller Site Allocations DPD – Spring 2010 (A revised timetable for its production in the Wiltshire Local Development Scheme 2011-2014 approved by Cabinet on 15 November 2011. Anticipated adoption is now anticipated early 2014.)
- Wiltshire Core Strategy Pre-Submission Draft– Policy 47

9. Planning Considerations

Status of the Development Plan and relevant policies therein

In accordance with S38(6) of the Planning Act, applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan which covers the site comprises the “saved” Policies C3, NE15 and H9 of the North Wiltshire Local Plan 2011 and the “saved” Policy DP15 of the Wiltshire and Swindon Structure Plan 2016. There can be no denying that the application does not accord with these policies as this case has been presented as part of the previous appeal for this site.

Since the 2009 appeal for this site together with the more recent applications permitted at Calcutt Park and Purdy’s Farm (November 2011), the Wiltshire Core Strategy has advanced with a Pre-Submission Draft currently the subject of public consultation which ends 2 April 2011. In terms of evidence base for ascertaining housing and pitch numbers, this is considered to be the most up to date evidence with Topic Paper 16 providing further background in respect of the evidence base and justification for the pitch numbers.

As the Core Strategy is in the form it will be when submitted to the Secretary of State and has been the subject of considerable consultation already, it is considered that considerable weight should be attached to it not only as an evidence base but in policy terms given it reflect the direction of travel of current Government thinking which include the presumption in favour of sustainable development, plan-led development and the calculation of locally derived housing and pitch numbers. The weight to be attached to the Core Strategy is being advanced for major housing proposals the subject of appeals in the north of Wiltshire at this time. A consistent approach should be applied to Gypsy and Traveller pitches also.

Core Policy 47 “Meeting the needs of Gypsies and Travellers” identifies pitch provision across the Housing Market Areas for the period 2011-2021 (in phases i.e. 2011-2016 etc). In addition the policy confirms that planning permission for Gypsy and Traveller pitches will only be granted where there is no conflict with other planning policies and where no barrier to development exists. New development should be located in sustainable locations, with preference generally given to a number of criteria identified as:

i. no significant barriers to development exist in terms of flooding, poor drainage, poor ground stability or proximity to other hazardous land or installation where conventional housing would not be suitable

ii. it is served by a safe and convenient vehicular and pedestrian access. The proposal should not result in significant hazard to other road users

iii. the site can be properly serviced and is supplied with essential services, such as water, power, sewerage and drainage, and waste disposal. The site must also be large enough to provide adequate vehicle parking, including circulation space, along with residential amenity and play areas

iv. it is located in or near to existing settlements within reasonable distance of a range of local services and community facilities, in particular schools and essential health services. This will be defined in detail in the methodology outlined in the Site Allocations DPD, and

v. it will not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and is sensitively designed to mitigate any impact on its surroundings.”

The criteria are broadly considered in the remainder of this report below.

Need

The identified need for Gypsy and Traveller pitches in Wiltshire was outlined in the draft Regional Spatial Strategy for the South West for the period to 2011 only. The number of pitches for Wiltshire was increased by 40 to 85 with 48 to be provided in the north and 14 in the west.

The Gypsy and Traveller Topic Paper 16 forms the evidence base to Core Policy 47.

Need for the period 2006 – 2011 has been met for north Wiltshire. Existing Structure and Local Plan policies provide no specific numbers of pitches to be provided.

The emerging Core Strategy in Core Policy 47 and the associated supporting text confirms the need for the West Housing Market Area ((HMA), in which both north Wiltshire as well as the application site falls), as being 9 pitches for the period 2011-2016.

The Gypsy and Traveller Topic Paper 16 sets out the reasoning and justification for the number of pitches which have been calculated taking into account all permissions to the end of November 2011.

The recent decision at Semington, referred to above, leaves two applications (including this one) currently pending which amount to a total number of 7 pitches for an outstanding need of 5 pitches in the total HMA area to 2016.

