

Item No 03:-

15/04432/FUL (CT.7047/Q)

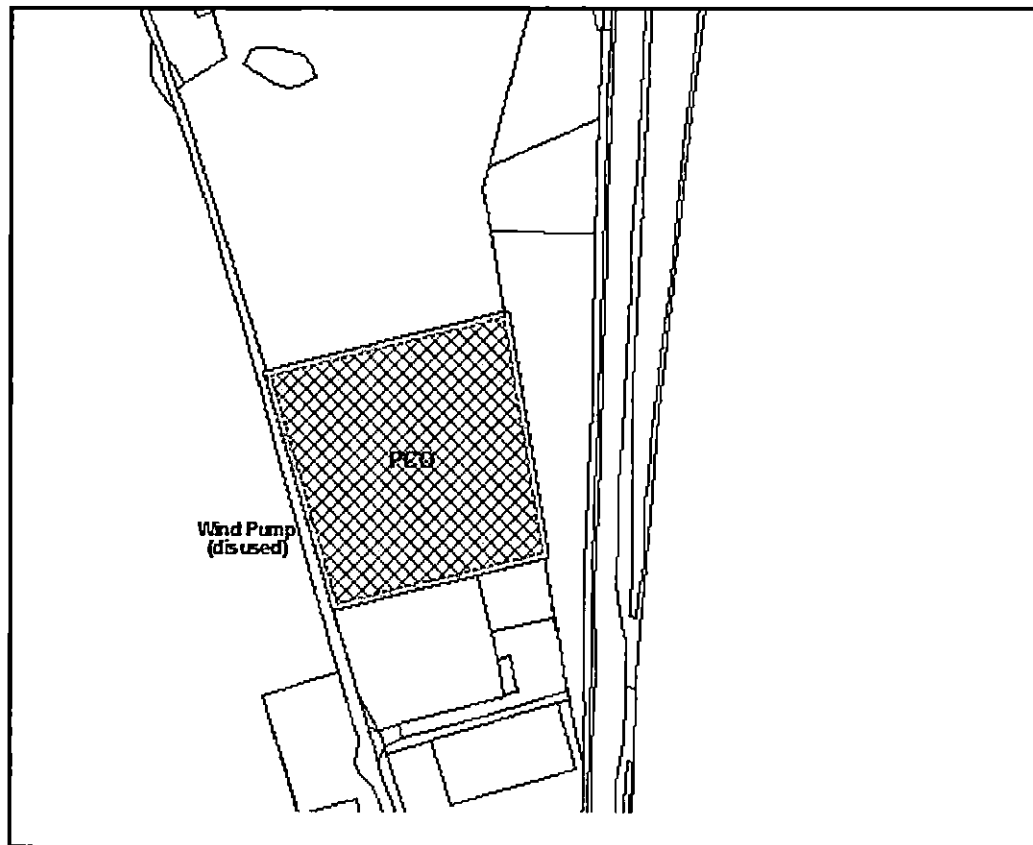
**Land Parcel Opposite Windmill Farm
Hartley Lane
Leckhampton Hill
Coberley
Gloucestershire**

Item No 03:-

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

Full Application 15/04432/FUL (CT.7047/Q)	
Applicant:	Mr John Norris
Agent:	Michael Hargreaves Planning
Case Officer:	Andrew Moody
Ward Member(s):	Councillor Nicholas Parsons
Committee Date:	9th March 2016

Site Plan



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RECOMMENDATION: PERMIT

This report is a repeat of that included as Agenda Item 06 in the schedule of applications reported to Committee on 10th February, being deferred for a Sites Inspection Briefing to allow further consultation. All updates to the original report are highlighted in bold text.

The reason for the Sites Inspection Briefing was to assess the impact of the major development on the open countryside in the Area of Outstanding Natural Beauty, and to assist Members in their appreciation of the differences in impact between the current proposal and the approved scheme.

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

15/02733/FUL: 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. Withdrawn 10.9.2015

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 for a 3-year temporary period

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:

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.

