

## REPORT FOR STRATEGIC PLANNING COMMITTEE

<b>Date of Meeting</b>	7 November 2018
<b>Application Number</b>	18/02671/FUL
<b>Site Address</b>	Sunnyside Yarnbrook Road West Ashton BA14 6AR
<b>Proposal</b>	The addition of two extra traveller pitches, two day rooms and associated ancillary development.
<b>Applicant</b>	Mr Martin McDonagh
<b>Town/Parish Council</b>	WEST ASHTON
<b>Electoral Division</b>	SOUTHWICK – Cllr Horace Prickett
<b>Grid Ref</b>	387547 155528
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Matthew Perks

### Reason for the application being considered by Committee

The application has been called into committee at the request of Cllr Horace Prickett to consider the scale of development, the relationship to adjoining properties and environmental/highway impacts. The Cllr is also of the view that the application violates a terms of planning appeal previously granted by the Planning Inspector.

The reason that this application is brought before the Strategic Committee and not the Area committee is that the Inspector, when 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.

### 1. Purpose of Report

The purpose of the report is to assess the merits of the proposals against the policies of the development plan and other material considerations and to consider the recommendation that planning permission should be **GRANTED** subject to conditions.

### 2. Report Summary

The key issues in considering the applications are as follows:

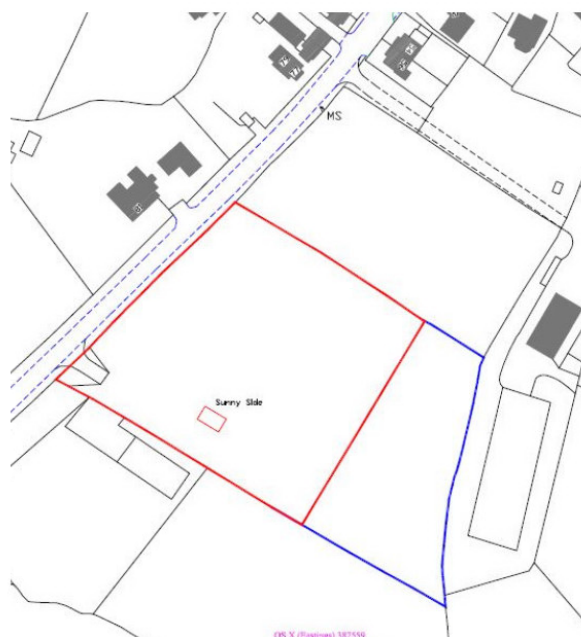
- Principle of the development.
- Highway Safety
- Impact on character and appearance of the area.
- Residential amenity
- Ecology

West Ashton Parish Council objects to the proposed development. Five letters of objection/comment were received.

### 3. Site Description

The application site is an existing Traveller site, with permission for “...No more than four caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than two shall be static caravans) shall be stationed on the site at any time.”

The site is situated in a field on the south eastern side of the A350, some 320m south west of the West Ashton crossroads. The application site land is some 1500 m<sup>2</sup> in extent. Access is provided by an existing long established entrance with dropped kerbs directly off of the A350.



The application site covers the same extent of land granted permission under Appeal Ref, APP/Y3940/W/16/3147108 for two traveller pitches (discussed further below).

### 4. Planning History

87/01795/FUL: Temporary storage compound for salvaged building materials (in the north western corner of the parent property) - Refused

92/00788/FUL: New vehicular access - Permission

00/01053/FUL: Produce/machinery store - Permission

04/00454/FUL: Storage/machinery shed - Refused

W/12/01412/FUL: Change of use for one Romany Family. Permission: 06/12/2012

14/01798/VAR: Variation of conditions 2 and 3 of W/12/01412/FUL - to allow for general Gypsy and Traveller use and to allow up to 4 caravans on site of which no more than 2 would be static caravans. Permission: 14/01798/VAR