The other Gypsy site currently pending is at Frampton Farm for 2 pitches for extended family proposed as an extension to a single pitch site allowed at appeal (09/01033S73A relates). At the time of preparing this report, there is an in principle approval for two additional pitches at this location (which accords with emerging site selection criteria in the DPD as well as being an expansion site rather than a new site) subject to amendments to the proposed combined day room as it is considered to be excessive at this stage. Based on this “in principle” support for pitches at a location which accorded with emerging DPD site search criteria, the number of pitches for the HMA is reduced to five.

It is accepted that at this juncture, there is no 5 year supply of as required in the draft PPS for Gypsy and Travellers (which refers to PPS3 Housing) however the Gypsy and Travellers Site Allocation DPD is the appropriate mechanism to provide for this and can deliver that supply albeit towards the end of that 5 year period. The DPD will be prepared to add policy detail to the interpretation and implementation of Core Policy 47. However, it should be noted that a site at Chelworth Lodge benefits from an extant permission for 10 pitches allowed at appeal subject to conditions being discharged.

The timetable for adoption is not until 2014. The time period for adoption is of significance since the recent Semington appeal decision for 3 permanent Gypsy pitches in west Wiltshire confirms at paragraph 44 that the DPD is *“at an early stage of preparation. Delays for various reasons mean that the Council does not anticipate adoption until 2014. There is then likely to be a further delay until sites are provided. I consider the appellants estimate of sites not coming forward until 2015 not to be unreasonable, especially as further slippage could easily occur in the preparation of the DPD”*.

However, it is considered pertinent to note that this decision was against a backdrop of considerable unmet historical need to 2011 but also to 2016 (10-14 pitches referred to in the decision).

It cannot be argued that the DPD carries the same weight as the Core Strategy due to lack of progression. However, it is considered to be an important material consideration in the appropriate plan-led delivery of pitch numbers which has a bearing on matters covered below since it is consistent with the plan-led approach strongly advocated in the draft National Planning Policy Framework.

Notwithstanding that limited weight can be attached to the DPD based on the Semington appeal decision, the need is not now considered to be so significant and immediate so as to dismiss the materiality of the DPD in the decision making process.

Prematurity

The Core Strategy and its supporting documents, in this case the emerging Gypsy and Travellers Site Allocation Document provides the only appropriate policy mechanism in terms of the allocation of Gypsy and Traveller Pitches which accord with site selection criteria.

The comments of the Inspector for the Semington appeal in respect of prematurity were as follows:

“49. The Council says that granting permission could prejudice the emerging Gypsy and Traveller Site Allocations Development Plan Document (DPD) by contradicting the criteria that the Council is putting forward for considering such sites and thus undermining the credibility of the emerging Policy.

50. I have dealt above with my concerns on refusing permission in circumstances where there is a need for development of this kind and the DPD is unlikely to result in the provision of sites for another 3 years.

51. Moreover, Government Guidance in The Planning System: General Principles is that refusal of planning permission on grounds of prematurity will not usually be justified. Justification for such a decision would only exist where the proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the DPD.

52. In this case the proposed development is small scale and the Council has not clearly demonstrated how the cumulative effect of such development would be sufficient to prejudice the outcome of the DPD process.

53. Nor has the Council provided substantial justification for its view that granting permission would undermine the credibility of the emerging DPD. Giving limited weight to this document does not undermine its credibility. It is merely a function of the relatively early stage it has reached in the plan preparation process.

54. It is therefore concluded that the Council's concerns on prematurity are not well founded.”

It is considered that there are differences between the Semington proposal and the current application. First, the need to 2016 is now only 5 pitches and secondly, the site being 6 pitches and if approved, the development would both satisfy and exceed the need to 2016 in a location not fully compliant with the emerging site search criteria not least given its location 1.2 miles outside of Hullavington. At present this distance would preclude it from further consideration as part of the DPD process.

Thus, in this instance it is considered that a refusal on prematurity grounds could be justified in accordance with guidance contained in “The Planning System: General Principles” since in the context of outstanding need, the proposed development is so substantial that it would exceed the need to 2016 to the exclusion of all other sites which may be more appropriate located.

