

REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	24 February 2010		
Application Number	09/00912/S73A and 10/01204/S73A		
Site Address	Land adjacent Calcutt Farm, Calcutt, Cricklade, Wilts. SN6 6JT		
Proposal	Change of Use to Include the Stationing of Caravans for 14 Residential Gypsy Pitches with Utility/Day Room Buildings and hard Standing Ancillary to That Use		
Applicant	Mr H Atwell		
Town/Parish Council	Cricklade		
Electoral Division	Cricklade and Latton	Unitary Member	Cllr Peter Colmer
Grid Ref	411273 193275		
Type of application	Full		
Case Officer	Tracy Smith	01249 706642	tracy.smith@wiltshire.gov.uk

Reason for the application being considered by Committee

At the request of Cllr Peter Colmer on the following grounds:

- 1) The development is outside the framework boundary
- 2) There are implications regarding flooding as the proposal borders the flood plain area
- 3) The development is out of character with adjoining listed building
- 4) Has the County Archaeologist been informed, as this proposal is in close proximity to Ermin Street - when the A419 was upgraded, that development was subject to an archaeological survey.

The applicant has submitted an appeal in respect of application 09/00912FUL on the grounds of non-determination. As a consequence no formal decision can be made in respect of this application, however, in order to progress with the appeal and in light of the call-in request, the officer seeks the view of the Committee in respect of the application had they been in a position to determine it.

A duplicate application has also been submitted by the agent on behalf of the applicant given that key issues relating to this site have been resolved with the Environment Agency. It is also considered appropriate that that application be determined at the same time, notwithstanding that the consultation process will still be on-going at the time of the Committee.

1. Purpose of Report

To consider the above application and to recommend in relation to 09/00912/S73A had it been possible to determine the proposals, the recommendation would have been that planning permission be GRANTED.

Whilst in relation to 10/01204/S73A, recommend that planning permission be DELEGATED to the Area Manager for APPROVAL upon expiry of the public consultation period subject to no substantive new issues arising from the public consultation and subject to conditions.

2. Main Issues

The proposal needs to be assessed against Policies C3, NE13, NE15, HE6 and H9 of the North Wiltshire Local Plan 2011, Policy DP15 of the Wiltshire and Swindon Structure Plan 2016 and government guidance in Circular 01/2006 “Planning for Gypsy and Traveller Caravan Sites” and in particular issues relating to:

- Need
- Impact of the character and appearance of the area
- Amenities of nearby residents
- Sustainability
- Highways impact
- Drainage
- Flooding
- Archaeology
- Human Rights Act

3. Site Description

The site is roughly rectangular and is a flat field between the A419 and the access road to the properties on the east side of the A419 to the roundabout leading to Cricklade and the A419. An area of the land to the east of the access road is also included. The site is flat and has hedgerows on two sides. The derelict remains of an agricultural building close to the A419 are the only buildings. To the immediate south are the former farm buildings in a variety of employment uses and beyond those is Calcutt Farmhouse, a listed building. To the north is Calcutt Manor and associated outbuildings, also a listed building.

4. Relevant Planning History		
Application Number	Proposal	Decision
07/00533/FUL	Erection of Three Stables, Hay Store and Tack Room and Change of Use of Land to Equestrian	Permission

5. Proposal

This is a retrospective application. The caravans etc were moved onto the site in May 2009 and the associated works included in this proposal are now substantially completed but the site not fully occupied.

The proposal is for 14 plots arranged off a central access (plot 1 will have a separate access) each having a mobile home, touring caravan and day room and refuse store. These are the basic requirements for such sites.

Vehicle turning spaces are proposed at each end of the site and a package sewerage treatment plant in the field at the other side of the access road.

In order to screen the site visually and aurally from the road, a landscaping is proposed forward of a bund with close boarded fence atop (total height 3.8 metres) along the frontage with the A419.

