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| MEETING: | PLANNING COMMITTEE | |
| DATE: | 16 MARCH 2016 | |
| TITLE OF REPORT: | 151110 - PROPOSED CHANGE OF USE TO 2 NO. ROMANY GYPSY PITCHES AND ASSOCIATED WORKS INCLUDING 2 NO. STATIC CARAVANS, 2 NO. DAY ROOMS, 2 NOS. TOURING CARAVANS AND ASSOCIATED WORKS AT THREE SHIRES NURSERIES, CANON PYON, HEREFORD, HR4 8NL | |
| | For: Ms Jones per The Picton Street Centre, 10-12 Picton Street, Montpelier, Bristol, BS6 5QA | |
| WEBSITE LINK: | https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151110&search=151110 | |
| Reason Application submitted to Committee – Redirection | | |

Date Received: 9 April 2015

Ward: Queenswood

Grid Ref: 348280,246642

Expiry Date: 18 March 2016

Local Member: Councillor PE Crockett

1. Site Description and Proposal

- 1.1 The 0.24 hectare site, which formerly comprised a small horticultural enterprise that traded under the name of 'Three Shires Nursery', lies on the southern side of the C1109 (Wellington Lane), some 290 metres to the east of its junction with the A4110. Canon Pyon is situated some 3 kilometres to the northwest and Wellington approximately 2 kilometres to the northeast. Immediately to the east of the site lies a detached dwelling known as 'The Butridge' and opposite the eastern access into the site a detached dwelling known as 'Wellington Lane Cottage'.
- 1.2 The site is essentially rectangular, with a road frontage of approximately 70 metres that includes two existing, gated vehicular accesses, one at each end of the frontage and has a depth of between 33 metres and 42 metres. It is relatively flat with a roadside hedgerow and some areas of hardstanding within the site. A shed occupies the rear eastern corner of the site, next to 'The Butridge'.
- 1.3 Permission is sought to change the use of the land to provide two pitches for Romany Gypsies, and associated works, including the siting of two static caravans, two day rooms, two touring caravans and associated landscaping. The existing shed is shown to be retained on the submitted block plan. The pitches would each occupy approximately half of the site, with separate vehicular access provided by the existing accesses. The caravans and day rooms would be sited towards the rear (south) of the site, with a stone hardstanding area for parking and a grassed play area between them and the lane. The day rooms would be attached to one another and would be some 6 metres by 5 metres per unit, with a ridge height of 4 metres.

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

They would be of a dual pitched roof design, with rendered elevations, slate roof and uPVC fenestration. They would provide a kitchen/living area, utility room and bathroom. An area for bin stores is indicated next to the two accesses. An amended block plan has been provided which revises the originally proposed 1.8 metre high close boarded fence proposed along the northern boundary to the road to a 1.2 metre high post and rail fence with planting to the rear. The scheme proposes to utilise the existing septic tank on the site and includes planting to the boundaries and grassed area to the rear of the statics and dayrooms.

- 1.4 The application has been accompanied by a covering letter, which serves as a Planning Statement, and copies of a number of appeal decisions for gypsy sites. Supplementary correspondence has advised that the proposal is to meet the needs of the applicant, her two children, her partner and her brother. The applicant's brother currently resides with his mother, but it is proposed that he would occupy one of the pitches, whilst the applicant and her family would occupy the other and provide care and support to him.

2. Policies

- 2.1 The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

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| SS1 | - | Presumption in Favour of Sustainable Development |
| SS4 | - | Movement and Transportation |
| SS6 | - | Environmental Quality and Local Distinctiveness |
| SS7 | - | Addressing Climate Change |
| RA3 | - | Herefordshire's Countryside |
| H4 | - | Traveller Sites |
| LD1 | - | Landscapes and Townscapes |
| LD2 | - | Biodiversity and Geodiversity |
| SD1 | - | Sustainable Design and Energy Efficiency |
| SD4 | - | Wastewater Treatment and River Water Quality |

- 2.2 Draft Burghill Parish Neighbourhood Development Plan – Regulation 14 Stage (Consultation period 20.1.2016-2.3.2016).

- 2.3 National Planning Policy Framework (NPPF)

The following sections are considered to be of particular relevance:

Introduction - Achieving Sustainable Development
Core Planning Principles
Section 3 - Supporting a Prosperous Rural Economy
Section 4 - Promoting Sustainable Transport
Section 7 - Requiring Good Design
Section 8 - Promoting Healthy Communities
Section 11 - Conserving and Enhancing the Natural Environment
Decision Making

- 2.4 Other Material Considerations:

Planning Policy for Traveller Sites August 2015 (PPTS)
Technical Guidance to the National Planning Policy Framework
Manual for Streets 2

- 2.5 The Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/core-strategy/adopted-core-strategy>

3. Planning History

- 3.1 SH87/1582/PO Nursery worker's bungalow - Refused 13.1.1988.
SH88/0202/PF Mobile home for a nursery worker - Approved 9.3.1988.
SH88/0833/PF Installation of a septic tank and soakaways for mobile home - Approved 20.7.1988.
SH92/1361/PF Continued use of the site for mobile home - Approved 16.12.1992.
SH96/1347/PF Continued use of the site for mobile home - Approved 5.3.1997.
CW2002/1123/F Continued use as site for mobile home (previous application SH961347/PF) - Approved 13.8.2002.
CW2004/3589/F Re-use of former nursery including temporary planning consent for mobile home – Approved 9.12.2004 (temporary permission).
CW2007/3591/F Retention of existing nursery including temporary planning consent for existing mobile home – Approved 15.1.2008.
120659/F Retention of use of site for stationing mobile home with storage area for landscaping and log business – Refused 26.4.2012.

