

AGENDA

Meeting: Strategic Planning Committee
Place: Council Chamber - County Hall, Trowbridge BA14 8JN
Date: Wednesday 22 April 2015
Time: **11.00 am**

Please direct any enquiries on this Agenda to Roger Bishton, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713035 or email roger.bishton@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225) 713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Briefing Arrangements:	Date	Time	Place
PARTY SPOKESMEN	Monday 20 April 2015	2.30pm	Trafalgar Room, 2 nd Floor, Old County Hall

Membership:

Cllr Andrew Davis (Chairman)	Cllr Charles Howard
Cllr Tony Trotman (Vice Chairman)	Cllr David Jenkins
Cllr Glenis Ansell	Cllr Bill Moss
Cllr Trevor Carbin	Cllr Christopher Newbury
Cllr Terry Chivers	Cllr Fred Westmoreland
Cllr Stewart Dobson	

Substitutes:

Cllr Ernie Clark	Cllr Paul Oatway
Cllr Brian Dalton	Cllr James Sheppard
Cllr Bill Douglas	Cllr Ian West
Cllr Mary Douglas	Cllr Jerry Wickham
Cllr Dennis Drewett	Cllr Graham Wright
Cllr George Jeans	

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If you have any queries please contact Democratic Services using the contact details above.

PART I

Items to be considered when the meeting is open to the public

1 Apologies for Absence

To receive any apologies or substitutions for the meeting.

2 Minutes of the Previous Meeting (*Pages 5 - 10*)

To approve and sign as a correct record the minutes of the meeting held on 11 March 2015.

3 Declarations of Interest

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 Chairman's Announcements

To receive any announcements through the Chair.

5 Public Participation and Councillors' Questions

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register in person no later than 10.20am on the day of the meeting.

The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered. The rules on public participation in respect of planning applications are detailed in the Council's Planning Code of Good Practice.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular, questions on non-determined planning applications. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda (acting on behalf of the Corporate Director) no later than 5pm on **Wednesday 15 April 2015**. Please contact the officer named on the front of this agenda for further advice. Questions may be

asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

- 6 **14/10797/FUL - Greenacres Mobile Park, Semington, Trowbridge, BA14 6HL - Change of use of agricultural land to create 6 additional Gypsy and Traveller pitches with associated ancillary development** *(Pages 11 - 60)*

A report by the Case Officer is attached.

- 7 **14/08417/FUL - Kemble Business Park Estates, Crudwell, Wiltshire, GL7 6BQ - A hybrid planning application for new B8 (storage and distribution) and B1 (office) space, including provision of new warehouse and ancillary office space (building 4) of 20210 sq.m. and new vehicular access.** *(Pages 61 - 78)*

A report by the Case Officer is attached.

- 8 **Date of the Next Meeting**

To note that the date of the next meeting is scheduled to be held on Wednesday 13 May 2015 at County Hall, Trowbridge, starting at 10.30am.

PART II

Item during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

None

STRATEGIC PLANNING COMMITTEE

DRAFT MINUTES OF THE STRATEGIC PLANNING COMMITTEE MEETING HELD ON 11 MARCH 2015 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Andrew Davis (Chairman), Cllr Tony Trotman (Vice Chairman), Cllr Glenis Ansell, Cllr Trevor Carbin, Cllr Charles Howard, Cllr David Jenkins, Cllr Bill Moss, Cllr Christopher Newbury and Cllr Dennis Drewett (Substitute)

Also Present:

Cllr George Jeans and Cllr Toby Sturgis

17 Apologies for Absence

Apologies for absence were received from Cllr Terry Chivers (who was substituted by Cllr Dennis Drewett), Cllr Stewart Dobson and Cllr Fred Westmoreland.

18 Minutes of the Previous Meeting

Resolved:

To confirm and sign the minutes of the previous meeting held on 11 February 2015 as a correct record.

19 Declarations of Interest

There were no declarations of interest made at the meeting.

20 Chairman's Announcements

There were no Chairman's announcements.

21 Public Participation and Councillors' Questions

There were no questions received from members of the Council.

Members of the public addressed the Committee as set out in Minute Nos. 22 and 23 below.

- 22 **14/10556/FUL - Land at west side of B3092, Mapperton Hill, Mere, BA12 6LH - Change of use of land to 1 No. Romani Gypsy pitch & associated works including 1 No. mobile home, 1 No. day room, 1 No. touring caravan, 1 No. septic tank, stables, hard standing, new access and keeping of horses**

The following people spoke against the proposal:

Mr Quentin Skinner, a local resident
Mr Colin Liddell, a local resident
Mr Richard Branscombe, a local resident
Cllr Lesley Traves, Chairman of Mere Parish Council

The Committee received a presentation by the Case Officer which set out the main issues in respect of the application. The report was introduced which recommended that permission be granted subject to conditions.

Members of the Committee then had the opportunity to ask technical questions after which the Committee received statements from members of the public as detailed above, expressing their views regarding the planning application.

Cllr George Jeans, the local Member expressed some concerns regarding this application, particularly about drainage problems at the site bearing in mind that the land was often waterlogged. He suggested that the proposal be deferred to enable the Drainage Engineer to prepare a report explaining how this issue could be addressed. He also expressed concern that the Highways Officer was not present to explain how he concluded that after visiting the site, he raised no Highway objection to the proposed development, subject to conditions in respect of the provision of appropriate visibility splays, consolidation and grading of the new access and that any gates should be set back and open inwards.

During the subsequent discussion, a fellow Highways Engineer attended and explained that his colleague had recently visited the site and concluded that judging from the speed of vehicles using Road B3092, there were no highway objections to the proposal, provided that adequate visibility splays were provided.

Members of the Committee noted that the application site was often waterlogged and expressed serious concern regarding the drainage.

After further discussion,

Resolved:

To defer consideration of the application in order to seek further information from the Drainage Engineer on the practicalities of drainage of the site and to request that copies of the Planning Inspector's decision regarding a similar application at Alderbury be provided.

- 23 **14/09262/OUT - Land north of Bitham Park, Trowbridge Road, Westbury - Proposed development of up to 300 dwellings; Creation of new roundabout access from Trowbridge Road; Creation of a new emergency/cycle and pedestrian access from Coach Road; Open Space; Drainage Works and ancillary works**

The following person spoke against the proposal:

Mr Francis Morland, a local resident

The following person spoke in support of the proposal:

Mr John Hall, the agent

The Committee received a presentation by the Case Officer which set out the main issues in respect of the application. The report was introduced which recommended that planning permission be refused.

Members of the Committee then had the opportunity to ask technical questions after which the Committee received statements from members of the public as detailed above, expressing their views regarding the planning application.

Cllr David Jenkins, as a local Member, expressed certain concerns on highway grounds.

After some discussion,

Resolved:

To refuse planning permission for the following reasons:

- 1) The site is located in open countryside outside the limits of development defined for Westbury in the Wiltshire Core Strategy. The proposal would conflict with Core Policy 1, Core Policy 2 and Core Policy 32 of the Wiltshire Core Strategy which seeks to properly plan for sustainable development of housing in Wiltshire. Furthermore, by isolating and enclosing land to the south-west and south-east of the site, the proposal would inevitably result in further development pressure that would lead to significant upward levels of demand for development.

- 2) The proposal conflicts with the Council's plan-led approach to the delivery of new housing sites outside of the identified limits of development, as set out in Core Policy 2 of the Wiltshire Core Strategy which seeks to provide new housing sites to deliver the identified needs in a community area through a Site Allocation DPD and/or a Neighbourhood Plan. This strategy is supported by the Wiltshire Core Strategy Inspector and the Secretary of State in several appeal decisions and the site has not been brought forward through either of these processes.
- 3) The proposed development is not in accordance with Core Policy 62 which seeks to restrict new direct accesses onto the national primary route network. The proposal would consequently result in adverse impacts on the free flow of traffic on the primary route and additional risks to highway safety.
- 4) The developer has failed to agree and submit a Unilateral Undertaking or to enter into a Section 106 Legal Agreement or agree for a viability assessment to be undertaken. The proposal therefore does not provide for the delivery of the necessary infrastructure required to mitigate the direct impacts of the development and fails to comply with Core Policy 3 of the Wiltshire Core Strategy Regulation 122 of the Community Infrastructure Levy Regulations 2010 and Paragraph 204 of the National Planning Policy Framework.
- 5) The proposal would have an adverse impact on the character and appearance of the area by significantly expanding the built-up area of the settlement into the surrounding rural landscape. This would be highly visible, particularly from viewpoints to the south and south-east, and would conflict with a core principle of the NPPF to take account of the intrinsic character and beauty of the countryside and with policy CP51 of the Wiltshire Core Strategy. Furthermore, by isolating a significant piece of agricultural land to the south-west, and enclosing another piece of land to the south-east on what would be three sides by built development, the cumulative adverse impact on the landscape would be increased.

(Note: Members requested that their unanimous decision be recorded.)

24 Date of the Next Meeting

Resolved:

To note that the next meeting was scheduled to be held on Wednesday 22 April 2015, at County Hall, Trowbridge, starting at 11.00am in view of a preceding site visit.

25 **Urgent Items**

There were no urgent items of business.

(Duration of meeting: 10.30 am - 12.00 pm)

The Officer who has produced these minutes is Roger Bishton, of Democratic & Members' Services, direct line 01225 713035, e-mail roger.bishton@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

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REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	22 April 2015
Application Number	14/10797/FUL
Site Address	Greenacres Mobile Park, Semington, Trowbridge, BA14 6HL
Proposal	Change of use of agricultural land to create 6 additional Gypsy and Traveller pitches with associated ancillary development.
Applicant	Mr P Ward
Parish Council	SENINGTON
Ward	SUMMERHAM AND SEEND
Grid Ref	390172 160112
Type of application	Full Planning
Case Officer	James Taylor

ADDENDUM

This application was considered by the Strategic Planning Committee on 11 February 2015 and deferred *“pending the holding of a site inspection and to request copies of the Secretary of State’s and the Planning Inspector’s appeal decision letters be made available to all members of the Committee prior to a decision being made.”*

Pursuant to this decision and the public debate the applicant has submitted revised plans which reduce the number of pitches by one, so that now 6 additional pitches and associated development are proposed. All the pitches are proposed to the eastern portion of the site and immediately to the west of the pitches it is proposed to erect a 6m thick and 1.5m high landscaped bund. Previously this bund had been located further to the west. Beyond this to the west of the site it is no proposed to have a landscaped area up to 25 metres wide planted with trees. Previously this area had been up to 11 metres wide and no tree planting was indicated. Beyond this the existing right of way (3m easement) would be retained and enclosed by a 2m high wooden fence as previously detailed.

The revisions have been through a further round of public consultation.

The report below is an updated and amended version of that previously presented to members on 11 February to reflect the revised proposals and the consultation responses received, including those on the amended plans.

Members also requested copies of the appeal decision letters. There are three gypsy and traveller sites at Semington in the vicinity of the A361/A350 roundabout, all of which have recent appeal decisions allowing development on them. The applicant's original site at Greenacres was granted a permanent permission on appeal in February 2012. A single pitch at Littleton, to the north of the A361 travelling towards Seend, was approved at appeal on a permanent basis in January 2014; and an additional 4 pitches at a site to the south of the A361 and east of the A350 was allowed on appeal in October 2014. Copies of each of the appeal decisions are attached as an appendix to this agenda. In the case of the applicant's original site, costs were awarded against the Council, and a copy of that decision is also attached. These cases demonstrate the approach adopted by the various Inspectors towards matters such as sustainability, highway safety, the issue of need, personal circumstances and the need for evidence to substantiate reasons for refusal.

Reason for the application being considered by Committee

This application has been called in by Cllr Seed, the Division Member for the following reasons:

- Scale of development;
- Visual impact upon the surrounding area;
- Relationship to adjoining properties;
- Design – bulk, height, general appearance;
- Environmental/highway impact;
- Car parking (use); and
- Inappropriate development in the countryside and in excess of recognised traveller needs and entitlement.

The reason that this application is brought before the Strategic Committee and not the Area committee is that the Inspector reporting on the Wiltshire Core Strategy expressed concern about whether the Council's approach towards gypsies and travellers was consistent with national policy. National policy requires Council's to plan positively for traveller sites. In its response to the Inspector's concerns, the Council has committed to considering planning applications for new traveller sites as a strategic issue rather than a local issue. This proposal would increase the number of pitches available for travellers and is therefore before the Strategic Committee.

Whilst the Core Strategy has now been adopted new traveller sites will remain as a strategic issue rather than a local issue until the Gypsy and Traveller DPD currently being worked on is adopted.

1. Purpose of Report

To assess the merits of the proposal and to recommend that planning permission be granted subject to conditions.

2. Report Summary

Semington Parish Council objects to the proposal and circa 13 letters of objection have been received.

The traveller status of the applicants has been satisfied and there is a demonstrable need for further accommodation. The Council has recently published a Gypsy & Traveller Accommodation Assessment (GTAA) which provides an estimate of pitch need in Wiltshire and will be part of the evidence base that underpins the forthcoming Traveller DPD. The GTAA identifies that up to 2019 the Council has an outstanding need for traveller pitches in

this housing market area. Furthermore the issue of need has been dutifully considered by Inspectors on a number of recent traveller planning appeals and the Council's assessment of need has been repeatedly criticised.

The proposals have been assessed against the newly adopted policies of the development plan which is now formed by the Wiltshire Core Strategy and some saved policies of the West Wiltshire District Plan 1st Alteration (2004); and central to this application is Core Policy 47. At a national level the Planning Policy for Traveller Sites and National Planning Policy Framework form other material considerations. Whilst the local objections have been duly considered, officer's report that the site is acceptable as the proposals would give rise to no significant harm to planning interests.

3. Site Description

The application site measures approximately 0.6 hectares and is located to the east of the West Wiltshire Crematorium and to the west of an existing traveller site of 3 pitches which is to the south west of the A350/A361 junction. The application area has an approved use as paddock with access to the existing traveller site occupied by the applicant's family.

The site is relatively flat and there are established landscaped boundaries to the application site. The boundary to the existing traveller site to the east is a low close boarded fence; otherwise landscaping on the boundaries is 'soft'.

The site is located outside of any planning constraints or designations in the open countryside with the nearest settlement being Semington to the north-west. There are a number of public rights of way in the vicinity; in particular one runs within the site on its western boundary with the crematorium. Access is existing onto the primary road network of the A361.

4. Planning History

07/03870/FUL - Change of use to private caravan site for three pitches, eight caravans for single extended family with associated works (hardstanding, drainage, fencing and utility buildings) and associated keeping of horses, for occupation by travellers (part retrospective) – Temporary permission on 31.07.2008

W/11/01206/FUL - Change of use to small private gypsy and travellers site for three pitches for eight caravans and associated ancillary works and development (including hard standing blocks, drainage etc) and associated keeping of horses – Refused on 15.06.2011 but appeal allowed with costs awarded against the Council on 24.02.2012

W/12/02148/FUL - Construction of an ancillary day room – Permission on 16.05.2013

14/04110/FUL - Retrospective application for construction of an ancillary day room (previous application W/12/02148/FUL) - Permission on 05/06/2014

5. The Proposal

This application is for the creation of 6 new traveller 'pitches' on land immediately to the west of an existing lawful traveller site where 3 pitches are provided for.

The existing three 'pitches' have approval for 8 caravans and the associated keeping of horses on the application site. They have an approved access through the current application site onto the A361.

Of the proposed six new pitches, the plans show that each would have a mobile home, a touring caravan and a dayroom; however only 3 of the potential 6 dayrooms are proposed at this time. The three proposed dayrooms would be single storey rendered structures with low profile concrete tile roofs. The footprint of the buildings would be 5 metres by 9.6 metres and contain a kitchen/seating area, store and a bathroom. They would be no greater than 4 metres in height. Each site would have its own dedicated cesspit and hard standing for parking of at least 2 vehicles.

Access to the site would be via the established access to 'Greenacres' which is directly onto the A361.

The proposals also detail the erection of a 6 metre thick, 1.5 metre high landscaped bund extending along the west boundary and around the entrance. Outside the new western bund there would be a landscaped area and 2m high close boarded fence to maintain the existing right of way and then the substantial retention of the landscaping at the boundary with the West Wiltshire Crematorium. The pitches would be divided by a 2 metre high fence also. The existing service road will remain through the site and serve the existing traveller pitches as well as the new ones proposed.

6. Planning Policy

Local context:

The Wiltshire Core Strategy (WCS) was adopted at a special council meeting on January 20th 2015 and as such, it can be afforded 'Full Weight' in planning terms. The following WCS policies are relevant:

CP1: Settlement Strategy; CP2: Delivery Strategy; CP3: Infrastructure Requirements; CP47: Meeting the needs of Gypsies and Travellers; CP51: Landscape; CP57: Ensuring high quality design and place-shaping; CP60: Sustainable Transport; CP61: Transport and development; and CP67: Flood Risk.

Appendix D saved policies of the West Wiltshire District Plan 1st Alteration (2004) also have full weight, of which policy U1a: Foul Water Disposal is relevant.

National Context:

The National Planning Policy Framework (NPPF) acts as a principal material consideration in the determination of planning applications. It introduces the presumption in favour of sustainable development at paragraph 14 as a 'golden thread' running through plan making and decision taking. The NPPF is clear in stating that *'planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'*. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Paragraph 17 of the NPPF sets out the core planning principles and paragraphs 18-219 constitute what sustainable development means in practice. Paragraph 32 is also critical in terms of asserting that local planning authorities should only refuse applications on transport/highway safety grounds where *"the residual cumulative impacts of development are severe"*.

The Planning Policy for Traveller Sites (PPTS) acts as a principal material consideration in the determination of proposals for traveller sites. It needs to be considered in conjunction with the NPPF. At paragraph 3 it summarises that *the Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community*. Policy H sets out a framework for the determination of traveller proposals and reiterates that

the law requires planning applications to be determined in accordance with the development plan unless material circumstances indicate otherwise. These may include the NPPF, PPTS and sustainable development considerations.