With regard to the amended plans submitted prior to the February meeting, the following response has been made: -

Coberley Parish Council remains opposed to this application. The move of the rear fence is only on a very short section, near to the northern set of stables. Both the northern and southern sets of stables remain further east than originally proposed and approved in December 2014 and therefore, partially outside the approved development boundary, thus leaving space for increased development to the west of the site, adjacent to Hartley Lane. There appears to be an increase in proposed planting from 660 plants in the hedgerows to 702, but our previous comment remains the same, that this should not be a consideration due to insufficient time for growth to provide additional screening before the temporary permission expires in less than two years. Therefore, the Parish Council's previous representations regarding this application still apply. These were submitted on 25 January 2016 and 24 November 2015. Also, those comments which remain pertinent from the representation made on 17 August 2015, regarding the preceding application 15/02733/FUL, still apply. (These were highlighted in yellow, referred to and re-submitted with the representation on 24 November 2015 and also referred to in the representation of 25 January 2016)

6. Other Representations:

105 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 applicants 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 23 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
- Notwithstanding the size of caravans shown on the plans, the Council cannot control the size of such vehicles having regard to the Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968
- The development is not needed or wanted
- No credible reasons have been provided for the failure to accord with the approved plans
- National planning policy has changed to prevent temporary sites in an AONB
- A ministerial statement has stated that intentional unauthorised development for Gypsy/Traveller sites is a material consideration that should be weighed in determining planning applications and appeals
- The site is an AONB and unsuitable for the establishment of a travellers caravan site
- If any of use tried to build a dwelling there we would be refused permission
- There have been breaches of the existing temporary usage
- It appears some provision at this site is inevitable; therefore the establishment of a small well managed site may be acceptable
- This would entail the site boundary being re-established and landscaping so that the site blended in with the AONB
- Any permission issued should be temporary

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 approval 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 was also provided regarding the personal circumstances of the applicants, 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.'

Since the granting of temporary planning permission in December 2014, the Government has issued revised 'Planning policy for traveller sites', (August 2015), with paragraph 27 stating that: -

"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. The exception is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads)."

However, what is proposed is an amendment to the approved scheme, with no extension proposed to the temporary time limit that has been imposed when planning permission 14/02614/FUL was granted. It is not, therefore, considered that this revision to national policy impacts upon the consideration of this application, as the decision to grant a 3-year permission was in accordance with policy at the time that decision was made.

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 / Traveller 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 Traveller 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 a maximum of 8.2 metres further out into the field to the east of Hartley Lane. The applicants were therefore invited to submit a further planning application, reference 15/02733/FUL. This was recommended for refusal, but was withdrawn by the applicants prior to being reported to the Planning Committee at the meeting held in September 2015.

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. Following the granting of planning permission, the site boundary was established with the erection of a wooden post and rail fence along the rear (eastern) boundary that varied between 4.2 and 8.2 metres further into the field than that shown on the approved plans. The difference between these measurements was due to the approved rear boundary having a recessed area where vehicles could park, whilst the development as constructed has a straight fence erected.

The scheme as now proposed would retain the fencing in its current position at the southern end of the site, but would draw this back in by 4 metres for a length of 61 metres, such that this would accord with the line shown on the approved plans where the central parking area was shown.

Furthermore, the large mobile home shown on the approved plans for the southernmost pitch would be replaced by a caravan, with significant additional landscaping proposed. This includes hedgerow planting along the northern and eastern boundaries, in addition to either side of the entrance, as well as tree planting, to include English Oak, Crab Apple, Silver Birch and Wild Cherry. This is in accordance with comments made by the Council's Landscape Officer.

Taking into account the comments made by the Inspector in determining the appeal on the adjacent site, and the decision made to grant temporary planning permission in terms of the landscape impact, your Officers consider that, on balance, what is now proposed would be acceptable and in accordance with paragraph 115 of the NPPF.

In forming a judgement upon this matter, Members need to consider that the impact of any landscaping would be limited bearing in mind that the temporary planning permission for the use of this land expires in December 2017.

(c) Human Rights

The applicants have submitted information with regard to the health of one of the children living at the site. Reference has previously been made in the Supporting Statement submitted with regard to application 15/02733/FUL 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 commented 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, notwithstanding the recommendation made, 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 this 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 revisions that are proposed are, on balance, considered to be acceptable with regard to the impact upon landscape character within the AONB, and taking into consideration the need for Gypsy / Traveller accommodation in the District.

10. Proposed conditions:

The use hereby permitted shall be carried on only by the following: Mr John Norris Snr, Mr John Norris Jnr and Mr George Clee and their resident dependants, and shall be for a limited period being the period of 3 years from the date of the decision for planning permission 14/02614/FUL, or the period during which the site is occupied by them, whichever is the shorter.

Reason: Permanent development of this type 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-B and 04.

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 by 11th December 2017, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, and 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 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 6 caravans and 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 scheme of landscaping shown on Drawing No. 3-A shall be carried out within 3 months of the date of this permission in full accordance with the approved plan.

