

**Item No 05:-**

**16/02140/FUL (CT.7047/R)**

**Land adjacent Seven Springs  
Hartley Lane  
Leckhampton Hill  
Gloucestershire**

**Removal of Conditions 2 (temporary use and occupancy) and 3 (restoration of site) of planning permission 12/04857/FUL to allow permanent retention of the site at Land Adjacent Seven Springs Hartley Lane Leckhampton Hill Coberley Gloucestershire**

<b>Full Application 16/02140/FUL (CT.7047/R)</b>	
<b>Applicant:</b>	Mr Lee Williams
<b>Agent:</b>	Green Planning Studio Ltd
<b>Case Officer:</b>	Andrew Moody
<b>Ward Member(s):</b>	Councillor Nicholas Parsons
<b>Committee Date:</b>	10th August 2016
<b>RECOMMENDATION:</b>	<b>PERMIT</b>

**Main Issues:**

- (a) Principle of development in this location
- (b) The need for Gypsy / Traveller sites
- (c) The visual and landscape impact of the proposal
- (d) Highway safety

**Reasons for Referral:**

The application is brought to Committee by Officers to allow the proposal to be debated in public due to the planning history of the site.

**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 access track leading from Hartley Lane and an area of hardstanding which currently accommodates a stable building and caravan, following the granting of a 3-year temporary planning permission on appeal following the refusal of planning application 12/04857/FUL.

The site is located within an Area of Outstanding Natural Beauty, and is bounded to the west by Hartley Lane and to the east by a tree belt, beyond which is the A435, Cirencester Road. Immediately to the south is a manege associated with the equestrian facilities at Windmill Farm. To the north are two further Gypsy / Traveller pitches that are also subject to a 3-year temporary planning permission.

**2. Relevant Planning History:**

**Application Site:**

11/03641/FUL: Change of use of field to equestrian and proposed construction of new access road and stables. Granted 18.10.2011

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 07.08.2013

### 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

### 4. Observations of Consultees:

Forward Planning:

Planning policy for traveller sites (August 2015) Policy B: Planning for traveller sites states that LPA's should identify a supply of deliverable sites to provide 5 years' worth of sites against locally set targets; and to identify land with potential to meet the need for Traveller accommodation arising in years six to ten and where possible, for years 11 to 15.

Gloucestershire Gypsy Traveller and Travelling Show People Accommodation Assessment (October-2013) (GGTTSAA) identifies that Cotswold District Council has a need to provide an additional 26 pitches for Travellers over the period 2013-2031 in Cotswold District, with a requirement of 5 private pitches between 2013 to 2017. The study concluded that there was no requirement for provision of pitches for Travelling Showpeople.

The application site was identified as a preferred site in the Evidence paper: Advisory panel on gypsy and travellers site allocations assessment (November 2014) for potentially 1 new pitch.

Hence the site has been carried forward as a preferred site in Policy H7 of the Council's Emerging Local Plan 2011-2031: Submission Draft Reg. 19 (June 2016), which was approved for consultation by Cabinet on 21st April 2016.

The GGTTSAA is currently being reviewed. Once completed, this could prompt a review of allocations, if the Cotswold District requirement was to reduce significantly. However, the application site currently forms part of the Council's Submission Draft Reg. 19 and, therefore, contributes to the Council's 5 year supply to meet local targets, as required by national legislation. Consequently, on policy grounds, there is no objection in principle to this proposal.

Cotswold Conservation Board:

Objection. Full comments attached as an appendix to this report.

### 5. View of Town/Parish Council:

Coberley Parish Council: Objection. Full comments attached as an appendix to this report.

### 6. Other Representations:

53 representations objecting to the development have been received. The main points raised are as follows: -

- No justification for removing the temporary restriction
- The use is unsuitable upon a narrow lane used by walkers

