

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>13 OCTOBER 2010</b>
<b>TITLE OF REPORT:</b>	<p><b>DMNW/100435/F - RETROSPECTIVE RE-APPLICATION FOR CHANGE OF USE OF LAND FROM AGRICULTURAL TO ONE FAMILY TRAVELLERS SITE INCLUDING STATIONING OF ONE CARAVAN, SHED AND ANCILLARY STRUCTURE AT LOWER FIELD AT ASH FARM, BARNET LANE, WIGMORE, HEREFORDSHIRE, HR6 9UJ</b></p> <p><b>For: Ms Cleverly per Ms Alison Cleverly, C/O 23 Ford Street, Wigmore, Herefordshire, HR6 9UW</b></p>

**Date Received: 3 March 2010**  
**Expiry Date: 28 April 2010**

**Ward: Mortimer**

**Grid Ref: 340948,268860**

Local Member: Councillor LO Barnett

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

- 1.1 The application site is located in open countryside under one mile (570 metres) from the main village of Wigmore, on an elevated position on the north-east facing side of a stream valley. The site is on the northern side of Barnet Lane, an unclassified road.
- 1.2 Wigmore Castle, which is a Scheduled Ancient Monument and a Grade 1 listed building occupies a knoll on the opposite side of the stream valley, at a lower elevation than the application site. The historic core of Wigmore is a Conservation Area.
- 1.3 The application site and the mid and lower part of the stream valley comprise pastoral land, with areas of dense woodland occupying the higher ground. This area is described as the landscape type Principal Wooded Hills in the Landscape Character Assessment. Key characteristics of this landscape type include varied topography, ancient wooded character, wooded land use with occasional pasture, field boundary hedgerows, linked woodland pattern, medium-framed views and scattered settlement pattern.
- 1.4 The application site, (which adjoins another proposed Traveller site, application NW/100558/F and is approximately 200 metres apart, at either end of a strip of fields) is parallel to Barnet Lane, with the land sloping down from the lane, towards the north-east. There is a tall hedgerow along the Barnet Lane frontage and around the perimeter of the strip of fields.
- 1.5 The site is square in shape and the western third of the site has been fenced off as a paddock. The caravan is located in the north-eastern, lowest corner of the site, with a vegetable area

adjacent to it. New planting which has been undertaken includes scattered tree planting in the larger, eastern part of the site, some deciduous trees and non-native conifers along the paddock fence and non-native conifers to the rear of the caravan

- 1.6 The proposal is the change of use from agricultural land to one family traveller site to include the stationing of one living vehicle, storage boxes, and shed.

## 2. Policies

### 2.1 National Planning Guidance:

Planning Policy Statement 7: Sustainable Development in Rural Areas

Local Authorities and Gypsies and Travellers: A Guide to Responsibilities and Powers, DCLG, 2007

Designing Gypsy and Traveller Sites, Good Practice Guide, DCLG, 2008

### 2.2 Herefordshire Unitary Development Plan:

S1	-	Sustainable development
DR1	-	Design
DR2	-	Land use and activity
DR3	-	Movement
H7	-	Housing in the countryside outside settlements
H12	-	Gypsy and other Travellers
H13	-	Sustainable residential design
T8	-	Road hierarchy
LA2	-	Landscape character and areas least resilient to change

#### Other Material:

Herefordshire Council Travellers' Policy, 2008

Gypsy & Traveller Accommodation Assessment Shropshire, Herefordshire, Telford & Wrekin and Powys Revised Final Report, July 2008

## 3. Planning History

- |     |             |   |   |   |   |
|-----|-------------|---|---|---|---|
| 3.1 | NW08/1807/F | - | Retrospective application for change of use of land from agricultural to one family traveller site  | - | Refused   |
|     | NW06/0205/F | - | Change of use from agricultural land to one family Travellers site, including stationing of two dwelling vehicles and storage space (retrospective application) | - | Refused - Planning Appeal dismissed but a three year temporary permission granted |
|     | NW05/0851/F | - | Retention of caravan for residential use  | - | Refused   |

## 4. Consultation Summary

### Internal Council Advice

- 4.1 The Transportation Manager has no objection.
- 4.2 The Gypsy Officer has not responded.

