

**REPORT TO THE DEVELOPMENT CONTROL
COMMITTEE**

Report No.

Date of Meeting	30th July 2008
Application Number	08/01347/S73A
Site Address	Bridge Paddock, Land at Braydon Road, Nr Minety, Wilts
Proposal	Change of Use to Include the Stationing of Caravans for One Gypsy Pitch with Retention of Existing Use for Stabling of Horses
Applicant	Mr Fry
Town/Parish Council	Leigh
Grid Ref	405063 190252
Type of application	Section 73A

Reason for the application being considered by Committee

This application has been submitted to the Committee for decision under the scheme of delegation in force after the 8th April 2002 because 5 letters of objection have been received

Summary of Report

This is a partially retrospective application for the use of the site to station caravans to accommodate a gypsy family and continue use for stabling of horses.

The key issues to be considered are:

- Policies H9 and C3 of the North Wiltshire Local Plan 2011
- Policy DP15 of the Wiltshire and Swindon Structure Plan 2016
- Government advice in Circular 01/06
- The location of the development
- The impact of the development in its surroundings
- The individual circumstances of the residents in relation to racial equality and human rights
- The implications of Wiltshire and Swindon Gypsy and Traveller Accommodation Needs Survey and the Draft Regional Spatial Strategy
- Highway safety

Officer Recommendation

Planning Permission be GRANTED for a temporary period

Contact Officer	John Simmonds	01249 706643	jsimmonds@northwilts.gov.uk
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Site Description

The site is a flat, rectangular piece of land located in the countryside adjacent to the Ashton Keynes – Wootton Bassett road (B4696) approximately 1km south of the cross-roads at Leigh. There is a dense hedgerow on the northern boundary which abuts the private road to Gryphon Lodge Farm and two dwellings. An access to the highway has a splayed entrance with a close boarded fence and gates. There is a hedge on the remainder of the road frontage. A public bridleway runs along the road to the north.

Proposed development

The proposal is to retain the stables previously permitted and to site a mobile home and touring caravan for use by a gypsy family. At present there are two touring caravans on the site.

Planning History		
Application number	Proposal	Decision
07/02522/COU	Erection of a Stable Block Including Tack Room and Change of Use of Land to Equestrian	GRANTED

Consultations

Leigh Parish Council comment as follows:

‘ The village already has 5 Gypsy site in a 2 mile radius of the village.
The development is not in keeping with the countryside.
The development is on a fast 60 MPH road
It is believe that the resident has already moved in and this is a beach of planning law’

Purton Parish Council comment as follows:

‘Purton Parish Council objects to the above planning application for the following reasons:

The site is remote from any services and amenities, including employment, public transport, shops and schools. The reliance on private motor vehicles will be essential in this remote location and this is contrary to Planning Policy Guidance Note 13 which seeks to reduce growth in the length and number of motorised journeys and policy H9(i) of the North Wiltshire Local Plan 2011.

It is also inappropriate to consider such an application at this time when the County and District Councils are currently trying to identify sites for gypsy’s across the County. The recent consultation process that has been undertaken to establish the suitability of six sites in North Wiltshire has shown the extent of public feeling over this matter.

There is also concern that this will be the thin end of the wedge for this site and that if approved, others plots will be put forward for similar development in this vicinity. Such development in the open countryside is totally inappropriate.’

Braydon Parish Meeting comment as follows:

‘I am writing on behalf of Braydon Parish re the planning application for Bridge Paddock for yet another Gypsy Pitch in our area. As the site is already occupied does this mean its another “Minety” situation. The countryside is being spoilt by these sporadic sites. They are nowhere near any amenities and are making it very unpleasant for people living nearby. As the Councils six sites which had been suggested have been thrown out, more and more land will be purchased by these people as they know they will not be moved on. We know this is Leigh Parish but its only a mile from Braydon Parish and hope you will do

something to disallow it'

Wiltshire County Council Highways

Recommends refusal on sustainability grounds, but has no objections on highway safety grounds.

