

24/14/0054

MR P RICHARDS

CHANGE OF USE OF LAND TO 1 No ROMANI GYPSY PITCH TO SITE 1 No MOBILE HOME, 1 NO TOURING CARAVAN, ERECTION OF DAY ROOM, INSTALLATION OF SEPTIC TANK, HARDSTANDING AND ASSOCIATED WORKS AT PITCH 16, OXEN LANE, GREENACRES, NORTH CURRY

Location: PITCH 16, THE CARAVAN PARK, OXEN LANE, NORTH CURRY,
TAUNTON, TA3 6NE

Grid Reference: 331425.124469

Full Planning Permission

RECOMMENDATION AND REASON(S)

Recommended Decision: Refusal

- 1 The proposal would establish a precedent which would encourage applications for further pitches on the remainder of the field and/or a resumption of unlawful occupation on the remainder of the field. With a grant of planning permission for the proposal it would be difficult to resist such applications and/or to take enforcement action against such unlawful occupation. Cumulatively the proposal and the residential use of other pitches on the field would cause substantial harm to (i) highway safety by reason of the increased use of the substandard junction between Oxen Lane and Greenway; (ii) landscape character and (iii) the residential amenity of occupants of 6 Oxen Lane. The proposal would therefore be contrary to the Planning Policy for Traveller Sites and the Taunton Deane Core Strategy policies CP6, CP8, DM1 and DM3.
- 2 The proposal is in open countryside away from a settlement. Paragraph 23 of the PPTS requires that the development of new gypsy sites in such locations should be 'strictly limited'. There are no reasons to relax this limitation in the present case.

RECOMMENDED CONDITION(S) (if applicable)

Notes to Applicant

PROPOSAL

The proposal is for the change of use of land to provide a pitch measuring approximately 60m x 30m for a traveller family and includes the access drive from

the highway into the pitch. The pitch would be located in the north eastern corner of a field of approx. 2.26 ha. The field is elevated approximately 1 - 2 m above the adjacent lane. The pitch would be accessed off Oxen Lane via an existing agricultural access with a new stone drive from the highway to the pitch entrance. Sited on the pitch would be a mobile home, a touring caravan and a dayroom. The dayroom would measure 5m x 6m and 4m high. It would be constructed of brick walls and a clay tile roof. A septic tank would be installed in the north eastern corner of the site. The applicant proposes to erect a close boarded 1.8m high fence around the western boundary of the pitch and to plant additional landscaping along the hedge and roadside boundary.

SITE DESCRIPTION

The application site comprises an area of approximately 0.2 ha in the eastern corner of a field lying to the south of Oxen Lane. The field rises from east to west. It lies in open countryside and is approximately 400m from the settlement limit of North Curry at the Village Hall and approximately 260m from the settlement limit at Greenway. Agricultural fields surround it. A row of semi-detached dwellings are located to the north west of the field. There are established hedgerows on the boundary with Oxen Lane (except at the point of access) and a fence and hedge along the eastern boundary. There is an existing agricultural access in the northeast corner of the site and a sloping access way from Oxen Lane up into the field. Oxen Lane is an unlit single-track lane. Oxen Lane joins the main roads going eastwards into North Curry at Borough Post to the north and Greenway to the south.

The site is within an area of low vale countryside considered to be of value and identified as the Sandstone Ridge (low vale character) within the Landscape Character Assessment of Taunton Deane and can be seen from the wooded escarpment (North Curry Ridge) character area to the south.

SITE HISTORY

The site has a long planning history, including three public inquiries. The first was determined by the Secretary of State, the others by Inspectors. In this report I refer to the first Inspector's report, the Secretary of State's decision letter and the second and third Inspector's decision letters.

Over a weekend in October 2004 a hardcore access from Oxen Lane and a central roadway running the full length of the field were laid. The field was then subdivided by fencing into 16 pitches and caravans were sited on all pitches. The following week an application was made for 16 pitches. This was refused and an enforcement notice was served. 17 appeals against the enforcement notice and a s78 appeal were the subject of the first inquiry. The inquiry considered the implications of the use of all 16 pitches even though not all pitches were utilised at the time the enforcement notice was served. The appeals were dismissed by the Secretary of State on 26 September 2005.

The main conclusions reached by the Secretary of State were:

- The impact on 6 Oxen Lane from the development enforced against was severe and the proposed addition of further mobile homes would add to this. The

amenities of number 6 had been reduced to a level far below that which ought reasonably to be expected. Mitigation by planting would have an undesirable effect.

- The development enforced against constituted a major encroachment into the countryside. Even with landscaping it would remain conspicuous from across the valley.
- Access to schools and community facilities was not 'safe and convenient' as required by the local plan.
- The development breached H14(B) and (C) of the local plan and local and national policies which sought to protect the character of the countryside.
- Visibility at the junction of Oxen Lane and Greenway fell well short of the required 60m. The conditions were so substandard that there was a material highway objection.
- The six monthly counts of gypsy caravans presented a reliable picture of the situation in Taunton Deane.
- The Council had failed to carry out a quantitative assessment when preparing the local plan. The local plan did not make allocations of land for gypsy sites as it should have. The failings in the local plan weighed in favour of the grant of planning permission, despite the fact that the Council had a good record of site provision.
- There was a need for further sites in Taunton Deane but this was difficult to quantify.
- There was no substantive case that all the occupants needed to be accommodated on the same site.
- A number of children at school exhibited typical educational problems associated with their past lifestyle and the previous lack of a settled base. If the occupants had to leave the children would be likely to lose continuity of education and so would suffer a major disruption. This would also affect children not yet of school age.
- The stability of the residential base provided by the land brought benefits to the occupants in terms of health care
- The personal circumstances of the occupants were a material consideration which lent support to the case for planning permission
- It was likely that the occupants would be on the roadside if they had to leave the field.
- It would not be appropriate to grant a temporary planning permission, given the serious planning objections to the development.
- In the absence of alternative sites for the occupants, dismissal of the appeals would involve a serious interference with their human rights. However the objections to the development were serious ones which could not be overcome by conditions. The public interest could only be safeguarded by the refusal of

planning permission.

- Given the acknowledged difficulties of finding an alternative site and the review of gypsy accommodation needs under way at the time, the compliance period in the enforcement notice should be extended to 12 months.

In 2006 the Council received separate applications for each of four pitches at the lower, eastern end of the field (applications 24/06/047, 048, 049, 043). These were all refused and appealed. The second Inspector dismissed all the appeals by decision letter dated 3 June 2008.

