

DCNC2009/0748/F - CHANGE OF USE OF LAND FROM AGRICULTURE TO A ONE FAMILY TRAVELLER SITE, INCLUDING STATIONING OF ONE MOBILE HOME, TWO TOURING CARAVANS AND DAY/WASHROOM - PART RETROSPECTIVE AT THE PADDOCKS, NORMANS LANE, STOKE PRIOR, LEOMINSTER, HEREFORDSHIRE, HR6 0LQ

For: MR COLIN BRANT, THE PADDOCKS, NORMANS LANE, STOKE PRIOR, LEOMINSTER, HEREFORDSHIRE, HR6 0LQ

**Date Received: 31 March 2009 Ward: Hampton Court Grid Ref: 352271,256281
Expiry Date: 26 May 2009**

Local Members: Cllr Grumbley

Introduction

This application was reported to the Northern Area Planning Sub-Committee on 29th July 2009 and then subsequently on 23rd September 2009 when members resolved to refuse planning permission contrary to the officer's 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 23rd September 2009 the Northern Area Planning Sub Committee was recommended to approve this application for the following reasons:-

1. The proposal accords with policies H7 and H12 of the Herefordshire Unitary Development Plan concerning residential accommodation for travellers and is also consistent with advice contained in ODPM Circular 01/2006.
2. Officers conclude that the applicant falls within the definition of gypsies/travellers as set out in ODPM Circular 01/2006.
3. The shortfall of traveller pitches in the county (as assessed by the Councils' Housing Needs Assessment) is currently around 83 pitches.
4. The site is generally well screened from immediate views within the nearby village of Stoke Prior.
5. There are no overriding traffic safety issues nor any unreasonable amenity issues with respect to the occupants of neighbouring dwellings.

6. No part of the planning application site is crossed by the adjacent bridleway which runs along the adjacent track.

In the debate the members expressed concerns regarding the suitability of the site, its location and the eligibility of the applicant to meet traveller status. After much discussion it was resolved to refuse planning permission on the basis of no need as there are vacant pitches on authorised sites and the applicant has previously confirmed (in 2006) that there was no need to reside on the site. As such, for these reasons the proposal was in conflict with Policy E15 – (Protection of Green Field Land) of the Herefordshire Unitary Development Plan. Members were advised that the application needed to be considered under Policy H12 (Gypsies and other Travellers) of the Herefordshire Unitary Development Plan.

As a result the application is referred to this meeting of the Planning Committee for further consideration.

The following is an extract from the case submitted by the applicant which sets out his personal circumstances and which was read out at the Northern Sub Committee meeting by the Planning Officer:-

Mr Brant's father was a Romany traveller while his mother had been brought up in houses. The family lived originally in the Pershore/Evesham area living a nomadic life on the side of roads etc. They moved to Herefordshire in the 1960's and stayed in a caravan on the site at the Penglaise Motel, off Holme Lacy Road in Hereford, with many other Travellers. Mr Brant's sister lived on the site belonging to Mr Edmunds on the Hoarwithy Road (all the remaining site dwellers later moved onto the Council site "The Orchards" in Watery Lane, Hereford). After trouble on the site Mr Brant's parents went to live in some huts (owned by the Council) in Kingstone.

Since he became an independent person Mr Brant has lived a semi nomadic life in a succession of houses and caravans, not really settling anywhere. The places he has lived in are numerous and include Withington, Burghill, Weobley, Wigmore and Hope under Dinmore. Before acquiring the current site in 2004 he lived in a mobile home in Marston (near Pembridge) on a piece of land he bought immediately before the present one but subsequently sold as it was liable to flooding.

During his spell in houses Mr Brant went travelling especially in the summer months, working on the hops on local farms (Frog End, Bishop's Frome, Green Hill Farm Woolhope, Claston Court, Dormington and at Yarkhill and Ullingswick) and also on Green Hill Farm, Putley picking apples. He has also always kept horses and has other Traveller pastimes such as collecting old farm equipment. He is well known among the wider Traditional Travelling community in Herefordshire.

Mr Brant believes he fulfils the current definition of a Gypsy or Traveller for Planning Purposes as set out in Government Circular 1/2006 (Planning for Gypsy and Traveller Caravan Sites):

"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 dependant's educational or health needs or old age have ceased travelling either temporarily or permanently but excluding an organised group of show people or circus people travelling together as such"

As Mr Brant now lives with his partner of 7 years standing, Mandy and her three children aged 17, 12 and 10 and has a small business to attend to, he wishes to settle. The two younger children are at schools in the area (Minster Secondary and Stoke Prior Primary).

