

Item No 04:-

15/02733/FUL (CT.7047/P)

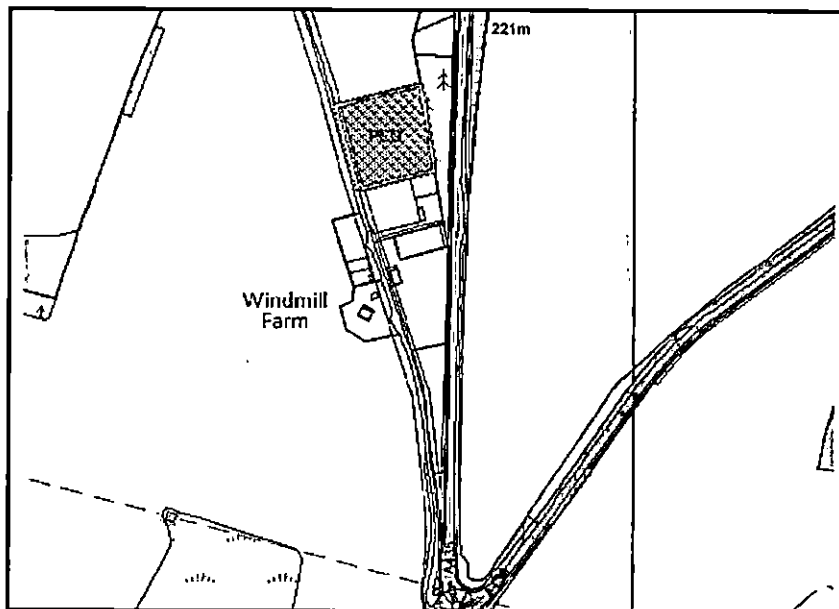
**Land Parcel Opposite Windmill Farm
Hartley Lane
Leckhampton Hill
Coberley
Gloucestershire**

Item No 04:-

Variation of conditions 2, 7 and 10 of planning permission 14/02614/FUL to revise the site plan, layout, foul drainage, landscaping and external lighting at Land Parcel Opposite Windmill Farm Hartley Lane Leckhampton Hill

| Full Application 15/02733/FUL (CT.7047/P) | |
|--|-----------------------------|
| Applicant: | Mr John Norris |
| Agent: | Michael Hargreaves Planning |
| Case Officer: | Andrew Moody |
| Ward Member(s): | Councillor Nicholas Parsons |
| Committee Date: | 9th September 2015 |

Site Plan



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RECOMMENDATION: REFUSE

Main Issues:

- (a) Background to the proposed development
- (b) The visual and landscape impact of the proposal
- (c) Human rights

Reasons for Referral:

The application is brought to Committee at the request of Councillor Nicholas Parsons to allow the proposal to be debated in public.

1. Site Description:

The application site comprises an area of land on the eastern side of Hartley Lane, north of the roundabout junction with the A435 Cirencester Road. The site has been developed as a Gypsy/Traveller site following the granting of planning permission 14/02614/FUL for a temporary 3-year period in December 2014.

The site is located within an Area of Outstanding Natural Beauty. The site is bound to the west by Hartley Lane and to the east by a tree belt, beyond which is the A435. Immediately to the south is a single gypsy pitch, occupied by one caravan as well as stabling and hardstanding. To the north is agricultural land.

2. Relevant Planning History:**Application Site:**

- 12/03218/FUL: Erection of stables and construction of hardstanding. Refused 9.10.2012
- 12/00459/FUL: Erection of stable building and associated hardstanding in field directly to south of application site. Granted 11.5.2012
- 14/00303/FUL: Erection of stables and construction of hardstanding. Refused 18.3.2014
- 14/02614/FUL: Change of use to mixed use for the keeping of horses and for Gypsy and Traveller residential purposes, together with the development of a stable building and the relocation of the existing stable building. Granted 11.12.2014

Adjacent Sites:

- 11/03641/FUL: Change of use of field to equestrian and proposed construction of new access road and stables - Granted - 18.10.2011 (the current application site comprises part of the land covered by this application)
- 12/04857/FUL: Formation of residential caravan site for one gypsy family with two caravans, including one static caravan/mobile home on existing equestrian site to create mixed use site. Refused 18.12.2012 - Appeal allowed 7.8.2013

3. Planning Policies:

- NPPF National Planning Policy Framework
- LPR05 Pollution and Safety
- LPR10 Trees, Woodlands and Hedgerows
- LPR19 Development outside Development Boundaries
- LPR23 Sites for Gypsy Travellers
- LPR38 Accessibility to & within New Development
- LPR39 Parking Provision
- LPR42 Cotswold Design Code
- LPR45 Landscaping in New Development

4. Observations of Consultees:

Landscape Officer:
Incorporated into the report

5. View of Town/Parish Council:

Coberley Parish Council:

The Parish Council has submitted comments in objection to the application. Due to the length of these comments, they are attached as an appendix to this report.

6. Other Representations:

92 letters of representation have been received, making the following comments: -

- Conditions 2 and 7 regulate the scale of the development
- The main consideration is the additional harm to the AONB as the applicant's have secured a temporary permission
- There have been 8500 objections to the use of this area for Gypsy/Traveller development in the Local Plan consultation
- The works are substantial and have increased the size of the site by 30%; the entrance from 4.5m to 5.0m and with the largest mobile home being increased by 135%
- The width of the hedge does not account for the error, it is 3.75m at most, not 6 to 7 metres as stated
- The Council's Landscape Officer recommended refusal to the original application
- One stall in the stable blocks is for human use, not horses
- The permission only has 27 months to run, how will the landscaping mature in time to have any effect
- The comments regarding the 'Best Interests of the Child' are irrelevant; nothing in this application would alter any aspect of the permission granted in December 2014 which might affect a 'secure home' or any implications for homelessness
- Approval would set a precedent for planning laws to be ignored
- The Appeal Inspector unequivocally stated that no further development should be entertained at this site
- There should be a Judicial Review to see how this has happened
- Impact upon the Cotswold Way
- The original application should be adhered to and the site boundaries put back to their approved location
- The temporary permission should be withdrawn
- The applicants should be treated the same as any other developer who flouts the planning system
- There is a business being run from the site judging by the number of vans present
- Impact upon highway safety
- Over development of the site
- The development is not needed or wanted
- No credible reasons have been provided for the failure to accord with the approved plans

7. Applicant's Supporting Information:

Supporting Statement

8. Officer's Assessment:

(a) Background to the Proposed Development

The application site is located to the eastern side of Hartley Lane, Seven Springs, and is within an Area of Outstanding Natural Beauty, as well as being adjacent to the Cotswold Way which runs along the lane past the site.

Planning permission was granted under reference 14/02614/FUL for the development of the site for a mixed use for the keeping of horses, Gypsy and Traveller residential use, in addition to one new stable block and the repositioning of an existing stable building. This was granted for a 3-year period by Planning Committee, with the decision being issued on 11th December 2014.

So that all Members are fully aware of the background to this development, the report to Committee from the December 2014 meeting is attached as an Appendix to this report. However, the approved granted was for the site being subdivided into two, with the northern part of the site accommodating two mobile homes and one caravan, whilst that to the south would accommodate one mobile home, two caravans, and a new stable building. The existing entrance was shown to be reused with visibility splays provided.

The supporting information submitted with the application indicated that there would be three family units resident, with two of these upon Pitch 1 (4 adults and 1 child), whilst on Pitch 2 there would be 4 adults and 2 children. Information has been provided regarding the personal circumstances, including their gypsy status.

(b) The visual and landscape impact of the proposal

The Government's policy states that development in open countryside should be strictly controlled and favours provision on brownfield sites where possible. It also requires that regard is had to the local environment. The site is in the Cotswolds AONB, and with regard to which the NPPF, it is stated that: 'Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.'

Policies also refer to whether proposals are able to mitigate harm, or enhance sites through the layout of the site and the provision of hard and soft landscaping.

The land forms part of a triangle of land located between the A435 and Hartley Lane. The land in this area rises to the north and west and forms part of the wider landscape character of the AONB characterised by steep hillsides and rolling open pastures and arable fields. Within this context the development is visible within its immediate context but also from several view points on the approach to the site, and also from the A436, in particular the lay-by on this road which is a popular stopping point. Hartley Lane itself is not a heavily trafficked road, however it is popular with walkers as it forms part of the Cotswold Way National Trail. Therefore the development is clearly visible to a number of receptors.

Having established that the site forms part of the rural landscape of the AONB and is highly visible the next consideration is what, if any harm is caused by the development, over and above any impact caused by the approved scheme.

It should be noted that the Inspector considering the appeal in respect of the caravan on the adjacent site to the south accepted that there would be harm caused to the landscape and scenic beauty of the AONB, in that he commented that the harm to the AONB was of paramount importance. However, in allowing that appeal, it was concluded that the granting of a temporary planning permission, given the shortfall in gypsy site provision, would be acceptable. However, three further appeals were also dismissed by the same decision letter including land further up the slope closer to the current application site. This appeal decision is also attached as an Appendix.