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.

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.

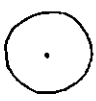


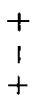

The vehicular parking and turning facilities shall be provided in accordance with Drawing No. 03-A within 3 months of the date of this decision, and those facilities shall be maintained available for those purposes for the duration of the development.

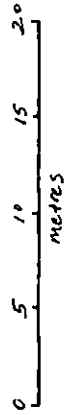
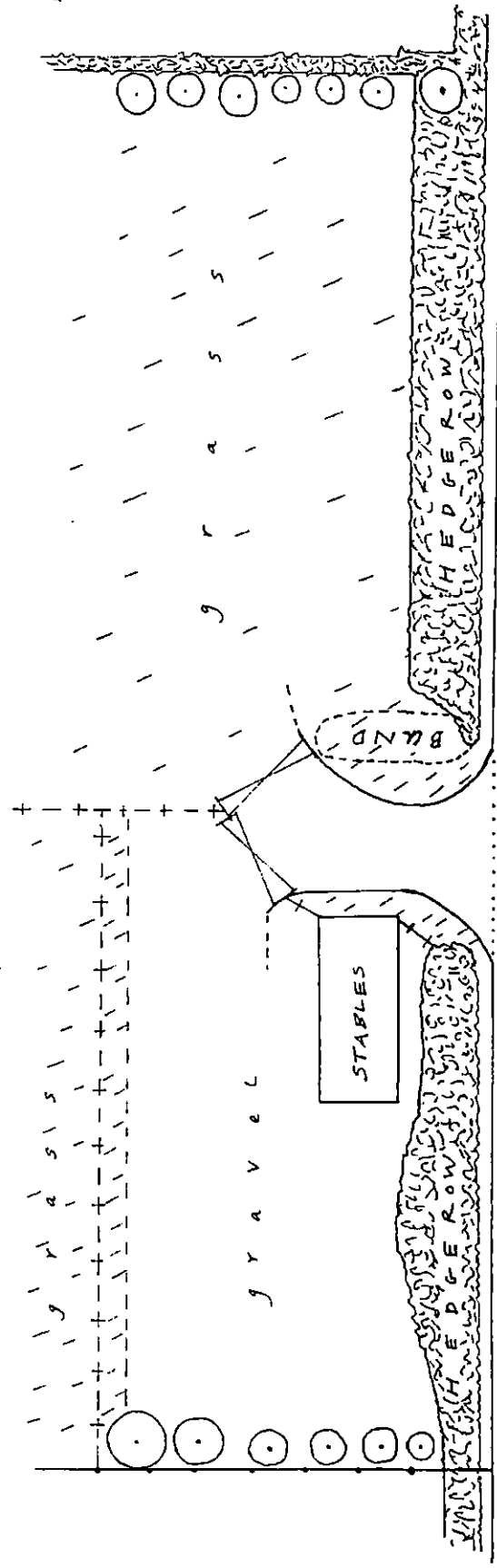
Reason: To reduce potential highway impact by ensuring that adequate parking and manoeuvring facilities are available within the site in accordance with Cotswold District Local Plan Policy 38 and Paragraph 35 of the NPPF.