The report to the Northern Area Planning Sub-Committee on 23rd September 2009 was as follows:-

This application was reported to the sub-committee on 29th July 2009 who resolved to defer determination to allow for further investigation and clarification with respect to the nearby public right of way i.e. to its extent and exact route.

1. Site Description and Proposal

- 1.1 The application site lies off Norman's Lane in Stoke Prior, approximately 250m south of the junction with the C1110 road which runs through the village. The site measuring approximately 40m x 45m is part of a larger field of around 1 hectare.
- 1.2 The proposal, which is in part retrospective, is to provide a traveller site, including one static style mobile home, two tourers and retention of the day/wash room, which has been erected on a lean-to against a previously approved agricultural building.
- 1.3 There is an existing access to the site of Norman's Lane and a fenced off parking area in the north west corner.
- 1.4. In the field adjoining the site the applicant keeps a number of chickens and horses, together with assorted pens and shelters. The whole field is bounded by mature hedgerows.

2. Policies

Unitary Development Policy

H12 - Gypsies and other travellers

LA2 - Landscape Character and areas least resilient to change.

Circular 01/06 Planning for Gypsy and Traveller Sites

3. Planning History

- 3.1 NC2006/1105/F Retention of Agricultural Building refused June 2006 - allowed on appeal February 2007.

4. Consultation Summary

Statutory Consultations

None

Internal Council Advice

- 4.1 Transportation Manager - no objection.

- 4.2 Environmental Protection Manager - The Sub-Regional Housing Needs Assessment has identified a substantial shortfall in traveller sites in Herefordshire. The applicant is not known to the Traveller Service. Environmental Protection team has no objection.
- 4.3 The Council's Public Rights of Way Manager - advises that there appears to be an anomaly on the Council's "Definitive Map" with respect to the track to the west of the site. The Definitive Map shows an existing bridleway (no. SP12) extending along the track but stopping short of the site at Normans Farm further to the south. However, research has clarified that the Council has been maintaining the whole of the lane/track and will continue to do so, including that section not shown as a public right of way on the Definitive Map. It is, therefore, fair to assume that the bridleway runs along the track past the application site and onto the Class III road (C1110). There is no reason for the right of way to have stopped at Normans Farm, which is the point at which the anomaly occurs. The public right of way (bridleway No. SP12) does not cross any part of the planning application site. It should be noted that the Council will only maintain the track to bridleway standards and not to motor vehicle standards. Persons using the track for vehicular access could be held responsible for any damage to the surface which renders it unsuitable for walkers and horseriders. The applicant should ensure that he holds lawful authority to drive a motor vehicle along the bridleway/public right of way.

5. Representations

- 5.1 Ford & Stoke Prior Parish Council - The Parish Council recommends that the planning application be refused on the grounds that the development would be outside the envelope for residential development. The Parish Council regards as most important that the existing envelope should not be breached by development, such a breach would create a precedent. In the event that permission none the less granted the Parish Council recommends the following conditions be imposed:-
- a. Concerning the change of use it is not from agricultural to residential or any other designation but remains for agricultural residents only.
 - b. The Northern Area Planning Committee should be assured by enquiring that the specific conditions relating to travellers are being correctly applied in this application
 - c. The Consent would apply only to the applicant and his immediate family, as described, for the duration of their residence after which point the permission will no longer apply.
 - d. No other person or persons may reside at the site and no other mobile homes or caravans may be brought onto the site.
 - e. Any such consent should be construed as being a temporary measure only.
- 5.2 A letter was also received dated 8th June via the Environmental Protection Manager asking questions about the definition of a gypsy/traveller. A response was sent 18th June
- 5.3 29 letters of objection have been received from 24 different addresses in Stoke Prior.