In granting the temporary permission for the development of the application site, the Planning Committee took into consideration the lack of a demonstrable 5 year supply for gypsy and travellers sites and, following a Site Inspection Briefing, were satisfied with regard to the impact upon landscape character within the AONB.

In April 2015, an enforcement complaint was received regarding the extent of the works being undertaken in implementing the planning permission. Upon an inspection by the Enforcement

Officer, it was identified that the site had extended by approximately 8 metres further out into the field to the east of Hartley Lane. The applicants were therefore invited to submit a further planning application, which is the current proposal.

Any assessment of the proposal has to take into consideration the extent of the approved development, and then consider the impact of the additional area of land that has been developed. The Landscape Officer has visited the site, and has identified, in particular, the stable block to the southern of the two pitches, together with the size of the mobile home to be accommodated on that pitch, as being of concern, such that the proposal is not considered to be acceptable.

As stated above, the submitted plans have confirmed that the fencing at the rear (east) of the site is between 4.2 and 8.2 metres further into the field than approved. The difference between these measurements is due to the approved rear boundary having a recessed area where vehicles could be parked, whilst the development as constructed has a straight fence erected.

Taking into account the comments made by the Inspector in determining the appeal on the adjacent site, and the balance of the decision made to grant temporary planning permission in terms of the landscape impact, your Officers consider that any further incursion into the open countryside within the AONB is demonstrably harmful to landscape character and cannot be supported, and as such the development is contrary to paragraph 115 of the NPPF.

(c) Human Rights

The applicants have submitted information with regard to the health of one of the children living at the site. Reference is made in the Supporting Statement to the best interests of the child being a primary consideration, and refers to s.11 of the Children Act, 2004 and Article 3(1) of the UN Convention on the Rights of the Child, and that this is treated by the European Court of Human Rights as part of the consideration of Article 8 rights in any case where the decision of a public body affects children.

The statement also continues to state that given the potential implications for the child being made homeless this is a case where refusing to grant a temporary permission would engage Article 8 rights. These comments are noted, and Members have to consider this matter upon its own merits and attach weight as they consider appropriate.

However, your Officers are of the opinion that this should not prevent Members refusing the planning application. A refusal of the current application would not affect the temporary permission granted in December 2014, and would not result in the applicants having to vacate the site before permission expires.

In the event of permission being refused, whilst the applicants would have the right to lodge an appeal, the Local Planning Authority would expect the development to revert back to the approved scheme, pulling the eastern boundary fence back in from its current position and repositioning the stable blocks, hardstanding and landscaping to accord with the approved plans.

9. Conclusion:

When granting a 3-year temporary planning permission for the development of this site for a mixed equestrian and Gypsy / Traveller residential site, it was considered that the general need for such accommodation within Cotswold District outweighed the identified harm to the AONB, which the NPPF makes clear should be attached 'great weight' in terms of preserving its natural beauty.

The further encroachment of the site into the open countryside has exacerbated this identified landscape harm, such that the development as constructed is considered to be materially harmful to landscape character within the AONB, and this harm is not outweighed by the need for Gypsy / Traveller accommodation in the District.

Therefore it is recommended that the application be refused.

10. Reason for Refusal:

The Local Planning Authority is statutorily required to have regard to the purpose of conserving and enhancing the natural beauty of the landscape. The site forms part of attractive and predominantly undeveloped countryside located within the Cotswolds Area of Outstanding Natural Beauty (AONB) and outside of any settlement or recognised development boundary. The further extension of the approved Gypsy / Traveller residential site, along with the prominence of the stable blocks, would result in an urbanising effect which is out of keeping with, and detrimental to, the rural landscape character and beauty of this part of the Cotswolds AONB. As such the proposal is contrary to Policies 19 and 23 of the Cotswold District Local Plan, paragraphs 14, 17 and 115 of the National Planning Policy Framework, and advice contained in "Planning Policy for Traveller Sites" (DCLG, 2012).

15/02733 / Ful

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DRAWING - HARTLEY LANE: PROPOSED SITE PLAN
AND APPROVED SITE PLAN

SCALE ~ 1:250 at A3

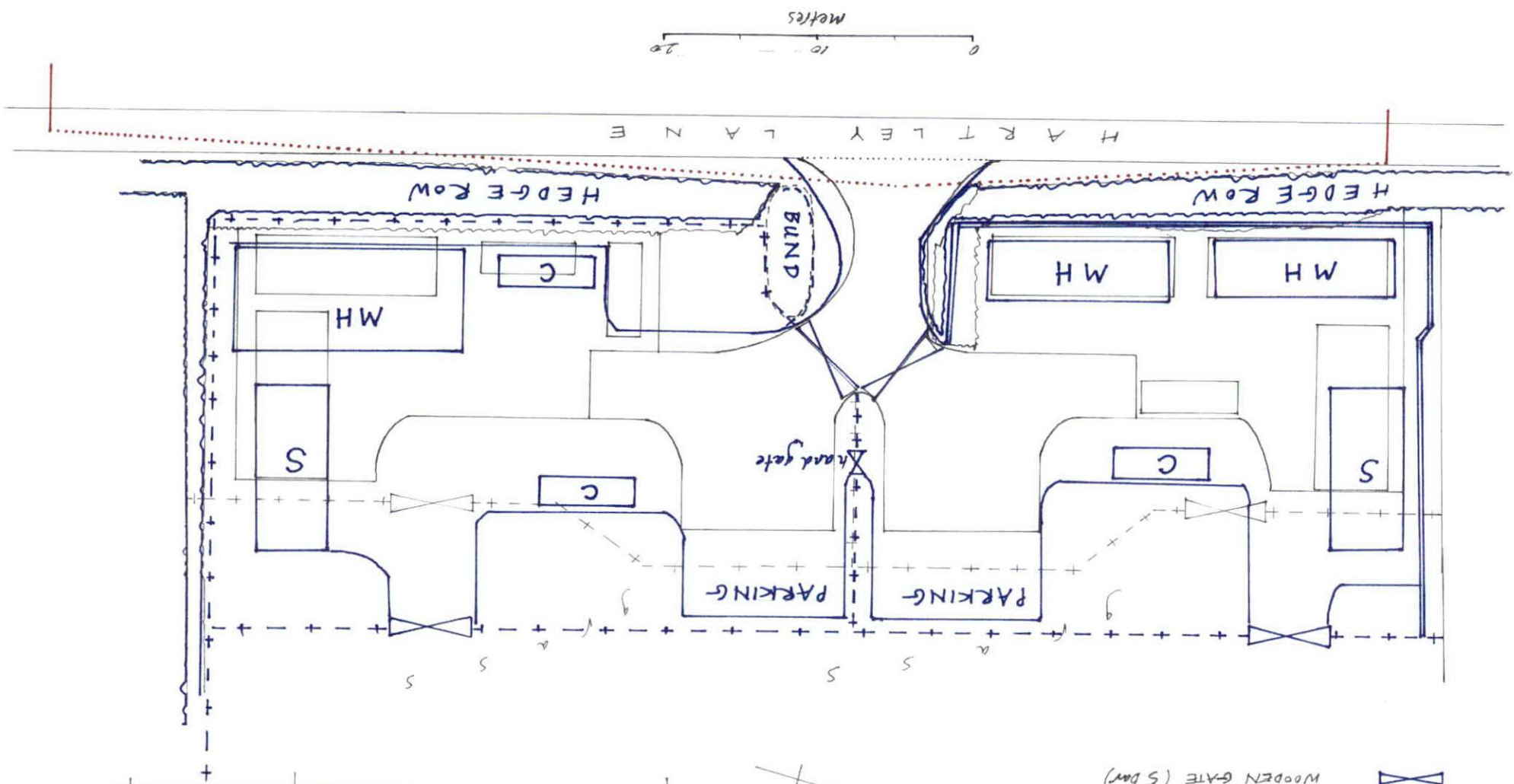
DRAWN BY CJ TYLER
MICHAEL HARGREAVES PLANNING
5 HIGH STREET • SWAFFHAM PRIOR
CAMBRIDGE • CB25 0LD

PROPOSED SITE PLAN
SHOWN IN BLUE

APPROVED SITE PLAN
SHOWN IN BLACK

KEY:

- C TOURING CARRAVAN
- S STABLE
- MH MOBILE HOME
- + - + - POST AND RAIL FENCE (1.2m)
- SOLID WOOD FENCE (1.9m)
- VISIBILITY SPLAT AT SITE ENTRANCE
- ∩ WOODEN GATE (5 bay)



Coberley Parish Council

Planning Application 15/02733/FUL: Land Parcel opposite Windmill Farm, Hartley Lane, Leckhampton Hill, Coberley, Gloucestershire, - Variation of conditions 2, 7 and 10 of planning permission 14/02614/FUL to revise the site plan, layout, foul drainage, landscaping and external lighting

Coberley Parish Council opposes this application.

In 2014, the Parish Council opposed the original application 14/02614 predominantly on the grounds of harm to the AONB, The Cotswold Way National Trail and unacceptable suburbanisation. **The variations now applied for to the approved plan would exacerbate the harm to the rural landscape resulting in increased suburbanisation.**

Having been granted temporary planning permission for a period of 3 years by the Planning Committee in December 2014, the applicants have increased the size of the development from that indicated upon the originally approved drawing, by 26% (according to the applicants' agent's own calculation in the Supporting Statement).