DRAWING: HARTLEY LANE
EXISTING SITE PLAN V.2

SCALE ~ 1:250 at A3

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

- KEY:
-  NATIVE TREE
 -  GATE
 -  GRASS
 -  WOODEN POST AND RAIL FENCE
 -  POST AND WIRE MESH FENCE



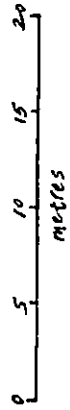
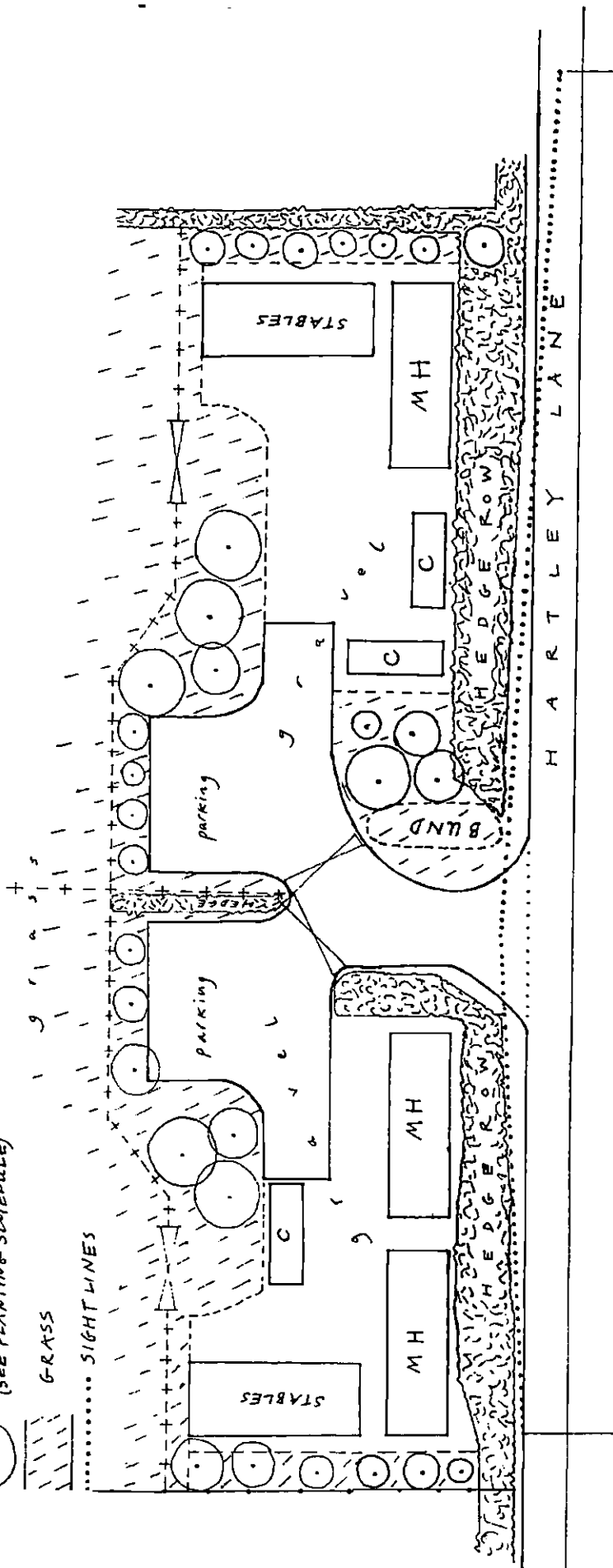
DRAWING: HARTLEY LANE
 PROPOSED SITE PLAN V.2
 SCALE ~ 1:250 at A3
 DRAWN BY CJ TYLER
 MICHAEL HARGREAVES PLANNING
 5 HIGH STREET - SWAFFHAM PRIOR
 CAMBRIDGE - CB25 0LD

KEY:
 C TOURING CARAVAN
 M+H MOBILE HOME

+ - - - - POST AND RAIL WOODEN FENCE
 ——— POST AND WIRE MESH FENCE
 X X X GATE

○ NATIVE TREE
 (SEE PLANTING SCHEDULE)

GRASS
 SIGHT LINES



Coberley Parish Council

Planning Application Reference: 14/02614/FUL

Location: Land Parcel Opposite Windmill Farm, Hartley Lane, Leckhampton Hill, Coberley, Gloucestershire, ,

Proposal: 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

Coberley Parish Council has been requested by parishioners to oppose the above application for the following reasons which have been established both through a public meeting on 30 July 2014 and through individual consultations with parishioners:

The site is in an AONB.

Paragraph 115 of the National Planning Policy Framework states: *"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 residential caravan site and additional stable block proposed in the application, would have a detrimental impact on, and therefore harm the open countryside landscape and scenic beauty.

The cumulative impact of the development sought in this application, the existing permitted stable block on the application site and the nearby block of stables for which planning permission was granted in October 2011 (11/03641/FUL) would result in unacceptable suburbanisation of the area and domestication of a rural site which is out of keeping and out of character with the prevailing character and appearance of the area.

Although it is recognised that, in line with appeal decisions in August 2013, the caravans and other materials which are currently on land in close proximity to the application site, are due to be removed within a maximum of 3 years from the appeal decision date, (i.e. in two year's time), their presence compounds the suburbanisation. Indeed, that appeal decision found that the harm to the AONB was of paramount importance and it suggested that the temporary permission was only considered based on the reduced site in appeal D. It would appear logical therefore, that any additional development of adjacent sites, such as is being requested here, would cause major harm to the AONB.

