

## REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	02.03.2011		
Application Number	W/10/04066/FUL		
Site Address	Land Adjoining Railway Line Court Lane Bratton Wiltshire		
Proposal	The siting of a mobile home, touring caravan and dayroom		
Applicant	Miss Dawn Pople		
Town/Parish Council	Bratton		
Electoral Division	Ethandune	Unitary Member:	Julie Swabey
Grid Ref	391024 153304		
Type of application	Full Plan		
Case Officer	Mr Matthew Perks	01225 770344 Ext 5207 matthew.perks@wiltshire.gov.uk	

### Reason for the application being considered by Committee

Councillor Julie Swabey has requested that this item be determined by Committee due to the site being outside of Village Policy Limits and the applicant not satisfying criteria for Gypsy and Traveller status. The proposal is therefore contrary to the Development Plan. The Councillor requested Committee consideration in the event that permission is recommended. However, although refusal is again being recommended, the matter is being referred back to Committee for consideration of a variation to reasons for refusal.

#### 1. Purpose of Report

To consider the above application and to recommend refusal, but varying from a decision previously made by Committee on this same site. The recommendation is made on the basis of supplementary information and in the light of revisions to the proposal.

#### 2. Main Issues

This a revision to an application refused by Planning Committee on 25.08.2010 for the following reasons:

*1. The proposed mobile home and associated structures, vehicles and general paraphernalia would, by reason of the open character of the site and surrounding land, appear unduly prominent and intrusive within the landscape to the detriment of the character and appearance of the countryside contrary to West Wiltshire District Plan - 1st Alteration 2004 Policy C1 and CF12, and Wiltshire Structure Plan 2016 Policy DP1 and DP15.*

*2. The proposal, located remote from services, employment opportunities and being unlikely to be well served by public transport, is contrary to the key aims of PPG13 which seeks to reduce growth in the length and number of motorised journeys.*

*3. The site has insufficient frontage to enable an access to be satisfactorily laid out incorporating the necessary visibility splays which are essential in the interests of highway safety contrary to West Wiltshire District Plan - 1st Alteration 2004 Policy CF12.*

The key issues therefore are whether or not the revised proposals have overcome these reasons, and/or if there are other material circumstances not previously considered, indicating that the decision to be revisited.

### **3. Site Description**

The application site is located in open countryside to the north of Bratton, approximately 700 metres from the village policy limits.

The application site is part of a relatively flat field used for grazing of animals. The site has a boundary to the west of a dense hedgerow adjacent to the highway. To the north is a post and rail fence with limited scrub. To the south there is the railway line and to the east the remainder of the parent open field.

The access to the site would be an existing field gate located directly adjacent to the railway bridge to access, via a driveway, the site in the northern corner of this triangular-shaped field. The road is a C-classified highway and the access is directly opposite the junction between this road and Court Lane.

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

W/09/01954/FUL : The siting of a mobile home, touring caravan and dayroom : Withdrawn : 30 July 2009.

W/10/01716/FUL : The siting of a mobile home, touring caravan and dayroom : Refused : 25.08.2010

W/09/02386/FUL: Mobile home, day room and caravan : Refused : 08.10.2009 and allowed on Appeal on 05.05.2010. This site is some 200m from the current application site.

### **5. Proposal**

This is a resubmission of a previously refused application as detailed above.

The proposal is again for the siting of a mobile home, touring caravan and wooden dayroom structure to be occupied as a single gypsy/traveller site. There are some ancillary works including the provision for a septic tank, hard standing for vehicles and fencing.

The revision to the previous proposal involves the use of a different access, being an existing gate to the southern end of the field, and the provision of a 45m long "driveway" from there to the parking area serving the mobile home.

The applicant has provided additional supporting documentation to demonstrate a nomadic lifestyle, but this did not form the basis of any of the previous reasons for refusal.

### **6. Planning Policy**

Wiltshire Structure Plan 2016  
DP1 Priorities for Sustainable Development  
DP15 Accommodation for Gypsies and Travellers

West Wiltshire District Plan 1st Alteration (2004)  
C1 Countryside Protection  
C31a Design  
C38 Nuisance  
CF12 Gypsy Caravan Sites

National guidance  
PPS1: Delivering Sustainable Development  
PPS7: Sustainable Development in Rural Areas

DoE Circular 11/95: The use of condition sin planning permission.  
ODPM Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites

The Wiltshire Council Traveller and Gypsy Development Plan Document (DPD) is subject to a revised timetable following recent Government decisions on the RSS. The Secretary of State has also announced an intention to revoke Circular 01/2006, subject to impact assessments and other procedural requirements, but no timetable has yet been given nor any indication of what new policy guidance would replace it. Current estimations are that the DPD will only emerge in draft form in Spring 2011, with possible adoption after Spring 2012.