When the current temporary consent was granted, both planning officers and committee members acknowledged that at the end of the temporary period it would be appropriate to re-visit the need for a gypsy site in this sensitive location and that your authority would be able to withhold consent for extension of the temporary period or indeed permanent consent. (Assuming that sufficient gypsy sites are allocated through the emerging local plan).

This parish council, whilst objecting to the temporary consent (on the grounds identified above), reluctantly accepted the assurances provided by officers and members at face value. What has transpired however supports this council's fears, namely; that the site would be developed to a greater extent than permitted in the terms of the consent and conditions attached thereto.

The planning consent explicitly (condition 2) requires that the December 2014 temporary consent be implemented in accordance with the submitted plans. The applicant has not complied with the conditions imposed in December, fencing and laying to hard surfacing a significantly larger area than that indicated upon the approved plans. The enlargement of the site exacerbates the harm to this important rural landscape.

Whilst acknowledging that your authority cannot control the size, type or design of the 3 permitted mobile homes (subject to the size limitations defined within the Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968), this council accepted that the size of the mobile homes brought to site would be physically restricted by the dimensions of the approved site and the position of the stables (as indicated upon the approved plans). This revised application re-positions the stable blocks which would now allow for the siting of 3 much larger twin unit mobile homes on the enlarged application site.

Coberley Parish Council

The size of the mobile home indicated upon the submitted revised plans on the southern pitch has been increased in size by what appears to be 100% (indeed scaling from the plans it appears that the width at 7.0m exceeds the size limitations set out in the aforementioned acts). The applicants' stated intention to bring to site larger mobile homes has clearly contributed to the movement of the southerly stable block in an easterly direction. The symmetrical movement of the northerly stable block in an easterly direction could permit a larger mobile home on the northern part of the site. However, the result of these moves is that both stable blocks would now be sited partially outside the approved development area. This would allow all of the mobile homes to be increased in size, again increasing the extent to which the completed development will be visually detrimental to the area.

Thus whilst at first review this proposal to enlarge the site and reposition the two stables may seem to the casual observer relatively minor in extent, the reality is that the development (if permitted) would allow for a form of development which will cause serious harm to The Cotswold AONB and the nationally recognized Cotswold Way.

These variations to that which was approved are too significant to be permitted and we ask CDC to refuse permission for the requested variations.

Approval of this application would make a mockery of the planning system and the imposition of conditions.

We believe that should approval be granted, it would establish a totally unacceptable precedent for others in the future wishing to follow a similar route and deviate from planning permission conditions.

In December 2012 Cotswold District Council served enforcement notices (3) upon the adjoining land owner. The reason for issuing the notices was as follows:-

"The site forms part of attractive and predominantly undeveloped countryside located outside of any settlement or recognised development boundary. The use of the Land as a caravan site along with associated structures, equipment, operational development and domestic paraphernalia would result in an urbanising effect to the detriment of the rural landscape character and beauty of this part of the Cotswolds Area of Outstanding Natural Beauty (AONB)."

It should be noted that, in August 2013, appeals were considered by the Planning Inspectorate with regard to the adjoining site to the south of the subject site, and land to the north of that. (Appeal A: APP/F1610/C/12/2190154; Appeal B: APP/F1610/C/12/2190155; Appeal C: APP/F1610/C/13/2191310; Appeal D: APP/F1610/A/13/2192673). The inspector made clear that he was preventing any residences, hard standing, ancillary structures and domestic paraphernalia from being located further north on the site.

Coberley Parish Council

He made it clear in paragraph 11 that development beyond the site in Appeal D caused considerable harm to the AONB. On these grounds, the decision by CDC Planning Committee on 10 December 2014 (which one must assume was made with full knowledge of all the case documentation and related history) to grant temporary permission to the development on the site, now referred to in application 15/02733/FUL, which also lies north of the Appeal D site and to the west of the northern part of the site on which the Inspector dismissed Appeals A, B and C, clearly went against the ruling made by the Inspector.

In our submission to CDC prior to determination of the grant of temporary consent, the parish council expressed concern that the proposed development would be severely detrimental to the visual amenities of the nationally significant Cotswold AONB (both close and distant views)

Our concerns have regrettably been fully realised, the development is very visible within the landscape. The unauthorized extension of the site has exacerbated this issue.

It is notable that the mobile home upon the adjacent site is clearly visible from public vantage points (see fig 1 below). Please thus be mindful that the 3 additional larger mobile homes which could be brought onto the enlarged site if this application were permitted would only add to the severe harm and detriment to the visual amenities of the area enjoyed by both the settled community and also thousands of visitors to the area each year.



Figure 1 - Photograph taken from Hartley Lane

Coberley Parish Council

We are very sorry and saddened to read of the poor health of Mr Norris' son. However, the case put forward with this application, in particular paragraph 27 of the Supporting Statement, with regard to Human Rights, relates to the granting of a temporary permission for a home for the child.

However, as the temporary consent for the site to be used for residential purposes has already been granted by the Planning Committee in December 2014, the outcome of the present application, relating only to variances of conditions of that permission, will have no impact on the permission already granted. The Human Rights issue is not therefore, a relevant consideration in determining this application.

We have considered the matter of cost and affordability of changing back to the approved plan (Paragraph 7 of Supporting Statement). As the scale of deviation from the approved plans is so large, this would surely have been quickly apparent to the applicants, such that the errors could have been corrected at the outset. Similarly, the doubling in size of a mobile home from the approved plan, which has clearly had impact on the location of the stable block, is a very obvious change.

Responsibility to ensure that the site was developed in accordance with the terms of the temporary permission granted must lie with the applicants and therefore, the issue of cost and affordability cannot be a consideration in this matter.

The quality and accuracy of the submitted plans is of remaining concern. The site block plan and Landscaping plan is not based upon an accurate measured survey, no level datum is identified and the site is not shown in relation to any fixed or known feature.

The proposal plans look to be nothing more than rough sketches, the accuracy of which is questioned by this council. In view of the alleged difficulties the applicants had in implementing the scheme to the approved plans it would seem reasonable that in assessing any revision that such revisions be based upon professional prepared land survey plans referenced to ordnance datum and properly coordinated and dimensioned, so that the site set out can be accurately determined and policed by your authority. This we believe is the basic information required for any residential scheme and this council must thus ask why this applicant should be treated differently from other applicants who would be required to provide an accurate up to date land survey together with an up to date ordnance survey extract, identifying the site by reference to its wider environs.

This council respectfully requests that the application for variation of condition be refused consent.

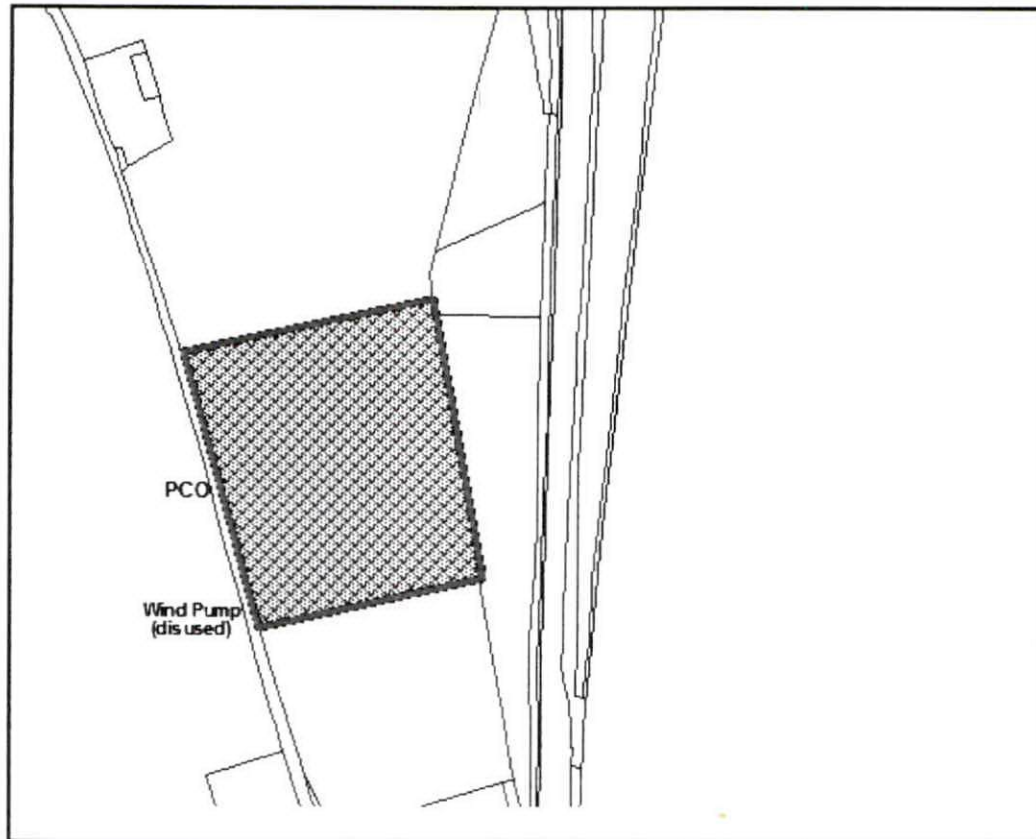
Coberley Parish Council

17th August 2015

Change of use to mix used for the keeping of horses and for Gypsy and Traveller residential purposes, together with the development of a stable building and the relocation of the existing stable building at Land Parcel Opposite Windmill Farm Hartley Lane Leckhampton Hill Coberley

| Full Application 14/02614/FUL (CT.7047/N) | |
|--|-----------------------------|
| Applicant: | Mr John Norris |
| Agent: | Michael Hargreaves Planning |
| Case Officer: | Andrew Moody |
| Ward Member(s): | Councillor PR Hodgkinson |
| Committee Date: | 10th December 2014 |

Site Plan



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RECOMMENDATION: PERMIT FOR A TEMPORARY PERIOD OF THREE YEARS

Main Issues:

- (a) The proposed development
- (b) Planning policy considerations
- (c) The need for gypsy traveller sites
- (d) The visual and landscape impact of the proposal
- (e) Highway safety
- (f) Impact upon residential amenity

Reasons for Referral:

The application is brought to Committee at the request of Councillor Hodgkinson to allow the proposal to be debated in public, and as the site is in the AONB and was a green field until it was occupied unlawfully 2 years ago.

