

AXMINSTER RURAL
(Hawkchurch)

07/1853/COU

Target Date: 27 August 2007

Applicant:

Mr P Lee & Mr A Cooke

Location:

Land near to Scouse Bungalow, Hawkchurch

Proposal:

Residential gypsy caravan site of 2 pitches, 4 seasonal transit pitches and conversion of stable to amenity unit

CONSULTATIONS

County Highway Authority

Original Application:

The site is remote from any urban settlement and therefore users of the site are likely to be dependant on the use of private vehicles for the majority of their daily needs. This would conflict with Development Plan policies that promote and encourage the use of more sustainable modes of transport.

An access has been created which accommodate visibility splays of 2.4 m x 90 m provided that the verge/hedgerow is kept well cut back. Such splays are considered acceptable given the perceived traffic speeds along the public highway. The access-way should be hardened and drained for the first 6.0m and the entrance gates should be set a minimum distance of 6.m from the carriageway edge. There appears to be adequate parking and turning within the site.

Accordingly, the development proposal is objectionable for the reasons given below but if the Local Planning Authority is minded to grant planning permission then I would recommend the condition listed below are imposed

RECOMMENDS THAT PERMISSION BE REFUSED FOR THE FOLLOWING REASONS:

The proposed development would be located where it is remote from adequate services, employment, education, public transport etc., and would therefore increase the need for travel by private vehicles contrary to Policies TR2 and TR5 of the Devon County Structure Plan.

Alternate conditions recommended relating to visibility splays and the site access.

Amended Application:

I have received an amended planning application for this site indicating a proposal for two permanent pitches and four seasonal transit pitches. My previous observations and recommendation still apply. In the event that planning permission is granted I would support a condition restricting the use of the site to that now being proposed in order to control traffic movements and to reduce the adverse impact on sustainable transport objectives.

South West Water

No objections. The following comments are for information and do not constitute an objection to the proposal.

South West Water will only allow foul drainage to be connected to the public foul or combined sewer. Should no separate storm system be available, details of the means of disposal must be submitted for prior approval. The use of soakaways will require satisfactory percolation tests to have been undertaken. If soakaways are not an acceptable solution, we request the applicant contacts this office for further information.

Environment Agency

Unfortunately, the submitted Foul Drainage Assessment is incomplete. Despite the fact that there is a proposal to install a soakaway, no percolation test information has been provided. As a consequence, the adequacy of the proposed foul drainage cannot be assessed. Your Council should be aware that the proposed treatment system and receiving environment may not be suitable for this site. Given this, and the fact that no application has been received for our separate consent (necessary for the foul drainage discharge), we must recommend that your Council refuses this application in line with the provisions of DETR Circular 03/99, Planning Policy Statement 23 (Planning and Pollution Control) and your Council's own Local Plan Policy EN25.

Environmental Health

No comments to make.

Devon County Gypsy Liaison Officer

Original Application:

Devon has only one local authority site at Sowton, Exeter. This site is long term residential site which holds a long waiting list. A second: Broadclyst is being closed as we are unable to renew the lease. Whilst accommodation of the settled community is increasingly substantially in the south west there is still very little provision for Gypsy/Traveller Families.

There are no emergency or transit sites in Devon and ninety percent of the traditional stopping places have been blocked off in the past 10 years. Due to this it is becoming more essential for Gypsy/Traveller Families to have a stable base from which they may access the services such as Health and Education that the rest of us take for granted.

After a site visit and meeting with Mr Lee and Mr Cooke I can confirm that they are both of Gypsy status. The site is intended as a seasonal transit site consisting of 10 seasonal pitches and 2 permanent pitches for site management.

Following the recommendation of the recent Housing Needs Assessment (East Devon District Council was a part of this process) this site would be greatly welcomed by the Gypsy community as an authorised place to stop whilst travelling through the area. It would play a big part in East Devon District Council reaching the pitch provision requirement placed on it by the Regional Spatial Strategy.

The site is immaculate, consisting of a stable that has been previously passed which would be converted into an amenity block for the transit site.

The site would also provide a base for both families, and would allow the access of services which so many families on the side of the road cannot access – Health Services, Education etc. Both families would still travel for some of the year, towards the winter months for fairs as part of their cultural traditions.

In my opinion this site is ideal for a Gypsy Transit site.

The County Council has a range of responsibilities in these matters and whilst on social and welfare grounds this application is supported, recognising the lack of authorised sites within Devon, this would not override other material factors such as highway concerns.

Amended Application:

No comment received

Devon Racial Equality Council

Original Application:

It is an established fact that there is a shortage of sites for gypsies in the UK, and it is estimated that nationally up to one in four gypsy caravans may be on unauthorised sites. The recent Housing Needs Assessment for Devon highlighted the need for over 200 pitches in Devon both residential and transit. ODPM Circular 01/2006 promoted 'more private Gypsy and Traveller site provision in appropriate locations' as one way of solving the shortage of pitches.

