

REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	20 March 2019
Application Number	18/08571/FUL
Site Address	Land West of Bushton Road, Hilmarton, Calne, SN11 8TA
Proposal	Change of use of land to use as a residential caravan site for one gypsy family with 5 caravans, including no more than one static caravan/mobile home, together with laying of hardstanding, improvement of access and, erection of ancillary amenity building.
Applicant	Mr John Johnson
Town/Parish Council	Hilmarton
Electoral Division	Hilmarton – Cllr C. Crisp
Grid Ref	407576-180199
Type of application	Full Planning
Case Officer	Paul Galpin

Reason for the application being considered by Committee

The reason that this application is brought before the Strategic Committee and not the Area committee is that the Inspector, when reporting on the Wiltshire Core Strategy, expressed concern about whether the Council's approach towards gypsies and travellers was consistent with national policy. National policy requires Council's to plan positively for traveller sites. In its response to the Inspector's concerns, the Council has committed to considering planning applications for new traveller sites as a strategic issue rather than a local issue. This proposal would increase the number of pitches available for travellers and is therefore before the Strategic Committee.

The application was called to committee as there are concerns, relating to visual impact on surrounding area and environmental / highway impact.

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.
- Sustainability
- Highway Safety

Hilmarton Parish Council object to the proposed development. Four letters of objection have been received.

3. The Proposal

The proposal is for the change of use of land to use of land as a residential caravan site for one gypsy family, including no more than one static caravan, an amenity building and touring caravans. The proposal is partially retrospective, with some aspects of the development having already been carried out, most notably: installation of hard-core surfaces and the erection of close boarded fences inside the site boundaries. A static mobile caravan was in place during the Officer's site visit. There are other items associated with this use and works now at the site.

4. Site Description

The application site sits adjacent to Bushton Road and has long been separated from adjacent fields. It may have been used informally as a nursery (horticulture) in the past, but more recently has been largely overgrown and enclosed by hedges. A vehicle access to the site has been created by removing part of the roadside hedge. The boundaries of the site are defined by hedgerows and mature trees, with the western boundary marked by timber feather edged fencing. The site is in the countryside outside the limits of any defined settlement.

Bushton Road is a rural lane (wide enough for two cars to pass) with grass verges which provides a link in the highway network between Bushton and Hilmarton.

5. Planning History

N/90/01899/SEC - Change of use from agricultural to horticultural use – Did not require planning permission.

A Temporary Stop Notice (TSS) was served on the site in September 2018 when the unauthorised works were brought to the Council's attention. This would have expired in early October, so to protect the Council's position, an Enforcement Notice was served in October, requiring the use to cease. This has currently been appealed. If planning permission is granted, the Enforcement Notice is effectively terminated and the terms of the planning permission will govern the use of the site.

6. Local Planning Policy

Wiltshire Core Strategy (WCS) 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, E and G.

Saved Policies of the North Wiltshire Local Plan:

NE18- Noise and Pollution

H4 – Residential Development in the Open Countryside

National Planning Policy Framework 2019 (NPPF)

Planning Policy for Traveller Sites (PPTS)

7. Summary of consultation responses

Hilmarton Parish Council: 24/09/18: Objection. Comments repeated verbatim below:

Hilmarton Parish Council strongly object to the above planning application.

“Firstly the application should be registered as a retrospective application as the majority of work had been carried out before an application was even submitted.

Secondly this is another example of unlawful development in this area and unless the Planning and Enforcement Teams act promptly to stop this kind of development a precedent will be set and more unlawful developments like these are likely to occur.

There are policies in place in the Wiltshire Development plan written in order to protect the living conditions of nearby residents and/or the rural character of the area. This development simply does not comply with these policies.

We would urge Wiltshire Council to pursue the blatant lack of respect for planning law that has been demonstrated regarding this application and the blatant disregard of the Temporary Stop Notice issued to this site after work had begun. Wiltshire Council should refuse this application in order to protect our rural countryside.

Hilmarton Parish Council strongly supports the written submissions by Mr Keith Roberts, together with many other objectors who feel too intimidated to provide their personal details.”