1. Site Description:

The application site comprises an area of land on the eastern side of Hartley Lane, north of the roundabout junction with the A435 Cirencester Road. The application site consists of an area of hardstanding which currently accommodates a stable building.

The site is located within an Area of Outstanding Natural Beauty. The site is bound to the west by Hartley Lane and to the east by a tree belt, beyond which is the A435. Immediately to the south is a single gypsy pitch, occupied by one caravan as well as stabling and hardstanding. To the north is agricultural land.

2. Relevant Planning History:**Application Site:**

12/03218/FUL: Erection of stables and construction of hardstanding. Refused 9.10.2012

12/00459/FUL: Erection of stable building and associated hardstanding in field directly to south of application site. Granted 11.5.2012

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Adjacent Sites:

11/03641/FUL: Change of use of field to equestrian and proposed construction of new access road and stables - Granted - 18.10.2011 (the current application site comprises part of the land covered by this application)

12/04857/FUL: Formation of residential caravan site for one gypsy family with two caravans, including one static caravan/mobile home on existing equestrian site to create mixed use site. Refused 18.12.2012 - Appeal allowed 7.8.2013

3. Planning Policies:

- NPPF National Planning Policy Framework
- LPR05 Pollution and Safety
- LPR10 Trees, Woodlands and Hedgerows
- LPR19 Develop outside Development Boundaries
- LPR23 Sites for Gypsy Travellers
- LPR38 Accessibility to & within New Develop
- LPR39 Parking Provision
- LPR42 Cotswold Design Code
- LPR45 Landscaping in New Development

4. Observations of Consultees:**Environmental Health:**

No objection subject to conditions; asked for a condition to be attached requiring the site owner to apply for a Residential Caravan Site License

Highways:

No objection subject to conditions

Landscape Officer:

Incorporated into the report

Forward Planning:

The thrust of Saved Policy 23 of the Adopted Local Plan is in compliance with the NPPG; National policy requires local planning authorities to provide a five year supply of deliverable sites for Travellers;

The current supply of Traveller pitches identified in an up to date assessment of need (the GGTTSA 2013), as required by 'Planning Policy for Travellers 2013' is under five years (there being zero permanent pitches identified);

The site would appear to also meet the locational criteria in the GGTTSA;

The GGTTSA 2013 has yet to be tested at Examination;

Gypsy and Traveller Policy within the emerging Local Plan 2011 -2031 is currently under development. Pertinent to this application, the site has also been submitted to the 'Call for Sites' and will therefore be subject to the subsequent assessment and allocation of specific and deliverable sites on a District Wide basis.

Given these factors, I would have to support this application in principle for temporary permission only. This would enable the site to be assessed through the local plan process. I would not support the grant of full planning permission at this stage.

Cotswold Conservation Board:**Object for the following reasons:-**

1. The site lies within the Cotswolds Area of Outstanding Natural Beauty, and therefore paragraph 115 of the National Planning Policy Framework (NPPF) applies.

115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.

2. In granting temporary consent on appeal ref: APP/F1610/A/13/2192673 for use of part of the application site for the keeping of horses (existing) and as a residential caravan site for one Gypsy family with two caravans, including one static caravan/mobile home for a limited period, being the period of 3 years from the date of the decision, or the period during which the site is occupied by them, whichever is the shorter, the Inspector stated:

'10. Views are partial because of the lie of the land and the natural screening of trees and hedgerows. The appellant has carried out quite a lot of planting along the boundaries but this has not yet reached the point where it has much effect. In the winter, there would be less screening from vegetation and the mobile home and play equipment would be even more visible. Although, as I suggest above, this is not a pristine, high quality part of the AONB, it is still attractive countryside that is only partially marred by the manmade intrusions. In wider views other houses and farm buildings are visible, but these seem to be a natural part of the landscape. By way of contrast the settlement on the site does not. It stands out as alien and intrusive. This may partly be because it is new, but the mobile home and its domestic appurtenances in particular appear

brashly out of place as they intrude into the paddock area, away from the stable building. They have a somewhat temporary and ramshackle feel. It would be wrong to add further harmful structures to this part of the AONB that is already suffering from a poorly designed road system.

11. In my view, therefore, the harm caused by the site as it stands, is considerable. It is highly visible, even with screening, and stands out in views across the valley. However, if I consider just the site proposed in appeal D, the harm would be reduced. The majority of views are from the west, and the mobile home would be partially masked by the stables. As long as any garden area does not extend northwards into the paddock, the whole would be contained within the hardstanding area between the stables and the tree screen next to the A435. This much more compact and discrete grouping would still, in some views stand out, but generally would be less visible and have less harmful impact. I am required by the Framework to give great weight to conserving the AONB, and bearing this in mind I find the site does cause significant harm, but the proposed site of appeal D less so.'

3. The Board is of the view that the intensification and extension of the permitted site will also cause significant harm, 'even with screening'. It was clearly the Inspector's view that the harm to the landscape could not be mitigated over time, hence in part the temporary consent.

4. Hartley Lane forms part of the Cotswold Way National Trail, which attracts in the region of 100,000 walkers per year. Users of the Cotswold Way are very likely to be highly sensitive to landscape change. Thus even if the site is considered not to be 'a pristine, high quality part of the AONB' the harm caused by the development will be noticed by a considerable number of people seeking to enjoy a landscape nationally designated for its natural beauty. NPPF Paragraph 75 requires the Council to protect and enhance public rights of way, including National Trails.

5. The Board therefore objects to this proposal on the ground that it is contrary to paragraph 115 of the NPPF.

CPRE:

Object for following reasons:-

- the sheer density of the proposed development of 3 mobile homes, three caravans and two stable blocks will constitute a substantial visual impact on the landscape for those descending the Cotswold Way along Hartley Lane and when viewed from the lay-by off the A435. This impact is demonstrated by the existing gypsy development which was temporarily allowed on appeal; this development is very obvious and incongruous when seen from gaps in the extensive openings in the hedge along Hartley Lane. The visual impact will be increased by the cars, vans and paraphernalia of domestic life which will inevitably spill over to the surrounding fields. We do not believe this scale of development can be adequately screened.
- the lane is not suitable to take the level of traffic which this scale of development will imply.
- it is premature to decide how many and where gypsy/traveller pitches should be located in the Cotswold District. It is accepted that the district has failed to provide the number needed (along with most other planning authorities in the UK) but the proper mechanism for these decisions is the Local Plan. A draft for consultation is due to be published in the next two months and it should indicate the magnitude of the need and the way it will be met and this will then be tested in public inquiry. Any decision on this application should be held over till that process has been completed.
- The appeal decision to allow application 12/04857/FUL does not set a precedent. The applicants have stated that they have accommodation though they do not particularly like it. They do not therefore have a pressing need which was a fundamental factor in the inspector's decision to allow the appeal and then only on a temporary basis.

5. View of Town/Parish Council:

Coberley Parish Council:

The Parish Council has submitted comments in objection to the application. Due to the length of these comments, they are attached as an appendix to this report.

Cowley Parish Council:

The Parish Council generally does not comment on planning applications outside the Parish. However, this site is in close proximity to the Parish of Cowley and affects the wider area. The proposals have an adverse impact on the Cotswold landscape and the visual amenity of the area. The site is located in a prominent position backing onto the A435, and the Cotswold Way which is important for tourism. This junction is an important scenic gateway to the Cotswold and Cheltenham and therefore the proposal impacts on the wider area.

