

Item No 06:-

18/02694/FUL

**Land Parcel Opposite Windmill Farm
Hartley Lane
Seven Springs
Gloucestershire**

Item No 06:-

Variation of Conditions 1 (temporary use and occupancy) and 2 (restoration of site) of planning permission 17/03352/FUL to allow permanent retention of the site for the duration of use by current occupants at Land Parcel Opposite Windmill Farm Hartley Lane Seven Springs Gloucestershire

Full Application 18/02694/FUL	
Applicant:	Mr John Norris
Agent:	Michael Hargreaves Planning
Case Officer:	Andrew Moody
Ward Member(s):	Councillor Nicholas Parsons
Committee Date:	10th October 2018
RECOMMENDATION:	REFUSE

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) Applicant's Gypsy status
- (f) Human Rights

Reasons for Referral:

The application is brought to Committee by Officers due to the relative complexity of the issues and 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 for a temporary 3-year period in December 2014 (see Relevant Planning History), with a revised scheme granted under reference 15/04432/FUL. A further 1-year temporary permission was granted under reference 17/03352/FUL

The site is located within the Cotswolds Area of Outstanding Natural Beauty. The site is bounded to the west by Hartley Lane and to the east by a tree belt, beyond which is the A435 Cirencester/Cheltenham road. 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 and trees.

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. Permitted 11.5.2012.

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. Appeals A, B and C dismissed; Appeal D allowed 07.08.2013

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. Permitted 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. Permitted 09.03.2016.

17/03352/FUL: 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. Permitted 19.12.2017 for temporary period of 1 year.

3. Planning Policies:

NPPF National Planning Policy Framework
 _H7 Gypsy & Traveller Site
 _EN1 Built, Natural & Historic Environment
 _EN2 Design of Built & Natural Environment
 _EN4 The Wider Natural & Historic Landscape
 _EN5 Cotswold AONB
 _INF4 Highway Safety
 _INF5 Parking Provision

4. Observations of Consultees:

Landscape Officer: Objection, comments 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.

Colesbourne Parish Meeting: "I note the Application No: 18/02694/FUL to seek permanent retention of the above temporary consent and would wish to continue with my objections to this.

I firmly believe that it was an error to grant temporary consent in the first place on a sensitive site in open country close to the Cotswold Way. In my earlier objection I advised that temporary consent was surely going to lead to an application for a permanent site and this seems to have been borne out.

In addition the application now seems to be contrary to the Inspector's views upon the Draft Local Plan where he stated that the site was not to be expanded. Temporary consent to permanent retention does just that."

6. Other Representations:

4 Objections have been received, making the following comments: -

- Site is no longer a reserve site in the recently adopted Local Plan for Traveller development.
- Impact upon the character of the AONB.
- CDC has reduced the number of pitches required by Policy H7 following the publication of the latest GTAA in March 2017.

- The Local Plan Inspector did not accept the applicant's case for the site being included within the Local Plan.
- Such development has no place in this area which is visited by locals and visitors using the adjacent Cotswold Way.

1 representation in Support has been received, making the following comments: -

- There is a national shortfall of sites for the Romany Gypsy and Traveller community.
- 80% of the Cotswold District is AONB so it is inevitable that accommodation may need to be within part of this designation.
- All caravan dwellers in need of accommodation should be catered for not just those meeting the revised definition of Gypsy status.
- There is a duty for the LPA in relation to the Equality Act 2010.
- There is concern that the methodology used in the GTAA is flawed and under-represents need.

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 the Area of Outstanding Natural Beauty, as well as being to the east of, and adjacent to, the Cotswold Way National Trail 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 and Gypsy and Traveller residential use, in addition to the erection of 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, and ended on 11th December 2017. An application to establish this permission on a permanent basis was made, but was granted for a 1-year temporary period on 19th December 2017 (17/03352/FUL) to allow further consideration of this matter once the Local Plan had been adopted.

