

Item No 02:-

17/03352/FUL

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

Item No 02:-

Removal of Conditions 1 (temporary use and occupancy) and 3 (restoration of site) of planning permission 15/04432/FUL to allow permanent retention of the site at Land Parcel Opposite Windmill Farm Hartley Lane Leckhampton Hill Coberley Gloucestershire

Full Application 17/03352/FUL	
Applicant:	Mr John Norris
Agent:	Michael Hargreaves Planning
Case Officer:	Andrew Moody
Ward Member(s):	Councillor Nicholas Parsons
Committee Date:	13th December 2017
RECOMMENDATION:	PERMIT FOR A TEMPORARY 1 YEAR PERIOD

This application was deferred at the November meeting of this Committee to allow the 'Gypsy and Traveller Identification of Potential Sites for Cotswold District' to be made available prior to its determination.

The report is the same as included on the November agenda except for the sections in bold type.

Main Issues:

- (a) Background to the Development
- (b) The Principle of Development
- (c) The need for Gypsy / Traveller sites
- (d) The visual and landscape impact of the proposal
- (e) Human Rights
- (f) Applicant's Gypsy status

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 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, with a revised scheme granted under reference 15/04432/FUL.

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:

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

15/04432/FUL: 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. Granted 09.03.2016

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:

Landscape Officer: Objection, comment incorporated into the report

5. View of Town/Parish Council:

Coberley Parish Council: Objection. Due to the length of these comments, they are attached as an appendix to this report.

6. Other Representations:

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

- Impact upon the character of the AONB
- Such development has no place in this area which is visited by locals and visitors using the adjacent Cotswold Way
- There are other more suitable sites for such development
- Precedent for encroachment into the AONB
- The Council can demonstrate a 5-year supply of Gypsy and Traveller sites
- The Planning Policy for Travellers Sites 2015 states that Gypsy and Traveller development should not dominate nearest settled community. There are three houses within half a mile of here, and this would result in three permanent pitches being allowed

7. Applicant's Supporting Information:

Planning Statement

8. Officer's Assessment:

(a) Background to the 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 temporary 3-year period by Planning Committee, with the decision being issued on 11th December 2014.

Works were not carried out in accordance with the approved plans, with these being regularised with the granting of planning permission 15/05532/FUL. The temporary time limit was not extended however, so this ends on 11th December 2017. The approvals granted were for the site being subdivided into two pitches, 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 and widened with visibility splays provided.

Information has also been provided regarding the personal circumstances of the applicants, including their Gypsy status.

(b) The Principle of Development

The site is currently in temporary use, and this application seeks to remove conditions requiring the site to be occupied by the Mr Norris Sr, Mr Norris Jr and Mr Clee and their resident dependents (condition 1), whilst also requiring the site to be restored back to its original state following the cessation of the use (condition 3).

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 Annex 1 to the PPTS, this provides a revised definition as to 'Gypsies and Travellers', as set out below:-

1. For the purposes of this planning policy "gypsies and travellers" means:

Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

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.*

3. For the purposes of this planning policy, "travelling showpeople" means:

Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily, but excludes Gypsies and Travellers as defined above.

4. For the purposes of this planning policy, "travellers" means "gypsies and travellers" and "travelling showpeople" as defined above.

5. For the purposes of this planning policy, "pitch" means a pitch on a "gypsy and traveller" site and "plot" means a pitch on a "travelling showpeople" site (often called a "yard"). This terminology differentiates between residential pitches for "gypsies and travellers" and mixed-use plots for "travelling showpeople", which may / will need to incorporate space or to be split to allow for the storage of equipment.

The key change that was made to both definitions was the removal of the term persons who have ceased to travel permanently, meaning that those who have ceased to travel permanently will not now fall under the planning definition of a Traveller for the purposes of assessing accommodation need in a Gypsy and Traveller Accommodation Assessment (GTAA).

Policy 23: Sites for Gypsy Travellers, of the Cotswold District Local Plan states that sites for Gypsies and 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.

The 'Gypsy and Traveller Identification of Potential Sites for Cotswold District' has now been published. The relevant extract from Appendix 3 for this site is included as an Appendix to this report.

This concludes that the 3 pitches that are identified as being required by the GTAA can be provided in alternative locations that would not harm the AONB, and that the site is not currently suitable for a permanent pitch.

(c) 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 HMA (the housing market area) to produce a Gypsy and Traveller Accommodation Assessment (GTAA), which was published in March 2017. This replaces the Gloucestershire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment October 2013, (GGTTSAA), which had identified a need for the Cotswold District of an additional 26 permanent pitches.

However, bearing in mind the revised Gypsy and Traveller definition referred to above within the PPTS, in addition to updated survey work, there is now stated to be a need for 3 additional pitches in the District that meet the planning definition, which are at the existing site at Shorncote, some 16 miles from the application site, and arising due to a specific overcrowding issue upon an existing pitch. There is also a need for up to 11 additional pitches for households that may meet the definition, **although the authors of the GTAA states that there would be an expected need of 10% of this number, i.e. 1 pitch, and a need for 13 additional pitches for households that no longer meet the definition.**

The GTAA is a robust and comprehensive evidence-based assessment of the current and future accommodation needs for Gypsies and Travellers in the Gloucestershire HMA who meet the current planning definition of a Gypsy or Traveller. There were no Travelling Showpersons identified in Cotswold District.

The assessment used a combination of desk-based research, interviews and engagement with members of the travelling community living on all known sites. It also includes an estimate of need for those households who were not able to be interviewed and who may meet the current planning definition.

