

MEETING:	PLANNING COMMITTEE
DATE:	13 OCTOBER 2010
TITLE OF REPORT:	<p>DMNW/100558/F - CHANGE OF USE FROM AGRICULTURAL LAND TO ONE FAMILY TRAVELLER SITE TO INCLUDE THE STATIONING OF ONE LIVING VEHICLE, STORAGE BOXES & SHED AT ASHFIELD BARNET LANE, WIGMORE, HEREFORDSHIRE, HR6 9UJ</p> <p>For: Mr Wells per Mr Richard Wells, Ashfield Barnett Lane, Wigmore, Herefordshire, HR6 9UJ</p>

Date Received: 10 March 2010

Ward: Mortimer

Grid Ref: 340663,268928

Expiry Date: 18 May 2010

Local Member: Councillor LO Barnett

1. Site Description and Proposal

- 1.1 The application site is located in open countryside under one mile (860 metres) from the main village of Wigmore, in an elevated position on the north-east facing side of a stream valley. The site is on the northern side of Barnett 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/100435/F and is approximately 200 metres apart, at either end of a strip of fields) is parallel to Barnett Lane, with the land sloping down from the lane, towards the north-east. There is a tall hedgerow along the Barnett Lane frontage and around the perimeter of the strip of fields.
- 1.5 The proposal is the retrospective and for change of use from agricultural land to one family traveller site to include the stationing of one living vehicle, storage boxes, and shed.

1.6 The site is triangular in shape, with the storage boxes sited parallel to the roadside hedge, the living vehicle sited in the western corner and the shed and compost toilet sited in the eastern corner. The eastern boundary of the site comprises a stock proof fence. New planting which has been undertaken includes some hedgerow shrubs along the fence line, a group of deciduous trees near the site entrance and some non-native conifers near the living vehicle.

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 makes no objection to the Proposal.

4.2 The Gypsy Officer did not respond.

- 4.3 The Planning Policy Manager confirmed Herefordshire Council has a number of Traveller sites, on which there are vacancies.
- 4.4 The Environmental Protection Manager did not respond
- 4.5 The Landscape and Biodiversity Team Leader Objects 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 his status as a Traveller, and the family stability residing at this location has afforded the family unit, in particular the care, welfare, and education at the local school, of the applicant's son.

The applicant and his agent have also detailed efforts to secure alternative land and traveller accommodation which included a private site at Richard's Castle, however it is reported all 10 pitches are taken up. Other land which the applicant has claimed to have pursued have sold at prices beyond his financial means.

- 5.2 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

- 5.3 Eleven 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 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 benefited from a temporary permission granted at appeal following the Council's refusal of planning application DCNW2006/0205/F. This expired on 7 March 2010. Formal enforcement action has been held in abeyance given this subsequent application.

The application Appeal Decision APP/W1850/A/06/2018079 granted a three year temporary permission for the change of use from agricultural land to a family traveller site. 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.

The applicant is still residing on the site, with various improvements made to the tidiness, appearance, and maintenance of the land holding.

Whilst the Inspector allowed the appeal for a temporary period, he concluded that the proposal was contrary to local planning policies through its unsustainable location, and adverse landscape impact. It is on these two planning issues, and the availability of alternative accommodation against which this application is assessed.

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. It is noted that the Government intends to revoke this circular.

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.

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, his partner, and his son of whom joint care and responsibility is shared with the child's mother who, also a Traveller, resides on an adjacent plot, which is subject to planning application DMNW/100435/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.

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 for use by other Gypsies or Travellers outside of the applicant and his immediate family.

6.5 Sustainability

Despite the previous refusal reason and the view of the Appeal Inspector, who considered the site 'not within reasonable distance of Wigmore and its services' and 'that such visit would likely involve the use of a car' the site is in with 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 860 metres, or by public right of way into the village via Castle Street – a distance of 790 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 primary and secondary 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, 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 to the main village of Wigmore, forming a junction with the A4110 south of the school. The Transportation Manager makes reference to previous comments regarding applications for a Traveller site here, and 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 Barnet Lane are restricted by the tall roadside hedgerow. There are views into the site from the gateways which serve as access to the site and there are occasional glimpsed views through the roadside hedgerow. These views are very restricted when the hedgerow is in leaf; but would be slightly less restricted when the hedgerows are not in leaf, in the winter. The close proximity of this application site and that of application NW/100435/F means that there is a degree of cumulative impact – travelling either up or down Barnet Lane, there are successive views through the two field gateways of development which is domestic, not agricultural, in character. However it is still considered, as also per the Appeal Inspector's comments, that the proposal does not have an undue impact on the setting of Wigmore, given the distance and natural screening.

When viewed from Wigmore Castle and from the footpaths within the stream valley – footpath WQ4, which runs between Barnet Lane and Wigmore Castle, to the north-west of the application site and footpath WQ6, which runs between Barnet 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 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 that the principle and presence of the proposal failed to protect the landscape and harms the countryside due to its prominence. This opinion is reflected in the detail assessment of the proposal by the Council’s Landscape Officer:

“The application site is in a very isolated position; there is no other housing development adjacent to Barnet Lane in the vicinity. The absence of housing development may be due to the unfavourable north-east facing orientation of the slope and the steepness of the ground. The isolation of the site increases its prominence in the rural landscape. The presence of living vehicles/caravans, cars, storage structures, toilets, vegetable plots and other domestic items have changed the character of the sites - from open pastoral fields, which were wholly agricultural in character to domestic sites. The planting of non-native conifers has exacerbated the harm. The loss of pastoral character erodes the character of Principal Wooded Hills; it causes harm to the intrinsic character of the rural landscape. It is considered that no amount of additional screening could overcome this adverse impact which is the fundamental change to the appearance and character of the countryside. “

6.8 Conclusion

Whilst it is considered the principle and very presence of the proposal creates a landscape impact and conflicts with UDP policy LA2 and has a detrimental impact on the character of the countryside, and full approval would, as the Appeal Inspector stated ‘make it very difficult to refuse similar applications, which cumulatively have a very adverse impact on the character and beauty of the countryside, diversity of landscapes, heritage and wildlife that can be enjoyed by all’, given that the proposal is considered to not harm the setting of Wigmore Castle, or the village itself, the recommended temporary permission, is considered to be acceptable in the short term. This approach ensures the Council’s compliance with the Human Rights Act, and the long term protection of the countryside, whilst the Council establishes a list of acceptable Traveller sites.