East Devon does not have a Council site for Gypsies. The Housing Needs Assessment stated that both residential and transit pitches are needed in East Devon. Whilst it is necessary for some of these pitches to be provided and maintained by the Council, it also makes sense for some pitches to be provided on private sites by Gypsies themselves. Experience locally and nationally shows that small private sites have a low impact and are well landscaped, well maintained and the Gypsy families living on them integrate well with the local community. The existence of transit sites means less unauthorised encampments as there is somewhere for Gypsies travelling through the area to stay.

This site is in a very good location; there is a school within walking distance and a public shop at the caravan park next door. Further facilities are available less than two and half miles away. The site is well screened and very well looked after. The 10 transit pitches would be managed by the two families living on the land and there would be very little difference in appearance and impact to that of a small caravan site. The applicants satisfy the definition of Gypsies as set out in Circular 01/2006 as they are 'person of nomadic habit of life'. They were born into a travelling lifestyle and continue to travel for part of the year.

Amended Application:

No comment received

TOWN/PARISH COUNCIL

Original Application:

The Council would be in favour of the proposed two residential pitches, subject to a temporary and personal condition being applied, and that an assurance can be made that satisfactory drainage of the land can be achieved. This being a concern because of the clay soil in the area. Adequate screening should be provided to protect the local environment. A condition should be imposed restricting the storage of other than domestic materials on site.

With regards to the proposed 10 pitches, the Council recommends refusal on the grounds that the location is remote from adequate services and amenities, there is no public transport, therefore there would be unacceptable increases in private vehicle use, contrary to TR2 and TR5 of the Devon County Structure Plan.

The Council has great concerns regarding the sustainability of drainage on this land to accommodate up to the proposed maximum number of 24 caravans. The proposal would increase traffic on rural roads.

The Council further recommends that the Development Control Committee has a site visit to see for themselves the problems with this site.

Amended Application:

The Council recommends refusal of this application as it would not preserve the character of the countryside and would increase the need for car journeys. The site is not sustainable because of the lack of amenities in the area.

The council has concerns relating to the underground cables on this site and does not believe that the electricity supplier has been made aware of the proposals.

Whilst noting the recent documentation regarding water drainage and sewer management the council remains concerned that there will be possible water problems caused by seepage of foul waste into the stream.

The Council is concerned in relation to a dewpond on the site.

Whilst the council was agreed to recommend approval of the two residential plots, this had been on the condition that these plots were granted on a personal basis. As correspondence from the applicants clearly states that they are opposed to this condition the council feels that this leaves them with no alternative other than to retract that recommendation; and therefore recommend refusal of the whole planning application.

There are concerns that some of the hedges are not in the ownership of the applicants, therefore there cannot be conditions imposed to totally ensure that the site does not spoil the surrounding countryside.

ADJOINING PARISH COUNCIL

Char Valley Parish Council: We are concerned that adjoining Parish Councils have not been consulted even though they are in another County. We are also concerned that Hawkchurch Parish Councils comments will not be taken on board and considered carefully. We believe that allowing this proposal will seriously affect the lives of people in the local area and have a detrimental impact on the area and the businesses in the area.

WARD MEMBER(S)

Original Application:

The initial comments of the Ward Member(s) are -

“Defer. I attended Hawkchurch PC meeting on Tuesday July 17th. The applicants also attended the meeting and said there had been written amendments to the above application of which they had hand delivered to the planning department. Myself, the Parish Council or anybody else had no knowledge of this, thus the whole situation became very difficult to follow as to what was what. The situation made even more difficult due to the very large number of people present also making their thoughts known and seeking answers.

I would therefore like to record my agreement with the PC that the application be deferred until all the correct facts are known. To that end at the request of Hawkchurch PC I contacted Mrs. Little on the morning of Wednesday July 18th as to the best way forward with this application due to impact and importance it has to Hawkchurch for everyone concerned.

I await further information and thank you for your help”

In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

Amended Application:

The initial comments of the Ward Member(s) are -

“I support the view of Hawkchurch Parish Council and the various conditions they put forward also the assurance that conditions can be upheld and enforced. As the proposal for 10 transit pitched and that would entail I am very much opposed. Hawkchurch is a small community of

some 400 folk in a semi remote location with very limited services etc. The influx of people at a site of this size could produce would not be in my opinion fair to the existing residents or even the transit community themselves. The ground on which the site sits is to say the least not good, great amounts of vehicle movements would soon turn it into a quagmire with all the related problems that would cause.

To be fair these sites have to be provided for the benefit of all and there has to be a way forward. If bearing in mind all the points raised by those concerned the application could be down sized to say a max of 3 (maybe 4 max) transit pitches with the relevant licensing period and all the stated conditions apply. May I also ask that the application be for the named applicants' only and no further increase in size of site be made. May I suggest that site meeting be had so as members can fully understand this application and the location in which it lies."