4. Consultation Summary

4.1 Statutory Consultations

None

Internal Council Consultations

4.2 Transportation Manager

Original comments:

Recommends that the proposal is unacceptable for the following reasons:-

The visibility splays at both entrances are well below required standards, and the adjacent hedges are not under the applicant's control. The road is used as a rat run, with vehicles travelling faster than appears prudent for the nature of the lane. Consequently, the risk to highway users is too high without improvements to the visibility splays.

Further comments:

The hedge has been trimmed, and the visibility at the eastern access is acceptable at the moment. However, the western access is still partly obscured by vegetation.

My concern is the growth of the hedge will shortly intrude into the visibility splays, creating a risk to vehicles leaving the site. If the hedge along the frontage was set back behind the existing hedge line, visibility would be acceptable. The use of the site as a nursery probably existed before the current visibility requirements were introduced. As this is a change of use, I believe current requirements should be met.

4.3 Program Director Housing and Growth

Five year Supply:

A Gypsy and Traveller Accommodation Needs Assessment for Herefordshire was finalised in November 2015. This will form part of the evidence base for the emerging Travellers Site Development Plan Document (DPD). The assessment identifies a need for 48 pitches to be provided by 2031 with 19 of these being required in the period between 2014/15 to 2018/19. The assessment also suggests a further requirement of 18 pitches between 2014/15 to 2018/19 in relation to need arising from Gypsy and Travellers living in Bricks and Mortar housing. Our records indicate that one pitch has received planning permission to date in 2014/2015 and therefore there is not a five year supply of deliverable sites available. If this application is granted planning permission it will contribute to the identified need for Gypsy and Traveller accommodation in the County.

Herefordshire Core Strategy 2011-2031

This site is located on previously developed land outside of a settlement in the countryside. Policies RA3, Herefordshire's Countryside, and H4, Traveller Sites, of the adopted Core Strategy are relevant.

Policy RA3 limits development outside of settlements in rural areas to certain criteria including sites providing for the needs of gypsies or other travellers in accordance with Policy H4. Policy H4 – Traveller Sites sets out a number of criteria where sites are proposed on non-allocated land in the absence of a DPD as in this case. These are considered in turn as follows:

- Criterion 1 refers to sites having reasonable access to services and facilities including health and schools. . Taking the availability of a range services and facilities available in Wellington, Canon Pyon and Hereford, together with the public bus service on the A4110, it is considered that there is reasonable access to services and facilities in this location in the context of Policy H4.
- Criterion 2 requires that appropriate screening and landscaping is included within the proposal. The acceptability of the screening and landscaping proposed is a matter for the Landscape Officer if considered appropriate
- Criterion 3 requires proposals to promote peaceful and integrated co-existence between the site and the local community.

There are opportunities for integration with the local community given the availability of services and facilities in the local villages. The provision of authorised sites with suitable facilities will contribute to this objective.

- Criterion 4 refers to the enabling of mixed business and residential accommodation (providing for the live-work lifestyle of travellers). It is understood from the supporting information provided that this is not a particular requirement for the applicant.
- Criterion 5 requires proposals to avoid undue pressure on local infrastructure and services.

It is considered that it is unlikely that development of this scale would place undue pressure on local infrastructure and services but this would be subject to the advice from the relevant infrastructure and service providers

- Criterion 6 states that the size of the site does not dominate nearby settled communities. The site is located in the open countryside and there are two dwellings adjacent to the site. The proposed two pitches on a previously developed site are not considered to dominate these or other nearby settled communities.
- Criterion 7 relates to the provision of onsite facilities which appears to have been addressed in the application.

4.4 Commissioning Officer (Housing Strategies)

Housing would support this application subject to compliance with all planning duties. There is currently a need for additional pitches in Herefordshire, the draft GTAA has yet to agree the need, (considering the consultation results) but it varies between 6 and 50, so there is a need for these sites.

4.5 Environmental Health (Team Manager Licensing and Travellers)

I am afraid I don't know this site or the applicants so I cannot comment.

4.6 Environmental Health Manager (noise and lighting):

I have no objections to this development.

Informative 1

The development may mean that non mains drinking water is necessary for the scheme. All new non-mains water supplies must be wholesome and comply with the standards set out in the Private Water Supplies Regulations 2009. Shared and commercial private water supplies must be risk assessed and sampled by the Environmental Health and Trading Standards Division in accordance with the Regulations.

Informative 2

The proposed caravan site may require a site licence issued by the Licensing section of the Council's Environmental Health and Trading Standards Division.