This, therefore, constitutes a significant reduction in the demand that was anticipated and as a consequence of this; the Local Planning Authority has recommended to the Inspector that the sites referred to at Policy H7 of the emerging Local Plan are deallocated as part of the ongoing Local Plan Inquiry, with the exception of the site at Shorncote. This, therefore, includes this application site which is referred to as a reserve site.

It should also be noted that the occupants of the application site were interviewed as part of the GTAA process, and were considered not to have Gypsy status having regard to the definition within Annex 1 of the PPTS. This is a decision that the supporting statement submitted with the application disagrees with, and they have provided information in support of this assertion, whilst accepting that Mr Norris Sr and his wife no longer meet the definition.

Members should be aware that the applicant's agent has submitted information regarding the issue of Gypsies and Travellers that no longer meet the definition within the PPTS in respect of emerging Local Plans.

This includes the Inspector's Report for the Hull Local Plan examination (dated October 2017) where the Local Planning Authority modified their emerging Plan to make provision for sites for Gypsies and Travellers who both met the revised PPTS definition, in addition to those who did not, who were previously excluded. The Inspector commented that these modifications were required to make the Plan sound.

The other Plan referred to is that for Cambridge City and South Cambridgeshire, where a letter to the two Councils from the Inspector, dated March 2017, stated that: -

The GTAA (eg paragraph 3.20) highlights, among other matters, that some of those who fall outside the new definition may be able to demonstrate a right to culturally appropriate accommodation, which is likely to be caravans. More generally the Council is now required by the Housing Act as amended, to assess the need for provision of sites on which caravans can be sited.

Given the above and the very large number of "unknown" households identified in the GTAA, I am concerned that planning for the very small numbers identified as currently coming within the new definition without identifying provision for those persons who fall outside the PPTS definition who have a need to reside in caravans may not represent a sound approach in South Cambridgeshire. There would also be Human Rights and Public Sector Equality Duty implications in adopting a plan which fails to meet the needs of those persons who no longer fall within the PPTS definition but who are in need of a caravan site, in particular those persons who are also Romany Gypsies, Irish Travellers, elderly and disabled.'

(d) The visual and landscape impact of the proposal

The site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB). Section 85 of the Countryside and Rights of Way (CROW) Act 2000 states that relevant authorities have a statutory duty to conserve and enhance the natural beauty of the AONB.

Paragraph 17 of the National Planning Policy Framework requires the planning system to recognise the intrinsic character and beauty of the countryside.

Section 11 of the National Planning Policy Framework requires us to have regard to the conservation and enhancement of the natural environment. Paragraph 109 states that the planning system should protect and enhance valued landscapes. Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty.

Policy 42 states that development should be environmentally sustainable and designed in a manner that respects the character, appearance and local distinctiveness of the Cotswold District.

Policy 45 of the Local Plan states that high standards of appropriate landscaping should be required in all developments and any attractive, existing landscape features, such as trees, hedgerows and other wildlife habitats should be retained and integrated into all landscaping schemes.

The application site is located to the north-east of the village Coberley in the Cotswolds AONB. The site is located between two roads, Hartley Lane to the west and the A435 Cirencester Road to the east. The busy Seven Springs junction is located to the south of the site. A belt of mature woodland separates the site from the A435 and a mature hedgerow runs adjacent to Hartley Lane. The site also adjoins an existing traveller site to the south-east.

The site is accessed from Hartley Lane, a narrow country road. There are a number of Public Rights of Way (PRoW) that cross the wider countryside and the Cotswolds Way which passes in the immediate vicinity of the site and follows Hartley Lane.

With regard to the land immediately to the south, an application for the change of usage to a Traveller site was submitted in 2012 (12/04857/FUL) and was subject to four concurrent appeals following the refusal of planning permission and the issue of three Enforcement Notices.

Three of the appeals were dismissed having regard to the harm to the AONB landscape. By way of comparison, the application site is on higher ground, and is more prominent in the landscape, for example when viewed from the lay-by on the A436 to the south-east. The temporary permission granted was a decision made having regard to balancing the landscape impact of the

development, with factors such as the number of pitches that were considered to be necessary at that time (26) and the lack of a 5-year supply of such sites. The 3-year temporary permission granted was stated in the reason to condition 1 to include an opportunity for the Local Planning Authority to give further consideration to the use after this period had expired.

The Cotswold Way runs along Hartley Lane, adjacent to the site. This is a long distance national trail and would be highly sensitive to visual change. While the hedgerow that runs alongside Hartley Lane provides some screening in the summer months, the lack of evergreen cover would leave the development exposed in views during the winter months, in addition to the views afforded through the entrance to the site. In terms of longer distance views, given the sites' position on elevated sloping ground there would also be views of the development from across the valley.

The site is located on the edge of character area 8C High Wold Valley: Upper Churn Valley as defined in the Landscape Strategy and Guidelines for the Cotswolds AONB. Within the guidelines it states that:-

"The High Wold Valleys are sensitive to developments that might interrupt the sense of seclusion within them and their rural, pastoral character. In addition, the confined landform and steep slopes within the valleys, together with many areas of nature conservation interest together form a further constraint to development".

The sloping valley qualities and open pastoral farmland extended between woodland slopes are considered to be typical of the High Wold Dip Slope Valley landscape character type. These qualities make an important and pleasing contribution to the wider rural AONB landscape.

