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| <b>MEETING:</b>         | <b>PLANNING COMMITTEE</b>  |
| <b>DATE:</b>            | <b>11 AUGUST 2010</b>  |
| <b>TITLE OF REPORT:</b> | <p><b>DMSE/100514/F - CHANGE OF USE OF LAND - THREE LOG CABINS FOR RESIDENTIAL NOMADIC USE AT HOLMES GROVE, UPTON BISHOP, ROSS ON WYE, HEREFORDSHIRE, HR9 7UQ.</b></p> <p><b>For: Mr Tapsell per Dr Angus Murdoch, PO Box 71, Ilminster, Somerset, TA19 0WF.</b></p> |

**Date Received: 9 April 2010**

**Ward: Penyard**

**Grid Ref: 365684,226263**

**Expiry Date: 4 June 2010**

Local Member: Councillor H Bramer

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

- 1.1 Planning permission is sought for the change of use of land to site three log cabins for occupation by members of the same gypsy family. The proposal also includes for the provision of hard-standing areas for the log cabins and the provision of a private sewage treatment system. The site comprises a grass field situated in open countryside on the northern side of the B4221, just over a kilometre to the south-east of Crow Hill. Access into the site is from the B4221 at the south-eastern corner of the site through a timber field gate, approximately 50 metres to the west of the entrance to Two Parks Farm, which is located on the opposite side of the road. A stoned access track has been constructed from the site entrance along the north-eastern side of a fishing lake that occupies the low-lying central portion of the site. A stone walled fishing lodge has been constructed on higher ground at the south-eastern end of the lake.
- 1.2 The site is bounded to the east by a field hedgerow, beyond which are agricultural fields and Ross Golf Club. It is bounded to the north-west by an area of woodland. There is fairly dense tree cover along the section of the B4221 road frontage to the west of the site and intermittent trees, predominantly Ash, along the southern boundary.
- 1.3 The proposal is to site the three log cabins at the northern end of the fishing lake. Two of the cabins would be sited on elevated ground close to the field hedgerow on the eastern site boundary. The third is to be sited on lower ground to the north-west of the fishing lake.
- 1.4 The application follows the refusal of application DCSE2009/1059/F which sought permission for the change of use of land to form five pitches consisting of five cabins, five utility day rooms and five touring caravan spaces. The application was refused on grounds relating to the adverse visual impact and deficiencies with the vehicular access.
- 1.5 The application is accompanied by a Design and Access Statement that explains the intended use of the site by the applicant, and his daughter and son-in-law. It has subsequently been clarified that the third log cabin would be occupied by one of the applicant's grandchildren. The agent submits that the applicant and his family fall within the definition of Gypsies and

Travellers for the purpose of paragraph 15 of Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites.

## 2. Policies

### 2.1

|     |   |   |
|-----|---|---|
| S1  | - | Sustainable development                                 |
| S2  | - | Development requirements                                |
| DR1 | - | Design  |
| DR2 | - | Land use and activity                                   |
| DR3 | - | Movement  |
| H12 | - | Gypsies and other Travellers                            |
| LA2 | - | Landscape character and areas least resilient to change |
| LA6 | - | Landscaping schemes                                     |
| NC1 | - | Biodiversity and development                            |

2.2 Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites.

2.3 Gypsy and Traveller Accommodation Assessment Shropshire, Herefordshire, Telford and Wrekin and Powys July 2008.

2.4 Designing Gypsy and Traveller Sites: Good Practice Guide, DCLG 2008.

## 3. Planning History

### 3.1 On site

|                 |   |   |   |
|-----------------|---|---|---|
| SH960128PF      | Enlargement of existing pond to form fishing pool and construction of car parking area and access drive thereto               | - | Approved 19.9.1996                      |
| SS970272PF      | Erection of fishing pavilion  | - | Approved subject to conditions 9.6.2000 |
| DCSE2009/1059/F | Proposed change of use of land for the siting of five cabins, five utility dayrooms and five touring caravans for nomadic use | - | Refused 19.8.2009                       |

### Adjoining

Marsh Farm is a farmstead 600m to the north of Holmes Grove. It is owned by the applicant's son-in-law and has been subject to applications for the retention of mobile homes for Gypsy occupation. These applications have been refused, the most recent of which is due to be heard at Public Inquiry in October.

