

REPORT TO THE SOUTHERN AREA COMMITTEE

Date of Meeting:	15.11.2012		
Application Number:	S/2012/1307/S73		
Site Address:	Trickey's Paddock, Brickworth Road, Whiteparish, Salisbury, Wiltshire SP5 2QG		
Proposal:	Vary Condition 1 & 3 and remove Condition 2 of permission S/2008/708 to allow permanent occupation of the site, to remove personal occupation restriction, and to allow an additional touring caravan on the site.		
Applicant / Agent:	Mr W Clarke/Miss Sarah Green		
Parish Council	Whiteparish		
Electoral Division	Alderbury and Whiteparish	Unitary Member	Cllr Britton
Grid Reference:	Eastings: 423089 Northings: 123525		
Type of Application:	Minor		
Conservation Area:	No		
Case Officer:	Mr W Simmonds	Contact Number: 01722 434553	

Reason for the application being considered by Committee

The application has been called to Committee by the local Division Member, Cllr Britton, on grounds of (i) visual impact on the surrounding area, (ii) environmental/highway impact and (iii) public concern.

1. Purpose of report

To consider the application and the recommendation of the Area Development Manager that Conditions 1 and 2 of the permission previously granted under S/2008/708 are varied (to allow an extension to the time limit previously imposed), condition no. 3 (which limits the number of caravans stationed on the site to one) is retained, and all other conditions are retained.

2. Report summary

The application proposes the variation of Condition nos. 1 & 3 and the removal of Condition no. 2 of permission S/2008/0708. The effect of the proposal would be to allow permanent occupation of the site (the original permission is temporary), to allow occupation by any gypsy/traveller family (the original permission is personal to a specific family), and to allow an additional touring caravan to be stationed/stored (the original permission limits the number of caravans to one).

The Area Development Manager's recommendation is that Condition nos. 1 and 2 of the permission previously granted under S/2008/0708 are varied to allow an extension to the time limit previously imposed (that is, to extend the temporary permission), whilst retaining the personal restrictions and all other conditions imposed on the original permission.

The application has generated an objection from Whiteparish Parish Council and 98 objections from third parties.

3. Site Description

This application relates to approximately 0.8ha of land lying on the southern side of Brickworth Road (A27), about 0.5km from its junction with the A36 Salisbury to Southampton trunk road and about 1km west of the village of Whiteparish.

The site is roughly rectangular in shape, consisting of the northern part of a field which has a road frontage alongside the A27 of approximately 90 metres. The surrounding land is generally open in character being mainly grazing land and the site is very open and fairly level, though it rises gradually from the Brickworth Road towards stables and agricultural buildings (in other ownerships).

The vehicular access to the site is from an established agricultural track which serves the adjacent fields and some stable buildings.

The site is located within the Special Landscape Area and is outside of any village Housing Policy Boundary being in an area designated as open countryside.

4. Relevant Planning History

Application number	Proposal	Decision
S/2008/0708	Change of use of land to site a Mobile Home for a gypsy family Tricky's Paddock Brickworth Road, Whiteparish	Refused 30.07.08 Appeal allowed 14.09.09
96/0782	To site a mobile home for agricultural use	R
96/0032	To site one caravan to house one gypsy family for a temporary period of 10 years, subject to personal and family occupancy	Decline to determine
93/1703	To site one caravan to house one gypsy family	R 09.03.94 App dismissed 17.03.95
93/1090	Change of use of land to accommodate one Gypsy family for 3 years, including new access at Highfield	Not determined
93/0400	Change of use of land to accommodate one gypsy family, including construction of vehicular access	Not determined
92/20ENF	Enforcement notice against the construction of new vehicular access from the land on to the A27 road & the layout of gravel hardstanding for 15 caravans	Effective 30.07.92 Appeal dismissed 29.10.92
92/19ENF	Enforcement notice against the change of use of the land from open land to use for the stationing of residential caravans	Effective 30.07.92
91/1413	Use of land for & laying out of 15 pitch gypsy caravan site + construction of vehicular access at Highfield	R 24.09.92 App dismissed 29.10.92
91/0386	Appeal against enforcement notice in relation to siting of a mobile home for use in connection with a proposed market garden	App dismissed 22.10.91
90/56/ENF	Unauthorised access	Withdrawn
90/21ENF	Enforcement Notice issued against removal of unauthorised stationing of a mobile home	Complied with
90/1349	Mobile home for agricultural use at Highfield	R 25.10.90

5. Proposal

The proposal is to vary condition nos. 1 & 3 and remove condition no. 2 of permission S/2008/0708. The applicant's proposed wording of conditions 1 & 3 is as follows:

1. The use hereby permitted shall be carried on only by gypsies or travellers.
3. No more than two caravans of which no more than one shall be static.

