

DCCW2008/0421/F - RETROSPECTIVE APPLICATION FOR CHANGE OF USE FROM AGRICULTURAL TO A TWO FAMILY TRAVELLER SITE INCLUDING SITING OF TWO MOBILE HOMES AND A TOURING CARAVAN FOR MR JAMES SMITH AND MR JIMMY SMITH AND THEIR RESPECTIVE FAMILIES AT THE BIRCHES STABLES, BURGHILL, HEREFORD, HEREFORDSHIRE, HR4 7RU

For: Mr. James Smith & Mr. Jimmy Smith, The Birches Stables, Burghill, Hereford, HR4 7RU

Date Received: 19th February 2008 **Ward: Burghill, Holmer & Lyde** **Grid Ref: 47047, 44289**

Expiry Date: 15th April 2008

Local Member: Councillor S.J. Robertson

Introduction

This application was considered by the Central Area Planning Sub-Committee at its meeting on the 14th May, 2008 when Members resolved refuse permission contrary to the recommendation in the report. This decision was accordingly referred to the Head of Planning and Transportation to determine if it should be reported to the Planning Committee for further consideration.

At its meeting on 14th May, 2008 the Central Area Planning Sub-Committee was recommended to approve this application for the following reasons:

1. The proposal accords with UDP policy H.12 concerning residential accommodation for travellers and is also consistent with the advice in ODPM circular 01/2006 concerning travellers.
2. The site has previously had personal approval for one traveller family. In December permission was refused by Planning Committee (following a referral from the Central Area Committee) to delete the personal nature of the previous permission and allow unrestricted use by travellers.
3. The current application, instead, proposes to change the previous personal permission into a new personal permission for the benefit of a different family. There is, therefore, no significant difference in land use planning terms between this application and the most recent approval on the site.

In the debate the members of the Area Sub-Committee gave weight to the objections from local residents and the Parish Council and were concerned at the perceived risk to the Scout Hut next door from antisocial behaviour, and mention was made as to the loss of trees. The Committee were of the opinion that there would be an unacceptable impact on the amenity of the locality and the countryside. Concerns were also expressed about the traffic on the road and the need to have an adequate access.

It was resolved to refuse permission.

The application raises the following issues:

1. The site matches the criteria set out in UDP policy H.12 for traveller accommodation and is well placed for access to local facilities including shops and the local primary school.
2. The difference between this application and the one refused by the Planning Committee in December 2007 is that the previous application sought unrestricted use by travellers. The new scheme specifies the two families who may occupy the site. In this regard it is consistent with an earlier personal permission on the site. (DCCW2006/3153/F).
3. The proposal accords with national policy advice on Planning for Gypsies in ODPM circular 01/2006.
4. There is no direct evidence to link the two families, the subject of the current application, with acts of crime or vandalism. Consequently, whilst the Scout Hut on the adjacent land is a well used community facility there is no evidence to support a refusal based on fear of crime.
5. The Transportation Manager has no objection to the amended access proposed in the application.
6. In the light of the above the application is consistent with local and national planning policies and a refusal of permission would be extremely difficult to depend on appeal.

As a result of the above the application is referred to this meeting for further consideration. The 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 southwest of Burghill Scout Hut and Manor Fields Housing Estate on the edge of the settlement boundary for Burghill.
- 1.2 This proposal is to use the land as a site for a two family traveller site to include two mobile homes and a touring caravan for the benefit of two named people and their respective families. The proposal also includes the provision of a new access.
- 1.3 Planning permission was previously granted for the stationing of two caravans for two gypsy families in 2006. This permission was granted with a personal condition and included the provision of the new access. The access has not been constructed and the site has now been sold to a new gypsy family.

2. Policies

- 2.1 Circular 1/2006 ODPM – Planning for Gypsy and Traveller Caravan Sites.
- 2.2 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 H7	-	Housing in the Countryside Outside Settlements
Policy H12	-	Gypsies and other Travellers

3. Planning History

- 3.1 SH91/1548/PF 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 permission SH91/1548/PF sole occupation. Refused 6th July 2006.
- 3.3 DCCW2006/3153/F Change of use from agricultural to a two gypsy site. Approved 5th January 2007.
- 3.4 DCCW2007/2057/F Variation of condition no. 2 of planning consent DCCW2006/3153/F to allow sale of the property (if necessary) to another travelling family. Refused 14th December 2007.