6. Consultations

In relation to 09/00912FUL:

Cricklade Town Council made the following comments:

Cricklade Town Council objects to this application on the grounds that it is contrary to policy H9 (ii) on the following grounds:

- 1) The site is on the edge of the flood plain and a flood risk assessment should be required to determine, what impact, if any, the development is likely to have on flooding in the vicinity.
- 2) The development is adjacent to the A419/Ermin Street and given the importance of this historic Roman Road we would have thought that some archaeological oversight or other requirements would be appropriate.
- 3) The application makes no provision for supporting services in the settled base of Cricklade to meet the needs of the travelling community.
- 4) The siting of residential Gypsy pitches is out of character with the surrounding area, positioned between the listed Calcutt Farmhouse and Calcutt Manor, adjacent to the A419. I.e., the development is not in keeping with the character of the immediate area. In addition there is insufficient evidence of need for this locality sufficient to outweigh the harm to neighbours and land caused by the development of the site.

In Cricklade we already have 16 Gypsy pitches at Chelworth Lodge/Bournelake, within 3km of Cricklade. A further application is being considered for this site and if approved this would lead to 32 pitches at that site alone. A further 14 here would bring the total to 46. This is in addition to a number of unauthorised sites within the vicinity. This more than meets the requirement for the whole of North Wiltshire, let alone within 3 km of Cricklade. The Wiltshire and Swindon Gypsy and Travellers Accommodation Needs Assessment 2006 key recommendation (1.4) was to provide 24 pitches (including 16 at Minety less than 6 km from here and now approved retrospectively) by 2011. This would leave a further 8 pitches to be provided in North Wiltshire over the (then) next 5 years i.e. by 2011. This application is therefore inappropriate and in excess of the number considered appropriate for the area.'

They also made additional comments:

'I submitted comments to you yesterday on the above 2 planning applications. I have been trying to establish numbers and locations of sites in the Cricklade area as this should have an impact on the number of pitches and support the contention from Cricklade Town Council that this area, and Cricklade in particular already has sufficient pitches to meet demand and that additional pitches simply serve to attract travellers to this area.

I have now established that the following sites already exist:

Bournelake, (Chelworth Lodge) Cricklade (within 3km of Cricklade)
Sambourne Road, Minety (within 6km of Cricklade)
Malmesbury Road, Leigh (within 3km of Cricklade)
Tadpole Bridge, Purton (within 4km of Cricklade)
Lydiards Plain, Braydon Road, Lydiard Tregoze (within 10 km of Cricklade)

Plus two sites with temporary permission:
Bridge Paddock, Braydon Road, Purton (within 6km of Cricklade)
Wood Lane, Lydiard Tregoze (within 10km of Cricklade)

and two sites with no permission:
Restrop Road, Purton (within 6km of Cricklade)
Calcutt, Cricklade. (within 2km of Cricklade)

The number of pitches at these sites is not known, but presumably that information is held within Wiltshire Council somewhere although I have not been able to obtain the information.

In my submission I mentioned that 'The Wiltshire and Swindon Gypsy and Travellers Accommodation Needs Assessment 2006' key recommendation (1.4) was to provide 24 pitches (including 16 at Minety less than 6km from here and now approved retrospectively) by 2011. This would leave a further 8 pitches to be provided in North Wiltshire over the (then) next 5 years i.e. by 2011.

I think this further information further substantiates our contention that this application is therefore inappropriate and in excess of the number considered appropriate for the area.'

Further comments received on the noise survey as follows:

'Cricklade Town Council continues to object to this application. The noise survey that has been submitted only confirms what is already known. –there is a constant flow of traffic on the A419 with excessive noise and emissions which could be detrimental to health. The suggested mitigation which is in part already in place is not considered to be satisfactory. A one metre high bund with a two metre high fence on top would create an unwanted intrusion into the countryside and affect the open and visual aspect of the countryside as well as its proximity to a listed building. This would be contrary to NWDC Plan NE15. Furthermore a bund will act as a barrier to surface water in an area already prone to or at risk of flooding. Further assessment of the implications to drainage in the area needs to be undertaken.

Wiltshire Council Highways make the following comments:

'The site is located in open countryside, some 800m from the nearest bus stop, although a suitable walking route exists for much of that distance.

Bearing in mind the advice in Circular 1/2006 I do not consider that an objection on sustainability grounds is appropriate.

I recommend that no highway objection be raised.'

