

DCNW2008/1807/F - RETROSPECTIVE APPLICATION FOR CHANGE OF USE (TEMPORARY) OF LAND FROM AGRICULTURAL TO A ONE FAMILY TRAVELLERS SITE INCLUDING THE STATIONING OF ONE CARAVAN AND ANCILLARY STRUCTURE AT LOWER FIELD, ASH FARM, BARNET LANE, WIGMORE, HEREFORDSHIRE, HR6 9UJ

For: Ms A. Cleverly per Hereford Travellers Support, Trefoil, Brinsop, Herefordshire, HR4 7AS

Date Received: 9th July 2008
Expiry Date: 3rd September 2008

Ward: Mortimer

Grid Ref: 40936, 68861

Local Member: Councillor L O Barnett

Introduction

This application was considered by the Northern Area Planning Sub-Committee on 24th September. Members resolved to refuse the application contrary to recommendation. The 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.

During the debate the shortfall in available pitches was considered and Members were reminded of the need to have regard to the previous appeal decision. Concern was expressed that there appeared to be one policy for gypsy/travellers and another for others. Members were reminded that this indeed was the case, policy H12 of the UDP being relevant to gypsies and other travellers.

Given the potential consequences of another appeal on this matter the application has according been referred.

1. Site Description and Proposal

- 1.1 The application site is situated to the north of the unclassified road that runs west from the village of Wigmore towards Birtley and Lingen. The site is in an elevated position on the North East facing slope and is prominently located in open countryside.
- 1.2 The application site itself forms a parcel of land to the east of a larger land holding (5.2 acres), at its lowest point. The site has a mature boundary hedge to the North, East and South boundaries, with access being gained via an existing field gate in the south east corner of the site. To the west of this site in a much more elevated position is an associated existing traveller site that benefits from a temporary permission and houses the former partner of the applicant.
- 1.3 The proposal is a retrospective application for the change of use of the agricultural land for use by a one family traveller site, including the siting of the one touring caravan and associated temporary structure.
- 1.4 The applicant and occupant of the site currently shares the personal and temporary permission granted on appeal (see appendix) for the temporary site to the West part of the field.

- 1.5 Due to personal reasons the applicant, Mrs Alison Cleverly, and child, who she jointly cares for with her former partner Mr Richard Wells, moved the caravan off the western part of what is referred to as Ash Farm onto this application site.
- 1.6 The application requests a temporary permission to run conterminous with the permission for the site in the western part. This permission is due to expire on the 7th March 2010.

2. Policies

National Planning Policy

- 2.1 PPS1 – Delivering sustainable development
PPS3 – Housing
PPS7 – Sustainable development in Rural Areas
PPG15 – Planning and the Historic Environment
PPG16 – Archaeology and Planning

ODPM Circular – 01/2006 – Planning for Gypsy and Traveller Caravan Sites.

Herefordshire Unitary Development Plan (2007)

- 2.2 S1 - Sustainable development
S2 - Development requirements
S3 - Housing
S7 - Natural and historic heritage
DR1 - Design
DR2 - Land use and activity
DR3 - Movement
DR4 - Environment
H11 - Residential caravans
H12 - Gypsies and other travellers
LA2 - Landscape character and areas least resilient to change
LA6 - Landscaping schemes
HBA4 - Setting of listed buildings
ARCH3 - Schedule ancient monuments
NC4 - Sites of local importance

3. Planning History

- 3.1 NW2006/0205/F - Change of Use from agricultural to one family travellers site including the stationing of 2 dwelling vehicles and storage space (Retrospective application) - Refused 17th March 2006.
- 3.2 This application and the subsequent Enforcement Notice were then the subject of an appeal. The appeal was allowed on the 7th March 2007 subject to an amended Enforcement Notice and temporary and personal permission. A copy of this decision has been appended to this report for information purposes.
- 3.3 NW2005/0851/F - Retention of caravan for residential use - Refused 5th May 2005.

4. Consultation Summary

Statutory Consultations

- 4.1 No statutory or non-statutory consultations required.

Internal Council Advice

- 4.2 Transportation: Has no objection to the grant for permission.
- 4.3 Environmental Health: No objection. The sub-regional housing assessment has identified a need for a further 100 plots for travellers will be generated in Herefordshire in the period 2007 - 2012.

5. Representations

- 5.1 Wigmore Group Parish Council make the following comments:

"It was unanimously agreed at a recent meeting of Wigmore Group Parish Council that this application should not be allowed for the reasons previously stated following previous applications. Although, upon appeal Mr Cleverly's and Mr Well's application was granted, it was only a temporary permission for two caravans and storage boxes which, we were assured, was adequate accommodation for one family.