Wiltshire Council Highways - No objection. The location of the access is not considered to be of detriment to the existing highway as it is directly next to an existing field access previously used by the Garden Nursery.

The site is located such that required visibility splays would be within the highway boundary. The existing hedgerow may infringe on this and is required to be maintained in order to achieve a suitable splay. Turning space on site should be such that any vehicle accessing the site can enter and leave through the access in a forward gear.

Wiltshire Council Landscape Officer: The site is not contained within a protected landscape and is reasonably well contained by the retained perimeter hedgerows, and riparian vegetation lining the perimeter ditch/watercourse and by some larger field side hedgerow trees to the west. This provides some existing and mature landscape structure for the new development to attach itself with from the wider landscape. The opportunity for the public to view the proposed new development is likely to be limited and restricted to short range views from Bushton Road, where road users will experience a slight change in the view of new entrance gates and fenced entrance splays, views of the upper parts of new development over the perimeter hedgerows and views of the new roadside fence through the roadside hedgerow (during winter months). Other visual effects will include a new source of light spill into countryside at night. There is a dense public right of way network within the local area, but footpath and bridleway users are unlikely to experience particularly adverse effects arising from this development due to the screening and filtering of new development by existing mature perimeter site vegetation. The proposal is

considered likely to result in adverse localised landscape and visual effects which are judged to be permanent and minor in nature.

Wiltshire Council Public Protection: - No objection:

Wiltshire Council Drainage: - No objection, subject to conditions.

Wiltshire Council Spatial Planning: – The Core Strategy pitch requirements for the North and West Housing Market Area for 2016-21 have been met entirely through permissions; and also the pitch requirement in the 2014-19 GTAA period. PPTS states that criteria based policies should guide proposals where there is no overall need but proposals nevertheless come forward.

County Archaeologist: – No comment.

Arboricultural Officer: No objection, – As the area is not located within a Conservation Area and the trees are not protected by a TPO, the Council would have no powers to take action against this clearing of the site.

8. Publicity

The application was advertised by neighbour letter, press notice (18/09/18) and site notice. Four letters of objection were received, in summary raising the following issues:

- Rural / isolated Countryside location
- Distance to services/ public transport issues
- Retrospective / site not vacant / planning enforcement issues
- Outside development framework / Not policy compliant
- Large gates/ lighting/ hard-core / out of character / unsightly
- Tree / vegetation / removal /
- Pedestrian safety issues
- Ecology issues
- Drainage issues
- Adjacent to floodplain / Why Environment agency not consulted
- Site does not have electricity / generators.
- No evidence that applicant are gypsies
- Issues with vacant / nursery previous use
- Cumulative development issues in area / precedent
- Site overdeveloped

9. Planning Considerations

9.1 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 National Planning Policy Framework (NPPF, 2019), Planning Practice Guidance (PPG) and Planning Policy for Traveller Sites (PPTS, 2015) are material considerations which can be accorded substantial weight.

The Council has decided not to continue work on a separate Gypsy and Traveller Development Plan Document. Instead, the work being undertaken as part of the Wiltshire Local Plan review is to incorporate the work previously proposed as part of the Gypsy and Traveller DPD. The Wiltshire Local Plan Review process will take forward the outcomes of the consultation on the scope of the Gypsy and Traveller DPD and evidence prepared. The purpose of the review will include the assessment of the future levels of need for new Gypsy and Traveller accommodation.

As is noted within the comments of the Council's Spatial Planning team, the Core Strategy pitch requirements for the North and West Housing Market Area for 2016-21 have been met entirely through permissions. However, Policy 47 of the WCS sets no upper limit for pitches; instead requiring individual planning applications for such to be assessed against criteria.

9.2 Status of the Applicant

The applicant's Agent has confirmed in writing that the applicant and their family satisfy the definition of a gypsy or traveller as set out in Annex 1 the PPTS. 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. In the event of permission being granted, it would be relevant and reasonable to impose a planning condition restricting occupancy for such persons in perpetuity.

9.3 Assessment of need for pitches

Representations have been received suggesting that there is no need for additional Gypsy and Traveller accommodation in Wiltshire.

