

REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	15.06.2011		
Application Number	W/11/01206/FUL		
Site Address	Land Adjacent West Wiltshire Crematorium Littleton Semington Wiltshire		
Proposal	Change of use to small private gypsy and travellers site for three pitches for eight caravans and associated ancillary works and development (including hard standing blocks, drainage etc) and associated keeping of horses		
Applicant	Mr Patrick Ward		
Town/Parish Council	Semington		
Electoral Division	Summerham And Seend	Unitary Member:	Jonathon Seed
Grid Ref	390246 160130		
Type of application	Full Plan		
Case Officer	Mr James Taylor	01225 770344 Ext 15169 james.taylor@wiltshire.gov.uk	

Reason for the application being considered by Committee

Councillor Jonathon Seed has requested that this item be determined by Committee due to:

- * Scale of development
- * Visual impact upon the surrounding area
- * Relationship to adjoining properties
- * Design - bulk, height, general appearance
- * Environmental/highway impact
- * Other: Public concern at the development

1. Purpose of Report

To consider the above application and to recommend that planning permission be granted.

Neighbourhood Responses

9 letters of objection.
3 letters of support.

Semington Parish Council Response

Objection.

2. Report Summary

The main issues to consider are:

- * Planning history
- * Current and emerging local and national policy
- * Status of the applicant
- * Need for the development
- * Impact on the countryside
- * Highway safety

3. Site Description

The application site is currently occupied by the Ward family in accordance with planning permission 08/03870/FUL. The site measures approximately 65m x 60 metres and has been subdivided into three plots. The remainder of the land is to be used for the keeping of horses.

It is accessed via the A361 and has an access track leading to the area allocated for 3 pitches including 8 caravans and dayrooms. The pitch areas are laid to hard standing and are relatively flat. Sewerage facilities are temporarily provided by portable toilets and electricity is temporarily provided by generators.

Either side of the made up access track is post and rail fencing enclosing grassed areas. To the far west of the site is a public right of way with the West Wiltshire Crematorium beyond. To the east are a pond and the A350 junction with the A361.

The site is enclosed by a mix of fencing, bunding and hedges.

4. Relevant Planning History

07/03870/FUL - Change of use to private caravan site for three pitches, eight caravans for single extended family with associated works (hardstanding, drainage, fencing and utility buildings) and associated keeping of horses, for occupation by travellers (part retrospective) – Permission (subject to personal and temporary conditions) on 31.07.2008

5. Proposal

Permission is sought for the permanent change of use of this land in open countryside to a private caravan site for three pitches and eight caravans for a single extended family including associated works (hard standing, drainage, fencing and utility buildings). The proposals include the associated keeping of horses on land not used for the caravans.

The occupiers moved onto the site in late 2007 and subsequently obtained a temporary planning permission which expires on 31 July 2011. It is now sought to make this development permanent.

A supporting statement was submitted with this application. This covers not only the planning policies the applicant considers are relevant to this application, but also sets out the personal circumstances behind the applicant's need for a settled base. These include the medical and educational needs of the family. This is significant as the personal needs of gypsy and travellers are important material considerations that are given significant weight in planning decisions, including the recent one at Framptons Farm, Wiltshire. Details of the personal circumstances are set out in the applicant's supporting statement, available on the application file and on the Council's web site.

6. Planning Policy

Wiltshire and Swindon Structure Plan 2016

DP1 Sustainable development

DP3 Development Strategy

DP14 Housing, employment and related development in the open countryside

West Wiltshire District Plan First Alteration (June 2004)

CF12 Gypsy Caravan Sites

C1 Countryside protection

C32 Landscaping

C38 Nuisance

R11 Footpaths and rights of way

H19 Development in open countryside

T10 Car parking

U1a Foul water disposal

U2 Surface water disposal

Gypsy and Travellers DPD Issues and General Approach Consultation Report (November 2010)

National guidance

PPS 1

PPS 7

Delivering Sustainable Development
Sustainable Development in Rural Areas

ODPM Circular 01/2006

Planning for Gypsy and Traveller Caravan sites

DCLG Planning for Traveller Sites Consultation (April 2011) including Annexe A Draft Planning Policy Statement: Planning for Traveller Sites.