In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

Additional Comments:

The initial comments of the Ward Member(s) are -

"This is my second report on what has become a rather difficult and confusing application to follow with all its many twists and turns. Having attended the Hawkchurch planning meeting on August 29th as Ward Member I must record the overwhelming objection to this application by residents. My own thoughts however were again drawn to the suitability of the site for a transit camp site due to the type of field which this is (very wet and of poor drainage) and even the road itself is prone to flooding. The major concern being any possible contamination to the Fairwater stream and the knock on effect this will have to the residents whose water supply is drawn from the hill. Sewage treatment/foul water run-off etc. would cause equal problems. To go back to June 2004 the original application was for a stable block - tack room for the looking after of horses (be they in transit) and to that one I have no objection to the site having the two pitches which are there now, but with the concerns and further information I now have I am not happy for this site to be developed any further for all concerned be it the applicants or residents of the area. I therefore object to the application."

In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

REPRESENTATIONS

Objections

44 representations have been received in response to both the original and amended proposal raising the following points:

- Proximity to overhead power lines and potential negative health effects
- Large numbers of potential occupiers in relation to small village population
- Accommodating traveller children in small village school would place strain on the school, change the balance of pupils and disrupt regular pupils
- Inadequacy of road network and site access to cope with caravans, cars and lorries/horse boxes
- Dangerous road conditions
- Number of vehicles likely to be generated by the development
- Refuse collection and sanitation of site
- Impact on local property values
- Associated antisocial behaviour
- Lack of nearby amenities, services and facilities for site

- Local Plan policy does not support new sites in Areas of Outstanding Natural Beauty
- Detrimental impact development would have on character and appearance of site and area
- Number of caravans would make this the largest site in East Devon
- Permission would create too many caravan sites in area
- Lack of detailed site layout plans showing parking and pitches
- Site inadequate for number of pitches, vehicles and horse use
- Inadequate drainage information and concern over discharge onto adjacent land and downstream into Fairwater stream water supply from which many properties take private water supply affecting health of people and livestock
- Risk of water pollution even if drainage scheme agreed
- No environmental impact study carried out
- Site known to have a dew pond on and road known to flood – concerns over water run off and flooding from hard standings
- Potential for those not being able to move onto the site in the seasonal period moving onto other land or the highway in the local area
- Different standards relating to sanitation, drainage and highway standards being applied to other proposed development in this area
- Once permission granted site and occupation likely to be extended
- Number of pitches and caravans excessive for area
- Land is agricultural and is not therefore suitable for a residential/caravan use
- Caravans already on site before permission granted
- Development would adversely affect character and appearance of Area of Great Landscape Value
- No footpaths linking site to village so occupiers would be car dependant
- Site would be prominent and visible on approach to the village
- The hedge to the rear of the site is not in the applicants ownership and is intended to be cut and laid to 1 metre in height this winter which will increase the visibility of the site from the west
- Impact on local businesses
- Support 2 residential pitches but not 10 transit pitches
- Concerns over unsupervised dogs and children
- Loss of amenity to village
- Doubt that numbers of caravans and visitors can actually be controlled
- Unsustainable site - no close local shops, increased private car use to amenities not provided by the village contrary to national policy
- Continued confusion over amendments, numbers, layout and lawfulness of amended the application and lack of proper consultation
- Inadequate fire spread protection distance provided between the pitches
- Blocking of highway/potential vehicles reversing onto highway when transit visitors arrive and negotiate to come on the site
- Concerns over management and control of site if permission not made personal to the applicants
- Potential conflict with villagers
- Level of local objection

Some additional representation letters were received but were sent in anonymously and so have not been considered.

Support

1 representation has been received in response to both the original and amended proposal raising the following points:

- Site is well maintained, clean and children are well cared for and polite
- Minority group which does not attract same sympathy as other groups
- Romany owned and managed site best solution
- Safe site for families children allowing them to attend the local school

1 representation has also been received from the Romany Gypsy Liaison Officer to both the original and amended proposal raising the following points:

- Need for authority, private and transit sites in area due to loss of traditional stopping places
- Opportunity for provision of privately run transit site
- Circular 01/2006 accepts principle of sites in rural areas and encourages realism about availability of land
- Need supported by biannual counts

Some additional representation letters were received but were sent in anonymously and so have not been considered.

RELEVANT PLANNING HISTORY

App.No:	Proposal	Decision	Date
04/P1437	Erection of Stables/tackroom Block & Formation of New Access	Approved	04.10.2004

PLANNING POLICIES

Government Guidance

Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites

Devon Country Structure Plan (2001-2016)

Policy ST5 Development Priority 2001 to 2016
 Policy CO4 – Areas of Great Landscape Value
 Policy TR2 – Co-ordination of Land Use/travel Planning
 Policy TR5 – Hierarchy of Modes and Transport Assessment
 Policy TR10 – Strategic Road Network and Road Side Service Areas

East Devon Local Plan (1995-2011)

Policy S5 – Countryside Protection
 Policy D1 – Design and Local Distinctiveness
 Policy EN2 – Areas of Great Landscape Value
 Policy EN15 - Control of Pollution
 Policy EN18 – Adequacy of Foul Sewers and Sewage Treatment Works
 Policy EN19 - Private Sewage Treatment Systems
 Policy H12 – Sites for Gypsies and Travellers
 Policy TA1 – Accessibility of New Development
 Policy TA7 – Adequacy of Road Network and Site Access

SITE LOCATION AND DESCRIPTION

The application site is a rectangular piece of land measuring 0.9 hectares located to the south east of Hawkchurch in the open countryside and set in a designated Area of Great Landscape Value.