6. Other Representations:

38 letters of representation have been received, making the following comments: -

- Impact upon the AONB from the mobile homes which will form permanent residences
- The road is unsuitable for any increase in traffic, the use of cars will be essential due to remote location away from facilities such as schools, shops etc.
- Lane is frequently used by walkers following the Cotswold Way, which is advertised as a National Trail
- The site is too small for even one horse to be grazed all year round
- The Cotswold Way is one of only 15 National Trails in England and Wales, this development would have a significant adverse impact upon its character
- The Council has refused applications for stables on this land, the scale of development proposed is now far greater
- The Planning Policy for Travellers Sites requires the scale of a site to not dominate the nearest settlement
- The lane is used as a short cut at peak times by motorists wishing to avoid the Air Balloon roundabout
- Landscape impact would be significant considering the scale of development proposed Caravans and mobile homes are not in keeping with the local vernacular architecture and use of natural materials
- The applicants have no ties to the area other than land ownership, whilst there is no horse-related activity at the site
- There is no current need for gypsy accommodation in the Cotswold District
- It is agreed that the District Council has to provide facilities for travelling families, but less environmentally sensitive sites with better access and amenities would suit both the travellers and local communities better
- Light pollution will be caused
- The site will provide 6 pitches, each of which could accommodate 5 people, totalling 30 with 18 children
- The Transport Statement is unclear and not easy for local residents to understand
- The TS is paid for by the applicant and is not independent, it is unclear on the location for the speed test recording which would have been easily set to favourably influence the outcome for the applicants, possibly a long way from the site near a sharp bend
- The normal set back for a splay is 2.4 metres, yet 1.75 metres has been allowed in this instance
- The reference in the TS to the distance from which a driver already on the road can see vehicles leaving the site is misleading and should be ignored

7. Applicant's Supporting Information:

Design and Access Statement

8. Officer's Assessment:**(a) The Proposed Development**

The application site is located to the eastern side of Hartley Lane, Seven Springs, and is currently occupied by a stable block with a surrounding area of hardstanding. The site is presently

screened from Hartley Lane by an established and mature hedge screen, except for an entrance that has been created to provide access to the stable building. The site is within an Area of Outstanding Natural Beauty, and is adjacent to the Cotswold Way which runs along the lane past the site.

The proposal would include the relocation of the stable building to a position along the northern boundary of the site, with the site being subdivided into two. On the northern part of the site would be two mobile homes and one caravan, whilst to the south would be located one mobile home, two caravans, and a new stable building which would be timber clad having dimensions of 10.8 metres width, 3.6 metres depth, and a roof overhang of 0.9 metres along the front. The existing entrance would be reused with visibility splays provided.

Supporting information submitted with the application indicates that there would be three family units resident, with two of these upon Pitch 1 (4 adults and 1 child), whilst on Pitch 2 there would be 4 adults and 2 children. Information has been provided regarding the personal circumstances, including their gypsy status.

The lawful use of the site is equestrian; this application proposes the change of use to a mix of equestrian and residential caravan site.

(b) Planning Policy Considerations

Paragraph 115 of the NPPF states that 'Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.'

The Planning Policy for Traveller Sites, (PPTS), was published in March 2012 and sets out the Government's policy planning policy for traveller sites and replaces circulars 01/2006 (Planning for gypsy and traveller caravan sites) and 04/2007 (Planning for travelling showpeople). It makes clear that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. This policy must be taken into account in the preparation of development plans, and is a material consideration in planning decisions.

Policy H of this document relates to decision taking and makes the following points:

- Applications should be assessed and determined in accordance with the presumption in favour of sustainable development
- LPA's should consider the following issues 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) locally specific criteria used to allocated sites should be used to assess applications that come forward on unallocated sites
 - e) they should determine applications for sites from any travellers and not just those with local connections.
- LPAs should strictly limit new traveller site development in open countryside that is away from existing settlements.
- LPAs should attach weight to the following matters:
 - a) effective use of 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 healthy lifestyles
 - d) Not enclosing a site with so much hard landscaping to give the impression that the site is deliberately isolated from the rest of the community
- LPAs should consider how they could overcome planning objections by using conditions or planning obligations.

The policy also includes a provision that applications for temporary planning permission made 12 months after the policy comes into force. This states that in these circumstances if a LPA cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in the grant of any subsequent planning decision when considering applications for the grant of temporary permission.

Policy 23: Sites for gypsy travellers, of the Cotswold District Local Plan states that: Sites for gypsy travellers will be permitted where there is a proven need, and only when all the following criteria are met:

- a) there is adequate access for slow moving vehicles towing caravans, and no harmful impact on the local highway network
- b) the site is within a reasonable distance of community services and facilities
- c) the site has the potential to provide facilities appropriate for the nature of the use proposed; and
- d) the use of the site would not cause significant harm to neighbouring businesses, agricultural activities or settlements

This 'saved' policy is considered to be in accordance with the NPPF and PPTS.

Policy 19: Development Outside Development Boundaries, states that development appropriate to a rural area will be permitted provided that the proposal relates to existing development; meets the criteria set out in other relevant policies and would not result in new build open market housing, cause harm to existing patterns of development, lead to a material increase in car borne commuting, adversely effect the vitality and viability of settlements and result in development that significantly compromises the principles of sustainable development.

(c) The need for gypsy traveller sites

The relevant local and national policies in relation to gypsy traveller sites make it clear that need is a material consideration in determining applications. As such it is initially necessary to consider whether what provision has been made and whether there is a proven need for gypsy traveller accommodation.

In order to provide an up-to-date assessment of need, Cotswold District Council has worked with the other local authorities in Gloucestershire (the housing market area) to produce the Gloucestershire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment October 2013, (GGTTSAA), covering the plan period 2011-2031.

The need for Cotswold District has been identified for the provision of an additional 26 permanent pitches. There was no identified need for pitches for Travelling Showpeople. This need is recommended to be broken into the following timeframe:

| | |
|-----------|-----------------------------|
| 2012-2017 | 0 public, 5 private pitches |
| 2018-2022 | 0 public, 6 private pitches |
| 2023-2027 | 1 public, 7 private pitches |
| 2028-2031 | 1 public, 6 private pitches |

The GGTTSAA recommends in paragraphs 11.12 to 11.13 that where specific deliverable or developable sites cannot be identified, the Councils should consider including broad geographical locations within their local plans, firstly around where the need arises (mainly around existing sites) and secondly look to other locations, including around sustainable settlements where there is no current need. Paragraph 11.15 states that "Councils should be reasonably flexible about the location of small private Gypsy and Traveller sites and should consider sites outside but close to the broad locations." The emerging Local Plan is yet to identify these broad locations; however, the GGTTSAA does identify, in map 5, Residential Sites Broad Locations. The application site is outside, but close to the broad location of Cheltenham.

There are no sites allocated in the adopted Local Plan to accommodate the identified need, thus the emerging Local Plan must allocate sites or broad locations to provide for all 26 pitches. In order to find land that would be suitable to accommodate this identified need the Council has commissioned WS Planning & Architecture to undertake a district wide 'call for sites' exercise and make an assessment of the suitability of these sites for Gypsy and Traveller accommodation. This call for sites ran for the period between 13 June and 25 July 2014, with the application site having been submitted to this 'call for sites'.

The suitability of the site will, therefore, be assessed against the agreed County-wide methodology and alongside other submitted sites, so that the most suitable can be selected for allocation in the draft Local Plan. The draft Local Plan will be subject to full public consultation and the Submission Local Plan and underlying evidence documents will be subject to Examination in Public. Thus, although it appears that the site meets emerging policy, the evidence base has not been subject to public consultation and examination and the emerging Local Plan has not advanced to a stage where it bears weight.

However, the fact remains that the Council has no planned traveller sites. Indeed, no pitches have been identified by the Council since the previous Gloucestershire Gypsy and Traveller Accommodation Assessment of 2007. Therefore, it is concluded that the Cotswold District cannot demonstrate a five year supply of deliverable sites.

The Government Policy H makes it clear that personal circumstances can be a material consideration, and to this effect the application has been submitted with supporting documentation with regard to the applicant's personal circumstances, and their gypsy status.

The criteria of Policy 23 of the Local Plan must be considered in order to assess the acceptability of this site as a gypsy traveller site. The first of these relates to access, and following the submission of a traffic speed survey, the Highway Authority has confirmed that they have no objection to the proposal on these grounds. This is discussed later in this report.

The second criteria relates to the proximity of the site to community services and facilities. The Local Plan defines a reasonable distance to services and facilities as a drive time of 10 minutes. The site is in open countryside and not in close proximity to a recognized settlement, however it is located a short distance from the main road network leading to Cheltenham and Gloucester, the suburban facilities of Brockworth and Charlton Kings are both within a 10 minute drive of the site. As such, although not part of a settlement it is considered that the site is sufficiently well connected to pass against this criterion.

Criterion (c) relates to whether the site is capable of providing the facilities necessary for a gypsy traveller site. The site is of sufficient size to accommodate the three mobile homes and three caravans, together with parking spaces. Therefore, on the basis of the application drawing it is considered that there is sufficient space and facilities.

The final criterion of Policy 23 is whether the proposal would cause significant harm to neighbouring businesses, agricultural activities or settlements. It is not considered that the proposal has any direct impacts upon businesses, activities or settlements, although given the countryside location there is the potential for conflict should the nature of the use of the fields surrounding the development change to a more intensive form of agriculture. The main harm which is considered to be caused by the development is in relation to the visual impact of the development.