Planning Practice Guidance (PPG) is also a material consideration.

7. Summary of consultation responses

Semington Parish Council: Object:

“The proposed development will compromise highway safety – there will be significantly increased traffic moving on/off site and there will be disruption to the flow of existing traffic along the busy A361.

It is inappropriate development immediately next to the western boundary of the West Wiltshire Crematorium and will result in a loss of privacy, peace for quiet reflection and dignity.

It represents overdevelopment and will result in a loss of open countryside.

The Appeal Decision in relation to the existing site (Ref. APP/Y3940/A/11/2156159 dated 24/2/12) clearly stated (at Para 17) that no development should take place on the site proposed in this application and Condition 5 stated ‘Pitches shall not be formed, nor caravan sited on land other than the eastern part of the site identified for this purpose.....’. The site is defined at paragraph 9 of the appeal decision and it is stated to be the whole site. To approve this application would overturn the Inspector’s decision.”

Wessex Water: No objection.

Wiltshire Council Drainage: No objection.

Wiltshire Council Ecology: No objection:

Wiltshire Council Education: No objection:

Wiltshire Council Environmental health: No objection.

Wiltshire Council Highways: No objection.

Wiltshire Council Housing: No objection.

Wiltshire Council Spatial Plans: No objection.

Wiltshire Council rights of way: No objection to revised plans.

8. Publicity

The application was advertised by neighbour letters, a site notice and a Wiltshire Times advert. This resulted in circa 34 objections which may be summarised as follows:

- No need for development / too many travellers already / Already a cramped and overpopulated site;
- Village already overwhelmed;
- Impact on the village school;
- Impact on the character of Semington;
- Impact on the open countryside / probably green belt / area looking like a large caravan park / urbanising effect;

- Impact on the crematorium and its memorial grounds; a place for peace and tranquillity – existing traveller development is already causing a nuisance;
- Impact on crime rates / anti-social behaviour in area;
- Impact on highway safety and pedestrian safety;
- Will increase traffic movements;
- Impact on the right of way;
- Site for affordable housing to allow local children to move back to village;
- Application is contrary to assurances provided by the applicant on the original application;
- Application is contrary to the conditions imposed by the planning Inspector who approved the original development restricting use on this land and preventing caravans on this land – the revisions do not change this and the decisions should not be overruled;
- Exacerbates disproportionate allocation of such sites through Wiltshire, compounding concentration within north and west Wiltshire;
- Unsustainable location;
- Applicants have no regard for planning procedure and do not abide by the law;
- Inequality – one rule for minorities and one for everyone else;
- Gross overdevelopment;
- Dayrooms, parking touring caravans next to statics and providing parking spaces all facilitates more accommodation than stated;
- Concern over water supply, drainage and refuse;
- The extended family have lived on site since 2011;
- Impact on protected species;
- The Cremation Act 1902 requires a 200m gap between residential property and any new crematoria;

9. Planning Considerations

9.1 Principle of development.

Proposals need to be determined in accordance with the development plan unless other material circumstances indicate otherwise. The relevant policy of the development plan is Core Policy 47 (CP47) of the WCS and this states that

“Proposals for new Gypsy and Traveller pitches or Travelling Showpeople plots/yards will only be granted where there is no conflict with other planning policies and where no barrier to development exists. New development should be situated in sustainable locations, with preference generally given to previously developed land or a vacant or derelict site in need of renewal. Where proposals satisfy.... general criteria they will be considered favourably.”

The general criteria are detailed as being:

- No significant barriers to development exist in terms of flooding, poor drainage, poor ground stability or proximity to other hazardous land or installation where conventional housing would not be suitable*
- It is served by a safe and convenient vehicular and pedestrian access. The proposal should not result in significant hazard to other road users*
- The site can be properly serviced and is supplied with essential services, such as water, power, sewerage and drainage, and waste disposal.*
- The site must also be large enough to provide adequate vehicle parking, including circulation space, along with residential amenity and play areas*
- It is located in or near to existing settlements within reasonable distance of a range of local services and community facilities, in particular schools and essential health services.*

- vi. *It will not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and is sensitively designed to mitigate any impact on its surroundings.*
- vii. *Adequate levels of privacy should be provided for occupiers*
- viii. *Development of the site should be appropriate to the scale and character of its surroundings and existing nearby settlements, and*
- ix. *The site should not compromise a nationally or internationally recognised designation nor have the potential for adverse effects on river quality, biodiversity or archaeology.*

As such, subject to those detailed criteria, the proposals are considered to comply with the development plan policy in principle.

Furthermore the NPPF is a material consideration so far as its policies are relevant to detailed matters and the provision of sustainable development. It is silent on the principle of traveller proposals. The PPTS is generally permissive to traveller development subject to detailed considerations and the provision of sustainable development. Policy H of the PPTS details that proposals should be assessed with a presumption in favour of sustainable development..... it sets out *relevant matters* for consideration and emphasises that:

“Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.”

The relevant matters are detailed as being:

- *the existing level of local provision and need for sites*
- *the availability (or lack) of alternative accommodation for the applicants*
- *other personal circumstances of the applicant*
- *that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
- *that they should determine applications for sites from any travellers and not just those with local connections*

As such, subject to those relevant matters, the proposals are considered to comply with the national planning policy in principle.

9.2 Status of applicant.

The applicant and their family are currently residing on the existing adjacent site of Greenacres Mobile Park which is lawfully intended to be 3 pitches. Most of the prospective occupiers of the 7 additional pitches proposed here are living at Greenacres already ‘doubling-up’ and even ‘trebling-up’ on the approved pitches. One occupant is understood to be living in “bricks and mortar” but has health reasons to move back with their family if they had their own pitch. The applicant and his family are considered to satisfy the definition of a traveller as set out in national policy and have been occupying a traveller site in accordance with the condition that restricts occupation to those meeting the definition of a traveller.

Moreover, planning permission, unless expressly made personal, runs with the land and not the applicant. A condition can be imposed to ensure that the Council retains effective control so that any future occupiers satisfy the definition of a traveller as set out in the PPTS.

9.3 Need.

The Council's spatial planning officer has raised no objection to these proposals and set out in detail but succinctly the current position in terms of need which indicates based on the most contemporaneous evidence that there is a residual requirement for 11 pitches in the period 2014-2019 within the north and west Wiltshire housing market area; and identifies that the applicant's family are already living at the site where 3 households should be residing there are actually currently 9 households.

The spatial plans officer has commented and advised as follows:

"...the Council has undertaken a full 2014 Gypsy and Traveller Accommodation Assessment (GTAA) to update the evidence underpinning the Core Strategy; to inform its review post adoption; and the development of the Gypsy and Traveller DPD which will allocate sites to meet that accommodation need."

It is noted also that the Core Strategy Inspector endorsed the council's approach to traveller planning and states in para. 128 of his report that *"until such time as the intended DPD is complete and to ensure flexibility, the pitch requirements are best considered as minimums. This would be prudent and would introduce flexibility within the plan which would aid the effectiveness of its delivery."*

The spatial plans officer goes on to advise (just before the Core Strategy was formally adopted) that *"the 2014 GTAA was undertaken by independent research consultants Opinion Research Services in spring 2014. The final report was published on 16 January 2015. It sets out the overall need for new traveller pitches and showpeople plots in Wiltshire for the period 2014-29. This evidence forms a cornerstone of the emerging DPD and will inform the immediate review of Core Policy 47 of the WCS post adoption. The conclusions of the GTAA have yet to be tested through the Gypsy and Traveller DPD process but it nevertheless forms a material consideration in determining this application."*

"For the North and West Housing Market Area the GTAA established a net requirement of 68 pitches for 2014-29. For the first five years of the GTAA period (2014-19), 21 pitches are required."

"The GTAA takes into account the oversupply from the Core Policy 47 period 2011-16 by effectively establishing a residual requirement..... Since July 2014 (the base date of the GTAA), 10 pitches have been permitted in the North and West HMA which leaves a residual requirement of 11 pitches for 2014-19. Core Policy 47 of the Wiltshire Core Strategy remains the adopted policy but this additional information is a consideration in the determination of this application."

Whilst this provides the most contemporaneous evidence base on the issue of need it is acknowledged that it has not been tested. However your officers would advise that the previous evidence relating to traveller need was substantially criticised by the Core Strategy Inspector who stated that need figures had to be treated as minimums until any DPD was adopted. This was to introduce flexibility that reflected the questionable evidence underpinning need. Indeed in numerous recent case decisions regarding traveller proposals it was considered that need was substantially underestimated in Wiltshire. Based on those Inspector opinions, the Core Strategy Inspector's comments and the most contemporaneous evidence (albeit untested) it is concluded that there is outstanding need.

9.4 Availability of alternative accommodation for the applicants.

It has been established that there is not an adequate land supply and therefore this generates a level of need.

There are no known suitable sites in the locality that have planning permission, are vacant and meet the needs of the applicants. This is a material consideration in assessing this proposal.

9.5 Other personal circumstances of the applicant.

The application is submitted by Mr P Ward. It is understood that the pitches would all be occupied by the wider family of the applicant. Within the family group there are known educational needs with 4 children identified as being of school age. A further 6 children of pre-school age have been identified. A settled base will help those children of school age receive education. Furthermore the benefits of having a settled base are well established, also including access to medical facilities.

Whilst this, in particular the education requirements, will place a pressure on the local infrastructure, it is not considered to be any more significant than a small number of younger families moving into the settled community in place of residents whose children have grown up and moved on. It is not considered to represent any “*undue pressure*” within the PPTS meaning. Furthermore education colleagues have raised no objection and detailed that the catchment primary school of St. George’s is a 3 class school i.e. 90 places, all in permanent accommodation. There were 66 pupils on roll at the January 2014 census and current forecasts peak at 70 pupils in 2017/18. The proposals would therefore arguably help support the local facilities of the village which show ample capacity for additional pupil numbers.

9.6 Impact on the local community.

It has to be agreed that this proposal represents a further intensification in the level of traveller provision on this junction of the A361 and A350. There has been objection on the basis that this would dominate the parish of Semington. However your officers do not share this view.

The proposal would increase the number of pitches in this immediate vicinity (A361/A350 roundabout) from 9 to 16 across three sites. Across Wiltshire there are a number of locations where a considerably greater number of traveller pitches are approved and do not dominate the local community. However each case needs to be assessed on its own merits. The proposals are located outside of the village, have a nominal impact on the appearance of the area and would not of themselves or cumulatively dominate or harm the settled community. There are over 500 houses in Semington village and in total the number of pitches in this location would be 16; a very small number in comparison to Semington parish’s population.

It is concluded that the proposals would be appropriate to the scale and character of the site’s surroundings and existing nearby settlements and therefore satisfy criteria viii) of CP47.

9.7 Sustainability and accessibility to services.

The site is located outside of any defined town or village policy limits. Local and national policy makes provision however for traveller development to be located in the countryside. It has to be acknowledged that the site has been deemed acceptable in sustainability terms by Inspectors on the previous appeals at the adjacent site and at the other two sites in the vicinity that are physically further from Semington village and separated by more roads.

As recently as October 2014 an Inspector found a site further to the east across the A350 to be a reasonably sustainable location for such development with reasonable accessibility to

services. Whilst they acknowledged that most trips are likely to be by private car that did not necessarily mean that an application was not sustainable within the PPTS's meaning.

Whilst each case is assessed on its own merits in light of this decision and the striking similarities on this issue then the site must be considered to be sustainable within the PPTS meaning.

Criteria v) of CP47 has been satisfied in this regard as Semington provides for primary education requirements; and a number of larger settlements are nearby and accessible which provide for secondary education needs and general medical facilities.

Furthermore the Council's highway officers raise no objection.

9.8 Flooding / drainage / infrastructure.

The application site lies within flood zone 1, the lowest probability of fluvial flood risk and there are no rivers in proximity. The proposals involve an urbanising of an agricultural field and as such there is some limited potential to exacerbate surface water discharge. However given that the site is relatively flat and that large areas will be retained with permeable surfaces then this is not a significant concern. No flood risk is posed to or from this proposal. However it is considered prudent to condition the final details as this is a clay area.

In terms of foul water disposal, it is noted that circa 38,000 litre subterranean cesspools are proposed for each of the 6 pitches and these will be emptied as necessary. This is the same approach as agreed on the adjacent Greenacres site; it is understood that this work has been completed and it is also understood that no issues are resulting. As such the foul drainage solution is acceptable.

Equally a condition regarding the final foul disposal is also considered prudent as limited details have been provided and this can ensure adequate provision is made on site to limit potential pollution problems and offers some flexibility for all parties at a future date.

Wiltshire Council's Drainage officers have raised no principle objection and can be consulted further on any discharge of conditions application.

The adjacent site of Greenacres has water supply, power supply and waste collection arrangements. As such these are not areas of concern and demonstrate that the site can be adequately provided for in terms of infrastructure. It is understood that Greenacres currently has power from a communal generator and each plot has a small generator that can be taken on the road and is used sometimes at the site. There are no known issues from this approach. The applicant's agent has detailed that the communal generator has capacity so as to provide for the additional pitches but the intention is to provide mains power to the site. As such these are not areas of concern and demonstrate that the site can be adequately provided for in terms of infrastructure. However it is considered prudent to add a further condition to control final details of any power supply to the additional 6 pitches; it would be unreasonable to control details to the approved development.

Criterion i), iii) and ix) of CP47 has been satisfied in this regard.

9.9 Impact on the rural scene and landscape.

The proposals will result in a change to the character of the site which is currently open and laid to grass as paddock. There will be an urbanising affect and severance from the fencing proposed very much akin to that on the adjacent Greenacres Mobile Park and very typical of a traveller site. However the landscape is such that the site is not widely visible from distant

views, and any impact would be limited to the immediate area and this would be largely screened by the landscaping details which include a landscaped bund. There would remain only glimpsed views of development over the bund and/or through the site entrance or from the public footpath. The purpose of landscaping is not to make development disappear but rather to mitigate its impact; the proposed landscaping would achieve this. Reducing the scheme to 6 units and moving the bund to the east would further limit any glimpsed views through the site entrance over the scheme committee previously considered in February.

The revised proposals would create a more significant landscape buffer area between the pitches and the crematorium than the original submission. The indicative details indicate that this could be an attractive space that contributes to the character and appearance of the area and provides a more substantive buffer with the crematorium compared to the open paddock – albeit the paddock is much larger in area. Given the space that would remain it is considered reasonable and prudent to impose a condition that prevents any caravans being positioned within the landscape area, akin to the approach used by the Inspector who allowed the adjacent Greenacres development. According to the Planning Inspector's report (paragraph 58) that was imposed in the interests of protecting the character and appearance of the area. This condition would be in the same interests, which more specifically may include the interests of protecting the amenity at the crematorium.

Whilst the proposals would encroach into a paddock; the paddock is not part of a wider rural landscape, as it has the existing traveller site to the east; the Crematorium to the west and the A361 and A350 to the north and south-east. To the south is open countryside, however there is a well-established native hedge on this boundary which would be retained.

It should be emphasised that the site is not subject to any particular landscape designations (it is not Green Belt or within an area of outstanding natural beauty) and as such criterion vi) and ix) of CP47 are satisfied in this regard.

9.10 Residential amenity.

The proposals would not impact on the reasonable amenities of any existing neighbouring property. There are 3 other traveller pitches immediately to the east which form part of the applicant's control and would be unaffected in any event. There are no residential properties of the settled community in proximity and other traveller accommodation belonging to other families are separated by landscaping and major roads.

The West Wiltshire crematorium is located immediately to the west of the application site and it is noted that the operators of this facility have raised objection. Their concerns have been given very careful consideration and additional landscaping has been agreed to try and take every reasonable opportunity to mitigate the impact of the proposed development and also address the alleged impact of the existing 3 pitch development of Greenacres and dog fouling.

The Inspector that approved the Greenacres development on a permanent basis did assess the impact of those 3 pitches on the crematorium and its memorial grounds and stated:

"16. The Council is concerned that the normal activities associated with a gypsy and traveller site, such as barking dogs, would be an unwelcome source of disturbance to mourners at the crematorium. However, although the appeal site adjoins the grounds of the crematorium the main building upon them is well removed from the boundary with the appeal site in a well landscaped setting. A substantial landscaping strip within the crematorium grounds runs alongside the boundary with the appeal site.

17. Furthermore, the current occupation of the appeal site, and the area shown on the application plans for the continued provision of pitches and the siting of caravans, is limited

to its eastern end. As such it is well removed from western boundary of the site with the crematorium. The imposition of a planning condition in the event of the appeal being allowed could ensure that this would remain the case.

18. Given the above I consider that the day to day residential occupation of the appeal site by gypsy or traveller families should cause no undue disturbance to those using the crematorium. There is, moreover, no evidence that barking dogs are a particular problem on gypsy sites or that they have been on this site. As recognised in Circular 01/2006 noise and disturbance can sometimes arise from the movement of vehicles to and from such sites. However, given the limited size of the site, and the background noise of traffic adjoining road, such movements should not impact unduly on those seeking peace and quiet at the crematorium. Allegations by the Council that concerns had been raised in the past concerning anti-social behaviour on the site were not supported by substantial evidence."

As a result of these considerations the Inspector imposed the follow condition:

"5) Pitches shall not be formed, nor caravans sited, on land other than the eastern part of the site identified for this purpose on the submitted 1:500 scale plan identified and marked as plan B. Other than the access road shown on plan B there shall be no hardstanding other than in the areas identified in plans B and C for the formation of pitches and the siting of caravans."

The proposals would bring residential occupation closer to the boundary with the crematorium and thus bring any associated activity and noise closer to the memorial grounds and crematorium. However the crematorium itself remains some distance from the site boundary, the landscaping within the crematorium and at the boundary remains substantial and indeed would be very substantially added to with a continuous close boarded fence provided to keep dogs off the crematorium site, and a 4 metre thick, 1.5 metre high landscaped bund provided. Given the Inspector's considerations at paragraphs 16-18 of their report and the landscaping mitigation proposed it is assessed that the proposals would have a neutral impact on the amenity of the crematorium and overcome any reason to have imposed condition 5 on the original decision. The now enlarged landscape area is considered to have become of such a size as to merit a similarly worded condition to preclude any development or caravans on the landscape buffer.