The second Inspector concluded that, while any one of the pitches before him would not cause harm to residential amenity, the landscape or highway safety, if any was permitted it would be impossible to refuse the other appeals. It would also be impossible for the Council to resist other applications for pitches in the field. The Inspector found that the effect of the development of four pitches would have an unacceptable impact on highway safety and the landscape.

The concern about precedent was the sole basis for his decision. The decision was challenged in the High Court and the challenge failed.

The relevant paragraphs of the decision letter are –

- 38 – no highway justification for refusing 1 pitch; 4 pitches would be harmful;
- 43 – field is accessible to local services despite lack of footpaths on roads into the village;
- 54 – no landscape objection to 1 pitch; 4 pitches would be harmful;
- 63 – 4 pitches would not harm residential amenity;
- 64-71, 97 – precedent effect of allowing 1 pitch;
- 102 – case for temporary planning permission outweighed by concern about precedent effect.

Application 24/08/0002 was for retrospective planning permission for use of a pitch at the highest part of the field. Permission was refused on 27 May 2008. An appeal was dismissed following a third inquiry on 27th March 2009.

The Council did not raise an objection based on lack of footpaths on roads into the village (paragraph 4).

The Inspector considered that a single pitch would not have a harmful impact on highway safety (paragraph 29).

The Inspector considered that to grant permission for the appeal site would have a precedent effect (paragraphs 17, 30), but his comments on this are of limited relevance to the present application since the site before him was in the most sensitive and harmful part of the field. If development were allowed there it would obviously be difficult to resist development on the less sensitive parts of the field.

Following the third inquiry the Council obtained an injunction which led to the departure of all occupants from the field.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

NORTH CURRY PARISH COUNCIL -There have been numerous applications for gypsy pitches on the Oxen Lane field/site — all were refused, even when in relation to only 1 site.

There have been 3 appeals relating to this site — all ruled against the granting of permission.

There has been a High Court Hearing — as a result of which an Injunction was placed on the field/site preventing “caravans, mobile homes or other residential accommodation and structure” being stationed on the field/site. When considering the appeals concerns raised by the Inquiry Inspector focused particularly on, amongst other things:

- a. Effect on highway safety, particularly at the Oxen Lane / Greenway junction;
- b. The effect on the landscape;
- c. Multiple sites would be harmful to residential amenity;
- d. That allowing one or more of the appeals would make it difficult to resist further permissions on adjoining plots and the consequential cumulative impact of any such development would be unacceptable.

North Curry has a good record of provision for traveller sites, TDBC figures suggest that in January 2014 there were 58 gypsy/traveller caravans and 33 associated structures (day rooms or sheds) in the parish of North Curry compared with only 88 and 25 respectively in all the 49 other parishes in Taunton Deane put together. Previous reasons for refusals relating to this plot of land have not changed and this application should be refused on those grounds.

History of the Oxen Lane site and reasons for refusal

Greenacres is an open agricultural field off Oxen Lane which, in October 2004, was occupied WITHOUT PLANNING PERMISSION and divided into 16 plots for gypsy occupation.

Following an Inquiry in June 2005, the First Secretary of State dismissed appeals for these 16 plots. The main objections concerned the residential amenity of occupiers of 6 Oxen Lane, the impact on the landscape and highway safety (at the junction of Oxen Lane and Greenway).

Application 24/2006/048 dated 22/09/06 proposed the change of use of plot 16 Greenacres for gypsy occupation for one family in 1 mobile home plus 1 touring caravan and 1 day room. The application was refused by Taunton Deane Borough Council - notice dated March 2007. A subsequent appeal against this refusal (and refusals relating to 3 other plots) was made (APP/D3315/A/07/2043393). The appeal was dismissed (decision of add June 2008). The Parish Council notes the following from the Inspector’s decision (paragraph refs. relate to that report):

When considering this appeal concerns raised by the Inquiry Inspector focused

particularly on, amongst other things:

- a. The effect on highway safety;
- b. The effect on the landscape;
- c. Whether allowing one or more of the appeals (4 were made at the same time) would make it difficult to resist further permissions on adjoining plots and the consequential cumulative impact of any such development;

Highway safety:

“The previous Inspector [i.e. of the initial 2005 inquiry] identified the poor visibility at the junction of Oxen Lane with Greenway as a well founded highway objection and this was accepted by the First Secretary of State.” (para. 25) The inspector of the second inquiry said that “the limited visibility makes the junction unsafe” (para. 31) and the junction had “substantially inadequate visibility” (para 35). With reference to the junction of Oxen Lane & Greenway he went on to say: “when the cumulative impact of all the appeals is taken into account there would be a material, albeit modest increase in traffic through a dangerous junction resulting in a material highway objection and conflict with SP policy 49 and LP policy SI (A). I consider that the visibility at the junction is so poor that there is a strong public benefit in avoiding any increased use.” (para. 38) He also said: “the adverse impact on highway safety from the cumulative impact of 3 or more plots would be significant”. (para 39) Also see ref. to para. 65 under “Precedent” below. The junction of Oxen Lane and Windmill Hill was also noted as “not meeting recommended visibility standards to the west” (para. 25).

In the 2005 decision, the Secretary of State also concluded that the lack of footpaths along Oxen Lane and Greenway meant that access to local community facilities “could not be described as safe and convenient”. (para. 43).

Landscape:

The first Inspector (2005) had considered “the 16 plot encampment at Greenacres had reduced the visual amenities of 6 Oxen Lane to a level far below that which might reasonably be expected. This conclusion was accepted by the Secretary of State.” (para. 55) The Inspector of the second appeal stated that “if the majority of plots were so occupied, I consider that the overall effect would be a material intrusion into the rural landscape, noticeable and harmful in these views across the valley” (para. 50).

Both Inspectors and the Secretary of State agreed that “16 plots were substantially harmful to residential amenity”. Also see para. 66 under Precedent below. The Inspector of the third appeal relating to the use of plot one only also stated that by itself, the continued use of plot No. 1 as a gypsy site would be harmful to the rural landscape” and “. . . the appeal proposal would be damaging to the character and appearance of the area” (para. 18 of appeal decision ref. APP/D3315/A/08/2076325 dated 20/04/09).