It is not desirable to encourage such use of land by travellers and it is suspected that whilst this current application is for one family use of the land, others will be attracted to the site and before we know where we are we will have a settlement on our hands. Given that permission was originally granted for two caravans and storage, the fact that Ms Cleverly and Mr Wells no longer live together and have therefore separated the two-caravan set-up in favour of two separate caravans at either end of the field, we may assume that when both parties find alternative partners, each caravan will then require another caravan to accommodate a 'growing family', not to mention additional storage facilities. Four caravans in situ surely are then tantamount to a small travellers' site.

It is considered to be the responsibility of Herefordshire Council to provide appropriate accommodation land for travellers and that doing so 'by the back door', as approval by HDC will be seen, is not acceptable. Considering the rising numbers of travellers leading to the 'need for 100 additional pitches by 2010' (Assessment Against UDP Policy Criteria) Herefordshire Council should be more diligent in their responsibilities towards them.

Local residents are subjected to stringent rules about what they can or cannot build on their own land and flouting the legal process as Ms Cleverly has done should not be allowed, regardless of the 'environmentally sustainable life' Ms Cleverly leads. Oh that we could all lead such a life free from everyday responsibilities, yet taking advantage of all local amenities. Perhaps Herefordshire Council is advocating we all pursue an environmentally-friendly, self-sufficient life in a caravan in a field chosen because it is in an attractive area of countryside and well-screened!"

- 5.2 One letter of objection has been received from R R Bailey, Callis Close, School Lane, Wigmore. This letter can be summarised as follows:

- Reiterate original objection received on application NW2006/0205/F on the 15th Feb 2006 that stated the following:
 - It is already an eyesore and it will become a scrap yard
 - Will they invite further travelling families onto the site
 - The site does not provide satisfactory access
 - The area is recognised as an area of outstanding natural beauty
- The site may continue to develop. How many more 'family units'; will appear?
- What are the sanitary arrangements?

- 5.3 Additional letters of objection have been received from:

- David Martin, Tump Lane, Much Birch, Hereford
- John Williams. Abbots Lodge, Wigmore, Leominster
- A D F Gardiner, 2 Castle View, Castle Street, Wigmore

- F E Kenny, Castle Way, Greenhill, Wigmore
- Ruth Ingram, Wigmore Hall, Wigmore
- Jon & Jane Bingham, Burgage Farm, Wigmore.

These letters raise the following issues:

- The proposal is not sympathetic to the design and nature of the locality. Wigmore is a historic village characterised by several listed properties. The buildings and proposed use.
- The buildings, and the proposed use, contemplated in the application are not in keeping with the village and its surroundings.
- The land does not possess the infrastructure - such as basic sanitation and electricity/gas/water supply - to support a dwelling house. We understand that the intended property will house a young child.
- The proposal is not in compliance with the adopted Development Plan for the area.
- The effect on parking, traffic and road safety. Access to the site is made via a narrow lane with poor visibility to oncoming vehicles, this will pose a demonstrable danger to local traffic.
- Noise and general disturbance to adjoining residents. The applicants are regularly holding 'raves' on the site, approval will clearly exacerbate this problem. (The last event was held Saturday, September 13th giving rise to so many complaints from local residents that the local police force found it necessary to cordon off the site - such was the disturbance and perceived threat to the community.)
- In the Inspector's report from the original appeal made by Ms Cleverly and Mr Wells, and in relation to all three appeals, he writes that permission has been granted for the temporary period 'so that sufficient time is provided for them to find an acceptable alternative and appropriate site'. He also writes (in his 'Reasons', point 17) that this three year period 'should be sufficient for the Council to have prepared a list of sites which would provide an acceptable location for this family'. Can the Council confirm that they are fulfilling their responsibility in this matter, so that at the termination of the temporary permission, the land will be returned 'to its former condition' as the Inspector states?
- Secondly, the Inspector clearly states that if 'the appellants' have 'failed to have left the appeal site' by the end date of the temporary permission, 'the Council could deal with the matter, (...) as a breach of condition, or by servicing another enforcement notice'. Can the Council confirm that they will use the authority they have been granted and the powers they have to ensure that the appellants are removed from the site should they choose not to leave of their own accord?
- I hope very much that the Council can respond positively to these two questions. Surely permission should only be granted on this occasion, if they can.
- I know the history of the site, and the earlier applications and appeals that have taken place. I do not agree with the Inspector's assessment that the original appeal should have been granted for temporary permission on this site. I believe Herefordshire Council's failure to provide Travellers' sites does not justify granting permission on land that would normally be ineligible under the current policy - it simply sends out the wrong message and does not safeguard our environment as the Council promises to do. I do not, therefore, believe that permission should be granted on this occasion either.
- I believe that more effort should be made by the Council to determine and define a person's 'Traveller' status. The applicant states that she needs to be a resident on this site to be in close proximity with Wigmore School for her child. It is also stated in her application that having tried to 'return to the travelling lifestyle' it was found that 'this was unsatisfactory for all parties'. In spite of this she is applying for change of use of the land to 'a one family travellers

site'. It is my belief that her application should not be being considered with reference to policy H12.