The objections are summarised below:-

1. The proposal is contrary to Policy H8, since this would not be a viable agricultural business and the applicant has previously managed to run it whilst living elsewhere.
 2. There are currently vacancies at Council run gypsy/traveller sites.
 3. Not convinced that the applicant is a gypsy/traveller.
 4. Retrospective applications do not accord with the advice in Circular 1/06.
 5. The proposal is contrary to Policy H11 - residential caravans.
 6. The site lies outside the settlement boundary and would set a precedent encouraging others to move onto small parcels of land.
 7. Traffic safety.
 8. Amenity problems.
 9. Out of keeping with the village
 10. The site is visible from the Risbury Road currently and would be more so in winter. It is insufficiently screened.
 11. The development would fracture the village and give rise to problems of security and law and order.
- 5.4 9 letters of support have been received from 9 addresses in Stoke Prior.
- 5.5 One letter refers to private bore hole water supply restructuring which make it unsuitable for domestic use. Limited to 30 cubic metres per annum or 18 gallons per day for livestock purposes.
- 5.6 Another suggest a personal, time limit condition.
- 5.7 In support of the application a statement has been submitted setting out the circumstances of the applicant, policy matters and other material considerations
- 5.8 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Committee meeting.

6. Officer's Appraisal

- 6.1 Circular 1/06 defines gypsies/travellers as follows:-

“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 or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such.”

- 6.2 Consideration of the applicant's statement above and a discussion with him on site leads officers to conclude that the applicant falls within the definition set out above.

As a consequence the proposal falls to be considered against Policy H7 of the Unitary Development Plan.

- 6.3 In this case, references to Policies H8 and H11 can be discounted. The current shortfall of pitches within the County as assessed in the Housing Needs Assessment is currently around 83 pitches. This figure took account of any vacancies that there were at the time of preparation of that assessment. Consequently, any current vacancies on Council sites have little bearing on the overall need.
- 6.4 Reference is made by objectors to Circular 1/06 and the retrospective nature of the application. Paragraph 59 advises that gypsies and travellers consult with local planning authorities before buying land. The failure to do so, however, cannot be regarded as a reason to refuse the application. Whether retrospective or not the application should be determined on its merits.
- 6.5 The main intention of the Circular appears in paragraph 12 of that document, and in summary, is to significantly increase the number of pitches available in appropriate locations.
- 6.6 Whilst the site may be visible from a limited number of locations, generally it is well screened from immediate views within the village. Since the proposal amounts to the creation of a single pitch it is not considered that the nature of Norman's Lane presents any overriding traffic safety issues, nor any unreasonable amenity issues for neighbours.
- 6.7 The issue of the water supply is a private matter constrained by covenant.
- 6.8 In terms of visual amenity, highway safety and general amenity issues, the site is considered to be appropriate as a gypsy site for 1 pitch. On that basis there would be no sustainable justification for either a personal or time limited permission.
- 6.9 The applicant, his partner and their three children intend to live on the site and, as far as the local planning authority are aware, these are the only people currently living on the site.
- 6.10 It is noted that there are other small buildings on the land e.g. a small greenhouse and a stable building (the latter being outside the planning application site). Whether or not these buildings require planning permission is a matter which can be investigated separately by the Council.
- 6.11 The Council's Public Rights of Way Manager has confirmed that the bridleway no. SP12, although not shown on the Definitive Map, clearly, in their opinion, runs along the track i.e. past Normans Farm, past the application site and ends on the Class III road which runs through the village of Stoke Prior. The bridleway does not cross any part of the planning application site. The Council maintains the track to bridleway status and no part of the said track crosses the application site. The applicant needs to ensure that he has lawful authority to drive a motor vehicle along the bridleway.

RECOMMENDATION

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

- 1 - A01 (Time limit for commencement (full permission))**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2 - Non Standard (Non Standard Condition)

The use of the site shall be limited to a single mobile home and up to two touring caravans to be occupied by a person or persons comprising a single family unit and being recognised as being of genuine gypsy or other traveller status, as defined by Circular 1/2006 - Planning for Gypsy and Traveller Caravan Sites. Evidence of such status shall be submitted to and approved in writing by the local planning authority prior to the occupation of the site by any persons other than the current applicant.

Reason: The nature of the development is such that it is only considered to be acceptable in this location as a Gypsy or Traveller Site in accordance with Policy H12 of the Herefordshire Unitary Development Plan.

INFORMATIVES:

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

2 - N19 - Avoidance of doubt - Approved Plans

3 - The Council's Public Rights of Way Manager advises that the track serving the site is most likely a public right of way i.e. bridleway no. SP12. In this event the applicant should ensure that he holds a lawful authority to drive a motor vehicle along the track. Lawful authority to drive over a public footpath/bridleway is normally granted by the owner of the land over which the right of way passes and is often included in the Title Deeds. Independent legal advice should be sought to ensure there is no doubt about private vehicle access rights along the track. Complaints about motor vehicles being driven along public footpaths/bridleways are investigated by the Police, not the highway authority. In addition, the local authority will only maintain this track to bridleway standards, which will not be of a standard suitable for motor vehicles. Persons using the track for vehicular access could be held responsible for any damage caused to the surface, which would render it unsuitable for walkers and horseriders. Should anyone wish to change the nature of the surface in any way then they would need the written permission of the Council's Public Rights of Way Manager, which may or may not be granted, depending on the nature of the intended materials.