Precedent and cumulative impact:

“The Secretary of State clearly found that a proposal for 16 plots was unsatisfactory because of the highway dangers created at the Oxen

Lane/Greenway junction and I have found that it remains a dangerous junction at which a material increase in traffic should be avoided. Allowing any one of these appeals would make it very difficult for the Council to resist on highway grounds any further individual applications for family occupation on other plots at Greenacres.” (para. 65)

I have identified landscape harm from the cumulative impact of the 4 appeal plots, but the additional landscape harm from any one additional plot would be marginal, making it hard for the Council to resist further applications on individual plots even though, over time, the landscape impact of a number of such developments would be seriously harmful .“(para. 66) “I have no reason to disagree with the assessment made by the previous Inspector and First Secretary of State that 16 plots were substantially harmful to residential amenity.” (para. 67)

At the time the inspector said: “Given the general shortage of gypsy sites in the region, many gypsy families would like to secure a residential pitch at Greenacres if there was any prospect of doing so. There is little to distinguish between the planning merits of different plots at Greenacres, other than the proximity of 6 Oxen Lane” (Para 68). He went on to say “In the above circumstances, allowing any of the appeals on a permanent basis would be highly likely to result in applications for residential occupation of other plots which it would be difficult for the Council to resist (when considered only individually) on highway or landscape grounds. But the greater the number of plots that are occupied the greater would be the cumulative harm to highway safety and the landscape. In my view, this is a situation where the precedent effect of an appeal decision and the cumulative consequences weigh significantly against allowing any of the appeals, particularly as the Secretary of State concluded that occupation of 16 plots at Greenacres was unacceptable.” (para. 69)

The Inspector concluded in para. 97 that “allowing any one plot would create a strong precedent for allowing the other appeals and make it very difficult for the Council to resist applications on the other 12 plots at Greenacres. For the reasons already given, I consider that this precedent effect and the cumulative harm that would arise, weigh considerably against allowing any of the appeals” and at para. 100 “I consider that the factors that weigh in favour of these appeals individually and collectively, do not outweigh the harm that I have identified in relation to highway safety, landscape, precedent and cumulative impact and therefore permanent planning permissions are not justified”.

Third Public Inquiry - A further application for use of plot 1 24/2008/002 was turned down and went to appeal. The appeal upheld the refusal, again considering that “the granting of planning permission would give rise to the real prospect of proposals for residential occupation of other plots, which the Council could find difficult to resist. Such further development would not only exacerbate the damaging impact on the character and appearance of the area and living conditions arising from the continued use of plot No. 1, but would also result in a significant impact on the sub-standard Oxen Lane/Greenway junction to the detriment of highway safety.” (Taken from para. 42 of Appeal Decision dated 20 April 2009)

Conclusion:

There have been numerous applications for pitches on this field/site — all were refused, even when in relation to only 1 pitch. There have been 3 appeal Inquiries relating to this site — all ruled against the granting of permission. There has been a High Court Hearing — as a result of which an Injunction was placed on the field/site preventing any future residence there. The situation is unchanged and this application should be turned down on the grounds referred to in the decisions of three previous Planning Inspectors and on the basis of the injunction.

SCC - TRANSPORT DEVELOPMENT GROUP - The proposal relates to the change of use of the site to a gypsy pitch.

From reviewing our files it appears that this site has had a complex planning history. The original application was first dealt with in 2004. This was followed by further applications in 2007 & 2008 which subsequently led to an appeal which was subsequently dismissed. Whilst reviewing the inspector's decision it was noted that the council accepted that it would be difficult to sustain a highway objection against a single plot. However the appeal decision related to four individual appeals on this site and therefore the cumulative impact was considered to be material increase in traffic on the junction of Oxen Lane and Greenway.

The Highway Authority takes on board the comments raised by the inspector's report. However it is our opinion that although the principle of single plot was considered acceptable at the time of the appeal there would be concerns that by allowing a single plot it would set a precedent and would therefore make it harder to raise any objections to any subsequent applications. Therefore the Highway Authority will not accept the point that the principle of one site is acceptable.

National Planning Policy for Traveller Sites Policy H paragraph 21 states that applications should be assessed and determined in accordance with the presumption in favour of sustainable development. Policy DM3 of the Taunton Deane Core Strategy states that, among other things, that development which it won't be permitted if it results in an unacceptable impact on traffic movements, noise and other potential disturbance arising out of the movements of vehicle on and off of the site.

The site is located on the southern side of Oxen Lane, which is designated as an unclassified highway. The width of varies from 2.7m to 4.2m but is generally single width for its entire length. From visiting the site it was observed that there are few passing places along the lane with high hedges on either side of the carriageway along the majority of its length. Oxen Lane joins Windmill Hill at its Western end. Oxen Lane is not within the 30mph speed limit although the junctions with Windmill Hill and Greenway are. During the previous appeal the inspector accepted that there was a minimum highway safety impact on the junction with Windmill Hill. However the main concern is the junction of Oxen Lane with Greenway where visibility is limited. The previous inspector stated as part of the appeal decision that he had accepted that Manual for Streets does allow for an 'X' distance 2.0m on lightly trafficked roads. But this would result in vehicles protruding into the running carriageway for the driver to have an adequate view of approaching traffic.

The Inspector considered that a 'X' distance of 2.4m should be used because in their opinion Greenway is not a very lightly trafficked or low speed road. It should also be noted that forward visibility along Greenway, at the time of the appeal was

considered to be acceptable, so a protruding vehicle could be seen however the road is not wide enough for an approaching vehicle to safely move away from the edge of the road if another vehicle is approaching in the opposite direction.

Turning to the 'Y' distance guidance in Manual for Streets indicates that this can be measured to the centreline if there is a physical feature that prohibits a vehicle crossing the centreline. The junction with Oxen Lane and the approach from Greenway does not have any such physical obstruction. Furthermore Greenway is narrow so a vehicle having to overtake a parked car would be over on the other side of the carriageway. Therefore in the interests of highway safety the Inspector considered that the 'Y' distance should be measured along the near side carriageway edge. Although it should be worth noting that even measuring to the centre still wouldn't provide visibility close to the required standard.

During the appeal site visit the following 'Y' distances were recorded based on a 'X' distance of 2.4m. The recorded distances were 17.5m to the left and 20.0m to the right. These fell well short of the required splays, which had been agreed by the inspector. Consequently the junction is considered to be sub-standard due to insufficient visibility in either direction.

In terms of traffic generation TRICS data sets show that the average dwelling will generate up to 6-8 movements per day. There are currently six residential units which have access onto Oxen Lane as a consequence the additional traffic generated by the proposed development would result in an increase in traffic and in conjunction with the use of the substandard junction would cause highway safety concerns over this increase in traffic. Furthermore Oxen Lane does not have any footway facilities or any street lighting whilst there are little or no pedestrian refuges along its length. Similarly there are no footways or street lighting on Windmill Hill and Greenway. As a consequence pedestrian access to community facilities cannot be deemed to be safe and convenient and therefore is contrary to Policy CP6 of the Taunton Deane Core Strategy.