Environmental health officers have raised no objection.

The site is spacious and provides for reasonable amenity of future occupiers and play space within each pitch. The proposals would provide for reasonable privacy even though it is acknowledged to be a proposal for a family site.

As such the proposals accord with criterion iv), vi) and vii) of CP47 in these regards.

9.11 Highway safety

The access has been in existence for a number of years and has good visibility in both directions. The site provides space for vehicles to turn safely and conveniently and adequate parking provision. It is not considered that there are any highway safety concerns with the proposal and clearly no severe impact within the meaning of paragraph 32 of the NPPF.

There is no evidence to suggest that the existing access is or would result in any disruption to the flow of traffic on this busy A-road as alleged by Semington Parish Council.

Wiltshire Council's highway officers have raised no objection. Criterion ii) and iv) of CP47 have been satisfied in this regard as indeed has paragraph 32 of the NPPF. There are no reasonable grounds for refusal on highway safety.

9.12 Other material considerations

The application site has a history of agricultural use and has been in use as a paddock for a number of years. It is not considered to have any potential hazardous substance issues. The proximity to the crematorium has been considered and whether this would be a suitable location for residential property. Environmental health officers have considered this matter and have had regard to the 1902 Act referenced by the crematorium operators. Colleagues have no objection noting that this imposes restrictions on the siting of new crematorium to existing housing, but not vice-versa. Your planning officers would agree with their assessment.

The site has no national or international designations and there are no known archaeological or ecological interests that would be affected by the development proposals. Ecology was not raised as substantive issue either by the Council's officers, Council's committee or Planning Inspectors when considering the development of the adjacent Greenacres pitches. The Council's ecologist has raised no objection but does suggest enhancement and precautionary measures which can be addressed by informatics. The site is not near any river and would not affect river quality and in any event it has acceptable drainage solutions.

The public consultation process raised the idea of making this a site for affordable housing. This is not what is being proposed and it is necessary to assess the merits of the application as it stands. There is no planning policy to require affordable housing provision on this site.

It has been alleged that the proposal would increase anti-social behaviour and crime rates. No evidence has been provided to substantiate this suggestion.

10. Conclusion (The Planning Balance)

The proposals accord with Core Policy 47 of the Wiltshire Core Strategy and its *general criteria*. The proposals accord with the government's policies of the National Planning Policy Framework and represent a sustainable form of development. The proposals accord with the government's policies in the Planning Policy for Traveller Sites and its *relevant matters*. There is a need for the development as identified within the contemporaneous evidence base (GTAA) published as recently as January 2015 and that will be used to inform the Development Plan Document for Traveller Sites. The Council's earlier evidence base has been substantively criticised by the Core Strategy Inspector and by other Planning Inspectors in recent case decisions. The applicants meet the definition of travellers as set out in the PPTS and their personal circumstances are such that they have a need for access to education and health care facilities and a settled base. The proposals would not cause any significant harm to any planning interests, including the operation of the adjacent West Wiltshire Crematorium and its memorial grounds and highway safety. Whilst the local objection has been noted and given very careful consideration it is concluded that the application must be recommended for permission and there is no reasonable reason to conclude otherwise.

RECOMMENDATION

Grant planning permission subject to the following conditions:

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 development hereby permitted shall be carried out in accordance with the following approved plans: TP01, TP02, TP03 (Rev E), TP04 and TP05.

REASON: For the avoidance of doubt and in the interests of proper planning.

3. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for traveller sites (DCLG, 2012).

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.

4. There shall be no more than 6 pitches on the site and on each of the pitches no more than 2 caravans shall be stationed at any time and of these, only 1 caravan on each pitch shall be a static caravan, all as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.

REASON: In order to define the terms of this permission.

5. No commercial activities shall take place on the land, including the storage of materials.

REASON: In order to define the terms of this permission, protect the rural scene and character of the countryside, and protect the amenities of the area and neighbour uses.

6. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

REASON: In order to define the terms of this permission and protect the rural scene and character of the countryside.

7. Notwithstanding the submitted details no development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-

- a) location and current canopy spread of all existing trees and hedgerows on the land;
- b) full details of any to be retained, together with measures for their protection in the course of development;
- c) a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- d) means of enclosure;
- e) car park layouts;
- f) all hard and soft surfacing materials;

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

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 development or the completion of the development whichever is the sooner. 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. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

9. No development shall commence on site until a scheme for the discharge of foul and surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. No pitch shall be first occupied until it has been provided with its agreed surface water drainage and its agreed foul drainage.

REASON: To ensure that the development can be adequately drained and in the interests of preventing pollution.

10. Pitches shall not be formed, nor caravans sited, on land to the west of the new bund on the submitted plan reference TP03 (Rev E).

REASON: In the interests of protecting the character and appearance of the area and the amenity at the crematorium.

11. No development shall commence on site until a scheme for the supply of power to the development (including a timetable for its implementation) has been submitted to and approved in writing by the Local Planning Authority. No pitch shall be first occupied until it has been provided with its agreed power supply.

REASON: In the interests of protecting the character and appearance of the area and the amenity at the crematorium.

INFORMATIVE: The developer is advised that there is a low risk that great crested newts, reptiles or nesting birds could occur on the application site. Great crested newts, all reptiles and nesting birds are legally protected and planning permission does not provide a defence against prosecution. In order to minimise the risk of amphibians/reptiles occurring on the site, the developer is advised to clear the site and areas of long grass in a sympathetic manner during the autumn (September/October) or spring months (April-May) and to maintain the grassland at a short height to make it unsuitable for reptiles/amphibians until the construction works commence. Clearance of scrub should be carried out outside the bird breeding season (March to August inclusive) or where this is not possible, preceded by a check for active nests by a competent ecologist. If reptiles or nesting birds are found during the works, the applicant is advised to stop work and follow advice from an independent ecologist or a Council Ecologist. If great crested newts are found, all works should stop immediately and Natural England contacted for advice on any special precautions before continuing (including the need for a derogation licence). Please see the council's website for further information:
<http://www.wiltshire.gov.uk/planninganddevelopment/biodiversityanddevelopment.htm> or
Natural England's website
<http://www.naturalengland.org.uk/ourwork/planningdevelopment/spatialplanning/standingadvice/faq.aspx> or <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

INFORMATIVE:

The developer is encouraged, in order to provide ecological enhancement, to increase the number of tree/shrub species to a minimum of 5 native and locally characteristic species on any final bund planting details.





Appeal Decision

Inquiry opened on 1 December 2011

Site visit made on 2 December 2011

by R J Marshall LLB Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 February 2012

Appeal Ref: APP/Y3940/A/11/2156159

Land adjacent West Wiltshire Crematorium, Littleton, Semington, Wiltshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Patrick Ward against the decision of Wiltshire Council.
 - The application Ref W/11/01206/FUL, dated 4 March 2011, was refused by notice dated 15 June 2011.
 - The development proposed was described as "Change of use to small private gypsy and traveller site for 3 pitches for 8 caravans and associated ancillary works and development (including hardstanding, utility blocks, drainage etc.) and associated keeping of horses".
 - The inquiry sat for 3 days on 1 and 2 December 2011 and 5 January 2012.
-

Decision

1. The appeal is allowed and planning permission is granted for "Change of use to small private gypsy and traveller site for 3 pitches for 8 caravans and associated ancillary works and development (including hardstanding and drainage)" at Land adjacent West Wiltshire Crematorium, Littleton, Semington, Wiltshire in accordance with the terms of the application, Ref W/11/01206/FUL, dated 4 March 2011, subject to the conditions on the attached list.

Applications for costs

2. At the Hearing applications for costs were made by both parties against each other. They will be the subject of separate Decisions.

Preliminary matters

3. In the bullet points above the application description and site address is taken from the Council's decision notice and the grounds of appeal, rather than the application forms. It was agreed that this generally best reflects what had been applied for and more accurately gives the site location.
4. However, both parties agreed that the reference to the "associated keeping of horses" should be deleted from the application description. This is because it is sought only to graze horses, which does not require planning permission.
5. The appellant also sought to have the reference to utility blocks removed as the submitted plans do not properly show what is intended and details of their elevations have not been provided. Although utility blocks are required a separate application would be made for them in the event of this appeal being allowed.

6. The above changes would not prejudice anyone with an interest in the appeal. I held that I would determine the proposed development as so amended and this is reflected in my decision paragraph above.
7. I have also had regard to discrepancies in the application plans. However, they do not prevent a decision being made on the proposal, especially as matters such as the area for pitches and the siting of caravans may be controlled by condition.
8. At planning application stage the appellant submitted a supporting statement providing details of the health of one of the children on site. This was initially published on the Council's website and was taken into account in its decision. The Council later sought to have this at least in part removed from the public section of the file due to Data Protection Act concerns. However, the child's mother was content for the information to be in the public domain. Given this I held that it should remain publicly available and that I would have regard to it in my decision.

The appeal site and planning background

9. The appeal site is a roughly rectangular shaped area of land. It lies in a rural area to the east of a roundabout junction between the A361 and the A350. The site fronts onto the former road. To the west of the site are the grounds of a large crematorium. To the north, on the opposite side of the A361 and with intervening fields, lies the small village of Semington. The town of Trowbridge is just over 3 miles distant along the A361.
10. The site is currently occupied as a gypsy site by the appellant and his extended family. It was initially occupied unlawfully. However, in July 2008 retrospective planning permission was granted for a development expressed in similar terms to the current proposal. The permission was for a temporary period, with an expiry date of July 2011, and was made personal to the applicant and his family. The reasons given for these limitations being that the development was not appropriate on a permanent basis and that permission was only granted having regard to personal needs. The proposal before me is in effect for the continuation of the site for gypsy occupation, albeit on a permanent and unencumbered basis.

Local Policy and National Guidance on Gypsy sites

11. The proposal is for a gypsy site and undisputed evidence clearly shows the appellant and those who seek to continue occupying the site are gypsies as defined in *Circular 01/2006 Planning for Gypsy and Traveller Caravan sites*. Consequently relevant Policies regarding gypsies and travellers should be applied.
12. Two of the key Policies from the development plan are, therefore, DP15 of the *Wiltshire and Swindon Structure Plan 2016 (2006)* and CF12 of the *West Wiltshire District Plan First Alteration (2004)* which relate to gypsy sites. The Structure Plan acknowledges the need for additional caravan pitches for gypsies and Policy DP15 supports bona fide proposals for such development on suitable sites. The Local Plan seeks to ensure that adequate gypsy caravan site provision is made and Policy CF12 says proposals for such uses will be permitted in appropriate locations subject to a range of criteria being met.

13. The Council has published the *Wiltshire Core Strategy Consultation Document (2011)*. This seeks to ensure that the need for new pitches is met and contains draft Core Policy 31 on meeting the needs of gypsies and travellers. At this early stage, as the Council accepts, only limited weight can be given to this Policy. The Council is also in the process of preparing a *Gypsy and Traveller Site Allocations Development Plan Document (DPD)*. This also is at an early stage towards adoption.
14. Government guidance is contained in *Circular 01/2006*. The Council says that this now needs to be examined critically. This is because of the Secretary of State's announcement that he intends to revoke the Circular, and his recently published consultation document including a draft planning Policy Statement *Planning for traveller sites*. In this it is said that the current planning policy for gypsy sites does not work and that a new approach is needed. The substance of the consultation document gives an indication as to the Government's intentions and is thus a material consideration. However, the current Circular has yet to be revoked and the consultation may prompt amendments to the draft guidance which reduces the weight that may be given to it at this stage. Furthermore, as the Circular remains in place, I am bound still to have regard to it in determining this appeal.

Main issues

15. The main issues in this appeal are:

first, the effect of the proposal on the adjoining crematorium;

second, whether the use of the appeal site as a gypsy site constitutes an encroachment into open countryside and the impact of the proposal on the character and appearance of the surrounding area;

third, whether the site is a sufficiently sustainable location for what is proposed and whether satisfactory living conditions would be provided;

fourth, the effect of the proposal on highway safety and the free flow of traffic;

fifth, the need for the continued use of the site as proposed having regard to site provision and personal circumstances and;

sixth, are the Council's concerns on prematurity well founded.

Main Issues

Effect on adjoining land uses

16. The Council is concerned that the normal activities associated with a gypsy and traveller site, such as barking dogs, would be an unwelcome source of disturbance to mourners at the crematorium. However, although the appeal site adjoins the grounds of the crematorium the main building upon them is well removed from the boundary with the appeal site in a well landscaped setting. A substantial landscaping strip within the crematorium grounds runs alongside the boundary with the appeal site.
17. Furthermore, the current occupation of the appeal site, and the area shown on the application plans for the continued provision of pitches and the siting of caravans, is limited to its eastern end. As such it is well removed from western boundary of the site with the crematorium. The imposition of a planning

condition in the event of the appeal being allowed could ensure that this would remain the case.

18. Given the above I consider that the day to day residential occupation of the appeal site by gypsy or traveller families should cause no undue disturbance to those using the crematorium. There is, moreover, no evidence that barking dogs are a particular problem on gypsy sites or that they have been on this site. As recognised in *Circular 01/2006* noise and disturbance can sometimes arise from the movement of vehicles to and from such sites. However, given the limited size of the site, and the background noise of traffic adjoining road, such movements should not impact unduly on those seeking peace and quiet at the crematorium. Allegations by the Council that concerns had been raised in the past concerning anti-social behaviour on the site were not supported by substantial evidence.
19. The Council had initially been concerned about the impact of equestrian uses on the crematorium. However, the reference to such uses has been removed from the proposal. The intended grazing of horses could take place on any agricultural land and would be unlikely to cause unacceptable noise and disturbance.
20. It is concluded the proposal would not have a detrimental effect on the adjoining crematorium. Thus the objective of Local Plan Policy CF12 in seeking to prevent nuisance to adjoining land uses would be met.

Encroachment into countryside and effect on the character and appearance of the surrounding area

21. The appeal site is on land that was previously an undeveloped field. The use of the site as a gypsy site and attendant development is therefore an encroachment into the countryside. Local Plan Policy CF12 says that in considering proposals for gypsy sites regard should be had to such encroachment.
22. However, the area in which the appeal site lies, although reasonably attractive is not subject to any special planning constraints or designations. Government guidance in *Circular 01/2006*, which post-dates the Local Plan, says that such rural settings are acceptable in principle for gypsy sites. Thus there can be no objection to what is proposed solely on the grounds of encroachment into the countryside. Otherwise the effect would be likely to prevent any gypsy sites in rural settings.
23. Such encroachment is, though, only one factor in the Council's reason for refusal on this issue. It is also alleged that there would be an adverse impact on the character and appearance of the area.
24. Roadside bunding has been provided on the site frontage with the A361. In itself I do not find this as intrusive as alleged by some and it provides a reasonably effective screen to the area on which the pitches have been created. From the road frontage and the roundabout to the east only the uppermost parts of the caravans on these pitches are seen even with the limited planting currently on the bunds. The impact of the proposal would be similar. The eventual provision of utility blocks, to be separately applied for, need be no more intrusive if of a scale and type common to most gypsy sites. Moreover, the appeal site is seen from the A361 in conjunction with a substantial roundabout, street lights and well manicured roadside verges.

These features give a slightly urbanised appearance to the area. In this context, and with the level of screening referred to, the continued use that is sought would not be overly intrusive or out of keeping. Nor would it detract from the attractive well landscaped grounds of the adjoining crematorium.

25. Turning to other potential viewpoints, an extensive tree belt effectively screens the site from views from the A350. The lie of the land and intervening screening would prevent the continued use of the site as proposed being noticeable to any substantial degree from high ground to the south of Semington. A public footpath runs along the western boundary of the site. From here the siting of the caravans and the hardstandings appear rather intrusive to the detriment of the site's immediate surroundings. However, sufficient space exists for landscape planting, which could be required by condition, to provide an acceptably effective screen.
26. There are 2 single pitch gypsy sites to the east of the roundabout junction of the A361 and A350. However, these sites are small and do not appear to intrude unduly upon the landscape. Moreover, the substantial visual impact of the A350 and the roundabout ensures that the area in which these other sites are located appears divorced from the appeal site. I thus attach little weight to concerns on cumulative visual impact.
27. The Council objects to the visual impact of a tall building on the appeal site with a pyramidal roof. However, this building, which is taller than most utility blocks found on gypsy sites, was constructed unlawfully and does not comprise part of the development for which planning permission is sought.
28. It is concluded that the use of the appeal site as a gypsy site constitutes an encroachment into open countryside and to that extent its continued use for this purpose would conflict with Local Plan Policy CF12. However, the proposal would not have an unacceptably detrimental impact on the character and appearance of the surrounding area and encroachment into the countryside alone would not conflict with guidance in *Circular 01/2006*.
29. In arriving at this conclusion account has been taken of advice in *Planning for traveller sites* that new development in the countryside should be strictly limited. However, it does not appear to necessarily rule out gypsy site provision in such areas and as already stated the potential for amendment to this guidance reduces the weight that may be given to it at this stage.

Sustainability of site and living conditions

30. Local Plan Policy CF12 requires that in considering proposals for gypsy sites regard must be had to the proximity of local services and facilities. The Council says that this requirement is not met because of the site's rural location.
31. However, *Circular 01/2006* makes it clear that gypsy and traveller sites are acceptable in principle in rural settings. In this case, moreover, the site is in reasonable proximity to Semington, a village that contains a primary school, public house, village hall and church. In winter months in particular the unlit and unmade up nature of the public footpath to the village may result in village facilities being accessed by car. However, *Circular 01/2006* advises that in assessing the suitability of rural sites a realistic view should be taken about the availability of alternatives to the car for accessing local services. Senior schools, healthcare facilities, and a wide range of shops etc. are found in Trowbridge and Melksham. The former town is only just over 3 miles from the

site and Melksham is even closer. The appeal site is well connected by main road to both towns and there is a regular and reasonably frequent bus service past the site to Trowbridge. The bus stop for that service is only a short distance from the appeal site.