- Impact upon general amenity within an AONB and upon users of the Cotswold Way
- Noise disturbance
- The proposal would allow any Traveller to use the site
- Impact upon highway safety at the junction with the A435
- Shortfall in Gypsy / Traveller sites is no longer a valid consideration under new Government guidelines
- Use of land is totally inappropriate in this area
- There is a statutory duty upon the Council to take account of the conservation and enhancement of natural beauty in the AONB
- The site is nowhere near any amenities
- The site should be restored to its original state permanently
- There should be a new planning application submitted
- The land is green belt
- There is no valid reason to remove the conditions attached by the Inspector; they are consistent with Local Plan policies and the NPPF paragraph 115
- The 6 tests set out in paragraph 206 of the NPPF are still met by these conditions
- The Inspector considered that temporary use and a personal permission were necessary when allowing the appeal
- There is no presumption that a temporary planning permission should become permanent
- There are numerous more suitable sites outside any AONB
- Removing these conditions would be implausible considering the change in national planning policy and at odds with the Council's previous stance
- The temporary permission should be varied whilst CDC's review of policy on site allocation remains outstanding

## **7. Applicant's Supporting Information:**

Planning Statement

## **8. Officer's Assessment:**

### **(a) The Principle of Development:**

The site is currently in use as a caravan site for one Gypsy family, with a temporary planning permission having been allowed on appeal on 7th August 2013. The Inspector determining the appeal imposed conditions to limit the use to a 3-year period, with the site to be occupied by the applicant and his wife and their resident dependents (condition 2), whilst also requiring the site to be restored back to its original state following the cessation of the use (condition 3). It should be noted that this would mean reverting the site back to the previously approved equestrian use, and that there is a stable block, driveway and hardstanding at the site that would not be required to be removed.

A copy of the Inspector's decision is attached as an appendix to this report, and attention is drawn specifically to the conclusions at paragraphs 21 to 26 with regard to landscape impact within the AONB.

The proposal as submitted is for conditions 2 and 3 to be removed, which would allow the site to become permanent.

With regard to planning policy, paragraph 115 of the NPPF 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 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 revised in August 2015 and sets out the Government's policy for Traveller sites, replacing the previous version from March 2012. 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.

With regard to PPTS Policy H: 'Determining planning applications for traveller sites', there has been a change in policy since the original decision was made in August 2013. Paragraph 27 now states 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 application for the grant of temporary planning permission. However, there is now an exception where the development site is within an AONB.

The footnote to this paragraph also states that there is no presumption that a temporary grant of planning permission should be granted permanently.

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

Policy 19: Development Outside Development Boundaries, states that development appropriate to a rural area will be permitted provided that the proposal relates well 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-bourne commuting, adversely affect the vitality and viability of settlements and result in development that significantly compromises the principles of sustainable development.

Policy H7: Gypsy, Traveller and Travelling Show People Sites of the emerging Cotswold District Local Plan (2011 - 2031) states that existing authorised sites will be safeguarded provided there remains a need for these uses, whilst part 2 of the policy identifies locations as preferred sites for accommodating the future needs of gypsies and travellers. This includes the site subject to this application, which is also included as Map 2 within Appendix C 'Proposed Gypsy and Traveller Sites'.

### **(b)The need for Gypsy / Traveller sites**

The relevant local and national policies in relation to Gypsy and Traveller sites make it clear that need is a material consideration in determining applications. As such it is initially necessary to consider what provision has been made, and whether there is a proven need for Gypsy and 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 GGTTSA 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." This document is currently in the process of being reviewed.

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. Temporary permissions for a total of 7 pitches have been granted since August 2013, and a further 2 permanent pitches at South Cerney, such that it is considered that there is a supply of sites until 2022. Further sites have to be identified to accommodate the entire need, and therefore it is considered that a need for Gypsy / Traveller sites remains.

Members should note that this site is one of those granted since August 2013 that is considered to provide a sufficient supply up until 2022, and that the emerging Local Plan identifies it as being a preferred site for accommodating future needs for Gypsies and Travellers.

### **(c) 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 NPPF 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." 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.

In allowing the appeal against the refusal of planning application 12/04857/FUL, the Inspector, whilst commenting that the impact upon landscape character was of paramount importance, stated that the establishment of a residential mobile home and its ancillary structures caused considerable harm to the AONB. However, it was also commented that the site that was allowed on appeal "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".

It is considered that the visual or landscape impact of the development upon the application site has not materially altered since the appeal decision was made, and that the comments made by the Inspector should be taken into consideration in the determination of this application. However, given that this site is allocated as a preferred site in the emerging Local Plan, it has been fully assessed in terms of its visual and landscape impact as part of this process and, as such, its permanent use is considered to be acceptable.

### **(d) Highway safety**

Gloucestershire County Council raised no objection to planning application 12/04857/FUL, and if the use as a Gypsy / Traveller site was to cease the previously approved use of the site as equestrian use would remain and have the potential to attract several vehicular movements per day.