Therefore it is clear that there is a need for gypsy traveller accommodation within the District, and some weight may also be afforded to the personal circumstances of the applicants in this regard. It would also appear that the proposal, in terms of its size and proximity to facilities and relationship to other uses/settlements, complies with the criterion of Policy 23. However the policy context must be considered in the round.

(d) The visual and landscape impact of the proposal

The Government's policy states that development in open countryside should be strictly controlled and favours provision on brownfield sites where possible. It also requires that regard is had to the local environment. The site is in the Cotswolds AONB, and with regard to which the NPPF, it is stated that: 'Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.'

Policies also refer to whether proposals are able to mitigate harm, or enhance sites through the layout of the site and the provision of hard and soft landscaping.

The land forms part of a triangle of land located between the A435 and Hartley Lane. The land in this area rises to the north and west and forms part of the wider landscape character of the AONB characterised by steep hillsides and rolling open pastures and arable fields. Within this context the development is visible within its immediate context but also from several view points on the approach to the site, and also from the A436, in particular the lay-by on this road which is a popular stopping point. Hartley Lane itself is not a heavily trafficked road, however it is popular with walkers as it forms part of the Cotswold Way National Trail. Therefore the development is clearly visible to a number of receptors.

Having established that the site forms part of the rural landscape of the AONB and is highly visible the next consideration is what, if any harm is caused by the development, over and above any impact caused by the approved stable scheme. It should be noted that applications to erect a stable block on the southern part of the application site have been refused; most recently application 14/00303/FUL, for reasons including the cumulative impact of the proposed development, and the impact upon the Cotswolds AONB.

The Landscape Officer has recommended refusal for the application, commenting that the site forms part of an attractive and predominantly undeveloped countryside. The use of part of the land as a caravan site along with associated structures, equipment and domestic paraphernalia would result in an urbanising effect which is considered to be out of keeping with, and detrimental to, the rural landscape character and beauty of this part of the Cotswolds AONB.

Notwithstanding this, the Inspector considering the appeal in respect of the caravan on the adjacent site to the south accepted that there would be harm caused to the landscape and scenic beauty of the AONB, in that he commented that the harm to the AONB was of paramount importance. However, in that case it was concluded that the granting of a temporary planning permission, given the shortfall in gypsy site provision, would be acceptable.

Bearing in mind that decision, and the lack of a demonstrable 5 year supply for gypsy and travellers sites, your Officers consider that the granting of a temporary planning permission, for a 3 year period would be acceptable. As will be seen in section (e) below, the roadside boundary hedgerow is able to be retained whilst also providing adequate visibility splays from the entrance, and the landscape arguments against the provision of a gypsy pitch on the adjacent site have already been considered by a Planning Inspector and found, in his opinion, to be lacking considering the shortfall in such sites across the District.

(e) Highway Safety

The applicant has arranged for a speed survey to be undertaken along Hartley Lane, as requested by the Highway Authority, to determine the 85th percentile of wet weather vehicle speeds and appropriate visibility splay required to provide safe and suitable access to the site. Having reviewed the submitted information, and having made an adjustment for wet weather speeds, the Highway Authority has commented that the average 85th percentile speed, adjusted for wet weather, to the south of the application site is 36.5mph, resulting in a required visibility splay of 54.6m (adjusted to 55m). To the north of the application site, the average 85th percentile

adjusted for wet weather is 25.6mph, resulting in a required visibility splay of 32.01m (adjusted to 32m).

The visibility splay to the north can easily be achieved from land within the applicant's control when measured to the nearside carriageway edge but to the south extends beyond the application site boundary. The applicant's transport consultant was advised by the Highway Authority that it would be acceptable to measure the splay from a point 1.75m from the carriageway edge providing it could be demonstrated that this would not be detrimental to highway safety. A plan has also been provided showing how these splays may be provided without any significant loss of roadside hedgerow.

Guidance contained in both Manual for Streets and Manual for Streets 2 confirms that for ease visibility splays are measured to the carriageway edge but vehicles are often travelling some distance from the kerbline or the edge of the highway, and a more accurate assessment would be to measure to the edge of the vehicle track. As this is a single track road a vehicle or motorbike travelling along Hartley Lane would be visible at 1.75m from the edge of highway to vehicles emerging from the access and forward visibility is acceptable in both directions. It is on this basis that the Highway Authority consider that, under these specific circumstances, measuring to 1.75m from the edge of the approaching traffic lane would be acceptable given the relatively low number of increased vehicle movements and low traffic flows along Hartley Lane.

Therefore, the Highway Authority has indicated that they do not object to the proposal, subject to the conditions recommended, and that the proposal is therefore considered to accord with Policy 38 of the CDLP, and Paragraph 32 of the NPPF which states that development should only be refused where the residual cumulative impacts of development are 'severe'.

(f) Impact upon residential amenity

The nearest neighbours to the site are Windmill Farm and Minotaur Barn. Windmill Farm is the nearest, being located approximately 130m from the southern boundary of the application site. As such, bearing in mind these distances, it is not considered that the proposal would have an adverse impact upon the amenities of neighbouring properties, and would accord with Policy 5 of the CDLP and Paragraph 17 of the NPPF.

Conclusion

The key question in determining this application is whether the general need for gypsy traveller accommodation within Cotswold District outweighs the identified harm to the AONB, which the NPPF makes clear should be attached 'great weight' in terms of preserving its natural beauty.

Notwithstanding the landscape impact of the proposed development within the AONB, and the proximity to the Cotswold Way National Trail, it is considered that the granting of a temporary planning permission, for a 3-year period, would be appropriate taking into account the shortfall in gypsy site provision within the District, and the appeal decision made upon the adjacent site where similar arguments that could be advanced in defence of a refusal of this current application have already been considered by a Planning Inspector.

Therefore it is recommended that the application is granted for a temporary period of 3 years.

10. Proposed conditions:

The use hereby permitted shall be carried on only by the following: Mr John Norris Snr and Mr John Norris Jnr and their resident dependants, and shall be for a limited period being the period of 3 years from the date of this decision, or the period during which the site is occupied by them, whichever is the shorter.

Reason: Permanent development of this type may cause a nuisance or would detract from the amenity of the area and permission is given only to meet the special, temporary needs of the applicant or to enable the Local Planning Authority to give further consideration to the use after the temporary period has expired in accordance with Cotswold District Local Plan Policies 5, 19 and 23, and Paragraph 115 of the NPPF.

The development hereby approved shall be implemented in accordance with the following drawing numbers: 01; 03-A; 04; 05 and 06.

Reason: For purposes of clarity and for the avoidance of doubt, in accordance with paragraphs 203 and 206 of the National Planning Policy Framework.

When the site ceases to be occupied by those named in condition 1 above, or at the end of 3 years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development commenced.

Reason: Permanent development of this type may cause a nuisance or would detract from the amenity of the area having regard to the open countryside location of the site within the Cotswolds Area of Outstanding Natural Beauty, in accordance with Cotswold District Local Plan Policy 19 and Paragraph 115 of the NPPF.

The site shall not be occupied 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, March 2012) or any replacement guidance.

Reason: In order to comply with the Planning Policy for Traveller Sites and Cotswold District Local Plan Policies 19 and 23 as an exception to policies of development restraint in open countryside locations.

The site shall comprise no more than 2 pitches and no more than 3 caravans and 3 mobile homes, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be stationed on the site at any time.

Reason: To define the permission having regard to the impact upon landscape character in accordance with Cotswold District Local Plan Policies 19 and 23, and Paragraph 115 of the NPPF.

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

Reason: To mitigate the open countryside location of the development and in the interests of residential and visual amenity, in accordance with Cotswold District Local Plan Policies 5, 19 and 23.

The development shall not start before a comprehensive landscape scheme has been approved in writing by the Local Planning Authority. The scheme must show the location, size and condition of all existing trees and hedgerows on and adjoining the land and identify those to be retained, together with measures for their protection during construction work. It must show details of all planting areas, tree and plant species, numbers and planting sizes. The proposed means of enclosure and screening should also be included, together with details of any mounding, walls and fences and hard surface materials to be used throughout the proposed development.

Reason: To ensure the development is completed in a manner that is sympathetic to the site and its surroundings in accordance with Cotswold District Local Plan Policy 45.

The entire landscaping scheme shall be completed by the end of the planting season immediately following the completion of the development or the site being brought into use, whichever is the sooner.

Reason: To ensure that the landscaping is carried out and to enable the planting to begin to become established at the earliest stage practical and thereby achieving the objective of Cotswold District Local Plan Policy 45.

Any trees or plants shown on the approved landscaping scheme to be planted or retained which die, are removed, are damaged or become diseased, or grassed areas which become eroded or damaged, within 3 years of the completion of the approved landscaping scheme, shall be replaced by the end of the next planting season. Replacement trees and plants shall be of the same size and species as those lost, unless the Local Planning Authority approves alternatives in writing.

Reason: To ensure that the planting becomes established and thereby achieves the objective of Cotswold District Local Plan Policy 45.

No external lighting shall be installed within the site without the prior written approval of the Local Planning Authority.

Reason: To prevent light pollution in accordance in accordance with Cotswold District Local Plan Policy 5.

