

## REPORT FOR STRATEGIC PLANNING COMMITTEE

<b>Date of Meeting</b>	08 February 2017
<b>Application Number</b>	16/10934/FUL
<b>Site Address</b>	Land Adjacent Old Telephone Exchange, Seagry Hill, Sutton Benger, Wiltshire, SN15 4SA
<b>Proposal</b>	Change of use of land to one gypsy and traveller pitch, the erection of a day room, siting of a static home together with space for the parking of two cars, a mobile home, space for a garden and the siting of a cess pit.
<b>Applicant</b>	Ms Angela Ward
<b>Town/Parish Council</b>	SUTTON BENDER
<b>Electoral Division</b>	Kington – Cllr Greenman
<b>Grid Ref</b>	394745 179483
<b>Type of application</b>	Full Planning (Retrospective)
<b>Case Officer</b>	Mark Staincliffe

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

The application has been called into committee at the request of Cllr Greenman to consider the impact of the development on highway safety, the environment, and whether this is an appropriate location for development.

### **1. Purpose of Report**

The purpose of the report is to assess the merits of the proposals against the policies of the development plan and other material considerations and to consider the recommendation that planning permission should be **GRANTED** subject to conditions.

### **2. Report Summary**

The key issues in considering the applications are as follows:

- Principle of the development.
- Impact on character and appearance of the area.
- Highway Safety
- Loss of residential amenity

Sutton Benger Parish Council object to the proposed development. 6 letters of objection have been received.

### **3. Site Description**

The application site comprises of an area of land approximately 573 m<sup>2</sup> in area. The site is within a semi rural location some 800m outside of the settlement framework boundary defined for Sutton Benger in the Wiltshire Core Strategy (saved from the former local plan). The site is in close proximity to a group of residential properties towards the end of through road to the northern end of Seagry Hill.

There are no specific on site constraints which would preclude development taking place within the site.

#### **4. Planning History**

N/99/00563/FUL Erection of two dwellings- **Planning Permission Refused**

#### **5. The Proposal**

The application seeks planning permission for the change of use of the land to one gypsy and traveller pitch, the erection of a day room, siting of a static home together with space for parking of two cars, a mobile home, garden and cess pit. The application also proposes to provide an access, landscaping and a retaining wall.

Some of the works within the description of development have already taken place on site, the application is therefore in part respective.

#### **6. Local Planning Policy**

Wiltshire Core Strategy Jan 2015:

Core Policy 1-	Settlement Strategy
Core Policy 2-	Delivery Strategy
Core Policy 47-	Meeting the Needs of Gypsies and Travellers
Core Policy 50-	Biodiversity and Geodiversity
Core Policy 51-	Landscape
Core Policy 57-	Ensuring high quality design and place shaping
Core Policy 61-	Transport and Development
Core Policy 62-	Development impacts on the transport network
Core Policy 64-	Demand Management
Appendix D	
Appendix E	
Appendix G	

Saved Policies of the North Wiltshire Local Plan:

NE18-	Noise and Pollution
T5-	Safeguarding

Emerging Development Plan Document:

The Gypsy and Traveller DPD (*A new Gypsy and Traveller Accommodation Assessment (GTAA) was published in December 2014 which informs the emerging plan*)

National Planning Policy Framework 2012 (NPPF):

Paragraphs-	7, 14 & 17
Chapter 1-	Building a strong, competitive economy (Paragraphs 18 & 19)
Chapter 7-	Requiring Good Design (Paragraphs 56, 57, 60, 61, & 64)
Chapter 11-	Conserving and enhancing the natural environment (Paragraphs 109, 112, 118 & 123)

Planning Policy for Traveller Sites (PPTS) – DCLG 2015

#### **7. Summary of consultation responses**

Sutton Benger Parish Council: Object for the following reasons:

- The development sits outside the Framework Boundary and is in conflict with Policy H4 of North Wiltshire Local Plan 2011.
- A previous planning application for this site, 99/00563/FUL, was refused on 17 June 1999.

- Views of the local community – residents of Seagry Hill strongly oppose this development as they feel it will cause a loss of amenities, contrary to Core Policy 47vi.

