



PLANNING COMMITTEE REPORT

TO: Planning Committee South

BY: Head of Development

DATE: 20th February 2018

DEVELOPMENT: Removal of Conditions 2 and 3 to previously permitted application DC/10/0586 (Use of land for stationing of 2 caravans for settled gypsy accommodation retrospective application to retain 2 existing caravans, one with a temporary permission). Relating to personal occupancy restrictions

SITE: Oak Tree View and Lane Top Nutbourne Road Pulborough West Sussex RH20 2HA

WARD: Pulborough and Coldwaltham

APPLICATION: DC/17/2564

APPLICANT: **Name:** Mr Simon Staples **Address:** Oak Tree View and Lane Top Nutbourne Road Pulborough West Sussex RH20 2HA

REASON FOR INCLUSION ON THE AGENDA: More than 8 public representations received which are contrary to the officer's recommendation.

RECOMMENDATION: To grant planning permission

1. THE PURPOSE OF THIS REPORT

To consider the planning application.

DESCRIPTION OF THE APPLICATION

- 1.1 The proposal seeks to remove the personal occupancy conditions which currently restricts occupation of the two mobile homes on the two separated sites to the applicant and his wife, Mr & Mrs Staples-Lee and their immediate family, and to Mr Joseph Smith and his wife. Immediate family is stated to include: parent, grandparent, child, grandchild, brother, sister, aunt, uncle, nephew and niece.
- 1.2 The proposal also seeks to remove the personal occupancy condition so that the site can be counted towards the Council's overall allocation of gypsy, travellers and travelling showpeople provision.

DESCRIPTION OF THE SITE

- 1.3 The application site comprises an area of land, set on an elevated position approximately 500m south of the undefined settlement of Nutbourne, and about 1.7km west of the BUAB of Pulborough. The site therefore lies in a rural area in terms of planning policies, although the site map reveals a number of residential properties adjoining and nearby the site.

- 1.4 There are no other designations on the land in terms of heritage interest or protected trees, although the site is reasonably well-screened along its boundaries by trees, hedging and timber fencing.
- 1.5 The site, as currently laid out, is accessed from the north- western side by a driveway off Nutbourne Road, shared along most of its length with a neighbouring property Inglenook Cottage (formerly Little Paddock), sited to the north-west. There is a timber stable-block aligned along the site's eastern boundary and an open area of paddock land to the north and centre of the site. There is a fenced curtilage of a static mobile home which is sited alongside the site's south-eastern boundary, shared with the adjoining property Nutbourne Studio. This curtilage includes an area of hard-standing for parking, a timber garden / outbuilding and an area of lawn forming a garden around the static mobile home, occupied by Mr & Mrs Simon Staples and family.
- 1.6 This mobile home was first subject to a temporary and personal permission for Mr and Mrs Staples-Lee, expiring on 20th November 2010 (DC/06/1722).
- 1.7 A pole barn is sited alongside the central / southern part of the site and has been adapted to form a dwelling, occupied by Mr James Smith. This dwelling was subject to an LDC application DC/16/2873, confirming its residential occupation for at least 4 years preceding the application date.
- 1.8 Permission DC/10/0586 was granted in late July 2010 for 'Use of land for stationing of 2 caravans for settled gypsy accommodation (retrospective application to retain 2 existing caravans, one with a temporary permission)', subject to the following conditions:

2 The residential use hereby permitted shall be carried on only by Mr Staples-Lee and Mr Joseph Smith and their immediate family, defined as the wife of Mr Staples-Lee and the wife of Mr Smith, or any person whom the said persons are living as man and wife; the parent, grandparent, child, grandchild; brother, sister aunt, uncle, nephew, niece of Mr Staples-Lee and Mr Smith, or the spouse thereof, and by no other person or persons.

Reason: Due to the special circumstances of the case and in accordance with DC32 of the Horsham District Council Local Development Framework: General Development Control Policies (2007).

3 When the land ceases to be occupied by the persons named in condition 2, the use hereby permitted shall cease and any caravans, vehicles, trailers, structures, materials and equipment (including all areas of hardstanding and sanitary equipment) brought onto the land in connection with the use, save as otherwise permitted, shall be permanently removed. Within two months of that time, the land shall be restored to pasture land.

Reason: Permission would not normally be granted for such development in this location under policy DC1 of the Horsham District Council Local Development Framework: General Development Control Policies (2007) but in granting permission exceptionally the Local Planning Authority have had regard to the particular circumstances relating to the proposal and policy DC32 of the Horsham District Council Local Development Framework: General Development Control Policies (2007).