7. Consultations

Semington Parish Council

Objection. An 8 page letter of objection has been received which provided the following summary of their objection:

“* We note that the previous application (07/03870/FUL was only granted temporary planning permission, because, as stated in condition 1, this was a form of development that would not be appropriate on a permanent basis. It is still not appropriate on a permanent basis.

* The inappropriate nature of the development given its location in open countryside; that it is next to a crematorium and requires pedestrian and vehicular access to the main road system.

* It does not comply with the existing plans and policies.

* There has been a significant change in attitude from Central Government since 2008 including the proposed withdrawal of circular 01/2006 and a removal of top down targets for traveller sites and the abolition of regional authorities.”

Arts Development Officer

No objection: “Due to the relatively small size of this site, we would not wish to have contributions towards public art for this application.”

Education

No objection: “I can confirm that we will not be looking for S106 contributions from this development.”

Enforcement (Planning)

In summary there are no breaches on the existing temporary permission at conditions 1, 2, 5, 6 or 7. Condition 3 has been breached in part but enforcement action was not deemed to be expedient by the then area development manager (ADM). Condition 4 has some outstanding planting. Finally in connection with condition 8 the ADM has accepted the temporary use of portable toilets whilst only temporary planning permission exists due to the cost of a permanent solution.

Environmental Health

No objection subject to condition on bonfires and burning of manure.

Gypsy and Traveller Liaison Officer

No comment: "As this is a private site and I have no jurisdiction over it and therefore register no comment".

Highway Authority

No objection:

"Members of the former West Wilts DC Planning Committee overruled the highway objections and the development proceeded with a revision to the access position. The new position and the works to complete the access were fully approved by the Highway Authority and remedied one of three highway grounds for refusal. As the development has subsequently proceeded, it is not, in my view, a matter for which this Authority can now recommend refusal.

I understand the proposal is to continue residence on the site on a permanent basis, but by occupation of caravans rather than permanent habitable structures. It would therefore seem reasonable to make any consent personal to the applicant and in accordance with the submitted scheme and I would recommend appropriate conditions or Section 106 if necessary to secure this form of development."

Housing

No objection: "There is currently no policy justification (for any housing contributions)"

Leisure Management

No objection: "Due to the location of the site, we would not wish to request an open space contribution for this application. Any target sites would be outside of the distance thresholds to spend monies."

Property & Estates

No response received.

Rights of Way Officer

No objection.

Spatial Plans

Comments set out in full in Appendix 1. No objection summarised by the following extract: "No overall policy objection. There could be some concern that granting permanent permission at this site would be premature in light of the preparation of the Gypsy and Traveller Site Allocations DPD. However, there is an identified need for Gypsy and Traveller pitches in the west Wiltshire area, and the applicant has indicated that there are personal circumstances which should also be taken into account. The Site Allocations DPD is not anticipated to be adopted until after examination and inspectors report in Spring/Summer 2012, and the current temporary permission expires at the end of July 2011.

It is therefore considered that the identified need for permanent pitches in the west Wiltshire area, together with the personal need of the applicants, is sufficient to outweigh any concerns about predetermining the outcomes of the Site Allocations DPD process. This response is largely informed by the inspector's report on the Framptons Farm appeal. (Appeal decision attached as Appendix 2).

This case officer will need to be satisfied that the application site still fits reasonably well with the criteria set out in the Policy CF12 of the West Wiltshire District Plan, and the guidance provided in Circular 01/2006, taking account of any changes of circumstance since the 2007 application."

Wessex Water

No objection.

8. Publicity

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

Expiry date: 13 May 2011

Summary of points raised in support (3 letters):

- * It was promised at the committee meeting that if there are no sites for you after the temporary period, we will allow you to stay.
- * They have worked hard to try and fit in with the local community.
- * Whilst a distinct nomadic way of life is no longer feasible, the essential way of life for Irish Travellers should be maintained.
- * Ward family contribute to the diverse racial and cultural civilisation of Britain.
- * A shortage of sites exist and a clear personal need.

