

Date of Meeting	18 June 2014
Application Number	14/01798/VAR
Site Address	Land South of Four Winds, 81 Yarnbrook Road, West Ashton
Proposal	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
Applicant	Mr J Gammell
Parish Council	WEST ASHTON
Electoral Division	SOUTHWICK
Grid Ref	387492 155547
Type of application	Full Planning
Case Officer	Matthew Perks

Reason for the application being considered by Committee

This application is brought to Committee at the request of Councillor Horace Prickett for consideration of the scale of development, the visual impact upon the surrounding area, relationship to adjoining properties, environmental and highway impact and parking.

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.

1. Purpose of Report

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

2. Report Summary

The key issues to consider are:

- The implications for the delivery of Gypsy and Traveller sites under the emerging Core Strategy in allowing the use for general traveller occupation of two pitches;
- the effect of the increased number of units on highway safety; and
- the effect of the resultant increase in units on the rural character of the area and on neighbouring amenity.

Neighbourhood Responses: 28 letters of objection were received.

West Ashton Parish Council - Objects to the proposals for the reasons cited within section 7 below.

3. Site Description

The application site is an existing Traveller site, with permission for “...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 static caravan, shall be stationed on the site at any time.” A tie for the personal use of a Mr Sherred and his family is also in place in terms of a condition imposed by the Western Area Planning Committee when the site was granted planning permission in 2012 (a condition not recommended by officers at the time). The site is situated in a field on the southern side of the A350, some 320m south west of the West Ashton crossroads in the direction of Yarnbrook. The application site is some 1500 m² in extent. Access is provided by an existing long established entrance with dropped kerbs directly off of the A350.

On the opposite side of the A350 and slightly offset lies a bungalow (no.81), with linear development beyond that towards the crossroads. West Ashton village lies to the south east of the crossroads and is linked to the site by a tarmac footway alongside the south side of the A350 that extends to Yarnbrook. Central Trowbridge is some 2.4 miles from the site.

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

5. The Proposal

The application is for a variation of conditions 2 and 3 of W/12/01412/FUL to allow for general Gypsy and Traveller use of the site by the traveller applicants, and to

allow up to 4 caravans on site of which no more than 2 would be static caravans. These conditions read as follows:

2. The use hereby permitted shall be carried on only by Mr William Sherred (the applicant), his mother and his resident dependants and shall only be occupied by them whilst they meet the definition of gypsies and travellers as defined in Annex 1 to the Department for Communities and Local Government document "Planning Policy for Traveller Sites" published in March 2012.

REASON: The personal circumstances of the applicant and his mother have been a significant material consideration that has been taken into account in the decision to grant planning permission for this use on this site.

3. 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 static caravan, shall be stationed on the site at any time.

REASON: In the interests of the amenity of the area and in order to define the terms of this permission.

6. Planning Policy

West Wiltshire District Plan 1st Alteration (2004) – policy CF12 Gypsy Caravan Sites

National Planning Policy Framework, 2012

Planning Policy for Traveller Sites: (PPfTS) DCLG, March 2012

Wiltshire Core Strategy Pre-Submission Document: Core Policy C47: Meeting the needs of Gypsies and Travellers

There has been extensive discussion of the draft policy in the examination of the Core Strategy and this is reflected in the exchange of letters between the Council and the Inspector since the examination, resulting in the production of an Addendum to Topic Paper 16 on Gypsies and Travellers and proposed modifications to CP 47 and its supporting text.

The Government's stated aim in the PPfTS, 2012 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.

