

Title: **Temporary Accommodation for Gypsy Family**

Portfolio Holders: **Cllr Tom James (Housing)** **Cllr Jeff Osborn (Planning and Development)**

Reporting Officer: **Tim Darsley**

Key Decision: **Yes**

1 Purpose

The purpose of this report is to:

- Provide Cabinet with further information on the possibilities for providing a site for temporary accommodation for a gypsy family.
- To enable Cabinet to consider options and decide upon the way forward.

2 Background

In August 2005, a gypsy family occupied land at Challymead Bridge in Melksham. This use of the site was unauthorised in planning terms and the site was highly unsuitable for reasons of access and flooding.

The District Council applied to the High Court seeking the vacation of the site by the family. After a temporary injunction in August, a full hearing was held on 22 September. The Court issued an order which required that:

- (i) The family ceased occupation of the land and removed their structures and materials from the land.
- (ii) The Council made a satisfactory offer of temporary accommodation to the family as soon as reasonably possible and provided a licence for them to remain in occupation on a temporary basis.

The outcome of the court hearing and the requirements of the court order were notified to all Members in the Members Information Sheet of 26 September.

3 Initial Investigations

The court order referred to the Council providing temporary accommodation on land within its control. A review of such land was therefore undertaken in October, with potential council sites evaluated against the District Plan criteria for gypsy sites set out in Policy CF12.

The matter was brought formally to Members in a report to Cabinet on 23 November. The report confirmed the requirements of the Court Order and described the initial investigations of land within the Council's ownership. The conclusion of these investigations was that the Council's land at Corsley Heath presented the most realistic option for the Council to offer a temporary site from land within its control, as soon as reasonably possible. The report also gave a preliminary estimate of the cost of such provision and recommended that capital funding for this purpose of up to £50,000 be sought.

Cabinet resolved that:

- Officers continue to investigate further sites and specify the physical work needed to make sites suitable for temporary accommodation.
- The report be deferred and brought back to the Cabinet meeting on 14 December (subsequently scheduled for 11 January to allow for the further work called for to be undertaken).
- Cabinet recommends to Council that capital expenditure necessary to establish a temporary site, up to a maximum of £50,000, be authorised.

4 Council Owned Land

Details of council owned land are readily to hand because of the work on the Housing PFI scheme. Some 18 sites have been evaluated against the criteria set out in District Plan Policy CF12. None of the sites meet all of the criteria and most were discounted at an early stage in the analysis.

Of all of the council owned sites, the one at Corsley Heath is considered to offer the most potential for the provision of a temporary site for gypsy accommodation. It is recognised however that the site raises concerns of proximity to residential areas, adequacy of local services and the need to mitigate landscape impact.

The list of council owned sites and their evaluation results is shown at Annex 1.

5 Private Sector Land

It may be possible for the Council to acquire or lease land available through the private sector in order to provide a temporary site for the family. A canvas of commercial agents has been undertaken and at this stage five possible sites have been suggested.

Three are within or adjacent to an industrial area on the outskirts of Warminster. The fourth and fifth sites are in countryside locations in the Warminster and Dilton Marsh areas.

All five sites need to be inspected and evaluated against District Plan Policy CF12. Following this, further investigation would be needed to establish the terms on which the sites could be offered.

6 Wiltshire County Council

Further discussions have been held with Wiltshire County Council, both to confirm the availability of existing gypsy sites and to investigate whether any other County Council owned land might be suitable and available.

The County Council provides two gypsy sites in West Wiltshire, at Dilton Marsh and at Bratton. Dilton Marsh is full, with a waiting list. Bratton has one vacancy but this is in the process of being filled. There is also no space available at the other County Council gypsy sites elsewhere in Wiltshire.

The County Council's Estates Department has identified only one possible site within its land holdings. Its suitability against Policy CF12 is being assessed.

7 Options

There are broadly two ways forward that the Council might take in seeking to comply with the court order. Either one or both together could be pursued.

(i) Pursue provision at Corsley Heath

As this site is already in the Council's ownership, the steps needed to move towards an offer of temporary accommodation could be started straight away. These would include; applying for planning permission, planning and carrying out the physical works needed on site and preparing a licence for the temporary occupation.

The Corsley site is however not ideal in terms of policy CF12, particularly in view of the proximity of residential areas and the limited local services. There is strong local opposition to the possibility of a

site here. A submission detailing reasons why the site is considered not suitable for temporary gypsy accommodation has been received from a local action group (see Annex 2).

(ii) Pursue provision on land not currently in the Council's ownership

Sites more suitable in terms of policy CF12 may be identified on land offered through the private property market. The County Council's site is still to be assessed and other sites may also emerge as the search continues.

