

**REPORT TO THE DEVELOPMENT CONTROL
COMMITTEE**

Report No.

Date of Meeting	30th July 2008
Application Number	08/01118/S73A
Site Address	Lakeside Park, Kington Lane, Stanton St Quinton, Chippenham
Proposal	Renewal of temporary planning consent for three residential mobile homes for a further five years
Applicant	The Stinchcombe Family
Town/Parish Council	Stanton St Quintin
Grid Ref	390852 179417
Type of application	Renewal of temporary permission

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 Councillors Scott and Meadows have requested that the application be considered by committee to consider the planning policies and personal circumstances of the applicant. .

Summary of Report

A temporary five year permission was allowed at appeal in 2002 (02/1063ENF and 02/1064ENF) for the change of use of land from agriculture to mixed use for agriculture, stationing of residential caravans and storage of machinery. The Inspector had considered that notwithstanding the fact that the appeal was clearly contrary to development plan policies, the personal circumstances of the appellant, Kevin Stinchcombe in terms of health and human rights and together with the possibility of imposing appropriate planning conditions, justified the granting of planning permission for the continuation of the existing use for a temporary period.

In light of the appeal decision which is appended to this report, the personal circumstances of the applicant are again considered within the context of the relevant planning policies.

Confidential information has been provided by the applicant in support of the application. This information is available to Councillors at the Monkton Park offices.

Officer Recommendation

Temporary planning permission be GRANTED subject to the conditions.

Contact Officer	Tracy Smith	01249 706642	tsmith@northwiltshire.gov.uk
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Proposal and Site Description

Permission is sought to renew the temporary five year permission (this has now lapsed since the application was submitted) by a further period of 5 years. This is due to the personal circumstances of the applicant and his family.

The site comprises approx 2 hectares of land situated immediately south of the M4 and to the east of Kington Lane. The motorway occupies an elevated position compared to the site and is thus highly visible.

The caravans are located on the eastern boundary of the site.

The site is located within the open countryside.

Planning History		
Application number	Proposal	Decision
02/1063ENF	Appeal against enforcement – carrying out unauthorised engineering works on the land comprising excavation works to form a lake and the construction of two earth bunds.	Allowed May 2003 in respect of the lake but dismissed in respect of the bunds.
02/1064ENF	Appeal against enforcement – change of use of land from agriculture to mixed use for agriculture, stationing of residential caravans and storage of machinery.	Allowed May 2003 for a temporary period of five years personal to the identified members of the Stinchcombe family.

Consultations

Kington St Michael Parish Council – object. Concerned that two consecutive temporary consents come very close to allowing a permanent occupation of the land which would not fulfil the criteria for permanent residential occupation.

Stanton St Quinton Parish Council – no objections

Wiltshire County Council Highways – no objections

Representations

3 letters of objection have been received. None of the objections are on specific planning grounds rather they relate to how the site is and has been occupied by the applicants and the personal circumstances of the applicant.

The objections are on the following grounds:

- Reference to consultation and no objections on planning forms incorrect
- Continuous contravention of the appeal conditions with four caravans on site for a long period, randomly positioned agricultural equipment and various cars, washing line in situ
- General poor appearance of the site
- Replacement of an existing mobile home with a larger one
- Right of way blocked and enforced by large unfriendly dogs
- Change in circumstances of the residential requirement. Family members now living off site and no longer a threat to life due to movement from the site
- One of the three caravans not occupied full time
- Lack of agricultural activity on the site, solely a residential use

The applicant has responded to the objections received from one of the objectors – a full copy of the response is on the planning file

- A number of neighbours have been spoken to who raise no objections
- There has been no contravention of appeal conditions
- Four caravans were not on site for a long period, an additional caravan was brought on site for use as a study/office for a temporary period, the Council were fully aware and when it was no longer needed it was removed
- The storage of agricultural machinery was permitted in 2003 it was removed in 2005/6 due to personal circumstances
- The painting of the caravans was done with the full knowledge of the Council
- Washing line is still in place and is lawful
- The only caravan to be replaced has been replaced with a smaller unit, not larger as stated
- The right of way is of no relevance to the objector
- Numerous visitors come to the site despite the dogs which simply bark
- Electricity supply to Lakeside was connected in Summer 2006, after Mr Harry Stinchcombe's departure from the site
- The electricity supply was carried out lawfully
- No agricultural business has operated from the site for more than 2 years

Planning Considerations

In considering this application, significant weight is attached to the Inspector's decision letter in respect of the enforcement appeals in 2002.

It is important to note that all conditions in respect of the 2002 decision have been discharged. Whilst this process might not have taken place quickly, Mr Kevin Stinchcombe acted in good faith throughout in conjunction with the Council in order to deal with this matter and other matters that have arisen during this process.

There were no outstanding enforcement matters relating to this site at the time the application was submitted.

Other matters such as obstruction of rights of way or otherwise are a civil matter and not a planning matter and thus have no relevance to the consideration of this application.

It is clear that the development is contrary to Policies C3, NE15, H4 and H9 of the adopted North Wiltshire Local Plan 2011.

The Inspector was aware of the clear conflict between the retention of the caravans and the policies of the development plan regarding development in the countryside (paragraph 31).

In this instance, as was the case with the appeal, it falls to be considered as to whether there are any material considerations which outweigh the relevant planning policies of the development plan.

Material Considerations

Having regard to the Inspector's considerations of the personal circumstances of the appellants' health, education, ethnic background and Human Rights are again considered within the context of evidence provided previously to the Inquiry in December 2002 and March 2003 together with confidential evidence submitted in respect of this application.