The Cotswold Conservation Board has identified "Isolated development" as a local force for change. Some of the potential implications include:-

- Upgrading of minor roads and lanes in areas of new development and introduction of suburbanising features such as gateways, kerbs and street lighting;
- Introduction of 'lit' elements to characteristically dark landscapes;
- Suburbanisation and domestication of the agricultural landscape by the introduction of gardens e.g. ornamental garden plants and boundary features, parking areas, lighting and conversion of tracks to manicured drives and ornamental gateways;
- Loss of green space between built up areas on the valley slopes that often provide a green backdrop to settlements in the valley;
- Appearance and proliferation of stables and 'white tape' field boundaries for horses and ponies; and
- Loss of tranquillity.

The proposal is to allow the site to become permanent through the removal of the conditions limiting the use to a 3-year period and requiring the restoration of the site.

As stated previously, the Inspector noted in the appeal decision for the land to the south that "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" and described the vans as standing out as "alien and intrusive" and added 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 view of the application site being upon higher land, this would also be considered to adversely impact upon the AONB, and in view of the reduction in the requirement for Gypsy/Traveller sites contained within the GTAA, there is no longer considered to be a need for such a development in this location.

In conclusion, it is considered that the retention of the site would have a detrimental visual impact on the appearance and character of the AONB landscape, with the adjacent national trail, would be significant.

(e) 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.

Counsel has advised that Article 8 of the European Convention on Human Rights ('ECHR') protects the right to a private and family life. It is a qualified right, such that it may lawfully be interfered with in the public interest. To re-iterate the report, there are 3 children under 18 years of age currently residing at the site.

Counsel has indicated that the relevant legal principles were codified by Hickinbottom J (as he then was) in Stevens v Secretary of State for CLG [2013] EWHC 792 (Admin). He said at [69],

"From these authorities, in respect of the approach of a planning decision-maker, the following propositions can be derived.

i) Given the scope of planning decisions and the nature of the right to respect for family and private life, planning decision-making will often engage article 8. In those circumstances, relevant article 8 rights will be a material consideration which the decision-maker must take into account.

ii) Where the article 8 rights are those of children, they must be seen in the context of article 3 of the UNCRC, which requires a child's best interests to be a primary consideration.

iii) This requires the decision-maker, first, to identify what the child's best interests are. In a planning context, they are likely to be consistent with those of his parent or other carer who is involved in the planning decision-making process; and, unless circumstances indicate to the contrary, the decision-maker can assume that that carer will properly represent the child's best interests, and properly represent and evidence the potential adverse impact of any decision upon that child's best interests.

iv) Once identified, although a primary consideration, the best interests of the child are not determinative of the planning issue. Nor does respect for the best interests of a relevant child mean that the planning exercise necessarily involves merely assessing whether the public interest in ensuring planning controls is maintained outweighs the best interests of the child. Most planning cases will have too many competing rights and interests, and will be too factually complex, to allow such an exercise.

v) However, no other consideration must be regarded as more important or given greater weight than the best interests of any child, merely by virtue of its inherent nature apart from the context of the individual case. Further, the best interests of any child must be kept at the forefront of the decision-maker's mind as he examines all material considerations and performs the exercise of planning judgment on the basis of them; and, when considering any decision he might make (and, of course, the eventual decision he does make), he needs to assess whether the adverse impact of such a decision on the interests of the child is proportionate.

vi) Whether the decision-maker has properly performed this exercise is a question of substance, not form. However, if an inspector on an appeal sets out his reasoning with regard to any child's interests in play, even briefly, that will be helpful not only to those involved in the application but also to the court in any later challenge, in understanding how the decision-maker reached the decision that the adverse impact to the interests of the child to which the decision gives rise is proportionate. It will be particularly helpful if the reasoning shows that the inspector has brought his mind to bear upon the adverse impact of the decision he has reached on the best interests of the child, and has concluded that that impact is in all the circumstances proportionate. I deal with this further in considering article 8 in the context of court challenges to planning decisions, below."

From the above it will be clear that the best interests of the children who live on the Site is a primary consideration and must be at the forefront of Members' minds when determining the planning balance. Therefore, in order to ensure this exercise is properly carried out, consideration should be given to what would be in the best interests of the children currently residing at the site. What is in the best interests of the children is a matter of judgment and Members should assume that the children's parents are accurately representing what is in the children's best interests and the impact of the development upon those interests. On that basis it would appear the best interests of the children in this case would be served if they were able to remain on site.

However, whilst the best interests of the children living on a site is a primary consideration and no other consideration should be given greater weight than the best interests of the child merely by virtue of its inherent nature, the best interests of the child are not determinative of the planning issue. It is ultimately a matter of planning judgment how all of the relevant factors are weighed in the planning balance.

It is, therefore, advised that the decision regarding whether or not to grant planning permission is one for the Local Planning Authority. Great weight must, for example, also be given to the landscape harm to the AONB. This should not, as a matter of principle, be given greater weight than the best interests of the children. However, Officers are of the opinion that, on the facts of this case, even treating the interests of the children as a primary consideration, the harm to the AONB and other harm caused by the development must be weighed in the planning balance and any interference with the applicants' Article 8 rights is proportionate.

Counsel advises that it is for the Local Planning Authority to determine where the planning balance lies. He is satisfied, on the basis of the information available, that it would not be unlawful for the Local Planning Authority, in this case, to reach a planning judgment that permission should be refused, even though to do so would not be in the best interests of the child.

