

Agenda Item 132.

Development Management Ref No	No weeks on day of committee	Parish	Ward	Listed by:
153360	19	St Nicholas	Hurst	Recommended for approval
Applicant	Mr Henry Giles C/O Green Planning Studio Ltd, Shrewsbury			
Location	Land Adjacent to Cartref Farm, Islandstone Lane, Reading, Wokingham			Postcode RG10 0RU
Proposal	Application to remove condition 1 of appeal planning consent F/2010/2695 to allow permanent occupation of the gypsy pitch on the site			
Type	Minor Gypsy and traveller pitches (1-9)			
PS Category	515			
Officer	Daniel Ray			

FOR CONSIDERATION BY Planning Committee on 27th April 2016
REPORT PREPARED BY Head of Development Management & Regulatory Services

SUMMARY

Application F/2010/2965 was refused by Wokingham Borough Council for the following reasons:

1. Insufficient information supplied in relation to Flood risk
2. Insufficient information supplied in relation to protected species and habitat (Great Crested Newts and hedgerows and lowland meadow)
3. Failed to make satisfactory provision for adequate services, amenities and infrastructure needs and the subsequent impact upon the amenities of the area.
4. The proposal would create an excessive amount of hardstanding and an ancillary utility/dayroom would be disproportionate in scale to the rest of the structures on site thus a harmful visual impact would occur on the character of the area.

Four year temporary planning was granted in January 2012 for use of the site as a S106 agreement was entered in to (resolving point 3), satisfactory ecology reports were submitted (2) and the Inspector found that no harm to the character of the area would occur (4); however, concern remained regarding permanent occupancy due to flooding issues and the general need and provision for pitches in the Borough. This was the reason for temporary planning permission being granted.

Wokingham Borough Council's Principle Flood Risk and Drainage Officer has visited the site and considered that the permeable surface (pebble) allows for water infiltration and considers this acceptable; therefore no objection was raised regarding permanent occupancy of the site.

Following the Blagrove Lane appeal decision (APP/X0360/C/15/3085493 & 3085495), it has been acknowledged that the Council may have a deficit of 1 gypsy and traveller pitch in the period 2014 – 2021, as such there is a requirement for the provision of 1 additional pitch in the Borough.

Due to the key factors that weighed against permanent occupancy are now, resolved or

overcome through the grant of permanent occupancy at this site, the application is recommended for approval. Unlike a temporary consent a permanent consent will enable the pitch to count towards the Council's supply of GRT pitches.

PLANNING STATUS

- Countryside
- Flood Zone 2
- Groundwater Protection Zone
- Land Liable to Flood
- Wind Turbine Safeguarding Zone

RECOMMENDATION

That the Planning Committee authorise the GRANT PERMISSION TO VARY A CONDITIONAL PLANNING PERMISSION subject to the following conditions:

A: Conditions and Informatives

Condition 1 (temporary planning permission) is removed.

Condition 2 (remediation of site following expiry of planning permission) is removed.

All other conditions of planning permission F/2010/2695 granted by appeal ref: APP/X0360/A/11/2154295 (dated 30/01/2012) apply to this planning permission.

3. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006
4. The development hereby permitted shall be carried out in accordance with the following approved plans: nos. 09_290_003A, 09_290_004, 09_290_005, 09_290_006 and 09_290_007.
5. 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 in the positions marked on plan number 09_290_003.
7. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
8. No commercial activities shall take place on the land, including the storage of materials.
11. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed or cut back in any way or removed without previous written consent of the local planning authority. Any works on the site's existing hedgerows and trees shall be carried out outside the period 1st March to the 31st August inclusive in any year, unless otherwise agreed in writing by the local planning authority.
12. No walls, fences, gates or other means of enclosure shall be erected on the site (including at the access mouth) other than those shown on the approved plans.

Informatives

1. It is noted that conditions 6, 9, 10, 13, 15 and 16 of the original planning permission have been formally discharged through application C/2012/1529. Letter dated 8th May 2013 and that planning permission was lawfully implemented in accordance with the requirements of condition 1.