Summary of points raised in objection (9 letters):

- * The temporary permission states that the site is not suitable for permanent occupation.
- * Site too close to the crematorium
- * Government have stated an intention to withdraw current policy and replace it with a fairer approach. No permanent decision should be taken until the new principles are formally in place.
- * The previous conditions have not yet been met, including sewerage system.
- * Inaccuracies in the submission
- * Problems logging objection on-line
- * How many do you think we should have in one village
- * We must be treated fairly / anyone can be a traveller / there should be no discrimination
- * The site should never have been granted in the first instance, as it was set up illegally on green belt land.
- * Access to the site is dangerous
- * Keep the field as open land
- * The outcome of the application will determine if my family and myself will become travellers
- * Concern about the validity of other travellers in the area
- * No longer feel comfortable using the public footpath since travellers moved in.
- * Would have expected an environmental impact would have been required.
- * If allowed it represents an extraordinary planning gain which will reward a blatant disregard of the planning regulations.
- * Can't be bothered to raise objection as it will obviously go through.

9. Planning Considerations

- * Planning history

- * Current and emerging local and national policy

ODPM Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites - is the current government advice relevant to this proposal. As it is more recent than the District plan, it carries significant weight in the decision making process and district plan policies should be interpreted in a way which takes into account the circular.

The Circular requires local planning authorities to carry out Gypsy and Traveller Needs Assessments to identify the need for new sites and pitches and to inform the Local Development Framework processes. In other words the needs assessment identifies the number of site and pitches needed. The Development Plan Document and Local Development Framework identify and allocate sites.

Spatial Plans in their consultation response have specified that the west Wiltshire area has a residential need for 9 pitches up to 2016. Work to identify and allocate sites in the Development Plan Document (DPD) and Local Development Framework will follow from Spatial Plans, although this process has been subject to delay.

It must be acknowledged that the new government has clearly stated an intention to withdraw this circular and replace it with a "light touch" document. This is in a consultation process at present and in the interim the Circular remains the relevant policy consideration. The draft guidance can only be given very limited weight and in any case proposes as an objective the need to increase significantly the number of traveller sites in appropriate locations with planning permission over the next 3-5 years to address under provision, and for local planning authorities to plan for a five year supply of traveller pitches/plots.

Turning to local policy the principle relevant policy of the local development plan remains CF12, the emerging development plan document (DPD) for Wiltshire Council has been in production for some time and has been delayed. On the most up to date timetable there is no date for adoption and there are a number of processes and procedures to go through before this which will take the process beyond the summer of 2012. Therefore the emerging DPD is not considered to have great weight given the limited stage that it has progressed to at this time, although the Spatial Plans team are still able to confirm a residual need in the area for traveller pitches. Indeed in this specific case the need is demonstrable given the Ward family are living on site and have been for several years. They have stated that they have no alternative and suitable accommodation and they have now become integrated to the community with the need to access health and education facilities.

Policy CF12 states that proposals to provide caravan sites for gypsies will be permitted in appropriate locations having regard to:

A Potential nuisance to adjoining land uses, in particular, residential areas;
B Encroachment into open countryside;
C The needs and safety of future occupants & their children;
D Highway safety, access, pedestrian safety, the impact of traffic on local roads & access to public transport;
E Availability and adequacy of infrastructure e.g. electricity, drinking water, sewerage or on-site treatment or storage of effluent;
F The proximity of local services and facilities e.g. shops; refuse collection, hospitals, medical services & schools;
G The need to protect the best and most versatile agricultural land;
H Potential flood risk and any unacceptable increased flood risk to other riparian owners arising from the development.

“Proposals will not be permitted in the Western Wiltshire Green Belt, Areas of Outstanding Natural Beauty, Sites of Special Scientific Interest, Sites of Nature Conservation Importance, Areas of High Ecological Value, Scheduled Ancient Monuments or where inappropriate to the character or appearance of a Conservation Area or the setting of a Listed Building.

“All schemes should be well screened by landscaping and/or fencing.

The District Plan continues commenting:

“The District Council recognises proposals for caravan sites for gypsies need special consideration by virtue of the particular needs of gypsies consistent with their nomadic lifestyle. The Council notes the advice expressed in Circular 1/94 and 01/2006. Gypsy Sites and Planning and defines gypsies as ‘persons of a nomadic habit of life, whatever their race or origin’. The gypsy community for the purposes of Policy CF12 includes long distance travellers. There are two permanent gypsy caravan sites in West Wiltshire at Bratton (10 pitches) and Fairhaven, Dilton Marsh (7 pitches). The Council will monitor the need for further pitches and seek to ensure adequate provision is made for gypsies residing in, or resorting to, West Wiltshire and permit appropriate schemes for additional caravan sites for gypsies in accordance with Policy CF12.”