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Further information on the subject of this report is available from Mr C Brace on 01432 261795

- 4.3 The Planning Policy Manager confirmed that there are vacancies on the Council's sites.
- 4.4 The Environmental Protection Manager makes no objection to the proposal and notes the proposed use has no inherent noisy activities.
- 4.5 The Landscape and Biodiversity Team Leader Object to the proposal as it would adversely affect the character of the rural landscape.
- 4.6 The Head of Strategic Housing states that a total of 83 additional Gypsy and Traveller pitches are required in the period 2007 – 2012. It is emphasised that vacancies on Council owned pitches does not indicate a lack of demand in the same way a 'hard to let' affordable housing unit does not indicate a lack of demand for affordable housing. It is confirmed that there are difficulties in securing exception sites in rural locations.

## **5. Representations**

- 5.1 The applicant's agent makes reference to the lack of planning permissions granted in respect of new Traveller sites within Herefordshire, and the failure of the Council to prepare a list of acceptable sites as per the recommendation of the Appeal Inspector. This issue is detailed below. The supporting statement also goes on to evaluate the proposal against local and national policies in a favourable manner. Reference is then made to the personal circumstances of the applicant, including her status as a Traveller, and the family stability residing at this location has afforded the family unit following the separation from her previous partner, in particular the care, welfare, and education at the local school, of her son. It is noted that the applicant has obtained employment in Wigmore and is an active member of the community.
- 5.2 Four letters of support have been received from local residents, which include comments regarding the good character of the applicant, and the sustainability of her lifestyle.
- 5.3 A petition of 99 signatories, with addresses, supporting the application has been submitted.
- 5.4 Wigmore Parish Council objects to the application, issues raised are summarised as –
- The temporary permission has lapsed and the conditions should be adhered with
  - Public disturbance and anti social behaviour from the applicant at this site occurs
  - If permitted a precedent is set
  - Proposal is visible from the castle
  - Impact on the castle, countryside, and conservation area of Wigmore
  - Objections from previous application maintained
- 5.5 Nineteen letters of objection have been received from local residents, the summarised issues are as follows –
- Impact on the countryside
  - In a prominent position
  - creates a precedent
  - applicant is not a traveller
  - Impact on setting of Wigmore Castle
  - Antisocial behaviour on the site
  - Provision exists in the county
  - Alternative accommodation exists
  - Village services cannot cope
  - Concern regarding business use from the site

- Concern over local road network
- The applicant's lifestyle is not sustainable or low carbon
- The Appeal Decision APP/W1850/A/06/2018079 should be upheld
- Potential of intensification of the site
- Drainage and waste disposal

5.6 The Campaign to Protect Rural England objects to the proposal on the following summarised grounds –

- If permitted concern over who is responsible for the site
- The applicant can no longer be considered a Traveller
- A dwellinghouse would not be permitted in this location
- The proposal conflicts with UDP housing policies
- Loss of a Greenfield site
- No EIA has been submitted
- Permission would set a precedent

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**

### **6.1 Introduction**

The land subject of this application has previously been subject to an enforcement investigation regarding the unauthorised Traveller accommodation on this land. An Enforcement Notice was served on the applicant 5<sup>th</sup> February 2009, requiring the use to cease by 7 March 2010. This reflected the timescale set by the Inspector in regards the vacation of the adjoining site. The Notice was not complied with but further action has been held in abeyance given this application.

The applicant is still residing on the site, with various improvements made to the tidiness, appearance, and maintenance of the land holding since the refusal of DCNW2008/1807/F.

An Appeal Decision (APP/W1850/A/06/2018079) on adjacent land granted a three year temporary permission for the change of use from agricultural land to a family traveller site on which the applicant previously resided. The temporary permission was granted in order to allow the appellant opportunity to find alternative accommodation as per their rights, protected under Article 8 of The Human Rights Act and the Council to provide a list of sites which would be suitable and acceptable not only in regards the applicant, but also other Traveller families. The Council indicated at the inquiry that they were moving forward with identifying such sites. For personal reasons the applicant moved from the aforementioned site to reside on the land subject of this application.