Wiltshire Council Highways: No objection

## **8. Publicity**

The application was advertised by neighbour letter and site notice. 6 letters of objection were received, raising the following issues:

- Increase in traffic
- Damage to Highway
- Previous application for houses in 1999 were refused
- Out of character with the street
- No retaining wall, land structurally unsound
- Increase in surface water runoff and damage to existing properties
- Loss of biodiversity
- Loss of privacy
- No valid need for this site
- Majority of the work has already taken place- this is a retrospective application
- Problems with sewerage on site
- Cesspit is in close proximity to a brook.
- Development will have an adverse impact on the local community
- Insufficient onsite parking.

## **9. Planning Considerations**

### 9.1 Previous Planning Application

Some local residents have made reference to a previously refused planning application. This application was submitted to the Council in 1999. It was for two residential dwellings and was refused planning permission. The application was considered under a different National and local policy framework as policies and national guidance for dealing with planning applications for gypsy and traveller sites are not the same as those for permanent market housing. This decision is a material planning consideration but the circumstances surrounding these applications are not comparable, and only limited weight should therefore be afforded to the previous decision.

### 9.2 Retrospective Application

Some local residents have raised concerns as the submission is partly retrospective. They are of the view that permission should be refused for this reason. The concerns expressed by local residents are noted, however, it is not an offence to carry out development without first obtaining planning permission for it and this is confirmed within the Town and Country Planning Act. Section 73A of the Act specifically provides that a grant of planning permission may relate to development carried out before the date of the application. Retrospective applications are dealt with in the same way as any other planning application.

However, on 31 August 2015 the Chief Planning Officer produced a statement relating to intentional unauthorised development. This statement set out changes to national planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications. Though it is fact that the development has taken place without the benefit of planning permission this is not, on its own, sufficient to refuse planning permission.

### 9.3 Principle of Development

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

In this case, the Wiltshire Core Strategy, including those policies of the North Wiltshire Local Plan saved in the WCS, forms the relevant development plan for the area. The emerging Neighbourhood Plan is at an early stage and formal submission is some way off. Due to its limited progress to date, this document cannot be afforded any significant weight.

The Council has published its intention to prepare a Gypsy and Traveller DPD and a new Gypsy and Traveller Accommodation Assessment (GTAA) has been prepared in accordance with the commitment in the Wiltshire Core Strategy under paragraph 6.56. However, the production of the Gypsy and Traveller DPD has been delayed and due to its current stage of preparation, this document can only be afforded very limited weight.

The National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) & Planning Policy for Traveller Sites (PPTS) are material considerations which can be accorded substantial weight.

### 9.4 Status of the Applicant

The applicant's Agent has confirmed that the applicant and their family satisfy the definition of a gypsy or traveller as set out in Annex 1 the PPTS. The applicant has been on the road for a number of years and has recently been staying (doubling up on family pitches) in the area. Now with a young family this temporary arrangement is not ideal and now finds herself in need of her own pitch. Mike & Jimmy Ward are the uncles of the applicant and both are currently residents of established sites within the locality.

The Council has no other evidence to contradict the statement as presented and members of the public, in their representations support the agent's statement that the applicant satisfies the definition of a gypsy or traveller. On balance it is considered that the information is in this instance acceptable to allow the LPA to conclude that the application is associated with a gypsy or traveller.

Moreover, planning permission runs with the land and not the applicant. A condition is proposed to ensure that the Council retains control so that any future occupiers satisfy the definition of a traveller as set out in national policy. The proposal therefore accords with the PPTS in this respect.

### 9.5 Assessment of Need

Some of the neighbour representations state that there is no need for this type of accommodation in Wiltshire. It is therefore necessary to make an assessment of the need.

The WCS explains that "*provision should be made to help meet the accommodation needs of all of Wiltshire's communities, including the Gypsy and Traveller community and travelling showpeople, who normally reside in or travel through the county*". In March 2012 the government published the National Planning Policy Framework and 'Planning Policy for Travellers Sites' which was published in August 2015. These documents include the general principle of aligning planning policy on traveller sites more closely with that for other forms of housing. Core Policy 47 reflects this approach as it identifies a requirement for new pitches for the period until 2021.