Highways Agency make the following comments:

'We have reviewed the documents and concluded we have no objections in principle to the proposals as they are likely to have little detrimental effect on the Strategic Road Network.

However, we do believe that the visual impact of the site could be a distraction to trunk road motorists but acknowledge the intention to install a landscaped bund and fencing to overcome such problems. The Agency therefore, would like to ensure that this mitigation work is an essential requirement.'

Wiltshire Council Archaeologist

This is an archaeologically sensitive location. Calcutt Farm is of medieval origin and ridge and furrow earthworks have been mapped at this location. The best opportunity would have been to have a watching brief when the topsoil was scraped off. Any investigations now would be of limited value. No objection or conditions.

Wiltshire Council Environmental Health

A noise survey was submitted at the request of the Environmental Health Officer and additional information was subsequently provided, concerns being the impact of noise from the A419 on residents. As a result of this information being provided, no objections are raised in respect of this proposal.

Environment Agency

Following much negotiation and discussion, the EA have removed their objection to the application subject to conditions.

7. Publicity

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

3 letters of objection have been received on the following grounds:

- The site is outside the framework boundary
- Pollution of water courses
- Surface water drainage problems
- Burning of rubbish
- Fence blocks view and access
- The site is 'illegal'

8. Planning Considerations

Policy

The emerging Regional Spatial Strategy, which carries significant weight, recommends the allocation/provision of 48 pitches in the northern area (former North Wiltshire District Council area). The current outstanding requirement to the period 2011 is 16 pitches taking into account permissions at sites such as Minety, Startley and Wootton Bassett.

There can be no objection in principle to a gypsy site in the countryside. Government advice and Development Plan policies make this clear in Circular 01/2006, Policy H9 of the North Wiltshire Local Plan 2011 and Policy DP15 of the Wiltshire and Swindon Structure Plan 2016. Policy DP15 specifically states that proposals for gypsy sites should not be considered against other policies for towns and villages due to their particular requirements.

The Council have recently commenced public consultation on the "Gypsy and Traveller Site Allocations Development Plan Document – Issues and General Approach Consultation Document". The consultation period ends on 4 June 2010. This document is a material consideration in the determination of these applications.

The purpose of the document is to invite views on the issues that the Council believes are central to identifying sustainable locations for future Gypsy, Traveller and Travelling Showpeople sites. Consensus is sought on the issues at the earliest stage in the preparation of the DPD which will enable the Council to develop policies which are based on a robust evidence base.

The consultation seeks to discuss the issues regarding site provision and site specific issues to date, to develop a methodology for assessing what is a good location for sites and to invite land to be put forward.

In terms of the site search criteria being suggested, sites within 1000 metres or less (as the crow flies) from shops/schools/open space and doctors are to be considered in the first instance with sites ideally being no more than 1200 metres from a district or neighbourhood centre. If no sites are found within 1000 metres, sites beyond 1200 m are considered up to a maximum of 2000 metres.

Prior to the publication of the emerging Gypsy and Traveller DPD, the acceptability of rural and semi-rural locations is clearly demonstrated in the appeal decisions at Minety and Startley. These decisions are material considerations in determination of this case.

This site has to be considered on its planning merits in accordance with adopted policies. Its suitability as a gypsy site is not dependent on the previous location or needs of the current occupiers. These issues would only be taken into account if the council were minded to grant permission on the grounds that the personal circumstances of the applicants were sufficient to outweigh facts which might otherwise make the site unacceptable.

Character and Appearance of the Area/Residential Amenity

The site is a piece of equestrian land of no exceptional character which has been cut off from adjoining land by the new access road and is now virtually surrounded by roads and other development. It is well screened by hedges to the north and south and there is screening to the A419 which is proposed to enhance with additional planting, a bund and a fence. The surrounding countryside is flat and the site is not prominent in distant views.

There is inevitably some impact and change in the immediate character of the area but there is not considered to be unacceptable impact on the setting of the listed buildings (from which the site is separated by other buildings and trees) or on residential amenity. Gypsy sites are acceptable in principle in the countryside and wherever they are located there will be some impact on the surrounding area.