5. Representations

5.1 Burghill Parish Council objects to the application on the grounds that the site is in an unsustainable location, the occupants of the site would be reliant on vehicle use to access all services. The site access is very close to an increasingly hazardous junction with below standard visibility for traffic emerging onto the A4110 where the national speed limit applies. Additional volume of traffic in the lane generated by the use of the site will exacerbate the existing road safety problem; there have been 2 fatalities in this area in recent years. There is a history of flooding in the immediate area around the site. The proposal includes connection to an existing septic tank sewage system; the existing system is considered by the PC to be inadequate to support an additional 4 families, and combined with the existing flooding problem in the area potential faecal ground contamination is of considerable concern. The application suggests that approval of this application would improve a derelict and untidy site. Such a decision would set a dangerous precedent, encouraging land owners to allow sites to become an eyesore to support applications for development in open countryside simply to improve a deliberate deterioration of a landscape. Development of the site, as suggested in the planning application, would seriously harm the rural character of the area and breach development plan policies. The site has already had a refusal of planning permission for a dwelling.

5.2 In total eleven representations have been received. Of these six object; four support and one is mixed. The main points raised, in summary, are:

Objection:

- Narrow lane is not suitable for touring caravans
- Unsustainable location – distance to schools, shops etc.
- Junction with A4110 is dangerous and should be upgraded
- Proposal could accommodate up to 6 families, in the 2 statics, 2 tourers and 2 dayrooms
- Two vehicles per unit = 8, so minimum of 16 movements per day
- No permanent structures should be allowed
- Inadequate foul drainage
- Flooding (2013/2014) – site is in Flood Zone 1 and contamination issues
- Insufficient water pressure
- Not screened from other properties
- Contrary to Planning Policy for Travellers – fair and equal treatment and respect of settled community
- Potential for noise nuisance

Support:

- Under provision of pitches in the County
- Previous use generated more traffic and included on site residential accommodation
- The two fatalities on the A road are unrelated to this application
- Tractors etc. use the lane, so it is acceptable for caravans
- No objections to previous applications, these objections are racially motivated
- Not flood zone 1.

Mixed (previous owner of the site):

- Sewerage has never been a problem
- Previous use as a garden centre was a greater intensity of use, with deliveries etc.
- HGV operators licence previously given, highways is not an issue

5.3 The agent's covering letter and supplementary correspondence sets out reasons why, in his view, the application should be supported. In summary it is stated that:

- The site is designed in accordance with the DCLG Guidance for designing gypsy and traveller sites (note this was withdrawn on 1st September 2015) – day rooms would be separate units, but are conjoined to reduce construction costs and improve energy efficiency.
- Existing septic tank (approximately 2,000 gallon capacity) will serve both pitches.
- Existing accesses are to be used, the gates are set back offering safe ingress and egress.
- The site is relatively well screened by a mature hedgerow adjacent to the lane
- There is some intermittent planting along the southern boundary.
- There are leylandii on the neighbour's land to the east, screening the site.
- Additional planting is proposed – fruit and nut trees along the northern boundary, native species hedgerows along the eastern and southern boundaries and infill native species hedgerow planting along the western boundary to incorporate the existing.
- The applicant is a Romany Gypsy and her brother, who is also a Romany Gypsy would occupy the second pitch.
- Proposal fulfils the criteria of the Development Plan (Herefordshire Unitary Development Plan – at the time of submission of the application) and the Core Strategy.
- Applicant lives in Hereford and has a local need.

- Site offers good access to health services (Bobblestock Surgery – 5.4km, The Willows Dentist – 9.8km and Hereford County Hospital – 9.5km) and schools (Wellington Primary School 2.4km and Whitecross High School – 6.2km) – Table of Distances from the site to key services and facilities provided in table form – page 13 of the agent's letter.
- No reason to anticipate that the proposal would place undue pressure on infrastructure or services or impact on local environmental quality.
- Local planning policy specifically allows for sites outside of settlements.
- Site is currently derelict/untidy – in accordance with PPTS 2012 paragraph 24(a) (now 26(a) of the 2015 publication) this should be given weight in decision making.
- Sustainability comprises economic, social and environmental considerations – it should be assessed on a broader basis than in relation to transport only.
- References to appeal decisions, noting that Inspector's interpretation of sustainability in gypsy site appeals recognise that distance to travel to facilities/services is only one impact, gypsy sites are permitted outside of settlements and the NPPF recognises that opportunities to maximise sustainable transport solutions varies from urban to rural areas.
- There is an evidenced unmet need for site in Herefordshire, but we are of the opinion that the GTAA 2015 seriously underestimates the level of need. The assessment is not robust, conflicts with the CLG's Gypsy and Traveller Accommodation Needs Assessments: Guidance 2007 and employs an unreasonable model in terms of turn over. It is suggested that there is a need for 50 pitches between 2014/15-2018-19.
- Lack of 5 year supply of deliverable sites is a significant consideration.
- Proposal meets planning policy requirements and is sustainable development.
- Opportunity to help meet the Local Planning Authority's pressing need for sites.