The permissions granted allowed 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. Whilst all of the accommodation on the site meets the definition of a caravan as defined by the relevant Act, the reference to mobile homes relates to static single or twin units.

The current application seeks the variation of Conditions 1 and 2 of the planning permission granted under reference 17/03352/FUL to allow the permanent occupation of the site by the current occupants of the site.

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 vary conditions requiring the site to be occupied by Mr Norris Sr, Mr Norris Jr and Mr Clee and their resident dependents for a temporary period only (Condition 1), whilst also seeking a variation of Condition 2 such that the site would be restored back to its original state only following the cessation of the use by those named in Condition 1.

With regard to planning policy, paragraph 172 of the NPPF states: *"Great weight should be given to conserving and enhancing 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 these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:*

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated."*

The national Planning Policy for Traveller Sites publication (PPTS) was revised in August 2015 and sets out the Government's policy for Traveller sites. Whilst acknowledging the special circumstances of Travellers, it makes clear that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. This policy document must be taken into account in the preparation of development plans, and is a material consideration in planning decisions.

Annex 1 to the PPTS provides a revised definition of '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 locally produced Gypsy and Traveller Accommodation Assessment (GTAA), which is a required part of the Local Plan evidence base.

Policy H7: Gypsy, Traveller and Travelling Show People Sites of the Cotswold District Local Plan states that existing authorised sites will be safeguarded provided there remains a need for these uses, whilst part 2 of the policy identifies additional locations as preferred sites for accommodating the future needs of Gypsies and Travellers. This includes 7 pitches at the Four Acres site, Shorncote, near South Cerney, and 4 pitches at the Meadowview site, Fosseway, Bourton-on-the-Water. Members should be aware that an application to renew the planning permission that was granted at this latter site has recently been submitted (application ref: 18/03443/FUL), although at the time of writing this report this is awaiting validation.

The 'Identification of Potential Gypsy and Traveller Sites Update' published by the Council in December 2017 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 application site is not suitable for permanent pitches.

(c) The need for Gypsy / Traveller sites

The relevant local and national policies in relation to Gypsy and Traveller sites, as explained above, 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 the 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 undertaken as part of the Local Plan evidence base, this need has been reduced to a total of 3 pitches.

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 GTAA 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. The conclusion of the report, therefore, constitutes a significant reduction in the demand that was expected.

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 or Traveller 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.

As a result of the evidence base, whilst the draft version of the Local Plan included the current application site as a 'reserve' allocation for 2 pitches, this has now been deleted. The Local Plan has been adopted on the basis of the 11 proposed pitches for future needs at the Four Acres and Meadowview sites referred to above.

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

Section 15 of the National Planning Policy Framework requires local planning authorities to have regard to the conservation and enhancement of the natural environment. Paragraph 170 states that the planning system should protect and enhance valued landscapes. Paragraph 172 states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty.

Policy EN5 of the Local Plan states that in determining development proposals within the AONB or its setting, the conservation and enhancement of the natural beauty of the landscape, its character and special qualities will be given great weight. In addition, major development will not be permitted within the AONB unless it satisfies the exceptions set out in national Policy and Guidance.

The application site is located to the north-east of the village of Coberley 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.

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.

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 current 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 needed at that time (26) and the lack of a 5-year supply of such sites. The original 3-year temporary permission granted subject to Condition 1, with the reason for the Condition stating that permission was 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.

The Cotswold Way National Trail runs along Hartley Lane to the west of the site. This is a long distance National Trail and is 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 site's position on elevated sloping ground there would also be views of the development from across the valley.

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 caravans 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) 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 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. It is stated that he has a delivery business and frequently has periods away from home, travelling more than 1,000 miles in many weeks.

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 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 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.

However, the fact remains that the Local Plan has been adopted on the basis of this site being deleted from Policy H7 due to other identified sites being available to meet the District's needs, with the Inspector's Report following the Local Plan Inquiry commenting that 'The inclusion of a reserve sites at Seven Springs (GT_8) is not justified, as it is unlikely to be required to meet identified needs. Furthermore the use of this land on a permanent basis to provide traveller accommodation would cause significant harm to the landscape and beauty of the AONB'. (Inspector's report, para 231).