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 this site, prepared a list available of acceptable sites, not only in regards the applicant, but also other Traveller families, as required.

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. The temporary use proposed for approval is restricted to residential use only.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 F22 Temporary permission & reinstatement of land (mobile home/caravan) – 3 years**
- 2 H01 Single access - no footway**

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

- 3 **H05 Access gates**
- 4 **H13 Access, turning area and parking**
- 5 **I03 Restriction on specified activities – limited to residential use only**
- 6 **I45 Restriction of open storage**
- 7 **I43 No burning of material/substances**
- 8 **The hereby permitted Gypsy and Traveller accommodation is restricted to Mr Richard Wells, currently of Ashfield, Barnetts Lane, Wigmore, Herefordshire, HR6 9UJ only and his partner and immediate family, defined as the child known as Clee.**

Reason: To restrict the pitch to the above named person and dependants only as this is a temporary permission granted to uphold the Human Rights of the named person and dependants, and in order to protect the locality and amenity 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**

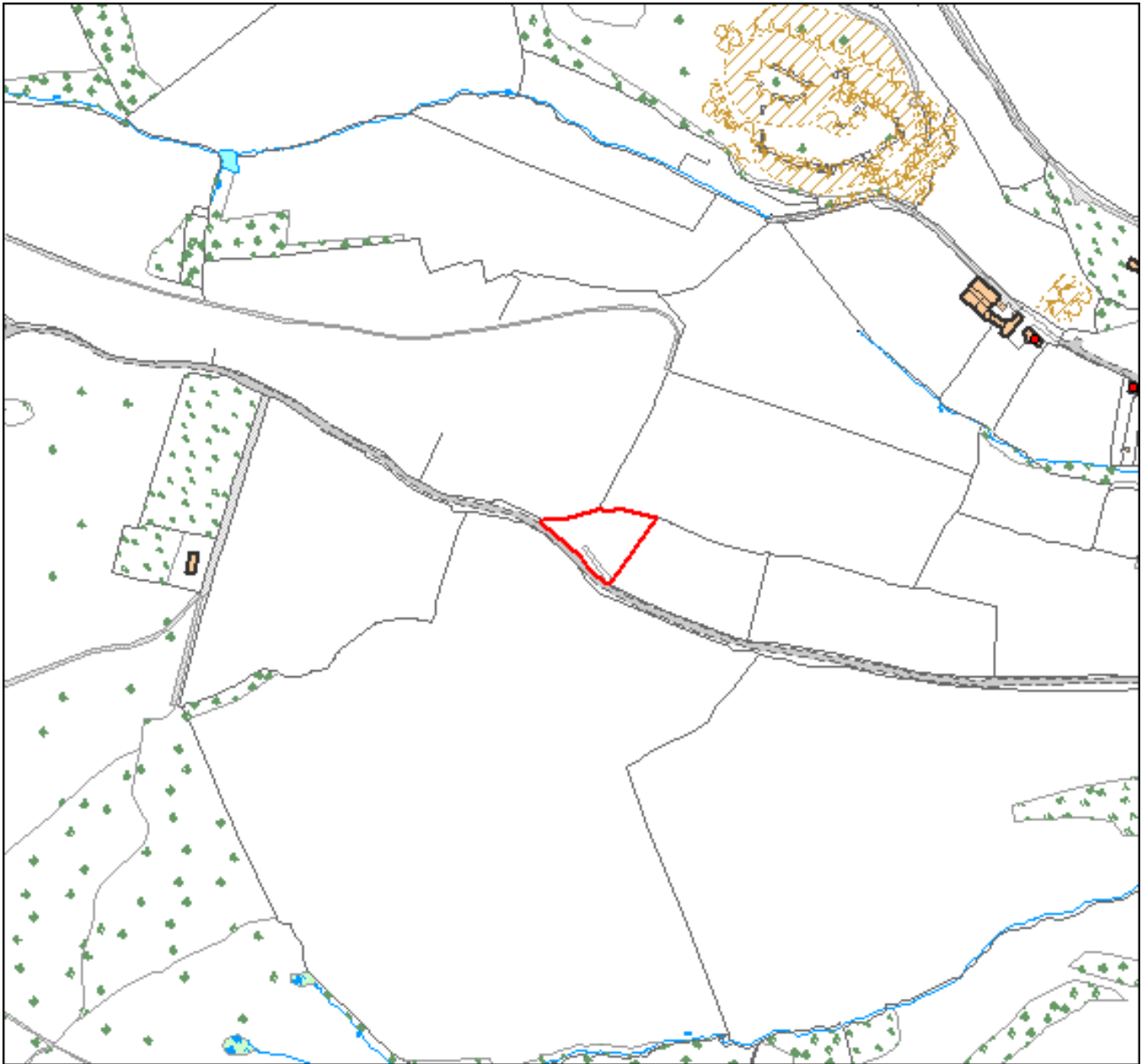
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMNW/100558/F

SITE ADDRESS : ASHFIELD, BARNET LANE, WIGMORE, HEREFORDSHIRE, HR6 9UJ

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