Any increase in traffic that may arise from the proposed use is not sufficiently significant to warrant the refusal of the application, and would not be considered to have a 'severe' impact having regard to paragraph 32 of the NPPF. Therefore, the proposal is also in accordance with Policy 38 of the Local Plan.

## 9. Conclusion

136

When granting a 3-year temporary planning permission for the development of this site for a Gypsy / Traveller residential site, the Inspector 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.

Whilst only minimal weight may be attached to the policies of the emerging Local Plan until they have been independently examined, the application site currently forms part of the Council's Submission Draft Regulation 19 and, therefore, contributes to the Council's 5 year supply to meet local targets, as required by national legislation. Consequently, there is no objection in principle to conditions 2 and 3 being removed.

## 10. Conditions:

The development hereby approved shall be implemented in accordance with the following drawing numbers: DRWG No 1; DWG No 2 Site Layout.

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

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, August 2015) 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 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.

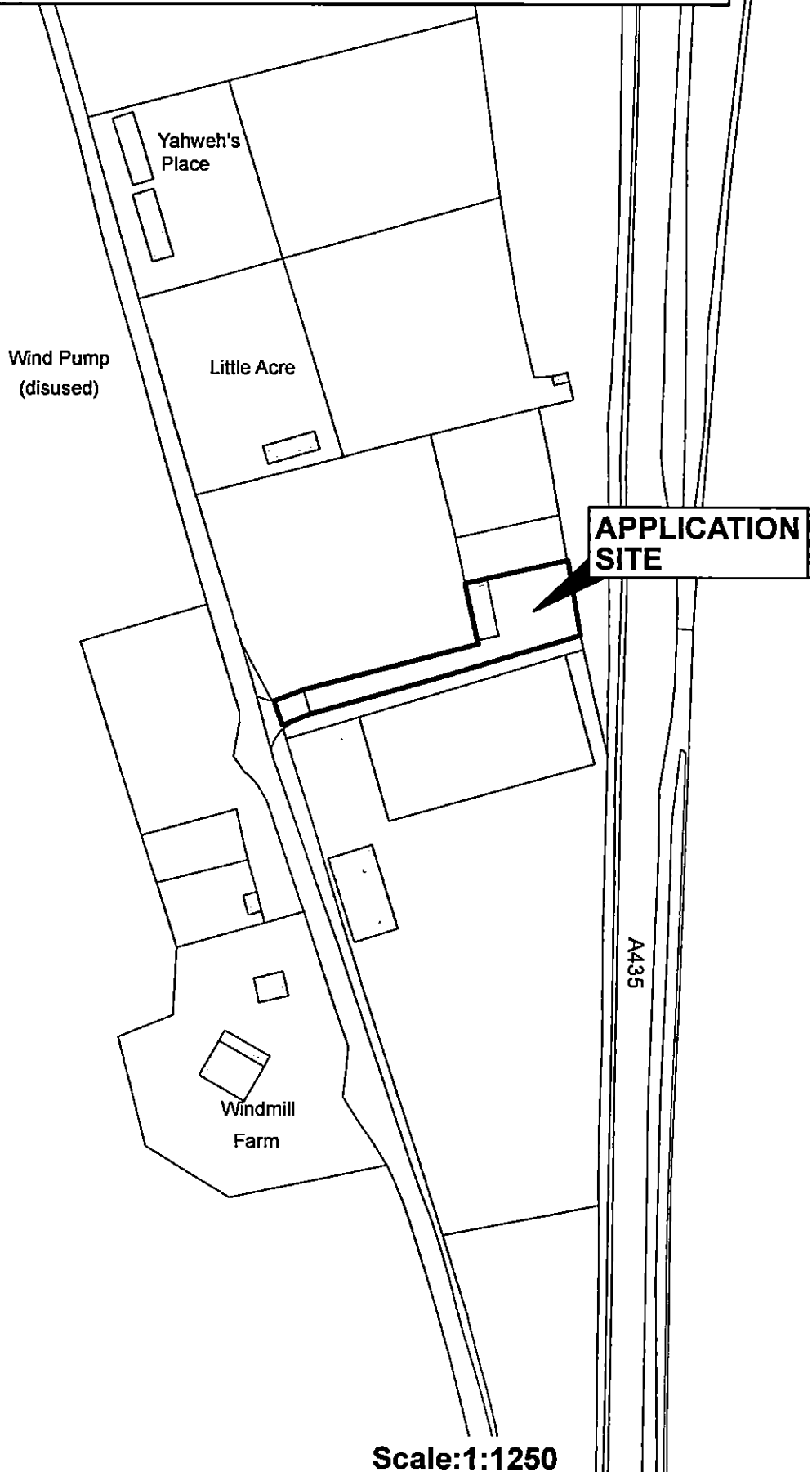
The site shall be laid out in accordance with the details on DWG No 2. All vehicles or any uses or structures ancillary to the residential use shall be restricted to the area labelled "existing hardstanding" and to the access track.