It is noted that the site is currently occupied by Mr Kevin Stinchcombe in 1 Lakeside with James Stinchcombe and his family in 3 Lakeside Park. Since the previous appeal, Harry and Katie Stinchcombe do not permanently reside at the site and Mrs Deborah Stinchcombe now lives in Chippenham.

Health

The Inspector stated in his decision letter at paragraph 24:

"With the exception of Kevin Stinchcombe, there is no evidence that the medical circumstances of the family require that they live in a countryside location. It is clear that they would benefit from a more settled pattern of family life..."

The Inspector noted that this could be achieved via a temporary permission or through the re-housing of the family.

There has been no change in the health of Mr Stinchcombe since the decision in May 2003 notwithstanding the departure from the site of Mrs Deborah Stinchcombe and the fact that Harry and Katie Stinchcombe are no longer permanent residents on the site.

It is clear that Mr Stinchcombe still requires the support and proximity of his family and since the departure of Mrs Deborah Stinchcombe, this falls to his son James and his family. The ability to be able to accommodate his other children, Harry and Katie when they stay in the third caravan is also considered to be an important factor.

Objectors comments in respect of the need for this third caravan are noted but it is considered that a reduction in the number of caravans would serve no amenity function given the level of harm already created particularly when balanced with the health considerations of the applicant.

Notwithstanding confidential evidence submitted, it is considered that with the exception of Kevin Stinchcombe there is no justification on medical grounds for the remainder of the occupants to live on this site.

Education

At the time of the previous appeal, there was no strong case for suggesting that education was a material consideration for Harry and Katie.

Additional confidential information has been submitted and it is considered that there are no significant educational needs which warrant being a material consideration in this instance.

Ethnic background

Having consideration to paragraph 26 of the Inspector's decision, there has been no change in circumstance since that decision.

Human Rights

The Inspector considered the implication of Articles 2 and 8 from the Human Rights Act 1998. Article 2 relates to the right to life and Article 8 the right to respect for private and family life.

The Inspector gave the potential for the risk of self harm if the family were obliged to vacate the site significant weight. The Inspector considered that the Council's ability to provide permanent accommodation was likely to be protracted and would involve temporary accommodation for a period. Such events the Inspector considered (paragraph 30) was likely to result in an incident of self harm.

Notwithstanding, the fact that Mrs Deborah Stinchcombe, Harry and Katie Stinchcombe have left the site on both a permanent and semi-permanent basis, there is evidence that demonstrates that there has been no change in respect of this since the appeal decision in 2003.

Thus the grounds upon which the Inspector allowed the Stinchcombe family to remain on the site are still relevant.

In relation to Article 8 the Inspector at paragraphs 30-34 considered the right to respect for private and family life. The Inspector acknowledged the clear conflict between policy and the retention of the caravans and stressed that in terms of precedent each case must be considered on its merits. The Inspector highlighted that the appeal was an unusual case where there was strong evidence on medical grounds for the family to remain on the site (paragraph 31).

Having regard to conditions relating to occupation of the site, the temporary period (which would allow the Council to review the situation at the end of this period if the appellants wished to remain on the site), the siting of the residential use and limitation on the number of caravans, the Inspector concluded:

"...there are material circumstances regarding health and human rights which, together with the possibility of imposing appropriate planning conditions, justify the granting of planning permission for a temporary period..."

Conclusion

Officers have considered the planning history of the site, including the appeal decision issued in respect of appeals 02/1063ENF and 02/1064ENF together with supporting information and confidential information submitted with the application.

There have been no changes to Mr Kevin Stinchcombe's health and whilst there have been changes to the family which Mr Kevin Stinchcombe has apparently coped with, without incident, there is evidence that if he and his son James and his family were obliged to vacate the site and the support and proximity removed, there could be a risk of self harm as with the previous appeal.

This is given significant weight and as with the previous appeal, the ability to limit the permission to a temporary permission, limit the number of caravans and their location on the site together with a personal permission justify the granting of a temporary planning permission in this instance.

In the officer's opinion, given the requirement for only Mr Kevin Stinchcombe to be on the site, the permission should be dependant upon his permanent occupation of the site. In the event that he is not a permanent resident on the site, it is considered reasonable that the site is vacated within a specified time limit.

Recommendation and Proposed Conditions/Informatives

APPROVE subject to the following conditions:

1. The use hereby permitted shall be carried on by Mr Kevin Stinchcombe and his family so long as he is permanently residing on the site and shall be for a period of no more than five years from the date of this decision. When the premises cease to be occupied by Mr Kevin Stinchcombe or at the end of the period, whichever is sooner, all residential caravans and agricultural machinery, other than that in use on the application site shall be removed from the site within three months.

Reason: Permission would not normally be granted but regard has been paid to the personal circumstances of the applicant.

2. No more than three caravans shall be stationed on the site at any one time.

Reason: In the interests of the amenity of the area and due to the personal circumstances of the applicant.

3. No caravans or domestic paraphernalia associated with the use shall be placed outside the area cross-hatched on the plan attached to this decision notice.

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

Informatives

1. The following policies of the Development Plan are relevant to this decision:-

North Wiltshire Local Plan 2011:- C3 NE15 H4 and H9

Reason for Decision

Notwithstanding that the proposed temporary retention of three residential mobile caravans on this site is clearly contrary to the relevant policies contained within the North Wiltshire Local Plan 2011, there are material considerations in respect of the health of Mr Kevin Stinchcombe which outweigh these policies in this instance.

Appendices:	Inspector's decision notice 02/1063ENF and 02/1064ENF
Background Documents Used in the Preparation of this Report:	1.20, 2.02, 4.02, 4.03, 4.04, 5.01, 5.04