(f) Applicant's Gypsy Status

As stated above, based upon interviews with the occupants of the application site, the GTAA published in March 2017 concludes that the occupants of the site no longer meet the definition of Gypsies and Travellers within the PPTS. Prior to the PPTS being revised in August 2015, the Gypsy status of the applicants was accepted by this Council, as evidenced by the granting of the 3-year temporary planning permission in December 2014 (14/02614/FUL). It should also be noted that their Gypsy status was not queried at the time of the subsequent amendment to this permission (15/04432/FUL), which was granted in March 2016, some 7 months after the PPTS definition was revised.

The applicant's agent, as indicated in the Additional Pages Update circulated at the November meeting of this Committee, has queried the methodology of the GTAA report, and the assertion that his clients are no longer Travellers. The applicants accept that, due to their age, Mr Norris Sr and his wife no longer travel, however they disagree with the assertion that Mr Norris Jr no longer meets the definition.

Furthermore, the information submitted with the application states that Mr Norris Jr has 2 sons in their early 20's living at the site who travel for between 4 and 8 months each year. In addition Mr Clee, who is one of the 3 named persons in the temporary planning permissions issued previously, and lives on the northern of the two pitches, is also stated to travel throughout the year, being joined by his wife and son during the summer whilst their son is out of school. The authors of the GTAA have been contacted to ascertain whether they were aware of these occupants of the site when the GTAA was published, however no response has been received.

The Local Planning Authority has no evidence to contradict what has been submitted on behalf of the applicants with regard to their Gypsy / Traveller status, specifically the travelling undertaken by occupants of the site, or the assertion that whilst there are two pitches at the site, there are four families resident.

9. Conclusion

Whilst granting a 3-year temporary planning permission for the development of the site for 2 Gypsy / Traveller pitches reflected circumstances at that time, the Council's position is that there is considered to have been a material change with regard to the identified need for such accommodation following the publication of the GTAA in March 2017.

Significant weight has to be given to the harm to the character of the landscape within the AONB, as identified by the Inspector determining the appeals upon the land to the south of the application site, which is itself at a lower level, and the requirement of paragraph 115 of the NPPF which makes clear that such landscapes should be attached 'great weight' in terms of preserving its natural beauty.

With regard to Human Rights, the advice provided by Counsel is that Members have to give this equal weight to the other considerations in the planning balance, but that a refusal of planning permission would not be unlawful.

It also has to be recognised that there is disagreement over the Gypsy / Traveller status of the applicants, and whilst the GTAA conclusions are noted, the Local Planning Authority has no evidence to contradict the assertion made by the applicants that there are more than 2 families on the site, and that some occupants of the site would, on the basis of the information provided, appear to meet the PPTS definition.

Bearing in mind the stage at which the emerging Local Plan has reached, with the Inspector's report anticipated in the Spring of 2018, when weighing all of the above in the planning balance it is considered that a 1-year further temporary planning permission should be recommended at the present time. This will allow the issue of need, and whether non-PPTS compliant Gypsies and Travellers need to have provision made for them as part of the emerging Local Plan, to be clarified.

At the end of this period, the Local Plan will be significantly further advanced and Officers consider that Members should then be able to make a judgement as to whether or not this site has to cease its current use and be restored back to its original state.

The recommendation is therefore for planning permission to be granted for a 1-year temporary period. However, if Members disagree with this assessment and consider that the planning application should be refused, Officers would refer Members to the two reasons for refusal contained within the report contained within the November agenda of this Committee.

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 1 year from the date of this decision, or the period during which the site is occupied by them, whichever is the shorter.

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

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

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

The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites (Department for Communities and Local Government, August 2017) or any replacement guidance.