7. Consultations

West Ashton Parish Council

In initial comments the Parish queried the accuracy of the submitted documentation. Additional supporting documentation and a more detailed plan were submitted. The Parish maintains an objection to the proposals on the following grounds:

- The original application was granted because of the specific circumstances of Mr Sherred, which have now changed. If Mr Sherred's circumstances have

indeed changed then the site should be vacated and the land returned to its original state;

- Reference to ‘.Trowbridge being only 3 miles away and served by public transport..’ when there is no public transport in West Ashton;
- The Plan is misleading in terms of the siting and orientation of the caravans;
- Dimensions of caravans are inconsistent with approved plans;
- Clarification required on septic tank;
- No information on what is actually happening on the site in terms of materials which are there, the mounds of rubble or stacks of blocks, which are unnecessary for the development requested in the application;
- Concerns with highway safety for vehicles entering and leaving this site onto the busy A350 road. The proposal is an intensification of use and new traffic lights have been installed at the West Ashton crossroads. Significant increases in speed of traffic have resulted. The new wall erected at the site entrance also appear to create a hazard;
- The new owner continues with activities on site without planning permission without action being taken. No action taken despite non-compliance with Condition 2 to W/12/01412/FUL;
- There is a question as to whether this is the correct procedure. The original condition was personal to Mr Sherred. Should an entirely new application be required? Also is the permission valid where pre-commencement conditions have not been met;
- Increased number of caravans on the site will increase the impact on neighbouring amenity. There has been no change in Policy which justifies additional units on the site. Further intensification is a possibility;
- It is noted that since the apparent change of ownership of the site, areas of existing hedging have been removed, showing little regard for the existing conditions imposed on the site. This does not meet ecological requirements;
- The application is for doubling the number of caravans on site. Policy expressly recognises the ‘gypsy nomadic lifestyle’ and therefore the need for any further static mobile home is unnecessary;
- Increased use of the access raises the level of hazard on the A350;
- There has been no enforcement of the conditions restricting the site to use by Mr Sherred and family only;
- The existing permission does not apply to Mr Gammell;
- Proposal is contrary to policies on protection of the countryside, development in the countryside, gypsy and travellers and village policy limits;
- There is no Policy justification for removing the condition restricting the use to Mr Sherred;
- The vast developments that have taken place don’t accord with what was approved;
- Investigation shows that in January 2014, Mr Sherred did not have a registered legal interest in the site as was stated in the original planning application. This should have been checked by Wiltshire Council as a material consideration to the original application and decision to refuse or grant permission. Also there are questions if this land is part of an agricultural holding;
- If new owners are to have long term ownership this would seem to conflict with the definition of a gypsy, which is someone who has a nomadic lifestyle

and it is therefore questionable whether the planning use can actually be complied with.

- Assurance should be sought that the wall that has been constructed meets highway requirements for the visibility splays of 160 metres observed from a point 2.4m back from the carriageway.

The Parish further organised and submitted a petition with 76 signatures.

If, notwithstanding the above, Permission is granted the Parish would wish to see the following conditions imposed.

- No commercial activities are to take place on the site, including the storage of materials (condition to apply to the whole site i.e. area outlined in blue on the original site plan);
- The site can only be occupied by the additional single touring caravan to permit visitors and to allow attendance at family or community events for a maximum of 7 days per year;
- There is to be no further development of the site beyond that permitted by this planning application;
- Retention of existing woodland and hedging; and
- No burning of any materials on the site (condition to apply to the whole site i.e. area outlined in blue on the original site plan).

Wiltshire Council Highways Officer

The Officer notes that Policy T8 from the Wiltshire Structure Plan 2016, (The Structure Plan has been rescinded but this Policy is carried forward to the draft Core Strategy), discourages development on the national primary route network outside of built-up areas, unless an over-riding need can be demonstrated. The Officer understands that there is an under provision of gypsy and traveller pitches in Wiltshire and therefore it would be difficult to argue the need is not demonstrated. The Officer initially requested additional plans, which were provided. The Officer subsequently had no objection subject to conditions in relation to the provision of turning space and drainage.

The officer also investigated the query raised by the Parish with regard to the sight lines and new boundary wall and confirmed that the access is satisfactory.

Wiltshire Council Strategic Planning

Officers have no comment in respect of whether or not either condition is still necessary, reasonable, and relevant apart from original comments given in respect of W/12/01412/FUL which include the need to ensure that local amenity and the environment is protected.