The proposal is now considered against the criteria set out in Policy CF12 and advice given in Circular 1/2006.

1 Potential nuisance to adjoining land uses, in particular, residential areas

The closest neighbouring properties are some distance from the site to the west of the site towards Semington Village. The movements of vehicles to and from the site on the A361 will not materially affect amenity, particularly in view of the busy nature of the road network in this area.

The nearest sensitive use is the crematorium but again this is some distance away and tree planting and fencing serves to screen the part of the site being occupied by caravans from the crematorium. The paddock offers a further buffer from the crematorium.

2 Encroachment into open countryside

The site is in open countryside. However it needs to be noted that open countryside is not an unusual location for this particular use. The site is not in the Green Belt or on land with any specific landscape designation. Circular 1/2006 comments that rural settings, where not subject to special planning constraints, are acceptable in principle and indeed the emerging national statement indicates that subject to the scale of development not dominating the nearest settled community then sites in rural areas and the countryside may be acceptable. This proposal is not considered to be of a scale that dominates Semington either in isolation or cumulatively with other established traveller sites.

The site was formerly very open. Positioning caravans on the site clearly affects its appearance. However this has been mitigated with appropriate fencing, bunding and planting. Given that not all the approved landscaping has been implemented under the temporary permission a further condition is required in this regard.

The Parish Council contend that the site is not sustainable and it would be better if the site were on the fringe of the village. Whilst a village or fringe of village site would be more in accordance with national policy, this site is not considered to be very isolated. It is approximately 320 metres to the village policy limit along public rights of way, which in these circumstances is considered to be reasonable. Whilst each case is assessed on its own merits, it is noted that far more isolated traveller proposals in the area have been deemed as acceptable since Circular 01/2006.

3 The needs and safety of future occupants & their children

The site is capable of meeting the needs and safety of the occupants and their children. It is level and well suited to the stationing of caravans. The improved access to the site has been well established and no objection from highways has been received.

4 Highway safety, access, pedestrian safety, the impact of traffic on local roads & access to public transport

The access to the site has been amended since the temporary planning permission and the previous access blocked up for the site. An agricultural access only now remains. It is not considered that there is any demonstrable harm from the existing vehicular access which has good visibility.

Wide verges and footways along the A361 offer reasonable facilities for walking.

The site is on a bus route.

Circular 1/2006 comments that in assessing the suitability of sites in the countryside for this use local planning authorities should be realistic about the availability or likely availability of alternatives to the car in accessing local services.

The Parish Council point about crossing the A361 not being a safe option is noted. However it is considered that in the event of reasonable behaviour the road can be crossed safely, indeed there is a right of way at this point which requires walkers to cross the A361. There are also wide highway verges which can be walked on safely before more formal pedestrian facilities to the west outside the crematorium.

5 Availability and adequacy of infrastructure e.g. electricity, drinking water, sewerage or on-site treatment or storage of effluent

Electricity and drinking water supplies are available at the site. Foul sewage arrangements can be controlled by condition. It is accepted that the use of portable toilets is not a long term solution, but equally it is understandable why the applicants do not want to invest in a permanent solution when they only have a temporary permission, i.e. cost.

Contrary to the Parish Council comments a permanent sewerage solution can be achieved quite reasonably by the use of conditions.

6 The proximity of local services and facilities e.g. shops; refuse collection, hospitals, medical services & schools;

Local services – primary school, shop, church, public house are available at Semington. Further facilities are available in Trowbridge and Melksham. Refuse collection is available.

Indeed it is noted now that the family have become established in the area and that children attend local schools and some of the adults make use of the local health facilities. Not to allow them to stay would potentially jeopardise the health and education of the family.

7 The need to protect the best and most versatile agricultural land

The site was previously used for grazing and has been severed from associated farmland in recent years by the Semington by pass.

8 Potential flood risk and any unacceptable increased flood risk to other riparian owners arising from the development.

The use of the site in the manner proposed is acceptable in terms of flood risk both on and off site.

Wessex Water have been consulted on the application and they note that water supply, and foul sewerage can be achieved.

* Status of the applicant

It is considered prudent to be clear that the traveller status of the applicant has previously been accepted in granting temporary planning permission in 2008. There has been no known change of circumstance in this regard in the intervening period.

* Any other matters

For the sake of clarity, views on whether any contributions to planning gains can be justified, have been sought. No requests for section 106 contributions have been requested in the consultation process and indeed there is no planning policy to support such a suggestion.

