

REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	12.05.2010		
Application Number	W/09/02622/FUL		
Site Address	Land At Capps Lane Bratton Wiltshire		
Proposal	Mobile home, day room and retention of existing pair of sheds		
Applicant	Mr Freddy Hughes		
Town/Parish Council	Bratton		
Electoral Division	Ethandune	Unitary Member:	Julie Swabey
Grid Ref	389997 153518		
Type of application	Full Plan		
Case Officer	Mr James Taylor	01225 770344 Ext 169 james.taylor@wiltshire.gov.uk	

Reason for the application being considered by Committee

This application is brought back to Committee following the receipt of further requested information. As part of this the application has been amended by the applicants.

The application was initially deferred by members at the 28 October 2009 meeting for further information and clarification.

Subsequently the application was deferred from 27 January 2010 at the request of the applicants and their agent because the agent was unable to attend and wished to make verbal representations.

Most recently the application was deferred by members at the 10 March 2010 meeting for further information and clarification.

Councillor Julie Swabey requested that this item be determined by Committee due to:

* "I understand that there is enforcement action ongoing with this and the land has been used as a site, unauthorised for several years."

* "complete lack of clarity on the number of sites we should allow in the West Wiltshire area".

1. Purpose of Report

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

Further to address the concerns of members at the meeting of 10 March 2010 namely:

1. restriction of further expansion
2. keeping of horses for commercial purposes
3. clarify what goes and what stays
4. personal condition
5. time clause
6. external lighting

7. sort out the proposed use of buildings
8. consult with IDeA
9. establish use to be made of buildings

In order to try and address the concerns of members, a meeting between the Area Development Manager, the Case Officer and the planning agent has taken place to discuss the above points. Following these discussions revised plans and additional information have been submitted. IDeA in conjunction with Wiltshire Council's spatial planning team has run an event at County Hall to discuss Gypsy and Traveller planning matters; this was open to and attended by a number of members.

The above points are now addressed in the officer's appraisal at Planning Considerations.

2. Main Issues

The main issues to consider are:

- * Impact on the rural character of the area
- * Impact on highway safety
- * Impact on amenity, including that of neighbours
- * Proximity to local services and facilities
- * The needs and safety of future occupants and their children
- * Requested information from, and concerns of members

3. Site Description

The application site is located in open countryside which is subject to no special landscape designations. It is sited on the C-classified Capps Lane which runs between Heywood and the settlements of Bratton and Edington.

The site has natural hedges to the north and east boundaries. To the south the boundary is a post and wire fence. To the west it is a mix of hedge and post and wire fencing.

Part of the site is still open to grazing, but the northern part is occupied by 2 barns and a caravan; the site has been subject to enforcement action by the Council regarding this and its uses.

Access to the site is existing, denoted by solid timber gates set back nominally from the highway. A rough access track is laid into the site beyond.

4. Relevant Planning History

None

5. Proposal

This is a planning application for a single private gypsy pitch to include the siting of a mobile home and touring caravan and the erection of a day room.

The day room would have a footprint of 5 metres by 6 metres; a height to eaves of 2.35 metres and a height to the ridge of 4 metres.

The proposal also proposes the retention of two existing barns at the site for use in connection with horses; the applicant is a traditional horse dealer.

Further the proposal includes revising the existing access to the site, hard and soft landscaping and parking and turning provision.

6. Planning Policy

West Wiltshire District Plan 1st Alteration (2004)

C1 Countryside Protection

C31a Design

C38 Nuisance

CF12 Gypsy Caravan Sites

Wiltshire Structure Plan 2016

DP1 Priorities for Sustainable Development

DP15 Accommodation for Gypsies and Travellers

National guidance

PPS1: Delivering Sustainable Development

PPS7: Sustainable Development in Rural Areas

ODPM Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites.

DETR Circular 03/1999: Planning requirement in respect of the use of non-mains sewerage incorporating septic tanks in new development.