Representations

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

- Does not respect the character of the countryside and will have an adverse impact on the open landscape. Extremely visible.
- Not required for agriculture
- Ownership unclear
- Future use unclear
- Development undertaken without permission including septic tank, vehicle for sale and erection of shed
- Not close to local amenities
- Effect on local ecology
- Business uses
- Pollution, noise
- Road safety – dangerous access
- Inconsistency of decisions by the local planning authority
- Clarification of gypsy status

4 letters of support and two petitions with a total of 26 signatures have been received (some of the signatures have no addresses)

The letters and petitions support the application for the following reasons:

- The applicants are ethnic gypsies who have nowhere to live
- The applicants children need to settle to receive education
- Other sites are full – one less pitch to find if permission is granted
- The applicant is a decent, peace loving man of great integrity
- Some of the letters of objection include racist comments

In support of his application, the applicant makes the following points (various documents relating to these points are available for inspection on the file)

- The site is well screened and additional landscaping has been planted
- There is an existing permission for stables
- Environment Agency consent has been granted and all utilities are available on site
- There is a bus stop 0.7 miles away which gives access to facilities
- His sons are walked to school on the footpath
- Have integrated with the local community
- No flood risk
- He is a gypsy
- Some comments in letters of objection are irrelevant or racist
- Traffic is less now that he lives on the site where the stables are
- Objective is to have somewhere to live and provide education for his children
- Mr and Mrs Fry have 3 children. The eldest is at school in Mintey and the next has been accepted to start in September. One son has asthma and skin allergies and needs regular prescriptions from Purton surgery. Mrs Fry is also on regular medication
- He has consent from the Environment Agency for the foul drainage and consent from the landlord to keep the hedge trimmed back at the access

- Further information has been submitted on the health and education rights of gypsies

The Romany Gypsy Liaison Officer has confirmed that the applicants have gypsy status and continue a traditional nomadic lifestyle.

Planning Considerations

The application must be determined in accordance with the policies of the Development Plan unless material considerations indicate otherwise. These material considerations include Government advice, the particular circumstances of the site, the personal circumstances of the applicants, previous decisions on the site and the provisions of the Human Rights Act and Race Relations Act.

Structure Plan and Local Plan Policies

The following policies are of particular relevance to this proposal:

Wiltshire and Swindon Structure Plan 2016

Policy DP15 as follows:

Special consideration should be given to bona fide proposals to provide caravan sites for gypsies. Such proposals should not be considered against other policies for towns and villages, due to their particular requirements. Suitable sites may be found both within and outside settlements. They will need to have a minimum impact on adjoining land uses and the natural and built environment, be well located to meet the needs of occupants and permitted business activities and provide acceptable access and services.

North Wiltshire Local Plan 2011

Policy C3 as follows:

New development will be permitted subject to the following criteria:

- i) Respect for the local character and distinctiveness of the area with regard to the design, size, scale, density, massing, materials, siting and layout of the proposal;
- ii) Respect for the quality of the natural and built environment, including the historic environment, archaeology and ecology of the locality and where necessary include measures for the preservation or enhancement of such features;
- iii) Avoid creating developments with unacceptable low levels of privacy and amenities and avoid the unacceptable loss of privacy and amenities to adjacent dwellings or other uses to the detriment of existing occupiers development;
- iv) Ensure access into and within the development is safe, minimises the risk from crime, and is convenient and attractive to pedestrians, cyclists, and people with disabilities;
- v) Incorporate energy conservation features and design principles to promote the use of renewable energy sources and prioritise the use of local, natural and recycled materials, provide satisfactory arrangements for efficient water supply, use and disposal and proposals for the storage, collection and recycling of refuse;
- vi) Promote sustainable patterns of development that will reduce the overall need to travel and support increased use of public transport, cycling and walking;
- vii) Have a satisfactory means of access, turning, car parking and secure cycle storage and not result in a detrimental impact upon highway or pedestrian safety;
- viii) Avoid overloading of existing or proposed services and facilities, the local road network or other infrastructure;
- ix) Avoid locations that would generate, or be subject to, a detrimental effect upon public health or pollution to the environment by the emission or production of excessive noise, light intrusion, smoke, fumes, effluent, vibration, waste or litter.