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

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

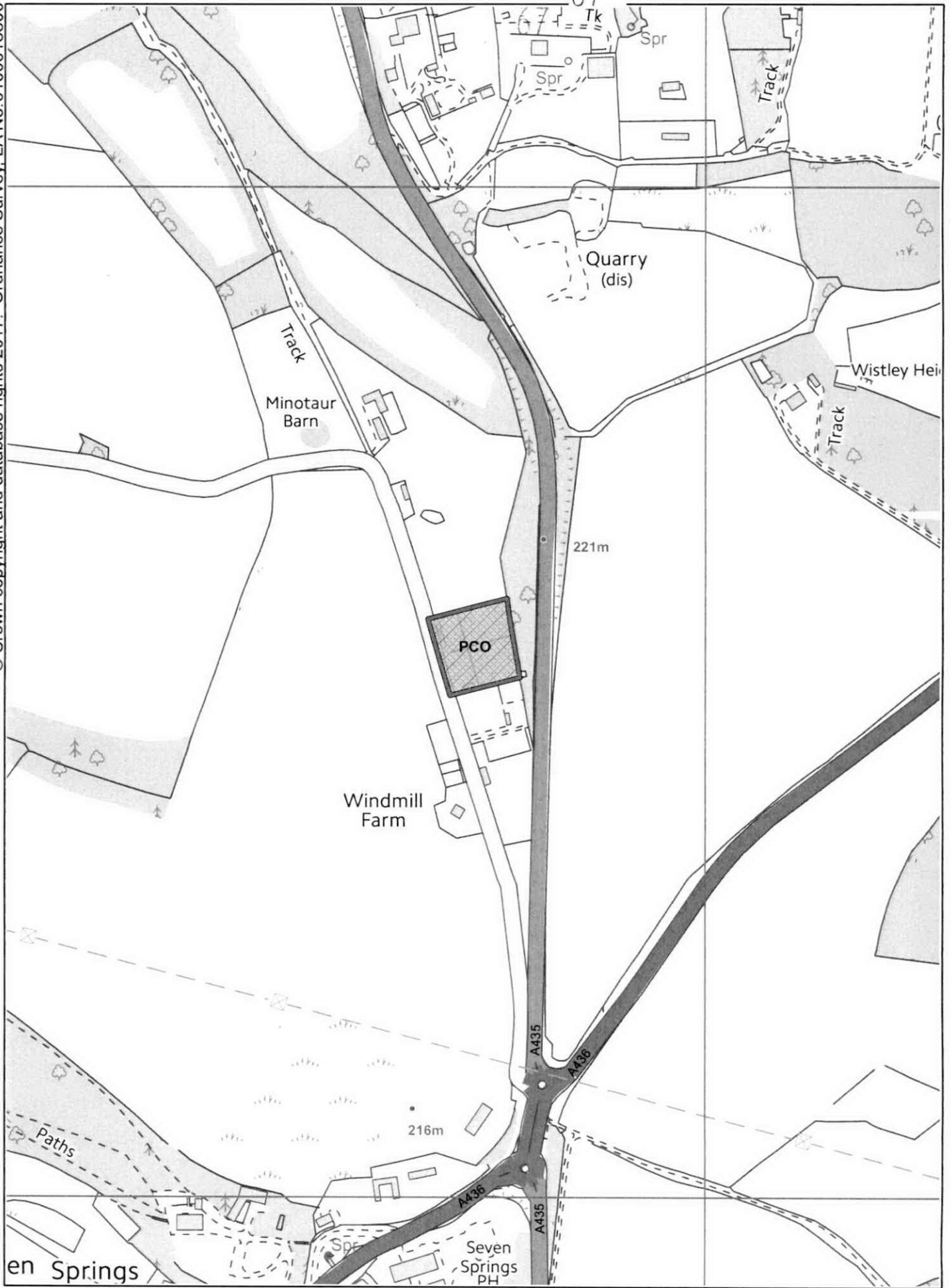
Reason: To define the permission having regard to the impact upon landscape character in accordance with Cotswold District Local Plan Policies 19 and 23, and Paragraph 115 of the NPPF.

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

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

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.



LAND OPPOSITE WINDMILL FARM HARTLEY LANE LECKHAMPTON HILL

Organisation: Cotswold District Council

Department:

Date: 26/10/2017



COTSWOLD
DISTRICT COUNCIL





29/08/2017

89

29/08/2017

12



69

29/08/2017





29/08/2017

29/08/2017

72

72





29/08/2017

73

Coberley Parish Council

17/03352/FUL: Full Application for Removal of Conditions 1 (temporary use and occupancy) and 3 (restoration of site) of planning permission 15/04432/FUL to allow permanent retention of the site at Land Parcel Opposite Windmill Farm Hartley Lane Leckhampton Hill Coberley Gloucestershire

Coberley Parish Council opposes this application on the grounds that it would cause permanent harm to the AONB, the Cotswold Way National Trail and allow unacceptable increased urbanisation of the countryside.

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."

Furthermore, the Planning Policy for Traveller Sites is clear that as part of the Government's aim to ensure fair and equal treatment for travellers local authorities have due regard to the protection of local amenity and local environment. Additionally, it is clear that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites then this should be a significant material consideration when considering temporary planning permission. The exception to this is where the proposal is on designated land including Areas of Outstanding Natural Beauty.

In the Appeal Decisions made on 7 August 2013 regarding an adjacent site to the south, when he gave temporary permission to a site defined under Appeal D (APP/F1610/A/13/2192673), an Appeal Inspector has already made clear that further expansion into adjacent land is unacceptable in terms of the impact on the AONB. In three out of four of the Decisions, the Appeals were dismissed (Appeal A: APP/F1610/C/12/2190154; Appeal B: APP/F1610/C/12/2190155, and Appeal C: APP/F1610/C/13/2191310)

He said:

Para 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.

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.

Para 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.

Most relevant to the present Application is what the Inspector said in Para 25: 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 hard-standing, the decking, ancillary structure and play equipment.

Coberley Parish Council

In earlier applications with regard to the Application Site and that to the south, CDC has clearly stated its recognition of the harm which these developments will cause to the area.

In Decision Notice dated 11 December 2014 giving temporary permission against Application 14/02614/FUL, CDC recognised the harm which this development would cause. In the reason given against Condition 3, it stated: Permanent development of this type may cause a nuisance or would detract from the amenity of the area having regard to the open countryside location of the site within the Cotswolds Area of Outstanding Natural Beauty, in accordance with Cotswold District Local Plan Policy 19 and Paragraph 115 of the NPPF.

Earlier, when CDC twice refused permission for erection of stables and construction of hard standing on part of this land (Applications 12/03218/FUL on 9 October 2012 and 14/00303/FUL on 18 March 2014), they gave the reason as: 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. The proposal is therefore contrary to Paragraph 115 of the National Planning Policy Framework.

When CDC refused the Application 12/04857/FUL on the adjacent site to the south, on 18 December 2012, it gave as reason: The site forms part of attractive and predominantly undeveloped countryside located within the Cotswolds Area of Outstanding Natural Beauty (AONB) and outside of any settlement or recognised development boundary. The use of part of the land as a caravan site along with associated structures, equipment and domestic paraphernalia would result in an urbanising effect which is out of keeping with, and detrimental to, the rural landscape character and beauty of this part of the Cotswolds AONB.

The latest Planning Policy for Traveller Sites, August 2015 states:

Para 14: 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.