The applications 14/00303/FUL, and previously 12/03218/FUL, for the erection of stables on what is Pitch 2 of the current application site, were refused on the grounds that "The cumulative impact of the proposed development together with the existing stables that are in close proximity to the application site would result in an unacceptable suburbanisation of this attractive rural area that would have a significant adverse impact on the character and appearance of the Cotswolds Area of Outstanding Natural Beauty." Logically, therefore, this application, if successful, would result in significantly more suburbanisation than the recently refused proposal.

We consider that the site is visible from surrounding land, with the Cotswold Way National Trail immediately adjacent. The contrast between the proposed use and the agricultural land which existed there up until recent years could not be starker; it is clear that the effect of the development on the character and landscape will be one of significant harm.

One of the longest sections in Cotswold District of the Cotswold Way National Trail, described as one of the great walks of the world and the most beautiful in England, runs through Coberley Parish. It runs immediately past the entrance to the application site. We would suggest that the proposed development of this site would have an inappropriate and adverse impact on the environment which all who have an interest in the management and maintenance of British countryside, must surely wish to see preserved.

An application for a development in the near vicinity was refused on similar grounds some 2 years ago. CDC had considered two main themes in coming to this decision; "whether the proposal would be sustainable development in the countryside"; and "the effect of the proposal on the character and appearance of the area, which lies in the Cotswolds Area of Outstanding Natural Beauty (AONB)".

It is recognised that local councils have an obligation to provide suitable sites for gypsies and travellers who need to settle down, but this site is considered unsustainable, being dislocated from the main residential areas of the parish and in an isolated location.

There is concern that the site does not have the appropriate facilities to sustain the proposed extended families due to this isolated location and lack of community facilities nearby. The Agent's Correspondence states that the site is served by mains water and electricity. However, it has recently come to the Council's attention that the applicants appear to be approaching Cheltenham Borough Council for a wayleave in order to gain an electricity supply. This would suggest that the statement in the correspondence is not accurate and exacerbates the unsustainability of the site.

The Department for Communities and Local Government document "Planning Policy for Traveller Sites" indicates:-

Policy B: Planning for traveller sites; para 9:

- d) relate the number of pitches or plots to the circumstances of the specific size and location of the site and the surrounding population's size and density
- e) protect local amenity and environment

Policy C: Sites in rural areas and the countryside

Para 12. When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.

The latter would surely be the case if this development was to be permitted. The number of inhabitants would exceed those in the nearby households.

Policy B also states in Para 11 c): "ensure that children can attend school on a regular basis."

In considering this application, CDC should enquire as to whether there is available capacity in schools within suitable travelling distance from the site, as it is the Council's understanding that this may not be the case in the local schools.

We are not aware that the applicants have any connection with the parish or local community and they have not included any justification as to why they have a need or should have a right to live in that location. Adherence to planning policy must be paramount and the applicants' ownership of land should not be a justification to create developments in an unsustainable location, harmful to the AONB, suburbanising a rural area.

The application is for a "Change of use to mixed use for the keeping of horses and for Gypsy and Traveller residential purposes". To our knowledge, and that of parishioners living in the immediate vicinity of the site, it has not been used for the keeping of horses to date, even though permission was granted for one stable block (on Pitch 1), which was subsequently built; nor indeed has the adjoining site on which an application was made for stables with success in 2011 and which were also built. It is clear to us therefore, that the applications for stables have been part of a wider strategy towards gaining planning consents for residences over the whole site by stealth.

There is concern that additional light pollution will be caused from the site, thus causing harm to residents in the area.

There is concern that it will lead to increased traffic movement on Hartley Lane. The Cotswold Way uses Hartley Lane at this point and there is no verge or pavement for walkers along Hartley Lane in this area. In addition, traffic delays at the Air Balloon roundabout, particularly in morning and evening commuting hours, precipitate the use of Hartley Lane as a 'rat-run' for a certain amount of traffic.

Surface water run-off from the development has resulted in an increased level of flooding on Hartley Lane immediately south of Windmill Farm, and the agricultural land around it. Flooding as a result of the transformation from permeable agricultural land to hard standing associated with development is recognised in Gloucestershire County Council's Strategic Flood Risk Assessment of September 2008.

Coberley Parish Council

Response from Coberley Parish Council to Planning Application 14/02614/FUL

Proposal: 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

Location: Land Parcel Opposite Windmill Farm, Hartley Lane, Leckhampton Hill, Coberley, Gloucestershire

Coberley Parish Council maintains its objection to this proposed development application for the reasons stated in its original submission (copy attached) and, having received comments from concerned parishioners with regards to the new details received, namely the Transport Statement and details of visibility splays, emphasises the following points in specific relation:

Response to details submitted on 30 October 2014

The applicant has submitted a proposed site plan V.2 showing visibility splays shown as dotted red lines. The applicant has stated in their covering letter to this plan that these splays are based on the requirements of the County Council highways officer.