The disadvantage of this course is that the investigation of other land, followed by negotiation and acquisition, will take time and, indeed, is not guaranteed to result in a site being made available. There is a risk that the Council could be challenged that it was not proceeding as soon as reasonably possible.

8 The Way Forward

The site at Corsley Heath would appear to offer the best potential for providing a temporary site from land within the Council's control.

If Cabinet considered that the drawbacks of this site rendered it inherently unsuitable for this use, efforts would be concentrated on seeking a site from land available in the private property market.

Providing that such a course was actively pursued, it is considered that the risk of being held in breach of the court order is low.

9 Financial Implications

Since the report to Cabinet on 23 November, further work has been undertaken to estimate the costs of establishing a temporary site. These will depend on the location and nature of the site concerned and in particular its proximity to services. It is therefore not possible to provide detailed costings until a site has been identified. It is apparent however that the costs of setting out a site and providing services could be up to £100,000. There would be additional costs associated with acquiring a site from the private sector.

In the light of this, it is suggested that Cabinet amends its recommendation to Council so that funding of up to £100,000 is identified for the purpose of dealing with the court order. Authority to spend against this allocation could be dependent upon cabinet receiving and approving a detailed proposal for a particular site.

10 Legal Implications

The principal legal issue in this matter is the consequence of the Council failing to comply with the September court order. The key wording within the order is that the Council "...shall use its reasonable endeavours...as soon as reasonably possible to make a satisfactory offer of temporary accommodation...sufficient for the mobile homes..."

As long as the Council is able to demonstrate that it has made reasonable endeavours, as soon as reasonably possible, to offer suitable temporary accommodation, then the Council will not be held in breach.

To date, it can be argued that the Council has made the required efforts. However, a concern would arise if the Council were to delay taking action in response to factors which were not material to the identification and provision of a site for temporary accommodation.

11 Recommendations

It is recommended that:

- (i) The review of potential sites available through the private property market and the County Council be completed and availability and terms be established.
- (ii) The sites identified from this process be evaluated alongside the Council's Corsley Heath site in terms of policy CF12, suitability to the family and other relevant factors.
- (iii) A further report on the results of this work be brought back to Cabinet as soon as possible and in any case no later than April 2006.
- (iv) Cabinet recommends to Council that capital funding of up to £100,000 be identified for the purpose of dealing with the court order. Authority to spend against this allocation to be dependent on Cabinet receiving and approving a detailed proposal for a particular site.

Background Papers

Order of the High Court of Justice, dated 23 September 2005.
West Wiltshire District Plan, First Alteration, 2004.

Statement of reason for key decision.	This is a key decision because of the potential impact on a number of areas in West Wiltshire and because of the significant expenditure that could be involved.
Options considered and rejected.	If the recommendations are accepted, a number of options will remain under consideration.
Date of implementation (not less than five days after date of decision).	20 January 2006.

Annex 1

Assessment of Council owned land against Policy CF12 of the West Wiltshire District Plan, First Alteration 2004

Policy CF12 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 uses
- B. Encroachment into open countryside
- C. The needs and safety of future occupants and their children
- D. Highway safety, access, pedestrian safety, the impact of traffic on local roads and 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 and 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.

SITE	A	B	C	D	E	F	G	H	*	COMMENTS
The Conigre , Bradford on Avon	x x	✓	x	x x	✓	✓	✓	✓	x x	Too small. Steep approach roads. Legal restrictions
Cherry Orchard, Codford	x x	✓	x	✓	✓	✓	✓	x	x	Sewage plant nuisance needs to be resolved
Blenheim Park, Melksham	x x	✓	x	✓	✓	✓	✓	✓	✓	Subdivided into two small plots each too small. Loss of open space. Moderate ground contamination potential
Southwick Rd. N Bradley	x x	✓	✓	?	✓	✓	✓	✓	✓	Informal parking area. Too small
Court St. Trowbridge	✓	✓	x	x	✓	✓	✓	✓	✓	Loss of car parking. Moderate ground contamination potential