However, as will be evidenced below, given the proposal is compliant with the current development plan and Government guidance (as with the Semington appeal), it would be unreasonable to refuse the application solely for this reason. Accordingly, for reasons below it is recommended to grant a temporary permission

Draining and flooding

Neither the EA nor the Council's Drainage Engineer raises objections to the proposed development. A permit or exemption is required from the EA in respect of the proposed septic tank and building regulations approval is required for installation. However, further discussion with the Council's drainage engineer confirms that a septic tank would not function on this site and that a cess pit is required for foul disposal, details of which should be conditions.

In terms of surface water disposal, it is considered having regard to soil types in this location and the possibility of very limited surface water flooding (Surface water mapping produced in July 2009 shows that the in a 1:30 year event the two pitches in the north west corner together with the septic tank could be prone to shallow flooding (200-300mm on the road)) details of foul drainage should be conditioned in the event of an approval.

The Engineer recommends that caravans are elevated marginally in the event of such flooding, this can be achieved through the provision of hardstandings on which the caravans would be sited in any event.

Soakaways need to be specifically designed given the soil type in this location and a condition is recommended to secure these details, if possible prior to formal occupation, or if not fully occupied before further occupation. The final alternative being within a specific time period from the date of any permission.

It should be noted that satisfactory foul and surface water drainage would need to be provided for the applicants to obtain a Caravan Site License for occupation of the site.

Pedestrian and highway safety

The comments of the Core Strategy Manager stating that if safe pedestrian access and vehicular access cannot be achieved the site would be contrary to national guidance and emerging core strategy policy and should be refused are noted.

However, in terms of pedestrian safety, this was not a concern presented as part of the Council's case for the previous appeal nor was it a concern of the Inspector who could have taken it into account given third party objections raised in this respect. There has been no material change in respect of pedestrian access at the site and routes to the village.

Whilst the use of the land would comply with the locational principles of Circular 01/2006 (as discussed in more detail below), pedestrian safety is a proposed criteria to be scored as part of the site selection criteria of the emerging DPD. The site would not receive a favourable score in respect of safe pedestrian access but would not be prohibited from selection either.

Notwithstanding the DPD, the proposal would clearly conflict with criteria ii) of Core Policy 47.

Having regard to the Semington appeal, there is no evidence to substantiate any pedestrian safety objection in respect of this proposal.

In relation to highway safety, the Senior Highways Engineer is satisfied that with appropriate conditions, highways concerns could be overcome.

Highway safety was the sole reason for refusal of the previous appeal and as a solution is available via condition, no objection is now raised on highway safety grounds.

Services and site amenity

The site is not currently connected to either water or electricity however, these are being investigated by the applicant. Discussions directly with Wessex Water do not suggest that this is not feasible but off-site connection on third party land is needed. It is not known whether the costs of connection are prohibitive for this development and requests for this information from the applicant have been sought to no avail at the time of writing this report. However, based upon site search criteria this would not prohibit further consideration, just that no score would be attributable to this issue.

The site is adequate to provide onsite parking and circulation space with each pitch having its own amenity space.

The site layout accords with good practice guidance.

Various aspects of site amenity are also covered by the Caravan Site License in terms of water supply and spacing between pitches.

Sustainability/Location of development

It is well established that there can be no objection in principle to gypsy and traveller sites in the countryside, it follows that such sites will not always be located in the most sustainable of locations. Paragraph 54 of Circular 01/2006 states: "*in assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services.*" (Officer emphasis).

Policy H9 of the Local Plan requires such sites to have "*reasonable access to local community facilities and services...*" (Officer emphasis).

Paragraph 64 of the Circular stresses that whilst sustainability is important, it is not to be solely considered in terms of transport mode and distances from services. Other considerations are integration within the community; wider benefits of easier access to GP and other health services, children attending school on a regular basis and the provision of a settled base to reduce the need for long distance travelling.