### **6.2 Need**

A Gypsy & Traveller Accommodation Assessment for Herefordshire was completed in July 2008. This report identified a shortfall in provision for 2007 – 2011 of 83 Gypsy and Traveller pitches within the county. Herefordshire has no Gypsy and Traveller site allocations within the UDP and instead uses the criteria based approach of UDP policy H12, along with the National guidance contained in Circular 1/2006. Notwithstanding the vacant pitches on Council sites, National guidance indicates that small private pitches have a significant roll in reducing shortfall.

### 6.3 Legislative context

The Local Planning Authority is mindful of the guidance set out in Circular 1/2006 on the European Convention on Human Rights, and its obligations under the Race Relations Amendment Act 2000. It is noted that the Government intends to revoke this Circular.

The Housing Act 2004 requires Local Authorities to include the accommodation needs of Gypsies and Travellers in their Local Housing Assessments.

### 6.4 The applicant

The applicant is considered to meet the definition of a Gypsy or Traveller as defined in Circular 1/2006. This point was confirmed in the above mentioned appeal by the Inspector.

The family unit comprises the applicant and her son of whom joint care and responsibility is shared with the child's father who, also a Traveller, resides on an adjacent plot, which is subject to planning application DMNW/100558/F.

It is considered on the basis of the size of the immediate family unit that one number static caravan is appropriate and acceptable subject to other material planning considerations, set out in this report.

### 6.5 Sustainability

Despite the previous refusal reason and the view of the Appeal Inspector on the adjacent site, who considered that site 'not within reasonable distance of Wigmore and its services' and 'that such visit would likely involve the use of a car' this site is close to Wigmore. It is within easy walking distance of less than a mile to the village core, from either the unclassified road which runs down to opposite the school – a distance of 570 metres, or by public right of way into the village via Castle Street – a distance of 478 metres, or other public access routes, onto various sections of the village fronting the A4110.

Wigmore is a main village with a range of facilities and services, including but not limited to school, two number public houses, shop, and public transport links. Given that the site does not directly adjoin other residential properties, thus minimising amenity impact to negligible, to be so close to a main village, with such a range of services, on reflection, despite the previous decision of the Inspector, and the refusal reasons on application DCNW2008/1807/F, it is considered that the site is sustainable and readily accessible on foot to services and facilities provided in Wigmore. It is considered that the proposal in respect of its location and sustainability satisfies PPS7, and policies S1, H7 and H12 of the Herefordshire UDP.

### 6.6 Highways

The site is accessed from an unclassified road which in turn leads in less than a mile to the main village of Wigmore, at the junction with the A4110 south of the school. The Transportation Manager notes the 'light traffic movements' and 'slow speeds' on this road, along with the 'low level vehicular activity associated with the proposal'. In this regard, UDP policies DR3 and T8 are satisfied.

### 6.7 Landscape and Visual Impact

Views into the site from Barnett Lane are restricted by the tall roadside hedgerow. There are views into the sites from the gateways which serve as access to the sites and there are occasional glimpsed views through the roadside hedgerow. The close proximity of this application site and that of application NW/100558/F means that there is a degree of cumulative impact – travelling either up or down Barnett Lane, there are successive views through the two

field gateways of development which is domestic, not agricultural, in character. However, it is considered that the proposal does not have an undue impact on the setting of Wigmore, given the distance, topography, and natural screening.

When viewed from Wigmore Castle and from the footpaths within the stream valley – footpath WQ4, which runs between Barnett Lane and Wigmore Castle, to the north-west of the application site and footpath WQ6, which runs between Barnett Lane and the stream, to the east of the application site, the proposal is screened by the perimeter hedgerows and does not create an undue intrusive impact. The Inspector, in his decision, also considered as per the Landscape Officer's opinions, that the proposal does not have a harmful impact upon the Scheduled Ancient Monument Wigmore Castle.

Notwithstanding the above, the Inspector considered in respect of the adjoining site that the principle of such a proposal fails to protect the landscape and harms the countryside due to its very presence.

The Landscape & Biodiversity Team Leader notes that the application site is in a very isolated position and that there is no other housing development adjacent to Barnett Lane in the vicinity. This isolation is considered to increase the proposals prominence in the rural landscape, with the presence of living vehicles/caravans, cars, storage structures, toilets, vegetable plots and other domestic items changing the character of the site from open pastoral fields, which were wholly agricultural in character to a domestic site. The loss of pastoral character is considered to erode the character of this Principal Wooded Hills area and cause harm to the intrinsic character of the rural landscape.