With regard to the provision of Traveller Sites however, the most up-to-date requirement for permanent and transit pitches is presented in the Council's proposed amendments to CP47 in the light of the Inspector's observations following the Examination in Public. The proposed amendment to CP47 states that provision should overall be made for 66 permanent pitches for Gypsies and Travellers, 25

transit pitches and five plots for Travelling Showpeople during the period 2011 to 2016. A further 42 permanent pitches should be provided over the period 2016-2022. With specific reference to the North and West Wiltshire Housing Market Area, the requirement for 2011 to 2021 is a total of 48, albeit that 27 pitches provided between 2011 and 'Jan 14 (27) would meet the immediate estimate to 2016. Thus, whilst the requirement to 2016 may have been addressed, there is a significant shortfall of 21 sites remaining to be identified to 2021.

8. Publicity

The following is a summary of the objections received:

- The site is outside of village policy limits where there is a presumption against development;
- Members of the settled community would not obtain permission for a dwelling and this site;
- Special circumstances meant that Mr Sherred was granted permission previously, and he no longer occupies the site;
- The site will become a nuisance to the surrounding area, as is evidenced from the activities that have already taken place;
- The open field on which the site sits is outside of development limits;
- The existence of the footpath does not mean that pedestrians and children would be safe on the extremely fast stretch of road;
- Public transport is not readily available as is claimed in the supporting documentation;
- Since Mr Sherred has moved on the special circumstances no longer apply and the site doesn't accord with emerging Policy 47;
- The nature of traffic along the A350 has changed since the new traffic lights were installed at A350/C49 intersections. This creates difficulties for pedestrians crossing the A350 to take children to the local school and also for those driving wishing to exit Kettle Lane onto the A350;
- The construction of the fence and the wall at the entrance obstruct views of the countryside and the wall at the entrance also appears to not meet visibility splay requirements;
- fear of anti-social behaviour in area, impact on local school;
- The accident record on this road should be investigated with Wiltshire Constabulary; and
- Mr Sherred's permission was seen as temporary, not allowing for permanent gypsy occupation;

9. Planning Considerations

9.1 Policy and recent site history

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise

Planning application W/12/01412/FUL was considered under the West Wiltshire District Plan in particular including Policy CF12 (Gypsy Caravan Sites) read in

conjunction with the NPPF, The Planning Policy for Traveller Sites (2012) and the emerging Core Strategy. The WWDP remains in effect insofar as it is in accordance with the NPPF.

The use of the land as a gypsy/traveller site without time restriction has been established by virtue of the previous decision, albeit that Committee resolved at the time to impose a condition to the effect that the permission should apply only to Mr Sherred and family. The current application proposes amending the condition to allow for general traveller use by the applicants who are travellers. The Parish has queried if this is the correct procedure. A variation of condition is an appropriate means of applying to lift the restriction that ties the occupation to Mr Sherred and his dependants only. An additional static and an additional mobile caravan are also proposed.

With regard to Policy CF12 criteria the boundaries to the site remain as before, within a field that adjoins other fields and not immediately abutting any residential property. Without being dismissive of neighbour objections regarding activities on site that have not conformed to the previous permission, it is considered that - provided that the issues of landscaping and the use of the site are addressed - one additional pitch in this location can be conditioned so as to avoid unacceptable nuisance to neighbouring property. With regard to the issue of encroachment into open countryside, whilst the site lies in a field in the countryside, the Planning Policy for Traveller Sites (2012) is permissive of sites in rural or semi-rural sites provided their scale respects that of the nearest settled community and does not dominate it.

9.2 Highway safety and proximity of services

No highway safety objections have been raised by the Highway Officer, with the existing access being utilised and given the presence of the tarmac pedestrian walkway on the same side of the road as the site. With regard to local facilities, these are limited within West Ashton (primary school) but wider services, including a filling station/public house/restaurant are situated at Yarnbrook, just over half a mile to the west, and Trowbridge provides a full range of services within 2-3 miles.