Para 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. 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.

To the best of the Parish Council's knowledge, there is currently a smaller population in the nearby settled community on Hartley Lane than in the 2 traveller sites. With this being the case there is clear potential for the site, in conjunction with the other pitches present and proposed on the adjoining site, to dominate the nearest settled community.

Para 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;

Coberley Parish Council

Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).

Footnote 9 is clear that "There is no presumption that a temporary grant of planning permission should be granted permanently."

Given that there is no presumption for a temporary consent to be granted permanently, and the fact that the site is within the AONB where a lack of deliverable sites is not deemed to be a significant material consideration, the removal of the conditions and the creation of permanent pitches is contrary to national policy.

The Evidence Papers, entitled EVIDENCE PAPER: ADVISORY PANEL ON GYPSY AND TRAVELLERS SITE ALLOCATIONS ASSESSMENT NOVEMBER 2014 which support the emerging Local Plan 2011 – 2031, state in the Summary of Advisory Panel Appraisal with regard to the Application Site, designated as GT_8:

The site falls within the AONB and is directly adjacent to the Cotswold Way (a national trail of high community and tourism value) and development at this site could have a detrimental impact.

It is designated only as a 'Reserve Site'

It is also noted that the Council can, in any event, demonstrate a deliverable 5 year supply of pitches and thus there is no clear need for any further additional permanent pitches. This is also supported by the sites "reserved" status in the emerging local plan.

It is therefore, consistently clear from all these policies and statements that, to grant the Application Site permanent status would cause lasting harm to the AONB and rural Cotswold countryside, with the immediately adjacent, internationally popular Cotswold Way.

Coberley Parish Council requests Cotswold District Council to refuse this Application and ensure that residential occupation of this land ceases when the temporary permission expires in December 2017, that the land is returned to its former rural countryside status and that accommodation is sourced for the families in a more appropriate area.

Coberley Parish Council

24 September 2017

Coberley Parish Council

17/03352/FUL: Full Application for Removal of Conditions 1 (temporary use and occupancy) and 3 (restoration of site) of planning permission 15/04432/FUL to allow permanent retention of the site at Land Parcel Opposite Windmill Farm Hartley Lane Leckhampton Hill Coberley Gloucestershire

SUPPLEMENTARY COMMENT

Coberley Parish Council has already submitted its objection to this application on the grounds that it would cause permanent harm to the AONB, the Cotswold Way National Trail and allow unacceptable increased urbanisation of the countryside.

The Parish Council notes that under the Countryside & Rights of Way Act 2000 (Part IV, Paras 84 & 85)

Cotswold District Council is not only empowered to conserve and enhance the AONB:

Paragraph 84 sub-section 4: A local planning authority whose area consists of or includes the whole or any part of an area of outstanding natural beauty has power, subject to subsections (5) and (6), to take all such action as appears to them expedient for the accomplishment of the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty or so much of it as is included in their area.

But, more importantly, it also has a duty to do so:

Paragraph 85 (General Duty of Public Bodies etc) sub-section 1: In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

The Parish Council therefore, considers that to grant permission to this application would be contrary to this legislation and reinforces its request that it be refused.

Coberley Parish Council

9 October 2017



Gloucestershire
**(Cheltenham, Cotswold, Forest of Dean,
Gloucester, Stroud and Tewkesbury)**
Gypsy and Traveller
Accommodation Assessment

Final Report

March 2017

Cotswold

6.31 In summary there is a need for **3 additional pitches** in Cotswold for Gypsy and Traveller households that meet the planning definition; a need for up to 11 additional pitches for Gypsy and Traveller households that may meet the planning definition – although if the ORS national average of 10% were to be applied this could be as few as 1 additional pitch; and a need for 13 additional pitches for Gypsy and Traveller households who do not meet the planning definition.

6.32 There is **no need for any additional plots** for Travelling Showpeople as there are no yards in Cotswold.

6.33 Information that was sought from households where an interview was completed allowed each household to be assessed against the planning definition of a Traveller. This included information on whether households have ever travelled; why they have stopped travelling; the reasons that they travel; and whether they plan to travel again in the future. The tables below sets out the planning status of households in Cotswold.

Figure 29 – Planning status of households in Cotswold

Site Status	Meets Planning Definition	Does Not Meet Planning Definition	Unknown
Gypsies and Travellers			
Public Sites	0	2	2
Private Sites	1	12	12
Temporary Sites	0	2	5
Tolerated Sites	1	0	5
Unauthorised Sites	-	-	-
Sub-Total	2	16	24
Travelling Showpeople			
Public Yards	-	-	-
Private Yards	-	-	-
Temporary Yards	-	-	-
Tolerated Yards	-	-	-
Unauthorised Yards	-	-	-
Sub-Total	0	0	0
TOTAL	2	16	22

6.34 Figure 29 shows that for Gypsies and Travellers 2 households meet the planning definition of a Traveller in that they stated during the interview that they travel for work purposes and stay away from their usual place of residence, or have ceased to travel temporarily. A total of 16 Gypsy and Traveller households did not meet the planning definition as they were not able to provide information that they travel away from their usual place of residence for the purpose of work, or that they have ceased to travel temporarily due to children in education, ill health or old age. Some did travel for cultural reasons to visit fairs, relatives or friends, and others had ceased to travel permanently – these households did not meet the planning definition.

- 6.35 The number of households on each site where an interview was not possible are recorded as unknown. The reasons for this included households that refused to be interviewed and households that were not present during the fieldwork period – despite up to 3 visits.

