

**CHANGE OF USE OF LAND TO PROVIDE TWO RESIDENTIAL GYPSY PITCHES
(CONSISTING OF ONE MOBILE HOME AND ONE TOURING CARAVAN PER
PITCH) AT SUNNYDENE, DENE ROAD, BISHOPS LYDEARD**

Grid Reference: 317426.127568

Full Planning Permission

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval for the following reason

The proposed development would address an identified need as set out in the 'Gypsy & Traveller Accommodation Assessment' (GTAA). The proposed siting of the development is considered to be acceptable and would have no significant adverse impact upon the rural character or appearance of the area. The proposal therefore accords with Taunton Deane Local Plan Policies S1, S2, S7 and H14 and guidance contained within Circular 01/06.

RECOMMENDED CONDITION(S) (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Revised Site Location Plan dated 15 December 2010.

Revised Block Plan dated 29 October 2010.

Reason – For the avoidance of doubt and in the interests of proper planning.

3. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/06 – Planning for Gypsy and Traveller Caravan Sites.

Reason – The site lies within a rural area where restrictive policies apply and to ensure the site remains available to meet the identified need for gypsy and traveller pitches as set out within the GTAA.

4. No more than 4 caravans, as defined in the Caravan Sites and Control of

Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time (of which 2 shall be static caravans or mobile homes and 2 shall be touring caravans which shall be capable of being towed on the public highway without division into separate parts, in accordance with the relevant Highway Act legislation).

Reason – In the interests of the rural character and appearance of the area in accordance with Taunton Deane Local Plan Policies S1 and EN12.

5. Prior to the commencement of any works, details of the surfacing of the access track to serve the site shall be submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason – In the interests of the rural character and appearance of the area in accordance with Taunton Deane Local Plan Policies S1 and EN12.

6. No commercial activities shall take place on the land, including the storage of materials. Any machinery stored on the site shall not exceed 1.8 metres in height.

Reason – In the interests of the rural character and appearance of the area in accordance with Taunton Deane Local Plan Policies S1 and EN12.

7. The mobile homes, touring caravans and parking shall be sited in accordance with the submitted block plan. There shall be no material change unless any variation is agreed in writing by the Local Planning Authority.

Reason – In the interests of the rural character and appearance of the area in accordance with Taunton Deane Local Plan Policies S1 and EN12.

8. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any subsequent Order amending or revoking and re-enacting that Order) no gate, fence, wall or other means of enclosure shall be erected on site unless an application for planning permission in that behalf is first submitted to and approved by the Local Planning Authority.

Reason – The Local Planning Authority wish to exercise control over the matters referred to in the interests of the rural character and appearance of the site in accordance with Taunton Deane Local Plan Policies S1 and EN12.

9.
 - (i) Before any part of the permitted development is commenced, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
 - (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.

- (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policy S2.

- 10. Prior to the commencement of development, a maintenance and management plan shall be submitted to and approved in writing by the Local Planning Authority for the retention of the hedgerow on the north boundary of the site, adjacent to the public highway. The hedgerow shall be retained at a minimum height of 2.0m from the adjoining ground level unless agreed otherwise. The management plan shall detail improvements required to the visibility splay, to be submitted to and agreed in writing by the Local Planning Authority, and carried out before the use is implemented. There shall be no obstruction above 900 mm in height within the visibility splay. Development shall be carried out strictly in accordance with the approved details.

Reason – In the interests of highway safety and the character and appearance of the area in accordance with Policy 49 of Somerset & Exmoor National Joint Structure Plan Review and Policy EN12 of Taunton Deane Local Plan.

- 11. Prior to the commencement of the development details of the foul water drainage shall be submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details before the mobile homes are occupied.

Reason - To avoid pollution of the environment and/or flooding in accordance with Taunton Deane Local Plan Policy EN26 and guidance contained within PPS25.

Notes for compliance

- 1. Any soakaways should be constructed in accordance with Building Research Digest 365 (September 1991).

PROPOSAL

Planning permission is sought for the provision of two pitches for gypsies (or travellers) each consisting of 1 mobile home and 1 touring caravan per pitch, together with associated access and parking. The location of the pitches would be at the bottom of the site, which slopes significantly from north to south from Dene Road, immediately adjacent to an existing stable block (within the ownership of the

applicant).

The applicant has confirmed that he is not seeking a personal permission; therefore, no details of the future occupiers of the site have been submitted. The application must therefore be determined on the planning merits of the site, for gypsy and travellers, set against national and development plan policies.