32. Having regard to the above I consider that the site is reasonably accessible to facilities. Moreover, *Circular 01/2006* advises that issues of sustainability should not only be considered in terms of transport mode and distance from services. Other matters to take into account include: the 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 that reduces the need for long distance travelling and the possible environmental damage caused by unauthorised encampments.
33. Given the site's reasonable proximity to local services in Semington, to the wider range of facilities in the 2 nearby towns and to the other advantages of a settled site detailed above, I consider the proposal to be sufficiently sustainable.
34. In arriving at this view I have taken into account the Council's concern that those occupying the site would be cut off from the facilities in Semington by the A361. In particular it was said that it would be unsafe for children to cross this road without supervision.
35. The A361 is a busy road and subject to the national 60mph speed limit. It is part of the Department of Transport's preferred routing for long distance traffic. However, a short distance from the application site, and accessible to it along a highway verge, is a pedestrian refuge on the A361. From what I saw this provides for safe pedestrian access across the road. No highways evidence has been provided to the contrary and nor has the Council explained why it has concerns on pedestrian safety and yet was prepared to grant temporary permission for the use in the past. I accept that parents may be reluctant to allow young children in particular to cross the road unsupervised. However, it is not uncommon for such children to be accompanied in many areas for a variety of reasons. The location of this site would not impose substantially greater constraints upon access to facilities than might exist in many areas.
36. The Parish Council says that the site does not provide a pleasant environment in which to live given its proximity to busy and noisy roads and the "imprisoning" effect of the bunds that screen the site. However, there is no technical noise evidence to show that the site is unsuitable for residential occupation and the on-site environment, even with the existence of the bunds, is not unacceptably constrained.
37. It is concluded that the site is a sufficiently sustainable location for what is proposed and that satisfactory living conditions would be provided. As such there would be compliance with *Circular 01/2006* and with Local Plan Policy CF12 in so far that it seeks to ensure that gypsy sites provide for the needs and safety of future occupants and their children.
38. In arriving at this conclusion I have taken into account guidance in *Circular 01/2006* that one of the considerations in sustainability in cases such as this is the promotion of a peaceful and integrated co-existence between the site and the local community. The Council says that this has been prejudiced by the initial unlawful occupation of the site and that community cohesion would be

harmed by the cumulative impact of this proposal and the 2 sites to the east. However, given the small scale of the development, and its acceptable impact visually, there is no reason why over time it should not, even in conjunction with the other sites, become an accepted part of the community.

Highway safety

39. The Council's concern on this issue relates to the proposed retention of the vehicular access onto the A361 to serve the site. This access was provided in connection with the temporary use of the site. The Council supports its concern with reference to Structure Plan Policy T8 which generally seeks to prevent new accesses directly onto the national primary route network.
40. The Council says that it is unreasonable for drivers travelling on the A361 to need to be alert to vehicles turning into the appeal site so close to the A361/A350 roundabout. However, the access has in fact been sited a substantial distance from the roundabout and in a location agreed by the highway authority as safe. All that I saw supports the view that it is acceptably located from a highway safety viewpoint. I have been given no technical/professional evidence to the contrary. Nor has any such evidence been given to support local concerns on the adequacy of sight lines. Moreover, the explanatory text to Policy T8 appears to show that it has more to do with ensuring the free flow of traffic than highway safety.
41. Turning to this other highway consideration, a restriction on the number of accesses to roads of this type is sometimes imposed to ensure the free flow of traffic. However, in this location with roundabout junctions to the east and west of the site there is already disruption, or potential disruption, to traffic flows in the vicinity of the site. Moreover, it is likely that there would be only limited vehicle movements to and from the site. All this points to the likelihood that the proposed development would not unduly disrupt traffic on the A361 and no substantial evidence has been provided to the contrary.
42. It is concluded that the proposal would not have a harmful effect on highway safety, nor unduly restrict the free flow of traffic. As such there would be no conflict with the objectives of Structure Plan Policy T8 or with Local Plan Policy CF12 in so far that it seeks to ensure that highway safety is not compromised.

Need for the proposal

43. The appellant says that taking the period up to 2016 there is currently a need for 14 gypsy/traveller pitches in this part of Wiltshire. The Council fully accepts that there is an unmet need for pitches in this period, but gives the figure as 10 pitches. Whilst I note the difference between the parties, even on the Council's estimate there is a fairly substantial level of need locally. The concerns of the Parish on the Council's assessment of need are noted. However, there is no substantial evidence that the Council's assessment of need is unduly high.
44. The Council says that it is aiming to meet the need for gypsy sites through the *Gypsy and Traveller Site Allocations Development Plan Document (DPD)*. However, this is at an early stage of preparation. Delays for various reasons mean that the Council does not anticipate adoption until 2014. There is then likely to be a further delay until sites are provided. I consider the appellant's estimate of sites not coming forward until 2015 not to be unreasonable, especially as further slippage could easily occur in the preparation of the *DPD*.

45. There is thus a fairly substantial existing unmet need and it is likely to be around another 3 years before sites become available through the Local Development Framework (LDF) process. This is a matter on which I attach significant weight. The Council has made a bid for a Homes and Communities Agency grant to assist with gypsy site provision. However, it is too early to know whether the bid would succeed and little evidence has been given on how any such funding would assist in providing new sites in this area.
46. Turning to individual need, evidence has been provided on the personal circumstances of the appellant and those living on the site. A significant number of those on site have health issues of various degrees of severity. There are 8 children on the site of school age. These factors do not point to the site being uniquely suitable for its current occupants. Access to health and education services is potentially accessible from many areas. However, it does reinforce the benefits of having a settled base. It is this that enables access to health services and education provision to be most readily obtained. This benefit would most likely be lost if the appellant had to move from this site for there is no evidence of pitches being available on suitable alternative sites. Moreover, the appeal site is beneficial in providing somewhere large enough for the appellant and his extended family to reside. It is clear from the witness statements that considerable mutual support is provided.
47. If this appeal was dismissed it is open to the Council to take enforcement action to secure the removal of the use. Even with a reasonable period of compliance being given this could, on the evidence above, lead to those occupying the site having to resort to unlawful roadside locations. Thus the individual needs of the appellant and his extended family add weight his case.
48. It is concluded that there is a need for the proposed development having regard to site provision. Personal circumstances add weight to the need for a site.

Prematurity

49. The Council says that granting permission could prejudice the emerging *Gypsy and Traveller Site Allocations Development Plan Document (DPD)* by contradicting the criteria that the Council is putting forward for considering such sites and thus undermining the credibility of the emerging Policy.
50. I have dealt above with my concerns on refusing permission in circumstances where there is a need for development of this kind and the *DPD* is unlikely to result in the provision of sites for another 3 years.
51. Moreover, Government Guidance in *The Planning System: General Principles* is that refusal of planning permission on grounds of prematurity will not usually be justified. Justification for such a decision would only exist where the proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the *DPD* by predetermining decisions about the scale, location or phasing of new development which are being addressed in the *DPD*.
52. In this case the proposed development is small scale and the Council has not clearly demonstrated how the cumulative effect of such development would be sufficient to prejudice the outcome of the *DPD* process.

53. Nor has the Council provided substantial justification for its view that granting permission would undermine the credibility of the emerging *DPD*. Giving limited weight to this document does not undermine its credibility. It is merely a function of the relatively early stage it has reached in the plan preparation process.
54. It is therefore concluded that the Council's concerns on prematurity are not well founded.

Final Assessment

55. There remains an ongoing need for gypsy site provision. The Council's *DPD* that seeks to address this is unlikely to lead to the provision of gypsy sites until 2015. I have found the site to be satisfactory in terms of its effect on the adjoining land use and its impact on the character and appearance of the surrounding area. It comprises a sufficiently sustainable location for the proposed development and would provide satisfactory living conditions. There would be no detriment to highway safety and the free flow of traffic. As such there would generally not be the conflict with Local Plan Policy CF12 that the Council alleges. The fact that there would be an encroachment into the countryside should not in itself stand against the proposal given guidance in *Circular 01/2006*. All this points strongly towards allowing the appeal. The Council's concerns on prematurity are not well founded and should not weigh against the proposal especially given my findings on the other issues.
56. The fact that the appellant and his family would benefit from the stable base provided by living on the appeal site, and the lack of other pitches for them to occupy, adds weight to this view. It is, however, not a determinative factor so occupation does not need to be limited.
57. Bearing all the above in mind I consider the proposal to be acceptable subject to conditions as set out below.

Conditions

58. Given the specific Policy justification for the proposal I shall restrict occupation of the site to gypsies and travellers. To protect the character and appearance of the area I shall: limit the size of vehicles that may be stored on the site; prevent commercial activity on the site; require the site to be landscaped; limit the area of the site on which pitches may be formed and caravans sited; and restrict the number of pitches and caravans. To fulfil the same function I shall limit the number of caravans and restrict the number that may be static. However, I see no need to go beyond that and prevent a single pitch being occupied by more than one family, and indeed such a condition would be difficult to enforce. To ensure satisfactory drainage I shall require a foul drainage scheme to be approved and implemented.
59. As the use of the site for the purposes sought has already commenced, with the benefit to the temporary permission, there is no need for the standard time limit for the commencement of development. However, it has made it necessary to re-word the suggested landscaping and drainage conditions referred to above to ensure compliance. I have done so in a way that follows established practice.
60. Given my findings on need, the suitability of the site and the alleged prematurity I shall not make the permission personal to the appellant or make

it temporary. In so doing so account has been taken of the fact that in appeal decision APP/Y3940/A/09/2109292, relating to one of the gypsy pitches to the east of the appeal site, permission was made temporary. However, that case was linked to a complex enforcement appeal and for all the reasons given such a restriction is not appropriate in the case before me. More pertinent, in my view, is the decision on appeal APP/Y3940/A/10/2122592, for a gypsy pitch at Sutton Benger, Wiltshire without compliance with a temporary condition. It was held that this condition was not justified on grounds of prematurity and I have been given no substantial reason to come to a different view in this case.

61. I shall not prevent the burning of materials generally on site as that is too onerous a restriction. I see no need to specifically prohibit the burning of commercial waste given that commercial activity as a whole is to be prevented.

Conclusion

62. For the reasons given above the appeal is allowed.

RJ Marshall

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr G Kean	Solicitor for the Council
He called	
Cllr J Seed	Wiltshire Councillor
Mr M Wilmott BSc	Area Development Manager
(Hons) DipTP DM MRTPI	
Mrs C Gibson BA (Hons)	Of Wiltshire Council
MRTPI	

FOR THE APPELLANT:

Mr M Green	Advocate and witness – of Green Planning Solutions LLP
He called	
Mr P Ward	Appellant
Mr T Ward	Occupant of appeal site
Mrs M Ward	Occupant of appeal site
Mr D Ward	Occupant of appeal site

INTERESTED PERSONS:

Mr B Smyth	Parish Councillor
Mr F Dobbyn	Parish Councillor
MR E Clark	Former District and County Councillor

DOCUMENTS

- 1 Letter of notification of inquiry and those notified.
- 2 Council list of appearances.
- 3 Draft Statement of Common Ground.
- 4 Signed Statement of Common Ground.
- 5 Copy of appeal decisions APP/Y3940/C/09/2105006, 7 and 9 and APP/Y3940/A/09/2109292.
- 6 E mail from D Hames to J Seed.
- 7 Note from Cllr Clark withdrawing request to speak.
- 8 Council minute on LDF.
- 9 Council agenda item on LDF.
- 10 Various witness statements.
- 11 Secretary of State Direction on saved policies.
- 12 Letter of 1 December 2011 from Education Transport Area Co-ordinator.
- 13 Suggested conditions.
- 14 Closing submissions for Parish Council.
- 15 Closing submissions for Wiltshire Council.
- 16 Closing submissions for Appellant.
- 17 Appellant's skeleton cost claim.
- 18 Council response to cost claim.
- 19 Council cost claim

Conditions

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 2) No commercial activities shall take place on the land, including the storage of materials.
- 3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision schemes for: the means of foul water drainage of the site; landscaping including details of species, plant sizes and proposed numbers and densities; shall have been submitted for the written approval of the local planning authority and the said schemes shall include a timetable for their implementation.
 - ii) within 11 months of the date of this decision the drainage and landscaping schemes shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) the approved schemes shall have been carried out and completed in accordance with the approved timetable.
- 5) Pitches shall not be formed, nor caravans sited, on land other than the eastern part of the site identified for this purpose on the submitted 1:500 scale plan identified and marked as plan B. Other than the access road shown on plan B there shall be no hardstanding other than in the areas identified in plans B and C for the formation of pitches and the siting of caravans.
- 6) No more than 8 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 4 shall be a static caravan) shall be stationed on the site at any time.
- 7) There shall be no more than 3 pitches on the site.



Costs Decision

Inquiry opened on 1 December 2011

Site visit made on 2 December 2011

by R J Marshall LLB Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 February 2012

Costs application in relation to Appeal Ref: APP/Y3940/A/11/2156159 Land adjacent West Wiltshire Crematorium, Littleton, Semington, Wiltshire

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Patrick Ward for a full, or in the alternative partial, award of costs against Wiltshire Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for development described as "Change of use to small private gypsy and traveller site for 3 pitches for 8 caravans and associated ancillary works and development (including hardstanding, utility blocks, drainage etc.) and associated keeping of horses".
 - The inquiry sat for 3 days on 1 and 2 December 2011 and 5 January 2012.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Mr Patrick Ward

2. The costs application was made in writing with some minor verbal additions and amendments. The essence of the case is set out below.
3. The decision to refuse permission was unreasonable. Any concerns, if valid, could have been dealt with by condition.
4. At appeal the Council failed to provide evidence or sufficient evidence to justify its reasons for refusal, contrary to Officer advice, on the impact of the proposal. Insufficient account was taken of national Guidance in *Circular 01/2006 Planning for gypsy and traveller caravan sites*.
5. The Council's concern on prematurity ignores Government Guidance and recent Inspector's decisions in this area and is not supported by substantial evidence. Contrary to Government Guidance and recent Secretary of State decisions the Council attributed undue weight to emerging Government Guidance on gypsy sites and insufficient weight to existing Guidance.
6. The Council failed at any stage to adequately assess material considerations in favour of the proposal such as the unmet need for sites, the lack of alternative sites and personal circumstances.
7. The above considerations justify a full award of costs. Should unreasonable behaviour leading to unnecessary costs be found on only some of the matters above then a partial award of costs is justified.

The response by Wiltshire Council

8. The response by the Council was made in writing and supplemented verbally. The essence of the response is set out below.
9. In issuing draft Guidance on gypsy and traveller sites a press circular indicated that current Guidance had become outdated. The Council had reasonable expectations that the new Guidance, supporting its stance, would by now have been issued.
10. Material circumstances such as need and personal circumstances were before the Committee and taken into account.
11. Should it be found that permission should not be refused for the reasons given by the Council the progress made with the Council's *Gypsy and Traveller Site Allocations Development Plan Document (DPD)* would justify a temporary permission. This would prejudice neither the appellant nor the Council pending an assessment of what sites are acceptable for permanent provision in the District.
12. It was legitimate for the Council to have regard to encroachment into the Countryside. It is a criterion of Local Plan Policy CF12 on gypsy sites and is consistent with emerging Government Guidance. Guidance on this in *Circular 01/06* on this is out of date and will soon be withdrawn.
13. The Council has provided evidence to support its case with appropriate reference to the Development Plan. The potential for nuisance to an adjoining land use is a legitimate concern and in any event took up little Inquiry time.
14. The appellant has given undue weight to past appeal decisions. All cases are to be treated on their individual merits.
15. If costs are awarded there should be a deduction for the time unnecessarily incurred by the appellant in providing excessive evidence and failing to sign a SOCG in time.

Appellant's final response

16. The reason for refusal indicates a distinction between encroachment into the countryside and impact on character and appearance. Although it may not be the view of Council Officers the Council's principal witness considers the main issue to be encroachment and that was distinct from matters of character and appearance.
17. Evidence on personal circumstances may have been before the Committee. However, this matter is dealt with in only the briefest terms in the Council's evidence and the Council has failed to show that it was taken into account in its decision.
18. As for the time the Council is seeking to have deducted from any costs award the amount of evidence provided on behalf of the appellant is no different from that supplied on other gypsy appeals and was provided to fully cover the reasons for refusal.
19. The appellant's response to the costs claim reinforces the view that undue weight was given to emerging national Guidance and local Policies on gypsy

site provision and insufficient weight on *Circular 06/2006*. The Council's approach has thus been wholly unreasonable and unlawful.

Reasons

20. Circular 03/2009 on costs advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
21. The Costs Circular says that Councils are at risk of an award of costs against them if they delay or prevent development which should clearly be permitted. It also requires that at appeal evidence should be provided to substantiate each reason for refusal. Whilst Councillors are not bound to accept Officers' recommendations reasonable planning grounds should be given for a decision contrary to them. Moreover, where appropriate, Councils are expected to show that they have considered the possibility of imposing conditions.
22. The Council's first reason for refusal is based on conflict with various requirements of Policy CF12 of the *West Wiltshire District Plan First Alteration 2004*.
23. The first 2 grounds of concern under this Policy relate to a) the impact of the proposal on the use of the adjoining crematorium and b) encroachment and the character and appearance of the area. Decisions turning on such matters are unlikely to result in an award of costs if realistic and specific evidence was given in support. However, vague, generalised or inaccurate assertions about the impact of a proposal, which are unsupported by objective analysis, are not sufficient.
24. On the effect on the crematorium no substantial evidence was provided to support an assertion that local concerns had been raised regarding anti-social behaviour on the site. Under cross examination the Council's case on the impact on the crematorium was largely narrowed down to the potential for harm caused by barking dogs. However, no substantial evidence was given to show that this is a problem generally on gypsy sites or that it has been so here. I thus consider this reason for refusal to amount to a generalised assertion unsupported by objective analysis.
25. The Council's evidence on the impact of the proposal on the character and appearance of the area was notably sparse. However, seen in the round it went beyond just a mere assertion of encroachment but to the harm that this was alleged to cause to the character and appearance of the area. In this regard it referred to the nature of development on the site, the character and appearance of the area and from where the site can be seen. Whilst I did not find this persuasive it provided a sufficient evidential basis for the stance taken to constitute realistic and specific evidence in the terms of the Cost Circular.
26. The third and fifth grounds of concern under Policy CF12 relate to pedestrian safety and whether the site is in a sufficiently sustainable location. The 2 concerns are linked in part as the Council claims that residents' worries over the safety of crossing the main road fronting the site will cut them off from facilities in the nearest village. However, concerns on pedestrian safety are unsupported by any analysis of actual traffic speeds and flows past the site. Nor has any professional or technical evidence been provided to contradict the advice of Officers or to indicate why the Council should have taken a different

view on this matter than it did when granting temporary permission for the site in 2008.