Core Policy 47 identifies the need for 66 additional permanent residential pitches (26 required in this Housing Market Area) from 2011-2016. A projection of anticipated need between 2016-2021 has also identified approximately 42 permanent residential pitches (22 in this Housing Market Area).

The updated Gypsy and Traveller Accommodation Assessment (GTAA) which has been produced to update the evidence base for the Wiltshire Core Strategy (WCS) identifies a need of 68 pitches in this Housing Market Area up to 2029, this figure being disaggregated over three 5 year periods.

Whilst the GTAA and CS have identified different requirements for pitches in the North and West HMA it is considered that the GTAA has not as yet undergone the tests through the DPD process when compared to the existing WCS underpinning evidence to CP47. Given the formal adoption of the WCS and CP47 it is considered that at this policy point in time it would be unreasonable to attach more weight to the emerging evidence of the GTAA to outweigh the current WCS policy stance.

The Planning Policy for Traveller Sites (PPFS) Policy H requires LPAs to assess applications for travellers against set national criteria. Criteria b) of paragraph 24 of this policy requires Local Planning authorities to assess the availability (or lack) of alternative accommodation for applicants. As set out above the Council's evidence and DPD has been delayed and is not up to date. At this point in time the Council cannot confidently state that the requirement has been met and there is no unmet demand. Furthermore the requirement for pitches within this HMA is a minimum and not an upper limit. This matter weighs in favour of the proposal.

#### 9.6 Overall Need

In terms of overall need the Council's monitoring data suggests that as of January 2017, this need has already been met through grant of permissions. This is due to an 'oversupply' from the previous five years. In total 71 pitches were granted permission between December 2011 and January 2017 – the total requirement for the first 10 years in the WCS, 2011-21 is 48 pitches (22+26).

However the Core Strategy Inspector advised that the WCS numbers should be treated as a minimum in the absence of a DPD. In addition, PPTS paragraph 11 is clear that criteria based policies should guide proposals where there is no overall need but proposals nevertheless come forward.

PPTS also provides in paragraph 10 that authorities should identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets. As set out above - the Council's Gypsy and Traveller Development Plan Document is currently under preparation. This document will allocate sites to meet the accommodation needs of travellers in Wiltshire and the Local Development Scheme envisages a first consultation for late 2017. The DPD has been delayed due to difficulties in finding suitable and available land. This is summarised in reports to the Council's Cabinet Capital Asset Committee in 2015 and Environment Select Committee in 2016. Therefore at this stage no development plan exists which allocates sites for travellers in Wiltshire.

Though the need as set out in the Core Strategy has been met this is a minimum figure and due to the delays in preparation of the Council's Gypsy and Traveller Development Plan Document the Council cannot confidently state that the requirement has been met and there is no unmet demand. This matter weighs in favour of the proposal and the granting of a further pitch would not be in conflict with local or national policies relating to the provision of Gypsy and Traveller Sites.

### 9.7 Wiltshire Core Strategy Policy 47

This states that 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. Where proposals satisfy the general criteria i-ix applications will be considered favourably:

- 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. The site is served by a safe and convenient vehicular and pedestrian access.
- III. The site can be properly serviced and is supplied with essential services
- IV. The site is large enough to provide adequate vehicle parking
- V. It is located in or near to existing settlements within reasonable distance of a range of local services and community facilities.
- VI. The site will not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties
- VII. The site offers adequate levels of privacy
- VIII. The development is of an appropriate scale with regards to the character of its surroundings
- IX. The site should not compromise a nationally or internationally recognised designation nor have the potential for adverse effects on river quality, biodiversity or archaeology

The proposal is considered to be in accordance with CP 47. For the avoidance of doubt and to demonstrate that the proposal is in accordance with CP47, the matters referred to above are discussed in more detail below.