5.4 A letter has been received from South Gloucestershire Council's Welfare Liaison Officer (Ethnic Minority and Traveller Achievement Service). In summary this advises that:

- The applicant has been known to the post holder for the majority of her time in post (10 years) and more recently her children as well.
- When the applicant is not travelling she spends time in South Gloucestershire with family.
- Applicant is keen for a permanent base, for the benefit of her children's education. Her daughter attends school well.
- Lack of provision in the country for Gypsy and Traveller sites.
- Having a settled site would help the applicant to engage with services.

5.5 A Romany Member of the National Federation of Gypsy Liaison Officers states that:

- The applicant is known to her, as were her grandparents.
- The applicant travels to horse fairs to sell goods and earn nomadic earnings.
- There is a dire shortage of sites.
- Confirms the applicant's gypsy status and supports the application.
- Need to care for her mother.

5.6 Confidential letters have been provided by the applicant's brother's GP and Social Worker. These advise that:

- The applicant's brother needs care and his current carer, his mother, is finding this increasingly difficult due to her own health. This current situation is not sustainable.
- The applicant is a loyal and heavily involved carer for her brother.
- When the applicant travels her brother will either join them or be cared for by other family members.

- 5.7 The consultation responses (other than the confidential letters, which contain sensitive medical information) can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151110&search=151110>

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

Policy and Guidance

- 6.1 It is a legal requirement that applications are determined in accordance with the Development Plan, unless material planning considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990). This requirement is reconfirmed in paragraphs 11 to 13 of the National Planning Policy Framework (NPPF). These paragraphs state that the NPPF is guidance and does not change the statutory status of the Development Plan, but that it is highly desirable for local planning authorities to have an up-to-date local plan. The Development Plan consists of the Herefordshire Local Plan – Core Strategy (CS), which was adopted on 16th October 2015.
- 6.2 Policy RA3 of the CS limits new residential development in rural locations outside of settlements, as to be defined in either Neighbourhood Development Plans or the Rural Areas Site Allocation Development Plan Document. The Draft Burghill Neighbourhood Development Plan (dBNDP) is at regulation 14 stage so cannot be afforded weight presently. Nevertheless the site is not within a designated settlement in the dBNDP and it is noteworthy that it does not seek to allocate further traveller sites, but rather defers to applications being considered under CS policies RA3 and H4. The site is not adjacent to a settlement or facilities, such as shops, education or health facilities. It is situated next to and opposite two dwellings. It is considered that the site is in a rural location where both RA3 of the CS and paragraph 55 of the NPPF would seek to limit new residential development. Policy RA3 of the CS states that residential development in such locations will be limited to proposals that satisfy one or more of the specified criteria. Criterion 7 provides for proposals for a site that would provide for the needs of gypsies or other travellers in accordance with policy H4 – Traveller Sites. This policy provides the more detailed considerations for assessing such applications.
- 6.3 CS policy H4 states that the accommodation needs of travellers will be provided for through the preparation of a Travellers' Sites Document (DPD) which will include site specific allocations. Currently this has not been prepared. In this instance, in the absence of an adopted DPD and where proposals for sites are brought forward on non-allocated land, policy H4 states that proposals will be supported where:
1. Sites afford reasonable access to services and facilities, including health and schools.
 2. Appropriate screening and landscaping is included within the proposal to protect local amenity and the environment.
 3. They promote peaceful and integrated co-existence between the site and the local community.
 4. They enable mixed business and residential accommodation (providing for the live-work lifestyle of travellers).
 5. They avoid undue pressure on local infrastructure and services.
 6. In rural areas, the size of the site does not dominate nearby settled communities and;
 7. They are capable of accommodating on-site facilities that meet best practice for modern traveller site requirements, including play areas, storage, provision for recycling and waste management.

In rural areas, where there is a case of local need for an affordable traveller site, but criterion 1 above cannot be fulfilled, then an exception may be made and proposals permitted, provided such sites can be retained for that purpose in perpetuity.

- 6.4 The supporting text to CS policy H4 (at 5.1.26) acknowledges that until the Traveller's Sites DPD is adopted (anticipated in 2016) the private sector may need to provide sites and policy H4 sets out the basis upon which applications will be determined.
- 6.5 The introduction to the NPPF states that it should be read in conjunction with the Government's Planning Policy for Traveller Sites (PPTS) and in decision taking on such sites regard should be had to the NPPF so far as is relevant. The PPTS was revised in August 2015. It provides the most recent national guidance for such forms of development and is an important material planning consideration. It states that the Government intends to review this policy when '*fair and representative practical results of its implementation are clear*' and whether planning policy for traveller sites should be incorporated in the wider NPPF. The PPTS states that applications should be assessed and determined in accordance with the presumption in favour of development and application of the NPPF policies and those in the PPTS. It confirms that the Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life whilst respecting the interests of the settled community. When assessing the suitability of sites in rural or semi-rural settings, Local Planning Authorities should ensure that the scale of such sites would not dominate the nearest settled community.
- 6.6 In the determination of planning applications paragraph 22 of the PPTS sets out criteria (a-e) which are issues that the LPA should consider. These are as follows:
- The existing level of local provision and need for sites.
 - The availability (or lack) of alternative accommodation for the applicants.
 - Other personal circumstances of the applicant.
 - That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites.
 - That they should determine applications for sites from any travellers and not just those with local connections.
- The revised PPTS has amended paragraph 25 to advise that '*Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.*' (amendment underlined).
- 6.7 The PPTS guidance advises that weight should be attached to the following (paragraph 26):
- Effective use of previously developed (brownfield), untidy or derelict land.
 - Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness.
 - Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children.
 - Not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.
- 6.8 The PPTS advises that if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision. Exceptions to this are where the site is within the Green Belt