SITE DESCRIPTION AND HISTORY

The site, located approximately 5km to the west of Taunton, is on the south side of Dene Road. Dene Road is a classified unnumbered road linking the A358 Taunton to Minehead Road to the east, to the B3227 Taunton to Barnstable Road to the west. The village of Cotford St Luke is located 220 metres west of the site. A public footpath runs, approximately 200 metres to the west of the site, north-south across Dene Road. The West Somerset Railway Line is approximately 300 metres to the east.

The site is in an area of undulating open countryside, within the Low Vale landscape character area. The land slopes down from Dene Road (north to south). There is an established mature hedge along the northern roadside boundary. Access to the site is at the north-west corner, which was a former agricultural access that has been widened and currently serves the applicant's three pitches.

The land was originally part of a larger agricultural field. Planning permission was granted, in 2006, for a stable on the lower part of the field, reference 06/06/0035. In 2007, retrospective, planning permission was refused, reference 06/07/0064, for the use of land for the stationing of three mobiles homes on the grounds that the siting of the mobile homes would have a detrimental impact to the rural character and appearance of the area. Following revisions to the siting of the mobile homes, permission was subsequently granted in 2008, reference 06/08/0046. The applicant subsequently appealed against a number of conditions attached to the permission.

CONSULTATION AND REPRESENTATION RESPONSES

PARISH COUNCIL – The Parish Council objects to the proposal on the following grounds: -

- The proposal constitutes development in the open countryside.
- The proposal lies outside of the Cotford St Luke development area.
- There will be significant adverse visual impact on the countryside scene.
- The proposal represents additional development over and above that for which planning permission was originally granted.
- The Parish Council is not aware of any identified need for more gypsy and traveller pitches within Taunton Deane.
- There is a history of non-compliance with previous planning conditions, including landscape planting, improvement of the visibility splay.
- An increase in traffic from the site would exacerbate existing safety concerns around access from Dene Road, especially in view of the non compliance with previous highway conditions.
- The Parish Council queries the effectiveness of the current septic tank to deal with more waste, especially as it is currently placed on an elevated section of

the site compared to the proposed area for the siting of the residential pitches.

- The Parish Council has concerns over an increased number of pedestrians on Dene Road should more families move onto the site.
- The current site does not have sufficient parking for the proposed increase in numbers of vehicles, both private and goods, nor would it be safe for vehicles to park on Dene Road.

STRATEGY AND COMMUNICATIONS UNIT - In terms of the principle of this development:

The key policy of Taunton Deane Local Plan (TDLP) is policy H14. This allows for the location of gypsy sites outside the defined limits of settlements, provided that they meet a number of criteria that are set out in the policy.

Of significant consideration is the recently published Somerset Gypsy & Traveller Accommodation Assessment (GTAA). This assessment of need is a statutory requirement under the Section 225 of the Housing Act 2004 and Planning Policy 3: Housing. The GTAA forms part of the Strategic Market Housing Assessment (SHMA). The SHMA provides a comprehensive understanding of the Market Housing Area in order to provide a robust evidence for accommodation need.

The findings of the GTAA supersede the Secretary of States Proposed Changes to the Regional Spatial Strategy South West which set provision for 20 residential pitches and 5 transit pitches from 2006-2011. The 2010 GTAA took account of the RSS figures and the provision provided in the Borough. The calculation of need also considered, inter alia, the analysis of Central Government data in the bi-annual caravan count, natural migration and immigration patterns, authorised private and public pitches, unauthorised encampments, survey responses from the Gypsy & Travelling community and Central Government guidance on population growth.

Location _

In terms of the location of Gypsy and Traveller sites, it has long been accepted in planning policy that rural locations outside settlements are one of the exceptions to the normal strict control of new development. This is re-affirmed at paragraph 54 of Circular 01/2006, which states that 'Rural settings, where not subject to special planning constraints, are acceptable in principle.' Policy H14 and criterion (B) and (H) of the TDLP relates specifically to proposals in such areas.

Criterion (B); safe and convenient access to schools and other community services, is supported by paragraph 54 of the Circular states that in assessing the suitability of sites '...local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services'. The GTAA also supports this by stating that future site locations must take account of the need for sites to be sustainable – near transport, schools, and shops.

In this case, the application site is situated a short distance from the village of Cotford St Luke, which contains local services including a primary school, community centre and shop. The village also has a reasonable level of bus services to Taunton.

As far as criterion (H) is concerned, the site is not within an AONB or a SSSI. Nor, to

my knowledge, would it harm the special environmental importance of any other protected area.

Need .

The issue of need, which is addressed by criterion (A) of policy H14, is an area where the more recent advice and guidance in PPS3, Circular 01/2006, Gypsy and Traveller Accommodation Assessments Guidance, is of particular relevance.