- 1.9 At the time of consideration in 2010, it was noted that the permission had already been a temporary permission, and therefore it was not recommended to grant a further temporary permission on the site. Furthermore, it was noted that since the last permission had been granted in 2006, there was one child attending local school and a sibling due to start, so the potential displacement of the family was a material consideration, as was the lack of

suitable alternative sites in proximity to the application site and schools being attended. The family was considered to be integrated into the local community, and the visual setting of the wider rural area was not deemed to be compromised by way of the resulting two additional pitches on this site in addition to the exiting pitch, resulting in only three pitches on the Lane Top site.

- 1.10 Whilst the location of the site did not fully comply with the local and regional policies on gypsy and traveller sites at the time, it was considered that a more pragmatic approach be taken in assessing the more long-term occupation of the site, and why, in this instance, the use of a personal occupancy condition was applied, rather than a further temporary permission.

2. INTRODUCTION

STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

RELEVANT PLANNING POLICIES

The following Policies are considered to be relevant to the assessment of this application:

National Planning Policy Framework

Horsham District Planning Framework (HDPF 2015)

Policy 1 - Strategic Policy: Sustainable Development

Policy 2 - Strategic Policy: Strategic Development

Policy 3 - Strategic Policy: Development Hierarchy

Policy 21 - Strategic Policy: Gypsy and Traveller Sites Allocations

Policy 22 - Gypsy and Traveller Sites

Policy 23 - Strategic Policy: Gypsy and Traveller Accommodation

Policy 24 - Strategic Policy: Environmental Protection

Policy 25 - Strategic Policy: The Natural Environment and Landscape Character

Policy 26 - Strategic Policy: Countryside Protection

Policy 32 - Strategic Policy: The Quality of New Development

Policy 33 - Development Principles

Policy 40 - Sustainable Transport

Policy 41 - Parking

Policy 42 - Strategic Policy: Inclusive Communities

Supplementary Planning Guidance:

Gypsy Traveller site allocations DPD

Site Allocations DPD is still at an early stage

RELEVANT NEIGHBOURHOOD PLAN

The Pulborough Neighbourhood Plan is still at an early stage

PLANNING HISTORY AND RELEVANT APPLICATIONS

DC/06/1722	Stationing of 1 mobile home for gypsy settled accommodation and retention of outbuilding	Application Permitted on 22.11.2007
DC/16/2873	Use of building as a residential dwelling (Certificate of Lawful Development - Existing)	Application Permitted on 17.03.2017
DC/10/0586	Use of land for stationing of 2 caravans for settled gypsy accommodation (retrospective application to retain 2 existing caravans, one with a temporary	Application Permitted on 27.07.2010

permission)

3. OUTCOME OF CONSULTATIONS

- 3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

INTERNAL CONSULTATIONS

3.2 HDC Strategic Planning: Comment

- It is acknowledged, the Council is currently unable to demonstrate an up-to-date 5 year supply of deliverable sites, however the removal of the personal occupancy condition on this site would help to remove the backlog. This is a significant consideration in terms of the determination of this planning application and would normally weigh in favour of the proposal, provided that the proposed development does not significantly depart from the criteria laid out in the Planning Policy for Traveller Sites (PPTS) (particularly paragraphs 13, 24 and 25).
- In terms of compliance with paragraphs 13, 24 and 25 of the PPTS, it is noted that the application site is located approximately 0.43 km (as the crow flies) from the Built-up Area Boundary (BUAB) of West Chiltington, a 'medium village' as defined by Policy 3 of the HDPF (Strategic Policy: Development Hierarchy). These are 'settlements with a moderate level of services and facilities and community networks together with some access to public transport'. Whilst West Chiltington does have a good level of services and facilities, given its location of the site, it is still likely that the main mode of transport would be the private motor vehicle, although other public transport options are available.
- This site is allocated through policy 21 of the HDPF as Gypsy and Traveller Site. Its delivery would go some way to enabling the Council to meet its 5 year supply of deliverable sites by removing some of the backlog. This is a significant consideration in terms of the determination of the planning application. The site is identified in the current regulation 18 Gypsy 'Site Allocations' DPD for 3 gypsy and traveller pitches, although limited weight can be given to the document at this stage
- Such considerations would need to be weighed, together with compliance with paragraphs 13, 24 and 25 of the PPTS, against the significant requirement for new pitches within the District.

OUTSIDE AGENCIES

3.4 WSCC Highways: No Objection

- No Highways concerns raised in response to this application
- Principle of use for the stationing of two caravans / mobile homes on the site and associated vehicular movements has been established under DC/10/0586
- No anticipated material change in frequency or type of vehicular movements associated with the removal of the personal occupancy restriction condition

PUBLIC CONSULTATIONS

3.5 Pulborough Parish Council:

- No Objections

3.6 To date, letters have been received from 17 neighbouring and nearby properties, objecting to the proposal on the following grounds.