(designated as such), sites protected under the Birds and Habitats Directive and/or Sites of Special Scientific Interest, Local Green Space, an Area of Outstanding Natural Beauty, a National Park or the Broads.

Current Provision and Need

- 6.9 A Gypsy and Traveller Accommodation Needs Assessment (GTAA) for Herefordshire was finalised in November 2015. This will form part of the evidence base for the emerging Travellers Site Development Plan Document. As advised by the Program Director Housing and Growth the assessment has identified a need for 48 pitches to be provided by 2031 with 19 of these being required in the period between 2014/15 to 2018/19. The assessment also suggests a further requirement of 18 pitches between 2014/15 to 2018/19 in relation to need arising from Gypsy and Travellers living in bricks and mortar housing. Council records indicate that one pitch has received planning permission to date in 2014/2015. An appeal decision is pending on a site at Ridgehill, to the south of Hereford (reference 141687) and there are currently 3 applications for traveller sites, or extensions to existing sites being considered. Notwithstanding the outcome of the appeal and the current applications there is clearly not a five year supply of deliverable sites available. The applicant's agent contests the number of pitches required in the GTAA and the methodology used. Despite the disagreement on the number of pitches required, ultimately it is accepted that there is a lack of five year supply of deliverable sites. Neither the Council nor the applicant's agent contend that the lack of supply is marginal and therefore for the purposes of determining this planning application the lack of a five year supply of deliverable sites is a significant material consideration, because none of the exceptions set out in paragraph 27, and listed above at 6.8, are applicable.

Principle of Development and Location

- 6.10 The first critical issue which must be considered is whether the applicant falls within the definition of 'Gypsies and Travellers' as detailed in Annex 1 - Glossary of PPTS (August 2015) and thus complies with criterion 7 of CS policy RA3, which allows the provision of gypsy or other traveller sites in rural locations outside of settlements. This definition has amended that provided in the previous PPTS publication (dated March 2012) and states that for the purposes of planning policy 'Gypsies and Travellers' means:

"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, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."

- 6.11 The inclusion of those who have permanently ceased to travel for the above stated reasons has been deleted by the 2015 publication. The revised glossary also states that when determining if persons are gypsies or travellers for the purposes of the PPTS consideration should be given to the issues listed below, alongside other relevant matters:
- Whether they previously led a nomadic habit of life.
 - The reasons for ceasing their nomadic habit of life.
 - Whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

- 6.12 The pre-amble to policy H4 of the CS confirms that this definition applies to the policy.

- 6.13 It is asserted that the applicant is a Romany Gypsy and that she continues to travel to horse fairs (dates and venues given between April and October), where she sells goods. This pattern of travel is throughout the year, but is not continual as her daughter attends a primary school in Ross-on-Wye. Her nomadic way of life is confirmed by a Romany Member of the National Federation of Gypsy Liaison Officers and South Gloucestershire Council's Welfare

Liaison Officer (Ethnic Minority and Traveller Achievement Service). On the basis of the information provided, and in the absence of any contradictory details, it is considered that the applicant has not ceased to travel, but that it is intermittent to accommodate her daughter's educational needs. Consequently the applicant is a gypsy for the purposes of applying CS policy H4 and the provisions of PPTS. As such she meets the exception provided in CS policy RA3 to the normal limitation of development in rural areas, outside of settlements.