9.3 Delivery of Gypsy and Traveller sites under the emerging Core Strategy

Changed circumstances apply in relation to the Wiltshire Core Strategy which has, since the previous approval, progressed beyond the initial Examination in Public. In particular housing supply including provision of Gypsy and Traveller sites has emerged as an area in which the soundness of the emerging CS has been questioned by the Inspector.

The site is within the North and West Wiltshire Housing Market Area (N&W HMA). The housing supply evidence that informed CP47 was queried by the examining Inspector. This included queries on the provision of the number of new traveller sites. Whilst in the N&W HMA this need has been met for the period to 2016 with planning permissions already granted since 2011, there is a significant shortfall of identified sites through to 2021. The Inspector has found fault with the initial evidence base, stating in his letter of 23 December 2013 that *"...it is important for the Council to be able to show as far as is practicable and proportionate, within the proposed*

addendum, how the CS is consistent with national policy, particularly the 'Planning policy for traveller sites' (especially Policies A to D). Such work should also identify how, albeit in an interim fashion until the Gypsy and Traveller Accommodation Assessment is complete, the Council will adopt a positive approach towards the gypsy and travelling community. In the interests of clarity and to aid future decision making in the shorter term, it may be necessary for the Council to acknowledge within the CS any absence of a requisite land supply until such time as the GTAA and the proposed DPD are completed."

Furthermore, the Council's assessment of need has been scrutinised at recent planning appeal decisions, with Inspectors finding that the Council has been underestimating need. By way of example, under Appeal Ref: APP/Y3940/A/13/2196160 (Littleton Stables, Semington) the Inspector in granting permission observed: *"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."*

At the time of writing and in the light of the EiP Inspector's observations, consultation is ongoing in respect of Wiltshire Council's intention to prepare a new Gypsy and Traveller Development Plan Document. The 6 week consultation period ended on Monday 19 May 2014. The consultation at this stage is not on a draft planning document *per se*, but only relates to the proposed scope of the plan, which includes a review of overall new pitch requirements based on an up to date Gypsy and Traveller Accommodation Needs Assessment. Further consultation will be undertaken in autumn 2014. The anticipated adoption of the Gypsy and Traveller DPD is May 2016.

As matters stand however, current figures record an undersupply of 21 pitches through to 2021 in the N&W HMA.

The Planning Policy for Traveller Sites (2012) Par 21 states that applications for traveller sites should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the NPPF. The permitted application W/12/01412/FUL was assessed on the criteria applicable to Policy CF12 (Gypsy Caravan Sites) and NPPF and PPfTS criteria, and was approved. Although the Western Area Committee resolved to impose a personal condition to Mr Shered and his dependants on the basis of their perception of a personal need, the principle of a traveller site in this locality has been accepted as being in accordance with the criteria set out in policy CF12 (similar criteria are proposed in the draft replacement policy CP47). The council has a number of sites within the western area located outside of town or village policy limits, including recent examples granted on appeal at Semington, Southwick and Dilton Marsh. Objections on these grounds have proved not to be sustainable. The lack of provision of traveller sites is a material consideration and the site would provide for one additional pitch over and above that delivered under W/12/01412/FUL.

9.4 Impact on surrounding area and neighbouring amenity

The site is not in an area with any specific landscape or ecology designations and the application would result in a total of two pitches, which cannot be considered to be of a dominating scale in relation to West Ashton. Notwithstanding some clearance of the site and works to the front boundary, the mobile home and tourer parking sites is visible to a limited degree only in passing views at the access. A landscaping condition would enable Council to address issues of the loss of vegetation, protection of the existing planting to the boundaries and the maintenance of any new planting.

