

**DCCW2007/2057/F - VARIATION OF CONDITION 2 OF PLANNING CONSENT DCCW2006/3153/F TO ALLOW SALE OF THE PROPERTY (IF NECESSARY) TO ANOTHER TRAVELLING FAMILY AT THE BIRCHES STABLES, BURGHILL, HEREFORD, HEREFORDSHIRE, HR4 7RU**

**For: Mr. R. Jones, The Birches Stables, Burghill, Hereford, HR4 7RU**

**Date Received: 28th June, 2007**      **Ward: Burghill, 47047, 44285**  
**Holmer & Lyde**

**Expiry Date: 23rd August, 2007**  
Local Member: Councillor Mrs. S.J. Robertson

### **Introduction**

This application was considered by the Central Area Planning Sub-Committee at its meeting on 26th September, 2007 when Members resolved to refuse planning permission contrary to the recommendation of the report. This decision was accordingly referred to the Head of Planning Services to determine if it should be reported to the Planning Committee for further consideration.

In the debate the Members of the Area Sub-Committee gave weight to the history of permissions on this site, noting that the first permission was granted by South Herefordshire District Council in 1992. That permission was fundamentally different from the current proposal in that it was personal to the applicant at the time and the intention was that, once that family had vacated the site, it should revert to agricultural use. Permission has subsequently been granted for the use of the site as a gypsy site with a condition restricting the occupation to the applicants (Mr. and Mrs. Jones) and their daughter (Miss Roseanne Jones). The Area Sub-Committee objected to a further "widening" of the permission to allow any traveller family to occupy the site taking the view that, if the current applicants no longer required the site, then it should revert to agricultural use. Concern was also expressed about the fear of crime in the light of a recent event at the site.

It was resolved to refuse planning permission.

The proposal raises the following points:

1. The use of the site for travellers is in accordance with the provisions of the relevant development policy, i.e. H12 in the Herefordshire Unitary Development Plan 2007. It matches the criteria of that policy in all respects.
2. The use of the site is also in accordance with the latest Government advice on sites for travellers in ODPM circular 01/2006: Planning for Gypsy and Traveller Sites.
3. In the light of the degree of compliance with local and national policies for sites for travellers there is no justification for the permission being restricted to any one particular traveller family.

4. The circumstances which pertained when the first permission was granted in 1992 have been significantly changed by the adoption of the Herefordshire Unitary Development Plan 2007 and the issuing of ODPM circular 01.2006: Planning for Gypsy and Traveller Sites.

In the light of the above points it can be seen that the proposal accords with the relevant development plan policies and national planning guidance regarding the siting of development for travellers. Furthermore, recent examples of appeals regarding sites for travellers suggest that an appeal against a refusal would be very difficult to defend. For these two reasons this application is referred to this meeting for further consideration.

The original report to the Central Area Planning Sub-Committee follows.

## **1. Site Description and Proposal**

- 1.1 The Birches Stables is a 0.26 hectare site located to the south of Burghill Scout Hut and Manor Fields Housing Estate on the edge of the settlement boundary for Burghill. Planning permission has been granted for use of the land for stationing of two caravans to provide accommodation for two gypsy families. The planning permission is conditioned to be personal to Mr. & Mrs. R. Jones and Miss Rosanne Jones.
- 1.2 This proposal seeks to remove Condition No. 2 to allow (if necessary) the sale of the land to another travelling family.

## **2. Policies**

- 2.1 Herefordshire Unitary Development Plan 2007:

Policy S1	-	Sustainable Development
Policy S2	-	Development Requirements
Policy S3	-	Housing
Policy DR1	-	Design
Policy DR2	-	Land Use and Activity
Policy H4	-	Main Villages – Settlement Boundaries
Policy H12	-	Gypsies and Other Travellers

## **3. Planning History**

- 3.1 SH911548PF Use of land as a caravan site for sole occupation of applicant. Approved 22nd January 1992.
- 3.2 DCCW2006/1598/F Variation of condition 1 of planning application SH911548PF sole occupation. Refused 6th July 2006.
- 3.3 DCCW2006/3153/F Change of use from agricultural to a two family gypsy site. Approved 5th January 2007.

## **4. Consultation Summary**

### Statutory Consultations

- 4.1 None.