7. Consultations

Bratton Parish Council

Objection:

“The council opposed the application on the following grounds:

1. The application is for a site outside the village policy limits contrary to policies H1 and H17 of the West Wiltshire District Plan 1st alteration (2004).
2. The proposal located in open countryside outside the defined village policy limits of Bratton would be tantamount to a new dwelling in the countryside without justification in the essential needs of agriculture or forestry contrary to Policy H19 of the West Wiltshire District Plan 1 Alteration (2004)
3. The proposal by reason of the proliferation of gypsy and traveller sites in the area would have a cumulative impact which fails to respect the scale of the village of Bratton contrary to paragraph 54 of ODPM Circular 01/2006.
4. The potential to accommodate further families.
5. It would appear that this application has been engineered to obstruct the declared wishes of Wiltshire Council (i.e. the enforcement notice of 13.07.09) who have stated that the land should be cleared.”

Highway Authority

No Objection: Subject to conditions:

The development hereby permitted shall not be occupied until the access has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter. REASON: In the interests of highway safety.”

Wessex Water

No Objection.

8. Publicity

The application was advertised by site notice and neighbour notification.

Expiry date: 7 October 2009.

2 letters of objection from 1 party have been received. Summary of points raised:

- * The land has been subject to planning enforcement, which has yet to be complied with.
- * If approved the land may be handed back to the original owner to proceed as they intended prior to Council enforcement action.
- * Blot on the landscape (confirmed by planning inspector)
- * Erode the isolated and unspoilt countryside location.
- * Noise from generators and barking dogs is disturbing amenity (tested by an inspector).
- * Increase in traffic cannot be coped with on this lane.
- * No footpath or lighting on this lane which is used by local riding school
- * In the enforcement appeal it was stated by the Council that the land should not be residential.
- * No bus service
- * This proposal is a means of side stepping planning law.
- * The siting of the caravan and the new day room would spoil views from lounge and bedroom windows.

9. Planning Considerations

9.1 Restriction of further expansion.

The proposals for this site are quite specific and if the development is granted planning permission then there would be no permitted development rights to extend the site. The maxim of each case being assessed on its own merits applies and this would not set any precedent. Any future application that may or may not be submitted would have to be assessed on its own merits. However in order to try and address the members concern the applicant has revised the plans to create a tighter form of development which extends much less into the field than originally proposed.

9.2 Keeping horses for commercial purposes

Equestrian development is a perfectly compatible land use within rural areas and the Council's policy E10 makes this clear. It is not considered that the scale of horse activity connected to this site would be great and it would be naturally limited by the amount of stabling and storage facility for hay, tack, etc which is being proposed. Any expansion of this activity would be within the Council's control as further buildings for example would require planning permission. If these were ever being applied for then they too would be assessed on their merits. The appellants state that the trading of horses has been a part of the Romani Gypsy culture for 100s of years. Generally the horses on the site will be for personal enjoyment although as part of their culture sometimes trading of horses at fairs does occur. The keeping of horses at the site on the scale appropriate to the land is not a planning concern.

9.3 Clarify what goes and what stays

The two barns currently on the site would remain. The caravan currently on the site would be relocated within the site as detailed on the plans.

9.4 Personal condition

Officers must advise that the use of a personal condition would not be appropriate in this case under the government guidance on conditions in circular 11/95. It is reasonable, given the special justification being presented to impose a condition so that the site may only be occupied by a bona fida gypsy or traveller as defined in ODPM circular 01/2006. This is because the special justification relates not just to the applicant but anyone that could meet this government definition. This has always been your Officers' suggestion and their professional advice remains that such a condition is inappropriate. However the applicants have stated that they would reluctantly agree to a personal permission, even though they consider it would be contrary to policy, if members are so minded. It is stressed however that your Officers would not recommend such a condition.

9.5 Time clause

In this case it is not considered to be justified to impose a temporary permission through conditions. The proposals would involve expensive works to the site entrance, drainage and sewerage, landscaping and other maintenance efforts. The cost of such works is likely to be prohibitive if the applicants face the threat of being removed from the site at the end of the temporary permission. As previously explained to members there is a need for further gypsy and traveller sites and the LDF work on site allocation remains on-going. In light of that need and no allocated site provision then this application has to be assessed on its own merits. As detailed before the site is deemed to be suitable

for a gypsy or traveller pitch and accords with the relevant policy. Therefore to place a time clause would not be reasonable.

