

14 DCNW2004/2577/F – RETROSPECTIVE USE OF LAND AS GYPSY/TRAVELLER CARAVAN SITE FOR ONE FAMILY AT CHAPEL VIEW, LYONSHALL, KINGTON, HEREFORDSHIRE, HR5 3HW**For: Mr. A.G. Taylor at above address.****Date Received: 12th July 2004****Ward: Pembridge & Lyonshall with Titley****Grid Ref: 33652, 55437****Expiry Date: 6th September 2004**

Local Member: Councillor R.J. Phillips

1. Site Description and Proposal

- 1.1 Chapel View comprises a 0.16 hectare plot of former orchard land located on the south side of the C1031 (Bollingham Lane) immediately to the rear of the Lyonshall Baptist Church. A public footpath (LZ8) runs along the south western boundary of the site.
- 1.2 The site lies in open countryside and partly abuts the defined settlement boundary of Lyonshall.
- 1.3 The site is occupied by Albert and Rosetta Taylor who following works to erect fencing, create an access and site a storage container, moved onto the site in May 2004. They currently occupy a large touring caravan which is sited close to the western boundary of the application site.
- 1.4 This planning application seeks retrospective approval for the siting of one residential touring caravan and associated temporary structures used for ancillary residential purposes and storage in connection with the applicants business. The description specifically refers to use for one family.
- 1.5 The application is accompanied by a statement confirming the applicant gypsy status and that of their parents who reside at an authorised site known as Little Preeces Plock near to Pembridge. It is advised that the application site will be mainly occupied during the winter months, whilst during the remainder of the year it will be left at intervals when the applicant will travel seeking seasonal farm work and to attend various gypsy gatherings.

2. Policies**2.1 Government Guidance**

PPG3 – Housing

PPS7 – Sustainable Development in Rural Areas

Circular 1/94 – Gypsy Sites and Planning

Circular 18/94 – Gypsy Sites and Unauthorised Camping

Managing Unauthorised Camping: A Good Practice Guide issued February 2004-10-15

2.2 Hereford and Worcester County Structure Plan

Policy H16 – Housing in Rural Areas
Policy H20 – Housing in Rural Areas Outside Green Belts
Policy G1 – Gypsies
Policy G2 – Gypsies
Policy RC1 – Residential Caravan Sites
Policy CTC9 – Development Requirements

2.3 Leominster District Local Plan (Herefordshire)

Policy A1 – Managing the District's Assets and Resources
Policy A2(D) – Settlement Hierarchy
Policy A16 – Foul Drainage
Policy A24 – Scale and Character of Development
Policy A58 – Mobile Homes
Policy A59 – Gypsy Caravan Sites

2.4 Herefordshire Unitary Development Plan (Revised Deposit Draft)

Policy S1 – Sustainable Development
Policy S2 – Development Requirements
Policy S7 – Natural and Historic Heritage
Policy DR1 – Design
Policy DR2 – Land Use and Activity
Policy H7 – Housing in the Countryside Outside Settlements
Policy H11 – Residential Caravans
Policy H12 – Gypsies and Other Travellers
Policy LA2 – Landscape Character and Areas Least Resilient to Change

2.5 Herefordshire Council Travellers Policy – Adopted in November 2002

3. Planning History

3.1 None relevant.

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water raise no objection subject to conditions restricting the discharge of foul and surface water from the site.

4.2 Head of Engineering and Transportation raises no objection.

4.3 Public Rights of Way Manager raises no objection.

5. Representations

5.1 A total of 20 letters of objection have been received and the concerns raised can be summarised as follows:

- applicant not the legal owner of the land and is in effect a squatter
- applicant not living as a gypsy traveller
- land is outside the settlement boundary of Lyonshall
- detrimental to the amenity of the locality
- potential for future additional occupation by other travellers
- devaluation of property
- other authorised gypsy sites are empty
- application is retrospective
- no need for the number of structures on the site
- concern regarding disposal of sewage
- unauthorised business activity being carried out from site
- additional traffic and activities during the night not acceptable onto Spond Lane
- harmful impact on agricultural land.

5.2 A petition with 61 signatories opposing the application on the grounds of the sites location outside the settlement boundary and its detrimental impact on the neighbourhood has been received.

5.3 Lyonshall Parish Council have the following comments and objections:

- application should be described as retrospective
- outside the settlement boundary for the village
- ownership of land is disputed
- proposed site is a blight on the village
- it is believed that the site will also be used for business/trading
- site already occupied with homes and vehicles coming and going during the night and in the early hours of the morning
- concerns about future expansion beyond one family
- out of keeping with neighbouring properties and character of the area
- supporting information refers to a village shop - there is none
- no signs of nomadic lifestyle apparent from observations.

5.4 A letter of representation has been received from a representative of the Travellers Health Project at the Herefordshire Primary Care Trust, which supports the applicants status as a traveller.

5.5 No authorised sites locally available. Site in Pembridge, Luston and Bosbury all fully occupied. Site at Bromyard requires, extensive repairs and maintenance and it too far from the applicants local connections. Sensibly planned small scale sites represent the right approach to meeting the need for sites. The application site is well located in relation to the village and does not have a wider visual impact on the local landscape.

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

6. Officers Appraisal

6.1 The key issues for consideration in the determination of this application are the principle of residential development having regard to the gypsy status of the applicant and the associated visual impact of the residential caravan and associated structures on the character and appearance of the locality.