|                 |   |   |   |
|-----------------|---|---|---|
| DCSE0009/0855/F | Change of use of land and full planning permission to retain existing mobile. Retain existing log cabin and 4 additional log cabin mobile homes   | - | Refused 22.6.2009   |
| DCSE0009/1568/F | Change of use of land and full planning permission to retain existing mobile home, retain existing log cabin mobile home, 4 additional log cabin mobile homes and 6 touring caravans for nomadic use only and 6 utility day rooms | - | Refused. An enforcement notice was subsequently served and it is this proposal that is currently at appeal. |

## **4. Consultation Summary**

- 4.1 Traffic Manager: The visibility at present is to the requisite 2.4m x 150m to the east towards Gorsley, but is below standard at 130m to the west. On this stretch of road observed speeds are high (the road is subject to the national speed limit of 60mph) and 150m is the minimum requirement. As such permission should only be granted if subject to a condition requiring provision of the full visibility splay in each direction, to be constructed prior to the first occupation of any of the log cabins. The provision of the splay will require the removal of more roadside trees but is ultimately achievable. Work is also required at the point of access to enable two vehicles to pass simultaneously. This can be governed by the use of an appropriate condition.
- 4.2 Conservation Manager (Landscapes and biodiversity): The officer concludes that the introduction of 3 log cabins, hardstanding and associated domestic paraphernalia will cause harm to the rural landscape and would be contrary to policy LA2 of the Herefordshire Unitary Development Plan. However, if it is determined on balance that the proposed development is acceptable as an exception to the normal presumption against development in the open countryside, then the proposed landscaping would be capable of mitigating the adverse visual impact and is of a type that is appropriate to the landscape character of the area. It is acknowledged that it would take between 5 -10 years for trees to grow sufficiently to provide effective screening.
- 4.3 Forward Planning Manager: The proposed application seems in principle to comply with all four points of policy H12 in that it is small-scale, will be adequately screened and landscaped, includes adequate levels of residential amenity and is within reasonable distance of local services and facilities. Upton Bishop is the nearest small settlement which is 1.4km from the site, which is below the suggested thresholds for walking and cycling as per PPG13: Transport. It is acknowledged, however, that walking is unlikely on the B4221. Gorsley, a main village is 2.4km away and has more facilities, including a school, public house and post office.

It should be noted that the Gypsy and Traveller Accommodation Assessment (GTAA) June 2008, showed a need for additional pitch provision within Herefordshire. This amounts to 83 pitches to be provided from 2007-2012 and a further 26 pitches required from 2012-2017.

- 4.4 Environmental Health Manager: Recommends a condition requiring the submission of foul and surface water drainage requirements prior to commencement of development.
- 4.5 Conservation Manager (Building Conservation): No objection

## **5. Representations**

- 5.1 Linton Parish Council: Objection. Although a reduction has now been made in the number of buildings required by the developer it still does not comply with a number of policies within the UDP. The Council believes that the cabins are clearly required for permanent residential use and cannot be regarded therefore as being for nomadic use as stated on the application form. These large wooden buildings with corrugated metal roofs set on concrete blocks, with large area of hard standing, conflict with the character and appearance of the surrounding land and as such are a departure from planning policy. We do not believe there are any further material considerations for the Parish Council to take in to account that would allow such a departure from planning policy and trust that this application will be refused as contrary to H7, DR1, LA2 and LA5.
- 5.2 Upton Bishop Parish Council (adjoining): Objection. The application is part of the overall plans for Marsh Farm, which remains subject to a Public Inquiry and should therefore be viewed together. The site is a Greenfield site with no amenities accessible on foot and is

poorly served by public transport. Hedgerow has been removed without permission and the access onto the B4221 is dangerous.

5.3 66 letters of objection have been received. The content of which is summarised as follows:

- The site is linked to Marsh Farm by a road network that links the two sites across the fields and this proposal is indivisible from those at Marsh Farm;
- The site is highly visible from the public highway and development of this sort is out of keeping with the landscape character of the area and built development in Upton Bishop as a whole;
- The vehicular access is unsafe and use would present a threat to other highway users, particularly if large vehicles are using it. The road is subject to the national speed limit (60mph) and carries a significant volume of traffic;
- The applicant and his wider family own several properties in the area, which must bring the need for development into question;
- If permission is granted for log cabins/mobile homes anywhere on Marsh Farm/Holmes Grove, there will be considerable risk of the site becoming a commercial caravan park;
- Given that the public highway looks down onto the site it is highly unlikely that planting will adequately screen the development, which would be visible and incongruous in the wider rural landscape;
- Development across the Marsh Farm and Holmes Grove sites would appear to amount to more than is required to meet the needs of the applicant's family;
- The proposed cabins would be occupied by older members of the family, which is illogical given that of the two sites, Holmes Grove is nearer to a good highway network and thus provides easier access to school;
- No provision is made for the storage of touring caravans upon the site, which indicates that there is no 'nomadic' element to the design;
- The business enterprises that the applicant runs have existed in South Wales at a fixed location for many years and it is to be assumed that he has been travelling to and from this area for many years, which would seem more akin to a settled lifestyle than a nomadic existence. The family's traveller origin is not questioned. It would appear, however, that their lifestyle has not been nomadic for many years.