#### Drainage & Stability (I)

The applicant has acknowledged the requirement for a retaining wall to the northern boundary and this is shown on the submitted plans. The precise details of this retaining wall can be controlled by condition which is included in the suggested conditions at the end of this report.

Similarly, the exact details relating to foul water and surface water drainage systems have not been provided. Detail as to the existing on site provision and recent works of maintenance undertaken was submitted with the application, officers are satisfied that the development can be satisfactorily drained without additional works. No objections are raised as officers are satisfied that this can be controlled by way of condition.

#### Access and Highways (II & IV)

The access from Seagry Road onto Seagry Hill is of a suitable standard to accept the additional movements that this application would generate. Consequently no highway objection is raised subject to conditions. The site provides sufficient space and facility for onsite vehicle parking and manoeuvring for residential purposes.

#### Essential Services (III)

The site is serviced by mains water and electricity could be gained from the supply that lies in close proximity to the site. A phone line could be provided but a mobile phone could be used for both telephone and internet connection. A package sewage treatment unit would be provided for foul sewage. The site can therefore be properly serviced/supplied with essential services. The development is in accordance with criteria III.

### Sustainability (V)

The site lies approximately 800 metres from Sutton Benger which is defined as a large village in the Wiltshire Core Strategy. Sutton Benger offers a range of services including doctors surgery, Post Office, public house and school.

The principle of siting Gypsy and Traveller developments outside the defined limits of development is accepted and well established, and in accordance with the PPTS. Policy C, paragraph 12 of the PPTS makes it clear that traveller sites in the countryside may be permissible subject to their scale and ensuring that they do not dominate the nearest settled community.

It is recognised that the PPTS goes on to advise that “*local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan*”.

As set out above the site is in relatively close proximity to the village, furthermore, Core Policy 47 does not require new Gypsy and Traveller development to be located within the limits of development but to be located in or near to existing settlements within reasonable distance of a range of local services and community facilities. It is considered that the proposal is in accordance with this policy.

For the reasons given above it is considered that the site would provide an appropriate site for a gypsy and traveller site with regard to its sustainability credentials.

### Impact on the character and appearance of the locality (VI & VIII)

The site layout ensures the retention of a large tree towards the front of the site and this is considered to provide some site screening and mitigation of the visual impact of development. The proposal includes soft landscaping in terms of grassed areas as part of the site layout and a native hedge to the front elevation, the precise specification will be controlled by condition.

The site is enclosed by the M4 on one boundary, a former telephone exchange, existing housing and a landscape buffer to another. Though the site is located beyond the Sutton Benger framework boundary the site is read within a semi urban context. In effect the proposals read visually as an extension of the existing street and would not include significant built development. The proposals are considered to be laid out in an acceptable manner and the plans ensure that the site licensing minimum layout requirements are met.

As such, it is not considered that the pitch, including the standard residential caravan and touring caravan, represent significant over development of the site in visual impact terms. Given the material consideration supporting the proposals in principle it is not considered that the visual impact and impact on the character and appearance of the locality would warrant a refusal. The proposal is considered to accord with CP47.

### Impact on Residential Amenities (VII)

Given the site layout and location of the development and position of the caravan within the site it is considered that the proposal would not result in any significant harm to existing residential amenities in the locality through noise disturbance, overlooking and loss of privacy, loss of day light or overbearing impact. Similarly it is not considered that the increased use of the access would be so significant as to result in harm to residential amenities through disturbance.

It is considered that the proposed layout provides for a sufficient level of residential amenity for future occupants of the site especially in the context of the family relationships between

existing and future occupiers. Such occupancy to family members will be restricted by condition to ensure that this situation remains acceptable in residential amenity terms.

Given the proposed layout and the acceptable level of residential amenity for future and existing occupants and neighbours it is not considered that the proposed level of development is too intensive for the site circumstances and does represent an acceptable level of development. The proposal is considered to accord with CP47 of the Core Strategy.

#### River Quality, Biodiversity or Archaeology (IX)

The site is not located within an archaeologically sensitive area and no concerns are raised in relation to the development in relation to this matter. There is a watercourse within close proximity to the site but officers are satisfied that surface water runoff and sewerage details can be controlled by condition.