Taking into account the above, the impact of this proposal on the landscape is considered significantly less than that of application DCNW/100558/F, given the location and siting of the caravan and ancillary structures, the topography of the site, and the natural screening provided. The concern over cumulative impact in this area is negated as application DCNW/100558/F is recommended for a temporary time period only. Specific landscaping conditions, along with restrictions of land use, activity, and further development are considered in this instance to be able to control, minimise impact, and integrate the proposal into the landscape. It should also be noted that landscape impact was not specified as a refusal reason by Members to the previous application (DCNW2008/1807/F) on this site. It is considered that the proposal in this location does not conflict with policy LA2, and as such it is considered that such a refusal reason is unsustainable.

## **6.8 Drainage**

A composting and soakaway system is proposed in order to deal with foul and surface water drainage. Given the family unit is small; there is no reason that this drainage solution is not acceptable. A condition requiring the submission of and approval by the Local Planning Authority, and subsequent implementation of this arrangement within a specified time period is recommended.

## **6.9 Conclusion**

The UDP supports the development of sites for Gypsies and other travellers through a criteria based approach set out in policy H12. This application is considered to meet those criteria, along with the policies regarding sustainability, highways, and amenity.

The Council acknowledges that there is a shortfall in the provision of Gypsy and Traveller sites within the county and individual, suitable private pitches can help meet that need. Furthermore the Council also recognises that it has not in period since the temporary permission was granted on the adjoining site, prepared a list available of acceptable sites, not only in regards the applicant, but also other Traveller families, as required.

It is considered that a conditional approval would not conflict with UDP Policies DR1, DR2, DR3, H7, H13, T8 and LA2, whilst also honouring the Council's responsibilities towards the applicant in regards Article 8 of The Human Rights Act.

A condition restricting the occupancy of the caravan to a family with defined dependants, i.e. children and or grandparents of the owner, is recommended to also prevent the expansion of the site whilst being reasonable to potential changes in the immediate family. This condition addresses local concerns over future expansion of the site however given the sites considered suitability, allows for the sale of or the use of the land by another Traveller family if the applicant was to move.

To further allay the concerns of local residents and to protect the character, appearance, and amenity of the area, restrictive conditions regarding land use, storage, fires, and the erection of other buildings have been recommended.

In addition, the proposal is considered to meet the guidance and criteria set out at national level in Circular 1/2006 Planning for Gypsy and Traveller Caravan Sites, Local Authorities and Gypsies and Travellers: A Guide to Responsibilities and Powers, DCLG, 2007, and Designing Gypsy and Traveller Sites, Good Practice Guide, DCLG, 2008

## **RECOMMENDATION**

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

- 1 B02 Development in accordance with approved plans and materials**
- 2 H01 Single access - no footway**
- 3 H05 Access gates**
- 4 H13 Access, turning area and parking**
- 5 I03 Restriction on specified activities**
- 6 I45 Restriction of open storage**
- 7 I43 No burning of material/substances**
- 8 The hereby permitted Gypsy and Traveller accommodation is restricted to one of either the owner or tenant of the pitch, and their partner and immediate family, defined as children and parents.**

**Reason: To restrict the pitch to one family unit, in order to protect the locality, amenity and quality of provision in accordance with Circular 1/2006 Planning for Gypsy and Traveller Caravan Sites, Designing Gypsy and Traveller Sites, Good Practice Guide, DCLG, 2008 and Herefordshire Unitary Development Plan policies DR1, DR2, H7, H12 and LA2.**

- 9 The siting of the hereby permitted static caravan is limited to the area hatched red on the attached plan titled 'Annex A' and one number static caravan only.**

**Reason: To allow flexibility in the siting of the static caravan whilst protecting the character and appearance of the open countryside in accordance with PPS7, Circular 1/2006 Planning for Gypsy and Traveller Caravan Sites and Herefordshire Unitary Development Plan policies DR1, DR2, H12 and LA2.**

- 10      **G10 Landscaping scheme**
- 11      **G11 Landscaping scheme - implementation**
- 12      **F06 Restriction on Use**
- 13      **L01 Foul/surface water drainage**
- 14      **M01 Surface water drainage works to be agreed**

Decision: .....