- I would also like to add my support to the points raised by the Parish Council in their written opposition to the application.
- If the Council and the Committee is mindful to grant permission, then there are several concerns that I have, and that I would like to be considered in drawing up any conditions on the approval –
- That there is a possibility that additional families will be encouraged to join the applicant on this site.
- That further structures will be put up on the site, either by the applicant or by others moving on to the land.
- That other travellers within Herefordshire, or even nationally, will be encouraged to pursue the same course of action as the applicant (on other sites) using this case and the precedent it sets as an example.
- That the applicant is prepared to continue to move her structures around this land, necessitating further retrospective applications to be made as the application site changes, simply allowing her to 'play' the system and avoid any form of enforcement.
- Should it be possible to include a condition in any permission that prevents any informal gatherings such as the recent event, or perhaps prevents any form of amplified music to be played, to ensure that Ms Cleverly is not able to cause the same noise nuisance and distress again. This is particularly relevant to us, as we are aware she has stated that her party will be a yearly event.
- I hope that this matter is resolved in a manner that allows the Council to properly enforce its decision and safeguard the quality of the environment in this area, not just for the applicant, but also for the wider community.
- During the Public Consultation period, the misleading placement and visual concealment of the Site Planning notices.
- Based upon the Planning Services recommendation to approve this application, with conditions, the applicant Ms Cleverly has already breached these, on a regular basis, by allowing the stationing of multiple caravans/vehicles and ancillary structures on the site.

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

6. Officer's Appraisal

6.1 The key considerations in the determination of this application are:

- Principle of development and site history
- Landscape impact
- Setting of the Listed Building and Archaeological impact

6.2 The site lies in open Countryside and as such policy H7 of the Herefordshire Unitary Development Plan (2007) that relates to housing in the open countryside outside of settlements applies. This policy states that proposals would not be permitted unless, it is a site providing for the needs of gypsies or other travellers in accordance with policy H12 . This policy relates directly to gypsies and other travellers. It states that these sites should be with a reasonable distance of local services and facilities and that sites should generally be small. Adequate screening and landscaping would be

included so that the proposal does not result in adverse impact upon the character and amenity of the landscape. Finally there should be appropriate levels of residential amenity including safe play areas for children and that they should provide satisfactory work and storage area.

- 6.3 The site should be considered contrary to policy unless it can be established that it relates specifically to travellers and otherwise conforms to policy. Having regard to the history of the site and in particular the appeal decisions. The inspector has accepted that the applicant falls within the definition detailed in circular 01/2006 of a gypsy and traveller and as such it is considered acceptable to consider this proposal in relation to Policy H12.
- 6.4 Members will note from the appeal decision that the inspector accepted that the proposed development does not comply with policy H12 on a number of matters but draws the conclusion that the substantial shortfall in site provision in the County coupled with the circumstance of the case that a temporary, 3 year, consent be granted for this family.
- 6.5 The Council continues to seek to provide the shortfall of 83 sites identified in the Traveller Accommodation Assessment but it is also noted the personal circumstances relating to the joint care of the applicants young dependent. This is a matter that is also a material consideration of this case.
- 6.6 The application site is located in open countryside, but is less obtrusive in position than that of the more prominent site that is situated in elevated position to the west. It is considerably less harmful to the long distance views and setting of Wigmore Castle than that of the associated site to the West. There is far less domestic paraphernalia and it is much better screened and landscaped from the public vantage points. It does not read explicitly as an extension to the original site but does lead to a spread of development. There are no more persons living on the site or vans sited on the site that previously approved.
- 6.7 Having regard to the planning history and the conclusions drawn by the inspector, and having regard to the new circumstances of the family, the principle has already been established in this instance. Allowing a personal and time limited consent would meet the needs of the applicant whilst allowing an element of control over the site with a planning permission restricting its occupation and any further development or siting of vehicles. It is considered that this is a reasonable course of action to take given the circumstances of the case.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. **B01 (Development in accordance with the approved plans)**

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy DR1 of Herefordshire Unitary Development Plan.