Due to the nature of the application it is not entirely clear how much vegetation clearance took place to accommodate the caravan and to facilitate the laying of hard standing. Aerial imagery indicates that the site was previously used for some form of open storage and that the level of site clearance was not too significant. Furthermore, the mature trees within and adjacent to the site have been retained.

The Bristol Avon River County Wildlife Site lies to the east of the application site at a distance of approximately 396m at its closest point. Though some compensatory mitigation measures will be required to offset the loss of vegetation it is considered that this can be controlled by condition. The applicant, within the supporting statements and submitted plans indicates that additional planting is proposed. Subject to a suitably worded planning condition relating to landscaping no objection is raised.

## **10. Conclusion**

The proposal seeks permission for a single gypsy and traveller pitch. The applicant meets the definition of a traveller as set out in the PPTS. The adopted WCS outlines that there is a requirement for pitches within the North and West HMA, albeit that the DPD has not been completed which is required to add detail to the interpretation and implementation of Core Policy 47 and identify specific sites to deliver the pitch requirements set out within the policy. As this has yet to be adopted, the proposal has been assessed against the criteria within Core Policy 47 and National Policy.

The principle of the development within the countryside is considered acceptable and the site is considered to be within reasonable distance of a range of local services and community facilities with no adverse ecological or environmental impacts have been identified.

The increased use of the existing access together with the generation of additional traffic movements, resulting from the proposed development, would not be prejudicial to road safety. The proposal is therefore considered to be in accordance with both local and national Planning policies.

## **RECOMMENDATION**

planning permission should be **GRANTED** subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.



2 The development hereby permitted shall be carried out in accordance with the following approved plans:

TP1- Received 09/11/2016

TP2- Received 09/11/2016

TP 3 REV B- Received 12/01/2017

TP4 REV A- Received 12/01/2017

REASON: For the avoidance of doubt and in the interests of proper planning.

3 Within 3 months from the date of this permission the parking areas shown on the approved plans shall have been consolidated, surfaced and laid out in accordance with the approved details. Those areas shall be maintained and remain available for that use at all times thereafter.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

4 No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs of the 'Day Room' have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission.

5 Within three months of the date of this decision a scheme of hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-

a detailed planting specification showing all plant species, supply and planting sizes and planting densities;

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 6 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 7 The site shall not be permanently occupied by persons other than gypsies and travellers as defined in Annex 1 of Planning policy for traveller sites, August 2015.

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.

- 8 Within 3 months of the date of this decision, details of the retaining wall shall have been submitted for the approval of the local planning authority. The wall shall then be completed in strict accordance with the details as approved within 3 months of the local planning authority's decision.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission.

- 9 Occupation and use of the Mobile home and touring caravan hereby permitted shall be limited solely to and by close family members of the occupants of the application site. Close family members defined as dependents, sons, daughters and grandchildren.

REASON: In the interests of residential amenity.

- 10 There shall be no more than one (1) permanent pitch on the application site.

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

- 11 No more than one (1) commercial vehicle shall be kept on the land for use by the occupiers of the caravan hereby permitted, and they shall not exceed 3.5 tonnes in weight and 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.

- 12 There shall be no more than two (2) caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 on the application site, of which no more than one (1) shall be a static caravan or mobile home and no more than one (1) 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 CP47 of the Wiltshire Core Strategy 2015.

- 13 Within three months from the date of this permission details of the works for the disposal of sewerage shall have been submitted to and approved in writing by the Local Planning Authority. Within 1 month of the Council's approval of the above details the approved sewerage details shall be fully implemented in accordance with the approved plans.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or the environment.

- 14 Within three months from the date of this permission a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, shall be submitted to and approved in writing by the Local Planning Authority. Within one month of the Council's approval of the above details the surface water drainage shall be constructed in accordance with the approved scheme.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

**INFORMATIVE TO APPLICANT:**

The applicant is requested to note that this permission does not affect any private

property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

**INFORMATIVE TO APPLICANT:**

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

**INFORMATIVE TO APPLICANT:**

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.