Bricks and Mortar Interviews

- 6.36 No interviews were completed with households living in bricks and mortar in Cotswold.

New Household Formation Rate

- 6.37 The demographics from the households that met the planning definition suggest that evidence from the household interviews should be used instead of applying a new household formation rate in Cotswold.

Pitch Needs – Gypsies and Travellers that meet the Planning Definition

- 6.38 The 2 households who meet the planning definition of Travelling were found on 1 private site and 1 tolerated site. Analysis of the household interviews indicated that there is a current need for 3 additional pitches as a result of concealed or doubled up households or adults. The site demographics suggest no new household formation during the 15 year GTAA period.
- 6.39 Therefore the overall level of additional need for those households who meet the planning definition of a Gypsy or Traveller is for **3 additional pitches** over the 15 year GTAA period.

Figure 30 – Additional need for Gypsy and Traveller households in Cotswold that meet the Planning Definition (2016-31)

Gypsies and Travellers - Meeting Planning Definition	Pitches
Supply of Pitches	
Additional supply from vacant public and private pitches	0
Additional supply from pitches on new sites	0
Pitches vacated by households moving to bricks and mortar	0
Pitches vacated by households moving away from the study area	0
Total Supply	0
Current Need	
Households on unauthorised developments	0
Households on unauthorised encampments	0
Concealed households/Doubling-up/Over-crowding	3
Movement from bricks and mortar	0
Households on waiting lists for public sites	0
Total Current Need	3
Future Need	
Households on sites with temporary planning permission	0
5 year need from older teenage children	0
In-migration	0
New household formation	0
<i>(Derived from site demographics)</i>	
Total Future Needs	3
Net Pitch Need = (Current and Future Need – Total Supply)	3

Figure 31 – Additional need for Gypsy and Traveller households in Cotswold that meet the Planning Definition by 5 year periods

Years	0-5	6-10	11-15	Total
	2016-21	2021-26	2026-31	
	3	0	0	3

Pitch Needs – Unknown Gypsies and Travellers

- 6.40 Whilst it was not possible to determine the travelling status of a total of 24 households as they either refused to be interviewed, or were not on site at the time of the fieldwork, the needs of these households still need to be recognised by the GTAA as they are believed to be ethnic Gypsies and Travellers and may meet the planning definition.
- 6.41 ORS are of the opinion that it would not be appropriate when producing a robust assessment of need to make any firm assumptions about whether or not households where an interview was not completed meet the planning definition based on the outcomes of households in that local authority where an interview was completed.
- 6.42 However data that has been collected from over 1,800 household interviews that have been completed by ORS since the changes to PPTS in 2015 suggests that nationally approximately 10% of households that have been interviewed meet the planning definition – and in some local authorities, particularly London Boroughs, 100% of households do not meet the planning definition.
- 6.43 This would suggest that it is likely that only a small proportion of the potential need identified from these households will need new Gypsy and Traveller pitches, and that the needs of the majority will need to be addressed through other means.
- 6.44 Should further information be made available to the Council that will allow for the planning definition to be applied to the unknown households, the overall level of need could rise by up to 5 pitches with temporary planning permission and 6 pitches from new household formation (this uses a base of the 24 households and a net growth rate of 1.50%⁸). Therefore additional need *could* increase by up to a further 11 pitches, plus any concealed adult households or 5 year need arising from older teenagers living in these households (if all 11 unknown pitches are deemed to meet the planning definition). However, as an illustration, if the ORS national average of 10% were to be applied this could be as few as 1 additional pitch. Tables setting out the components of need for unknown households can be found in **Appendix B**.

Waiting Lists

- 6.45 There is a small public site in Cotswold. At the time of the GTAA there were no households on the waiting list for this site. All households on the waiting lists had expressed a preference for one of the sites in Tewkesbury.

⁸ The ORS *Technical Note on Population and Household Growth (2015)* has identified a national growth rate of 1.50% for Gypsies and Travellers which has been applied in the absence of further demographic information about these households.

Public/Private Split

- 6.46 There is one small public site and no need was identified for travelling households or non-travelling households. It is possible that need from the 2 unknown households may need be met through additional public pitches. It is likely that all of the potential need from unknown households would need to be met through private pitches.


Travelling Showpeople Needs

- 6.47 There were no Travelling Showpeople identified in Cotswold.

Housing Land Supply November 2017

Appendix 3

Gypsy, Traveller and Travelling Showpeople Site Information Sheets and Location Plans

Site ref	GT_8		
Site address	Land adjacent to Cirencester Road Seven Springs (2nd site) Coberley		
Area	1.23ha		
Current land use	Temporary traveller pitch		
Time-frame (from publication of report)	1-5		
	6-10		
	11-15		

Site and Surroundings

The site is located to the north-east of the village Coberley in the Cotswolds AONB. It is sandwiched between two roads, Hartley Lane to the west and the A435 Cirencester Road to the east. The busy Seven Springs junction is located to the south of the site. A belt of mature woodland separates the site from the A435 and a mature hedgerow runs adjacent to Hartley Lane. The site itself occupies part of a larger agricultural field and is already characterised by hard standing and structures associated with the temporary 3 year traveller permission.

The site is accessed from Hartley Lane, a narrow country road. There are a number of Public Rights of Way (PRoW) that cross the wider countryside and the Cotswolds Way which passes in the immediate vicinity of the site and follows Hartley Lane.