- Total reliance on private cars as no public transport available in the village.
- Cond 9 on DC/10/0586 (relating to visibility Splays) has yet to be implemented at the site – concern regarding the lack of enforcement action being taken with regard to planning breaches at the site.
- Existing situation works well so no need to lift personal occupancy restriction – permanent use of the site would not be suitable given its location.
- Site located adjacent to 9 residential properties.
- Poor highway safety / access – visibility at best still only 30m (visibility splays required to be at least 70m as per WSCC) – no footpath along Nutbourne Road and bend in road leading to a hazard for other road users and pedestrians
- Width of access track to the site a problem in that there is no passing place – requiring vehicles to reverse up or out of the track in some instances – installation of electric gates exacerbates the problem.
- Removing the conditions would be out of keeping with rural amenity.
- Concern that removing the personal occupancy condition, in order to address a District-Wider shortfall of gypsy and traveller sites would adversely impose on the local community and affect character – development is contrary to local policies already quoted within application DC/10/0586.
- Object to the identification of the site as a permanent settled site.
- Change of use of the site would represent a very different use of land.

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

- 4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

- 5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

- 6.1 The main considerations in the determination of this application are whether the removal of the conditions is appropriate in terms of land use, impact on amenity, highway safety and design.

Background:

- 6.2 In 2015, the government published its 'Planning Policy for Traveller Sites' (PPTS) to be read alongside the NPPF. Policy H of the guidance relates to the determination of planning applications for traveller sites, stating that applications should be assessed and determined in accordance with the presumption in favour of sustainable development. The PPTS states, at Paragraph 27, if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites this should be a significant material consideration in any

subsequent planning decision when considering applications for the grant of temporary planning permission.

- 6.3 The Horsham District Planning Framework (HDPF) through Policy 21, Gypsy and Traveller Site Allocations, makes provision for 39 net additional permanent residential pitches for Gypsies and Travellers within the period 2011-2017. Policy 21 also states that the Council will make provision for further pitches over the rest of the Plan period from 2017 to 2031 in a Site Allocations DPD, including the application site, which has been 'earmarked' for three pitches, which are the existing properties on the site.
- 6.4 A call for Gypsy, Traveller and Travelling Showpeople sites was undertaken early in 2016. The Council is in the early stages of developing its Site Allocations document and is actively assessing sites and accommodation needs within the District, although this emerging DPD currently carries limited weight at this stage.
- 6.5 Being able to count the application site towards the overall site allocations within the District would enable the Council to meet its 5-year supply of deliverable sites. At this stage, there is nothing to suggest the site would not continue to be occupied by the extended family. The removal of the conditions allows this site to be in accordance with Policy 21 of the HDPF and to go towards the upcoming Gypsy, Traveller and Travelling Showpeople Allocations Development Plan Document. Permission DC/10/0586 would still limit this site to two caravans. With the existing unit in between the two pitches, there is a total of 3 pitches on this site in accordance with the requirements of Policy 21. Subject to the assessment of this site in terms of other criteria such as impact on residential amenity and design, the principle of the removal of the conditions is considered appropriate.

Sustainable Development:

- 6.6 Policy 23 of the HDPF requires that sites are served by safe and convenient pedestrian and vehicular access, and should not result in significant hazard to other road users. Furthermore, there is an expectation that sites are located in or near existing settlements, within reasonable distance of a range of local services and community facilities, such as schools and essential health services.
- 6.7 It is noted that the site lies in a rural area, which is reliant on the use of private vehicular transport to access services, shops and schools. The application site is not however considered to be particularly isolated owing to the level of residential properties sited adjacent to the application site. It is also noted that the site has been occupied by the family for many years and is therefore essentially an established residential site.
- 6.8 The site has vehicular access onto Nutbourne Road, which one of the local connector routes for residents to access larger settlements. The location of the site and nature of the proposed development is therefore considered to comply with the relevant criteria of the HDPF.

Design and Appearance:

- 6.9 The removal of the personal occupancy condition is not considered to affect the setting or visual character of the rural location, in which this established site lies. The development across the site is of a single-storey and low-rise nature and is currently well-screened by site boundaries and intervening landscaping features. The site layout would appear commensurate with the setting of the adjacent residential plots. Furthermore, the site is not visible from public views.
- 6.10 The proposal therefore continues to accord with the wider criteria of the PPTS, and with HDPF policy 23.

Amenity Impacts:

- 6.11 Policy 33 of the HDPF requires that development is designed to avoid unacceptable harm to occupiers of nearby land and property, for example, through overlooking or noise.
- 6.12 The established nature of the site is noted and it is not considered that removing the personal occupancy condition would result in any adverse impacts to neighbouring residential amenities. The removal of the conditions may result in different occupiers of the caravans. However, this would not be reason enough to warrant refusal of the proposal.