The GTAA has identified the need for 25 residential pitches and 5 transit pitches in the Borough between 2010 and 2015. The GTAA forms part of the SMHA and supersedes the draft Regional Spatial Strategy (which only allocated pitches to 2011). The need can not be met solely through the plan-led process since need is to 2015 and the Site Allocations Development Plan Document will not be adopted till post April 2013. Although we will look to make allocations through that document.

The GTAA lists location preferences for permanent sites; this establishes preference in a similar way that the Choice Based Letting register established preferred location for affordable housing. Cotford St Luke was specifically mentioned twice.

Summary

Taking the above into consideration the main point is whether or not the proposal accords with Circular 01/2006 and the Local Plan Policy H14. If it does we would not have any policy objections to the proposal.

LANDSCAPE OFFICER – The proposals would be acceptable, in terms of landscape impact, if kept to the lower part of the field and subject to landscape mitigation measures.

HIGHWAY AUTHORITY – Previous comments equally apply. (Repeated from 06/07/0064)

The proposed development site is located just outside of the development limit of Cotford St Luke. As a result, under normal circumstances if a proposal for residential development had been received, the Highway Authority would recommend the application for refusal on sustainability grounds. However, information from the ODPM and Policy 36 of the Somerset and Exmoor National Park Joint Structure Plan Review states that ‘the provision of sites for gypsies and other travelling people should be made where the site is within reasonable distance of a settlement providing local services and facilities’. The site is in close proximity of Cotford St Luke and Bishops Lydeard, which are the nearest settlements with services and facilities. I consider that this distance may not be so great as to conflict with Policy 36.

In detail the proposal will derive access onto a classified unnumbered highway, which is subject to the national speed limit, however vehicle speeds are generally lower than 60 mph. It is imperative in the interests of highway safety for all road users that adequate visibility splays are incorporated, which may result in the loss of part of the roadside hedges/trees, together with sufficient onsite parking and turning within the site to avoid reversing to or from the public highway. Given the size of the

applicant's land it would appear that this would be achievable, however no layout has been submitted with the application. I am aware there have been personal injury accidents on this stretch of highway to the east of the site. However, I do not consider that this proposal would result in a significant increase in traffic over and above that which currently occurs on this stretch of highway.

Conditions recommended.

DRAINAGE OFFICER – I note that the applicant states that foul drainage connects to a recently constructed septic tank. The description of the irrigation drainage is not a recommended layout for such purposes. It is assumed that the applicant has the Environment Agency's consent to discharge effluent to an underground strata and a copy of this can be forwarded. Till such time no approval should be given. With regards to surface water disposal to a soakaway these should be constructed in accordance with BRD365 (Sep 91) and made a condition of any approval given.

HOUSING ENABLING OFFICER – No observations to make.

Representations

1 letter of OBJECTION has been received from Cotford St Luke Community Association. Summary of objections: -

- There is no identified need for further gypsy or traveller pitches within the Taunton Deane area.
- The original Cotford St Luke Development Master Plan and TDBC Local Plan do not include this land for residential purposes.
- The stationing of the existing three mobile homes was not in keeping with the build environment of the village or natural beauty of the area (proximity to the Quantock Hills AONB)
- The Appeal Decision (6 May 2010) required landscaping within the first available planting season to preserve and enhance the local character and distinctiveness of the area. To date, there has been little evidence of tree and shrub planting that has enhanced the area and the site.
- The application does not specify which individuals require these extra pitches. The current permission and appeal decision states that the site may only be occupied by a dependant of Mr Small's family and may not be used for commercial activities. Furthermore, paragraph 15 of ODPM Circular 01/06 states that the site shall not be occupied by anyone other than gypsies and travellers.
- There is concern that these pitches would not be for dependant members of Mr Small's family and would also be for business purposes. If this application is granted than precedent will have been set and, in time, Mr Small will make further applications and eventually a travellers site will have been established. Should this happen it will be detrimental to the village of Cotford St Luke and its surrounding countryside.
- The Appeal Decision (6 May 2009) stated that the visibility splay should be improved. To date, there has been no evidence of this happening and additional vehicles requiring access/egress from Sunnysdene will cause traffic problems along Dene Road, where the present speed limit is 60 mph and a significant amount of vehicles each day travel from / to Cotford St Luke, using

this road a thoroughfare.

- The Planning Applications states that there will be no more than 5 cars and 5 goods vehicles to be parked at Sunnysdene. No parking plan has been included in the application and it is doubtful that the present parking at Sunnysdene could accommodate 10 vehicles. Parking vehicles on Dene Road will cause an obstruction and the potential for a fatality or an accident to occur.