2. **The use hereby permitted shall be carried on only by Alison Cleverly and shall be for a limited period being the period of until the 6th March 2010, or the period during which the land is occupied by her, whichever is the shorter. At the end of the period the use hereby permitted shall cease, all materials and equipment brought onto the land in connection with the use shall be removed and the land restored to its former condition.**

Reason: To clarify the terms of the permission having regard to the special circumstance of the case and to the sites open countryside location and criteria of policy H12 of the Herefordshire Unitary Development Plan (2007)

Informatives

1. N15 - Reason(s) for the Grant of Planning Permission
2. N19 - Avoidance of doubt - Approved Plans

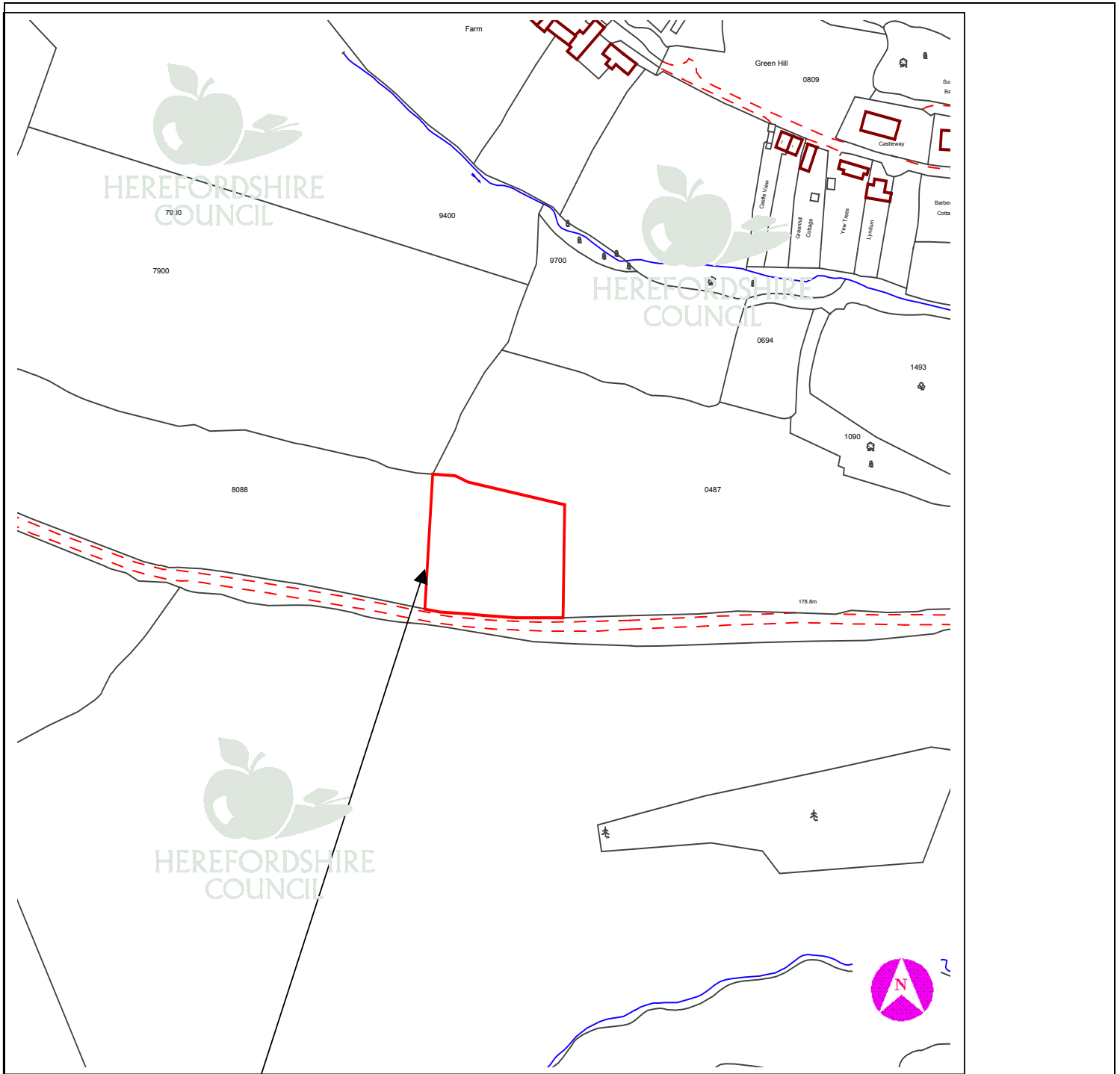
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: DCNW2008/1807/F

SCALE : 1 : 2500

SITE ADDRESS : Lower Field, Ash Farm, Barnet Lane, Wigmore, Herefordshire, HR6 9UJ

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