The proposed development shall not be brought into use until the access and visibility splay lines have been provided in accordance with Drawing No. 06, with the area in advance of the splay lines so defined cleared of all obstructions to visibility and thereafter similarly maintained.

Reason: To reduce potential highway impact by ensuring that adequate visibility is provided and maintained in accordance with the Cotswold District Local Plan Policy 38 and Paragraph 35 of the NPPF.

The proposed development hereby permitted shall not be occupied until the vehicular parking and turning facilities have been provided in accordance with Drawing No. 06, and those facilities shall be maintained available for those purposes for the duration of the development.

Reason: To reduce potential highway impact by ensuring that adequate parking and manoeuvring facilities are available within the site in accordance with Cotswold District Local Plan Policy 38 and Paragraph 35 of the NPPF.



Appeal Decisions

Hearing held on 11 June 2013

Site visit made on 11 June 2013

by Simon Hand MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 August 2013

Appeal A: APP/F1610/C/12/2190154

**Land adjacent to Cirencester Road, Seven Springs, Coberley,
Gloucestershire, GL53 9NF**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Lee Williams against an enforcement notice issued by Cotswold District Council.
 - The Council's reference is 12/00290/ENF.
 - The notice was issued on 15 November 2012.
 - The breach of planning control as alleged in the notice is without planning permission change of use of the Land from use for equestrian purposes to mixed use for equestrian purposes and a residential caravan site.
 - The requirements of the notice are (i) Stop using the Land for residential purposes; (ii) Permanently remove from the Land all caravans; (iii) Permanently remove from the Land all items of domestic paraphernalia; (iv) Permanently remove from the Land all other items not reasonably necessary for equestrian purposes; (v) Restore the Land to pasture
 - The period for compliance with the requirements is 3 months for each requirement.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/F1610/C/12/2190155

**Land adjacent to Cirencester Road, Seven Springs, Coberley,
Gloucestershire, GL53 9NF**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Lee Williams against an enforcement notice issued by Cotswold District Council.
 - The Council's reference is 12/00290/ENF.
 - The notice was issued on 15 November 2012.
 - The breach of planning control as alleged in the notice is without planning permission operational development comprising hard standing, a raised veranda and a building for purposes ancillary to an unauthorised residential use ("the Unauthorised Development").
 - The requirements of the notice are (i) permanently remove the unauthorised development from the land; (ii) restore the land to pasture.
 - The period for compliance with the requirements is 3 months for each requirement.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.
-

Appeal C: APP/F1610/C/13/2191310

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Land adjacent to Seven Springs, Harley Lane, Leckhampton Hill, Coberley, Gloucestershire, GL53 9NF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Lee Williams against an enforcement notice issued by Cotswold District Council.
 - The Council's reference is 12/00290/ENF.
 - The notice was issued on 27 December 2012.
 - The breach of planning control as alleged in the notice is without planning permission, change of use of the land from use for equestrian purposes to mixed use for equestrian purposes and use for the storage of a caravan and parking of private vehicles in association with the use of, and access to, adjacent land as a residential caravan site, and parking of vehicles for business purposes.
 - The requirements of the notice are (i) Cease the use of the land in association with any residential or business use; (ii) Remove the caravan from the land; (iii) Cease the use of the land for the parking of vehicles other than in connection with equestrian or agricultural purposes on the land; (iv) Cease the use of the land for the storage of any items not reasonably necessary for equestrian or agricultural purposes on the land.
 - The period for compliance with the requirements is 2 months for each requirement.
 - The appeal is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
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Appeal D: APP/F1610/A/13/2192673

Land adjacent to Cirencester Road, Seven Springs, Coberley, Gloucestershire, GL53 9NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Lee Williams against the decision of Cotswold District Council.
 - The application Ref 12/04857/FUL, dated 27 October 2012, was refused by notice dated 18 December 2012.
 - The development proposed is a material change of use to a mixed use for the keeping of horses (existing) and as a residential caravan site for one Gypsy family with two caravans, including one static caravan/mobile home.
-

Decisions

Appeals A: APP/F1610/C/12/2190154; B: APP/F1610/C/12/2190155 and C: APP/F1610/C/13/2191310

1. The appeals are dismissed and the enforcement notices upheld. Planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal D: APP/F1610/A/13/2192673

2. The appeal is allowed and planning permission is granted for a mixed use for the keeping of horses (existing) and as a residential caravan site for one Gypsy family with two caravans, including one static caravan/mobile home at land adjacent to Cirencester Road, Seven Springs, Coberley, Gloucestershire, GL53 9NF in accordance with the terms of the application, Ref 12/04857/FUL, dated 27 October 2012, and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: DRWG No 1; DWG No 2 Site Layout.
- 2) The use hereby permitted shall be carried on only by the following: Mr Lee Williams and Mrs Cassandra Williams and their resident dependants, and shall be for a limited period being the period of 3 years from the date of this decision, or the period during which the site is occupied by them, whichever is the shorter.
- 3) When the site ceases to be occupied by those named in condition 2 above, or at the end of 3 years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place.
- 4) The site shall not be occupied 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, March 2012) or any replacement guidance.
- 5) The site shall comprise no more than 1 pitch and no more than 2 caravan(s), as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time.
- 6) The site shall be laid out in accordance with the details on DWG No 2.; All vehicles or any uses or structures ancillary to the residential use shall be restricted to the area labelled "existing hardstanding" and to the access track.
- 7) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision schemes for: (a) landscaping of the site, including details of species, plant sizes and proposed numbers and densities and (b) external lighting of the site shall have been submitted for the written approval of the local planning authority and the said schemes shall include timetables for their implementation.
 - ii) within 11 months of the date of this decision the schemes shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 8) No commercial activities shall take place on the land, including the storage of materials.

Background to the appeals 115

3. The appellant purchased the site and gained planning permission for a stables, access track and hardstanding in 2011. This was constructed and then, later, the appellant occupied the site with a mobile home and touring caravan. The site lies in a triangle of land between Hartley Lane and the A435, the point of the triangle lies a few hundred metres to the south at the Seven Springs junction where the A435 and A436 cross at a double roundabout.
4. The southern boundary of the site is marked by a mixed solid wood and post-and-rail fence. Immediately to the north is the access lane, following the boundary and the stables set at right angles to it, about two-thirds of the way along. This creates a square area at the eastern end that is gravelled. Here is located the touring caravan and various parked vehicles, including the appellant's van used for his landscape business. The gravelled area extends to the north beyond the end of the stables, and on this patch of land the appellant has positioned a mobile home with decking around it and fashioned a garden. There is a considerable amount of play equipment, a temporary structure used as an ancillary building and a generator. The whole eastern boundary is fenced with a close boarded fence and there are post-and-rail fences to the paddock areas extending to the west and north.
5. The Council have effectively split this site into two strips. Notice C covers the southern rectangle which contains paddock, the access, stables and gravelled hardstanding next to it with the tourer and vehicles. This is also the original stables application site. Notices A and B cover the parallel rectangle to the north with more paddock, mobile home, garden, ancillary building etc. The S78 appeal (D) is contained wholly within the southern site and proposes repositioning the mobile home against the back (eastern) fence facing the stables and moving the tourer to form the northern edge of this site, returning the northern site, where the mobile home is currently located to paddock. There are thus three options open to me, to dismiss the appeals, to allow the appeals so that the site remains as it is, or to allow the reduced site proposed in appeal D.

The Appeals on Ground (a) and the S78 Appeal

6. The whole area is part of the Cotswolds Area of Outstanding Natural Beauty (AONB), for the protection of which the Council rely on the National Planning Policy Framework (the Framework). Paragraph 115 states that "great weight should be given to conserving the landscape and scenic beauty inAONBs". There was no dispute that the appellant was a Gypsy and that the policies in Planning Policy for Traveller Sites (PPfTS) were relevant, as was policy 23 of the Cotswold District Local Plan (2006) which deals with Gypsy sites.

Main issues

7. The main issues therefore are the impact of the two possible sites on the character and appearance of the AONB, whether there is a shortfall of gypsy sites in the District and whether there are any personal circumstances to weigh in the balance.