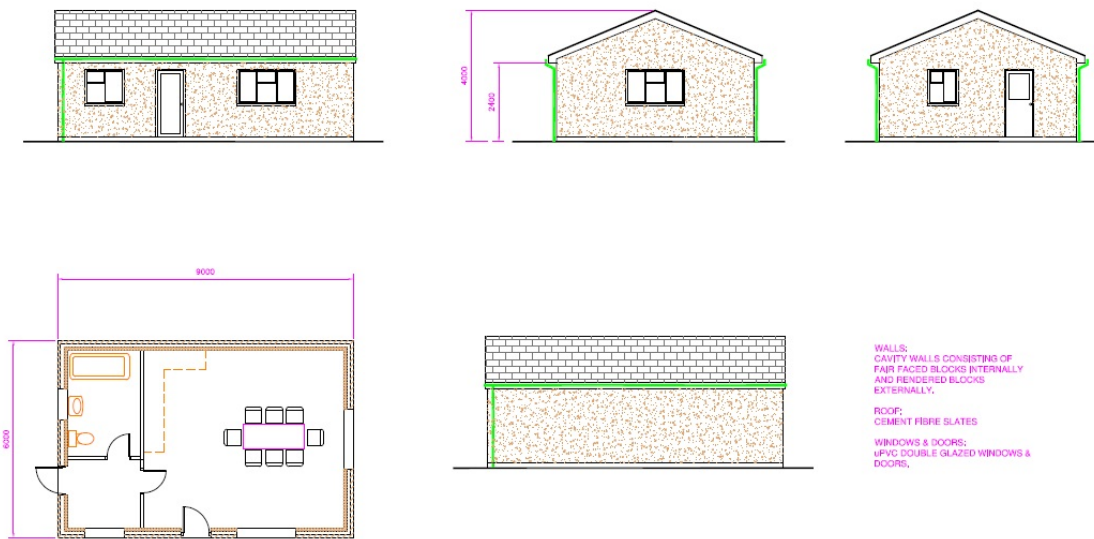
15/10492/FUL: Use of land as private gypsy and traveller caravan site, consisting of 2 no. pitches each with 1 no. mobile home, 1 no. touring caravan, and 1 no. utility dayroom, plus stabling. Refused: 11/03/2016. Permission granted on appeal under reference APP/Y3940/W/16/3147108. – Copy of decision letter attached as Appendix 1.

## 5. The Proposal

The application seeks planning permission to accommodate two additional Gypsy pitches comprising a mobile home, a touring caravan and dayroom to each site, and associated works. Each day room would replicate those approved on the authorised two pitches. The area adjacent to the south eastern boundary of the site would be subdivided into 3 pitches, with the existing pitch to the south western portion of the site retained. The existing access would remain as is. An area would be retained as paddock land, pasture and for the provision of a stable block (as per the approval under 15/10492/FUL).



Site layout including ecology enhancements



Day Room Design

## 6. Local Planning Policy

Wiltshire Core Strategy

Core Policy 1- Settlement Strategy

Core Policy 2- Delivery Strategy

Core Policy 47- Meeting the Needs of Gypsies and Travellers

Core Policy 50 - Biodiversity and Geodiversity

Core Policy 51- Landscape

Core Policy 57- Ensuring high quality design and place shaping Core

Policy 61- Transport and Development

National Planning Policy Framework 2018 (NPPF):

12. Achieving well-designed places

Planning Policy for Traveller Sites (PPTS) – DCLG 2015

## 7. Summary of consultation responses

West Ashton Parish Council objects to the application. The Parish refers to the W/12/01412/FUL decision which made the occupation of the site personal to the original applicant, and to the subsequent applications 14/01798/VAR (removal of the personal tie) and approval on Appeal in respect of 15/10492/FUL for the development of the site for two pitches. The Parish also refers to the enforcement Appeal APP/Y3940/C/15/3139663 that related to breaches of planning. The Parish notes that, in all these cases, conditions were imposed and states that: *“There is no clarity or confirmation that any of the conditions have been met but observation shows that the site has been periodically over populated with touring caravans contrary to the Appeal B conditions and indeed that the required removal of hardcore within 12 months of the decision date 28th October 2016 has not be met. Furthermore the foul water runoff from the site onto the A350 footpath and road have most probably resulted from the overpopulation, the non-removal of hardcore and the felling of trees that no longer draw water from the ground - the last point being a matter for Public Health concern. West Ashton Parish Council therefore strongly objects to yet another planning application (18/02671/FUL) when conditions seemed be so flagrantly ignored and now have resulted in a public health issue with respect to foul water running off onto a public highway. Please also note all previous objections submitted by this council referring to this site since 2012.”*