**Reason:** For purposes of clarity and for the avoidance of doubt, and in the interests of visual amenity having regard to Policies 19 and 42 of the Cotswold District Local Plan and 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.

Land Adjacent Seven Springs, Hartley Lane,  
Leckhampton Hill, Coberley 137  
16/02140/FUL CT.7047/R



Wind Pump  
(disused)

Scale:1:1250







---

## 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 in .....AONBs". 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

# Coberley Parish Council

---

## **Coberley Parish Council response to Planning Application 16/02140/FUL**

### **Full Application for Removal of Conditions 2 (temporary use and occupancy) and 3 (restoration of site) of planning permission 12/04857/FUL to allow permanent retention of the site at Land Adjacent Seven Springs Hartley Lane Leckhampton Hill Coberley Gloucestershire**

Coberley Parish Council opposes this application on the following grounds:

In paragraph 25 of the Appeal Decision dated 7 August 2013, the Inspector made clear that he was granting a temporary permission to the site proposed in Appeal D, for a maximum period of 3 years from the date of the decision.

He concluded that "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 present application refers to various Local Planning Authority documentation, including an Accommodation Assessment and Evidence Base to support its argument for permanence of this site, pointing to the LPA's requirement to provide sufficient pitches for Travellers in its area.

However, paragraph 27 of the Department for Communities and Local Government's revised Planning Policy for Traveller Sites, dated August 2015 states:

"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 permissions. 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).

There is no presumption that a temporary grant of planning permission should be granted permanently."

This site lies in the AONB and is now therefore entitled to the same level of protection as was hitherto reserved for Green Belt. Harm is exacerbated by the fact that the site is immediately adjacent to the Cotswold Way National Trail.

We note that, in contradiction to the statement made in paragraph 5.2 of the WS Planning & Architecture Gypsy and Traveller Identification of Potential Sites prepared for CDC in November 2014: "Temporary planning permission has been allowed for 1 pitch at Seven Springs, Coberley which will expire in August 2016. For the purposes of this report it is assumed that this site will become permanent.", the

footnote to paragraph 27 of the Department for Communities and Local Government's revised Planning Policy for Traveller Sites above states that "There is no presumption that a temporary grant of planning permission should be granted permanently."

Further, paragraph 25 of the revised Policy contains wording which has been strengthened to "very" strictly, with regard to limiting Traveller site development in open countryside:

"Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure."

The Parish Council believes that, to allow continuation of this site beyond the 3-year temporary period, taking into account also the adjacent temporarily-permitted site to the north, would dominate the nearest settled community and place undue pressure on the local infrastructure, primarily the highway system.

The Parish Council remains very concerned about the amount of pitches that could potentially become established at Seven Springs.

The WS Planning & Architecture assessment report Gypsy and Traveller Identification of Potential Sites prepared for CDC in November 2014, referred to in paragraph 4.3 of the Green Planning Studio Planning Statement, shows not only the 3 pitches (GT 5 x 1 and GT 8 x 2), but Paragraph 5.8 Table 2 suggests that site GT 5 could support a further 2 pitches in the 2018 to 2022 period in addition to the 1 already established with temporary permission.

It also recommends that site GT 8 has sufficient space to support a further 2 pitches in addition to the 2 granted temporary planning permission in December 2014 (Paragraph 5.7). This could make a total of 7 pitches by 2022. There is even reference to the 2 sites as broad locations in the 2023 to 2031 period.

We therefore, urge the Planning Authority to refuse this application and stand by the original conditions of the Appeal decision and ensure that habitation of this site terminates with the expiry of the temporary permission in August 2016 to protect the Cotwolds AONB from harm.