PLANNING HISTORY

- F/2010/0308 – Application for change of use for the station of a caravan and mobile home for residential purposes for one gypsy pitch together with the formation of additional hardstanding and utility/dayroom and stable ancillary to that use. Refused (24/04/10)
- F/2010/2695 – Application for the change of use of land for the stationing of caravans for residential purposes for 1 no. gypsy pitch, together with the formation of additional hard standing, stable block and utility/dayroom ancillary to that use. Formation of a new access to the site. Temporary Planning permission granted by appeal (APP/X0360/A/11/2154295) for four years. (30/01/2012).

SUMMARY INFORMATION

Site Area	0.5ha
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There is no change to the floor area (home and utility day room), land use (Gypsy and Traveller Pitch) and no change to the level of parking provided.

CONSULTATION RESPONSES

Flood Risk and Drainage:	My main flood risk concern was the size of the impermeable area, however after the site visit, I found the impermeable area to be of pebbles which allow for infiltration into the ground. As such I don't have any major flood risk concerns for this development to be allowed permanently.
Highways:	No highway issues
Landscape and Trees:	No comment
Planning Policy:	It is expected that further information be provided in order to determine whether the applicants meet the planning definition of gypsies and travellers. The case officer should also seek information regarding the efforts the applicant has made to establish if alternative available accommodation elsewhere is available. Also, insufficient information has been supplied to reassess the flooding impact of the proposal.
Thames Water:	The application does not affect Thames Water and as such we have no comments to make.

REPRESENTATIONS

Local Residents: - 7 letters were received; 6 objections and one letter of support. The

comments received are summarised as follows:

Objections:

- At the time of the original appeal decision, WBC was unable to provide evidence that there were sufficient sites in the Borough. WBC now has sufficient sites as per the Gypsy and Traveller Accommodation Assessment.
- The Inspectors overall conclusion are clearly listed in Paragraphs 68 to 74 of the appeal decision
- The site has not been lived on permanently during the temporary permission so the urgent need for housing as stated in the appeal documents does not appear to be the case
- The land should be returned to the grazing of horses as it is clearly not required for accommodation
- The site is located on an historic flood plain and is a development next to a watercourse/flood defence, this was a key reason only temporary planning permission was granted.
- In the last four years, the area around the junction of Nelson's Lane/Islandstone Lane and Islandstone Lane up to Broadcommon Road have been subject to flooding on numerous occasions, in particular 7/2/2014 – images have been supplied
- Despite efforts to mitigate the problem by digging/clearing out the drainage ditches and culverts, the problem will always be an on-going issue.

Support:

- The land had become contaminated with Ragwort prior to the present occupiers and was leading to problems in the surrounding area, the present occupiers have removed this and renewed fences. The site is maintained to a high standard.
- The family have integrated well in to the community and children have settled in to school.
- The family is hard working.
- The road junction near the site has flooded for many years and never been resolved; the site has had no adverse impact on the flooding.
- Uprooting a family that has proven against much prejudice that it can fit in to a village community would be unjust.

Hurst Parish Council – Objection:

The primary reason that temporary permission was granted at appeal (Appeal No APP/X0360/A/11/2154295/NWF) was that WBC was at the time unable to provide evidence that there were sufficient sites in the Borough.

The Inspector's Overall Conclusions leading to her decision are listed in Paragraphs 68 to 74 of the Appeal Decision letter of 30th January 2012, a copy of which is attached to the Applicant's Agent's Planning Statement.

These conclusions quite clearly dismissed the appeal for permanent permission and allowed temporary permission until WBC had provided sufficient sites in the borough.

It is the Council's understanding that this is now the case. WBC has since this Appeal completed a review, the Gypsy and Traveller Accommodation Assessment. This showed that there was no need for additional sites.