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*". The National Planning Policy Framework (2019) and 'Planning Policy for Travellers Sites' (2015) include the general principle of aligning planning policy on traveller sites. Core Policy 47 reflects this approach as it identifies a requirement for new pitches for the period until 2021.

The Planning Policy for Traveller Sites (PPTS) 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. PPTS (2015) 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. However the Core Strategy Inspector advised that the WCS numbers should be treated as a minimum in the absence of a DPD.

The Council's latest position for the North and West Housing Market Area (HMA) is that for the period December 2016- December 2021, an additional 22 pitches are required. This is set out in Core Strategy Core Policy 47 (CP47). The Council's monitoring data shows that as of September 2018, this need has been met. As referenced in section 8.1 above, CP47 sets no upper limit for new Gypsy and Traveller pitches.

National planning policy enshrined in Planning Policy for Traveller Sites (PPTS) at paragraph 11 is clear that where there is no identified need, proposals should be assessed against locational

criteria where sites come forward nevertheless. These criteria are set out in policy CP47 of the Wiltshire Core Strategy and this is considered in the sections below.

9.4 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 specific criteria are considered in detail below:

Drainage & Stability (i)

Concerns have been raised by local residents in relation to foul and surface water disposal. The site is located entirely within Flood Zone 1, where flooding is regarded (and defined) as being a low probability. There has been no objection from the council land drainage engineer and, whilst the concerns of local residents are acknowledged, there is considered to be no evidenced reason why the proposal would conflict with criterion (i).

Although referenced as being via septic tank and soakaway respectively, the exact specification of the intended means of foul water and surface water drainage have not been provided within the application but, in the context of a low probability of flooding and non-objection by the Council's Drainage Engineer, it is considered reasonable to leave such details to be agreed via the imposition of a suitably worded planning condition.

Access and Highways (ii & iv)

The access to the site is via single carriageway country lane (C-class road). Additional vehicle movements generated by this application would not result in any adverse impact on highway safety. Consequently no highway objection has been raised by the Council's Highway Engineer.

Criterion (iv) requires that the site must also be large enough to provide adequate vehicle parking, including circulation space, along with residential amenity and play areas. The Highway Officer has confirmed the site provides sufficient space and facility for onsite vehicle parking and manoeuvring for residential purposes.

Paragraph 109 in the NPPF (2019) states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. There is no evidence that the proposal would cause such an adverse impact.

Essential Services (iii)

The applicant has confirmed that the site is serviced by mains water and would be connected to a mains electricity supply. A mobile phone could be used for both telephone and internet connection. A foul sewage treatment unit (septic tank) and soakaway would be provided for surfaced water and will be conditioned. The site can therefore be properly serviced and supplied with essential services. The proposal is therefore considered to be in accordance with criteria (iii).

Sustainability (v)

It is important to note CP 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.

The site is located in open countryside in planning terms. Hilmarton is classified as a Small Village in the WCS, it is approximately 1.5 km away and has a primary school. It further provides basic facilities such as church, village hall and pub. The site is located approximately 2.2km from the nearest bus stop, which is the A3102 Hilmarton Highway Turn. This is a strategic bus route (service 55), providing regular services to Swindon and Calne. However, there is no pavement for the link to Hilmarton and there is no streetlighting.

Lyneham is located approximately 5.9km (6 mins drive - AA), this is classified as a Large Village in the WCS with a more extensive range of services and facilities in comparison to Hilmarton. Calne is located approximately 7.6 km (9mins drive - AA) to the south-west and is classified as a Market Town and provides an extensive range of key facilities in addition including surgeries and secondary school.

The principle of siting Gypsy and Traveller developments outside the defined limits of development is accepted and well established with the PPTS. Policy C, paragraph 14 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. In this case, the site does not dominate due to the small scale of the proposal.

Considering all factors relating to the sites location and accessibility, it is concluded that the application site can be said to be within a reasonable distance of a range of local services and community facilities, thereby complying with policy CP 47.

Impact on the character and appearance of the locality (vi & viii)

The site is self-contained, with established boundary planting and mature trees providing screening around the perimeter of the site, together with the hedgerow on the Bushton Road frontage. This is considered to provide some site screening and mitigation of the visual impact of development.