Designations

Source Protection Zone
Area of Outstanding Natural Beauty
Ancient Woodlands Buffer Zone

Relevant Planning History

Permission was granted in 2014 (14/02614/FUL) for the change of use from agricultural to mixed use for keeping horses and for traveller residential purposes for a temporary three-year period. While there was a landscape objection to this scheme it was considered at the time that the benefit of a new gypsy site would outweigh the landscape harm.

In March 2016 a revised scheme was approved which included the substitution of a mobile home for a touring caravan and the reconfiguration of the site layout with an extended area of hard standing for parking. It was considered that the scheme would not pose any further landscape impact compared to the extant scheme provided the mitigation planting was fully implemented (15/04432/FUL).

A planning application is pending consideration as of November 2017 for the removal of Conditions 1 (temporary use and occupancy) and 3 (restoration of site) of planning permission 15/04432/FUL to allow permanent retention of the site (17/03352/FUL)

Suitability

The Gloucestershire (Cheltenham, Cotswold, Forest of Dean, Gloucester, Stroud and Tewkesbury) Gypsy and Traveller Accommodation Assessment (March 2017) identified that three additional traveller pitches are needed in the District. Given that these can be met in alternative locations that would not harm the AONB, there is no longer a need for a traveller pitch in this location. The site is therefore not currently suitable for a permanent traveller pitch.

Availability

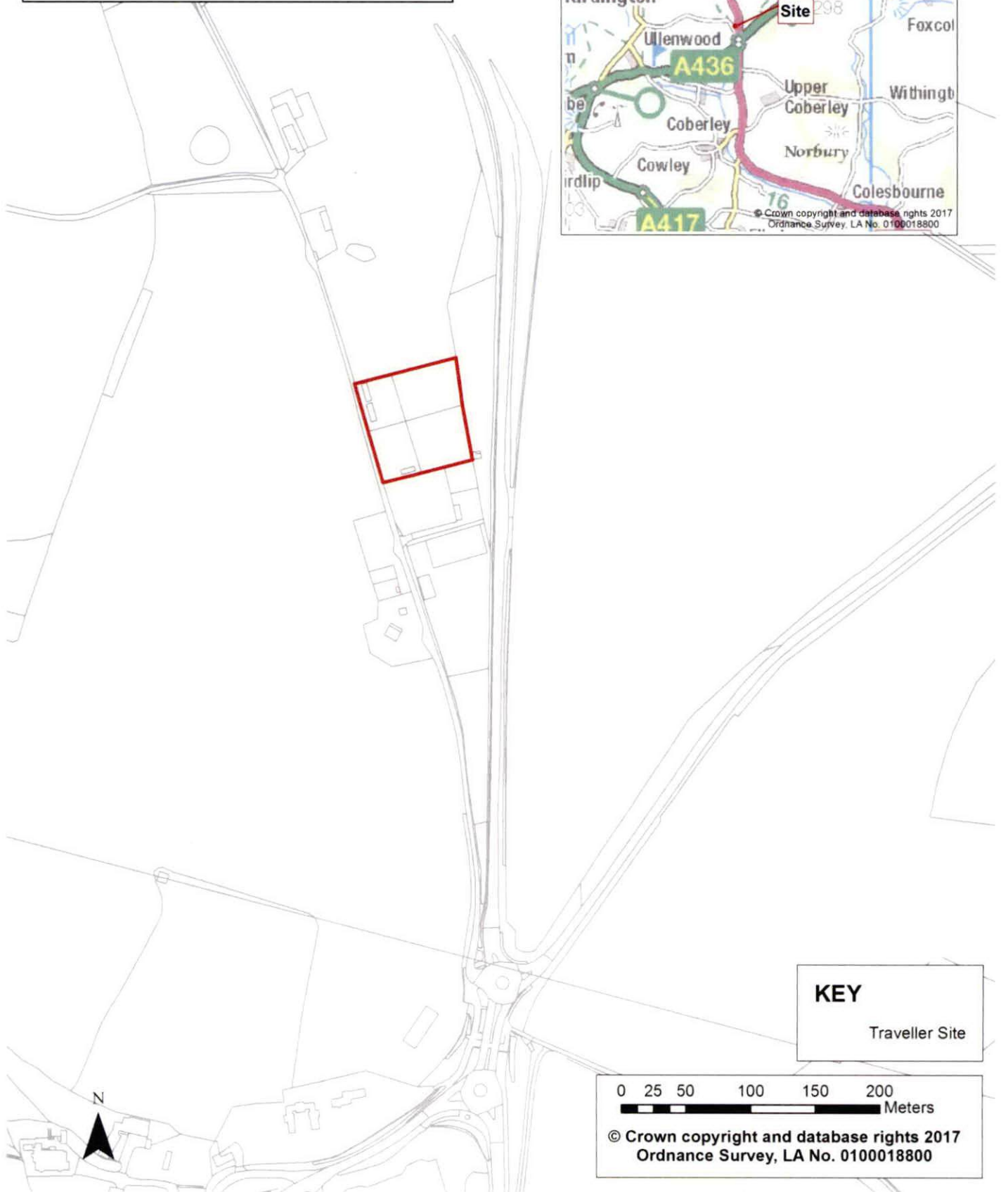
Given the pending application to make this a permanent traveller pitch, the site is available for development.

Deliverability

Not currently deliverable

Coberley

Land adjacent to Cirencester Road
Seven Springs (2nd site)
GT_8



KEY
Traveller Site

0 25 50 100 150 200 Meters
© Crown copyright and database rights 2017
Ordnance Survey, LA No. 0100018800