Wiltshire Council Ecologist: Conditions recommended after negotiation and submission of revised plan (see below – detailed discussion in Assessment section).

Wiltshire Council Public Protection: Officers note that there have been issues regarding overflowing septic tank/foul water run-off from this site and that a Notice was served in August 2017 which required the occupier to ensure the tank was regularly emptied and maintained so as not to cause a nuisance from odour and overflow. This issue had not been resolved (at the time of writing). The Officer also refers to comments on the previous application and the comments by the Drainage Officer requiring additional information and is of the view that a connection to the public sewer system would be required. Officers required further information (this is discussed further in the Assessment section below).

Drainage Officer: As noted by the Public Protection Officer, the drainage officer raised initial objections in respect of the drainage, confirming that the matter of foul water overflow onto the highway is of serious concern. The officer raised a holding objection. Following discussions between the Drainage Officer, Environmental Health and Enforcement Officers the agent was advised that a mains connection would be required. Following further negotiation, the agent provided confirmation that consent exists for access to the Wessex Water main, and submitted a plan showing the proposed layout. In view of these developments the Drainage Officer withdrew the holding objection and recommended approval subject to conditions.

Wiltshire Council Highways: The Officer notes the site history and that previous highway comments have been positive in terms of the access that serves the site. This view was also taken by the Inspector in the Appeal Decision regarding to planning application 15/10492:

*Reasoning, para: 15*

*'A number of other matters were raised by the Council and nearby residents who were at the Hearing. Dealing with matters raised by residents, firstly, there were concerns regarding access on to what was a busy, fast road. There was no objections raised by the highway authority and indeed it has already been approved for two pitches in 2014. Leaving the site I noted that there was good visibility in both directions for those waiting to exit the site and any vehicle waiting in the middle of the road to turn into the site would be clearly seen from both directions.'*

In light of these considerations there is no highway objection to the proposed development.

Wiltshire Council Spatial Plans: Officers note that the principle of a traveller site at in this location is established through a number of planning permissions. In terms of overall need the council's latest position for the North and West Housing Market Area (HMA) is that for the period December 2016-December 2021, an additional 22 pitches are required. This is set out in Core Strategy Core Policy 47. The Council's monitoring data shows that as of May 2018, this need has been met. However, National planning policy enshrined in Planning Policy for Traveller Sites (PPTS) at paragraph 11 is clear that where there is no identified need, proposals should be assessed against locational criteria where sites come forward. Wiltshire Core Strategy Core Policy 47 contains the relevant criteria, and these are considered in detail in the "Planning Considerations" section below.

Wessex Water: The agent has submitted copies of exchanges with WW regarding consents to link to the public sewer.

## **8. Publicity**

The application was advertised by neighbour letters and site notice. Five neighbour responses were received, raising the following issues/observations:

- Wiltshire has fulfilled its Core Strategy target for Traveller sites and pitches and there is no demonstrated need for any more. It follows that there is no need for more pitches on this site.
- The planning system is unfair, with different rules for travelers and the settled community;
- The original approval was for a Mr Sherred, justified on special circumstances;
- There have been a range of unauthorised activities on the site, including permanent settlement by workers from Eastern Europe, lack of compliance with conditions, new lighting not in accordance with plans, storage of building materials on site, removal of trees with no replacement planting and burning of materials on site;
- The rural character of the site has been destroyed;
- Wildlife has gone;
- becoming a transit site rather than a permanent traveller site;
- Increase of extra traffic onto the A350 creating a highway hazard;
- Inadequate drainage including could drainage which results in foul drain overspill running down the A350 and causing nuisance and smell;

## **9. Planning Considerations**

### 9.1 Principle of Development

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

In this case, the Wiltshire Core Strategy, including those policies of the West Wiltshire Local Plan saved in the WCS, forms the relevant development plan for the area. The National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) & Government's "Planning Policy for Traveller Sites" (PPTS: DCLG 2015) are material considerations which can be accorded substantial weight.