Highways Impacts:

- 6.13 The removal of the occupancy condition would not affect the access to and from the established site as it currently functions.
- 6.14 The comments are noted relating to the previous permission, granted in 2010, which included a visibility splay condition.
- 6.15 For reference, the submitted block plan at the time of the 2010 application did not extend out to cover the highways access and adjacent land required to form the visibility splays. In any event, the current application to remove the personal occupancy condition would not include a requirement to provide the visibility splays.
- 6.16 WSCC Highways Officer has commented that the use of the site for two caravans and the vehicular movements associated with them has been established under DC/10/0586. It would not be anticipated the removal of conditions 2 or 3 would result in any material change in the frequency or type of vehicular movements being associated with the site. No highways concerns would be raised the removal of these conditions. The Highways Officer has also stated that the existing visibility splays are also appropriate and do not result in any highway concerns.

Conditions Amendments:

- 6.17 It is recommended that the remaining planning conditions that were previously applied to DC/10/0586 be reconsidered and updated accordingly to reflect current policies.
- 6.18 Condition 8 of DC/10/0586 relating to the drainage is no longer considered to be necessary as the Council is aware that the site is connected to the mains.
- 6.19 Similarly, as the visibility splays to the site are considered acceptable to the Highways Authority, there is no longer a need to retain Condition 9 of DC/10/0586.

Conclusions and Planning Balance:

- 6.20 The Council cannot currently meet the identified gypsy and traveller accommodation need or future need in accordance with policies 21, 22 and 23 of the HDPF. It is also recognised that the Council is still in the early stages of developing its Site Allocations document and is actively assessing sites and accommodation needs within the District, by way of the forthcoming DPD.
- 6.21 Whilst the site results in meeting the direct needs of the respective Smith and Staples-Lee families as it currently stands, the restrictive personal occupancy condition means that the site cannot be counted towards meeting the Council's district-wide needs.
- 6.22 The proposal is therefore considered to be in line with local and national planning policies and is therefore recommended for approval, thus lifting the personal occupancy condition.

The proposal is also considered appropriate in terms of highway safety, impact on amenity and design.

7. RECOMMENDATIONS

Conditions:

- 2 **Regulatory Condition:** This permission does not authorise use of the land as a caravan site by any persons other than Gypsies and Travellers, as defined in Annex 1 of Planning Policy for Traveller Sites (Department for Communities and Local Government 2015).

Reason: To enable the Local Planning Authority to control the use of the site and in accordance with Policies 21, 22 and 23 of the Horsham District Planning Framework (2015).

- 3 **Regulatory Condition:** No more than 1 static caravans or mobile home, and no more than 1 touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (or any Act revoking or re-enacting these Acts), shall be stationed on each of the respective land parcels, identified as Oak Tree View and Lane Top, at any one time.

Reason: To avoid an overcrowded appearance and to secure satisfactory standards of space and amenity in accordance Policy 33 of the Horsham District Planning Framework 2015.

- 4 **Regulatory Condition:** Any touring caravans shall not be occupied by any person at any time whilst on the application site.

Reason: To enable the Local Planning Authority to control the use of the site and in accordance with Policy 21, Policy 22 and Policy 23 of the Horsham District Planning Framework 2015.

- 5 **Regulatory Condition:** No industrial, commercial or business activity shall be carried on from the site, including the storage of materials.

Reason: In the interests of amenity and in accordance with Policy 33 of the Horsham District Planning Framework 2015

- 6 **Regulatory Condition:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or Orders amending or revoking and re-enacting the same, no additional gates, fences, walls, or other means of enclosure shall be erected or constructed on the site unless prior written permission has been granted by the Local Planning Authority.

Reason: In the interests of amenity in accordance with Policy 33 of the Horsham District Planning Framework 2015.

- 7 **Regulatory Condition:** No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

Reason: In the interests of amenity and in accordance with Policy 33 of the Horsham District Planning Framework 2015

- 8 **Regulatory Condition:** No external lighting fixtures shall be erected or placed on the land, without the prior written approval of the Local Planning Authority.

Reason: In the interests of amenity and in accordance with Policy 33 of the Horsham District Planning Framework 2015.

- 9 **Regulatory Condition:** The mobile homes and outbuildings hereby permitted shall not be extended or altered in any way unless planning permission has been granted by the Local Planning Authority on application in that respect.

Reason: In the interests of amenity and in accordance with Policy 33 of the Horsham District Planning Framework 2015.

Background Papers: DC/17/2564