The application is supported by a detailed statement which addresses planning policy issues, the visual impact issue, sustainability and highway issues, the need for sites and lack of alternative sites, the applicant's personal circumstances, and the prospect of a further temporary planning permission. The entire statement is relevant, but several key paragraphs follow:

"The Appeal Site – Character & Appearance

Planning policy for Traveller sites encourages private site provision as the way forward to meet the identified need and granting a permanent permission would assist the Council in meeting need in their district.

The difficulty in finding suitable land for sites is a national problem but a particular problem in Salisbury as well as the surrounding authorities for the following reasons:

1. The lack of any available land in Salisbury and the surrounding area.
2. The lack of suitable locations. The Gypsy, ideally, needs to be in the countryside, but near to a settlement. They need to be able to have the facilities to provide for their living style, and enough land for the children to enjoy the benefit of 'caravan living'.
3. The prohibitive costs which arise because of the massive unmet need for housing and other development land and thus any land which is suitable for development will be sold at a price beyond the Gypsy and indeed beyond a sum that many people can afford.
4. The prejudice against Gypsies.

In South Wiltshire much of the area is designated as an AONB or other national designations and as such it will be difficult to find the sites which will not have some impact on these areas. The appeal site, however, is not within any nationally designated area and would have no adverse impact on these areas.

The harm to the character and appearance has been significantly reduced and the applicant submits that this should not be a reason for refusal of this application. Any remaining impact on the character and appearance of the area could be further mitigated by additional landscaping and the Applicant would be happy to accept any reasonable landscaping condition. ...

Need for sites

.... the need for sites in Salisbury has been assessed and accepted by the Council, as a need for 10 residential and 5 transit pitches in Salisbury by 2011. This has been confirmed and adopted in the South Wiltshire Core Strategy at Policy 4. As these pitches are yet to be provided, the Council is already in breach of this policy.

The need for sites post 2011 has been assessed in relation to preparation of the Wiltshire Core Strategy and confirms a need of 33 residential pitches in South Wiltshire from 2011 plus a need for 8 transit pitches. This is a substantial level of need.

Granting a permanent permission for the application site would assist the council in meeting this identified need, at no cost to the Local Government, and it is considered that it would be difficult for the Council to find a more suitable alternative site in the surrounding area for this purpose.

Lack of Alternative Land

For many years the Applicant has sought to find an alternative site or alternative land that would be more suitable than the application site, which he could afford, but he has been unable to find any. ...

Temporary Permission

In 2009 the Inspector granted a 3 year temporary permission under the impression that a DPD allocating sites would be adopted in December 2012 and sites developed and allocated to families, such as the applicants, by September 2012. This has not happened. As evidenced by the slippage to the timetable for adoption in 2010, there is simply no guarantee of when a site might be available for this family through the DPD.

The grant of a further temporary permission will result in ongoing uncertainty for the Applicant and his family of their future living arrangements. They are unable to plan for the future and live

under constant fear that eventually they will be evicted with nowhere else to go. The grant of a temporary permission has already caused the family a significant amount of stress and worry and has had a seriously adverse affect on their health, particularly the Applicant. To allow this to continue is an unreasonable burden to place on him, when considering his need for a site within the district and the suitability of the site. It would also cause uncertainty for neighbours and other local residents.”

The full statement is available to view on the Council’s website.

The effect of the proposal would be to allow permanent occupation of the site (the existing permission is temporary), to remove the existing personal occupation restriction, and to allow an additional caravan to be stationed on the site.

Condition nos. 1-3 presently state the following:

1. The use hereby permitted shall be carried on only by Mr William Clarke, Ms Tammy Beswick and their resident dependants and shall be for a limited period being the period of three years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
2. When the premises cease to be occupied by Mr William Clarke, Ms Tammy Beswick and their resident dependants or at the end of three years, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought on to the site premises in connection with the use shall be removed and the land restored to its former condition in accordance with a scheme of work submitted to and approved in writing by the local planning authority.
3. No more than one caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time.

6. Planning Policy

Adopted South Wiltshire Core Strategy (SWCS) Core Policy 4 (Making adequate provision for gypsies and travellers), and saved policies G1, G2, H23, H27, H28, C2, & C6.

Also of relevance is the government’s National Planning Policy Framework (NPPF) and the Department for Communities and Local Government publication “Planning policy for traveller sites”, both published in March 2012.