During the previous appeal the issue of pedestrian access was raised and the applicant referred to Department of Transport Circular 02/2006 The Quiet Lanes and Home Zones (England) Regulations 2006 which demonstrated a change in thinking for walking and country lanes like Oxen Lane and Greenway. At the time of the appeal the Highway Authority accepted that the roads in question met the requirements specified in paragraph 7 as there are no more than 1000 vehicles per day and the 85th percentile speeds are below 35mph. However Paragraph 4 states that there are 3 key elements to a quiet lane:

- Community involvement to encourage change in user behaviour;
- Area wide direction signing to discourage traffic; and
- Quiet Lane entry and exit signs as a signal to drivers.

Since the last appeal this Circular has now been archived by the Department for Transport although the principles are still retained under The Quiet Lanes and Home Zones (England) Regulations 2006. However it is the Highway Authority's opinion that this can no longer be used to promote pedestrians walking on country lanes like Oxen Lane and Greenway.

The suitability of the distances from the application site to the community facilities

in the centre of North Curry is a matter for the Local Planning Authority to consider. But it should be noted that it would require pedestrians to walk a considerable distance on a highway which does not have the benefit of street lighting or a footway.

Therefore taking into account the above information the Highway Authority raises objections to this application for the following reasons.

- The proposal is contrary to Policy CP6 and Policy DM3 of the Taunton Deane Borough Council Adopted Core Strategy 2011-2028 since the increase in the use made of the sub-standard junction of Oxen Lane with Greenway such as would be generated by the proposed development, would be prejudicial to highway safety.
- The proposal is contrary to Policy CP6 of the Taunton Deane Borough Council Adopted Core Strategy 2011-2028 as Oxen Lane, Greenway and Windmill Hill by reason of their lack of any footway provision are therefore considered to be unsuitable to serve as a means of access to the proposed development.

LANDSCAPE - The visual impact of this development on plot 16, will not be great, as the development of one plot will be less noticeable from viewpoints around the site. However I am concerned that a precedent could be set and applications for further plots may be made. The Cumulative impact of further plots in this field, especially those located on the higher ground, would have greater potential to harm views across the valley.

The present proposal with units, day room, proposed close boarded fencing and large area of hard surfacing will impact the immediate landscape character of this rural field and country lane. The road side hedge is elm and so has limited value as a future landscape screen and so more planting than illustrated would be required to screen the development from public the road.

WESSEX WATER - The applicant has indicated they are to install a septic tank.

Water Supply and Waste Connections

If new water supply and waste water connections are required from Wessex water to serve this proposed development, application forms and guidance information is available from the Developer Services web-pages at our website www.wessexwater.co.uk.

Please note that DEFRA intend to implement new regulations that will require the adoption of all new private sewers. All connections subject to these new regulations will require a signed adoption agreement with Wessex Water before any drainage works commence.

Further information can be obtained from our New Connections Team by telephoning 01225 526222 for Water Supply and 01225 526333 for Waste Water.

Protection of Existing Assets

A public sewer is shown on record plans within the land identified for the proposed

development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Wessex Water Sewer Protection Team for further advice on this matter.

Building over existing public sewers will not be permitted (without agreement) from Wessex Water under Building Regulations.

Building Near to a Public Sewer

No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Wessex Water. Please contact our Sewer Protection Team to discuss further.

DRAINAGE ENGINEER -Soakaways should conform to Building Research Digest 365(sept 1991) and be a condition of any permission.

Regarding foul drainage, I note that the applicant proposes a septic tank although a public sewer passes the site. It is recommended that foul flows should be discharged via the public sewer.

SCC - DEVELOPMENT CONTROL ARCHAEOLOGIST - As far as we are aware there are limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds.

Representations

81 letters/emails of representation have been received raising the following objections to the proposal:

- There has been no material change of circumstances since the refusal of previous applications and 3 dismissed appeal decisions
- The suitability of the use of this site for occupation by traveller families has been tested recently on appeal and has resulted in a number of appeal dismissals and a high court injunction prohibiting such a use in the future
- As the field is in many separate ownerships it is not possible to place conditions restricting the use of the adjoining land on this pitch and its use would be likely to result in further applications which would then be hard to resist.
- I appreciate that there has not, in this case, been illegal occupation of this site but the site is still not suitable for such development.
- Land suitable for residential development has been identified within North Curry Parish and land elsewhere should be rejected as it is unsuitable
- The site lies in open countryside, outside of the village envelope and its development would not be in accordance with the Taunton Deane development policies / development plan.
- Recent consultation on development of future housing provision for North Curry has excluded this site reinforcing the fact that any form of such development would be inappropriate
- An application for a new permanent dwelling in this location would certainly be refused
- Regardless of a gypsy site or not this site lies outside the village envelope and is inappropriate for development based on highway and landscape issues.
- Oxen Lane is unsuitable for residential development
- The development is out of keeping with the surrounding area

- Detrimental to the agricultural nature of the area
- Allowing residential use on green fields outside of the village envelope would set a precedent for residential permissions elsewhere
- Granting permission would result in a precedent for the remainder of the field which would be likely to resulting in 16 sites, as previously, and this would magnify compound the problems associated with this development.
- The North Curry area already has its fair share of traveller sites.
- The residents of the existing traveller sites in the area are well integrated into the local community and I consider this to be a good example of local provision. Additional traveller sites would be likely to upset this balance especially if allowing this plot set a precedent for the full 16 pitches.
- In 2004 the appeal Inspector stated that there was already an imbalance on illegal pitches in the North Curry area
- The original planning application was submitted after illegal occupation and was refused on valid planning grounds in December 2004. This was supported on appeal by the Secretary of State in 2005. In 2008 the matter went to public enquiry and was again dismissed. Nothing has changed since that decision and the application should be refused.
- The application states that land adjacent to village boundaries is prohibitively expensive, to put this in context- there is an acute shortage of affordable housing and many people in the settled community are unable to afford to buy houses. In this respect Travellers and Gypsies are the same as the settled community and both should have fair and equal treatment.
- The proposal would be contrary to Taunton Deane Core Strategy CP6, CP7 and CP8
- The impact of the previous illegal occupation on local residents (for 6 years) was cited as a reason for the refusal of past applications and it is considered that any similar occupation would be likely to have a massive and negative impact on amenity yet again (for 1 or 16 pitches)
- The noise and general disturbance resulting from the occupation of this site (and, considering the precedent argument, potentially the whole site) would have a detrimental impact on the amenity of existing residents in Oxen Lane
- Development of this site would be likely to have a detrimental impact on the residential amenity of existing residents
- The residents would place additional pressure on existing over stretched medical centre and primary school.
- This proposal would be immediately adjacent (20 ft) to an existing holiday campsite and its occupation by gypsies would have a detrimental impact on the investment of that business (as proven before when the site was illegally occupied and the business had a significant reduction in visitors).
- This development would destroy the adjacent camp site business which has been built up over 27 years.
- Whilst gypsies are transient by nature and happy to move around, neighbouring residents are sedantry and the impact of any such occupation on amenity and businesses will be more permanent in nature causing far greater harm.
- The previous occupation of the site led to a substantial amount of litter in Oxen lane and the surrounding area and I would not wish to see this repeated.
- The development of this agricultural field for residential purposes would be out of keeping with the rural character of the area
- The change of use of the site for a mobile home and day room would be out of character with the agricultural setting and would spoil the natural valley
- The proposed development will have a detrimental impact on the rural views from