4. Consultation SummaryStatutory Consultations

- 4.1 None.

Internal Council Advice

- 4.2 Traffic Manager: Recommends conditions.
- 4.3 Environmental Health & Trading Standards Manager: No objection to this proposal. The Assessment of Accommodation Needs of Travellers in Herefordshire Feb. 2001) and The Gypsy & Traveller Accommodation Assessment Shropshire, Herefordshire, Telford & Wrekin & Powys) 2007 have both identified a future need for extra Traveller Caravan site plots. The gypsy status of the applicants has been confirmed and that they have family and work connections in Herefordshire.

5. Representations

- 5.1 Burghill Parish Council: "Burghill Parish Council strongly objects to the retrospective application DCCW2008/0421/F.

The Parish Council has always maintained that this particular site is too close to the Scout Hut and densely populated residential area to be made suitable for a gypsy site.

The refusal of planning permission DCCW2007/2057/F, decision dated 14.12.07, states that due to the local sensitivity of the site and specifically the need to preserve the amenity of the locality, it is considered necessary to maintain strict control over the occupation of the site. It was considered contrary to Policies DR2 and H12 of the HUDP 2007.

The original planning permission in 1989 was granted on the basis that it was only for the lifetime of Mr. Lane. It would then revert to agricultural use. All the recent problems have proved that this should have happened and should now happen.

In the Parish Council's opinion this latest application DCCW2008/0421/F is also contrary to Policies DR2 and H12."

- 5.2 Burghill Scout & Guide Group: "The Group wishes to object to the application. Our reasons have not changed since the previous attempts to get planning and change of use over the past two years, e.g. planning application no. DCCW2006/3153/F and the change of use last autumn.

We are rather surprised to see continuing attempts to get change of use on this agricultural land as previous requests have been turned down by both the Committee and full Council meetings. We are not aware of any change of conditions which might lead to permission being granted and therefore trust that the Council will adhere to its previous decision and refuse the application.

- 5.3 Three letters of objection have been received from Mr. B. Green, The Rustlings, Burghill; Mr. E. Webb, 19 Manor Fields, Burghill and Mrs. J. Jones, Fairway View, Burghill.

The main points raised are:

1. The last occupants had planning permission refused to remove the personal condition and this application should be refused.
2. Despite the refusal the site has been sold and the new owner has been clearing the site and laying hardcore which is not in the interest of agricultural use as a wildlife area. The removal of trees will be of great detriment to the local area.
3. Previous conditions have not been complied with.

- 5.4 One letter of support has been received from Herefordshire Travellers Support Group.

The main points raised are:

1. The proposal is in line with Policy H12 of the Herefordshire Unitary Development Plan and reflect Government policy in Circular 1/2006.
2. There is an identified substantial shortfall of gypsy and travellers accommodation in the area and this is being reduced by Herefordshire by granting permission for suitable small sites.
3. The site is close to facilities and sustainable.
4. The previous application although opposed by the Parish Council indicated local support.
5. The current owners have clear traveller status and local connections.

- 5.5 The applicant's agent has submitted the following information:

1. The site previously had planning permission for a two family gypsy site.
2. The new owners acquired the site in January.
3. The applicants are Romany Travellers.
4. The proposal complies with the UDP and Circular 1/2006 (Planning for Gypsy & Traveller Caravan Sites).

5. A new access will be constructed away from the scout hut in accordance with the Traffic Manager's requirements.
- 5.6 A letter of support from Mr. W.F. Kerswell, Sollars Cottage, Picklescott, Church Stretton, Shropshire. He is the former vice chairman of the National Gypsy Council and confirms the gypsy status of the families.
- 5.7 A further letter received from Herefordshire Travellers Support points out that the applicants may be forced to put the application to the Planning Inspectorate, some of the representations against hardly apply to the current applicants and reference is made to the Council's duties under the Race Relations Act.