PLANNING POLICY		
National Policy	NPPF	National Planning Policy Framework
	PPTS	Planning Policy for Traveller Sites (August 2015) (PPTS)
Adopted Core Strategy DPD 2010	CP1	Sustainable Development
	CP3	General Principles for Development
	CP6	Managing Travel Demand
	CP7	Biodiversity
	CP9	Scale and Location of Development Proposals
	CP11	Proposals Outside of Development Limits
Adopted Managing Development Delivery Local Plan 2014	CC01	Presumption in Favour of Sustainable Development
	CC02	Development Limits
	CC03	Green Infrastructure, Trees and Landscaping
	CC07	Parking
	CC10	Sustainable Drainage
	TB21	Landscape Character
	TB23	Biodiversity
Supplementary Planning Documents (SPD)	BDG	Borough Design Guide
	WPSS	Wokingham Parking Standards Study Report October 2011
	GTAA	Gypsy and Traveller Accommodation Assessment 2015

PLANNING ISSUES
<u>The Site and Surroundings</u>
<ol style="list-style-type: none"> 1) The application site is on the north-west side of Islandstone Lane, Hurst and comprises a large mobile home on a brick plinth, a low brick plinth with foundations laid for a day room and a stable. A grassed area is to the west and north of the mobile home which is an amenity garden area. Immediately adjacent the site to the south is a paddock. 2) The site is within the countryside, with the surrounding area largely agricultural in nature. To the south are a small number of residential properties with the nearest dwelling (1 Nelson's Lane) over 70 metres from the application site. To the west Bridleway farm is some 80 metres from the application site, Holme Park Lea to the

east is over 60 metres away whilst there is some 130 metres distance from the dwellings in Bonhomie Court which are to the north.

- 3) The site is bound largely by post and rail fences, although the northern boundary has a 2 metre high close boarded fence, beyond which is a mature hedge. Beyond the post and rail fence on the northern boundary is a mature hedge.

Description of proposal

- 1) The application proposes to remove condition 1 of appeal decision APP/X0360/A/11/2154295 (attached) pursuant to application number F/2010/2695 which reads:

The development hereby permitted shall begin not later than three years from the date of this decision and the use hereby permitted shall be for a limited period of 4 years from the date of this decision.

- 2) The application was lawfully implemented with pre-commencement conditions being discharged in line with the requirements of the decision notice (C/2012/1529). This application, for the removal of Condition 1, was made when planning permission was still active; however the 4 years temporary permission lapsed on 30 January 2016.
- 3) Should planning permission be granted, permanent occupation of the site would lawfully take place.

Assessment

- 4) Policy H: Determining planning applications for traveller sites of the Planning Policy for Traveller Sites (PPTS) sets out the approach local authorities should take when assessing applications for GRT sites. The Policy sets out that applications should be determined in accordance with the presumption in favour of sustainable development and the application of specific policies of the NPPF and the PPTS.
- 5) Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:
 - a) The existing level of local provision and need for sites
 - b) The availability (or lack) of alternative accommodation for the applicants
 - c) Other personal circumstances of the applicant
 - d) 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
 - e) That they should determine applications for sites from any travellers and not just those with local connections
- 6) In addition, local planning authorities should attach weight to the following matters:
 - a) Effective use of previously developed (brownfield), untidy or derelict land
 - b) Sites being well planned or soft landscaped in such a way as to positively

- enhance the environment and increase its openness
- c) Promoting opportunities for health lifestyles, such as ensuring adequate landscaping and play areas for children
 - d) Not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community
- 7) The Local Plan outlines that planning permission may be granted for new gypsy and traveller pitches where it can be demonstrated that:
- a) The site is adjacent to an existing settlement
 - b) It avoids impacting on the separate identity of settlements
 - c) Unacceptable impacts on the character and appearance of the surrounding landscape will be minimised through the sensitive and appropriate design of the scheme
 - d) The development demonstrates how it has addressed the requirements of the Assessment, including the landscape's quality, strategy, sensitivity and key issues
 - e) Proposal shall retain or enhance the character and features that contribute to the landscape
- 8) Furthermore the Design Guide explains that the layout and design of gypsy sites should respect the character of the local area and development in or on the edge of the countryside must respond to the unique character and setting of each site. This reflects the NPPF that explains the importance of the character of the countryside and the essential nature of quality of design.