neighbouring properties

- The position of the site, at the top of a hill will make it highly visible and detrimental to the landscape
- A permission would set a precedent for the remainder of the field and the cumulative impact on the landscape would be disastrous
- Detrimental impact on the landscape of the area
- The site is visible from the North Curry Ridge and local footpaths
- A the siting of a caravan and dayroom on the site would be visible from Oxen Lane and from the A378
- The site is in a special landscape area and should be left as it is
- Oxen Lane is narrow and its junctions with Greenway and Windmill Hill have poor visibility resulting in a danger to highway safety
- The junction of Oxen Lane and Windmill hill is effectively a blind corner, which makes the junction unsafe for even modest additional traffic which would be likely to result from this proposal.
- Oxen Lane is narrow and the manoeuvring of large vehicles on a regular basis presents clear safety problems
- The use of the access will result in a hazard to highway safety both vehicular and pedestrians using Oxen Lane.
- The highway links to the village services are via unlit country lanes with no footpaths for much of the route and this is neither a safe nor convenient route.
- There is a High Court Injunction prohibiting the use of the land for siting of caravans or residential purposes
- There is no obvious site notice to inform the public of the application
- The application suggests that the passage of time has reduced the validity of the previous appeal decisions and that the current application should be determined on its merits however I believe that the objections are equally valid today and the application should be refused.
- Whilst the landscape harm of one pitch might be marginal permission would make it harder for the Council to refuse subsequent applications which would be significantly harmful to the surrounding rural landscape
- The application quotes a Dilton Marsh appeal as a precedent for permission on this site however the two sites are very different as exemplified in the Inspectors report for Dilton – “ due to the confined location between the road, the bridleway and the railway, its development as proposed would encroach only to a negligible degree into the countryside”(para 10 Inspector's report); “overall I conclude that the proposal would not harm highway safety” (para16 Inspector’s report) whereas the Oxen Lane appeal decisions cited both highway safety grounds and impact on the surrounding landscape as reasons for the dismissal .
- The previous illegal occupation applications and appeals on this site has given rise to a considerable cost to taxpayers on two counts :- a) Controlling the unauthorized use , visits by enforcement personnel etc b) legal and planning work to deal with appeals and direct action to clear the site. The illegal occupation also resulted in potentially dangerous situations with horses running loose on the highway as an example.
- The proposal is contrary to the requirements of Manual for Streets.
- The previous illegal occupation of this site had a severe impact on local residents and businesses causing havoc and distress to the existing community which is unlikely to be forgotten or ignored in the future.

Councillor Phil Stone

Applications have been refused three times in the past and dismissed on appeal. There has been no change in circumstances since those decisions to make the site suitable for such development. The site lies in open countryside a long way outside of the settlement boundary of North Curry. It has poor access for vehicles and pedestrians. Mobile homes would be visible from the south as an intrusion into the landscape. While Local Planning Authorities have a duty to provide sites for travelling people, North Curry already has a good level of provision, higher than most parishes not just in Taunton Deane but across the whole County. There is a large site at Stoneyhead and smaller sites at Mile Hill, Newport and Greenway. The residents of these established sites are well integrated into the local community and can be seen as a good example of local provision. Any further traveller sites would risk upsetting this balance, particularly as consent for one site would set a precedent for the rest of the Oxen Lane site where the site was once divided into 16 plots (there might be space for even more than that number). The application should be refused

An additional letter of objection was received from CPRE raising the following points:

- The countryside should be protected and development restricted to areas identified by Local Planning Authorities in their Development Plans with no exceptions.
- Policy SP1 of the Taunton Deane Core Strategy identifies land outside settlement boundaries as open countryside. The proposed site is located outside the confines of the North Curry settlement boundary in open countryside and in an unsustainable location with restricted access and where residents would be entirely dependent on motor vehicles to access employment and services.
- If the Council approves this application it would set a dangerous precedent for other potential sites both on Oxen Lane and elsewhere in the area
- North Curry is designated as a Minor Rural Centre and an allocation of housing has been made. The Council has recently been consulting the local community on suitable sites for development. This site is not under consideration and if the application is approved it would seriously undermine the confidence of the community in the consultation process and the local planning policy
- This site has a long history of illegal occupation following a covert weekend operation to occupy the site some years ago, including long and costly appeal process culminating in an Inquiry and appeal refusal.
- The Government made clear its intention to protect open countryside and ensure that everyone is treated equally in the planning process.
- Department of Communities consultation document on planning and travellers makes clear that the government wishes to "*Make sure the Green Belt and other sensitive land is given proper protection*" that, '*new traveller sites in open countryside should be very strictly limited*' that '*planning rules apply equally to those who lead a travelling life and those who don't*' and that '*unmet need and personal circumstances are unlikely to outweigh harm to the Green Belt*'.
- This planning application is not in accord with either local or national planning policy and should be refused.

PLANNING POLICIES

NPPF - National Planning Policy Framework,

PP - TRAV - PLANNING POLICY FOR TRAVELLER SITES,
SP1 - TD CORE STRATEGY SUSTAINABLE DEVELOPMENT LOCATIONS,
CP4 - TD CORE STRATEGY - HOUSING,
CP6 - TD CORE STRATEGY - TRANSPORT AND ACCESSIBILITY,
CP8 - CP 8 ENVIRONMENT,
DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,
DM3 - TD CORE STRATEGY GYPSY AND TRAVELLER SELECTION CRITERIA,

RELEVANT CENTRAL GOVERNMENT GUIDANCE

Planning Policy for Traveller Sites (2012)

The PPTS requires LPAs to –

- identify the need for sites in their areas;
- identify and update a five year supply of specific deliverable sites for travellers calculated on the basis of their locally set targets; and
- identify a supply of deliverable sites or broad locations for years 6 – 10 and if possible years 11 – 15.

Failure to identify a 5 year supply is a significant material consideration in favour of granting temporary planning permissions when applications for gypsy sites are received.

In addition to considering the level of provision and identified need, in determining applications, LPAs are required to consider the availability of alternative sites and the personal circumstances of the applicant.