16 letters of OBJECTION have been received from individuals. Summary of objections: -

- The appeal decision limited the number of caravans on the site to 3 static and 3 touring – surely the LPA has a duty to uphold the appeal conditions?
- Inspector's conditions are not being enforced.
- Question whether Taunton Deane requires further gypsy site provision.
- If so, is this the ideal place? Or are there unfilled pitches elsewhere?
- Is it family members? If so, this needs investigating.
- Will the mobile homes be let out?
- Proposal would result in almost doubling the site.
- The government has indicated it intends revoke Circular 01/06 and any decision based on this guidance would not be in line with the government's long-term plans.
- The government has stated that 'planning rules should be the same for all' and Councils "will be able to decide for themselves how many traveller pitches are necessary according to local need and historic demand".
- The applicant states that Mrs Jackson has indicated that TDBC will recommend approval – is this correct? Lack of transparency.
- Is the proposal for family members or a commercial gypsy site?
- Detrimental visual impact – already an eyesore.
- Plenty of room at the top of the site without invading further agricultural land.
- Lower part of the field was for stabling of horses; however, a different kind of horsepower is used at weekends and evenings ruining the peace of the valley.
- Equality – If any other member of society applied for planning permission the application, in this location, would be refused.
- Mockery of planning laws.
- Site is excluded from TDBC Local Plan for residential use outside defined settlement boundary.
- Highway Safety.
- Has the parking figures set out in the application been verified by TDBC?
- Why are goods vehicles permitted to be parked as the existing permission excludes commercial activities taking place on the land?
- Precedent if allowed.

1 letter received confirming NO OBJECTION to the proposal.

PLANNING POLICIES

PPS1 - Delivering Sustainable Development,
PPS3 - Housing,
PPS7 - Sustainable Development in Rural Areas,
PPG 12 - Highways,
STR1 - Sustainable Development,

STR6 - Development Outside Towns, Rural Centres and Villages,
S&ENPP36 - S&ENP - Sites for Gypsies and Travelling People,
S&ENPP5 - S&ENP - Landscape Character,
S&ENPP49 - S&ENP - Transport Requirements of New Development,
S1 - TDBCLP - General Requirements,
S2 - TDBCLP - Design,
S7 - TDBCLP - Outside Settlement,
EN12 - TDBCLP - Landscape Character Areas,
H14 - TDBCLP - Gypsy and Traveller Sites,
CIRC 1/06 - Planning for Gypsy and Traveller Caravan Sites,

DETERMINING ISSUES AND CONSIDERATIONS

The main issues are considered to be: - whether the proposals accord with the development plan and national planning guidance; whether the proposed development would harm the character or appearance of the area; highway safety; and, whether there would be any adverse impact on the amenity of existing residents.

Policy

The proposed development is located outside of the defined settlement boundary of Cotford St Luke, where residential development should be strictly controlled. Policy 36 of the Structure Plan permits sites for gypsy and travellers where the site is 'within reasonable distance of a settlement providing local services and facilities'. Local Plan Policy H14 permits the location of gypsy and traveller sites where they are located outside of defined settlement limits, subject to certain criteria. Circular 01/06, published after the Local Plan was adopted, is also a material consideration.

The coalition government have stated that the Circular will be revised with new guidance. However, the Circular remains a material consideration. The Secretary of State for Communities and Local Government, Eric Pickles, has made it clear that the framework and targets in the Regional Spatial Strategy (RSS) are to be rescinded. It is, however, important to note that this does absolve the responsibility of Local Authorities to respond to the existing and future needs of gypsy and travellers. The government's statement on changes to gypsy and traveller policy encourages Local Authorities to provide an appropriate number of sites to reflect historic demand and need rather than the top down approach set by the Regional Spatial Strategy.

The Authority has been successful in fulfilling the previous requirements for sites up to 2011, as part of the RSS. There is a statutory requirement to carry out an assessment of Gypsy and Traveller Accommodation needs under Section 225 of the Housing Act 2004, PPS3 – Housing and Circular 01/06. The findings of the GTAA have now been published and form the evidence base for gypsy and traveller provision within the Borough. The findings of the GTAA supersede the Secretary of States Proposed Changes to the RSS which set provision for 20 residential pitches and 5 transit pitches from 2006-2011. The conclusion of the GTAA is that there is an identified need for 25 residential pitches and 5 transit pitches in the Borough between 2010 and 2015. A further 19 residential pitches for the period 2015-2020 together with a further 5 transit pitches. As part of the GTAA it is noted that there was a location preference for 2 pitches at Cotford St Luke (part of the survey

information undertaken).