Previous appeal

- 9) The criteria and issues raised within paragraphs 6, 7 and 8 above were assessed and addressed by the Inspector as part of appeal APP/X0360/A/11/2154295 (attached) who found that there would be no negative impact on the character of the area and landscape quality. Furthermore, the site would have no undue impact on nearby residential dwellings and the site was in an accessible location and relatively close to local amenities. The site was considered a relatively sustainable location for a gypsy site.
- 10) Upon reviewing the Inspectors findings, it is found that the appeal assessment made at the time is still valid, there is no detrimental impact on the character of the area and local services still remain meaning that the site is just as sustainable now as at the time of the Inspectors decision. There is no information available at this time to undermine the Inspector's findings in this regard. The only issue that the Inspector considered the pitch could have an unacceptable impact upon was flood risk as this matter had not been overcome by the appeal proposal.
- 11) In line with the Inspector's decision, all site specific issues have been addressed with the exception of flood risk. This is the main consideration in assessing the acceptability of the site as a permanent pitch. However, it is also important to consider any material change in circumstances as a result of the need for GRT pitches and the personal need of the applicant.

Need

- 12) Whilst the applicants have benefited from a new addition to the family, no other circumstances have changed since being described by the Inspector in the appeal decision. No additional information has been received about the availability (or lack) of alternative accommodation than what was originally submitted and assessed by the Inspector.
- 13) Since the appeal decision, the Council has published a Gypsy and Travellers Accommodation Assessment (GTAA) (March 2015) and Wokingham Borough Council has argued that it has been able to demonstrate an adequate provision of pitches for gypsy and travellers. However, since the publication of the GTAA, a recent appeal Inspector's decision (APP/X0360/C/15/3085493 & 3085495) has stated that '*I have noted the minor shortfall relating to the supply of pitches within the following five year period*'. This shortfall being one pitch. It could therefore be argued that this proposal could meet this identified need for a single pitch. The previous temporary permission did not meet the Council's supply on the basis of its temporary nature. However, the approval of a permanent pitch could count towards the Council's supply and reduce the pressure for the Council to support other GRT proposals on sites not as suitable for development, in areas where the impact on character of the area would be greater, or where they are less sustainability located.

Personal Circumstances

- 14) Information regarding the personal circumstances of the applicants in line with the requirements of the PPTS outlined in para. 5. were requested and submitted. Information pursuant to Annex 1 of the PPTS that applicants meet the definition of gypsies and travellers were submitted as well as noting that the children still attend local schools and that the family is registered at a local health care provider. There are no specific personal circumstances submitted with this application that add any weight to the proposal. The personal circumstances of the applicant have limited weight in support of this proposal.

Flood Risk

- 15) A great deal of discussion took place within the Inspector's report regarding flood risk. The site is within flood zone 2 and concluded:

The proposal would be safe for members of the general public but there are concerns about more vulnerable members of the community. I have also concluded that the likely incidence of flooding may be higher than the medium improbability range generally applied to flood zone 2. I am not satisfied that there is enough evidence before me to conclude that the sequential test has been met, especially where some 59% of the borough is in a lower risk flood zone. Even if the sequential test is met, then I have concluded that the first limb of the exception test is not satisfied. In this regard the proposal is contrary to the aims of PPS25 and RSS policy NRM4.

- 16) Requests for further information to address the Inspector's concerns were made however no further information beyond the original FRA was submitted. Notwithstanding this, a site visit was undertaken by the Council's Principle Flood

Risk and Drainage Engineer who noted the permeable surface within the site (pebbles). In addition, acceptable details for the disposal of foul and storm water sewage were received as part of the discharge of condition 9 of the original appeal permission and an acceptable flood risk management plan has been agreed (condition 15).