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 This site has previously been accepted and granted planning permission as a gypsy site. Attached to that planning permission was a condition limiting its occupation to Mr. & Mrs. R. Jones and Miss Rosanne Jones. Further conditions were also imposed concerning a new access. The new access has not been formed. The site has now been sold to the applicant who wishes to reside on site and form the new safer access away from the entrance to the Scout Hut.
- 6.2 The site is located in open countryside but immediately adjacent to the settlement boundary of Burghill as identified in the Herefordshire Unitary Development Plan.
- 6.3 There is clear policy presumption against residential development in the open countryside. However Policy H7 of the Herefordshire Unitary Development Plan (Revised Deposit Draft) established a number of circumstances where such development may be exceptionally permitted. It refers specifically to the provision of sites meeting the needs of gypsies or other travellers.
- 6.4 Policy H12 deals directly with sites intended for the accommodation needs of gypsies and other travellers and requires the following criteria to be met:-
 1. The site is within reasonable distance of local services and facilities;
 2. Sites for settled occupation should be small;
 3. Adequate screening and landscaping is included within the proposal in order to ensure that the proposal does not result in an adverse impact upon the character of the area and amenity of the landscape; and
 4. They contain appropriate levels of residential amenity, including safe play areas for children and provide satisfactory work and storage areas."
- 6.5 The applicants have provided sufficient evidence to substantiate their gypsy status and as such it is reasonable to consider this proposal against Policy H12 as an exception to the normal presumption against residential development in the open countryside. Accordingly taking the four criteria stated:

- (1) The site lies adjacent to an identified main village, Burghill and therefore as an identified 'main village' it contains the local services and facilities and is ultimately considered to be a sustainable location.
 - (2) The proposal for two families is considered small in scale.
 - (3) Despite the removal of overgrown areas the site is still well screened within the landscape. However alterations to the access, which are discussed in more detail below, will require the removal of hedging which will make the site more visible until new landscaping grows. However roadside frontage faces Burghill Valley Golf Course where the boundary is well landscaped.
 - (4) There is adequate levels of amenity and play space for children within the site.
- 6.6 In addition, the Council's Environmental Health and Trading Standards Officer has confirmed that there is a lack of availability of authorised pitches is a significant material consideration and your officers are satisfied that based on current information, this site can be treated as a genuine exception.
- 6.7 In view of the above it is considered that the proposal accords with Policy H12. Therefore it is contended that the only issue of concern is the access. A new access has been agreed with the Traffic Manager who recommends the imposition of appropriate conditions. The new access requirements are slightly reduced due to the recent moving of the 30mph speed limit.
- 6.8 The previous application was refused under Policy DR2 which relates to land use and activity. This site being located adjacent to the settlement boundary provides a choice of modes of travel and the use is considered to be compatible with adjoining land uses. Conflict with the scout hut entrance will be eased by provision of the new access and the development will not prejudice development on adjoining sites.
- 6.9 The Parish Council's and other objectors' concerns are noted, however the proposal is considered to be fully compliant with the Herefordshire Unitary Development Plan and Circular 1/2006.
- 6.10 Finally, Members previously granted permission on a personal basis to enable the Local Planning Authority to retain effective control over the site. If Members wish to maintain this position, a suitable condition is proposed.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. No more than two mobile homes and one touring caravan shall be stationed on the land at any time. No other structure apart from those existing on the site at the time of the application, including those permitted by the caravan site licence shall be erected without the approval of the local planning authority.**

Reason: In the interest of highway safety and to conform with the requirements of Policy DR3 of the Herefordshire Unitary Development Plan.

- 2. This permission shall enure for the benefit of Mr James and Mr Jimmy Smith and not for the benefit of the land or any other persons interested in the land. On cessation of their occupation the land shall revert to agricultural use.**

Reason: The local planning authority wish to control the specific use of the land in the interest of local amenity and to comply with Policies DR2 and H12 of the Herefordshire Unitary Development Plan.

- 3. **Notwithstanding the submitted plans and within one month of the date of this permission a new vehicle access shall be constructed providing visibility splays of 2 metres x 60 metres in each direction and any entrance gates set back 5 metres, full details of which shall be submitted for approval in writing of the local planning authority, and the access shall be constructed in accordance with the approved details and retained in perpetuity.**

Reason: In order to maintain the visual amenities of the area and to conform with Policy LA6 of the Herefordshire Unitary Development Plan.

- 4. **G11 (Landscaping scheme – implementation).**

Reason: In order to maintain the visual amenities of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan.

- 5. **H08 (Access closure).**

Reason: To ensure the safe and free flow of traffic using the adjoining County highway and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

- 6. **H06 (Vehicular access construction).**

Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

- 7. **No goods, plant, material or machinery shall be deposited or stored outside the buildings on the land hereby permitted unless otherwise agreed in writing with the local planning authority.**

Reason: In order to maintain the visual amenities of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan.