- 6.2 In common with a number of recent applications, research has been carried out into the background of the applicant and in this case independent confirmation has been received from the Travellers Health Project under the umbrella of the Herefordshire NHS Primary Care Trust and The Herefordshire Travellers Support Group that Mr & Mrs Taylor are of a traditional travellers background having been known to the project for approximately 3 years. It is considered that this information substantiates the documentation, which accompanies the application indicating that Mr & Mrs Taylor were born and bred into the local traveller community, with relatives living on a private site on the edge of Pembridge (Little Preeces Plock).
- 6.3 In light of the above it is considered that the application can legitimately be considered against the requirements of Policy A59 of the Leominster District Local Plan (Herefordshire), which deals specifically with Gypsy Caravan Sites. It is also advised that gypsy caravan sites can be considered as one of the exceptional circumstances provided for under the terms of Policy A2(D) of the Local Plan which otherwise refers strict control over development in the open countryside. It follows therefore that in accepting the applicant's gypsy status, the broad principle of a residential site for their occupation should be supported subject to compliance with the criteria set out in Policy A59.
- 6.4 Policy A59 states that where adequate provision for gypsies is not available; the local planning authority will permit sites for caravans subject to consideration of the scale, visual impact and sustainability of the location. Contrary to a number of comments made by interested parties, there are no appropriate pitches available on authorised sites with the nearest being at Pembridge, which is fully occupied at the present time. In the light of this, it is recommended that the main consideration in this case the impact of the use upon the visual and residential amenities of the locality since the proximity of the site to the established settlement boundary of Lyonshall is such that it is regarded to be a sustainable location.
- 6.5 It is clear that the unauthorised presence of the applicant at the Chapel Orchard site is a cause for serious local concern evidenced by the weight of objections and the response from the Parish Council. The retrospective nature of the application is regrettable but in its own right is not a material consideration in the decision making process and furthermore, the red line drawn around the application site represents the limit of the proposal, which is restricted to one family and the associated structures currently on the site.
- 6.6 In the light of these concerns it has been discussed and agreed that any permission would be made personal to the applicant requiring the cessation of the use for residential purposes upon his leaving the site. It has also been advised that the remainder of the land would be retained for the grazing of the applicants horses or otherwise landscaped in order to reinstate the orchard character of the site and reduce the impact of the caravan and associated structure when viewed from the public highway (Bollingham Lane). The site is well screened from the public footpath and the properties to the east and accordingly with appropriate attention to landscaping it is considered that the site could be successfully integrated into the locality.
- 6.7 The sites close proximity to the settlement boundary and by definition the existing dwellings in the locality is such that the amenities of neighbouring occupiers is an important consideration. The use of the site as proposed is for residential purposes, which in its own right is consistent with the character of the area. It also benefits from a connection to the mains sewage system. However, genuine concerns have been raised with regard to business related activity on the site and in response to these the applicant

has advised that his main source of income is through tree work, constructing gravel driveways, fence erecting and seasonal farm work. In connection with this, equipment is stored within the lorry container and the applicant does keep his pick-up truck and trailer on the site but has stressed that commercial activity does not and will not take place on the site. It is considered that on the basis of the information provided, the level of activity associated with the primary residential use would be ancillary and there for not a material change of use warranting the refusal of permission at this stage.

- 6.8 If more complaints about the level of noise and activity are received then this matter would require further investigation and could if expedient necessitate formal enforcement proceedings against an unauthorised business use.
- 6.9 In conclusion therefore, if the principle of the occupation of the site by the applicant is accepted, it is not considered that the visual impact and the effect of the development upon the amenities of neighbouring occupier would represent justifiable grounds for refusal.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1 - E27 (Personal condition) (Albert George Taylor & Rosetta Taylor)

Reason: The nature of the development is such that it is only considered acceptable in this location having regard to the applicant's special circumstances.

2 When the caravan site ceases to be occupied by Albert George Taylor and Rosetta Taylor, the use hereby permitted shall cease and the caravan and all associated structures brought onto the site in connection with the use shall be permanently removed.

Reason: The nature of the development is such that it is only considered acceptable in this location having regard to the applicant's special circumstances.

3 This permission relates to the siting of one residential touring caravan and no other units of accommodation shall be brought onto or occupied on the site.

Reason: In order to define the terms of this permission.

4 Within one month of the date of this permission, confirmation of the connection of the touring caravan and any other structure requiring connection to the mains sewer shall be providing in writing for the approval of the local planning authority. The approved scheme shall be implemented within a further month of the approval and thereafter maintained.

Reason: In order to ensure that satisfactory drainage arrangements are provided.

- 5 Within one month of the date of this permission a landscaping scheme including orchard planting and appropriate hedgerow planting along the northern boundary of the faced area together with details of species, sizes and planting numbers and measures for their protection shall be submitted to and approved in writing by the local planning authority.

Reason: In order to protect the visual amenities of the area.

- 6 G05 (Implementation of landscaping scheme (general))

Reason: In order to protect the visual amenities of the area.

- 7 H16 (Parking/unloading provision - submission of details)

Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety.

Informatives:

- 1 N15 - Reason(s) for the Grant of PP/LBC/CAC
- 2 The applicant is advised that the current levels of activity associated with his employment is considered to be ancillary to the approved residential use of the site. The local planning authority reserve the right to reconsider this matter if business related activities increase to the extent that a material change of use occurs.

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.