Character and appearance

8. The Cotswolds AONB is a strikingly beautiful part of the country, but not all parts of the AONB are equally beautiful. The Seven Springs junction is a large

- road junction with a pair of roundabouts that are lit by tall lighting columns. As the A436 moves up the hill and away from the site there is a large lay-by, on its western side overlooking the site. This can accommodate quite a few articulated lorries, and when I visited it, was virtually full of lorries, vans and cars, including a snack van and several other mobile businesses. At this time of year, because of the thick tree screen and hedges the site cannot be seen from the lay-by, but the parked lorries are clearly visible from the site and surrounding countryside.
9. Hartley Lane runs northwards uphill beyond the site and then bends west along a ridge of higher ground. The Cotswolds Way long distance path runs along Hartley Lane past the site. From various points along the lane, including sections shared with the Cotswold Way there are sweeping views across the valley which include the site. The vehicles in the lay-by are always a prominent feature, as occasionally is the road junction. In many views the mobile home also stands out, as does the ancillary structure and the play equipment. The stables are often visible, but are much less prominent.
 10. Views are partial because of the lie of the land and the natural screening of trees and hedgerows. The appellant has carried out quite a lot of planting along the boundaries but this has not yet reached the point where it has much effect. In the winter, there would be less screening from vegetation and the mobile home and play equipment would be even more visible. Although, as I suggest above, this is not a pristine, high quality part of the AONB, it is still attractive countryside that is only partially marred by the man made intrusions. In wider views other houses and farm buildings are visible, but these seem to be a natural part of the landscape. By way of contrast the settlement on the site does not. It stands out as alien and intrusive. This may partly be because it is new, but the mobile home and its domestic appurtenances in particular appear brashly out of place as they intrude into the paddock area, away from the stable building. They have a somewhat temporary and ramshackle feel. It would be wrong to add further harmful structures to this part of the AONB that is already suffering from a poorly designed road system.
 11. In my view, therefore, the harm caused by the site as it stands, is considerable. It is highly visible, even with screening, and stands out in views across the valley. However, if I consider just the site proposed in appeal D, the harm would be reduced. The majority of views are from the west, and the mobile home would be partially masked by the stables. As long as any garden area does not extend northwards into the paddock, the whole would be contained within the hardstanding area between the stables and the tree screen next to the A435. This much more compact and discrete grouping would still, in some views stand out, but generally would be less visible and have less harmful impact. I am required by the Framework to give great weight to conserving the AONB, and bearing this in mind I find the site does cause significant harm, but the proposed site of appeal D less so.

Provision of Gypsy sites

12. There was no dispute that there is a shortfall of gypsy sites in the District, but exactly how many was more problematical. It was agreed the original shortfall was 17 pitches. The Council subtracted 2 from that, which were recent 'tolerated' pitches and added $\frac{1}{2}$ for the 3% growth figure, giving $15\frac{1}{2}$. The appellant argued that 'tolerated' pitches did not have planning permission and so should not be counted and the 3% growth figure should project forward for

5 years, as the PPfTS requires a 5 year supply to be identified. This leaves a shortfall of 25 pitches. Whatever the number, there is clearly a considerable shortfall. The Council have not created any new 'official' pitches since 2007.

13. The Council are producing a new Local Plan. Public consultation is due in the middle of 2014, with an examination in March 2015. As the consultation will include figures from the latest Gypsy and Traveller Accommodation Assessment (GTAA) which is due to report very soon, it is possible the Council will begin to address the shortfall in the next few years, but as ever with the local planning process these dates are somewhat speculative and the GTAA itself is already overdue. In my view there is no prospect of any significant change to the current situation before 2015 at the earliest. Paragraph 25 of PPfTS says that a failure to provide for a 5 year supply of deliverable sites is a "significant material consideration". The situation in Cotswold District Council is considerably worse than this as there is a shortfall of at least 15 pitches before any future needs are taken into account and significant weight should be attached to this.

Personal circumstances

14. There was also no dispute that there are no other sites in the area available for the appellant to move to. The appellant has a local connection as his wife's family are from the area, and her father is on the Gypsy site at Minsterworth. Their children were both born locally. Their most recent previous address had been at Milton Keynes, another temporary site where the appellant's father lived. They had also been travelling in Kent before moving onto the appeal site. Refusing these appeals is likely, therefore, to force the appellant back onto the road.
15. The appellant's wife is receiving treatment for severe migraines and high blood pressure and their son, aged 3, suffers from temperature convulsions, which he should grow out of in the next few years. Access to medical facilities is thus important. Both children, aged 7 and 3, attend school in Minsterworth. The elder is at primary school and the younger at pre-school. Minsterworth is 17 miles away, on the far side of Gloucester, but was chosen partly because their cousins go there and also because both children can attend their different schools on the same site, requiring only one journey each way per day. In particular the appellant himself cannot read and write and wants to ensure his children can. These are planning issues that carry some weight.
16. It was argued that the appellant would be better off living at Minsterworth, which may well be true, but there are no sites available at Minsterworth. The Council have not been able to show any availability anywhere else closer to Minsterworth than the appeal site.

Other matters

17. It has been suggested the stable use was only ever established in order to facilitate an eventual residential use. There is no evidence one way or another for this, although it is not clear how the appellant intended to use the stables when he was not resident in the locality. In planning terms, the stables are lawful and their existence is an important consideration in the appeal. While it could, therefore, be argued that at least part of the site is previously developed land (PDL), the very recent development of the stables and hardstanding has little impact on the character and appearance of the AONB compared to the

establishment of the residential use, and the site's partial status as PDL carries little weight.

18. The arguments about the coverage of the AONB were a red herring. The AONB covers 70% of the district, but I have no evidence how much land that leaves that could be suitable for Gypsy sites or not. The main point is however, that the Council have done no work on where sites should go, or where more suitable areas might be and none appears to be forthcoming. The AONB is not like the Green Belt, where Gypsy sites are, by definition, inappropriate development (paragraph 14 of PPfTS) so it is possible to conceive of sites being allocated in the AONB. This case therefore needs to be determined on its own merits.
19. The Cotswold AONB Management Plan (2001-13) is a material consideration and this has influenced my consideration of the impact on the AONB. It does not, however, have the status of a development plan document.
20. Policy 23 of the Local Plan requires Gypsy sites to have an adequate access, be in reasonable distance of community facilities (about 10 minutes drive time), provide adequate on-site facilities and not to harm neighbouring business or agricultural uses or nearby settlements. The appeal site meets all these criteria.

Conclusions

21. I have found the establishment of a residential mobile home and its ancillary structures causes considerable harm to the AONB and this attracts great weight. On the other hand I give significant weight to the shortfall in the provision of Gypsy sites. The educational needs of the appellant's family are clear but not serious. While it would obviously be better for them to have a permanent home, going back on the road should not necessarily deny access to schooling. It may make access to a doctor more difficult, but the family's health needs do not seem to be significant. These issues carry some but not particularly substantial weight.
22. Consequently, I find the harm to the AONB is of paramount importance and outweighs the other issues in favour of the appellant. However, the harm caused by the reduced site proposed in appeal D is considerably less than that of the whole site. In this case I find the issues much more finely balanced. In such a case a temporary permission might be the way forward. The appellant argued that since some Gypsy sites were bound to be in the AONB, and this site met all the criteria in policy 23, it was very likely, once the Council get around to considering the provision of gypsy sites, this site would be included. I agree it is possible that the reduced appeal D site might be suitable for permanent status, although this would depend very much on the results of the GTAA and whether sites elsewhere outside the AONB become available. This is a decision that should be made by the Council and it is likely they will be in a position to do so by around 2016. Consequently, if a temporary permission were granted for 3 years this would remove the immediate threat of forcing the appellant back on to the road; would hopefully enable the medical situation for both his wife and son to improve and allow for a period of stable education for both children. In the meantime, it might be possible to find a suitable site closer to Minsterworth and for the Council to progress its plans for gypsy site allocations to a point where informed decisions can be made on the location of sites.

23. The appellant relied on various court cases that the rights of the children in particular must be given "primary consideration". This phrase comes from a judgement in *ZH (Tanzania) v Secretary of State for the Home Department [2011] UKSC 4* an immigration case and has been brought into the planning arena by the *AZ v Secretary of State for Communities and Local Government and South Gloucestershire District Council [2012] EWHC 3660* case.
24. There is no doubt that the rights of the children to an education are important matters, as are the health issues for his family. However, if I were to grant a temporary planning permission, there is no sense in which the appellant's children are being denied the right to education (as described in Article 2 of the First Protocol), so I do not think that article 2 is engaged. Nor do I consider the medical requirements are so serious or unusual that they raise an issue under the human rights legislation. Consequently I do not consider there will be sufficient interference with the rights of the appellant or his family under Article 8 or Article 2 of the first protocol to engage those rights, and I do not need to carry out a proportionality assessment.
25. On this basis I shall allow a temporary permission for the reduced appeal D site. In order to effect this I shall dismiss appeals A and B so that the notices on the northern site come back into effect and prevent the use of that land for the stationing of the mobile home for residential purposes and require the removal of the extension of the hardstanding, the decking, ancillary structure and play equipment. I shall allow appeal D and grant planning permission for the use as applied for subject to conditions including the temporary condition.
26. Notice C is more complex. If I were to quash it then planning permission would be granted for all the matters it alleges, which is more than would be allowed by appeal D. To alter the allegation to reflect appeal D would be to so change it as to make it into a different notice. I shall thus dismiss the appeal on notice C also. That notice will come back into force, but where the notice conflicts with the permission granted by appeal D, thanks to s180 of the Act, the notice is overridden by the planning permission.

Conditions

27. In addition to the temporary condition, ones to limit the site to Gypsies only, to limit the number of caravans and prevent commercial activities taking place are also required. Because many of the reasons for the temporary permission are personal to the appellant a personal permission is also necessary. Local residents were concerned about light pollution and a condition for the Council to approve any external lighting is required. The layout of the site needs to be restricted to that shown on the plan submitted with appeal D and landscaping needs to be agreed for the new reduced site. All these conditions were agreed by the parties.

Simon Hand

Inspector