*Notwithstanding this Parish Council's objection to the permanent use of this site, it is acknowledged that irrespective of your Authority's decision, the neighbouring site will remain until the expiry of that consent in December 2017.*

*On the basis that there is doubt as to whether CDC can demonstrate a 5 year supply of deliverable sites, (because the proposed allocation is at the emerging plan stage and is subject to numerous unresolved objections and the proposed allocation has*

*not been tested before a local plan inspector and thus carries little to no weight), we advocate that, if your Authority is minded to approve this proposal, then such approval be conditioned to extend the period of use so that it aligns with the adjacent site (December 2017).*

*Whilst it is this Parish Council's view that the proposal for permanent consent is contrary to national policy guidance, the grant of a temporary consent until December 2017 would allow for the cumulative impact of both sites to be considered together.*

*The use of land within the AONB for gypsy and traveller sites is contrary to current policy guidance, however if your Authority is minded to approve this application then it is, in this Parish Council's opinion, reasonable as a short term compromise to afford the occupiers an additional period of time before being required to vacate the site. This will provide them with ample time to seek an alternative site.*

Coberley Parish Council, 23 June 2016

**From:** Andrew Lord  
**Sent:** 22 June 2016 11:31  
**To:** Andrew Moody  
**Subject:** 16/02140/FUL. Land Adjacent Seven Springs Hartley Lane Leckhampton Hill Coberley Gloucestersh

For the attention of Andrew Moody:

**16/02140/FUL | Removal of Conditions 2 (temporary use and occupancy) and 3 (restoration of site) of planning permission 12/04857/FUL to allow permanent retention of the site | Land Adjacent Seven Springs Hartley Lane Leckhampton Hill Coberley Gloucestershire.**

The Cotswolds Conservation Board raised objections to the original planning application and related appeal and wish to maintain their **objection**.

The Inspector, although granting a temporary consent did accept in relation to harm to the nationally protected AONB that;

*"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...."*

*22. Consequently, I find the harm to the AONB is of paramount importance and outweighs the other issues in favour of the appellant....."*

The Cotswolds Conservation Board have also submitted comments to the Local Plan Consultation objecting to the inclusion or expansion of this site within the Local Plan (Comment ID 840). The Board noted as part of their submissions *"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."*

It is clear from the Inspector's original grant of temporary permission that it was conditional on it being a temporary period. It is noted that the Council have made progress with the allocations of sites however the Inspector also stated *"In the meantime, it might be possible to find a suitable site closer to Minsterworth"....* In other words a location that would both be more suitable for the applicant and be located outside the nationally protected Cotswolds AONB.

The NPPG 2014 Paragraph 14 confirms where temporary permissions have been granted *"There is no presumption that a temporary grant of planning of planning permission should be granted permanently."*

The Government has since published Planning Policy for Traveller Sites (August 2015).

Of particular note this states:

*"25. Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan."*

And:

*"27. If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. 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)."*

This guidance also states within the Annex.1. Glossary that:

*"2. In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:*

- a) whether they previously led a nomadic habit of life*
- b) the reasons for ceasing their nomadic habit of life*
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances."*

In conclusion the consideration of the sites status under the Local Plan process is premature. Further to this Government guidance now states that the 5 year supply of deliverable sites is a significant material consideration – but one of the specific exceptions to this are sites within AONBs. The harm to the AONB from this development as stated within the Inspector's decision was made clear, as too was the suggestion only for a temporary consent. The applicant does not appear to have addressed the reason for the grant of temporary permission in relating to finding a more suitable site closer to Minsterworth (outside the AONB). Accordingly the application does not provide details to allow the consideration of parts a,b, and c of Paragraph 2 of Annex.1. of Planning Policy for Traveller Sites (August 2015).

Accordingly in fulfilling the "great weight" test of Paragraph 115 of the NPPF in light of the 2015 guidance, the recommendation from the Cotswolds Conservation Board is that the planning conditions are not removed and permanent permission is not given.

With thanks

Andrew Lord  
MA BA (Hons) MRTPI

Planning and Landscape Officer

Cotswolds Conservation Board  
The Old Prison  
Fosse Way  
Northleach  
Gloucestershire  
GL54 3JH



152

31/05/2016

1527



31/05/2016





154

31/05/2016