It is nevertheless evident from neighbour responses that an element of objection results from the site having been occupied contrary to conditions (particularly the occupancy condition) and that certain activities on site have given rise to neighbour concern and perception of nuisance. Enforcement Officers have been involved in response to queries, and this application arises as a result of the applicant's intentions to resolve matters. It is considered that conditions requiring the regularisation of activities on site, including landscaping and restricting the use would be appropriate. A specified reasonable time frame for the submission of details and the implementation of landscaping, the provision turning spaces to ensure road safety and drainage should be imposed.

The Parish has recommended a condition in relation to restricting additional visitor caravans. The PPfTS states that "Local planning authorities should consider how they could overcome planning objections to particular proposals using planning conditions or planning obligations including specifying the number of days the site can be occupied by more than the allowed number of caravans (which permits visitors and allows attendance at family or community events)". Whilst such a condition was not imposed on the original W/12/01412/FUL it is considered that given the doubling of units on the site and the potential highway implications of a further intensification of the use of the access, such a condition would now be reasonable.

10. Conclusion

The additional static and mobile caravan would be located within the site area permitted under W/12/01412/FUL. It is considered that the additional accommodation (one static and one mobile caravan) does not result in any new highway safety risk and can be located on the site without undue additional harm to the surrounding area. It would also contribute towards addressing the undersupply of sites in the area as identified by the Core Strategy Inspector. As it meets the criteria set out in policy CF12 for assessing such sites, any personal condition, such as that imposed on the original permission, is not justified. Compliance with the criteria in CF12 and the acknowledged need for such sites leads to the conclusion that the proposal should be supported.

Whilst noting the Parish and neighbour comments received on road and access safety, it is also noted that the Highway Officer raises no objections following the submission of additional plans showing turning and parking area availability on the site. The officer has also confirmed that the sight lines required in terms of the

previous permission have been achieved with the construction of the new entrance and boundary treatment to the site.

Permitting gypsy traveller use without tie to an individual would, albeit to a limited degree, help to address the shortfall of sites looking forward to 2021. The fact that any approval of variation of conditions would constitute a new planning permission means that conditions can be imposed that would fully regularise the situation on site. Such conditions should include those requested by the highway officer, a new landscaping condition to address the site and boundary treatments and also to control the use of the site.

RECOMMENDATION

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 site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the Department for Communities and Local Government document "Planning Policy for Traveller Sites" published in March 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.

- 3 No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than 2 shall be a static caravan, shall be stationed on the site at any time.

REASON: In the interests of the amenity of the area and in order to define the terms of this permission.

- 4 Within one month of the date of this permission, a scheme for the parking and turning of vehicles within the hatched area shown on plan reference SP1/Revision A (site layout plan) dated April 2014, shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented fully in accordance with the approved details within three months of the date of this permission. The approved parking and turning area shall be retained for those purposes and kept free from obstruction at all times thereafter.

REASON: In the interests of highway safety.

- 5 Within one month of the date of this permission a scheme for the discharge of surface water from the site (including surface water from the access/driveway/parking/turning areas), incorporating sustainable drainage details, shall be submitted to and approved in writing by the Local Planning Authority. Within three months of the date of this permission, the approved surface water drainage scheme shall be fully implemented in accordance with the approved scheme.

REASON: In the interests of highway safety.

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

REASON: In the interests of the amenity of the area and in the interests of highway safety.

- 7 No materials shall be burnt on site or on the adjacent field under the control of the applicant.

REASON: In order to minimise nuisance.

- 8 Within one month of the date of this permission a detailed landscaping scheme shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include details of existing and proposed planting, all new boundary treatments and the surfacing materials to the hardstanding. The landscaping scheme shall be implemented in accordance with the approved details and in accordance with time frames to be agreed.

REASON: In the interests of protecting the rural character of the area.

- 9 The development hereby permitted shall be carried out in accordance with the details shown on the following plans:

- Site Location Plan: Received on 25 July 2012 (in respect of red-line area only); and
- Site Layout Plan SP1 Rev A: Received on 14 April 2014.

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