However, it remains unclear as to exactly where the speed survey recorders were situated when the speed survey was carried out.

Whilst we understand from the Transport Statement, para 26, that 'the speeds were collected at the approximate location of the extremity of the visibility splays', we are in some doubt as to exactly which distances in both directions were used, there being reference to 45 m and 57 m in the 21 Oct Transport Statement and the required 55 and 32 m distances only appear to have been established post-survey. From reading the applicant's letter dated 30 October (second para) it appears that these 55 and 32 m visibility splays have been proposed recently. Otherwise why were these distances not mentioned or shown on a drawing as part of the Transport Statement? Therefore how can it be that the speed sensors were placed at the correct location when these distances were yet to be agreed with the highway authority? The visibility splay proposed to the north is 32m, which is nearer to the site entrance than previously suggested, which is a concern to us as we consider that the nearer this distance is to the site the more oncoming traffic is likely to have accelerated.

This is critical information and the County Highways Officer should be provided with this information by the applicant as soon as possible and it should be available for public consultation. The surveys should have been carried out at the extremity of the achievable visibility, which has now been demonstrated to be 55m to the south of the site entrance and 32m to the north because that is the point where drivers have the sight line to inform their decision as to whether to pull out or not.

Coberley Parish Council

If the speed surveys have been carried out at locations outside of the achievable visibility splays, where speeds could be lower then it is considered that this methodology is not acceptable.

If the surveys were carried out at points that cannot be demonstrated to be at or close to the end of the visibility splay shown on the revised site plan then we consider that the surveys should be redone.

Response to details submitted on 21 October 2014

We re-emphasise our deep concern that development of this site into a multi-caravan traveller site would have a harmful visual impact on the National Trail and the AONB which would be contrary to the intentions of paragraph 115 of the National Planning Policy Framework (NPPF). Furthermore, this opinion is shared by Mr Watt of the Cotswold Conservation Board whose objection should be given significant weight.

The survey refers to creation of visibility splays 'through a reduction in height, or ideally by replanting the hedgerow to behind the visibility splay, which can be appropriately conditioned'.

Subsequently, the applicant's further covering letter submitted on 30th October now states that "only thin slivers need to be trimmed from the hedge, and this can be done without reducing the effectiveness of the hedgerow as a screen". Therefore no additional planting is proposed from the applicant.

However, it is considered that these visibility splays will only increase the development's prominence in the landscape, which is already in stark contrast to its rural setting, and contradicts statements made in the earlier Design and Access Statement regarding screening. This underlines the site's unsuitability for such a development given its location within the AONB

The Inspector who dismissed the appeals in August 2013 on the land immediately to the south recognised that this part of the AONB is still attractive countryside and that 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". In his mind the harm to the AONB is of "paramount importance and outweighs the other issues". He considered the site is "highly visible, even with screening, and stands out in views across the valley".

In this case we consider that Policy 7 of the current Local Plan remains just as relevant and consistent with the NPPF as it was at the time of the above appeals. This policy states that "the conservation and enhancement of the natural beauty of the landscape and countryside will be given priority over other considerations". Accordingly in this application the harm to the AONB should, as was the case for the appeals dismissed in August 2013, outweigh all other considerations.

Coberley Parish Council

National Planning Practice Guidance (NPPG) ID 42 Paragraph 15 states that the scope and level of detail of a Transport Assessment or Statement will vary from site to site but should include information about neighbouring uses, amenity and character, existing functional classification of the nearby road network. However, in the applicant's Transport Statement no acknowledgement has been made of the fact that Hartley Lane, in the immediate area of the site, forms part of the Cotswolds Way National Trail. It is therefore used by numerous walkers. Additional vehicle movements, related to the application site, onto and off this single track lane with its regular traffic flow, would increase the risk to these walkers. Not only are there regular walkers on this route, but also horse-riders and cyclists. The traffic survey has not addressed these factors.