In addition, at para. 218 of his Report the Inspector commented that '...I am satisfied it [GGTAA 2017] provides proportionate, up to date, relevant evidence'.

With regard to the two allocated sites within Policy H7, in the supporting statement submitted with the application, the applicants have queried whether the site for 4 pitches at Meadowview is available and has the capacity for that level of provision. In respect of the Four Acres site at Shorncote, it is commented that there are no vacant, available pitches, and that in any event, they would not be available for the Norris / Clee family. The reason for this is that there is a history of tensions between relations of the Norrises and the families who own the South Cerney site.

(f) 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 supporting 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."

From the above it will be clear that the best interests of the children who live on the site are 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 Committee. 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. Officers are of the opinion that, on the facts of this case, even treating the interests of the children as a primary consideration, in this instance 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 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.

9. Conclusion

Whilst granting a 3-year temporary planning permission for the development of the site for 2 Gypsy / Traveller pitches, and the subsequent temporary 1-year period granted in December 2017, 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 172 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.

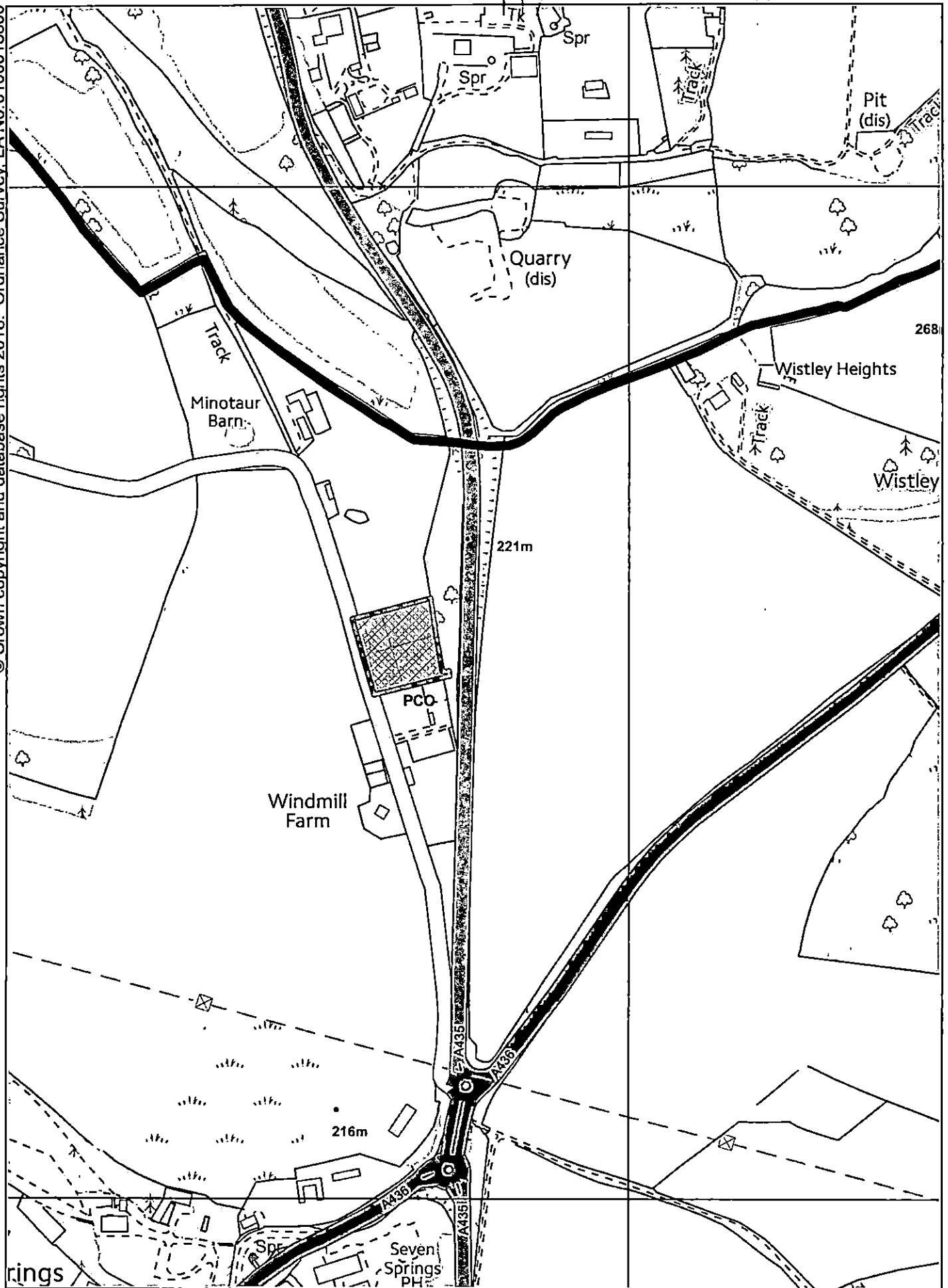
It also has to be recognised that there is disagreement over the Gypsy / Traveller status of the applicants, and whilst the GTAA conclusions are noted, the Local Planning Authority has no evidence to contradict the assertion made by the applicants that there are more than 2 families on the site, and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