27. In sustainability terms more generally the Council's concern is that the site is in a rural location and distant from services and in a location where housing generally would not be permitted. However, the site is in reasonable proximity to a nearby village that contains a primary school and is only a few miles from 2 towns offering a good range of services. Both towns are readily accessible by main roads. Moreover, *Circular 01/2006* advises that sustainability should not only be considered in terms of transport mode and distances from services but to various wider benefits including those provided by a settled base. There is little evidence that the Council took such considerations into account. Had it done so, and had regard to the site's reasonable proximity to services, a more reasonable approach would have been taken on sustainability.
28. In part the Council's approach on the suitability of the site for what is proposed is based on a view that *Circular 01/2006* is outdated and will be replaced. However, as the Circular remains in place regard must still be had to it in determining this proposal. The Government has recently produced a consultation document *Planning for traveller sites*. However, consultation on this may prompt amendments, which reduces the weight that may be given to it at this stage. The Council's case on the weight to be given to the emerging guidance was unclear. However, the Council's statement and its written response to this costs claim, suggests that it acted unreasonably in placing too much weight upon it at this stage.
29. The Council's fourth ground of concern under Policy CF12 relates to the principle of allowing a vehicular access onto the A361 due to its status as part of a Primary Route Network. In so doing it relies on Policy T8 of the *Wiltshire and Swindon Structure Plan* which generally seeks to prevent such accesses. However, whilst that may be so, the highways authority has not recommended that this application should be refused and the Council has failed to provide any substantial evidence by way of contrary professional opinion. Matters likely to be relevant to highway safety and the free flow of traffic such as actual traffic speeds and flows, and accident statistics were not addressed in any substantial way by the Council. As such it has acted unreasonably.
30. The second reason for refusal is based on grounds that permanent permission could prejudice the emerging *Gypsy and Travellers Site Allocations Development Plan Document (DPD)* which is in effect an argument on prematurity. However, Government Guidance in *The Planning System: General Principles* requires reasons for refusal on these grounds to be supported by clear evidence on how the grant of permission would prejudice the outcome of the DPD process. The Council's evidence in support of this ground of refusal is notably sparse and does not specifically address relevant considerations such as the scale of the development and cumulative effect. It amounts to little more, therefore to an assertion that harm would arise. The view that the credibility of the DPD would be undermined by a permission in this case has insufficient regard to the weight that can currently be attached to the emerging DPD.
31. The Council's suggestion that this concern could have been overcome by a temporary permission does not greatly assist its case against the cost claim as there is no evidence that the Council had regard to this in its determination of the application.

32. Turning to other material considerations the need for a gypsy sites generally in an area, and the specific needs of those seeking sites, are important considerations given guidance in *Circular 01/2006*. However, there is scant evidence that the Council took this into account. It is said that Members would have been aware of such matters. However, no substantial evidence was provided to show how those matters were considered and balanced against the factors regarded by the Council to cause harm. Thus the Council acted unreasonably in not having due regard to a material consideration.
33. Drawing together my views the Council provided sufficiently substantial evidence, in the terms of the Costs Circular, to justify only one of its reasons for refusal. Moreover, even on that ground I found overwhelmingly for the appellant. Looking, therefore, at the case as a whole, including my findings on the Council's failure to have proper regard to the other material considerations referred to above, I consider that the Council unreasonably prevented development that should clearly have been permitted. The appellant was thus put to the unnecessary expense of appealing and a full award of costs is justified.
34. I find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.
35. In arriving at this conclusion I have had regard to the Council's view that, were I to find for the appellant on costs, there should be a deduction to account for the costs that may have arisen through his unreasonable behaviour. However, that is a matter best addressed, as it was, in the Council's claim against the appellant and is the subject of a separate decision.

Costs Order

36. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wiltshire Council shall pay to Mr Patrick Ward, the costs of the appeal proceedings, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.

RJ Marshall

INSPECTOR

Appeal Decision

Hearing held on 12 August 2014

Site visit made on 12 August 2014

by Richard McCoy BSc MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 October 2014

Appeal Ref: APP/Y3940/A/14/2217289

Landsdowne, Littleton, Semington, Wiltshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Felix Rooney against the decision of Wiltshire Council.
 - The application Ref 13/06123/FUL, dated 18 November 2013, was refused by notice dated 19 March 2014.
 - The development proposed is the change of use of agricultural land to extend an existing gypsy and traveller site, including the erection of 2 additional day rooms.
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Procedural matters

1. I observed that the development described above has been partially carried out with the creation of a hard-standing and an earth bund, and the erection of fencing. I have dealt with the appeal on this basis.
2. The parties confirmed that the description given in paragraph 1.2 of the Statement of Common Ground "Retention of existing gypsy and traveller site and change of use of agricultural land to create 4 no. additional pitches with associated ancillary development" is more accurate than that stated above. I have dealt with the appeal on this basis.

Decision

3. The appeal is allowed and planning permission is granted for the retention of existing gypsy and traveller site and change of use of agricultural land to create 4 no. additional pitches with associated ancillary development at Landsdowne, Littleton, Semington, Wiltshire in accordance with the terms of the application, Ref 13/06123/FUL, dated 18 November 2013, subject to the conditions set out in the Annex to this decision.

Application for costs

4. At the Hearing an application for costs was made by Mr Felix Rooney against Wiltshire Council. This application is the subject of a separate Decision.

Main Issues

5. I consider the main issues to be the effect of the proposal on the character and appearance of the area, whether the proposal would be a sustainable form of gypsy site development and whether any harm arising would be outweighed by the need for additional gypsy accommodation having regard to local and national policy, and personal circumstances.

Reasons

Background and the site

6. The appeal site is a wedge shaped field which extends to around 1 hectare and is situated in a rural area. It stands to the south east of the roundabout at the junction of the A350 with the A361. The access is taken from a lane which adjoins the A361. The eastern end of the appeal site has permission for use as a gypsy site with the remainder being an agricultural field. A number of public rights of way pass close to the site.
7. The approved pitch has permission for occupation by a single family with 2 static caravans (at the Hearing the terms *static caravans* and *mobile homes* were inter-changeable – I will refer to static caravans in this decision) 2 touring caravans and a day room. I observed 3 static caravans on site and the footings for the day room which according to the Statement of Common Ground has planning permission and would comprise a sitting room, kitchen, bathroom and a bedroom. I heard that this proposal would result in the completion of the dayroom, the removal of the 2 permitted static caravans (a further redundant static caravan on the site would also be removed) and the formation of 4 no. additional pitches within the undeveloped part of the site.
8. On each of the proposed 4 pitches would be stationed a static caravan and a touring caravan. Dayrooms would be provided on 2 of the pitches. These would be single storey rendered structures with low profile tiled roofs, measuring around 5m x 7m and containing a kitchen and bathroom. Each pitch would have a dedicated septic tank and vehicular parking. Also proposed are an earth bund, the erection of fencing between the pitches and the creation of a children's play area. Overall, this proposal would result in an extended gypsy site of 5 pitches, comprising a day room which would provide self-contained accommodation on a pitch which previously had planning permission for 2 static caravans and a day room, with 4 further pitches on the larger portion of the wedge shaped field to the west.

Policy considerations

9. The development plan for the area includes the adopted West Wiltshire District Plan 1st Alteration 2004. Saved Policy C1 seeks to maintain the quality and variety of the countryside while saved Policy CF12 permits gypsy caravan sites in appropriate locations subject to criteria including encroachment into open countryside. The examination into the Wiltshire Core Strategy (CS) has not yet been completed as the Inspector has raised concerns in respect of the soundness of certain policies, including CP47 on meeting the needs of gypsies and travellers. As an emerging document that has not yet completed the examination stage I give it limited weight. The National Planning Policy Framework (NPPF) and the Planning Policy for Traveller Sites (PPTS) are material considerations and I refer to their relevant provisions below.

Character and appearance of the rural location

10. The appeal site is an undesignated area of land in the countryside. One of the core planning principles of the NPPF is to recognise the intrinsic character and beauty of the countryside while the objective of criterion B of saved LP Policy CF12 is to avoid encroachment into open countryside. However the PPTS indicates that gypsy sites are acceptable, in principle, in rural areas. I

observed that the site is not prominent in the local landscape. Furthermore, the character of the landscape, notably small pasture fields subdivided by hedgerows, is such that the proposal would not be widely visible from distant views, with any impact limited to the immediate area.

11. The proposal would reduce the density of development on the existing site and while it would introduce additional static caravans, touring caravans and dayrooms, these would have a low profile appearance and would not be at a density that would give an impression of the site being overdeveloped. In which case they, along with the proposed fencing, bund, access drive and domestic paraphernalia such as parked vehicles and the play area would be effectively screened by the existing boundary planting and the proposed supplemental planting which could be secured by a condition attached to any grant of planning permission. This is the case with the nearby authorised private gypsy sites which as a result of the local landform and landscaping do not stand out as prominent developments in the rural area.
12. At the appeal site, the existing southern boundary hedge provides screening from the public rights of way and the lane. Mature hedges and a bund provide a similar landscape screen along the A361 and A350 boundaries. Against this background, I note the officer in the report to Committee considered that although there would be encroachment into the open countryside, the impact on the rural scene and landscape, would be negligible. From my assessment, I have no reason to disagree. In addition, I consider that any cumulative impact in conjunction with the other nearby gypsy sites would also be ameliorated by the landform, and existing and proposed landscaping.
13. Accordingly, in respect of the effect of the proposal on the character and appearance of the area, the proposal would not conflict with saved LP Policies C1 and CF12.

Whether the proposal would be sustainable development

14. The Council pointed out that PPTS paragraph 23 advises that Local Planning Authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. However, the appeal site is close to the main road network, with an access onto the A361 giving rapid links to a good range of services and facilities at Melksham and Trowbridge. The village of Semington where there is a primary school is less than a kilometre away.
15. It also stands directly opposite Littleton Stables where a gypsy site was granted planning permission under appeal decision ref. APP/Y3940/A/13/2196160. The conclusion of the Inspector at that appeal was that the proposal was reasonably close to Semington and would satisfy the PPTS requirement that gypsy sites should not be away from existing settlements. In my judgement, the same is true of this proposal.
16. The proposal would therefore be accessible to local services and would provide housing that is required to meet the needs of the present generation so fulfilling the social role of sustainable development. Furthermore, the proposal would improve the conditions in which people live further reinforcing the social and economic roles of sustainable development.

17. The Council was also concerned that there would be no footpath links from the proposal to nearby bus stops and 2 busy roads would have to be crossed to reach the shops and services of nearby settlements, including the primary school in Semington. In this regard, it was argued that the proposal would not meet the environmental dimension of sustainable development as set out in the NPPF, on highway safety grounds.
18. However, the highway authority raised no objection to the proposal having assessed the highway safety aspects and from my assessment, I have no reason to disagree. Furthermore, this matter was considered by the previous Inspector who while noting that *it was possible to walk from that site by public footpath over fields to the village and to regular bus services to the main towns, this would entail crossing a busy road and in all likelihood most journeys would be by car*. He concluded nevertheless that dependence on a car in rural areas (such as this proposal) is not unusual and I can find no reason to disagree.
19. I further note from that appeal that it was common ground that the site was in a sustainable location and would meet the sustainability criteria set out in paragraph 11 of the PPTS. From the evidence before me, I consider that the 2 sites are comparable in this regard and conclude that this proposal would be sustainable development in its entirety for the purposes of the NPPF.

Other considerations

Need for gypsy and traveller sites

20. I heard that the Council is carrying out a Gypsy and Traveller Accommodation Assessment in response to the Inspector's comments at the examination of the CS. The Council accepts that it lacks a 5 year supply of deliverable land for gypsy sites and that there is a demonstrable need for such sites.
21. With respect to the supply of gypsy and traveller sites, the PPTS at paragraphs 4 and 9 sets out the national requirement for local planning authorities to plan over a reasonable timescale for an appropriate supply of suitable traveller sites, including private sites. The supply should comprise specific, deliverable sites for the first 5 years and developable sites or broad locations for later years. With respect to deciding specific planning applications, PPTS paragraph 22 cites the existing level of provision among relevant matters for consideration.

Personal needs

22. I heard that the site is currently occupied by 3 families. In a letter dated 2 May 2014 the appellant makes clear that under this proposal the site would be occupied as follows: Pitch 1 Mr and Mrs Felix Rooney and their 3 children aged 12, 11 and 3; Pitch 2 Mr and Mrs J Rooney and their 3 children aged 8, 4 and 1; Pitch 3 Mr and Mrs L Rooney and their child aged 3; Pitch 4 Mr and Mrs Gammell and their child aged 1, and Pitch 5 Mr and Mrs L Rooney. The parties agree that the appellant and his extended family satisfy the definition of *gypsies and travellers* as set out in Annex 1 of the PPTS and from my assessment I have no reason to disagree.
23. I note from the officer report to Committee that it was considered that the unauthorised occupation of the appeal site by the appellant's extended family points to their personal need for a site. In the same report the officer also

pointed out that no alternative sites were available to the appellant. From the evidence before me this situation does not appear to have changed.

Personal circumstances

24. Several of the children resident at the appeal site are registered at local schools. The best interests of the children are a primary consideration in this appeal. The families are also registered at local surgeries. The appellant argued that if planning permission is withheld then the families would become homeless and would be forced out on to the road. This would adversely affect their human rights contrary to Article 8 of the Human Rights Act 1998.

Conditions

25. Several conditions have been suggested and I have assessed and where necessary amended these in the light of the advice in the NPPF and the Planning Policy Guidance. Standard conditions are imposed relating to commencement time and to ensure that the development is constructed in accordance with the submitted plans, for the avoidance of doubt and in the interests of proper planning. Further conditions are required to restrict the occupancy to gypsies and travellers as defined in the PPTS, to restrict the number of caravans on the site, to prevent commercial activity and to prevent large vehicles being parked or stored on the site, all in the interest of amenity.
26. In addition, a condition is necessary to ensure the removal of development from the site in the event of agreed schemes for landscaping, external lighting and drainage not being implemented. I also consider it necessary in the interests of highway safety that measures are included in that condition to ensure that the extant access at the south west end of the site is stopped up and passing places are provided. Further conditions are necessary to ensure that any damaged or diseased shrubs, trees and hedges are replaced and only approved lighting is installed, in the interests of amenity.

Conclusion

27. I have found that the proposal, subject to landscaping conditions attached to any grant of planning permission, would not be harmful to the character and appearance of the area. Furthermore, I consider that the proposal would fulfil the various roles necessary to achieve sustainable development as set out in the NPPF. In which case, there would be no conflict with national or local policies which seek to recognise the intrinsic quality of the countryside and achieve sustainable development.
28. In addition, I attach significant weight to the undisputed need for additional gypsy and traveller sites in the locality. Moreover, I am satisfied of the appellant's need for a settled base and note that the consequences of removal from the site, in terms of the extended family having nowhere else to go, are severe. These considerations point to the balance being clearly in favour of the proposal.
29. Accordingly, for the reasons given above I conclude that the appeal should be allowed subject to conditions.

Richard McCoy

Inspector

- 6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 7) The development hereby permitted shall cease to be occupied, all caravans, areas of hard standing and fences shall be removed and all equipment and materials brought onto the land for the purposes of such use and materials resulting from any demolition shall be removed within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) within 2 months of the date of this decision schemes for the stopping up of the extant access onto the unclassified road at the south-west end of the site, the provision of 2 no. passing bays (including construction details), hard and soft landscaping, external lighting and foul and surface water drainage shall be submitted to the Local Planning Authority. The schemes are to include a timetable for their implementation;
 - (ii) within 6 months of the date of this decision, if the Local Planning Authority refuse to approve the schemes submitted under (i) above or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - (iii) an appeal is made in pursuance of (ii) above, that appeal has been finally determined and the submitted scheme has been approved by the Secretary of State;
 - (iv) the approved schemes have been carried out and completed in accordance with the approved timetable.
- 8) Pursuant to condition 7 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.
- 9) There shall be no other external lighting installed on the site other than that approved under the terms of condition 7.

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Appeal Decision

Hearing held on 5 November 2013

Site visit made on 5 November 2013

by B Hellier BA(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 January 2014

Appeal Ref: APP/Y3940/A/13/2196160

Littleton Stables, Littleton, Semington, Trowbridge, BA14 6LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs A C Diment against the decision of Wiltshire Council.
 - The application Ref W/12/02050, dated 5 November 2012, was refused by notice dated 13 February 2013.
 - The development proposed is a permanent traveller/gypsy site comprising one mobile home, one dayroom and one touring caravan.
-

Decision

1. The appeal is allowed and planning permission is granted for a permanent traveller/gypsy site comprising one mobile home, one dayroom and one touring caravan at Littleton Stables, Littleton, Semington, Trowbridge, BA14 6LF, in accordance with the terms of the application, Ref W/12/02050, dated 5 November 2012, subject to the conditions in the accompanying Schedule.