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

## 6. Officer's Appraisal

### Legislative background and the assessment of need for Gypsy & Traveller sites

6.1 This application seeks a change of use of land for the siting of three log cabins, which qualify as caravans under the definition set out within the Caravan Sites Act 1968. The intended occupation is by the applicant, his daughter and son-in-law and grandchild. It is submitted and accepted that the intended occupants are Gypsies as defined at paragraph 15 of Circular 01/2006: *Planning for Gypsy and Traveller Caravan Sites*. This Circular is the central plank of Government led guidance on planning for Gypsy and Traveller sites. It is this document that obliges local authorities to plan positively for Gypsy and Traveller sites by first identifying the need for sites through a Gypsy and Traveller Accommodation Assessment (GTAA). Although the Regional Spatial Strategy has been revoked, interim arrangements for dealing with the assessment of need and allocation of sites have not been announced and the advice within Circular 01/2006 as regards the need to allocate Gypsy sites within a Development Plan Document remains applicable. In terms of assessing the need for pitches, therefore, it is considered reasonable to continue to use the GTAA as a credible basis against which to assess the need for new pitches on both privately owned and publicly provided sites.

- 6.2 At the current time there is an acknowledged shortfall in pitch provision across Herefordshire. Sites that may be allocated through the Local Development Framework are unlikely to come forward until 2013, in which case there will continue to be a need to assess one off applications as and when they arise. The latest figures from the Annual Monitoring Report suggest an unmet need for 50 pitches between now and 2012.
- 6.3 Notwithstanding the legislative and policy background that the Council must work within when assessing applications by Gypsies and Travellers for transient and settled occupation, this does not equate to a situation that the need for additional pitches has to be met at all costs. There are, and will continue to be, criteria based policies against which the relative merits of proposed sites must be scrutinised.

Gypsy status: Sites for settled occupation

- 6.4 Whether one can be defined as a Gypsy or Traveller does not necessarily rest upon whether the individual is currently leading a nomadic existence. The revision to the Gypsy/Traveller definition as set out in Circular 01/2006, explains that those who have enjoyed a nomadic existence but who stop travelling on the grounds of old age, ill health or for the educational needs of dependents, can still be considered Gypsies. The application submits that Mr Tapsell, who is now 73, is ceasing to travel on the grounds of old age and ill health. His son-in-law intends travelling again at some point in the future, but has a child of primary school age, enrolled at school in Ross-on-Wye. As such, officers consider that although this is a site for settled occupation, it is appropriate to consider it against policy H12, which makes specific reference to such sites.

The Herefordshire Unitary Development Plan

- 6.5 Policy H7 seeks to restrict the spread of unwarranted housing in the open countryside. There are exceptions to this presumption, which include sites that provide for the needs of Gypsies and other Travellers in accordance with policy H12. Policy H12 is a criteria based policy that states that sites intended to provide for the accommodation needs of Gypsies or other Travellers will be permitted where:
- The site is within reasonable distance of local services and facilities;
  - Sites for settled occupation should be small, as should temporary or transit sites, unless there is a need to provide a site on a route frequented by groups travelling in large numbers;
  - Adequate screening and landscaping is included in order to ensure that the proposal does not result in an adverse impact upon the character and amenity of the landscape; and
  - They contain appropriate levels of residential amenity, including safe play areas for children and provide satisfactory work and storage areas.
- 6.6 The first criterion refers to the sustainability of the site in terms of its accessibility to goods and services, including accessibility to health services and schools where applicable. Consideration should also be given to the benefits of providing settled sites, which reduce the potential for environmental damage caused by unauthorised encampment. In this instance the site is within 1.4km of Upton Bishop and 2.4km of Gorsley (a main village). Whilst it is accepted that the B4221 is not a road that one would chose to walk, the distances to the villages do fall within the accepted distances of 2km for walking and 5km for cycling as defined in Planning Policy Guidance Note 13: Transport. There is also an hourly bus service that stops directly outside the entrance to the site. Although it is acknowledged that Holmes Grove cannot be described as 'edge of settlement' it is located between two identified settlements which between them have two public houses, a post office and a primary school. There is also good access to the motorway network, the M50 being less than a mile away. Circular 01/2006 urges local planning authorities to take a realistic approach in relation to the

availability of alternatives to the car in terms of accessing services and in view of the limited scale of this proposal it is considered that this criteria test is met.