Broad Street, Trowbridge	x	✓	✓	x	✓	✓	✓	✓	✓	Loss of car parking
Paxcroft Mead,	✓	✓	x	✓	✓	✓	✓	✓	✓	Not yet owned by WWDC. Possible flooding issue which could be resolved by remediation.
Weymouth St. Warminster	x	✓	x	✓	✓	✓	✓	✓	✓	Too small. Nuisance from adjoining hot food takeaway. Moderate ground contamination potential.
Hillside Hostel, Warminster	x	✓	✓	✓	✓	✓	✓	✓	✓	Conflict with current use and future development potential of site.
Westbury Leigh, Westbury	x x	✓	✓	✓	✓	✓	✓	✓	✓	Too small. Loss of car parking
Baytree Fm, Corsley Heath	x	x	✓	✓	✓	✓	?	✓	✓	Level, large enough, screened. Limited local services including public transport – potential sustainability issue.
Dorset Close, Melksham	x x	✓	✓	✓	✓	✓	✓	✓	✓	Loss of public open space.
Southview, Trowbridge										Ransom Strips only
Church St. Trowbridge	✓	✓	✓	x x	✓	✓	✓	✓	x	Town centre car park. Various rights of way.
St Thomas' Passage, Trowbridge	x	✓	✓	x	✓	✓	✓	✓	x	Town centre site. Landlocked.
Market Place, Warminster										Ransom Strips Only. Moderate ground contamination potential
St George's Close, Warminster	x x	✓	x	x	✓	✓	✓	✓	✓	Moderate ground contamination potential
Land off A36, Knook	x	x	x	x	?	x	✓	✓	x	Remote from services and in an Area of Outstanding Natural Beauty

Annex 2:

Submission by Corsley Action Group

Reasons supporting the inappropriateness of the Baytree Farm site for Gypsy accommodation, temporary or permanent.

The Site

The site covers some 1.69 hectares (4.19 acres) and measures approximately 100m deep x 150 metres wide and is accessed by a 3m wide field gate. No services are available on the site. It is currently laid to grass and is used by grazing sheep. This field and surrounding areas are soil overlying green sand.

“Policy CF 12

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

This site has residential development on 2 ½ sides, amounting to some 12 properties directly bordering the site with many additional homes behind these. Even if the Gypsy encampment were located on the most Southerly boundary (the A362 side) the majority of these house will still be within approximately 100 meters of the site.

B. Encroachment into open countryside

This site is outside the Village policy limits for Corsley Heath (policy H17) and therefore is in the open countryside. Development in the open countryside (policy H22) on rural exception sites is where a clearly demonstrable local need is identified. The site is conserved as a Special Landscape Area (SLA, policy C3) and as such should be protected from development as a Gypsy site as this is inappropriate to the character or appearance of this Conservation Area under the Gypsy sites policy (policy CF13). The WWDC plan also states:

“The District Council values the landscape character of the SLA’s as a local designation which compliments the nationally important AONBs.”

If WWDC truly values the landscape character of this SLA on a par with AONBs this proposed Gypsy site development should be prohibited.

C. The needs and safety of future occupants and their children

See below for Safety issues affecting the site.

D. Highway safety, access, pedestrian safety, the impact of traffic on local roads and access to public transport

The entrance to the site is from the extremely busy A362 main road. The WCC embedded traffic monitors situated approx 200m west of the site have recorded a mean daily traffic count in excess of 7300 vehicles per day for the past 3 years and the average speed is significantly in excess of the 40mph limit.

To emphasise the danger posed, the entrance to the site is directly adjacent to the most frequently demolished piece of road furniture along the Corsley stretch of the A362, and is again awaiting repair after being demolished again recently.

There is no footpath serving this site, anyone wishing to leave the site on foot to access the Bus Stop etc. will have to cross the busy A362 to the pavement opposite and then carry on along it in a westerly direction. They must then cross another wide road junction, continue along the road for approx 30 metres via an extremely poor stepped pavement, then re-cross the A362.

E. Availability and adequacy of infrastructure e.g. electricity drinking water, sewerage or onsite treatment or storage of effluent

As the outflow from sewage plants can no longer be sent to soakaways either a Biodisc treatment plant is needed and its associated piping into a foul water main, or onsite storage will need to be installed. The nearest connection to a foul water main is some 100m from the most Eastern boundary of the site. As the main is on private property an easement or wayleave arrangement is therefore likely. Other mains services are not available.

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

Corsley is poorly served by local services – except possibly public houses in which we are well supplied. The part-time post office (no associated shop facilities) opens at indeterminate times. See above about the dangers to pedestrians accessing the bus stop and post-office.

G. The need to protect the best and most versatile agricultural land

It is good agricultural land, being level and well drained. It is not however grade 1, 2 or 3A agricultural land.

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

We do not believe this site is particularly at risk from flooding.

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 will be well screened by landscaping and/or fencing.”

Conclusion.

Far from having a moderate match against the CF 12 criteria, the Baytree Farm site is an extremely poor match.

The many and problematic difficulties mentioned above could be overcome by changing policies and by the application of sufficient funds. A budget of £50,000 seems far too small even for such a small development. A more realistic figure to take account of essential highways modifications, sewerage and other necessary infrastructure changes is in the region of £250,000 and all this for a *temporary* site for 4 caravans and 18 individuals.

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