The Council has taken the decision that the proposed Gypsy and Travelers Sites DPD will now be incorporated into the preparation of the Wiltshire Local Plan.

PPTS provides in paragraph 10 that authorities should identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets. For the North and West Housing Market Area the 2014 Gypsy and Traveller Accommodation Assessment (GTAA) established a net requirement of 68 pitches for 2014-29. For the first five years of the GTAA period (2014-19), 21 pitches were required.

Since July 2014 (the base date of the GTAA), 48 pitches were permitted in the North and West HMA, with a further 6 pending consideration, which includes this proposal for 2 pitches. Therefore there is no need for additional pitches based on that assessment as the requirement has already been exceeded by 27 pitches. Consequently PPTS paragraph 11 is engaged which states that criteria based policies should guide proposals where there is no overall need but proposals nevertheless come forward.

## 9.2 Core Policy 47 locational criteria including services, highways, appearance of the area and neighbouring amenity

Core Policy 47 of the Wiltshire Core Strategy remains the adopted policy and provides locational criteria as follows:-

*Criterion i) requires that 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.*

The application site is within Flood Zone 1, the zone with least likelihood of flooding in accordance with Environment Agency classifications. The new pitches would be an extension of an existing site, which has been in situ for a number of years, onto an immediately adjacent portion of open land. As noted above, Council's Drainage and Environmental Health Officers did raise issues (also identified in neighbour comments) with both foul and surface water drainage. Following negotiation with the Drainage Officer, the agent provided proof of consent to access - and connect to - Wessex Water infrastructure. It is considered that appropriate conditions to ensure mains connection for this larger site would address the need for proper foul drainage to the site. Connection to mains drainage would furthermore resolve the existing problems on the site.

*Criterion ii) requires that the site is served by a safe and convenient vehicular and pedestrian access.*

The existing access referred to by the Highway Officer above and as considered under Appeal Ref APP/Y3940/W/16/3147108 would continue to be utilised. The highway officer raises no highway objections to the proposed development. It should also be noted that Paragraph 109 in the NPPF states that "*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*" The highway officer has not raised any issue in respect of unacceptable compromising of highway safety, and the Inspector's comments at the last appeal, reported above, indicate that there are no highway safety reasons to object to the proposal.

*Criterion iii) requires that the site can be properly serviced and is supplied with essential services, such as water, power, sewerage and drainage, and waste disposal.*

The site would be serviced by mains water and power as an extension of the existing site. There are special drainage considerations, as previously discussed, which would be resolved by appropriate conditions.

*Criterion iv) requires that the site must also be large enough to provide adequate vehicle parking, including circulation space, along with residential amenity and play areas.*

As above, the highway officer is satisfied with the proposal. Each pitch would be between 500m<sup>2</sup> and 650m<sup>2</sup> in extent, providing wholly adequate amenity space and parking provision.

*Criterion v) states that a site 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.*

This issue was addressed in the original application W/12/01412/FUL and the sustainability of the location has been established in principle for a number of years.

*Criteria vi), vii) and viii) relate to landscape and visual amenity, requiring that a site 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; adequate levels of privacy should be provided for occupiers and that development of the site should be appropriate to the scale and character of its surroundings and existing nearby settlements.*

The site would occupy the same red-line area as that approved on Appeal under APP/Y3940/W/16/3147108. In his decision notice at the time, the Inspector observed that “development would have no material impact on the wider landscape and that an objection could not be sustained on that basis.” The proposed development would include, as permanent structures, two additional day rooms of the same design as the two approved units. The red-line site area does not extend into the copse at the northern end of the land under the control of the applicant. As pointed out by the Parish and objectors, tree felling took place and this has been the subject of separate investigation by the forestry authorities and Council’s tree officer.