7. Consultations

Whiteparish Parish Council – Object, contrary to local plan policy.

WC Highways – No objection.

WC Environmental Health – No response received

WC Spatial Planning – The Gypsy and Travellers Site Allocation DPD has been delayed pending consideration and adoption of the Wiltshire Core Strategy. It remains the intention of the Council to produce this DPD which is critical to the delivery of suitable, affordable and acceptable sites.

Environment Agency – No objection; comment regarding access and egress during a flood.

Wessex Water – No response received.

Southern Water – No comments.

CPRE – Object, proposals are not justified and the site is not an appropriate location for a gypsy and traveller site.

8. Publicity

The application was advertised by site notice and neighbour notification letters.

Objections from 98 third parties have been received. Grounds of objection include:

- Insufficient facilities in local area to support a Gypsy and Traveller site
- Adverse visual impact on the surrounding landscape
- Highway safety considerations
- Site is outside of housing policy boundary of the village
- Flood risk
- Lack of provision for the disposal of sewage from the site
- Sustainability and public transport grounds
- Impact on the character of the area
- Poorly served by education and health facilities
- No safe pedestrian access to local facilities and amenities
- No justification for proposed variation of conditions
- There is no longer a shop at the garage at Brickworth Corner
- Out of keeping with the character of the surrounding area
- Inappropriate use of agricultural land
- Proposal contravenes the local planning policy

9. Planning Considerations

In considering the original appeal the inspector defined the main planning considerations as follows:

- The principle of the proposal;
- The effect of the proposal on patterns of travel;
- The effect of the proposal on the character and appearance of the surrounding area;
- Whether any conflict with policy or other harm would be outweighed by other material considerations.

These considerations remain relevant to the current application. In addition it also relevant to consider any material changes in circumstances since the original appeal was allowed.

9.1 Principle of the Proposal

In terms of the current adopted South Wiltshire Core Strategy (SWCS), the application site remains outside of any recognised settlement (that is, within open countryside) where new development will be strictly controlled and will not be permitted unless beneficial to the local economy and positive to the environment (saved Policy C2).

Residential development is only permitted in such areas if it is for locally needed affordable housing or is required for agricultural/forestry workers. Moreover, within the Special Landscape Area any new development should not have an adverse effect on the quality of the landscape (saved Policy C6). Saved Policy G1(i) of the SWCS also requires development to observe the principles of sustainability by reducing the need to travel in accordance with the NPPF.

The SWCS contains a specific policy (CP4) about making adequate provision for gypsies and travellers. This states:-

“The following considerations will be taken into account in the determination of relevant planning applications as well as for the identification for new Gypsy and Traveller pitches prior to the DPD being adopted:

- *Preferably the site should be located within or close to a settlement as defined by the Sustainable Settlement Strategy*

- *The site will be large enough to provide for adequate on site facilities for parking, storage, play and residential amenity as well as any commercial activity that is required*
- *Adequate levels of privacy should be provided for occupiers.*
- *Development of the site should be appropriate to the scale and character of its surroundings and the existing settlement.*
- *The site does not compromise a nationally recognised designation*
- *The site should not be constrained by flooding nor have the potential for adverse effects on river quality, biodiversity or archaeology”.*

The Wiltshire Core Strategy also contains a policy (Policy 47) which states the following:

“..... Proposals for new Gypsy and Traveller pitches or Travelling Showpeople plots/yards will only be granted where there is no conflict with other planning policies and where no barrier to development exists.

New development should be situated in sustainable locations, with preference generally given to previously developed land or a vacant or derelict site in need of renewal. Proposals must satisfy the following general criteria:

- 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”.*

Both the SWCS and WCS recognise the need to make adequate site provision for gypsies and travellers. The policies specify that a Gypsy and Site Allocations DPD will be produced to meet the need. To date this DPD has not been produced in view of the desire to ‘tie’ it in with the timing of the WCS.

In March 2012 Central Government published new guidance in respect of planning policies for traveller sites, this replacing the former advice provided by Circular 01/06 ‘Planning for gypsy sites and traveller caravan sites’. The new document sets out the Government’s planning policy for traveller sites and should be read in conjunction with the NPPF. The document forms a material consideration in both the preparation of development plans and the making of planning decisions.

The previous appeal under planning application reference S/2008/0708

A significant material consideration in this case is the previous appeal decision (dated 14.09.2009) relevant to planning application reference S/2008/0708, on which the current Section 73 application is based. The full decision letter is attached as an annex to this report. The appeal related to the refusal by Salisbury District Council for the change of use of the land for the siting of a mobile home for use by a gypsy family.