Internal Council Advice

- 4.2 Traffic Manager: Raises no objection.
- 4.3 Head of Environmental Health & Trading Standards: Comments awaited.

**5. Representations**

- 5.1 Burghill Parish Council: "Burghill Parish Council strongly objects to removal of condition 2 of Planning Permission DCCW2006/3153/F in regard to The Birches Stables, Burghill. Permission was granted on 5th January 2007.

The Parish Council understands the Policy considerations and Policy on Use of Conditions stated in Mr. Jones's application. The Parish Council believes that Herefordshire Council has fully applied these in granting Mr. Jones and his family planning permission early this year. Condition 2 treats Mr. Jones and family in exactly the same way as the previous resident owner, a Mr. Lane was treated; ie the land shall revert to agricultural use on cessation of their occupation. This condition appears to be totally reasonable to the Parish Council and in accordance with Policy Circular 11/95 since there is no erection of a permanent building involved.

The Parish Council views the personal and financial situation of the applicants with sympathy, but finds that these are not material planning considerations.

The Parish Council submits that a change of wording in Condition 2 of the Planning Permission would allow Mr. Jones's daughter and any offspring the benefit of residence on The Birches Stables.

Burghill Parish Council would also point out that Mr. Jones and his family have disregarded most of the Planning Conditions set by Herefordshire District Council in the original Planning Permission letter dated 5th January 2007.

Condition 1:- More than the maximum allowed number of mobile homes/touring caravans have been on the site much of the time.

Conditions 3, 4, 5, 6 and 7:- There has been no attempt to comply with these requirements. The Parish Council wrote to the Enforcement Officer on 20th March of this year regarding non-compliance. In his reply Mr. M. Lane stated that Mr. Jones was in discussion with the Highways department.

Condition 8:- There have been a number of trucks and lorries parked on the site day and night. It should be noted that scrap metal and other sundries have been stored on the site.

The Parish Council has received a number of complaints about the use of this site and is aware of the detrimental affect on the area. The Parish Council hopes that Herefordshire Council will not exacerbate this situation when arriving at a decision."

- 5.2 Three letters of objection have been received, the main points raised are:
1. Strong objections to the application - none of the existing conditions have been met.
  2. Scrap metal business is being operated from the site.

3. The condition was put in place to stop other gypsy families buying the site as he did at Marden.

The full text of these letters can be inspected at Central Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

## 6. Officer's Appraisal

- 6.1 The starting point in consideration of this proposal is the reason identified for the imposition of the condition. This states:-

"The nature of the development is such that it is only considered acceptable in this location having regard to the applicants special circumstances."

- 6.2 In this particular instance the "special circumstances" are that the occupants are a gypsy family. In this respect the site complies with the Gypsies and other Travellers Policy H12 as it lies adjacent to the settlement boundary of a main village (Burghill). Furthermore the proposal for two families is regarded as modest in scale; the site is well screened and there are adequate levels of amenity and play space for children. Accordingly it would be unreasonable in this instance to retain a condition restricting the use of the site to a specific gypsy family since on its planning merits it is considered to be acceptable for any gypsy family subject to confirmation of their status.

- 6.3 It is recommended that the condition is removed and replaced with a condition that restricts the use of the site to gypsies or other travellers, and limits the use to only two mobile homes together with other conditions previously applied.

- 6.4 The Parish Council and local residents' concerns are noted, however the site's location complies with the policy for gypsy sites and discussions are on-going regarding the new access. The scrap metal business is being operated by the occupier of one of the caravans and is on a very low key basis such that based upon current evidence, it would not require planning permission provided the materials are stored within the buildings on site. An update regarding progress with conditions will be provided at Committee.