It has been noted that Semington Parish Council has submitted a very detailed objection to the proposals. They contend that the proposals fail to accord with criteria A-F of policy CF12. However this Council, in granting temporary planning permission have accepted that the development is broadly in accordance with policy CF12 already.

The spatial planning team responsible for the production of the DPD has stated that they have no overall objections to the proposals.

* Temporary / Permanent

There is considered to be a residual need for the development. Whilst the Council has previously acknowledged this, it has also stated that any permanent permission would prejudice the work on the DPD production to allocate gypsy and traveller sites in Wiltshire to meet the identified need. As such temporary permissions have been granted. This approach has however been successfully challenged within Wiltshire and proven to be inappropriate, in the view of the Secretary of State's Planning Inspectors. Spatial Plans have acknowledged this opinion and therefore are placing greater weight on other factors such as the need for development and personal circumstances. They have succinctly summarised above why a permanent permission is now considered to be acceptable.

As the DPD work remains at an early stage and given the identified need and personal circumstances of the applicant, and indeed that the development is broadly in accordance with the local plan and national guidance, both current and emerging; then it is considered that a permanent planning permission may be granted.

Indeed it is noted that in concluding the previous officer report in 2008 it stated that the granting of a temporary permission "highlights the need for the Council to expedite the identification of sites. Refusing planning permission just because of a sole reliance on harm to the open countryside is not justified especially where personal needs are significant as well as the shortage of suitable

alternatives". Progress on the DPD has been slow in the intervening period (in part due to the change of government and the need to await the new national planning policy statement), a need is clearly remaining and the only identifiable harm to the open countryside has been mitigated with bunding and landscaping. Furthermore it must be considered that temporary permissions, in accordance with guidance in circular 11/95 on the appropriate use of conditions, cannot be repeated granted in perpetuity. Therefore permanent permission is justified.

Recommendation: Permission

For the following reason(s):

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

Subject to the following condition(s):

- 1 The occupation of the site shall be limited to the applicant and his family only during the lifetime of the applicant and his children. Thereafter, the site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006, or if this Circular is replaced, by any subsequent definition of gypsies and travellers in any replacement national planning guidance.

REASON: This permission is only granted having regard to the particular circumstances of need advanced in support of the development for the named applicants and the shortage of alternative sites in Wiltshire.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy CF12

- 2 Within three months of the date of this permission details of landscaping of the site have been submitted to, and approved in writing by, the Local Planning Authority. The landscaping scheme shall include provision for landscape planting, the retention and protection of existing trees and other site features, walls, fencing and other means of enclosure and any changes in levels.

Upon approval:

* The approved scheme shall be fully implemented with new planting carried out in the planting season October to March inclusive, following occupation of the building(s) or the completion of the development whichever is the sooner, or in accordance with a timetable to be agreed in writing with the Local Planning Authority;

* all planting shall be carried out in accordance with British Standards, including regard for plant storage and ground conditions at the time of planting;

* the scheme shall be properly maintained for the lifetime of the development, and any plants (including those retained as part of the scheme) which die, are removed or become damaged or diseased within this period shall be replaced in the next planting season with others of a similar size and the same species, unless the Local Planning Authority gives written consent to any variation; and

* the whole scheme shall be subsequently retained.

REASON: In the interests of consistency and visual amenity, to ensure that the approved landscaping scheme is carried out at the proper times and to ensure the establishment and maintenance of all trees and plants.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policies C32 and C40.

- 3 Within three months of the date of this permission, details of the works for the disposal of sewage and foul drainage works to serve the site hereby permitted, shall be submitted to and approved in writing by the local planning authority. The works shall be undertaken within three months of the approval of these details and shall be maintained as approved thereafter.

REASON: In the interests of consistency and to ensure that the development can be adequately drained and serviced.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy U1A.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans and any details approved in compliance with the attached conditions:

Drawing: Site location plan;
 Drawing: Site layout plan; and
 Drawing: Proposed utility / bathroom block.