The Inspector concluded that the use of the land to site a mobile home would be intrusive in the countryside and cause harm to the character and appearance of the area. He did not, however,

consider that the site would be so poorly related to local services and facilities as to be unacceptable, and it would not result in harm to patterns of travel.

Notwithstanding the conclusion in respect of the visual impact, the Inspector allowed the appeal on a temporary basis in view of the combined general and personal needs of the applicant for a site, the lack of a suitable alternative site within the locality and the likelihood of alternative sites becoming available within the next few years through the local development framework (LDF) process. The Inspector justified his decision as follows:

“Circular 01/2006 advises that, where there is an unmet need and no alternative gypsy and traveller site provision in an area but there is a realistic expectation that new sites are likely to become available at the end of a temporary period, consideration should be given to granting temporary permission; such a situation may arise where a LPA is preparing its site allocations DPD.

The LPA has a firm intention to prepare such a DPD and is taking steps to achieve its target for adoption of December 2010. As a result, there is likely to be a material change in circumstances, leading to a realistic likelihood of suitable, affordable and acceptable accommodation. Intended adoption of the DPD is in a little over one year's time but there is a risk of slippage and then a need to bring forward the resulting sites.

The harm to the area's character and appearance should not be perpetuated longer than is necessary and I consider that a temporary planning permission for a period of three years is appropriate and reasonable in the circumstances. The protection of the public interest cannot be achieved by means which are less interfering of the appellant's rights. They are proportionate and necessary in the circumstances and would not result in a violation of his rights under Article 8 of the European Convention on Human Rights”.

The permission was, therefore, made personal and temporary, and restricted in terms of the number of caravans on the site (conditions 1-3). Further conditions required measures to be put in place to minimise the impacts on visual amenity and highway safety.

The variation of Condition no. 1 and removal of Condition no. 2

The effect of existing condition nos. 1 and 2 is to make the planning consent temporary for a three year period, and personal to the applicant, his partner and any resident dependants, and to ensure the land is restored to its former condition when the temporary period ends.

Under the current local and national planning policy context the application site continues to be an exposed location within open countryside where the visual impact of a mobile home, associated vehicles and paraphernalia is harmful to amenity. It follows that the current proposal, to remove the conditions which limit the life of the permission and make it personal to the applicant, remains unacceptable as contrary to the development plan.

That said, the circumstances surrounding the gypsy and travellers' sites DPD remains largely unchanged since the Inspector drew his conclusions. The LPA is still preparing this document but now in parallel with the Wiltshire Core Strategy. It follows that the DPD should be in place within the next three years (alongside the WCS), and on this basis it is considered appropriate to again grant a personal and temporary planning permission in line with the approach adopted by the appeal inspector. This would ensure that the general and personal needs of the applicant are still being taken into account during the period prior to adoption of the gypsy and travellers' site DPD, but with continued regard to the acknowledged harmful impact of a permanent development in amenity terms. This approach remains “proportionate and necessary in the circumstances”, and does not conflict with the more recent Central Government guidance set out in ‘Planning policy for traveller sites’.

The variation of Condition 3 to allow an additional touring caravan to be stationed on the site

By reason of the generally exposed location of the application site within the countryside, the introduction of an additional touring caravan would have a harmful impact on its character and the visual quality of the surrounding landscape. Further mitigation of the visual impact of an additional

touring caravan would be difficult to achieve in view of the elevated position of the existing mobile home and the slow growing nature of indigenous species. The proposal to vary condition no. 3 is, therefore, considered unacceptable by reason of the detrimental impact on visual amenity of a further caravan.

9.2 Highway considerations

The current application has been considered by the Council's Highways Officer who, on the basis of the appeal decision on S/2008/0708 does not wish to raise a highway objection to the application.

10. Conclusion

The applicant's proposal to vary Condition 1 and remove Condition 2 to allow permanent and unrestricted use of the site by gypsies and travellers is considered to be unjustified and contrary to local and national policy guidance.

Because of the relatively elevated position of the mobile home and the generally slow growing nature of indigenous species, further mitigation of the visual impact of an additional touring caravan on the character and appearance of the surrounding countryside would be difficult to achieve and would result in harm to the character and appearance of the surrounding area. The proposal to vary condition 3 of planning approval S/2008/0708 is therefore considered unacceptable by reason of the detrimental impact of caravans on visual amenity within the surrounding landscape.