The development would not give rise to any loss of privacy, given separation distances from neighbouring properties.

With further regard to neighbouring amenity, a common theme in the objections received was the impact on the site of unauthorised works and activities. This has been an ongoing matter for Council’s Enforcement, Drainage and Environmental Health Teams, in particular following the Appeal Decision under reference APP/Y3940/W/16/3147108. It has to be acknowledged that the situation has been unsatisfactory but management/past behavior is not a planning consideration. The current application provides an opportunity especially in respect of addressing the drainage issues, landscaping and reinstatement of an acceptable appearance of the site by the current occupants.

*Criterion ix requires that a site should not compromise a nationally or internationally recognised designation nor have the potential for adverse effects on river quality, biodiversity or archaeology.*

The site does not fall within any recognised landscape designation and landscape is discussed above. Furthermore, again, the additional two pitches would be located within the red-line area previously approved for the traveller site.

However the ecologist raised an initial holding objection given the evidence which has been gathered in respect of the local Bechstein’s Bat population since permission 15/10492 was determined. As a result, Natural England has recognized that Trowbridge’s breeding colony of Bechstein’s bats may require formal statutory protection in its own right (not just due to its association with the SAC) and announced earlier this year that it will be investigating the designation of woodlands in the area as SSSI as a priority. Sunnyside lies in a key position between Biss Wood and Flowers Wood. Both woods are used for breeding and the bats are highly likely to move between these and other woodlands on a regular basis. Bats can therefore be expected to make use of the application site and land within the blue line as flight lines and for foraging. There followed engagement between the agent and the ecologist on appropriate measures to address the issue of mitigation that would be required. The agent submitted proposals which included new planting, the removal of lighting and the protection of a tree which had been omitted from the initial drawings. A revised plan was submitted.

Following further consultation the Ecologist noted that the layout has been revised and that the 0.1 ha of grassland habitat which will be lost through this scheme will be compensated by:

- 1, .Planting 255m of new hawthorn and blackthorn hedgerow;
2. The removal of existing bollard lighting along the SW boundary of the site;
3. Removal of proposed bollard lighting along the SE boundary of the site; and
4. Retention of an existing mature ash tree through the repositioning of the static and touring caravan pitches

The Ecologist further understands that the applicant does not have the resources to replant the woodland (poplar plantation) which was felled by a previous owner on land within the blue boundary. However, in lieu of this, significant benefit will arise from removing existing bollard lighting along the



SW hedgerow boundary and overall the scheme will lead to a net benefit for Bechsteins bats.

The Ecologist's assessment was made in light of information gathered for appropriate assessments for Ashton Park, The Grange and Land at Drynham Lane and she concludes that, provided the above measures are adequately secured by condition, there would be no adverse effect on the features of the Bath and Bradford on Avon Bats SAC alone and in-combination with other schemes. Natural England in turn accepted the Ecologist's assessment suggesting only that an additional requirement in respect of tree planting be conditioned.

In light of the Ecologist's comments it is considered that criterion (v) would be properly addressed by the imposition of appropriate conditions.

### 9.2 Parish and Objector comments

Neighbour and Parish concerns in respect of the situation following on from the Appeal Decision APP/Y3940/W/16/3147108 must be taken seriously. A discharge of conditions application was submitted and the details such as landscaping and drainage were approved. However, implementation was not satisfactory. Action has been taken by enforcement, drainage and environmental health officers to resolve matters. It was also noted during the site visit on the current application that planting in respect of the landscaping scheme had failed. However a substantial amount of hardcore that had been piled on the site had been removed and, in general, the site was in a tidy state.