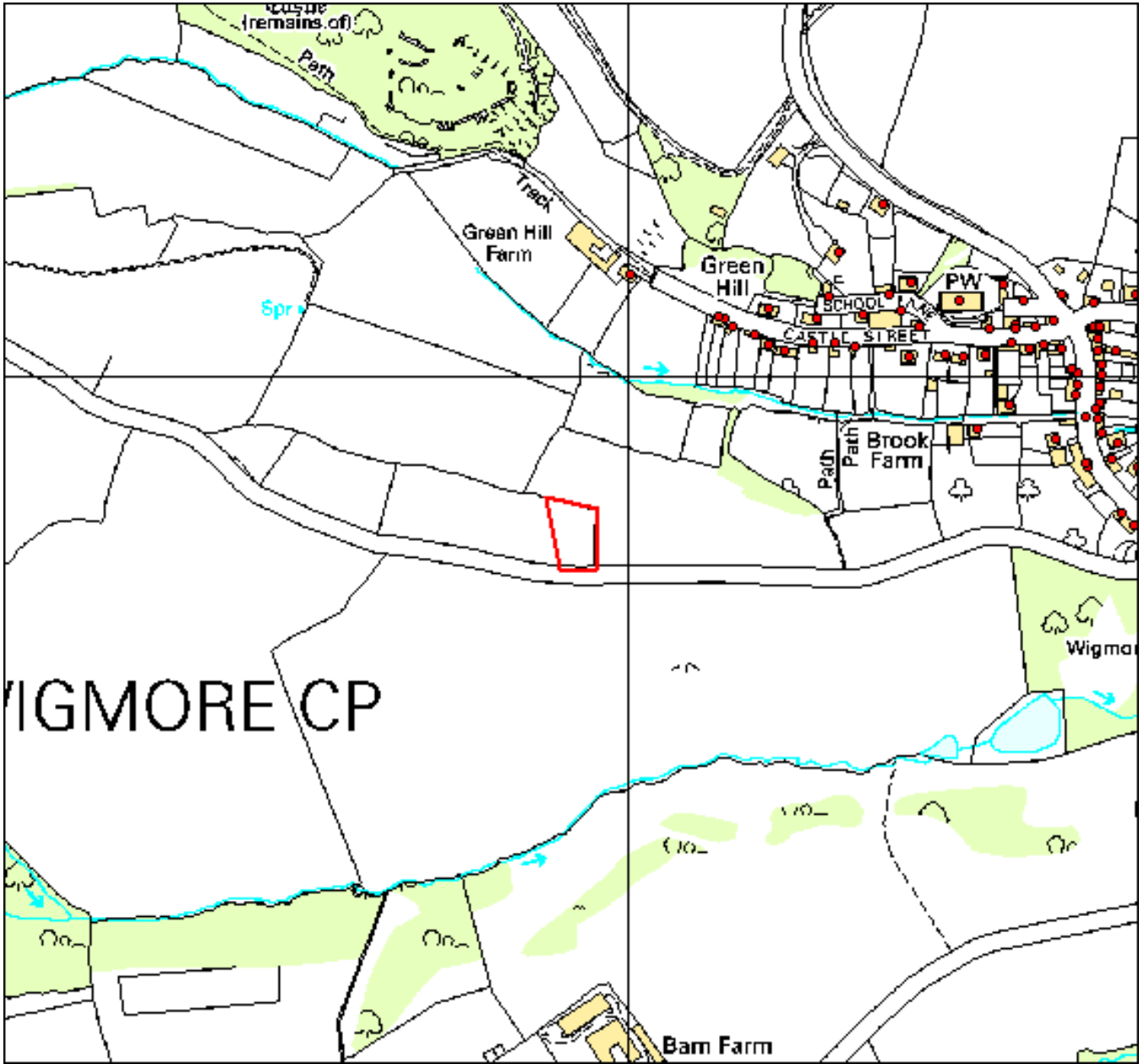
Notes: .....

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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** DMNW/100435/F

**SITE ADDRESS :** LOWER FIELD AT ASH FARM, BARNET LANE, WIGMORE, HEREFORDSHIRE, HR6 9UJ

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