- 17) When the Inspector came to his/her conclusions (para. 44 of appeal decision), it was considered that the sequential test had not been met as 59% of the Borough is a lower flood risk zone than the application site. The exception test was therefore applied to assess whether the sustainability benefits of a lawful pitch outweighed those of the flood risk.
- 18) At the time, the Inspector found that whilst the proposed development wouldn't lead to an increase in the risk of flooding off site and in the immediate area, the chances of flooding on the site was higher than the medium probability range generally applied to flood zone 2 and as such the wider benefits of providing the pitch did not outweigh the harm. On this basis, he/she was not satisfied that on the basis of the evidence available at the time that the exception test would be met.
- 19) Since the appeal, the Council has been able to assess the situation on the ground and the impact of flooding on the occupiers of the site and the local area. While objections have been received including photographs of flooding within the area, none of the photographs are directly of the site and there is no evidence to suggest that the site of the pitch was directly affected by the flooding. In the same vein as the Inspectors findings, the evidence does not 'conclusively demonstrate that at times when the lanes were flooded so too was the site'.
- 20) In addition to the above, the Council's expert advisor has been able to make an assessment of the dangers of flood risk. As described above, the use of pebbles instead of impermeable hard surfacing at the site has resulted in water infiltration. Along with the raised floor levels (37.6mm AOD (some 600mm above the ground levels of the site)), this means that flood risk on the site has been successfully managed and the exception test met. Consequently, the expert has advised that he has no objection to the permanent occupancy of the site on the basis of flooding.
- 21) The combination of flood risk management and permeable surface ways in favour of the site to mitigate the concerns that were originally raised by the Inspector in respect of flooding.

Planning Balancing Exercise

- 22) The occupiers/applicants are gypsies/travellers as defined in the PPTS. The site is considered sustainable and no harm to the character of the area or landscape is found, nor is there detrimental harm to nearby dwellings. The site is considered sustainable and access to local services is possible. No external factors have affected this conclusion since the Inspectors findings in 2012.
- 23) Factors that weighed against permanent occupancy were flood risk and land supply. As described above, no objection regarding flooding on the site has been

made by the Council's Principal Flood Risk and Drainage Engineer. This weighs positively towards permanent occupancy of the site.

- 24) A shortfall of one pitch has been identified when the Council's GTAA (2015) and this site could accommodated this need and enable the Council to resist other proposals on less acceptable sites. In light of no objection on character, amenity or sustainability grounds, and that there has been no objection raised regarding flooding, in line with national policy, it is considered that refusal of the application peer a permanent pitch could not be substantiated

Human Rights and Rights of the Children

- 25) Article 8 of the European Convention on Human Rights as incorporated by the Human Rights Act 1998 as well obligations under the United Nations Convention on the Rights of the Child would be a prime consideration should planning permission be refused. The Council has an obligation to consider these articles however these would be activated should Planning Permission not be forthcoming. As the application is recommended for approval, no breach of Human Rights would occur, the recommendation has been reached purely on a planning basis however these rights would need to be considered should planning permission be refused and enforcement action required to remove the applicants from the site.

Other Matters

- 26) Condition 2 of the original planning permission outlines the requirement for the land to be restored to its original condition as per a scheme to be agreed by the local planning authority. This condition was discharged but would no longer be relevant should planning permission be granted. Whilst the application does not seek to alter this condition, the local planning authority has the power under Section 73 of the Town and Country Planning Act 1990 to vary or remove a condition as appropriate when issuing a decision under the same Section to ensure it is compliance with the Act itself. As a result, and as per the recommended conditions list, Condition 2 should be removed.

CONCLUSION

The need for one additional Gypsy/Traveller pitch within the Borough identified through a recent appeal decision will be met as a result of this proposal and enable the Council to more successfully resist unacceptable GRT pitches on other unsuitable sites. The reason for the temporary nature of the previous appeal permission was on the basis of concerns about flood risk but these have now been overcome by additional information and evidence available on the ground. This has resulted in the Council's flood risk expert raising no objection on this basis of to the current application for a permeant pitch. On this basis this application is recommended for approval.

CONTACT DETAILS

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