Policy H9 as follows

Proposals for the use of land for the stationing of residential caravans occupied by gypsies will be permitted provided that:

- i) It has reasonable access to local community facilities and services; and
- ii) It would not unreasonably prejudice the amenities of neighbouring residential occupiers and land.

Also relevant is The Report of the Panel Inspector into the Draft Regional Spatial Strategy which requires the provision of 48 gypsy pitches in North Wiltshire.

Government Guidance

The latest Government advice is in Circular 01/06 which has been issued following general consensus that previous advice did not adequately address current issues.

The main advice of the Circular is to:

Create and support sustainable, respectful and inclusive communities where gypsies and travellers have fair access to suitable accommodation, education, health and welfare provision.

To increase significantly the number of gypsy and traveller sites in appropriate locations with planning permission to address under-provision over the next 3 – 5 years.

To identify and make provision for the resultant land and accommodation requirements.

To help avoid gypsies and travellers becoming homeless through eviction from unauthorised sites, without an alternative to move to.

The Circular recognises that the whole process must begin and be guided by the Local Authority assessing gypsy and traveller accommodation needs, which will then be used to identify and allocate suitable sites, where necessary. Where there is unmet need but no available alternative gypsy and traveller site provision, but there is a reasonable expectation that new sites are likely to become available at the end of that period which will meet the need, the Circular states that Local Planning Authorities should give consideration to granting temporary permission.

Whilst the siting of gypsy sites in rural setting is acceptable in principle, the Circular still recognises that other considerations such as, the scale of the facility, impact on the settled community and local infrastructure and issues of sustainability are important.

Gypsy and Traveller Accommodation Needs Assessment

Under the Housing Act, the Authority now has a duty to assess the accommodation needs of gypsies. The production of a gypsy and traveller accommodation needs survey (GTANA) will in the future determine the strategy of the District Council in assessing whether there are sufficient gypsy sites in the District and where there is an identified shortfall, to identify and allocate new sites.

The Wiltshire and Swindon (GTANA) study was commissioned jointly by Swindon Borough Council and the five Wiltshire Local Authorities (including the County Council) in November 2005 and was undertaken by independent consultants. The final report was issued in early 2008.

The study (GTANA) reports that there is a need for further gypsy and traveller pitch provision in the Wiltshire and Swindon sub region. In relation to North Wiltshire, this need equates to 24 residential (including Minety) and 12 transit pitches in this District.

The outcome of the study is part of the evidence base for any future Wiltshire Core Strategy. It has also been used by the South West Regional Planning Body, who have undertaken a review of the additional

pitch requirements for gypsies and travellers in the South West, to set the figures for pitch provision in the Regional Spatial Strategy, which will be binding on this Authority. The Inspectors report into the Draft Regional Spatial Study has identified a need for 48 pitches. This Council's Executive has resolved to challenge this assessment.

Having established a need, the next stage of the process is to identify and allocate sites, which can be occupied by gypsies and travellers. Following a study by consultants the council identified six possible sites on public land. It has now been resolved that none of these should be pursued and a further analysis of sites is being undertaken on the basis of site search criteria.

Suitability of the site

Evaluation of the site against the council's site search criteria shows that it fails to meet several criteria, principally those relating to a sustainable location, and would not, therefore, be selected to meet the needs of the GTANA survey. (A copy of the assessment is available on the file) In failing to meet the criteria the proposal fails to comply with policies H9 and C3 of the North Wiltshire Local Plan 2011 and policy DP16 of the WSSP 2016.

The Character and Appearance of the Area

The site is well screened, particularly from the north, and additional planting has been carried out. The development would not be particularly intrusive in the countryside or have a particularly adverse impact on local amenity. Gypsy sites are acceptable, in principle, outside settlements under policy H9.