## **7. Consultations**

### Bratton Parish Council

The Parish Council raises objections to the application as follows:

- 1. Local knowledge proves that Miss Pople was born and brought up in the village of Bratton and lived in a residential property until approximately 10 years ago when she moved to Bonnie Park to live with her then partner. Although Miss Pople has tried to provide evidence of her background, the council still feels that to give her permission to live on her own land would opening the flood gates for other land owners to apply to live on their land. She holds a permanent position at the Co-Operative supermarket in Westbury and to the council's knowledge has never lived a nomadic lifestyle, which this type of site is usually required for.*
- 2. The council is of the opinion that as there have been two applications of this kind granted in the recent months, other land owners are "jumping on the band wagon" and trying to obtain the change of use on their own land.*
- 3. The application falls outside the local structure/development plan and the building lines for Bratton and Edington.*
- 4. Should the application be granted the council requests a clause that the change of use is only for the applicant's lifetime.*
- 5. The council wishes to re-iterate Wiltshire Council's policy not to have single sites but managed sites of more than 1 plot which this application goes against.*

### Edington Parish Council

No comment received.

### Highways

The Officer notes the revised access position and as before objects:

1. The proposal, located remote from services, employment opportunities and being unlikely to be well served by public transport, is contrary to the key aims of PPG13 which seeks to reduce growth in the length and number of motorised journeys.
2. The site has insufficient frontage to the north to enable an access to be satisfactorily laid out incorporating the necessary visibility splays which are essential in the interests of highway safety.

## **8. Publicity**

The application was advertised by site notice and neighbour notification.

Expiry date: 04.02.2011

5 responses were received, 3 of which were from the same neighbour. Summary of points raised:

Objections:

- \* Not possible to ascertain from plans what the boundary treatment to the north boundary would be;
- \* Concerns about adequacy of screening and absence of a 1.8m high close boarded fence;
- \* Any permission should have an enforceable condition relating to proper boundary treatment;
- \* Development would be sporadic and set an undesirable precedent;
- \* Visual prominence;
- \* Risk to pedestrians and traffic hazards;
- \* Applicant does not have a nomadic lifestyle;

\* Applicant and partner occupied a plot at Bonnie Park for 10 years, but partner now occupies a field adjacent to Bonnie Park; and

\* No reason for applicant to move from Bonnie Park.

Support:

\* Confirmation that applicant has lived traveller lifestyle at Bonnie Park.

## **9. Planning Considerations**

9.1 As with application W/10/01716/FUL this proposal is for a single private gypsy site. As such it must be principally considered under Policy DP15 of the Wiltshire Structure Plan 2016 and Policy CF12 of the West Wiltshire District Plan (2004). Further the proposals need to be considered in light of other relevant development plan policy and the regional and national context which includes the ODPM Circular 01/2006 on planning for gypsy and traveller caravan sites.

9.2 Policy DP15 clearly states that proposals for gypsy caravan sites cannot be assessed using policies for settlements and that travellers and gypsies have particular needs which are recognised in central government policy. Further it is clear that suitable sites may be found within and outside settlements.

9.3 Policy CF12 is consistent with the Structure Plan and also sets out criteria by which to assess applications and has a positive phrasing stating that proposals to provide caravan sites for gypsies will be permitted in appropriate locations having regard to issues such as nuisance, encroachment into open countryside, the needs and safety of future occupants and their children, highway safety, availability and adequacy of infrastructure, proximity to services, protecting agricultural land and flood risk.

9.4 National policy remains ODPM Circular 01/2006 where no indication of when it will be revoked or what will replace it has been made known.

9.7 The applicant has been living on the Bonnie Park site, a registered gypsy and traveller site, for many years. In light of the recent transfer of management from Council to private ownership of this site there is a sense of insecurity of tenure and therefore a more secure option is sought. This is quite a reasonable demonstration of need and is a clear indication that the applicant meets the definition detailed above. The issue of whether or not the applicant has demonstrated a nomadic lifestyle is raised by both the Local Member and the Parish Council. The applicant has submitted additional supporting documentation in the form of 3 letters from Bonnie Park residents supporting these claims. This issue was furthermore not made a reason for refusal of W/10/01716/FUL and it could therefore not reasonably be introduced now.

9.8 This application site is located in proximity to a well-established traveller's site located in the open countryside outside of the village policy limits. This site is still well-related to the village of Bratton being within a reasonable walking distance of its services and facilities. Further the site is much closer to the village than recent single, private pitch gypsy sites granted planning permission on Capps Lane. The first of these was granted by a Planning Inspector who considered the site to be reasonably sustainable for a gypsy site given their nomadic lifestyle.