Application for costs

2. At the Hearing an application for costs was made by the appellants against the Council. This application is the subject of a separate Decision.

Procedural matter

3. After the Hearing closed, the Council received a letter¹ from the Inspector examining its Core Strategy dealing with a number of outstanding matters, including provision for gypsies and travellers. This was drawn to the attention of the main parties and I have had regard to this letter and the further representations made.

Background

4. The appeal site is part of a smallholding owned by the appellants where they have kennels and keep a variety of livestock. They have lived on the holding since 2006, initially without planning permission. The Council took enforcement action but in January 2010 temporary planning permission for three years was granted on appeal² for: *change of use and external alterations of a tractor shed to residential purposes; use of a touring caravan for*

¹ Dated 2 December 2013

² Appeal Ref APP/Y3940/A/09/2109292. Split decision 12 January 2010

residential purposes. The appeal was dismissed in respect of a utility/dayroom. The present proposals would replace the converted tractor shed with a mobile home and dayroom.

5. Mrs Diment was born into a gypsy family. She breeds dogs and travels regularly to local fairs where she sells puppies, dogs and horses and trades in tack. The Inspector in the previous appeal found that her pattern of travelling and her business activities met the planning definition of a gypsy¹. This was not disputed by the Council and, from what I have heard, I agree that she has gypsy status and that gypsy policies should apply to this appeal. It was also accepted that Mr Diment does not travel and does not claim gypsy status.
6. The appeal site is close to the main road network, with an access onto the A361 just east of a roundabout junction with the A350, which gives rapid links to a good range of services and facilities at Melksham and Trowbridge. The village of Semington where there is a primary school is less than a kilometre away. It is possible to walk from the appeal site by public footpath over fields to the village and to regular bus services to the main towns. Even so, realistically, most journeys would be by car. However dependence on a car in rural areas is not unusual. It was common ground that the site is in a sustainable location and would meet the sustainability criteria set out in paragraph 11 of the PPTS. It is also reasonably close to Semington and would satisfy the requirement in paragraph 23 of the PPTS that gypsy sites should not be away from existing settlements.

Main issues

7. There are two main issues. Firstly, the effect of the proposed development on the character and appearance of the surrounding countryside. Secondly, if there is any harm to the countryside, then whether this is outweighed by other considerations, including the general need for gypsy sites and the accommodation needs and personal circumstances of the appellants.

Reasons

Character and appearance

8. The site lies in open countryside but not within the Green Belt or within any particular landscape designation. The landscape is relatively flat agricultural land with strong hedgerows. Nearby are clusters of development around Littleton Green to the north and Littleton Wood Farm to the east. Immediately opposite a gypsy caravan is just visible. To the west on the other side of the roundabout is a larger gypsy development of three pitches well hidden from the road behind a landscaped bund. It adjoins the grounds of the West Wiltshire Crematorium set within parkland.
9. The appeal site is set back some 50 metres from the road behind a substantial hedge. The rear boundary is also marked by a thick well maintained hedge. At present the site contains the timber clad converted tractor shed, a long kennels building, two secure metal containers and a touring caravan, none of which exceed much more than 3 metres in height. These buildings and structures only project very slightly over the rear hedge and are not conspicuous from any public viewpoint.

¹ In Annex 1 of *Planning Policy for Traveller Sites*. DCLG. March 2012

10. The proposal would introduce a day room with a pitched roof rising to a height of some 4 metres at the ridge and a mobile home. The mobile home the appellants wish to use would have a shallow pitched roof with a ridge height of about 4.7 metres. Both structures would project above the rear hedge and it would be possible to get glimpses of them from points on the lane leading to Littleton Green and from the A350 approaching the roundabout from the north. It is also the case that the bulk of the mobile home and dayroom would give a more residential character to the site than the existing tractor shed.
11. One of the core planning principles of the National Planning Policy Framework (NPPF) is to recognise the intrinsic character and beauty of the countryside. However the PPTS indicates that gypsy sites are acceptable, in principle, in rural areas. In this instance there are other permanent gypsy mobile homes nearby and there is already a cluster of buildings and structures associated with the smallholding. The site is not prominent and the proposed development would not intrude significantly into the wider landscape. In the longer term a planting scheme to reinforce the rear hedge would further reduce the visual impact.
12. I conclude that the proposed development would have little adverse effect on the character and appearance of the countryside and as such would satisfy saved Policy C31a of the West Wiltshire Local Plan (LP) and criteria vi and viii of Core Policy 47 in the emerging Core Strategy (CS)¹. As the development would be contained within the boundaries of the existing building group there would be no material conflict with the objective of criterion E of LP Policy CF12 which is to avoid encroachment into open countryside.
13. The Inspector in the previous appeal did not allow the dayroom submitted at the time, concluding that it would have the appearance of a residential bungalow and that it would be overly large for its ancillary role to a mobile home. The present proposal is of a design and scale more appropriate to its function as a dayroom with an associated kitchenette and toilet.

Other considerations

14. The latest assessment of need for gypsy accommodation in Wiltshire was carried out by the Council in 2011². It is described as a light touch review of a gypsy and traveller assessment (GTAA)³ undertaken in 2006. An overview of regional pitch requirements⁴ in 2008 on behalf of the South West Regional Assembly criticised this earlier work as underestimating both the baseline number of gypsy households and demand arising from hidden households and new household formation.
15. The 2011 assessment seeks to address these concerns. It subdivides the identified need into housing market areas. The appeal site falls within the North/West Wiltshire area where there is a forecast need for 33 new pitches for the period 2011-2016 and a further 20 pitches from 2016-2021. Since 2011 three factors have contributed to increasing supply.

¹ Current version is *Wiltshire Core Strategy Pre Submission Document: Hearing Session Tracked Changes Version*. Updated September 2013. Core Policy 47 is titled *Meeting the needs of Gypsies and Travellers*

² Set out in Topic Paper 16: *Gypsy and Travellers*. *Wiltshire Core Strategy Consultation* January 2012

³ *Wiltshire County/ Swindon Borough Gypsy and Traveller Accommodation Needs Assessment*. Final Report. 2006

⁴ *Advice on RSS Review of additional pitch requirements for gypsies and travellers in the South West*. Part 1 Report: GTAA Benchmarking. University of Birmingham (CURS) and University of Salford (SHUSU). January 2008

- 16 pitches were identified as having been granted permission but not occupied at the time of the 2011 assessment.
 - 24 private pitches have been approved.
 - 8 additional public pitches will be provided with the refurbishment of the Council run Thingley site. Funding has been secured from the Homes and Communities Agency and planning permission granted in February 2013.
16. On this basis in the North/West area there has been delivery of 48 pitches against a forecast requirement of 33. Elsewhere in the District there have been few new permissions but even so, such has been the increase in the supply in the North/West area, that the figures suggest that to date overall supply in Wiltshire has kept pace with assessed need.

	Assessed need			Provided to date
	2011-16 ¹	2016-21	Total	
North/West	33	20	59	48
East	2	1	3	0
South	35	17	63	6 ²
Total	68	38	125	52

17. From the number of permissions for private sites it would appear that the 2011 assessment has underestimated need in the North/West area. This may in part be because the methodology assumes no pent up demand in 2011 arising from gypsies on private sites or in conventional housing. It may also be that constraints elsewhere divert demand to this part of Wiltshire. The assessment places considerable reliance on the biennial caravan counts. They are only one indicator of need and the Council accepts that it would be helpful to have, in addition, empirical data on the current number, structure, movements and aspirations of gypsy households.
18. The 2011 assessment of needs has been adopted in Core Policy 47. Following hearings as part of the examination of the Core Strategy the Council amended the policy to make it clear that the forecasts represent the minimum requirement for the plan period. Even so the Inspector undertaking the examination still concludes that there is a degree of substantive doubt as to whether the pitch requirements set out in Core Policy 47 can be justified or that the Council is able to identify a supply of specific deliverable sites for the next five years.
19. I have also taken account of the accommodation needs of the appellants. They need a permanent base because much of their livelihood is generated from the smallholding and because Mrs Diment is in poor health, has been unable to travel recently, and needs access to local health services. There are limited options for moving. The gypsy site opposite has been on the market but was outside the price range of the appellants. Otherwise there was no evidence of any suitable, available and affordable alternative.

¹ Excludes households assumed to be accommodated through turnover on socially rented sites.

² Includes 2 extra pitches planned for the Council site at Lode Hill

20. The Council has moved a considerable way in addressing the shortfall of sites identified in 2011 and has exceeded its target provision for the North/West housing market area up to 2016. However there must be considerable reservations as to the robustness of the current assessment. Significant weight should be given to these reservations and also to the undisputed need of the appellants for a settled base. In reviewing this need against landscape harm I have no doubt that the balance is clearly in favour of the proposal.

Other matters

21. Semington Parish Council and other local residents are concerned that the proposed development, in combination with the two nearby sites, would amount to a considerable concentration of gypsy development in this part of the village. The gypsy pitches by the crematorium have been occupied fairly recently and I heard that there were some tensions between the settled residents and gypsy families. However the total gypsy population involved would not dominate the local community and it would be a reasonable expectation that the gypsy community would over time be assimilated into the social structure of the village.
22. The Parish Council also pointed to the disparity between the treatment of applications in the countryside for residential gypsy pitches and those for housing for the settled population. However gypsies have a lifestyle that would generally be out of place within the built up area of villages and towns and gypsy sites are normally found outside settlement development boundaries. National planning policies recognise this cultural distinction but nonetheless require sites to be in sustainable locations and to satisfy locally specific criteria. I am satisfied in this case that the proposal does meet these criteria.
23. The existing converted tractor shed on the site has less visual impact than the proposed mobile home although it would be unusual for a permanent structure to be an accepted form of gypsy accommodation. The appellants indicated that retaining this building in association with the proposed day room would be an attractive option for them. However this is not a proposal that is before me and I have dealt with the appeal on the basis of the application that was submitted to and refused by the Council.

Conditions

24. I have considered the conditions submitted by the Council and those discussed at the Hearing against the tests in paragraph 206 of the NPPF.
25. In addition to standard conditions relating to commencement and compliance with approved plans there is a need to restrict the use to gypsies and, in the circumstances of this case, to Mr Diment, and to limit the number of caravans to those applied for. To minimise visual intrusion a landscaping condition is needed to strengthen boundary planting and permitted development rights in relation to means of enclosure, lighting and ancillary domestic buildings should be withdrawn. Apart from the existing smallholding business there should be no commercial use of the site. Finally the existing tractor house should be removed before its replacement mobile home is occupied.

Conclusion

26. For the reasons given above I find that proposed development would be in a sustainable location, would cause little harm to the character and appearance

of the countryside, would make a positive contribution to the supply of gypsy sites in this part of Wiltshire and would meet the need of the appellants for a settled base. I conclude that the appeal should be allowed.

Bern Hellier

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 10/12/1/1; 10/12/1/2; 10/12/1/3.
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Travellers Sites and by Mr Adrian Diment for as long as he is the resident partner of Mrs Christine Diment or, in the event of her predeceasing him, her widower.
- 4) 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 mobile home, shall be stationed on the site at any time.
- 5) No development shall take place until a landscaping scheme showing full details of both hard and soft landscape works has been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved prior to the occupation of the mobile home or in accordance with a programme agreed with the local planning authority. Any trees or plants which within a period of 5 years from the first occupation of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any order revoking, re-enacting or modifying that Order, no external lighting, fences, gates or walls (other than as may be approved under Condition 5), garden structures or outbuildings shall be erected on the site.
- 7) With the exception of the breeding and sale of horses and dogs and the sale of tack owned by the site occupiers no commercial activities shall take place on the land, including the storage of materials.
- 8) The existing converted tractor shed shall be demolished and the materials moved from the site before the first occupation of the mobile home.

APPEARANCES

FOR THE APPELLANT:

Mr T Phillips	Thurdleigh Planning Consultancy
Mr K Cole	Planning Consultant
Mr and Mrs Diment	Appellants

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Wilmott	Area Development Manager
Mr H Totz	Senior Planning Officer

INTERESTED PERSONS:

Mr B Smyth	Semington Parish Council
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DOCUMENTS

- 1 Modifications to Core Policy 47
- 2 Count of Gypsy and Traveller Caravans January 2013
- 3 Schedule of gypsy and traveller planning applications and decisions from December 2011
- 4 Plans accompanying appeal decision APP/Y3940/A/09/2109292
- 5 FOI request re HCA funding allocation to Wiltshire
- 6 South West Regional Assembly: GTAA Benchmarking Report 2008
- 7 Wiltshire Core Strategy Topic Paper 16: Gypsy and Travellers 2012

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REPORT FOR THE STRATEGIC PLANNING COMMITTEE

Date of Meeting	22 April 2015
Application Number	14/08417/FUL
Site Address	Kemble Business Park Estates Crudwell Wiltshire GL7 6BQ
Proposal	A hybrid planning application for new B8 (storage and distribution) and B1 (office) space, including provision of a new vehicular access. Matters relating to the provision of new warehouse and ancillary office space (building 4) of 20210sqm and new vehicular access are in detail. Matters relating to the provision of a gatehouse building (B1) of 651sqm and 2 office buildings (B1) of up to 1355sqm (buildings 2 & 3) to be considered in outline with matters of appearance, scale and landscaping to be reserved for future consideration.
Applicant	Unknown
Town/Parish Council	CRUDWELL
Ward	MINETY
Grid Ref	0 0
Type of application	Full Planning
Case Officer	Charmian Burkey

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Reason for the application being considered by Committee

Under the Scheme of Delegation Specific to Planning, this application falls to be considered by the Strategic Planning Committee by reason of it being a large-scale major application which, by its nature would raise issues of more than local importance.

1. Purpose of report

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

2. Report summary

The main issues in the consideration of this application are as follows:

- Principle of development/policy setting.
- Changes from the previous application.
- Effect on listed buildings on site and the Heritage Asset.
- Access & Highways.
- Design, appearance and layout
- Effect on landscape setting of area.
- Ecology
- Amenity of local residents.
- Sustainability.
- Other matters eg safeguarding.

The application has generated 1 letter of comment from a local resident – raising objections. Crudwell Parish Council raise no objections. Kemble and Ewen Parish Council state that the proposal is good for employment on an existing site so they support it in principle. However, the road network is inadequate in the vicinity and is an accident blackspot. The increase in traffic movements at the A429/A433 junction will exacerbate the volume pressures and add to that accident blackspot. There needs to be significant junction improvements prior to the development.

3. Site Description

The application site forms part of the former RAF Kemble, located within Wiltshire and relates to an existing employment site known as Kemble Airfield Enterprise Park. The site is located within open countryside with Kemble village being some 1.5km to the north. There are sporadic houses in the locality.

The site comprises of a group of buildings towards the front of the site, many of which are already in business use. Further into the site are 2 pairings of listed hangars and to the north 3 listed hangars, some of which are in business use. There is also a listed Water Tower which is evident when entering the site and forms a focal point when driving in. The remainder of the site is largely open with a gentle slope south to north and very little vegetation or trees.

4. Relevant planning history

10/04375/SCO – Request for Screening and Scoping Opinion.

11/01531/FUL – As this application (with amendments) refused for the following reasons:

- The proposal is located within open countryside and on a Greenfield site within a former MoD site. The proposals are not considered to be limited expansion or redevelopment of an existing premises; are not well related to any existing settlements and are considered to be remote, involving development of an open area. The proposals are thus considered to conflict with policies BD5 and NE20 of the North Wiltshire Local Plan 2011 and Wiltshire Core Strategy Policy 37.
- The proposals lack sufficient detail to ensure that they preserve or enhance the setting of the Grade II listed hangars on site and are thus contrary to Policy HE4 of the North Wiltshire Local Plan 2011, Wiltshire Core Strategy Policy 58, section 12 of the National Planning Policy Framework 2012 and the guidance given in S.16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- The proposals are set within an open landscape and of a scale, massing and design that is considered to have a detrimental impact on the “special” character of the area and its openness, causing the built form to coalesce, contrary to policy NE15 of the North Wiltshire Plan 2011, Wiltshire Core Strategy Policy 51 and Section 11 of the

National Planning Policy Framework 2012 on conserving and enhancing the natural environment.

- The proposal is sited within a remote location with poor public transport facilities and the sustainability proposals put forward by the applicants are considered to be insufficient to outweigh the harm caused and thus the development is considered to be contrary to Policies T1 and T2 of the North Wiltshire Local Plan 2011 and policies DP1 and DP3 of Wiltshire Structure Plan 2011 together with Wiltshire Core Strategy Policies 60 and 61 and advice within the National Planning Policy Framework 2012 about delivering sustainable development.

N/13/08417/FUL Refused for the same reasons as above

5. Proposal

The proposal for consideration is in hybrid form (seeking outline permission for part of the site and full for the remainder) to allow a phased approach to the development of the site, whereby buildings are only constructed once their end users have been established and their exact specifications known. The proposal is different from application 11/01531/FUL in that :

1. Building 1, which is the gatehouse building, has been amended in terms of its illustrative design. It now advocates a more traditional design rather than the contemporary design previously put forward. The building has subsequently been reduced in scale so that it does not project past the front of the elevations of the nearby houses to the south (in outline)
2. Building 2 has been moved to lie more within the main complex of buildings to minimise landscape impact and to remove impact on nearby listed buildings. The scale of the building remains unchanged (in outline)
3. Building 3 has similarly been moved to relate better to the existing complex of buildings (in outline).
4. Building 4 is submitted in detail form. The design and location has been amended following comments by officers and Strategic Committee Members. The previous building 4 was sited towards the north of the site on the highest ground and closest to the airport's boundary. However, the building has been increased in size (to accommodate a specific end user....see later) and sited in the position previously occupied by building 5 towards the south of the site, but close to 2 listed hangars (Full application together with the access and roundabout).