The Council's Landscape Officer concludes that the development has a localized minor adverse impact. This assessment is considered to be accurate, as the structures associated with the use are only visible from close at hand, and mainly at the site access and when traveling south along the road.

In view of the minor and localized impact identified by the Council's Landscape Officer, and the lack of any landscape policy designation, it is not considered that the visual impacts are of significant harm to the local area and that the proposal does not conflict either with the criteria in CP47 nor policies CP51 or CP57 of the Wiltshire Core Strategy.

Impact on Residential Amenities (vii)

The site of the proposed development is isolated from other residential properties, such that there is no adverse impact on the reasonable amenities of any nearby dwellings.

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.

The site is not designated for any ecological, habitat or nature conservation purposes. Whilst it is evident that some trees and vegetation have been cleared at the site none of the trees were protected. Any additional planting required can be secured through a planning condition.

9.5 Other matters

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. 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.

10. Conclusion

In the absence of any policies in the development plan allocating sites for gypsy and traveller use, the Council has to consider any applications against the criteria set out in CP47.

The proposal has been assessed against these criteria and found to be in accordance with the criteria set out. The site is not in any protected landscape or ecological area and any visual impact is limited by the existing perimeter hedgerows and vegetation. The site is unusually self-contained and limited in size but is adequate for a single family. There are no highway objections and whilst the site is in the countryside, it is not remote from existing settlements.

The proposal is therefore considered to be in accordance with both local and national Planning policies in relation to the provision of gypsy and traveller sites.

RECOMMENDATION: That planning permission be GRANTED subject to the following conditions:

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

Site Layout Plan (1:500), Received 7 September 2018.
Location Plan, Land West of Bushton Road, Received 7 September 2018.
Plans of Amenity Building, Front Elevation (1:50), Received 7 September 2018.
Plans of Amenity Building, Rear Elevation (1:50), Received 7 September 2018.

Plans of Amenity Building, Side Elevation (window) (1:50), Received 7 September 2018.

Plans of Amenity Building, Side Elevation (1:50), Received 7 September 2018.

Plans of Amenity Building, Proposed Day Room (1:50), Received 7 September 2018.

Design and Access Statement, Received 7 September 2018.

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

- 2 Before development commences above ground floor slab level of the day room, details of the proposed materials to be used for the external walls and roof of the building shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: To ensure the use of appropriate materials in the interests of protecting the appearance of the area.

- 3 The site shall not be 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 the site meeting the criteria set out in WCS policy CP47 for gypsy and traveller sites.

- 4 Occupation and use of the day room, static mobile home and touring caravans hereby permitted for this single pitch shall be limited solely to close family members of the occupants of this pitch. Close family members defined as dependents, sons, daughters and grandchildren.

REASON: The site is only suitable in size for a single pitch.

- 5 There shall be no more than one static mobile home and one amenity building on the application site in accordance with the Site Layout Plan (1:500), received 7 September 2018.

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

- 6 No more than one (1) commercial vehicle shall be kept on the site for use by the occupiers of the individual pitch hereby permitted, and such vehicle 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 amenity, highway safety and the character of the countryside.

- 7 The use hereby permitted shall cease and any caravans shall be removed from the site within 56 days of the date of failure to meet any one of the requirements set out in i) – iv) below:

i) Within 2 months of the date of this decision the following details relating to the construction of the development hereby permitted shall have been submitted for the written approval of the Local Planning Authority:

a. full and complete details of the intended scheme for the disposal of sewerage from the site;

b. full and complete details of the intended scheme for the discharge of surface water from the site;

c. details of a proposed landscaping scheme for the site, including areas where extant planting is to be retained and where new planting is proposed.

ii) Within two months of the date of this decision, to provide the access and turning facilities in accordance with the submitted site layout plan, (including the surfacing of the proposed access as shown on the site layout plan)

(iii) If within 5 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iiiv) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

The development shall be carried out in accordance with the details to be approved in accordance with the requirements of this condition.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

8 All new planting required as part of the landscaping scheme shall be carried out by 31st December 2019. 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, including extant planting shown on the proposed landscaping scheme to be retained, 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.

REASON: To ensure a satisfactory landscaped setting and screening for the development.