9.9 Members will recall that the previous application was recommended for permission but was refused after Committee discussion.

9.10 Not previously evaluated in depth when that application was submitted to Committee was the detail of an Appeal on a site some 200m to the south of the application property. Although the Appeal decision pre-dated the Committee consideration, the content of the Inspector's decision was not reported.

9.11 In considering the Appeal against the refusal of application Ref. W/09/02386/FUL for a mobile home, day room and caravan the Inspector noted that the appeal site is agricultural land set in generally open countryside to the north of Bratton. As with the current application site it is separated from the road by a hedge, and is otherwise enclosed by post and wire fencing. The Inspector further

observed that Council's lease on their part of nearby Bonnie Park was due to expire, and that there is some uncertainty as to whether the landowner will renew the lease.

9.12 As with the current case, the appeal proposal includes a mobile home, a caravan and a day room, together with necessary access and hardstanding. The Inspector noted that in the Appeal case that a potential issue was impact on the countryside but stated that it "... is clear that these elements would be visible, to a limited extent, through the roadside hedge and at a distance from the footpath to the east." He went on to observe that Circular 01/2006 "... makes it clear that rural locations, where not subject to special planning constraints, are acceptable in principle. There are no special constraints affecting this site. Both SP policy DP15 and DP policy CF12 are generally permissive of gypsy sites in appropriate locations and refer to the possibility of suitable sites outside settlements. Although the proposal would, by definition, be an encroachment into the countryside, the simple fact that the site is beyond the defined village policy limit does not equate to significant visual harm to the area, as there are no particular issues related to this specific proposal." He concluded on that basis that any harm to the character and appearance of the countryside would be limited, and that it would therefore not conflict with Development Plan policy.

9.13 All planning Applications must be treated on their own merits, but it is considered that the Inspector's conclusions in very similar circumstances to the current application are a material consideration lending weight to revisiting Reason 1 for the refusal of Application 10/01716/FUL i.e. *The proposed mobile home and associated structures, vehicles and general paraphernalia would, by reason of the open character of the site and surrounding land, appear unduly prominent and intrusive within the landscape to the detriment of the character and appearance of the countryside contrary to West Wiltshire District Plan - 1st Alteration 2004 Policy C1 and CF12, and Wiltshire Structure Plan 2016 Policy DP1 and DP15.* It is considered that this reason should not be made applicable to any refusal on the revised application, although it is acknowledged that the actual siting of the mobile home would be closer to the road.

9.14 With regard to Reason 2 of the 10/01716/FUL refusal, i.e. *The proposal, located remote from services, employment opportunities and being unlikely to be well served by public transport, is contrary to the key aims of PPG13 which seeks to reduce growth in the length and number of motorised journeys,* a similar reason was also imposed in the Appeal case. The Inspector observed in his decision that "Bratton has a primary school, a public house, a village hall, a recreation ground, a doctors' surgery with a pharmacy, shops, a post office and a church. For a small settlement, I consider this is a good level of service provision. For employment and other facilities "... Westbury, Trowbridge, Warminster and Devizes are all less than 12 km away, and that some of these settlements are significantly closer than that. The level of buses "... is reasonable for a rural location and this was not contested by the Council." The Inspector further considered issues of sustainability and the use of vehicles and of pedestrian access to Bratton and came to the conclusion that the proposal would be "...consistent with the aims of planning policies which encourage sustainable forms of development." It is considered that, again given the similarities of these cases, that Reason 2 should not be made applicable to any refusal on the revised application albeit that highway officers raise PPG13 objections..

9.13 Highway Officers also remain concerned with the visibility although the access has been revised. Although an existing access onto the highway would be utilised, Officers note that there are limited splays at this locality in the proximity of the railway bridge and that additional usage for residential purposes is not supported. Thus, although it is noted in Circular 01/2006 (Para. 66) that 'proposals should not be rejected if they would only give rise to modest additional daily vehicle movements and/or the impact on minor roads would not be significant', the hazard identified by officers is considered a reason for refusal in this context.