The proposal is for:

- 1 new warehouse building with integrated office space measuring 20,120sqm of B8 storage and ancillary B1 office space (full application) .
- 2 office buildings (1,355sqm and 3786sqm of B1 use)(in outline).
- 1 gatehouse building (administrative space, security office and office use 651 sqm) (in outline).
- A total of 22,216 sqm (The previous application with 2 less buildings was for a total of 25, 855 sqm)

The agent has supplied information regarding the floor space of buildings to be demolished which amounts to 1650 sqm. Buildings 1, 2 & 3 amounts to 3, 361sqm of new floor space ie an increase of 1711sqm.

The location of each building is identified in a development zone within the layout plan. The proposal also involves provision for a new roundabout access from the A429. Provision is to

be made for 59 car parking spaces in association with building 4 (4 will be disabled bays) with buildings 1, 2 and 3 having maximum parking when details are submitted. It is anticipated that approx 120 new jobs in building 4 and approx 200 jobs in the other units when they are fully developed and occupied.

The application is accompanied by a Planning Statement which indicates that it is an aspiration to develop renewable forms of energy at the site including an element of renewable energy in both heating and power systems.

6. Planning Policy

Wiltshire Core Strategy: Core Policy 37 (relating to the redevelopment of redundant MoD sites), Core Policy 41 (Sustainable Construction and low carbon energy), Core Policy 58 (Ensuring the Conservation of the Historic Environment), Core Policy 51 (Landscape), Core Strategy Policy 57 (Ensuring High Quality Design and Place Shaping), Core Strategy Policy 60 (Sustainable Transport) .

The National Planning Policy Framework (hereafter referred to as NPPF) supports sustainable development in relation to building strong and competitive economy states that *“significant weight should be placed on the need to support economic growth through the planning system”* (para 19). There are no explicit policy considerations provided in relation to determining planning applications for economic growth in the rural areas. However, para 28 does require development plan policy to *“support the sustainable growth and expansion of all types of businesses and enterprise in rural areas, both through the conversion of existing buildings and well designed new buildings”*.

In determining planning applications, the NPPF requires local planning authorities to take account of the desirability of sustaining and enhancing the significant heritage assets, with greater weight given to the asset's conservation. It recognises that significance can be harmed or lost through development within the setting of the historic asset and requires that any harm or loss has clear and convincing justification (Paras 131-132).

7. The Application Process.

The application was submitted in 26th September 2014 following the Committee's decision to refuse application N/13/01593/FUL. Throughout this former application and the discussions held since the submission of this application, officers, in particular, stressed a strong policy presumption against the development on its unsustainable location, size, form and design in relation to the listed buildings and open landscape.

It has been stressed that the only possible way forward for such a significant increase in built form with significant policy objection would be for exemplar sustainability credentials, together with a design more in keeping with the scale and setting of the Grade II listed hangars, which reflects the site's former use for the MoD. This was stressed by way of meetings prior to the submission of the 2011 application and indeed the 2013 application, which were held to discuss possible designs, giving examples of buildings which had faced some of the problems faced by the applicant and remaining open minded throughout the process to a possible solution.

Unlike in the other cases, Pre-application advice has been sought on the revisions now being considered..

In support of the application the applicants have submitted the following documents:

- Plans elevations and artistic impressions.
- Design and Access statement.

- Landscape Visual Impact Assessment
- Transport Assessment.
- Desk based Archaeological Assessment.
- Ecological assessment
- Heritage Statement and Impact Assessment..
- Employment Travel Plan.
- Ecological Assessment
- Planning Statement.
- Bat mitigation strategy.
- Tree Schedule.
- Outline Drainage Strategy.

All documents are available on the file and inform many of the consultation responses.

8. Consultation

Spatial Planning Officer. Comments form basis of “Principle of Development” section below and are in addition to those given for N/13/01593/FUL, which were summarised as follows:

1. *The proposals represent a substantial increase in business floorspace at the established Kemble Business Park, with an estimated 250-300 jobs created and the ability of the premises to meet the needs of an existing business on site and new investors. The applicant considers that there are no alternative sites to meet these needs.*
2. *The Planning statement states that “The application proposal is considered to be sustainable development in that it provides new employment land in a location suitable for the indigenous growth of established local businesses”. The Core Strategy sets out how sustainable development is defined and this site, for planning policy purposes is in open countryside, where new floor space is considered generally unsustainable and therefore restricted. Whilst National Policy recognises the economic needs of rural areas, this needs to take account of the scale and type of development.*
3. *The applicant attempts to justify the proposal in accordance with the wider strategic interests of Wiltshire, stating that it is a Strategically important site. Although the site is in employment use, it is remote from where additional employment land is focussed over the plan period and has not been identified as a Principal Employment Area within the Core Strategy.*
4. *It is unclear how the proposal would relate to the priority sectors identified in para 6.10 of the Core Strategy, particularly as no end users have been identified.*
5. *It is recognised that the Transport Assessment has been updated since the 2011 application, with a revised junction capacity for the A429/A433 junction and proposed site access roundabout and a multi modal assessment using up to date TRICS data. However, the Travel Plan has not been enhanced and it is still not clear whether the proposal has the ability to change travel patterns to more sustainable modes.*
6. *The applicant places significant weight on the proposed development securing the retention of existing employers in Wiltshire, but there is little evidence within the application and the proposals could result in new speculative development. Speculative development could undermine deliverability of strategic employment sites, contrary to Core Policy 34 and would conflict with sustainable development principles. In the absence of any clear evidence, it is impossible to justify that the development is in the wider strategic interest of Wiltshire. In addition there is a lack of information about the sequential approach and impact assessment for B1 office floorspace.*
7. *Despite restrictive national and local policies, it could be argued that as the site is already established in employment, that some additional employment at the site may be acceptable. However, this would depend on the scale and sustainability, including positive improvements on site that would secure a genuine change in travel patterns*

to modes other than cars. The impact on the historic environment is also an important consideration, given the listed buildings on site.

8. *Whilst the aspiration is for BREEAM excellent, in terms of renewable energy there appears to be limited information provided about what renewable energy sources will power the building.*

In conclusion, despite the changes that were made for N/13/01593/FUL, the conclusion is the same as the previous application. It is still considered that the proposal would be contrary to the extant and emerging development plan, as well as national planning policy that would lead to a significant expansion of employment floorspace in a countryside location that is remote from settlements and cannot be regarded as sustainable development.

Whilst undoubtedly the proposals will secure new jobs in the area, based on the existing patterns of employees working on the site, these would be likely to be drawn from a wide area and mainly outlying towns where development plan policies seek to provide new employment. The proposals have merit in their approach to sustainable construction and proposed use of renewable energy. However, this does little to outweigh the concerns raised in terms of the need to secure a sustainable pattern of growth and harm to listed buildings.

The robustness of the evidence underpinning the application is insufficient to provide confidence that the proposals relate to the genuine expansion and/or retention of existing businesses on the site helping to retain these businesses within Wiltshire. In the absence of the ability to manage the end user the proposals could very well result in speculative development.

On the current application the Spatial Planning Team state that in conjunction with the above comments the following comments are applicable. The principles around Core Policies 1, 2 and 37 are well set out previously. This response focuses in particular on whether the proposals satisfy the requirements of Core Policy 34 “Additional Employment Land”.

The main changes since the previous proposal is the substantial increase in proposed warehouse floor space (over 30%) and a modest decrease in overall office space. The supporting information indicates that the warehousing is intended for the expansion of an existing business on site. The rationale for provision of additional office floor space, involving a further 3 buildings, is less certain and appears a speculative proposal that would expand the size of the business park. The balance and mix of the proposals has been amended but not in a way to fundamentally change the nature of the development. The main considerations remain the same and that the proposals are in conflict with the development plan policies.

The Core Strategy is an employment led strategy, including the objective of retaining and supporting the growth of indigenous business. Subject to proposals not having an unacceptable impact, planning policies would normally look to support the construction of new premises that allows an existing business to expand, but this site’s relative isolation remote from settlements means that this proposal cannot be seen as sustainable development.

On the last revisions the Spatial Plans Team comments that they focus in particular on whether the revisions to the proposals satisfy the requirements of Core Policy 34. The comments supplement those previously given. The applicants propose a decrease in B1 space but it is still on a purely speculative basis. These are uses that should look to locate in the town centre and only as a last resort in a location divorced from any settlement. Just because the increase in floor area is less than the threshold of 2500sqm for an impact assessment to be required and to fulfil a sequential test, this does not mean that the

proposals have no impact or represent sustainable development. A further reduction in office space does not fundamentally change the form of the development. The previous conclusions remain the same; the thrust of which is that the proposals are in conflict with development plan policies, all though the degree of conflict is less profound.

The major amount of floorspace subject to these proposals is for warehousing and to provide for the needs of an existing employer. This element of the proposals suggests the retention of 75 jobs. The retention and prospective jobs is a material consideration in the balance of arguments. But beyond this there is little evidence of the part played by the company in the local economy. A lack of objection does not in itself substantiate a strategic significance to the proposals.

Crucially there is no justification for what seems an entirely speculative element of 3 separate office buildings. There is no explanation as to what role, if any, they may play in the wider strategic economic interests of the County as a whole, or any other gain, when policy points so clearly to greater benefits from such investment in better and more accessible locations elsewhere.

Overall the balance of planning considerations compared to the previous application has altered once more but again it has not fundamentally changed. The proposals still accentuate a pattern of land use that cannot be considered sustainable development. The proposals do not conform to WCS policy CP34.

(The remainder of the comments from the Spatial Plans Team make up the Planning Considerations to avoid repetition in a long report)

In response to these latest comments (other commentary on the application from the agents is available on the planning file) the agents comment that they are concerned that in considering the economic planning policy matters a proportionate approach has not been applied. It is apparent from the policy comments that the principal issue which raises a policy objection is the presence of the 3 office buildings.

The guardhouse is not a speculative element, being reasonably required for administration and security of the wider site. The existing site is an established employment destination with a range of tenants as set out on a number of occasions as part of the planning application. Along with the employment site to the north at Cotswold Airport, Kemble is a strategic employment location and should be considered accordingly.

With regard to the two further office buildings, the cumulative scale of these has been reduced. They now propose a combined floor area of 2710sqm which should be considered against the demolition of useable floor space measuring 1650sqm. This net increase is not considered to be significant. It falls well below the threshold for an Impact Assessment or Sequential Test. It is suggested that by not undertaking an Impact Assessment negative weight can be attributed to the impact of proposed office buildings on town centres within the locality. Paragraph 015 of the Planning practice Guidance makes it clear that Impact Assessments should be proportionate. The NPPF recognises offices as Town Centre uses, it does not encompass all office development. The additional accommodation is for those businesses seeking expansion on the site. There is currently no available office space on the site, which is a major constraint to the vitality of Kemble as a business location. Not providing the expansion space will lead to loss of businesses from the site. The offices are for the medium to longer term.

For clarity the level of employment is conformed at:

- *Existing Rapid Racking = 70 employees*
- *Proposed expansion 50 employees*
- *Jobs to be created following re-use of buildings vacated by Rapid Racking = 70 employees*
- *New office buildings = 50-70 employees (per building)*
- *New Gatehouse = 20-30 employees*

In light of this, the proposed new Rapid Racking building will generate a net increase of 120 new employees at Kemble, including the re-use of the building vacated by the company. In addition, it is anticipated that the new office building will generate between 100-150 new job opportunities and 20-30 new jobs in the gatehouse.

Cumulatively the proposal will generate in the region of 250 employment opportunities at Kemble. This should be seen in light of a net reduction of employment should Rapid Racking re-locate out of the area. In the light of this, the wider benefits to the local economy have been considered as part of the accompanying planning application, including additional local revenue generated locally through the use of local services. It is therefore, that Kemble Airfield Enterprise Park is of strategic importance to the local economy and its long term vitality and viability is a material consideration of significant weight.

It is considered that insufficient weight has been apportioned to the significant benefits that the proposal will have on the local economy, job creation on an established employment site, utilizing previously developed land and the retention of a multi-national company within the County. Taken as a whole, the proposal will have significant benefits for the strategic economic interests of Wiltshire, consistent with Policy 34 of the Wiltshire Core Strategy.

Highway Officer – Reiterates his previous comments which were: The Transport Assessment is acceptable insofar as those sections relating to Wiltshire are concerned. The new junction at the access will be required prior to the commencement of any development on the site and he is satisfied that there will be no significant adverse effect on the highway network within Wiltshire. Gloucestershire Council will need to comment on the effect on the A429/A433 junction.

On a policy basis the site is located within open countryside with minimal public transport provision and in the current financial climate even that is in doubt. Although a minibus shuttle service is proposed, this is only now guaranteed for 5 years and will only effect a minimal amount of journeys. There is little scope for cycling and the development will be largely car dependent. It is an unsustainable location.

On a more detailed point the landscaping to the middle of the roundabout is not acceptable. The future maintenance liability, which the developer would be expected to pay. For effective roundabouts the drivers must be able to see, not only approaching vehicles, but also their direction indicators. He recommends refusal on sustainability grounds.

Senior Conservation Officer – Is disappointed to see that despite the encouraging discussions at our meeting with the agents, very little has taken on board. The proposed new building is extremely large and, together with the bunding, will be very obvious and will harm the setting of the listed hangars. The outline office buildings appear to be the same size as shown on the last application and no account has been taken of comments to amend the scale. There seems to have been a slight tweak to the new entrance road alignment, but it is still curvy and the views straight to the listed water tower when entering the site are not retained. The scale, design and layout do not reflect that of the existing heritage assets (both designated and undesignated), with the result that these new buildings would dominate the site and harm the setting of the heritage assets.

Although it is felt that construction of any new building in the vicinity of the listed hangars would harm the setting of the heritage assets, it is acknowledged that the discussions led to a reluctant agreement that one building may be acceptable, subject to scale and details. However, the outline proposals for new buildings, as well as the road re-alignment remain as harmful as before and the scheme is not supported.

Additionally there is no management plan that will ensure the long term maintenance and future of the designated heritage assets. Without such a document there is no justification for the new development on this site.

The proposals are contrary to the NPPF (2012) paragraphs 17, 131, 132, 134, 135 and 137.

Council Landscape Officer, unlike previously, considers that the latest planning application is unlikely to generate any significantly harmful effects to the wider landscape character or visual amenity interest in relation to the requirements of saved Policy NE15 of the North Wiltshire Local Plan 2011 and Core Policy 51 in the Core Strategy. He also considers that the Council's duty under section 85/1, CROW Act 2000, to have been appropriately considered (as Cotswolds AONB and its setting is unlikely to be harmed). He considers that the applicant has addressed the unnecessary loss of trees by the amendments made to the re-alignment of the entrance road and adjacent footpath.

Should the application proceed to approval there are a number of landscape and landscape related planning conditions that will be required to address:

- Tree protection and implementation.
- Detailed design and implementation of hard and soft landscaping schemes.
- Detailed design for sensitive low impact external lighting and signage schemes.
- Details of all boundary treatments.
- Landscape/Green Infrastructure/Ecology Management Plan.
- Implementation/Establishment/Maintenance/Management phases.
- Approval of external sample materials/colours to buildings.

Council's Environmental Health Officer states that it is necessary to ensure that **noise** from fixed plant and machinery associated with the proposed buildings does not affect amenity. There is also concern over deliveries to and from units and waste collections may adversely affect amenity. There should be a noise survey.

A scheme of acoustic insulation and noise control will need to be submitted and controlled by way of planning condition.

The site borders the Cotswold AONB and it is necessary to protect the environment from **light** pollution. Conditions are suggested.

Council Ecologist –states that the proposals will result in the destruction of a building which supports active bat roosts resulting in a breach of the Habitats regulations. A Mitigation Strategy has been submitted and he is satisfied that the proposals could be licensed by Natural England and as such he has no objections, subject to securing the mitigation measures through a suitably worded condition.

County Sustainable Growth Team – point out the section in the D&A statement about Sustainability and requests that in order to demonstrate the commitment to achieving BREEAM Excellent and an A rated Energy Performance Certificate, evidence needs to be supplied at the planning stage. A BREEAM pre-assessment from a certified assessor would go some way towards this.

Environment Agency comments are awaited, but they did not object to the previous application.

Wessex Water raise no objections but as the water and sewerage supplier note that they do not supply mains water to the site.

Council's Drainage Engineer states that if the detailed design were to keep the foul and surface water discharges separate and attenuated on site before being released into the ground and the infiltration rate testing proves to be favourable and the attenuation storage be designed to hold everything over the Greenfield Discharge Rate and up to the 1:100 storm event plus a climate change allowance there would be no objections.

Cotswold District Council's comments are awaited.

Gloucestershire County Council has not responded but stated last time that that they acknowledge the Transport Assessment's calculations that the proposal will lead to an increase in trip generation and the need for improvement works at the A429/A433 which can be conditioned in any approval as set out in Appendix 15 of the Transport Assessment. (ATL – this would need to be by way of a legal agreement).

Crudwell Parish Council has no objections.

Kemble and Oaksey Parish Council state: The proposal is good for employment and on an existing business Park so support in principle. However support should be qualified as follows. The local road network is not adequate to accommodate additional traffic and the A429 passing the airport is an accident blackspot. In addition, the increased traffic volumes at the junction of A429 and A433 will exacerbate the volume pressures and accident risk at another local accident blackspot. Attention to significantly improve both of these blackspots should be a pre-requirement of any planning consent with road works to be completed before any development work commences. .

Highways Agency's comments are awaited, but they did not object to the previous application.

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8. Publicity

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

1 letter of objection has been received. Summary of key relevant points raised:

- The NPPF supports sustainability and nothing has been amended to remove the previous reasons for refusal.
- The most relevant paragraphs of the NPPF have been noted.
- There are vacant warehouses which could be brought back into use.
- There is no justification for the new buildings.
- It is not clear why the proposed tenant could not occupy one of the existing units.
- The wildlife will be disturbed by the additional lighting.
- The proposal leads to removal of wall and shrubs not in the control of the applicant.
- The Transport Assessment lacks “meat on the bones” and is 8 years out of date.
- There is no suitable public transport to the site and the shuttle bus is only proposed for 3 year.
- The new roundabout would impede traffic flow.
- The A429/A433 junction is already at capacity and there are no proposals shown for improvements

Cotswold Airport notes that building 4 is now to be used by Rapid Racking, but it is not suggested that the permission is personal and significant weight cannot be attached to the presence of a stated end user. The overall scale of the building seems excessive for one specified relocation.