Notwithstanding the comments of the Highways Agency the site is not particularly visible from the A419 and the proposed bund and fence set behind additional planting will provide adequate screening.

Flooding and Drainage

The site is wholly within flood zone 1 (the lowest risk category) where a flood risk assessment is not required due to its location. The site is, however, in excess of 1 ha which requires the submission of a Flood Risk Assessment (including surface water drainage proposals) irrespective of the type of location or the type of development proposed.

In the absence of a FRA being submitted but rather additional information from the applicants agents, the EA have undertaken a risk-based approach in respect of any risk to increased flooding on the site and surrounding areas as a consequence of the development. Due to the high impermeability of the site and the low density nature of the proposals, the EA considers that a satisfactory surface water drainage scheme to attenuate and potentially reduce surface-water run-off is achievable within the development and this can be conditioned.

The EA have investigated the current known flood levels at the site and along the A419 and consider that when compared with the EA's predicted flood levels, the topographic information submitted provides adequate assurance that a safe route of access can be provided in the event of a flood. A flood evacuation plan is required to be submitted via a planning condition.

The council's Environmental Health and drainage officers have investigated the issues raised by residents but have not identified any issues which will not be covered by the requirements of the Environment Agency.

Noise

The council's Environmental Health officers were concerned that the occupiers could be subject to excessive noise from the A419 bearing in mind the relatively poor sound insulation qualities of mobile homes. Consequently, the applicants commissioned and submitted a noise survey. Further dialogue between the applicant's agent and the EHO has taken place. Consequently, no objections are raised in respect of the proposal.

Archaeology

Had the development not already taken place a 'watching brief' would have been required. This is not now possible and no objection to the current application is raised by the county archaeologist.

Highways Impact

No highways objections are raised to the proposals.

Sustainability/Site Search

Given that there are no objections in principle to gypsy and traveller sites in the countryside, it follows that such sites will not always be located in the most sustainable of locations. Paragraph 54 of Circular 01/2006 states: "*in assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services.*" (Officer emphasis).

Policy H9 of the Local Plan requires such sites to have "*reasonable access to local community facilities and services...*" (Officer emphasis).

Paragraph 64 of the Circular stresses that whilst sustainability is important, it is not to be solely considered in terms of transport mode and distances from services. Other considerations are integration within the community; wider benefits of easier access to GP and other health services, children attending school on a regular basis and the provision of a settled base to reduce the need for long distance travelling.

Having regard to recent appeal decisions in relation to gypsy sites at Minety and Startley and the recently approved site at Glenville Nurseries in Wootton Bassett, the site is considered to be well located to public transport and a range of facilities including shops, schools and employment opportunities. It is in walking distance of Cricklade on surfaced footpaths.

Based on the above, the proposal could be supported on sustainability grounds. However, as mentioned above, the emerging Gypsy and Traveller DPD is a material consideration. The site falls marginally outside the area of search at approximately 1200 metres. It falls within a safe walking distance of some 1500 metres to the High Street and 1800 metres of the primary school. It does not follow therefore, based on search criteria which are the subject of consultation that the site would satisfy the locational requirements of the emerging DPD and be allocated.

Human Rights

In determining this application the Committee is required to have regards to the Human Rights Act 1998, in particular Article 8 and Article 1 of the First Protocol, which confer rights of respect for a person's private life, home and possessions. Any interference in those rights by a public authority must be lawful and proportionate. This involves balancing the interests of all parties involved and taking into account the public interest in the proper application of planning policies.

Having considered all the circumstances of this application, it is considered that the granting of a temporary permission, would be proportionate and would not, therefore, be a violation of the Act.

9. Conclusion

The application site would make an important contribution to meeting the strategic Gypsy and Traveller requirement to 2011, leaving only two pitches to be provided until 2011. Prior to the publication of the Gypsy and Traveller DPD, this location would have been wholly acceptable in terms of landscape, amenity and sustainability grounds based on guidance contained within Circular 01/2006 and appeal decisions at Minety and Startley, as well as the approval last year of seven pitches in Wootton Bassett. Consequently the recommendation would have been for a full permission.