The site has mature hedge and tree planting on all four boundaries with open fields to the rear and both sides and there is an existing single storey timber stable building set in a separate fenced area (carried out under a previous planning permission). The site is currently being occupied by the applicants and additional works have been done to the site including the formation of the new access, the provision of an area of hardstanding by the access and an additional area of fencing. The new fencing separates the rest of the site which is a green field from the access area.

PROPOSED DEVELOPMENT

The application proposes the change of use of the whole site to a residential gypsy caravan site of 2 pitches and 4 seasonal transit pitches and the conversion of the stable building to an amenity unit.

The application as originally submitted proposed 10 transit pitches and the site layout plan did not accurately show the proposed pitch layout. Following discussions with officers the number of transit pitches has been reduced to 4 and an accurate layout plan and further drainage information provided. The full consultation period of 21 days was given on the amended submission but there has been an element of local confusion over the changes to the proposal. The new consultation period will end on the 20 September 2007 and any additional representations received will be reported to Members at the Committee meeting.

The works to the stable building would retain one stable and provide a utility room and a separate male and female WC.

The proposed site layout plan now shows the position of the pitches, the provision of an access track to serve the pitches, children's play area and the position of the sewage treatment plant and bin store.

CONSIDERATIONS AND ASSESSMENT

Key Policy Background

Circular 01/2006

Gypsy site provision is now governed nationally by Circular 01/2006 which replaces Circular 1/94 'Gypsy Sites and Planning' and acknowledges that the previous advice failed to deliver adequate gypsy sites. The Circular emphasises the basic principles that gypsies, who evidently suffer worst in terms of education and health provision, have the same rights to a decent home, by way of a settled base for their nomadic lifestyle as any other group but that they also have the same responsibilities as every other citizen. The Circular requires that Local Authorities identify suitable sites for gypsies/travellers in their Local Development Frameworks and provides updated guidance on the planning aspects of finding sites for gypsies and travellers and dealing with planning applications.

Under the Circular the following definition is given for Gypsies and Travellers and importantly this definition recognises that permanent occupation of a site does not necessarily nullify a person's gypsy status:

“Persons of nomadic habit of life whatever their race or origin, including such person who on grounds of only of their family's or dependants education or health

needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such.”

Policy H12

Local Plan Policy H12 deals specifically with sites for Gypsies and Travellers and identifies that permission for both permanent and transit sites will be given provided a number of criteria are satisfied. These criteria relate to the characteristics of the area, the relationship with neighbouring land uses, vehicular access and on-site vehicle movement, landscaping and the impact on the appearance or character of the landscape. The policy also goes on to identify that permanent sites should be conveniently located for access to existing community services and facilities.

Since the policy was written national guidance has moved on but Circular 01/2006 does identify that criteria based policies are acceptable provided the criteria are not unduly restrictive so as to effectively rule out site provision. As national guidance has moved on we need to consider the proposal against both the advice in the Circular and the criteria in Policy H12. However we also need to consider the issue of local need for gypsy and traveller sites, the status and personal circumstances of the applicants, the availability of alternative sites and human rights issues.

Local Need

A Devon Wide Gypsy and Traveller Housing Needs Assessment was undertaken on behalf of all the Districts of Devon and the final report was issued in November 2006. This identified that in East Devon there were 13 authorised privately owned sites available and 5 unauthorised sites. The total additional residential pitch requirement from the period 2006 – 2011 was judged to be **9 pitches**; this is based on a current shortfall of 5 pitches and an anticipated requirement in the period of 4 more pitches.

The Regional Spatial Strategy Partial Review of Gypsy and Traveller Pitch Provision has also identified a transit requirement of 5 pitches for East Devon but this figure has been put forward as an estimate and is not currently a mandatory requirement in the same way as the requirement to provide residential pitches. However in the absence of any alternative figures the Council are using this as a guide and it is likely to be incorporated into the Regional Spatial Strategy as a mandatory requirement when the review is complete but there are no fixed timetables for this at this stage.

For clarification Gypsy and Traveller families will often have more than one caravan for different activities and members of the family and so a pitch does not necessarily equate to 1 caravan. To avoid doubt it is confirmed that in this application where reference is made to pitches this means between 1 – 2 caravans but no more than 2 caravans.

The Housing Act 2004 also introduced a new obligation on Local Housing Authorities to assess the accommodation needs of gypsies and travellers in their areas and to develop a strategy to address their needs. The Strategic Planning & Environment Portfolio Holders Think Tanks are currently considering the issue of gypsy site provision and will making proposals in the near future.

Members should be aware that a number of recent appeal decisions have allowed applications for gypsy and traveller sites because of the under provision of sites in the district even where the site is considered unsuitable in landscape or highway terms and so this is an important consideration.

Gypsy Status and Personal Circumstances

The Gypsy Liaison Officer from Devon County Council has confirmed that Mr Lee and Mr Cooke are both of Gypsy status and the Council are satisfied with this confirmation.