- 6.7 The second criterion requires sites for settled occupation to be small scale. This application proposes 3 log cabins with associated gravelled hard-standing and turning head at the end of the existing stoned track. It is thus substantially reduced by comparison to the refused application which proposed 5 cabins, 5 utility dayrooms and 5 touring caravan spaces. The preamble to Policy H12 states that small sites comprise sites for up to 5 or 6 caravans and it is thus clear that this proposal should be considered small scale.
- 6.8 The site area is large with the land owned by the applicant extending to the north and west of the proposed cabins. The B4221 is above the site on the western approach with the effect that views are possible down into the site. The southern boundary against the road is marked by intermittent ash trees, but it is clear that additional landscaping and continued maintenance will be required in order to assimilate the proposal satisfactorily into the landscape. To this end a detailed landscaping proposal and management regime has been submitted. So as to enable the local planning authority to impose conditions upon the requisite land, the application site has been amended to extend to cover all of the area for which detailed landscaping proposals exist. The Conservation Manager (Landscapes) acknowledges that the introduction of cabins and hard-standing will cause harm to the rural landscape, compounding that which has arisen following the fishing pool and fishing pavilion permissions. It is accepted, however, that if this development is acceptable as a matter of principle, the proposed landscaping scheme is appropriate, with modification, to the landscape type, which is classified as Wooded Estate Lands in the Landscape Character Assessment. As such, if the need for the site is established and accepted, then officers are satisfied that the visual harm can be adequately mitigated and would recommend a series of conditions to ensure that the planting and management as proposed comes to fruition.
- 6.9 The advice of the Forward Planning Manager advises that the site has been designed with regard to the DCLG publication Designing Gypsy and Traveller Sites and as such the fourth criterion of policy H12 is met.

#### Highways considerations

- 6.10 Policy H12 does not contain a criterion relative to highway safety. It is clear, however, that this is a material consideration. The application submits that visibility of 2.4m x 150m is achievable to the nearside edge of the B4221 in each direction. This is indeed the case to the left upon egress, but only 130m is provided in the opposite direction. The full requirement of 150m can be met with the removal of more roadside trees which whilst undesirable is a replication of the visibility splay imposed upon the 1996 planning permission for the fishing pool extension. The trees are not protected by Tree Preservation Order and the visibility splay could be formed pursuant to the 1996 permission without any breach of planning control. Subject to the provision and future maintenance of the 2.4m x 150m splay in each direction, together with alterations to the access point itself, the Traffic Manager is satisfied that the proposal is acceptable in relation to highway safety.

#### Summary and Conclusions

- 6.11 The provision of sites for occupation by Gypsies or Travellers within the open countryside is one of the exceptions to the normal presumption against residential development within the open countryside. Accordingly such proposals can be considered acceptable as a matter of principle, provided they accord with the criteria of policy H12.
- 6.12 It is the view of officers that, on the basis of the identified need for sites for Gypsies and Travellers, the current proposal addresses the two reasons for refusal associated with the 2009 application. Accordingly, the application is recommended for approval subject to

conditions. These conditions will require occupation to be limited to persons meeting the statutory definition of a Gypsy/Traveller with a further requirement that future occupants have to provide evidence of their status prior to first occupation of any of the cabins hereby approved.

**RECOMMENDATION**

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

- 1 A01 Time limit for commencement (full permission)**
- 2 The planning permission shall ensure solely for the benefit of Mr Ben Tapsell, Mr Thomas Maguire and Rebecca Gaskin and any spouses, partners or resident dependents. Should occupation of any or all of the mobile homes by the named individuals cease, they shall only be reoccupied by a person or persons meeting the statutory definition of a Gypsy/Traveller as defined at paragraph 15 of Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites (or any statutory instrument revoking or re-enacting the Circular with or without modification). Prior to occupation by anyone other than the named individuals, full details relating to the Gypsy/Traveller status of future occupiers shall be submitted to and approved in writing by the local planning authority.**