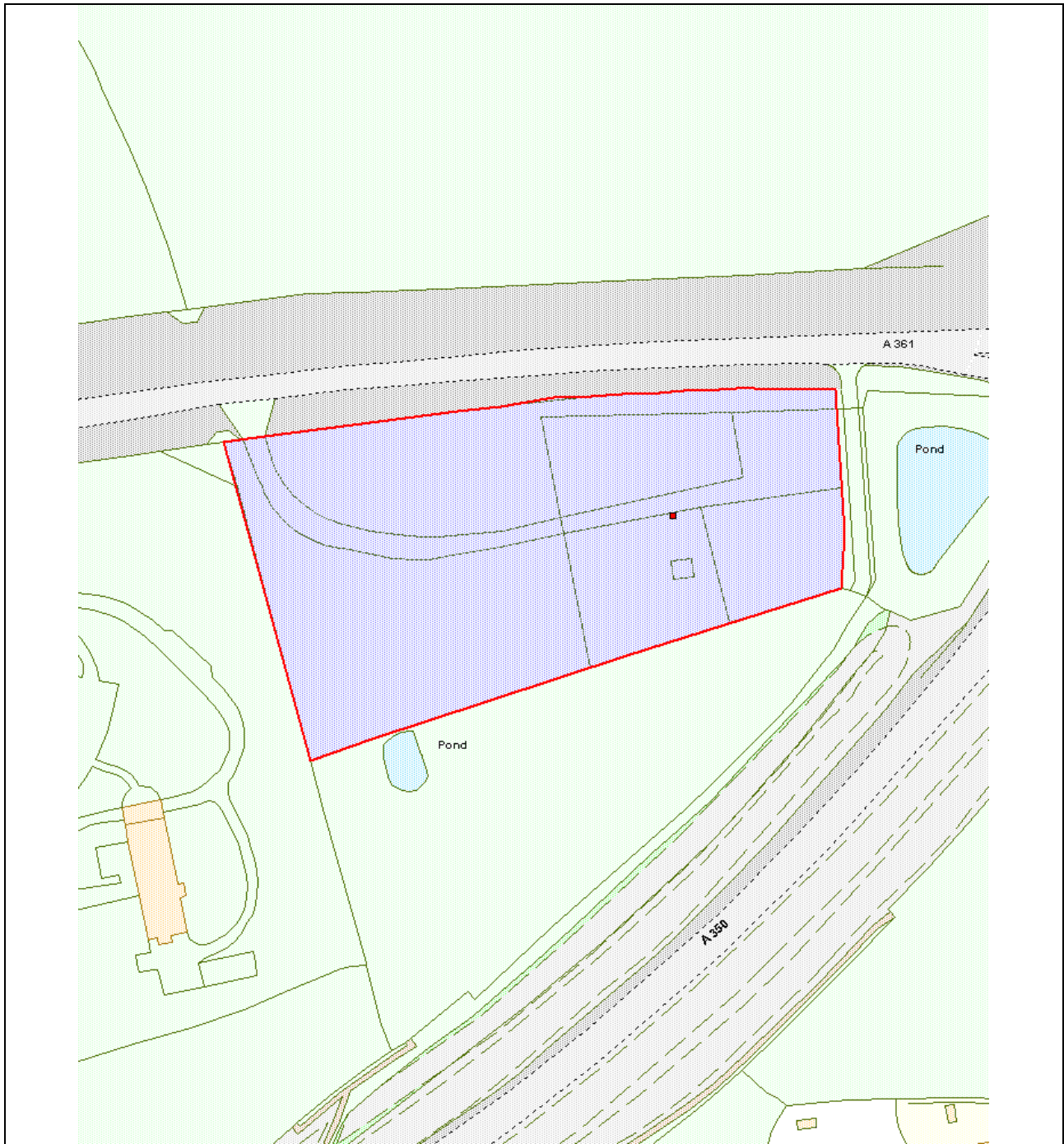
REASON: For the avoidance of doubt and in the interests of proper planning.

- 5 No more than three pitches, and 8 caravans, 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: To ensure that the development is in accordance with the evidence put forward and assessed for the proposal.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: CF12

<p>Appendices:</p>	<p>Appendix 1 – Comments of the Council’s Spatial Planning Services Officer</p> <p>Appendix 2 – Recent appeal decision (January 2011) on a proposal for a single gypsy pitch on land at Frampton’s Farm, Sutton Benger, Wiltshire</p>
<p>Background Documents Used in the Preparation of this Report:</p>	<p>Previous application file; National Planning Guidance; Proposed Draft National guidance and appeal decision at Framptons Farm, Sutton Benger</p>



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