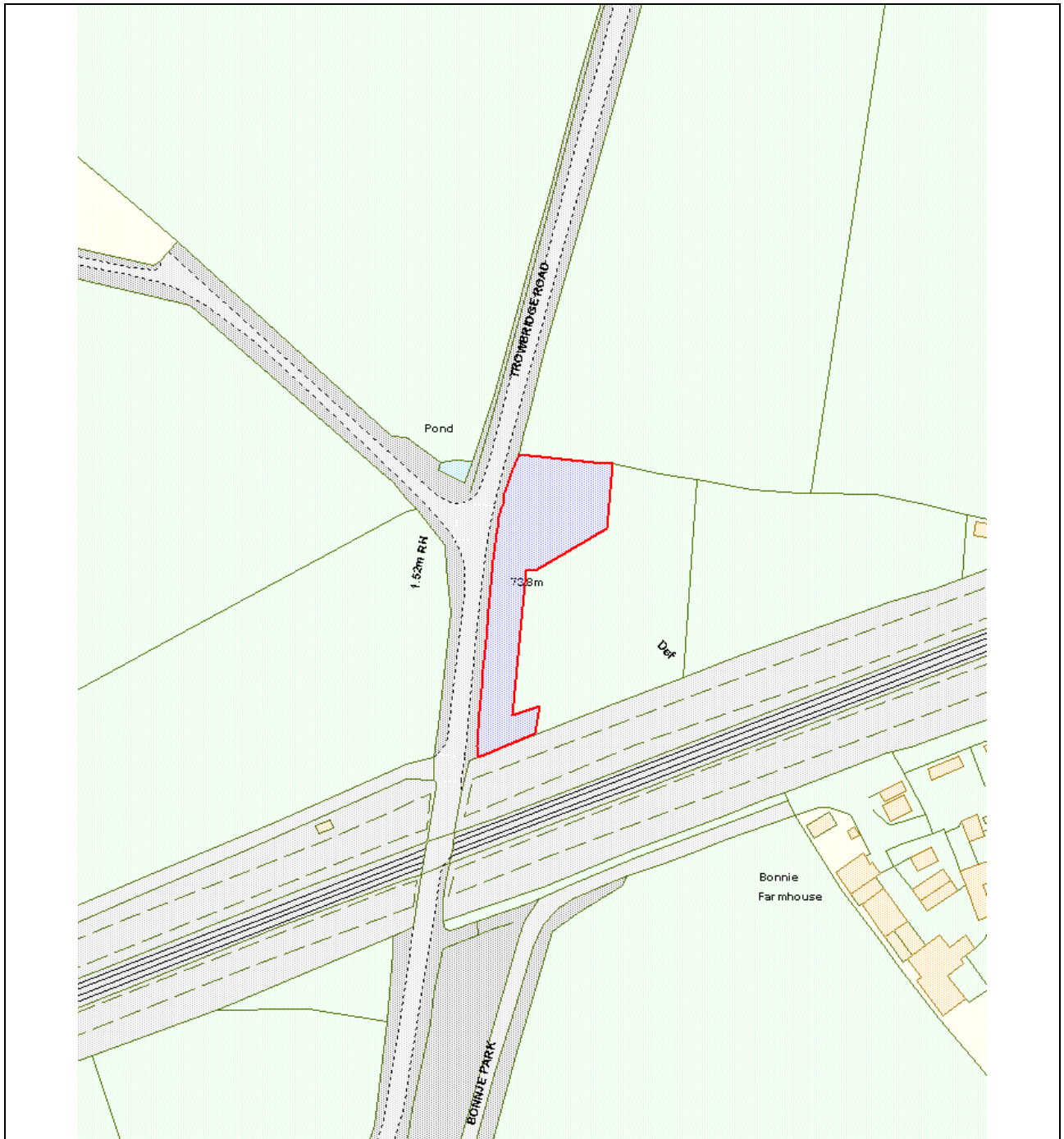
9.15 In summary, it is recommended that consideration be given to the content of the Inspector's decision in the very similar circumstances that applied at the nearby site. Whilst the revised location of the access and associated increased use thereof would not be acceptable from a highway safety perspective, reasons 1 and 2 for refusal of application 10/01716/FUL (impact on countryside and sustainability respectively) are not in accordance with Policy or Circular 01/2006. It is considered therefore that the application should again be refused, but only on grounds of highway safety issues.

**Recommendation:**            **Refusal**

**For the following reason(s):**

- 1     The site has insufficient frontage to enable an access to be satisfactorily laid out incorporating the necessary visibility splays which are essential in the interests of highway safety. The proposal is therefore contrary to Policy CF12(D) of the West Wiltshire District Plan, 1st Alteration 2004 which states that applications for Gypsy sites shall have regard to highway safety, access, pedestrian safety, the impact of traffic on local roads and access to public transport.

<b>Appendices:</b>	
<b>Background Documents Used in the Preparation of this Report:</b>	



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## RELEVANT APPLICATION PLANS

- Drawing : SITE LAYOUT received on 29.12.2010
- Drawing : LOCALITY received on 29.12.2010
- Drawing : DAYROOM received on 29.12.2010
- Drawing : MOBILE HOME received on 29.12.2010