It is unfortunately the case that the previous occupants, following the Appeal, have left the site and there has not been continuity in respect of developing the site. It is however considered that the current application (acceptable in principle for the reasons outlined above) provides the opportunity to regularize matters fully and in addition provide ecological enhancements. Conditions should however be robustly framed so as to ensure that proper implementation occurs. In particular the matter of foul drainage, which the applicant has confirmed will be connected to mains, would be resolved.

### 9.3 Status of the Applicant

According to the agent the applicants are an established traveller family who travel frequently for work purposes carrying out landscaping and driveway work. This notwithstanding, the use of the site for general occupation by travellers was established under earlier applications, and any extension to number of pitches would be subject to an appropriate condition. Moreover, planning permission runs with the land and not the applicant. The condition would ensure that the Council retains control so that all occupiers satisfy the definition of a traveller as set out in national policy. The proposal therefore accords with the PPTS in this respect.

## **10. Conclusion**

The proposal seeks permission for an additional two gypsy/traveller pitches within the established traveller site. In the absence of any DPD or other development plan document allocating sites, the proposal must be assessed against the criteria within Core Policy 47 locational criteria and National Policy.

The principle of the use at this location is long established. The increased use of the existing access together with the generation of additional traffic movements resulting from the proposed development is acceptable to the highway officer.

The proposal is therefore considered to be in accordance with both local and national Planning policies.

## 11. RECOMMENDATION

Planning permission should be GRANTED 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 site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites published August 2015.

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

3. No more than eight caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than four shall be static caravans) shall be stationed on the site at any time.

REASON: To control the number of caravans on the site in order to safeguard interests of visual and residential amenity in accordance with CP47 of the Wiltshire Core Strategy 2015.

4. No commercial activities shall take place on the land, including the storage of materials used in connection with any business operated by the occupiers of the site.

REASON: In the interests of visual amenity, highway safety and the amenity of occupants of the site.

5. No vehicle over 3.5 tonnes 'gross unladen' weight shall be stationed, parked or stored on this site.

REASON: In the interests of visual amenity, highway safety and the amenity of occupants of the site.

6. No commercial use of the stables hereby permitted shall take place on the land; they shall only be used as shelter for the appellant's own horses and/or ponies.

REASON: In the interests of highway safety.

7. There shall be no occupation of the pitches hereby approved prior to the connection of the foul drainage system to the main sewer as shown on the drawing indicating the drainage run, received on 6 July 2018.

REASON: To ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or the environment.

8. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365 (at the location of the proposed soakaways), has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained

9. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained.

10. All soft landscaping comprised in the approved details as shown on hereby approved drawing MM1 Rev 1 shall be carried out in the first planting and seeding season following the first occupation of the new. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of new pitches 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 wildlife habitat.

11. Prior to the installation of any new external artificial lighting a lighting plan shall be submitted to Wiltshire Council for approval in writing. The lighting plan shall illustrate the location of proposed external lighting and shall specify the type, height and position of luminaire(s) and other fixtures/fittings such as cowls, louvres or baffles; and shall demonstrate that the proposed lighting will not illuminate the hedgerows and tree-lines along the site boundaries through provision of a lux plot/lighting contour plan. All existing perimeter lighting shall be removed prior to the occupation of any new pitch.

REASON: To minimise light spillage and to maintain dark foraging and commuting corridors for bats.

12. Before commencement of development, details of six trees to be planted within hedgerows within the development including their location, species and size of stock, shall be submitted and approved by the Local Planning Authority. The trees will be planted in accordance with the approved details in the first planting season following first occupation and maintained and replaced as necessary for the first five years and thereafter retained.

REASON: To ensure the protection of important wildlife habitat features.

13. The development hereby permitted shall be carried out in accordance with the following approved plans:-

Site Location Plan registered on 23 March 2018;

Day Room / Amenity Block registered on 23 March 2018;

Stable Block registered on 23 March 2018;

Revised Layout Plan MM1 Rev 1 received on 05 September 2018; and  
Plan showing drainage run received on 6 July 2018

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