- 6.14 The second pitch is proposed to be occupied by the applicant's brother, who ethnically is also a Romany Gypsy. No information has been provided in respect of his nomadic lifestyle, but rather confidential medical details have been received explaining that he requires daily care and this is currently provided by his mother. His social worker has explained that this is unsustainable due to his mother's own health and that the applicant, who is already heavily involved in looking after him, proposes to take over his care. On this basis the applicant's brother is considered not to meet the definition of 'gypsies and travellers' in terms of applying the PPTS and policy H4 of the CS. Alternatively, the applicant's brother is considered to be a dependant relative and his occupation of the adjacent pitch to the applicant's is acceptable, provided that this is properly controlled.
- 6.15 When assessing the site's location it must be firstly acknowledged that CS policy RA3 permits the principle of gypsy and traveller sites outside of settlements and therefore accepts that compared to proposals within settlements accessibility to services and facilities will be reduced. Continuing criterion 1 of CS policy H4 requires sites to have 'reasonable access to services and facilities, including health and schools' further confirming that proposals for gypsy sites do not have to achieve the same degree of sustainability in locational terms as proposals for the settled community. This recognises the nomadic lifestyle of occupiers of such sites. The NPPF and the PPTS anticipate that traveller sites are likely to be located in rural and semi rural areas and that locally specified criteria should be used to guide determination of applications where there are no allocated sites in the Local Plan. Furthermore, the NPPF acknowledges that opportunities to maximise sustainable transport options vary between urban and rural areas.
- 6.16 The roads to Canon Pyon and Wellington do not have footways and are unlit. Journeys to Canon Pyon or to the bus stop would use the A road, with the associated fast travelling traffic, and this would be a significant deterrent to walkers. The lane to Wellington, whilst not as heavily trafficked as the 'A' road is used as a 'rat run' and does not have a double width carriageway. Consequently the route would be rather hostile to pedestrians and the distance of 2 kilometres to the village exceeds the desirable and acceptable distances for walking to access essential services as set out in Manual for Streets 2, but it does meet the maximum distance. Given the nature of the terrain it would facilitate cycling.
- 6.17 Taking this policy position into account it is considered that the site is within reasonable access of services and facilities, even if not accessible on foot. The facilities in Wellington could provide linked trips, thus reducing the number of journeys required. The site has two neighbouring dwellings and the provision of two pitches, is considered not to dominate these visually, due to the density proposed and the provision of landscaping, or in terms of infrastructure. The objections are noted regarding the potential for greater intensity of the use of the site for up to 6 families (one each in the statics, touring caravans and day rooms), however the provision of these on a pitch is standard to serve one family. The applicant has confirmed that one pitch is for herself and her dependants and the other for her dependant brother.
- 6.18 As stipulated in the NPPF the assessment of whether development is 'sustainable' requires a joint and simultaneous approach to all three roles, economic, social and environmental, because they are mutually dependent. A settled base would provide continuity in terms of accessing health and education and help to facilitate inclusive communities as advocated in

section 8 of the NPPF. Furthermore, the provision of two pitches will contribute to the Council's shortfall in sites.

- 6.19 In environmental terms the proposal would reuse an existing site, which currently has a neglected appearance. In terms of the history of the site it was noted in the Delegated Report in respect of application CW2007/3591/F that it has been used as a horticultural nursery for at least 25 years. Originally the nursery formed part of a larger planning unit comprising the application site plus the property known as 'Wellington Lane Cottage' located directly opposite. The PPTS advises that weight should be attached to the effective use of untidy or derelict land when considering sites for travellers (paragraph 26) and in general terms the effective use of previously developed land is a core planning principle of the NPPF. It should be noted that no evidence has been provided that in this case the applicant has deliberately neglected the site, but rather that the site has fallen into an abandoned state following the cessation of the previous use, by a different land owner. In addition to the effective use of an untidy site and the resulting visual improvement, the scheme incorporates native hedgerow, fruit and nut tree planting, which would enhance the site's biodiversity. This would accord with the NPPF objective to provide net gains in biodiversity where possible.
- 6.20 Taking all of these matters into account it is considered that the proposal comprises sustainable development and in principle is acceptable.

Highways

- 6.21 The two accesses have reduced visibility due to the road alignment and the position of roadside hedges. The applicant has cut back the section between the two accesses to improve visibility and the additional comments from the Transportation Manager confirm that in terms of the western access this is now acceptable. The proposal seeks to retain the hedgerow and provide a post and rail fence of 1.2 metres in height and fruit and nut tree planting behind. The Transportation Manager's comments are noted, however, when assessing the acceptability the previous use of the site as nursery, including customer sales, has to be borne in mind. As previously used, the eastern access served the customer carpark and the western the approved mobile home. Similarly the concerns about the safety of the junction of the C1109 and the A4110 are appreciated, but given the planning history of the site and the scale of the development proposed the scheme would generate less traffic. On this basis it is considered that the proposal cannot be refused on highway grounds alone as the residual harm is not considered to be severe. The hedgerow can be conditioned to be maintained behind an agreed line to retain the visibility achieved when it is cut back and the position of any new gates can be reasonably controlled by condition to ensure that there is sufficient space for vehicles to pull off the lane whilst accessing the site.

Drainage

- 6.22 Foul drainage is to be disposed of via the existing septic tank on site. The applicant has advised that it appears to be in satisfactory condition, but has not been used for some time. It has a capacity of 2,000 gallons, which would be sufficient for the two pitches. If planning permission is granted for the two pitches, a Site Licence would be required and satisfactory foul drainage arrangements would be needed. The NPPG advises against duplication of control, so in this instance a condition is unnecessary.
- 6.23 Concerns regarding flooding have been made, substantiated with photographic evidence of the lane being flooded. The site is in Flood Zone 1 (low probability), described in the NPPF as all areas outside of Flood Zones 2 and 3. A flood risk assessment is not required for developments in Flood Zone 1, unless the site exceeds 1 hectare, and the Technical Guidance to the NPPF states that the overall aim is to direct new development to Flood Zone 1. In terms of flood risk vulnerability and development compatibility all uses are considered to be

acceptable, including those classed as highly vulnerable such as caravans, mobile homes and park homes intended for permanent occupation.