This paragraph has been consistently applied in terms of all appeal decisions within the former North Wiltshire District Council area over the past 5 years including the most recent appeal decision at Bridge Paddocks. Further sites have been approved at Committee as well as under delegated powers given compliance with the Circular in this respect.

The recent appeal decision at Semington gives considerable weight to compliance with the Circular with no regard to the site selection criteria contained within the emerging DPD and notwithstanding need or otherwise.

No objection was raised to the previous application on this ground and as nothing has changed, it would be unreasonable to do so at this juncture, the proposal thus cannot be considered to be contrary to criteria iv) since reasonable distance is to be defined by the emerging DPD and that proposed within the DPD at present has been the subject of concern and objection.

Character and Appearance of the Area/Residential Amenity

As mentioned above and well documented in recent appeal decisions, there can be no objection in principle to a Gypsy site in the countryside based on Circular 01/06.

The previous proposal was considered acceptable in landscape terms by both the Council and the Inspector at appeal.

It is not considered that the elevation of the caravans would significantly alter this and in any event the principle of elevating caravans in the open countryside has been established at Chelworth Lodge as part of flood mitigation measures.

No residents are within immediate proximity of the site and no objection has or can be raised in this respect.

Other matters

The Council's Public Protection Department has no evidence of contamination. It is thought that reference to potential contamination when officers were unsure as to what material had been used to infill the site. This reference was not based on any evidence, but merely raised as a potential issue. For the avoidance of doubt, the Environmental Health Officer has suggested condition to address this matter.

The Gypsy status of the applicants is not contested and it is accepted that the family travelling as a whole provides the necessary support for one another as was the case with the previous appeal. There are health care issues with elderly relatives and young children some of whom are understood to be in attendance at the nearby school. Moving children from their current primary education as a consequence of a refusal would be disruptive to their education, a fact confirmed by the Head Teacher for the last appeal.

Human Rights

In determining this application the Committee is required to have regards to the Human Rights Act 1998, in particular Article 8 and Article 1 of the First Protocol, which confer rights of respect for a person's private life, home and possessions. Any interference in those rights by a public authority must be lawful and proportionate. This involves balancing the interests of all parties involved and taking into account the public interest in the proper application of planning policies.

A refusal of permission would be likely to result in their eviction from the site thus interfering with their homes and private and family life. In particular, and as with the last appeal, it could result in the loss of their homes with no satisfactory alternative.

Having regard to the matters above, and given that the sole reason for refusal for the last application and reason for dismissal at appeal in relation to highway safety can be overcome via condition, a refusal which would have no substance and in the absence of any other alternative sites, would have disproportionate effect on the appellant and other site occupants. A temporary permission given that outstanding need within the northern area of the west HMA, as well as the west HMA overall, is not so significant to 2016, would be proportionate and justified to allow the Council through the plan-led DPD mechanism to consider other potential sites. This it is not considered that there would be a violation of Human Rights.

9. Conclusion

There are numerous material considerations in the determination of this application which comprise previous appeal decisions, Government advice, as well as the emerging Wiltshire Core Strategy.

Based on compliance of the site with the current development plan and Government guidance and in light of various appeal decisions, it would be wholly unreasonable to refuse planning permission. These adopted documents must take precedence at this time over the unadopted Core Strategy and thus precludes a reason for refusal based solely on prematurity at this time.

Since and including the approval Semington appeal, further pitches have and are to be granted permanent permissions reducing the need significantly in the west HMA to 2016 to 5 pitches. The application site would meet the outstanding need with little or no opportunity for other sites to be

considered either as part of the DPD process or which may come forward outside of this process but more appropriately located.

In light of this limited outstanding need, which principally should be considered in the context of the west Wiltshire area of the west HMA, a temporary permission would be justified. The reasons being to allow the advancement of Core Policy 47 for consideration by the Secretary of State in terms of pitch numbers as well as the criteria contained within the policy as well as to allow the progression of the DPD. The comments of the Inspector are note regarding the delivery of sites not until 2015 after the DPD has been adopted, however, in the event that sites were to come forward compliant with an advanced stage of that document and subject to need at that time, it would be difficult for the Council to not refuse such an application and the actual delivery of that site could be very swift, particularly if it were a private site.