The applicants have not referred to or claimed any particular personal circumstances to justify the granting of planning permission either relating to health or education and have not provided any specific details regarding their children. However it is understood that between them they have children of pre-school and school age and that it is intended for the children of school age to attend the local school in Hawkchurch. The provision of a settled base to enable the applicant's children to attend school regularly is an important consideration.

Alternative Sites

The applicants have not provided any evidence that they have attempted to obtain pitches on an authorised site or that they have looked for alternative sites on which to seek planning permission. However as there is a recognised shortfall of pitches in the district and with the future closure of the Broadclyst county run site it is accepted that the only likely alternative to the application site would be another unauthorised site elsewhere in the district. Given the land value of sites within the defined Built up Area Boundaries it is also likely that these sites would be in more remote rural locations or possibly on the edge of defined Built Up Area Boundaries. Therefore the individual merits of this site need to be fully and fairly considered.

Human Rights

The provisions of the European Convention on Human Rights should be considered as an integral part of Local Authorities' decision making – including their approach to the question of what are material considerations in planning cases. Local Planning Authorities should consider the consequences of refusing or granting planning permission or taking enforcement action, on the rights of the individuals concerned, both gypsies and travellers and local residents and whether the action is necessary and proportionate in the circumstances. The obligation of Public Authorities to act compatibly with convention rights does not give gypsies and travellers a right to establish sites in contravention of planning control.

There can be no doubt that the refusal of planning permission and subsequent enforcement action to remove the applicants' from the site would constitute a violation of the right under Article 1 of the First Protocol which states that every person is entitled to the personal, peaceful enjoyment of his possessions and Article 8 of the First Protocol in respect of private and family life. However, if the site was assessed to be unsuitable for this type of use due to drainage or highway issues or would result in real harm to the character and appearance of an area in the open countryside and designated as an Area of Great Landscape Value and would be in direct conflict with the Development Plan then such a refusal and enforcement action would be in the public interest of safeguarding the rural character and appearance of the countryside and maintaining the integrity of the Development Plan. Therefore we need to carefully consider the merits of the application and any likely harm or adverse impact arising from the proposed development.

Characteristics of the area

Despite references made to the Area of Outstanding Natural Beauty (AONB) designation in a number of objections the area is not and never has been within the AONB (the East Devon AONB was set in 1961 and the Blackdown Hills AONB was set in 1991 and neither of these has changed since) although the area is designated as an Area of Great Landscape Value (AGLV). While priority should be given to the conservation and enhancement of the landscape in AGLV's, gypsy and traveller site development in these areas is not expressly prohibited by Policy H12 and so we will go on to consider in more detail below what the likely impact of the development will

be on the landscape of the area. Circular 01/2006 also identifies that local landscape designations such as this should not in themselves be used to refuse planning permission for sites; in other words there needs to be some adverse and harmful impact identified.

Neighbouring land uses

Policy H12 specifies that sites should have a satisfactory relationship with other neighbouring land uses and this aims to prevent sites in locations where neighbouring uses are particularly sensitive and so may be adversely affected by a gypsy and traveller site (e.g. a school or listed building) or neighbouring uses have a potentially negative effect on the occupiers of the site (e.g. a large industrial estate or rubbish dump).

Being set outside of the defined Built Up Area Boundary of Hawkchurch, the site has no immediate neighbouring development, either residential or commercial, the land being bounded on one side by the public highway and on three sides by agricultural land. There are adjacent residential properties but these are separated from the site by the agricultural land and are set at some distance from the site (Souse Farm is approximately 176 m away and West View is approximately 197 m away). This distance and physical separation means that the use of and activity on the site will not have any direct impact by virtue of overlooking or noise and disturbance on the residential amenity of these properties.

The nearest commercial properties are the Hunters Moon Caravan Park (which is approximately 177 metres from the site) and the Fairwater Head Hotel (which is approximately 240 metres from the site) and again the distances between these properties and the site means that the daily activity on the application site would have little direct adverse impact on the users of both the caravan park and hotel. Some objections have referred to the negative associations made to gypsy and traveller sites and the adverse impact this will have on local business but we can only consider the land use impact of the proposal and a small specialised caravan site in visual and activity terms is unlikely to adversely affect a larger established caravan park and hotel.

There are no listed buildings or other sensitive properties which would be adversely affected by the siting of caravans on the land.

Some objections have been received in relation to the adjoining agricultural land and in particular the issues of loose dogs affecting stock. Again while sheep worrying is recognised to be a serious issue for farmers, the fear that this will result from the use of this site is primarily based on negative associations with this type of development. The control of dogs comes down to personal behaviour and antisocial behaviour can just as easily result from a conventional residential property as from a residential caravan site. Again the land use impact of a proposal must be considered not the particular behaviour of individuals and it is not considered that this potential outcome renders the site incompatible with the adjoining agricultural land.