- 6.24 The site already has areas of unmetalled hard standing originating from its previous use as a nursery. The proposal incorporates a large grassed area and planting which will be likely to improve the permeability of the site for surface water drainage.

Living Conditions

- 6.25 The NPPF (core planning principle) and CS policy SD1 require proposals to achieve satisfactory living conditions for existing and future occupiers of developments. In relation to this application this requires consideration of the impact on the existing settled community in the vicinity, specifically two detached dwellings adjacent and opposite the site known as 'The Butridge' and 'Wellington Lane Cottage' respectively. The proposed caravans and day rooms would be located towards the rear of the site and would all be single storey. Other than the retention of the existing shed and the siting of a touring caravan the development would be set back from the eastern boundary with 'The Butridge'. Supplementary planting is proposed along this boundary and there are conifers on the neighbour's side of the boundary. There is no reason to suggest that the proposed use of the site would generate unexpected noise. The scheme does not include a work element, as some traveller sites do. In light of these factors it is considered that the proposal would not materially impact on the living conditions of the neighbouring properties.
- 6.26 The inclusion of a dayroom has been challenged by objectors, as it comprises a permanent building unlike the other accommodation proposed. Whilst the DCLG Guidance for designing gypsy and traveller sites has been withdrawn by the Government, in the absence of superseding guidance it offers a basis for assessing the provisions proposed. The inclusion of a dayroom, providing facilities such as a separate bathroom and kitchen/facilities are an accepted part of pitches and have been allowed on other sites in the County subsequently to the grant of permission for use of the site for gypsy and traveller's pitches. This scheme seeks permission for all requirements at the initial stage and given the precedent of granting permission for day rooms on other such sites in the county their inclusion in the scheme is considered to be acceptable.

Conclusion

- 6.27 In terms of the overriding principle of the NPPF, to achieve sustainable development, it is considered that the proposal would provide significant social benefits through the delivery of a private Gypsy/Traveller site, which due to its size relative to the local settled community would enable and promote the facilitation of social interaction and creation of a healthy, inclusive community. Turning to the environmental dimension of sustainable development it is considered that due to the size of the site, the density and scale of the proposal, alongside the reuse of this neglected site, improvements to biodiversity and its overall appearance the scheme would not have a materially adverse impact upon the landscape.
- 6.28 Having regard to the requirements of the CS, together with the aims of the NPPF and the PPTS, and giving significant weight to the Council's shortfall in the provision of Gypsy and Traveller sites (as required by the PPTS paragraph 27), the site's location within reasonable distance of services and facilities and the lack of demonstrable harm to the landscape or amenities of the area, it is considered that the proposal is acceptable, subject to conditions.
- 6.29 The site is considered to be acceptable to accommodate two pitches for gypsies and the occupation should be restricted to the definition for gypsies and travellers set out in Appendix 1 to the PPTS. There is no requirement to limit the occupation solely to the applicant, by way of a personal permission, because in light of the shortfall in deliverable sites the applicant's personal circumstances have not been a determining factor when undertaking the balancing

exercise. The situation is somewhat complicated by the proposed use of the second pitch by the applicant's brother, who whilst ethnically a gypsy is not considered to meet the revised definition of gypsies and traveller for planning purposes, as set out in the PPTS, because no evidence has been provided to demonstrate that his cessation of travel has been temporary. On this basis, as he is considered to be a dependant relative a condition is considered to be reasonable, necessary and relevant to planning to limit his occupation of the site to coincide with the applicant's only. Bearing in mind the ongoing uncertainty of the likelihood of the unmet need for gypsy and traveller sites being met it would be unreasonable to grant a temporary permission.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. C08 – Development in accordance with the amended plans**
- Prior to the construction of the day rooms details (or samples) of the materials and finishes to be used externally on walls and roofs shall be submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details**

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 4. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites.**

Reason: To accord with the requirements of Policies RA3 and H4 of the Herefordshire Local Plan – Core Strategy and the Planning Policy for Traveller Sites (DCLG – August 2015).

- 5. No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 2 shall be a static caravan) shall be stationed on the site at any time.**

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 6. Any material change to the position of the static caravan, or its replacement by another caravan in a different location, shall only take place in accordance with details submitted to and approved in writing by the local planning authority.**

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 7. No commercial activities shall take place on the land, including the storage of materials.**

Reason: In order to safeguard the character and amenity of the area, and the living conditions of neighbouring properties, in accordance with policy SD1 of the Herefordshire Local Plan – Core Strategy and the requirements of the National Planning Policy Framework.

- 8.** The applicant's brother, William (known as Billy) Jones shall only occupy a pitch on the site as a dependant of the applicant.

Reason: It would be contrary to Policy RA3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework to grant planning permission for accommodation in this location except to meet these specific personal circumstances where Mr William (known as Billy) Jones is a dependant relative of a gypsy.

- 9.** The landscaping shown on drawing TJ15-BLOCK revision A and as described in the Rushton Planning letter dated 9.4.2015 shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period. The hard landscaping shall be completed prior to the first occupation of the development hereby permitted.