9.6 External lighting

The proposed plans do not detail any external lighting to the site. However officers have previously suggested a condition on this point and therefore retain the Council's control. Light pollution, especially in rural areas is a significant issue and therefore only very discrete and sympathetic lighting should be approved. Large scale street lighting for example would be inappropriate and would not be approved under condition.

9.7 Sort out the proposed use of buildings

The two barns which would remain on the site would be used for tack, hay, feed and shelter for the horses in the winter. The touring caravan would be used when on the applicants are out on the road, otherwise it is merely being stored at the site. The mobile home would be used for living accommodation. The day room would be used for cooking and cleaning activities. Such activities would have traditionally been carried on outdoors by Romani Gypsy and are therefore kept separate from the living accommodation. This tradition remains, however it has now evolved to be carried on in a separate day room. The use of a mobile home for living and a day room for cooking and cleaning is a feature of Council operated sites also.

9.8 Consult with IDeA

Since the deferral of the application there was an event on 23 March 2010 organised by Wiltshire Council's spatial planning team to help educate members on the Council's LDF work with gypsies and travellers and the need for further sites. It is understood that a number of members were present at this event. It is not possible to consult with IDeA about specific planning applications, rather it is a government agency intended to support and develop good practice in local government.

9.9 Establish use to be made of buildings

This matter has already been covered above.

9.10 In summary your officers consider that the proposed development is in accordance with the relevant policy requirements including ODPM circular 01/2006. There is a demonstrable need for further gypsy and traveller pitches within the area, this and the on-going nature of the LDF work have been detailed in full on previous committee reports for this application. The applicant appears to meet the government's definition of a gypsy. Members have been informed previously about the status of enforcement action and a decision is needed on this case to inform what further action may be necessary.

9.11 In conclusion the members are advised that the additional information that has been sought at their request does not make any difference to the Officers' original comments and recommendation at the committee meeting on 28 October 2009 and 10 March 2010. Your Officers still recommend planning permission be granted subject to conditions.

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

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

- 2 The site shall not be permanently occupied by persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.

REASON: Planning permission has only been granted on the basis of a demonstrated unmet need for accommodation for gypsies and travellers and it is therefore necessary to keep the site available to meet that need.

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

- 3 No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than 1 shall be a static caravan or mobile home, shall be stationed on the site at any time.

REASON: In the interests of the visual amenity of the area.

West Wiltshire District Plan 1st Alteration (2004) POLICY CF12.

- 4 The development hereby permitted shall not be occupied or first brought into use until the area between the nearside carriageway edge and a line drawn 2.0 metres parallel thereto over the entire site frontage has been cleared of any obstruction to visibility at and above a height of 900mm above the nearside carriageway level. That area shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a

- 5 The development hereby permitted shall not be occupied until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a

- 6 Any gates shall be set back 4.5 metres from the edge of the carriageway, such gates to open inwards only.

REASON: In the interests of highway safety.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a

- 7 No development shall commence and no caravans brought onto site until details, including a timetable for implementation, have been submitted to and approved in writing by the Local Planning Authority for the following:

- i) the materials to be used in the construction of the external surfaces of the day room, hardstandings, access drives, parking and amenity areas;
- ii) the landscaping of the site (a scheme showing the species, plant sizes, numbers and densities) including details of any supplementary planting to reinforce the existing hedgerows;
- iii) any new boundary treatment, fencing or gates
- iv) refuse storage facilities
- v) electricity generation
- vi) lighting
- vii) details of septic tank

REASON: In the interests of amenity of the area and neighbours.

West Wiltshire District Plan 1st Alteration (2004) POLICY CF12.