The agent states that there will be strong demand to re-let Rapid Racking's existing warehouse, but this is not substantiated and the planning agents presented a contrary position on the basis of a limited demand for such premises in order to justify a quasi residential redevelopment (see in particular Colerne airfield)

The land is remote from additional employment land and is not identified as a principal employment area. The overall scale of the development cannot be seen to support the retention of existing businesses on site.

The boundary shown between the airport and the site is incorrect.

There is concern about external lighting affecting night time operations at the airport and any lighting should be conditioned. The roof glass and other areas allowing light spillage are a concern.

The landscape strategy will involve the planting of new trees and it is important that these do not increase bird numbers near the airport.

There is concern over the use of cranes and a construction method statement will be required.

9. Planning Considerations

Principle of development & policy setting

Policy weighting

The National Planning policy Framework and the Wiltshire Core Strategy (which has now been adopted) form the policy framework for the determination of this appeal.

Application of policy

In planning policy terms, the application site is located in the open countryside although part of the site is an established employment site. The nearest settlement is Kemble, some 1.5 km to the north.

The proposal is for the following in hybrid form (ie partly full, partly in outline):

- 1 new warehouse building with integrated office space measuring 20,120sqm of B8 storage and ancillary B1 office space.
- 2 office buildings (1,355sqm of B1 use).
- 1 gatehouse building (administrative space, security office and office use 651 sqm).
- A total of 22, 216 sqm (The previous application with 2 less buildings was for a total of 25, 855 sqm)

The application is accompanied by a Planning Statement, which states that a high standard of sustainable construction is proposed to reduce energy input and that the proposal will promote the development of renewable forms of energy on site. A number of options are being explored.

The key policy criteria are set out in the Planning Policy Section above.

The proposal represents a substantial increase in floorspace at Kemble Business Park, with the potential to retain 75 jobs alone in realistic terms in building 4 with a potential further 50 (although there is theoretical potential for up to approx 170 across the site). The proposed development will provide new premises to meet the needs of existing businesses on the site, as well as providing for new businesses to locate on the site. The site, which is a former MoD site lies in open countryside, some distance from any centres of population, with very poor public transport links, where the development of new floorspace is generally considered unsustainable in principle.

The planning policy context is set out below:

- Wiltshire Core Strategy Core Policy 37 states that redevelopment, conversion or change of use of redundant MoD sites and buildings will be supported provided that they are well related to an existing settlement in terms of both location and scale. Sites that are remote from settlements should only be considered where the existing buildings and infrastructure on site are suitable for redevelopment, conversion or change of use. The focus will be on employment led development and other uses should be determined through a master planning approach.
- Wiltshire Core Strategy Core Policy 51 deals with landscape and requires that development will not have an adverse effect on the landscape character, while any negative effects must be mitigated through sensitive design and landscape measures. Proposals should be informed and sympathetic to the distinctive character areas identified in the relevant Landscape Character Assessments and any other relevant assessments and studies. The Council's Landscape Officer has commented that he is now satisfied with the impact of the new building on the landscape.
- Wiltshire Core Strategy Policy 57 concerns itself with ensuring a high quality standard in design, creating a sense of place and drawing on the local context whilst being complimentary to the locality. Development must, amongst other things, respond positively to the natural and historic environment and be sympathetic to any historic buildings and maximising opportunities for sustainable construction.
- Wiltshire Core Strategy Core Policy 58 encapsulates how development should protect, conserve and where possible enhance the historic environment. This is dealt with in the section below.
- Wiltshire Core Strategy Core Policies 60 and 61 considers sustainable transport and the Council's promotion of it by promoting alternatives to the private car. The proposal does not achieve this aim in that it promotes use of the private car as little public transport or alternatives are available and those suggested by the applicants are weak and may have limited longevity. The applicants have been advised to try and address this prior to the application coming before the planning committee and their comments are awaited.

Effect on listed buildings on site and the Heritage Asset and general character of the area

The site was formerly open fields with a few farms until the 1930s when it was developed as an airfield. There are low lodge buildings with a main gate off the A429, a drive leading into the site with a listed water tower at the head of it. Mature trees line the entrance drive and the buildings are set well back from the hard surfaced area, giving visual width to the route. The hangar buildings are grouped by type, in twos and threes on the site, with careful spacing between the grouped buildings.

Specific comments in relation to each of the proposed buildings follow:

Building 1 –

The existing entrance buildings are single storey brick with a clay tile roof and very little glazing. They very much set the scene for the buildings behind, but remain unobtrusive. The proposal is now set in line with the existing building line and although only in outline, the indicative drawings show an improved design, which better reflects the military setting.

Buildings 2&3 –

These buildings have been moved from their original position on the open ground to the north of the site. Their revised location is, for building 2 on land in the place of existing buildings to be demolished to the south of the existing business park. Building 3 is on open

land to the south west of the existing group of buildings forming the business park. Building 3's position is now more in line with the outer buildings of this main part of the enterprise park.

Both buildings are in outline with only the layout for approval. Building 3 has been reduced in scale to better reflect other buildings on the site. The illustrative master plan indicates earth bunding to the south of the buildings but no details of levels have been submitted. No visuals to allow the authority assess the impact of significant buildings in the existing roofscape have been submitted (as the application is in outline) so that it cannot be assessed as to how such buildings will relate in scale to the listed hangars and water tower and the general character of the area.

Building 4

Building 4 has been increased in size and re-located towards the south of the site, just to the north of a pair of listed hangars. The new building has a floor area of 20,120 sqm and measures approx 151m x 125m and a height of 16m. The roof is a double parabolic shape. In addition to the main building there is an office extension on the north east side measuring 68m x 6m and 12.5m in height. The applicant has supplied drawings to show it in the context of listed hangars nearby. The proposed building will be approximately 4m higher than the hangars nearby. The building will need to be dug into the ground somewhat as the land is sloping upwards to the north by approx 1.5m across the depth of the building. The listed hangars are set approximately 1m lower also.

The proposal includes some bunding on the south eastern side which will partially reduce the impact of the building when viewed from the A429, but the scale of the building means that it will be seen as a significant backdrop to the listed hangars particularly when viewed from the lane to the south.

The NPPF gives the conservation of Heritage Assets greater weight and means that the Local Planning Authority must identify the harm to the Heritage Asset and consider whether it is serious harm or not. Against this must be weighed the social and economic benefits.

One of the Core Principles of 'the Framework' is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. In determining planning applications, paragraph 131 of 'the Framework' includes a requirement for local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets. Furthermore, paragraph 132 of 'the Framework' states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. There is also a duty to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

There is a statutory requirement to pay "special regard" to the desirability of preserving the setting of a listed building. That desire should be given "considerable importance and weight" in carrying out a planning balancing exercise, this principle is set out in the Barnwell Manor Case (Barnwell Manor Wind Energy Ltd v E. Northants DC, English Heritage, National Trust & SSCLG).

Section 12 of the NPPF relates to conserving and enhancing the historic environment. Para 128 requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.

The conservation officer and planning officer have concluded that the proposed development would have less than significant harm on the heritage asset. Under Paragraph 134 of the NPPF this harm should be weighed against the public benefits of the proposal, including securing its optimal viable use. Whilst the public benefit may be considered to be the jobs created, the advice is about public benefit to the heritage asset. It is not of benefit to listed buildings themselves.

The package of benefits which can be given weight in the overall planning balance do not overcome the harm identified.

In negotiations on the previous schemes, the height of the building was reduced (albeit in a different location) to approx 12.6m and the length was only 113m. The current building is thus a considerable increase in size from that previously considered and is still very close to the pairing of the listed hangars. It would dwarf and dominate them in what is an open landscape would inevitably cause harm to their setting. This then must be balanced against the benefits that such employment will bring..

The benefits are the employment opportunities afforded by encouraging an existing employer on the site to remain and expand. Although a first occupation condition has been suggested by officers, this is yet to be clarified. So, although there is some comfort that the end user has been identified, there is no actual commitment to occupation of the unit. The Core Strategy is employment led, but the NPPF focuses on Sustainability. The location is clearly unsustainable with the majority of the workers arriving by car and although a variety of measures (such as a shuttle bus and travel co-ordinator to encourage car share) are proposed, they will only be maintained for 5 years and cannot force the workforce to travel by such means. The existing premises of the employer employs 70 people and these will be retained, with the building being able to be re-used for a similar level of employment.

The conservation officer maintains that significant harm will be caused to the setting of the listed hangars and this is not outweighed by the creation of jobs in this unsustainable location.

Only Building 4 is in full, the other applications are purely speculative although there are a number of businesses on the site which need to expand.

The conservation officer also makes comment on the re-alignment of the access road and the impact that this has on the views of the water tower. Whilst it would be preferable to maintain the existing arrangement, the introduction of a roundabout would negate this as a possibility, but the re-alignment has meant that more of a straight view is preserved and in fact the view from the A429 is across a car park first and therefore maintained to an extent that is considered to be acceptable.

Access

Wiltshire Highways Engineer is happy with the proposed junction alterations and the introduction of a roundabout subject to some modifications. He is satisfied that the local road network can accommodate any additional traffic.

Gloucestershire Highways have previously expressed that they are happy with the proposal subject to some improvements to the A429/A433 junction. (S106). Their comments are awaited on this application.

Design, appearance and layout

Throughout the pre- application and application discussions the agents/applicants have constantly been asked to ensure that the buildings they propose relate in scale and form to the buildings which exist on site.

The only building for which full permission is sought is building 4 to the south of the site. The section on the impact on the heritage asset above demonstrates that it is considered that there would be harm to the setting of the listed buildings but that has to be weighed against the potential to keep an employer on site and to allow it expand. It should be noted that the landscape officer no longer objects to the proposal and considers that, subject to conditions, that the building can be assimilated into the landscape.

The current grade II listed hangars are much smaller in scale and have curved bitumen roofs which have a dark matt surface, which helps absorb any impact they may have, into the landscape. The agents have supplied some comparison elevations to try to give comfort about the impact of the building in the landscape, especially when compared to the nearby listed buildings. Building 4 is still a vast building set amongst other smaller more functionally architectural and with its requirement for external lighting (and glazing to allow natural daylight) will have an impact in the open countryside, but one deemed by the landscape officer to be acceptable.

Other matters

The airport has previously objected to this building (and potentially the others) because of its size and form. Safeguarding is not a planning reason for refusal. Concerns about lighting can be controlled by way of planning condition and should be, but the site currently has no control over the lighting of the buildings and it is considered that this would be an unreasonable reason for refusal. The planting of trees falls outside the scope of planning control and that planting proposed is not considered to be so substantial as to warrant re consideration.

10. Conclusion

Throughout the process the agents have been advised that there is a policy presumption against the proposal because of adopted and emerging planning policies (now adopted) and its highly unsustainable location, as well as the scale of the proposed development. Despite the restrictive planning policies at both national and local level, it is recognised that the site is an established employment use and the proposal would have positive economic benefits in terms of job creation. As such, some additional development at the site might be acceptable to help safeguard existing businesses on site. However, due to the rural location of the site there is a limit to what could be considered to be a reasonable level of increased floorspace (The proposal amounts to 22, 216 Sqm increase across the whole site). Furthermore, a robust and long standing Travel Plan supporting access by sustainable forms of travel would be important to encourage and support access by modes other than the private car.

While it is acknowledged that the re use of this former MoD site for employment uses has helped safeguard and protect historic buildings on the site, the application does not offer any additional benefits that would help secure their survival in the longer term that may help offset the harm to listed buildings. In fact their long term future may well be compromised by this application as they may well be left to deteriorate without targeted maintenance investment. The submitted Heritage Asset Statement goes some way to address this, but gives no real comfort to the Planning Authority that real money will be invested into buildings which are perhaps more costly to maintain and not always easy to re-use. That said, without further investment it could be argued that only the current amount of investment will prevail. What is tangible is the effect that the buildings will have upon the listed buildings, which as per the arguments set out above, is not considered to be acceptable.

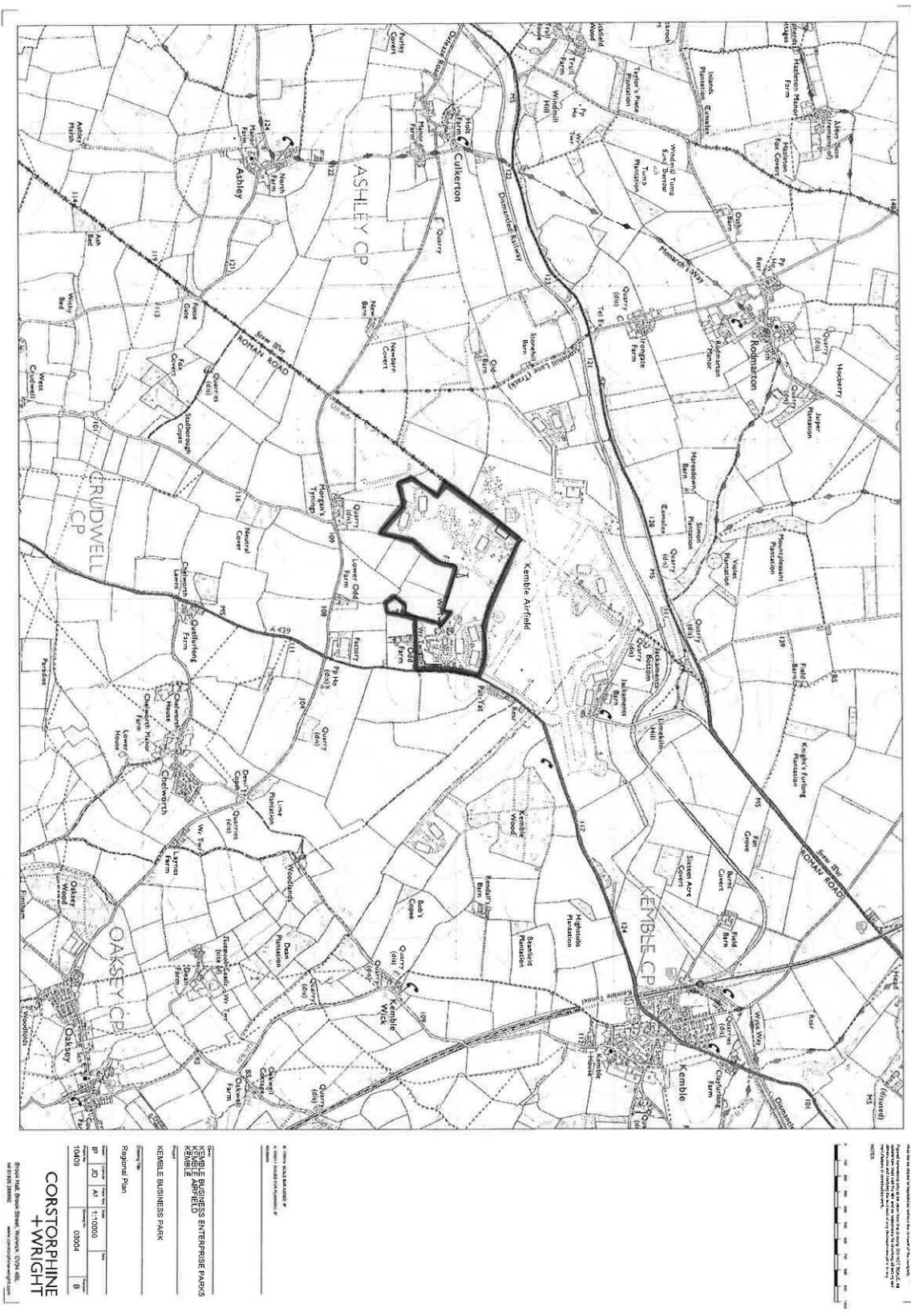
The applicant has been advised that the sustainability credentials must be so exemplar that an argument can be made to outweigh other concerns. Officers do not consider that this is yet the case with this application. The proposal does have positive and enhanced sustainability credentials, but these have not been demonstrated to be of a magnitude to outweigh other concerns. The prospect of securing approx 70 and a potential further 50 jobs is to be welcomed, although no end users for buildings 1, 2 & 3 have been identified. Notwithstanding this, the prospect of such jobs cannot be considered to outweigh the issues set out above.

Building 4 is of significant scale and it has not been sufficiently demonstrated that it will not overshadow and dominate the existing listed hangars on site.

11. Recommendation

The recommendation is for REFUSAL for the following reasons:-

- 1) The proposal is located within open countryside and on a Greenfield site within a former MoD site. The proposals are not considered to be limited expansion or redevelopment of an existing premises; are not well related to any existing settlements; do not meet the sustainable development objectives of the Core Strategy, are not consistent with the scale of their location, adversely affecting nearby buildings and are considered to be remote, involving development of an open area. The proposals are thus considered to conflict with Wiltshire Core Strategy Policies 34 & 37.
- 2) The proposals lack sufficient detail to ensure that they preserve or enhance the setting of the heritage assets on site and are thus contrary to Wiltshire Core Strategy Policy 58, section 12 of the National Planning Policy Framework 2012 and the guidance given in S.16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990. There is considered to be less than significant harm to the Heritage Assets, but this harm is not outweighed by the public benefits as set out in paragraph 134 of the NPPF.
- 3) The proposal is sited within a remote location with poor public transport facilities and the sustainability proposals put forward by the applicants are considered to be insufficient to outweigh the harm caused and thus the development is considered to be contrary to Wiltshire Core Strategy Policies 60 and 61 and advice within the National Planning Policy Framework 2012 about delivering sustainable development.



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CORSTORPHINE
 + WRIGHT
 0161 275 2888
 www.corstorphinewright.co.uk

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