In terms of neighbouring land uses which may adversely affect the occupiers the site is crossed by overhead power lines which would go over some of the transit pitches and the children's play area and a number of objections have been received relating to the negative effects this can have on health. The Councils Environmental Health department has been consulted but have not commented with any specific objections on this ground and there is no conclusive evidence or research which demonstrates a clear link between overhead lines and negative health effects on which a refusal of planning permission could rely. Annex C of Circular 01/2006 also states that while sites should not be located on significantly contaminated land this does not necessarily rule out location near or adjoining features such as power lines anymore than it does conventional housing. While potential negative health effects are an important consideration there is no clear evidence to show this proximity to the power lines would be harmful.

Access and on site vehicle movement

A number of objections have been received relating to the highways impact of the use of the site but in terms of the existing access and visibility, on site turning provision and road safety the Highway Authority has not objected to the proposal subject to appropriate conditions relating to the maintenance of a visibility splay and proper surfacing of the access. Although the Highway Officer has objected on grounds of sustainability and sustainable transport objectives no objection has been put forward which would support the objections that the access and road network is not suitable for this type of use. Annex C of Circular 01/2006 also identifies that sites need to have safe and convenient access to the road network and in the absence of objections from the Highway Officer on highway safety grounds the site access must be considered to be safe.

Screening and landscaping

While no detailed landscaping details have been provided the site is naturally well screened by the existing mature hedge and tree boundary treatments which effectively screen the site from all angles. There would be some limited scope for additional planting within the site and some additional screening planting adjacent to the gateway and stopping up planting of the former site entrance by the stable and this could be easily secured by an appropriate landscaping condition. As this site is naturally well screened there is no need for extensive additional landscaping and so a landscaping condition is considered appropriate.

Appearance and character of landscape

Clearly any form of development on a previously undeveloped site has some landscape and character impact but what we need to assess is whether this development does or will have an adverse impact on the appearance or character of the landscape.

In landscape terms, although the site is located in the open countryside on a rural lane, the surrounding topography is relatively flat which means the site is not particularly elevated or prominent in the landscape. Clearly the development of the site has made the site more noticeable but the site is very well screened on its boundaries, particularly from the road, such that the development on the site will only be fully visible from the entrance gate. While it is recognised the hedge boundary would offer less screening in the winter, it would still provide a strong natural boundary to the site and this dormant period would coincide with the prohibited season for the transit pitches. The site clearly reads as a separate defined area of land distinct from the larger adjoining agricultural fields and so the development of the site has not adversely affected the predominantly agricultural character of the landscape. The site is also seen in the context of the adjacent sub-station and power lines which are far more visually intrusive and the adjacent caravan park which is a significantly larger development than the current application. While some objections have been raised to the over provision of caravan park development in the area, because of the existing caravan park the application site is not seen as an isolated intrusive development.

Reference has been made to the rear boundary hedge of the application site not being in the applicants control and that it is intended to cut and lay this hedge down to 1 metre in height in the winter and that this will in turn make the site visible from the west. Views from the west are limited to glimpsed views through field gates but the rear boundary hedge does currently screen the site and this would be affected if the hedge were laid. However all hedges for their proper maintenance and growth require periodic cutting and so at times the site will be more visible but this is not considered in itself to be a sufficient reason to refuse the application. It is noted that the rear hedge boundary is very wide and contains a number of mature trees which would not be affected by any hedge maintenance and so would still act as a screen to parts of the site and even if the site were more visible immediately after the hedge was cut, the hedge would eventually grow back up to provide screening, particularly in the summer months when there

would be more activity on site. As previously said all development in the countryside has some visual impact and all native screening will have periods of dormancy when the screening provided is not as effective but this does not automatically mean a development will have an adverse impact. On balance it is considered that the site is sufficiently well screened and in its topography and relationship with other uses and land features is not so prominent and out of character that it will adversely impact on the appearance and character of the landscape.

Access to Services and Facilities

Policy H12 does not specify any distances or travel times to facilities and services and Circular 01/2006 identifies that rural and semi-rural locations can be appropriate for sites but that Local Planning Authorities should be realistic about alternatives to car based transport. The circular also advises that sites in terms of their scale should not dominate nearby settled communities and should avoid placing undue pressure on local infrastructure.

Despite the level of objection received it is not considered that the site is so unsustainable that it should be refused because although it is in the open countryside, it is actually reasonable well located in relation to both the local village and the larger town of Axminster which together provide a range of facilities and services.

Hawkchurch which is in very close proximity to the site being just down the road, offers a village school, local pub and community hall which is arguably a much better level of facility provision than many remote parts of the District have available and the nearest town Axminster offers the full range of health and community services you would expect. In terms of accessibility the site is well located in relation to the wider road network, being easily accessed from the B3165 and A35 in turn and while it is recognised that the use of the site will be predominantly car based it must also be recognised that most locations in a district like East Devon depend on car based transport. The site is not so remote in terms of distances and travel times to facilities and substandard narrow access roads that its un-sustainability in this case outweighs the benefit of providing a stable long term base for both applicants and their families and a stable seasonal base for those visiting the area. It must also be considered that if the applicants were made to leave this site they could well end up in a more remote location with poorer access to facilities and services.