- 8 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the site. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

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

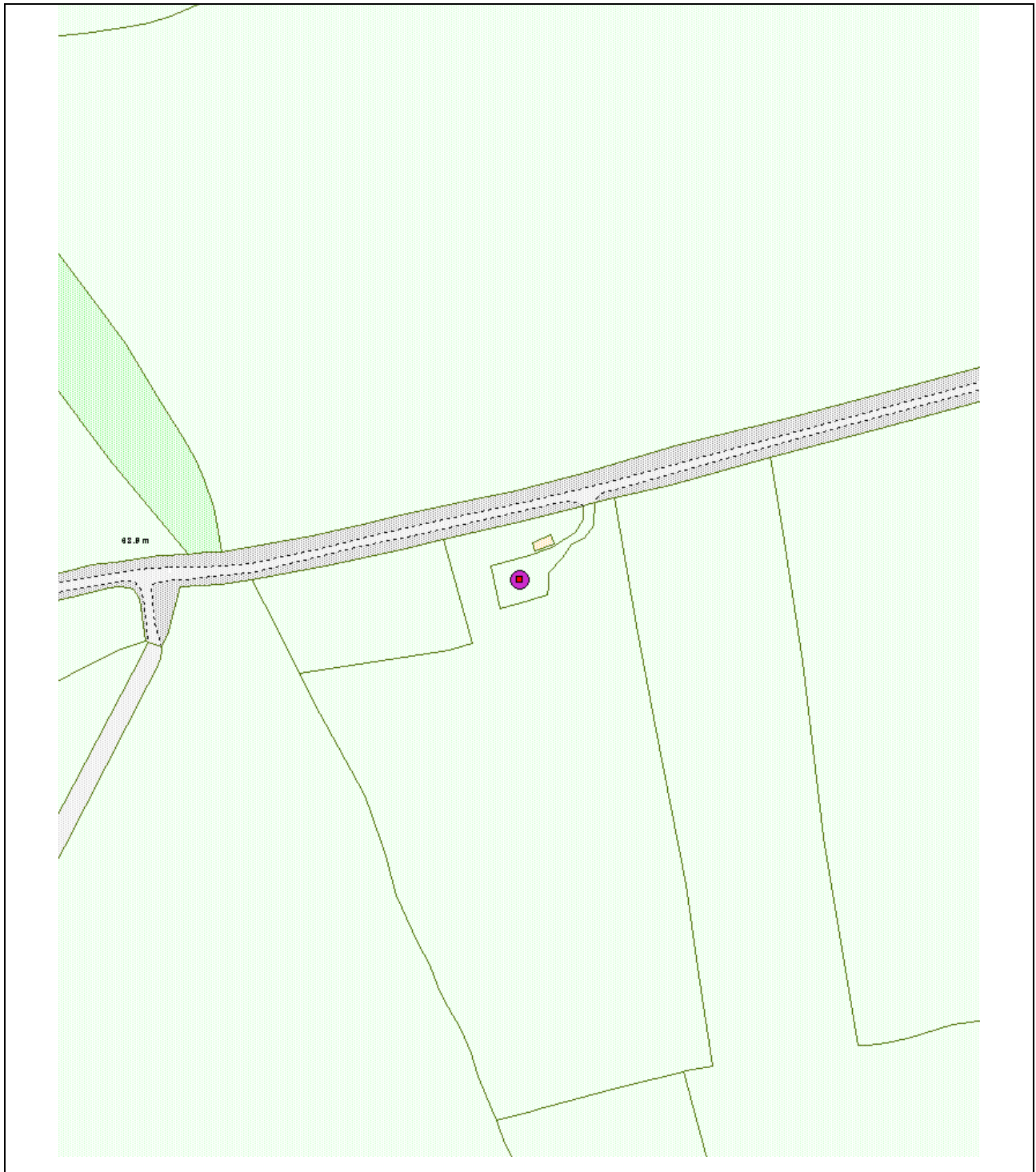
West Wiltshire District Plan 1st Alteration 2004 – POLICY CF12.

- 9 There shall be no burning of waste on the site.

REASON: In the interests of amenity and environmental protection.

West Wiltshire District Plan 1st Alteration (2004) POLICY CF12.

Appendices:	
Background Documents Used in the Preparation of this Report:	



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RELEVANT APPLICATION PLANS

Drawing : SITE PLAN received on 08.09.2009
Drawing : 0946/01 received on 08.09.2009
Drawing : 0946/02 received on 08.09.2009
Drawing : DAY ROOM received on 08.09.2009