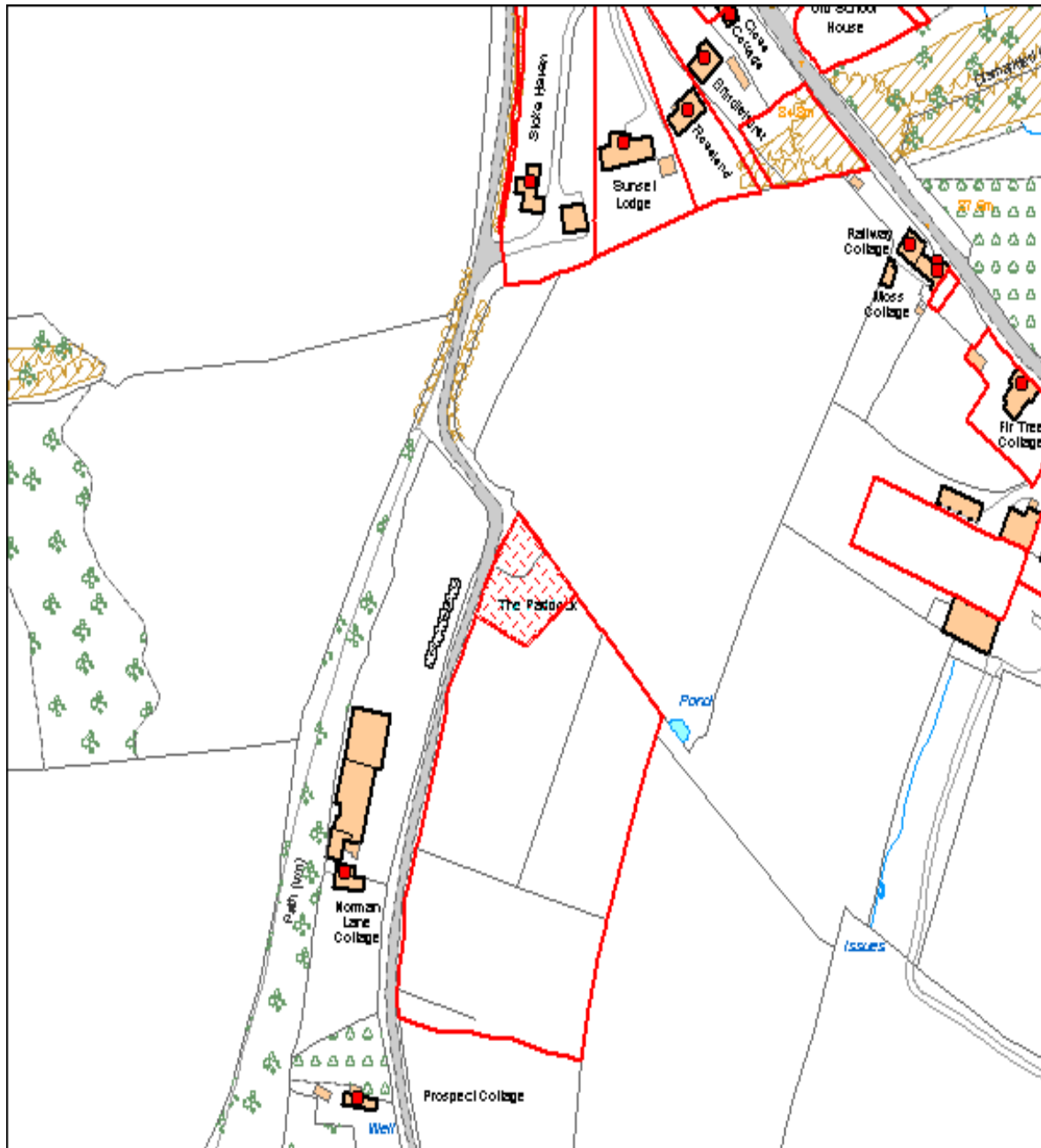
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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