Sustainability

The distance of the site from local services in Minety, Purton or Swindon is such that it is likely to result in increased reliance on car based journeys contrary to sustainable development objectives. The bus stop is over 500m away with an infrequent service.

Highway Safety

The access has good visibility onto a straight road and has previously been approved for use in connection with the stables. There are no objections on these grounds from WCC Highways.

Residential Amenity

Whilst the development will be partially visible, the use of the site will not have an unacceptable adverse impact on residential amenity of nearby houses.

Personal Circumstances

The education and health needs of the applicants have been taken into account but are not considered to be so exceptional as to create an overriding need for location at this particular site which would overcome other objections.

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 refusal of a permanent permission, or the granting of a temporary permission, would be proportionate and would not, therefore, be a violation of the Act.

Race Relations

The policies of the Structure Plan and local plan recognise the special needs of gypsies as a distinct racial group by allowing gypsy sites in locations unacceptable for other forms of development. This application has been considered under these policies and complies with the obligations under the act.

Temporary Permission

Circular 01/06 advises that temporary permission should be granted in some circumstances.

“where there is unmet need but no available gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, local planning authorities should give consideration to granting a temporary planning permission’

‘...local planning authorities are expected to give substantial weight to the unmet need in considering whether temporary planning permission is justified. The fact that temporary permission has been granted on this basis should not be regarded as setting a precedent for the determination of any future applications for full permission for use as a caravan site.”

Conclusion

The applicant has gypsy status and a site outside a settlement could be acceptable under adopted policies. The site is not unacceptably harmful in its countryside location but is not sustainable in terms of its access to services and amenities. The proposal is, therefore, unacceptable. In view, however, of the current position in relation to the provision of permanent sites and the government advice in these circumstances it would be entirely appropriate for a temporary permission to be granted to allow for a permanent permission to be granted on an allocated site when such a site becomes available.

Recommendation and Proposed Conditions/Informatives

Planning Permission be GRANTED subject to the following conditions:

1. The use hereby permitted shall be for a limited period being the period 2 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 site is in an unsustainable location where permission would not normally be granted. Temporary permission has been granted to allow for the provision of an alternative, permanent, allocated site.

2. There shall be two caravans stationed on the site at any time, of which only one caravan may be a residential mobile home.

Reason: To limit the development to an appropriate scale.

3. The site shall not be occupied by any persons other than Gypsies, as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960, as amended, or any Act revoking or re-enacting that Act.

Reason: The use of this site is only acceptable due to the gypsy status of the applicant.

4. No commercial activity or use, other than the keeping of a commercial vehicle as defined in condition 5 below shall be carried out on the site, including the storage of materials and waste.

Reason: In the interests of the amenity of the area.

5. No more than one commercial vehicle shall be kept on the land for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in size.

Reason: In the interests of the amenity of the area.

6. The stables shall be used only by persons resident at the site for private recreational purposes.

Reason: In the interests of amenity, sustainability and highway safety.

7. Within 28 days of the date of this permission the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the access and points on the carriageway edge 215m from and on both sides of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 900mm above the nearside carriageway level and thereafter maintained free of obstruction at all times.

Reason: In the interests of highway safety.

Informative

1. This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Plan References

OS plan 07-164-WHIT3/001, proposed site plan 07-164-WHIT3/002 received by the local planning authority 27/05/08

Reason for Decision

The applicant has gypsy status and a site outside a settlement could be acceptable under adopted policies. The site is not unacceptably harmful in its countryside location but is not sustainable in terms of its access to services and amenities. The proposal is, therefore, unacceptable. In view, however, of the current position in relation to the provision of permanent sites and the government advice in these circumstances it would be entirely appropriate for a temporary permission to be granted to allow for a permanent permission to be granted on an allocated site when such a site becomes available.

Appendices:	NONE
Background Documents Used in the Preparation of this Report:	1.20, 1.03, RSS, 2.02, 4.02, 4.04, 4.07