## RECOMMENDATION

**That planning permission be granted subject to the following conditions:**

1. **The use of the site shall be limited to the occupation of two mobile homes by a person or persons recognised as being of genuine gypsy (or other traveller) status and evidence demonstrating such status shall be submitted to and approved in writing by the local planning authority prior to the occupation of the site by any person or persons.**

**Reason: The nature of the development is such that it is only considered acceptable in this particular location having regard to the occupiers gypsy/traveller status.**

2. **A10 (Amendment to existing permission) (DCCW2006/3153/F) (5th January 2007).**

**Reason: For the avoidance of doubt.**

**Informative:**

**1. N15 - Reason(s) for the Grant of PP/LBC/CAC.**

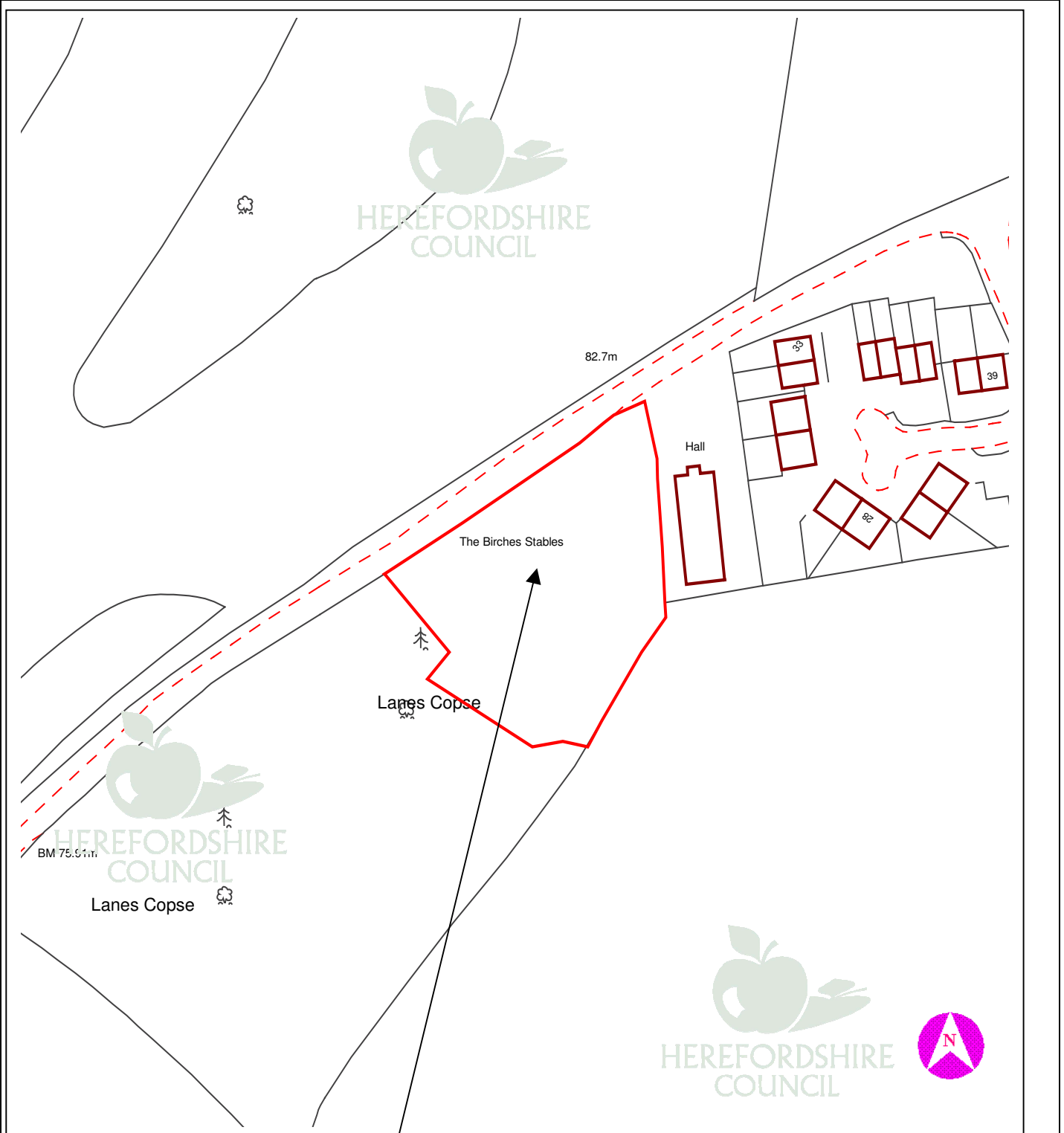
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** DCCW2007/2057/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** The Birches Stables, Burghill, Hereford, Herefordshire, HR4 7RU

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

This copy has been produced specifically for Planning purposes. No further copies may be made.