However, the emerging DPD is a material consideration and in this respect paragraphs 45 and 46 of Circular 01/2006 are relevant. Paragraph 45 refers to Circular 11/95 "The Use of Conditions in Planning Permission" and paragraph 110 of that document that: "advises that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission. Where there is unmet need but no available alternatives gypsy and traveller site provision in an area but there is reasonable expectation that new sites are likely to become available at the end of that period in an area which will meet need, local planning authorities should give consideration to the grant of a temporary permission."

Paragraph 46 is of more relevance and states: "Such circumstances may arise, for example, in a case where a local planning authority is preparing its site allocations DPD. In such circumstances, local planning authorities are expected to give substantial weight to the unmet need in considering whether a temporary permission is justified. The fact that a temporary permission has been granted on this basis should not be regarded as setting a precedent for the use of the land as a caravan site. In some cases, it may not be reasonable to impose certain conditions on a temporary permission such as those that require significant capital outlay."

Accordingly, having regard to the emerging DPD and its suggested search criteria, against which this site does not instantly fare favourably, and to be consistent with other recent application decisions in respect of Gypsy and Traveller sites, it is considered that temporary 3 year permission would be appropriate in this instance and is recommended for the current application 10/01204S73A and would have been recommended for the appeal application, 09/00912S73A.

This would allow for the DPD process to take place in full with its adoption expected late 2011/early 2012 and for any sites to obtain the necessary permission if the site is not allocated and to enable relocation.

In light of the temporary permission, at this stage very limited conditions can be imposed since conditions such as landscaping and surface water drainage would entail significant capital costs which could be abortive.

10. Recommendation

09/00912S73A

Having regard to the appeal on grounds of non-determination to which 09/00912S73A relates, the recommendation would have been to grant temporary planning permission for the following reason:

The site outside a settlement could be acceptable under adopted policies. The site is not unacceptably harmful in its countryside location but is not wholly sustainable in terms of its access to services and amenities having regard to the emerging Gypsy and Traveller Site Allocations DPD. The proposal is, therefore, unacceptable at this juncture. In accordance with paragraphs 45 and 46 of Circular 01/2006 "Planning for Gypsy and Traveller Caravan Sites, on the basis of the emerging DPD it is entirely appropriate for a temporary permission to be granted to allow for the DPD process to take place and a permanent permission to be granted on an allocated site(s) when such a site(s) becomes available.

And subject to the following conditions:

1. The use hereby permitted shall be for a limited period being the period 3 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all materials and equipment brought on to the premises in connection with the use shall be removed, and the land restored to its former condition, or such condition as may be authorised by any other extant planning permission.

Reason: The provision of potential sites are being considered in the emerging Gypsy and Traveller Site Allocations DPD. A permanent permission in advance of this process would be premature and a temporary permission in this instance would accord with advice contained in Circular 01/2006 "Planning for Gypsy and Traveller Caravan Sites".

2. Within 3 months of this permission, a flood evacuation plan shall be submitted to and approved in writing by the Local Planning Authority in conjunction with other relevant bodies.

Reason: In order to ensure a safe, dry access to and from the development in the event of flooding.

3. Within three months of this permission, the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

POLICY: C3

10/01204S73A

Planning Permission be DELEGATED to the Area Development Manager subject to the expiration of the consultation period and no new substantive issues being raised for the following reason:

The site outside a settlement could be acceptable under adopted policies. The site is not unacceptably harmful in its countryside location but is not wholly sustainable in terms of its access to services and amenities having regard to the emerging Gypsy and Traveller Site Allocations DPD. The proposal is, therefore, unacceptable at this juncture. In accordance with paragraphs 45 and 46 of Circular 01/2006 "Planning for Gypsy and Traveller Caravan Sites, on the basis of the emerging DPD it is entirely appropriate for a temporary permission to be granted to allow for the DPD process to take place and a permanent permission to be granted on an allocated site(s) when such a site(s) becomes available.

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REASON: In the interests of highway safety.

Appendices:	None
Background Documents Used in the Preparation of this Report:	1.20 2.02 2.10 2.25 3.03 3.04 4.02 4.03 4.04 4.07 5.02 5.05 6.01