LPAs should adopt criteria based policies to guide allocations and the determination of applications where no need has been identified.

Paragraph 23 states:

“LPAs should ‘strictly limit’ new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.”

In addition LPAs should attach weight to:

- sites being well landscaped to enhance the environment and increase its openness;
- promoting healthy lifestyles;
- not enclosing sites so that they are isolated from the rest of the community.

Identification of need in Taunton Deane

Taunton Deane Borough Council joined with Mendip District Council, Sedgemoor

District Council, South Somerset District Council and West Somerset District Council to commission a Gypsy and Traveller Accommodation Assessment (GTAA). This was published in January 2011.

The GTAA identified a need for Taunton Deane to provide 25 non-transit pitches 2010-2015 and 19 non-transit pitches 2015-2020.

The GTAA was subsequently updated in October 2013: it now suggests that Taunton Deane only needs to provide 15 non-transit pitches 2015-2020.

The figures from the 2011 GTAA were accepted by the Council for the purpose of its Core Strategy and the above figures appear in Policy CP4. The Core Strategy Inspector briefly considered the question of the provision of gypsy pitches in his report although the GTAA was not challenged at the Core Strategy examination.

The GTAA was based principally on count data and did not investigate the permissions for sites in Taunton Deane in 2010 or 2013. It postulated that there was an existing gypsy population of 120 households in 2010 in Taunton Deane. This was made up of 90 households on authorized sites, 7 households on unauthorized sites (6 of which were located on this site in Oxen Lane) and 23 households in bricks and mortar. There are now no households living on authorized encampments. It is unclear how the figure of 23 households in bricks and mortar accommodation was derived and it is unlikely to be reliable.

The 2013 update postulates a population of 108 households, made up of 23 on lawful public sites, 62 on lawful private sites and none on unlawful sites. It repeats the assessment of 23 households in bricks and mortar from the 2010 GTAA.

Since 2010 GTAA the Council has granted planning permission for 13 pitches as follows

47/09/0005 2 pitches at Slough Green Caravan Park, West Hatch
06/10/0029 2 pitches at Sunnydene, Dene Road, Bishops Lydeard
44/10/0015 4 pitches at High View, Ford Street, Wellington
27/11/0018 3 pitches at Altona Park, Hillfarrance
30/12/0046 2 pitches at Fosgrove Paddock, Fosgrove Lane, Pitminster

The Council intended to allocate land for gypsy pitches in the Small Sites and Development Management plan. However, despite considerable efforts to identify suitable land annual calls for sites since 2011 have not produced suitable sites. A desk top exercise identified 30 sites which were potentially suitable for use for gypsy pitches but all but one of the landowners concerned refused to offer their sites for such use.

Taunton Deane, along with the other District Councils of Somerset and the County Council, is exploring a county wide site allocations DPD.

On the July 2014 count day there were no caravans unlawfully encamped in Taunton Deane. Indeed no unlawful caravans have been recorded on count days since 2011. Further no enforcement notices have been issued over this period. The present application is the first application for planning permission for traveller pitches which has been received since 2011.

Total provision in Taunton Deane

Taunton Deane has a relatively large population of gypsies and travellers and a high level of lawful provision. The position, as at the time of the July 2014 count, is set out below. It should be stressed that the figures given are for caravans, not pitches or households. Indeed many of the older planning permissions granted by the Council are expressed in terms of caravans, not pitches. In the past it has been suggested that the average number of caravans on a pitch is 1.6 (this is the assumption made in the GTAA).

| <u>With permission January 2014</u> | | | <u>On Site</u> |
|-------------------------------------|--------------------------------|--|----------------|
| 1 | Stoneyhead | 25 permanent caravans / mobile homes; 20 transit caravans and 16 transit | 31 13 |
| 2 | Longacre | 5 caravans | 5 |
| 3 | Lords Wood | 6 mobile homes / caravans | 7 |
| 4 | Newport | 5 mobile homes / caravans | 5 |
| 5 | Greenway | 1 family caravan | 1 |
| 6 | Slough Green West Hatch | 24 mobile homes / caravans | 22 |
| 7 | Fosgrove Paddock Shoreditch | 5 mobile home | 2 |
| 8 | Parkgate Dodhill | 2 mobile home | - |
| 9 | Altona Hillfarance | 5 mobile homes / 3 touring caravans | 3 |
| 10 | Sunnydene | 4 mobile homes / 4 touring caravans | 5 |
| 11 | High Park View, Milverton | 1 mobile home | 1 |
| 12 | Pitt Farm Exeter Road | 5 caravans | - |
| 13 | Highview Ford Street | 2 caravans | 4 |
| 14 | Two Acres Ford Street | 2 caravans | - |
| 15 | Lodge Copse Poole | 3 caravans | 7 |
| 16 | Little Shamba Upcott | 3 mobile homes / caravans | 5 |
| 17 | Otterford | 29 caravans | 12 |
| 18 | Daneswell | | 3 |
| 19 | Brimley Cross Brimley | 2 caravans | 2 |
| 20 | Stoneyhead Cottage | 1 caravan | 1 |

Core Strategy

The relevant policies are as follows.

Policy SP1 – All development should be sustainable. The policy identifies minor rural centres, including North Curry, where new development within the settlement boundaries is acceptable. Land outside of the settlement boundaries is regarded as open countryside.

Policy CP4 – Provision will be made for 25 new non-transit and 5 new transit pitches over the period 2010-2015 and 19 non-transit pitches over the period 2015 – 2020.

Policy CP6 – This policy requires development to reduce the need for travel to jobs, services and community facilities and to mitigate and adapt to climate change

Policy CP8 - New development should not harm the natural environment. The text links the policy to the Landscape Character Assessment (2011).

Policy DM1 - This policy outlines criteria which all applications must comply with. In particular the policy requires:

b. Additional road traffic arising, taking account of any road improvements involved, should not lead to overloading of access roads, road safety problems or environmental degradation by fumes, noise, vibrations or visual impact;

d. The appearance and character of any affected landscape should not be unacceptably harmed by the development;

e. Potential air pollution, water pollution, noise, dust, lighting, glare, heat, vibration and other forms of pollution or nuisance which could arise as a result of the development should not unacceptably harm public health or safety, the amenity of individual dwellings or residential areas or other elements of the local or wider environment;

Policy DM3 - Proposals for the use of land for gypsy pitches should demonstrate that in the first instance consideration has been given to sites within existing settlement boundaries. Where such sites are not available consideration should be given to sites adjoining or adjacent to existing settlement limits. The consideration of sites which do not fulfil this criteria will only be justified where the Council is satisfied that alternative sites are not reasonably available to the applicant.