Paragraph 35 of the NPPF (which is cited in the County Council's current recommendation for refusal) states that development should be located and designed where practical to

..give priority to pedestrians and cycle movements

..create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians

The applicant's submitted Transport Statement contains no reference to these objectives. Given the site is remote from some services and amenities that would be required by residents, plus the site does not benefit from an off-road pedestrian connection to services to the south, it is unclear why at this stage no justification has been provided to demonstrate the site offers a suitable level of accessibility. Equally, given the survey does indicate an element of rat-running on Hartley Lane during weekday network peak periods, the suitability of its use by school children walking to the local school should be reviewed as a potential highway safety concern. (It should be noted that contrary to the statement attributed to the County Council that Hartley Lane is a no-through route, it is a through route from Seven Springs to Leckhampton Hill and is used as a daily cut-through by commuter traffic.)

Paragraph 32 of the NPPF (which is cited in the County Council's current recommendation for refusal) states that Transport Statements should take account of whether

...safe and suitable access to the site can be achieved for all people'

The applicant's highway consultant appears to have agreed an unorthodox methodology for calculating/measuring junction visibility, namely a shortened 'X' distance at 1.75m. Manual for Streets stipulates a 2.4m X distance should be used, but in some lightly trafficked and low speed situations, a reduction to 2m may be acceptable. The traffic data provided by the applicant's highway consultant indicates there may be one vehicle passing the site access (in either direction) every 2-3 minutes during network peak periods, travelling at speeds of between 27-35mph. There can be no guarantee that

Coberley Parish Council

vehicles will be travelling centrally within the carriageway as described in the Transport Statement. In these conditions, an X distance of 2.4m would therefore typically be expected. This would have severe implications on both the level of achievable visibility, which would be reduced, but also on the amount of verge/hedgerow requiring removal. Finally, for any reductions in the X distance, the County Council typically seek a minimum carriageway width of 5.5m to ensure there is room for vehicles to swerve/avoid emerging vehicles in the instance that a conflict is presented. The access layout currently does not benefit from this.

Concerns have been raised by parishioners with regard to the positioning of the speed survey recorders and therefore, the value of the data recorded. The recorder to the north of the site was reported to be quite close to the sharp corner next to Minotaur Barn, where speed will naturally be low as a result of the nearby 90 degree corner; the recorder to the south was reported to be between the proposed site entrance and the access to the adjacent site occupied by Mr Williams. Although it is felt that the recordings over the south measuring point are far more representative of speeds passing the application site entrance, in reality southbound traffic past the application site would have been slowing down when crossing the south measuring point in anticipation of traffic emerging from the visible entrances to Mr Williams' entrance and the Windmill Farm stable yard.

Therefore prior to accepting the results of the speed survey as being commensurate with the achievable visibility splays, further clarification is required on the specific location of speed survey loops (*Please see our comments in response to the applicants details submitted on 30 October) . It is essential that the applicant can demonstrate the surveys were carried out at the extremity of the achievable visibility splay, particularly to the north of the site access. Any deviation in the location of this survey, particularly northwards of the site towards the bend, would result in a potential under-estimation of the 85th percentile speed. This could have severe implications on the calculation of the required visibility splay, and could fundamentally overlook a critical highway safety concern.

Also, we note that, unlike other SDR reports which we have studied, this provides limited data and does not include maximum speeds recorded and the daily number of vehicles in each speed category.

The differences between tables 1 & 2 allegedly accounted for, (as described in para 33 i.e. traffic associated with the existing land use of the site), suggest 28 movements to/from the application site. However, it is our understanding that there is currently nothing on the site but an empty two-stable block. The local community reports that no horses have been seen on this site – or on the neighbouring site of Mr Williams. This also therefore, raises a question over the Overall Conclusion of the Statement : ‘.. that no harm will be caused by the proposal access as no harm has been caused by the existing access for stabling use’

Coberley Parish Council

There appear to be 19 movements south from the site over 7 days and 9 movements north to the site. On Fri 10th, there were 3 less vehicles passed the counter south of the site than the counter north of the site – this suggests that 3 vehicles were already on the site and left, heading north. Over the rest of the week, if 12 extra vehicles drove north past the southern counter and 19 extra vehicles drove south past the counter, that would suggest that there were 7 vehicles remaining on-site at the end of the survey period.

It is understood that the southern counter was positioned to the north of Mr Williams' site and the Windmill Farm-owned stable yard. This therefore begs the question why such an amount of activity during the survey period on/off land which apparently only has two empty stables.

Coberley Parish Council - 10 November 2014

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.

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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.**

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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).

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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).

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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.

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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.

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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.

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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.

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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.

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

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

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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.

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

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"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.