Informatives:

- 1. **N19 - Avoidance of doubt - Approved Plans.**
- 2. **N15 - Reason(s) for the Grant of PP/LBC/CAC.**

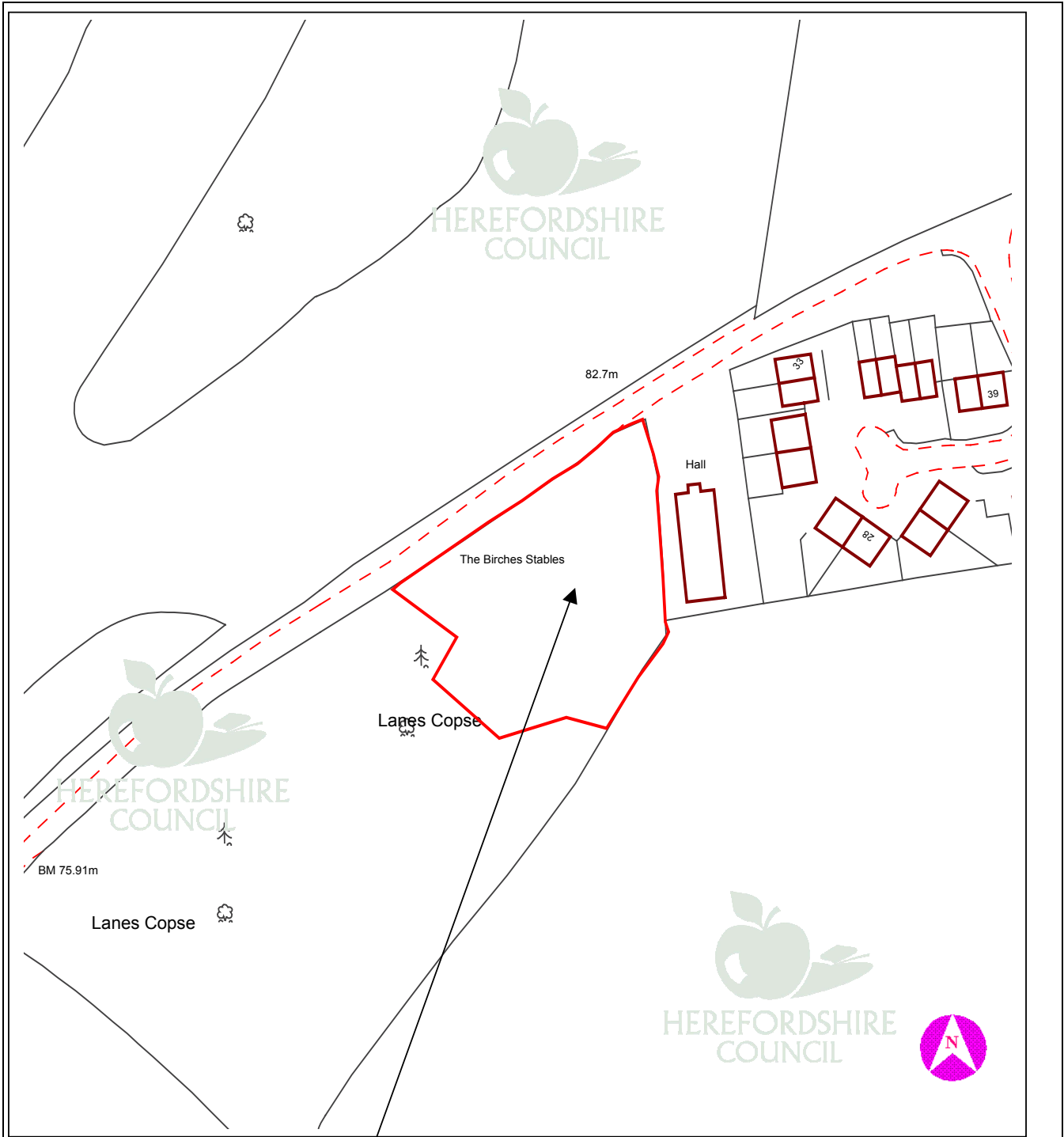
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCW2008/0421/F

SCALE : 1 : 1250

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

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