Applicants will need to provide evidence that the future occupants are members of the Gypsy or Travelling communities, including information about the intended occupant's past travel and their link to work patterns where applicable.

The following criteria should be satisfied fully:

The proposal will help to meet a clear and evidenced need as demonstrated through a GTAA or other evidence submitted alongside the application.

The site is well-related to local services and facilities including retailing opportunities, schools and doctors surgeries as well as existing employment provision.

The environmental impacts of the proposal are minimised, this will include appropriate screening and siting of development taking into account landscape issues as well as any likely impacts upon wildlife, built heritage and flood risk; proposals should in particular avoid any adverse impact on the Natura 2000 sites in the Borough and comply with Habitats Regulations 2010. Details of habitats protection and mitigation including bat protection zones are covered under Policy CP8: Environment.

The proposal would not unacceptably prejudice the amenity of adjoining or adjacent occupiers.

The site can be adequately served by the appropriate infrastructure to support the development including foul and surface water drainage.

The impact of the proposal will not give rise to an unacceptable impact on traffic movements, noise and other potential disturbance arising out of the movement of vehicles on to and off of the site.

PLANNING ASSESSMENT

Precedent effect

Over a weekend in October 2004 a hardcore access from Oxen Lane and a central roadway running the full length of the field were laid. The field was then subdivided by fencing into 16 pitches and caravans were sited on all pitches. The following week an application was made for this development. This was refused and an enforcement notice was served and appealed. The first inquiry considered 17 appeals against the enforcement notice and a s78 appeal. These were dismissed by the Secretary of State.

The second inquiry considered four applications, each for an individual pitch.

The third inquiry considered an application for a single pitch.

It was apparent through the course of all three inquiries that each of the 16 pitches was under separate control and that the owner/controller of one pitch was not able to offer a condition or a planning obligation binding other pitches.

It should be noted that the second Inspector was empowered to permit any one of the four pitches before him. Further he found that a single pitch on its own would not be harmful – the sole basis for his decision was that the grant of permission for a single pitch would create a precedent which would make it impossible to resist applications for further pitches. In reaching this conclusion he took into account the way in which the field was controlled. Application 24/06/0048 corresponded to the present application.

The Council has seen nothing to suggest that the control of the field has changed since the second inquiry. If the present application is granted there is therefore no

possibility of imposing a condition or requiring a planning obligation to restrict the use of the remainder of the field. Further, if, as appears to be the case, different gypsy households retain de fact control of each of 16 pitch-shaped sections of the field, there is every reason to fear that, if a gypsy presence is allowed on one part of the field, other gypsies will either move on to other parts of the field, or will make applications for planning permission to permit this. It would be all but impossible to resist ground (a) appeals or applications for planning permission.

Appellants/applicants would argue that the additional pitch(es) caused immaterial additional harm and that the principle of gypsy usage in this location (with the attendant visual impact and traffic) had been accepted. Officers therefore consider that it would be impossible to prevent the lawful development of the entire field: it would be impossible to formulate reasons for refusal which accepted, say, five pitches but prohibited a sixth or which accepted say fifteen pitches but prohibited a sixteenth. In other words the considerations which influenced the second Inspector continue to apply.

The agent argues that the existing injunction prevents any unauthorised development from occurring. An injunction was in place at the time of the second appeal: the second Inspector determined that, whilst the existence of an injunction might deter owners from occupying their plots, it would not affect the balance of planning considerations associated with applications for planning permission. An applicant might be able to demonstrate a pressing need for a pitch even if he was not in occupation.

Impact on the landscape

The Taunton Deane Landscape Character Assessment (2011) identifies 16 different landscape types. These have been sub-divided into 22 character areas. The field is in an area of open countryside whose character is recognised as a sandstone ridge and can be seen for the wooded escarpment that lies to the south. character area of the North Curry Ridge Landscape Character Area.

The application site is in the lowest part of the field. The siting of a dayroom, touring caravan and mobile home would have minimal impact on the landscape which could be further reduced by additional planting if required. The development would be difficult to make out from the other side of the valley.

Development on the higher parts of the field would, however, be much more prominent. The first Inspector considered that it would involve 'a major encroachment into the countryside' that would 'be likely to remain conspicuous from across the valley' even with planting. Officers fear that it would be impossible to prevent development of the higher parts of the field if the present application were permitted. Development of the higher parts would breach CP8, DM1(d) and DM3(c) of the Core Strategy.

Impact on residential amenity

The garden of no 6 Oxen Lane abuts the field but is approximately 125m from the application site. A domestic garage lies between the dwelling and the proposed site. At this distance the proposal would not have a detrimental impact on the residential occupant of 6 Oxen Lane.

The second Inspector found that pitches at the lower part of the field would not have an unacceptable impact on the amenities of the occupiers of 6 Oxen Lane but that the development of higher parts of the field would.

The first Inspector was considering development at the highest part of the field, as was the third Inspector. The first Inspector stated "...However, it is the effect of the development on the outlook from No 6 which is most significant here. In particular, the visual amenities of the occupants of No 6 have been reduced to a level far below that which ought to reasonably be expected". The third Inspector stated "By itself, the continued occupation of plot No 1 would be damaging to the outlook from no 6 Oxen lane, and this impact would not be overcome by planting along the north east boundary of the site, contrary to criterion C on Policy H14 of the Local Plan. I conclude that the appeal proposal would unacceptably worsen the living conditions of the occupiers of No 6 Oxen Lane, and it would thereby conflict with criterion E in policy S1 of the Local Plan".

Officers fear that it would be impossible to prevent development of the higher parts of the field if the present application were permitted. The harm to residential amenity caused by development of the higher parts of the field would breach DM1(e) and DM3(d).

Paragraph 23 of the PPTS

The proposal would manifestly involve development in the open countryside, away from a settlement. There is no reason why the 'strict limit' required by paragraph 23 of the PPTS should be relaxed in this case. Indeed the fact that the proposal, if permitted, would have a powerful precedent effect, and would be likely to lead to the development of adjacent land is an extremely strong reason for the strict limitation to be applied.

There was no equivalent of paragraph 23 of the PPTS in C1/06, which was in force at the time of the second and third inquiries.

Highways

The application site is accessed off Oxen Lane, an unclassified lane, approximately 400m to the south of North Curry. Oxen Lane runs between Windmill Hill and Greenway. Visibility at the junction with Greenway is deficient: taking an x distance of 2.4m the visibility to the left is 17.5m (nearside) and to the right is 20m (nearside) Based on Manual for Streets 2007 SCC consider that the distance should be 43m in both directions.