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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)

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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.

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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.

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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.

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

Coberley Parish Council

17th August 2015



Gloucestershire
COUNTY COUNCIL

Development Management

Shire Hall
Gloucester
GL1 2TH

Cotswold District Council
Trinity Road
Cirencester
Gloucestershire
GL7 1PX

Please ask for: Jamie Mattock

Our Ref: C/2014/032305

Your Ref: 14/02614/FUL

Date: 3 November 2014

Dear Andrew Moody,

TOWN AND COUNTRY PLANNING ACT 1990 HIGHWAY RECOMMENDATION

LOCATION: Land Parcel Opposite Windmill Farm, Hartley Lane, Leckhampton Hill, Coberley, Gloucestershire

PROPOSED: 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

I refer to the additional information notification received in this office on the 31st October 2014 consisting of a revised site layout plan V.2 and the submitted Transport Assessment dated October 2014.

I 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. I can confirm that I have made comments to the agent regarding the submitted transport assessment and the required visibility splays as per my email dated 28th October 2014 to which repeat below for clarity.

I have reviewed the submitted information and in accordance with DMRB TA 22/81 I note that there has been no adjustment for wet weather speeds and after reviewing historical weather reports I consider that the 10th, 11th, 12th, 14th and 16th October were predominantly dry days and therefore the recorded 85th percentile should be reduced to obtain the wet weather speed. The 13th and 15th October were mostly wet days and therefore it is not appropriate to make any adjustment to these recorded speeds.

Date	Hartley Lane South 85th Percentile	Adjusted for wet weather 85th Percentile
10th October	37.4	34.92
11th October	38.0	35.52
12th October	37.3	34.82
13th October	39.4	39.4 (no change)
14th October	38.3	35.82
15th October	38.7	38.7 (no change)
16th October	36.62	36.62

Average 85th percentile adjusted for wet weather (where appropriate) = 36.5mph

Required visibility splay = 54.6 (55m)

Date	Hartley Lane North 85th percentile	Adjusted for wet weather 85th Percentile
10th October	27.3	24.82
11th October	26.8	24.32
12th October	25.3	22.82
13th October	28.1	28.1 (no change)
14th October	27.8	25.32
15th October	28.4	28.4 (no change)
16th October	27.9	25.42

Average 85th percentile adjusted for wet weather (where appropriate) = 25.6 (25mph)

Required visibility splay = 32.01 (32m)

I can therefore confirm that in order for safe and suitable access to be provided to the site that visibility splays of 32m to the north and 55m to the south will be required. The visibility splay to the north can easily be achieved from land within the applicants control when measured to the nearside carriageway edge but to the south extends beyond the applicants boundary. The applicants transport consultant was advised by the highway authority that it would be acceptable to measure 1.75m from the carriageway edge providing it could be demonstrated that this would not be detrimental to highway safety.

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 vehicle are often travelling some distance from the kerbline or edge of 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 will 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 I consider that under these specific circumstances that 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.

I recommend that no highway objection be raised subject to the following condition(s) being attached to any permission granted:-

The proposed development shall not be brought into use until the access and visibility splay lines have been provided in accordance with the submitted plan Proposed Site Plan V2 with the

area in advance of the splay lines so defined cleared of all obstructions to visibility and thereafter similarly maintained in accordance with Paragraph 35 of the NPPF.

Reason:- To reduce potential highway impact by ensuring that adequate visibility is provided and maintained.

The proposed development hereby permitted shall not be occupied until the vehicular parking and turning facilities have been provided in accordance with the submitted plan Proposed Site Plan V2, 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 Paragraph 35 of the NPPF.

Yours sincerely,

Development Co-ordinator



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.
-

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**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.

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

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 ½ for the 3% growth figure, giving 15½. 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

APPEARANCES

FOR THE APPELLANT:

Mr Philip Brown BA(Hons) MRTPI	Agent
Mr Lee Williams	Appellant
Mrs Cassandra Williams	

FOR THE LOCAL PLANNING AUTHORITY:

Ms Yvonne Poole	Cotswold District Council
Ms Emma Pickernell	

INTERESTED PERSONS:

Mr Malcolm Watt CMLI, MRTPI, F.Arbor.A	Cotswold Conservation Board
Cllr Paul Hodgkinson	On behalf of Churn Valley ward and Coberly PC
Mr Nick Dummett	CPRE - Gloucestershire

DOCUMENTS

- 1 Council's letter of notification
- 2 Application decision for stables to north of appeal site