In addressing the identified need, as part of the GTAA, the Strategy Unit are working on a 'Small Sites Allocation Development Plan Document' which will look at allocating suitable land for gypsy and traveller pitches. However, the 'need' can not be met solely through the plan-led process since the identified need is to 2015 and the Site Allocations Development Plan Document will not be adopted until post April 2013. There will therefore also be applications for new private pitches (as supported by para 12 of Circular 01/06), such as the proposal before Members.

Sustainability

As discussed, the site is located outside of the defined settlement limits of Cotford. However Local Plan and Structure Plan policies permit gypsy and traveller sites in rural locations as an exception to the normal strict control of new development. This is re-affirmed at paragraph 54 of Circular 01/06, which states that 'rural settings, where not subject to special planning constraints, are acceptable in principle'. The guidance continues that 'local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services'. This need for the Council to take a more flexible approach to the consideration of the issue was one of those agreed by the Executive in April 2006.

In this case, the application site is situated a short distance from the village of Cotford St Luke, which contains local services including a primary school, community centre and shop. The village also has a reasonable level of bus services to Taunton. Moreover, the site has previously been considered acceptable in terms of its location.

Character and appearance

The impact of the proposed development on the rural character and appearance of the area needs careful assessment. The landscape officer has previously expressed concern to the siting of mobile homes closer to the highway due to its elevated position in the landscape. There would be significant visual impact should the mobile homes be sited in the middle of the field due to its prominence on sloping land. The applicant has, therefore, proposed to site the mobile homes and touring units at the bottom of the slope to reduce the visual impact of the development. The landscape officer is of the opinion that the development is acceptable, in terms of landscape impact, if kept to the lower part of the field and subject to landscape mitigation measures.

Highways

The site is accessed from a former agricultural access into the site, which currently serves 3 gypsy pitches and stables. The original access has been hard surfaced. The requirement to provide full visibility splays to accord with the technical requirements of the highway authority need to be balanced against the previous use of the access and the impact of removing a substantial amount of hedgerow on the rural character of the area. The applicant has been in discussions with the landscape officer to plant a further hedgerow behind the existing double staggered hedgerow, at which point the front hedgerow would be removed to improve visibility. The Inspector (in determining the conditions appeal), recognised the need to ensure the visibility splay is improved, but did not go so far as conditioning the requirements of

the Highway Authority. A condition was imposed requiring no obstruction above 900 mm and a plan to be submitted to show improved visibility. It is considered that a condition should be imposed requiring a management and maintenance plan for the hedgerow, taking into account the need to improve visibility, to preserve the natural screening of the site.

The applicant has amended the block plan to indicate the provision of parking spaces within the lower site.

Amenity

There has been concern from local residents that this proposal is contrary to the previous decision and the appeal. The original consent was restricted to the red line of the application site and was conditioned for that specific number of mobile homes in order to control the siting of the units in the interests of the visual amenity of the area. This was reaffirmed by the Inspector. This application is for a separate parcel of land which must be assessed on its merits. It is appropriate to make a judgement as to whether the cumulative effect would have an adverse impact on the visual amenity of the area or the local community. The landscape officer has stated that the proposal, given its siting, would not have an adverse impact. Furthermore, it is not considered that the scale of the proposal, two additional pitches or taken cumulatively, would be of a scale as to dominate the settled community (para 54 Circular 01/06).

Other Matters

There has been concern expressed by local residents that existing conditions attached to the 2007 consent (and subsequently amended, in part, by the Inspector) have not been carried out. An enforcement item was taken to Committee on 20 October 2010, where Members resolved to proceed with an Enforcement Notice, if the conditions were not complied with. The applicant has subsequently agreed to carry out the requirements of the landscape scheme designed by Council's the landscape officer. The applicant planted trees but were not considered acceptable due to their size. The landscape officer has subsequently sourced the appropriate size and species of trees for which the applicant will plant.

Further details of the drainage system, which the applicant has stated will utilise the existing septic tank, have been requested following comments by the drainage officer. Members will be updated with any further information. However, it is considered reasonable to condition the submission of details prior to the commencement of any works.

Notwithstanding the aforementioned points, in this paragraph, the application must be assessed on its own merits.

Conclusion

The GTAA identifies a need for further pitches for both gypsy and traveller sites within the Borough. The principle of the location of the development is considered acceptable and would have, subject to further landscape mitigation, no significant adverse impact upon the character or appearance of this rural area. The proposal would utilise an existing access into the site and by reason of its siting would not adversely affect the residential amenities of local residents.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1988.

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