In terms of traffic generation, TRICS suggests that the average dwelling generates up to 6-8 movements per day. The second and third Inspectors found that the addition of traffic from one pitch would not have an unacceptable impact on highway safety, even though usage of the unsafe junction between Greenway and Oxen Lane would increase. The second Inspector found that 4 pitches would, however, have an unacceptable impact on highway safety. The first Inspector considered that the development before him had an unacceptable impact on highway safety.

Officers fear that it would be impossible to prevent development of three further

pitches if the present application were to be permitted. Harm to highway safety would involve breach of CP6, DM1(b) and DM3(f).

The second Inspector considered that there was no safety issue at the Windmill Hill/Oxen Lane junction.

Distance to services

The site is about 400m from the centre of North Curry, which offers a reasonable range of services. Although most of the travel from the site will be by car, given the lack of footpaths along Greenway and Windmill Lane, the second Inspector considered that the site was not unacceptably remote from services.

The Council did not raise a sustainability objection at the third inquiry.

Local finance

CIL payments are not applicable to this application.

The development of this site would result in payment to the Council of the New Homes Bonus as follows -

1 Year Payment - Taunton Deane Borough Council (Lower Tier Authority)
£1,079 Somerset County Council (Upper Tier Authority) £270

6 Year Payment - Taunton Deane Borough Council (Lower Tier Authority)
£6,474 Somerset County Council (Upper Tier Authority) £1,619

Lack of 5 year supply of sites

The present shortfall in terms of 5 year supply is $12 + 19 = 31$ pitches: granting planning permission would assist in meeting the need for new pitches.

Having said this, Taunton Deane has a high level of existing provision and the Council has shown a willingness to grant planning permission for additional pitches where its policies are complied with. Further it has worked hard to try to identify sites for allocation, albeit without much success. There have been no unauthorised encampments in Taunton Deane since 2011.

Hardship

The applicant has stated that his family has no settled base and is continually being moved on from unauthorised sites. If planning permission is refused it is likely that this unsatisfactory situation will continue. This is a factor in favour of the grant of planning permission.

Although it is not a requirement that gypsies must show that no alternative site is available to them, no evidence has been submitted to the Council to show that the applicant has made any effort to secure the use of a pitch that has planning permission. (It is understood that there is a vacant site at Two Acres, Ford Street)

BALANCE OF PLANNING ISSUES

Permanent planning permission

There are only two considerations in favour of the grant of planning permission, the personal circumstances of the applicant's family and the general shortage of pitches in Taunton Deane. Both carry weight in weight in favour of the proposal. However officers consider that, even taken together, these considerations are substantially outweighed by the planning objections to the proposal. Officers make the following observations.

All three previous Inspectors were considering occupied pitches. All three proceeded on the basis that, if planning permission were refused, the occupants would be forced to leave the field, in circumstances where no alternative site could be identified for them. The Inspectors therefore contemplated that the occupants would face a roadside existence. Despite this all three Inspectors considered that the harm caused by the proposals before them were more than sufficient to justify a refusal of planning permission. Each considered and rejected the grant of temporary planning permission. Officers consider that the weight to be ascribed to the objections to the development of this field has not changed. Further the applicant has not suggested that there is any reason why his family should live in North Curry rather than somewhere else. There is no suggestion that the applicant or his family has any connections with facilities etc in North Curry.

There was significant unmet need at the time of each of the previous inquiries. Further, at the time of the second and third inquiries, national policy was contained in C1/06. This required LPAs to have allocations to meet the entirety of unmet need. This was a more onerous obligation than the obligation to have a 5 year supply of sites.

Temporary planning permission

The PPTS states that, when considering an application for temporary planning permission, a Planning Authority which does not currently have a five year supply of sites, such as Taunton Deane, must consider the lack of sites as a significant material factor in their considerations. Whilst this application is for full rather than temporary permission I consider it important to consider whether a temporary planning permission would be a suitable alternative in this case.

This issue was considered by the first Inspector who found that the granting of a temporary permission for this site would not be appropriate, given the serious planning objections to the proposed development, particularly the impact on residential amenity, the impact on the landscape and highway safety considerations. The third Inspector considered that identification of additional sites would be unlikely to come forward for at least 5 years. The Inspector noted that, whilst the harm to the character and appearance of the area and to living conditions would be expected to cease at the end of the period of temporary permission, it would have a material impact over a prolonged period of time. Given his conclusion over the precedent which would be set by granting permission for a single pitch it is considered that the granting of temporary planning permission would be likely to encourage proposals for temporary permissions on other plots at Green Acre.

Officers are concerned that it would be impossible to prevent development of the

remainder of the field if the present application were permitted, even for a temporary period, resulting in a prolonged period of occupation and continued and significant harm to the character and appearance of the area and to living conditions. The harm caused by this development, is considered to breach CP6, CP8, DM1(e) and DM3(d), and cannot be overcome by temporary occupation.

THE ECHR, THE UNCRC AND THE EQUALITY ACT 2000

Human rights

The site is not the home of anyone and neither Article 8 nor any other human right is engaged by this application.

Best interests of children

Under the UN Convention on the Rights of the Child the Council is obliged to treat the best interests of any children affected by a decision as a primary consideration in that decision. This means that no other consideration can be regarded as inherently more weighty. It is manifestly in the best interests of the applicant's children to have a settled base so that they can better access health services. There is, however, nothing to suggest that the interests of the children require that settled base to be in North Curry. It is not suggested that the applicant intends to send his children to school.

The obligations under the Convention do not mean that countervailing planning objections cannot, once an overall assessment is made, justify a decision that is not in the best interests of children. Officers consider that, while treating the best interests of the applicant's children as a primary consideration, the planning objections to this development, taken together, justify a decision to refuse permanent and temporary planning permission.

This is not a case where the assessment of the best interest of children is relevant to deciding questions of justification and proportionality under A8, since A8 is not in issue.

Public sector equality duty

Romani gypsies are a protected group for the purposes of the Equality Act 2010. In deciding this application the Council must have due regard to the requirements of the PSED set out in section 149, in particular the need to eliminate discrimination, advance equality of opportunity and foster good relations between those with protected characteristics and others. Officers consider that the planning harm which would be caused by this development justifies the refusal of permanent and temporary planning permission having due regard to these considerations. A particular feature of this case is that, given the long history of unsuccessful appeals, if planning permission were now to be granted for the very development which has previously been regarded as unacceptable, the effect would be to harm relations between Romani gypsies and the settled community.

In conclusion whilst it is acknowledged that Taunton Deane has an outstanding need for a 5 year supply of sites and that the applicant has personal circumstances that weigh in favour of the application, I do not consider that these are of sufficient

weight to overcome the substantial planning objections in this case.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.

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