It must also be recognised that sites which are in or immediately joining towns or villages, and which will therefore be more sustainable than the current site, will be likely to receive objections from neighbouring residents who may well suggest that a more rural site with no immediate neighbours would be more appropriate. This site appears to be a reasonable compromise as it is sufficiently rural to not have immediate neighbours, particularly residential neighbours, but is not so remote from nearby facilities and services and is on a reasonably good and accessible road network.

Additionally, with the reduced transit pitch numbers, it is now considered that the site is of a scale which will be compatible with the local area. The residential year round use of the site is not considered to be so excessive that it will have a detrimental impact on local services, particularly the local school, and the ability of the applicants' children to regularly attend the local school will benefit the children and may hopefully lead to better integration with the local community. The transit element will obviously increase numbers on site during the permitted season but a transit use by its very nature is unlikely to put the same level of demand on local services and infrastructure because the transit pitches will be mostly used by people travelling through the district for seasonal work or holidays. The Highway Officer, while ultimately maintaining an objection on sustainability grounds, also acknowledges that reduced numbers serves to reduce the adverse impact on sustainable transport objectives.

Other Issues

A number of objections have been received relating to drainage in terms of the adequacy of the non-mains drainage system proposed, the suitability of the soil for the drainage system, the location and effect of discharges and the potential contamination of adjacent land and the Fairwater Stream from which a number of properties take their water supply. The applicants have submitted a 'non main drainage assessment form' and additional details of the proposed sewage treatment plant but the Environment Agency have advised that the information currently provided is not sufficient and so they are currently objecting. On further discussions with the Environmental Agency they have advised that the applicants need to carry out percolation tests on site so that the Environment Agency can assess the drainage capacity of the site and the suitability of the system proposed. The applicants have been contacted and asked to provide this additional information as soon as possible and if the Environment Agency receives the required information in time they should be able to formally comment on the proposed drainage system before the meeting. If additional information and comments are received Members will be verbally updated on the night. It is considered likely that the site is large enough to provide some form of adequate drainage system, and while the provision of an adequate drainage system is crucial, providing the Environment Agency are ultimately satisfied that the proposed system is acceptable the application could not be refused on this ground. Therefore the ultimate recommendation will be dependant on whether or not the drainage details can be satisfactorily resolved.

Conditions

As there are no personal circumstances put forward in support of the application and there are no other identifiable reasons to refuse permission other than for personal circumstances it follows that there are no strong planning reasons to limit the residential occupation personally to the applicants. While it is noted that the Parish Council are only willing to support a personal permission, there still has to be good and valid planning reasons to limit the benefit of a planning permission to named individuals and in this case there are no such reasons.

However it is considered reasonable and necessary to restrict occupation of the site generally to those meeting the gypsy and traveller definition set out Circular 01/2006 to reflect the fact that the site has been allowed because of the special circumstances of gypsies and travellers and to ensure the site remains available for genuine gypsies and travellers in the locality.

Circular 01/2006 addresses the issue of temporary permission with reference to Circular 11/95 on the 'Use of Planning Conditions in Planning Permission' and expressly identifies that temporary permission can be justified where it is expected that planning circumstances will change in a particular way at the end of period of temporary permission. The grant of a temporary permission for three years will meet the current needs of the applicants, will allow the Local Planning Authority an element of the control over the site to see how the site is managed and developed. As the applicants have already undertaken the majority of the ground work at the site entrance it is not considered that a temporary limited consent will be unreasonable or involve unreasonable costs.

To partly address concerns over the management and control of the transit element it is also considered reasonable to tie the operation and management of the transit pitches to the occupation of the residential pitches. If the permanent occupiers of the site are responsible for those occupying the transit pitches they will have a much stronger interest in ensuring the transit use is well run and does not adversely affect their home or the wider community in which they live. Linking the two together will also prevent a situation occurring whereby the residential pitches could be fully occupied but a separate site manager would need to visit the site daily to run and manage the transit element. Having the permanent occupiers of the site acting as site managers will reduce the need for a separate site manager and the additional daily car movements this would generate.

Conditions should also be imposed to clarify the residential and transit use approved, the seasonal occupation of the transit pitches, the numbers of caravans allowed per pitch and conditions recommended by the Highway Officer.

CONCLUSIONS

While it is recognised that this has been a contentious application and has elicited strong feelings amongst local residents, the planning merits of the application must be fairly and impartially considered in light of relevant national and local policies.

The sustainability, visual and character impact and highway implications of the proposal have been considered and no adverse impact has been identified which would justify a refusal of planning permission. The valid planning objections received to the application have been weighed up but given the identified need for site provision and the implications of a refusal, it is not considered that these concerns are sufficient to sustain a refusal of permission. It is recognised that the drainage implication of the development needs to be fully addressed and this is reflected in the recommendation given below and approval will ultimately be dependant on a suitable drainage scheme being provided to the satisfaction of the Environment Agency.

In terms of conditions there is no valid planning reason to only grant a personal permission but for the reasons set out above, it is considered reasonable and necessary to only grant temporary permission with conditions restricting general occupancy and clarifying the extent of the permission.