**Reason: In recognition of the exceptional circumstances associated with the occupation of this site and to ensure compliance with Policy H12 of the Herefordshire Unitary Development Plan.**

- 3 B01 Development in accordance with the approved plans**
- 4 G10 Landscaping scheme**
- 5 G11 Landscaping scheme - implementation**
- 6 Visibility splays**
- 7 Access, turning area and parking**
- 8 I33 External lighting**

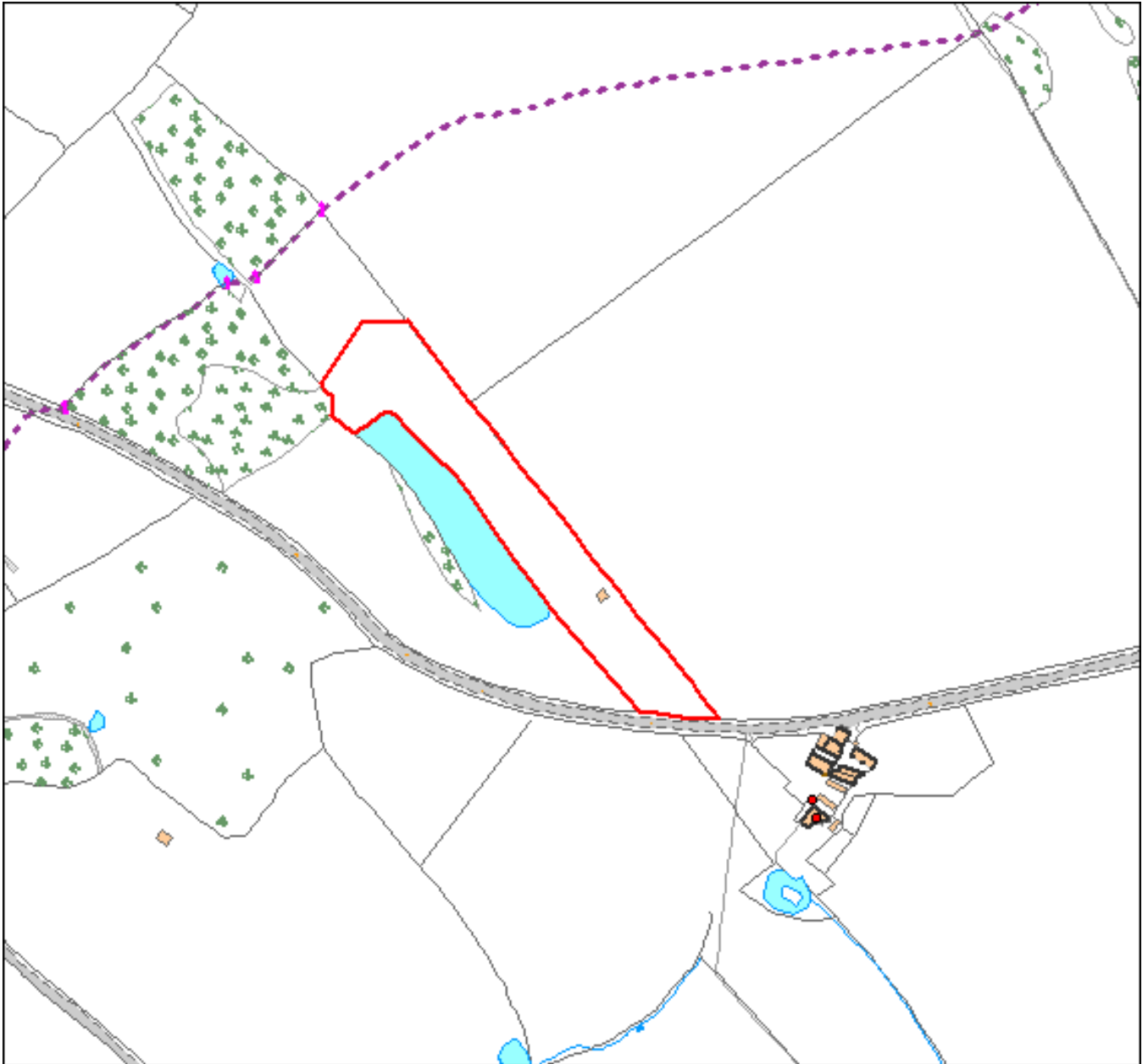
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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DMSE/100514/F

**SITE ADDRESS :** HOLMES GROVE, UPTON BISHOP, ROSS ON WYE, HEREFORDSHIRE, HR9 7UQ

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