Notwithstanding this, given the harm identified to the character of the landscape within the Cotswolds AONB, and that the site is no longer included as a reserve allocation in Policy H7 of the Local Plan, the recommendation is therefore for planning permission to be refused. It is also recommended that enforcement action be commenced with regard to the cessation of the use and the restoration of the site, following the expiry of the current 1-year temporary permission on 19th December 2018.

10. Reasons for Refusal:

The pitches are located outside any Development Boundary identified by the adopted Cotswold District Local Plan, and in an area where there is no need for additional Gypsy / Traveller provision having regard to the Gypsy and Traveller Accommodation Assessment (GTAA) published in March 2017, which only identifies a need for 3 additional pitches elsewhere in the District. The site is therefore considered to be unsuitable for retention as Gypsy / Traveller pitches, contrary to Cotswold District Local Plan Policy H7, and the content of the GTAA.

The site forms part of an 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 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. As such, the proposal is contrary to Policies H7 and EN5 of the Cotswold District Local Plan, paragraph 172 of the NPPF, and the advice contained within the 'Planning Policy for Traveller Sites' (DCLG, 2015).



LAND PARCEL OPPOSITE WINDMILL FARM HARTLEY LANE SEVEN SPRINGS

Organisation: Cotswold District Council

Department:

Date: 27/09/2018



COTSWOLD
DISTRICT COUNCIL



Coberley Parish Council

18/02694/FUL: Variation of Conditions 1 (temporary use and occupancy) and 2 (restoration of site) of planning permission 17/03352/FUL to allow permanent retention of the site for the duration of use by current occupants

Coberley Parish Council maintains its opposition 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, as previously submitted in September 2017.

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.

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.

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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 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 ⁹. 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).

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

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Given that there is no presumption for a temporary consent to be granted permanently, the fact that the site is within the AONB and the fact that this site is not required in the recently adopted Cotswold District Local Plan 2011 - 2031, the removal of the conditions and the creation of permanent pitches would be contrary to national and local policy.

The report to CDC by the Planning Inspector appointed by the Secretary of State on 5 June 2018 states at paragraph 231: The inclusion of a reserve site at Seven Springs (GT8) is not justified, as it is unlikely to be required to meet identified needs. Furthermore, the use of this land on a permanent basis to provide traveller accommodation would cause significant harm to the landscape and scenic beauty of the AONB. Part 3 of policy H7 should therefore be deleted [MM34].

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, that the land is returned to its former rural countryside status and that accommodation is sourced for the families in a more appropriate area.

Further, 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 continued request that it be refused.

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