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 10.** Details of any external lighting proposed shall be submitted to and approved in writing by the local planning authority before the use hereby permitted commences. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.

Reason: To safeguard local amenities and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 11.** Any new access gates/doors shall be set back 5 metres from the adjoining carriageway edge and shall be made to open inwards only.

Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 12.** Prior to the first occupation of either of the pitches hereby approved details of the cutting back of the roadside hedgerow (as shown on a block plan drawn to a recognised metric scale) shall be submitted to, approved in writing by the Local Planning Authority and implemented. Thereafter the hedgerow shall be maintained so that it does not encroach on the line approved.

Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

Informatives:

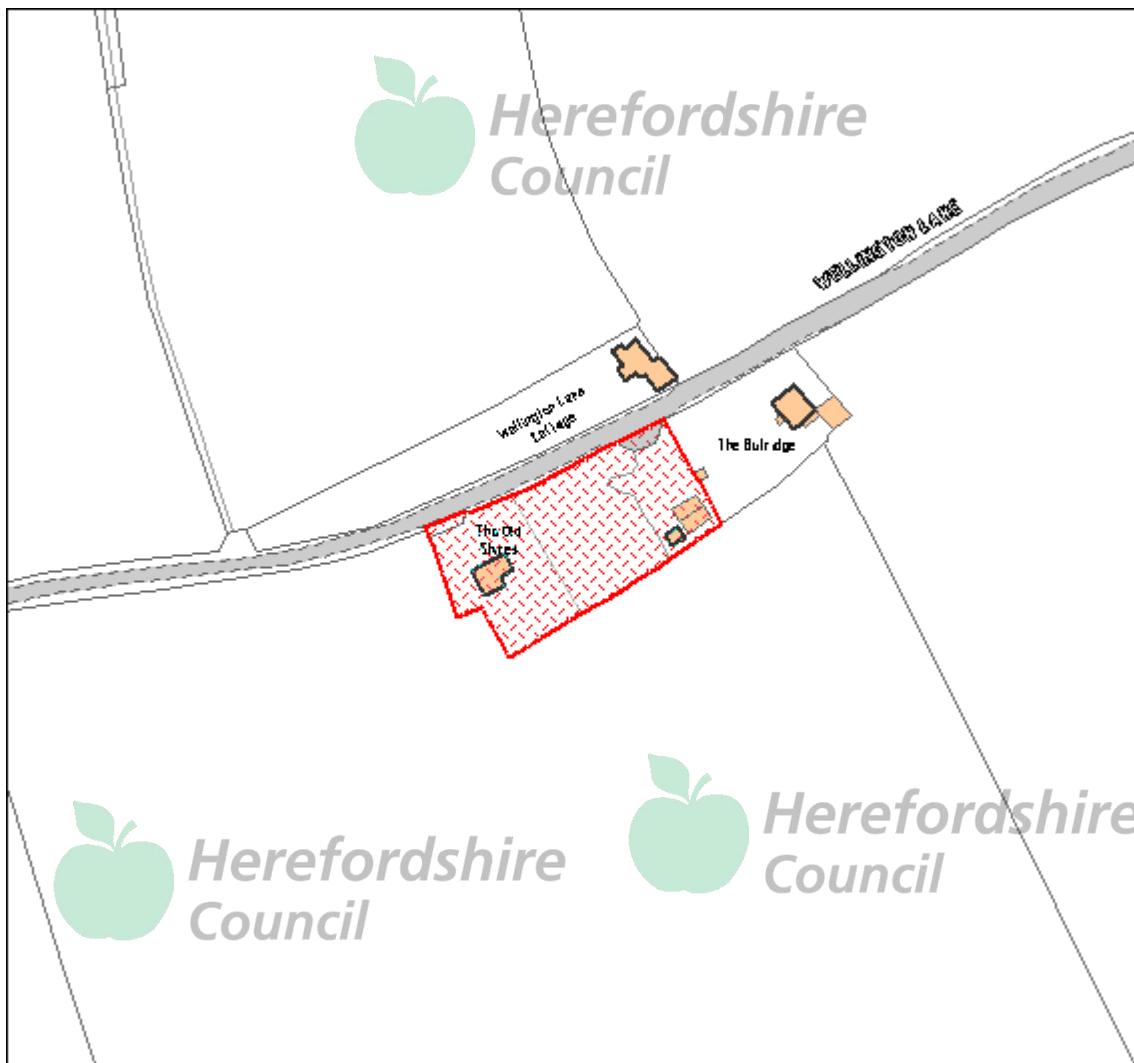
1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. The development may mean that non mains drinking water is necessary for the scheme. All new non-mains water supplies must be wholesome and comply with the standards set out in the Private Water Supplies Regulations 2009. Shared and commercial private water supplies must be risk assessed and sampled by the Environmental Health and Trading Standards Division in accordance with the Regulations.
3. The proposed caravan site may require a site licence issued by the Licensing section of the Council's Environmental Health and Trading Standards Division.

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 151110

SITE ADDRESS : THREE SHIRES NURSERIES, CANON PYON, HEREFORD, HEREFORDSHIRE, HR4 8NL

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