RECOMMENDATION

Main Recommendation

Subject to details of a satisfactory drainage system being provided by the time of the Committee meeting, the application is recommended for approval with the conditions set out below and any additional drainage conditions required by the Environment Agency and any additional reasons for approval.

Alternative Recommendation

If the drainage details have not been resolved by the time of the Committee meeting then the recommendation is that Members defer the application with a resolution to approve subject to a satisfactory drainage scheme being provided and with delegated authority to be given to the Head of Planning and Countryside Services to secure such a scheme in consultation with the Environment Agency. Once a drainage scheme has been agreed the application would then be approved with the conditions set out below and any further appropriate drainage conditions and any additional reasons for approval.

If a satisfactory drainage scheme cannot be agreed the application would be referred back to the next available Committee meeting.

Recommended Conditions

1. The site hereby permitted shall not be occupied by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006.
(Reason: The site is in an open countryside location where a residential use would not normally be permitted but is justified by the special circumstances of the occupiers and to ensure future occupation of the site is in accordance with these special circumstances)

2. The use hereby permitted shall be discontinued on or before the end of a period of three years from the date of this decision and all materials and equipment brought on to the land in connection with the use shall be removed, and the land restored to its former condition.

(Reason: So that the Local Authority retains control over the site and to allow time to assess drainage issues.)

3. There shall be no more than six pitches on the site which shall be laid out in accordance with the approved site layout plan (Drawing Number 0785/01) and on each of the six pitches hereby approved no more than two caravans shall be stationed at any one time.

(Reason: To clearly set out the number of pitches and caravans allowed on the site and the approved site layout)

4. Only pitches 1 and 2 (as shown on Drawing Number 0785/01) are approved for permanent residential occupation by persons meeting the definition of Condition 1.

(Reason: To clearly set out which pitches are approved for permanent residential occupation)

5. Pitches 3 to 6 (as shown on Drawing Number 0785/01) are approved for seasonal transit use only and shall only be occupied by persons meeting the definition of Condition 1 between 1 March and 30 September in any one year.

(Reason: To clearly set out which pitches are approved for seasonal transit use and the approved season)

6. The four transit pitches (pitches 3 to 6 on Drawing Number 0785/01) shall only be operated and managed in association with the occupation of the two residential pitches (pitches 1 and 2 on Drawing Number 0785/01).

(Reason: To tie the management of the transit element to the residential element of the proposal to ensure the transit use is well managed and preserves the character and appearance of the site and to remove the need for additional vehicle movements to and from the site by a site manager)

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

(Reason: To protect the amenity and character of the site and the wider area which is designated as an Area of Great Landscape Value)

8. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

(Reason: To protect the amenity and character of the site and the wider area which is designated as an Area of Great Landscape Value and in the interests of highway safety)

9. No works to convert the stable into the amenity unit shall commence until full elevation drawings of the external works proposed to the stable building have been submitted to and approved in writing by the Local Planning Authority.

(Reason: Insufficient information has been provided in the application in relation to the external works of alteration proposed to the stable building)

10. The reception and turning area shown on the approved plan (Drawing Number 0785/01) shall be kept free for the turning of vehicles at all times.

(Reason: To ensure adequate turning facilities are available on site in the interests of highway safety)

11. Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays shall provide inter-visibility between any points on the X and Y axes at a height of 900 mm above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 90 metres in both directions

(Reason: To provide adequate visibility from and of emerging vehicles)

12. The site access road shall be hardened, surfaced, drained and thereafter maintained for a distance of not less than 6.0 metres back from its junction with the public highway in accordance with a scheme which shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall be submitted within 1 month of the date of the decision and the work carried out within 1 month of the approval of the details. Any entrance gates shall be hung to open inwards and shall be set back a minimum distance of 6.0 metres from the carriageway edge.

(Reason: To prevent mud and other debris being carried onto the public highway and to prevent obstruction of the public highway)

13. Within one month of the date of this permission a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out by the end of March 2008 unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area designated as an Area of Great Landscape Value)

Informatives

1. For the purposes of Condition 1 paragraph 15 of ODPM Circular 01/2006 identifies gypsies and travelers as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people traveling together as such.
2. In relation to Condition 10 your attention is drawn to the time limit of 1 month to submit the required details to the Local Planning Authority and 1 month to carry out the approved scheme.
3. In relation to Condition 11 the landscaping plan should include details of additional native hedge/tree planting to stop up the gate way by the stable/amenity building and any additional screening planting that can be provided by the entrance gate to help screen the reception area and pitches from the road.

Reasons for approval

1. The proposal complies with Devon Structure Plan (2001 – 2016) Policies ST5 & CO4 & TR10
2. The proposal complies with East Devon Local Plan (1995 - 2011) Policies S5 & D1 & EN2 & H12 & TA7
3. The proposal does not adversely affect the privacy and/or amenity of neighbour properties
4. The proposal does not harm the particularly landscape qualities and characteristics of the landscape designated as an Area of Great Landscape Value

Approved plans

Site Location Plan received 2 July 2007
Drawing Number 0785/01 Proposed Site Layout Plan

List of Background Papers

Application file, consultations and policy documents referred to in the report.