Taking into consideration the ongoing hiatus in respect of the adoption by Wiltshire Council of the provision of a Development Plan Document (DPD) to allocate gypsy and traveller sites, and the Council's firm intention to prepare and adopt such a DPD concurrently with the adoption of the emerging Wiltshire Core Strategy, leading to a realistic likelihood of suitable, affordable and acceptable accommodation, it is considered reasonable to vary the time limit imposed under the S/2008/0708 permission for a further period of three years whilst retaining the personal restrictions and all other conditions imposed on the original permission.

11. Recommendation

That planning permission be APPROVED subject to condition nos. 1 and 2 of the permission previously granted under S/2008/708 being varied to allow an extension to the time limit previously imposed, whilst retaining the personal restrictions and all other conditions (including condition no. 3) imposed on the original permission.

Reasons for recommendation:

1. The existing temporary planning consent under planning reference S/2008/0708 was granted only on the basis of the applicant's personal circumstances and need and related to a site that was otherwise inappropriate for a permanent gypsy and traveller site. The applicant's current proposal to vary condition no. 1 and remove condition no. 2 to allow permanent and unrestricted use of the site by gypsies and travellers is considered to be unjustified and contrary to local and national policy guidance, and would result in undue visual harm to the character and appearance of the surrounding countryside. The proposed variation of conditions would therefore be contrary to adopted South Wiltshire Core Strategy (SWCS) Core Policy 4 (making adequate provision for gypsies and travellers), saved policies G1, G2, H23, H27, H28, C2, & C6 and the guidance contained within the government's National Planning Policy Framework (NPPF) and DCLG publication "Planning policy for traveller sites".
2. By reason of the relatively open and exposed nature of the application site, the proposed variation of condition no. 3 to planning approval S/2008/0708 to allow an additional caravan on the site would result in harmful impact to visual amenity to the detriment of the character and appearance of the area, contrary to saved policies G1, G2, C2 & C6 of the adopted South Wiltshire Core Strategy and the guidance contained within the government's National Planning Policy Framework (NPPF) and DCLG publication "Planning policy for traveller sites".

Conditions:

1. The use hereby permitted shall be carried on only by Mr William Clarke, Ms Tammy Beswick and their resident dependants and shall continue for a limited period being the period of three years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.

Reason: To allow time for the Council's gypsy and Traveller DPD to be adopted and suitable and appropriate sites brought forward, and on the basis of the personal circumstances of the applicant.

Policy: G1, G2, C2, C6, CP4, NPPF chapters 6 & 11 and DCLG guidance 'Planning policy for traveller sites'.

2. When the premises cease to be occupied by Mr William Clarke, Ms Tammy Beswick and their resident dependants or at the end of three years from the date of this decision, whichever shall first occur, the continuing 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 in accordance with a scheme of work to be submitted to and approved in writing by the local planning authority.

Reason: In the interests of visual amenity and the character and appearance of the surrounding landscape to ensure the land is suitably restored to its former condition upon the cessation of the temporary use of the land hereby approved.

Policy: G1, G2, C2, C6, CP4, NPPF chapters 6 & 11 and DCLG guidance 'Planning policy for traveller sites'.

3. No more than one caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time.

Reason: In the interests of visual amenity and the character and appearance of the surrounding landscape.

Policy: G1, G2, C2, C6, CP4, NPPF chapters 6 & 11 and DCLG guidance 'Planning policy for traveller sites'.

4. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: To safeguard visual and residential amenity.

Policy: G1, G2, C2, C6, CP4, NPPF chapters 6 & 11 and DCLG guidance 'Planning policy for traveller sites'.

5. No commercial activities shall take place on the land, including the storage of materials.

Reason: To safeguard visual and residential amenity.

Policy: G1, G2, C2, C6, CP4, NPPF chapters 6 & 11 and DCLG guidance 'Planning policy for traveller sites'.

6. No structure or erection or planting exceeding 1 metre in height shall be placed between the A27 carriageway and 122m by 2.4m visibility splay as shown on the 1:1,1250 drawing accompanying the highway authority letter (ref. JEH/JCF/S/08/0708) dated 15 December 2008.

Reason: In the interests of highway safety.

Policy: G1, G2, C2, C6, CP4, NPPF chapters 6 & 11 and DCLG guidance 'Planning policy for traveller sites'.

7. The approved parking and turning areas shall not thereafter be used for any purpose other than the parking and turning of vehicles.

Reason: In the interests of highway safety.

Policy: G1, G2, C2, C6, CP4, NPPF chapters 6 & 11 and DCLG guidance 'Planning policy for traveller sites'.