10. Recommendation

Planning Permission be GRANTED for the following reason:

The proposed development is considered to be acceptable based on its scale and nature which will limit impact on the character and amenity of the locality, residential amenities and highway safety in accordance with current National guidance contained in PPS3 "Housing" and Circular 01/2006 together with the "saved" policies DP15 and Policy H9 of the adopted Wiltshire and Swindon Structure Plan 2016 and North Wiltshire Local Plan 2011 respectively. However, there are aspects of the proposal in respect of location and accessibility which do not accord with emerging Core Strategy Policy 47 and the site search criteria contained in the emerging Gypsy and Traveller Site Allocations DPD and in the absence of significant outstanding need for the period to 2016, a temporary permission would be justified to allow full consideration of these documents and the policies and criteria contained therein.

Subject to the following conditions:

1. The use hereby permitted shall be for a limited period being the period 3 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all materials and equipment brought on to the premises in connection with the use shall be removed, and the land restored to its former condition, or such condition as may be authorised by any other extant planning permission.

REASON: Site and site selection criteria are being considered as part of the Core Strategy Pre-Submission Draft February 2012 Core Policy 47 as well as the emerging Gypsy and Traveller Site Allocations DPD. A permanent permission in advance of this process with no significant outstanding need to 2016 would be premature and a temporary permission in this instance would accord with advice contained in Circular 01/2006 "Planning for Gypsy and Traveller Caravan Sites".

2. Notwithstanding the details submitted, within 2 months of this permission, details of the access arrangements in accordance with the Senior Highway Engineer's email of 31 January 2012 shall be submitted to and approved in writing by the Local Planning Authority. The details shall be then implemented and completed within two months of that approval.

REASON: In the interests of highway safety.

3. Within 2 months of this decision the turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

4. The site shall not be permanently occupied by persons other than Gypsies and Travellers as defined in paragraph 15 of ODPM Circular 01/2006.

REASON: Planning permission has only been granted on the basis of a demonstrated unmet need for accommodation for gypsies and travellers and it is therefore necessary to keep the site available to meet that need.

5. Within three months of this permission an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:

Step (i) A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site for at least the last 100 years and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site.

Step (ii) If the above report indicates that contamination may be present on or under the site, or if evidence of contamination is found, a more detailed site investigation and risk assessment has been carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details have been submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: To ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved by the Local Planning Authority.

6. Notwithstanding the details submitted, within 3 months of the date of this permission details shall be submitted and approved in respect of surface water and foul sewage disposal . The development shall be undertaken and implemented in accordance with those details within 2 months of their approval.

REASON: In the interests of the amenity of occupants of the site.

7. There shall be no more than six pitches on the site.

REASON: In the interests of visual amenity and the amenity of the occupants on the site.

8. There shall be no more than twelve (12) caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than six (6) shall be a static caravan or mobile home and no more than six (6) shall be a touring caravan, shall be stationed on the site at any time.

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, NE15 and H9 of the North Wiltshire Local Plan 2011.

9. No more than six commercial vehicles shall be kept on the site for use by the occupiers of the caravans hereby permitted and each vehicle shall not exceed 3.5 tonnes in weight.

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

10. Except for the keeping of commercial vehicles as defined in condition 9 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.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no buildings or structures, or wall, fence or other means of enclosure, other than those shown on the approved plans, shall be erected or placed anywhere on the site.

REASON: To safeguard the character and appearance of the area.

12. The development hereby permitted shall be implemented in accordance with the submitted plans and documents listed below. No variation from the approved plans should be made without the prior approval of the local planning authority. Amendments may require the submission of a further application.

RF01, 02, 03, 04, 05, 06 dated 24 November 2011

REASON: To ensure that the development is implemented as approved.

