

24/2006/038

MR STEVEN LOVERIDGE

CHANGE OF USE OF LAND FOR THE RETENTION OF TWO GYPSY CARAVANS
AND A DAY ROOM AT OXEN LANE, NORTH CURRY

331385/124527

FULL

24/2006/043

MR LEONARD SMALL AND MRS LOUISE SMALL

CHANGE OF USE OF LAND FOR THE SITING OF ONE TOURING CARAVAN AND
ONE MOBILE HOME FOR GYPSY OCCUPATION AND THE ERECTION OF A
TOILET BLOCK AT PLOT 15, OXEN LANE, NORTH CURRY (AMENDED TITLE)

331404/124496

FULL

24/2006/046

CHARMAINE PACKMAN

CHANGE OF USE OF LAND FOR THE SITING OF ONE TOURING CARAVAN AND
ONE MOBILE HOME FOR GYPSY OCCUPATION AND THE ERECTION OF A DAY
ROOM AT NO. 1 GREENACRES, OXEN LANE, NORTH CURRY (AMENDED TITLE)

331250/124450

FULL

24/2006/047

TRACEY HOLLAND

CHANGE OF USE OF LAND FOR THE SITING OF ONE TOURING CARAVAN AND
ONE MOBILE HOME FOR GYPSY OCCUPATION AND THE ERECTION OF A DAY
ROOM AT NO. 8 GREENACRES, OXEN LANE, NORTH CURRY (AMENDED TITLE)

331400/124410

FULL

24/2006/048

JIM SMITH

CHANGE OF USE OF LAND FOR THE SITING OF ONE TOURING CARAVAN AND ONE MOBILE HOME FOR GYPSY OCCUPATION AND THE ERECTION OF A DAY ROOM AT NO. 16 GREENACRES, OXEN LANE, NORTH CURRY (AMENDED TITLE)

331430/124480

FULL

24/2006/049

MARY O'NEIL

CHANGE OF USE OF LAND FOR THE SITING OF ONE TOURING CARAVAN AND ONE MOBILE HOME FOR GYPSY OCCUPATION AND THE ERECTION OF A DAY ROOM AT NO. 7 GREENACRES, OXEN LANE, NORTH CURRY (AMENDED TITLE)

331390/124410

FULL

1.0 **RECOMMENDATION**

I recommend that permission be REFUSED for the following reasons:-

- 01 The proposed development by reason of its scale and appearance will be detrimental to the visual amenities of this attractive rural area and would not respect the distinct Low Vale Character of the North Curry Ridge Landscape Area, contrary to Taunton Deane Local Plan Policy EN12.
- 02 The site is located in open countryside where it is the policy of the Local Planning Authority to allow gypsy sites to be permitted where they comply with the criteria listed in policy H14 of the Taunton Deane Local Plan (as amended by the executive report dated 3rd May 2006). The Local Planning Authority consider that the proposal does not comply to criteria (B), (C), (E), (H), (I), and (J) and the proposal would therefore be contrary to Taunton Deane Local Plan Policy H14.
- 03 The proposed development would generate significant additional traffic using the substandard junctions of Oxen Lane with Windmill Hill and Greenway and the County Highway Authority consider this to be prejudicial to highway safety and contrary to Somerset and Exmoor National Park Joint Structure Plan Review Policy 49 and Taunton Deane Local Plan Policies S1 (A).
- 04 The use of the site for the provision of 1 caravan and 1 touring caravan and 1 dayroom, by reason of its scale appearance and close proximity to

surrounding properties, would have a detrimental impact on the residential amenity and privacy of existing residents of Oxen Lane, contrary to the requirements of Taunton Deane Local Plan Policy S1(E) and would not provide an adequate level of privacy and amenity for the residents of the site contrary to the requirements of Taunton Deane Local Plan Policies S1(F) and H14, (E) and (F).

- 05 The proposal, in combination with the potential use of the site for up to 16 plots for gypsy caravans, has resulted in antisocial behavior that has created an unacceptable level of fear of crime and disorder for the existing residents of Oxen Lane contrary to the good planning of the area.
- 06 The proposed development would create a precedent for future unauthorized and unlawful development contrary to Somerset and Exmoor National Park Joint Structure Plan Review Policy 49 and Taunton Deane Local Plan Policies S1, H14 and EN12.

2.0 **APPLICANTS**

24/2006/038 - Mr and Mrs Lverage plot 12

24/2006/043 - Mr and Mrs Small plot 15

24/2006/046 - Mr and Mrs Packman plot 1

24/2006/047 - Mr and Mrs Holland plot 8

24/2006/048 - Mr and Mrs Smith plot 16

24/2006/049 - Ms O'Neil plot 7

3.0 **PROPOSAL**

There are 6 individual planning applications proposing the retention of 1 gypsy caravan and 1 touring caravan on each of the 6 plots and the retention of a dayroom on each of plot numbers 1, 7, 8, 15 and 16. Four of the applicant households live on the site, namely the Hollands, the Packmans, the Smiths and O'Neil. A fifth household, Mr and Mrs Dolan live on the site but have not submitted an application for planning permission

4.0 **THE SITE**

The application site comprises 2.26 ha of former agricultural land lying to the south of Oxen Lane and rising from east to west. It lies in open countryside and is approximately 400m from the settlement limit of North Curry (by the Village Hall) and approximately 260m from the settlement limit at Greenway. Agricultural

fields surround it, with a row of semi-detached dwellings located to the north west of the site, one of which (no 6) physically adjoins the site. There are established hedgerows on all boundaries, except at the point of access. A hardcore and scalping access is provided at the northeastern corner of the site. Its access is via a slope up from the lower highway to the site, which is higher than the adjacent lane. The access is direct off Oxen Lane, an unlit single-track lane. Oxen Lane joins the main roads going 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 zoned as a 'Landscape Character Area' and can be seen from and has an impact on the North Curry Ridge Landscape Character Area that lies to the south. The site is located on rising land and as a result it can be seen from the surrounding countryside, as well as the public footpath that runs to the south of the site, and the adjacent highways.

The site is currently divided into sixteen pitches, with fencing demarcating the individual pitches. There is a central road running through the site which is laid with scalping and hard core, and some of the sites have individual hard standings. On five of the plots there are mobile homes and caravans that are occupied, whilst other plots are entirely empty or have single unoccupied units. There are several sheds and one day room.

5.0 **RELEVANT PLANNING HISTORY**

24/2004/042 Change of Use of Agricultural Land to Form Permanent Gypsy Site, Including the Stationing Of 16 Mobile Homes, 16 Touring Caravans and 16 Utility Dayrooms at Land on Oxen Lane, North Curry. Permission REFUSED on 17th December, 2004. Planning and enforcement appeals DISMISSED on 26th September, 2005. 1 year for compliance with Enforcement Notice. It follows that the site should have been cleared by September 2006 and the present occupation of the site is unlawful.

The main conclusions reached by the Secretary of State in refusing planning permission and dismissing the appeals were:

- a. The existing impact on 6 Oxen Lane is severe and the proposed presence of mobile homes would add to this. The amenities of number 6 have been reduced to a level far below that which ought reasonably to be expected. Mitigation by planting would have an undesirable effect.
- b. The existing development constitutes a major encroachment into the countryside. Even with landscaping it will remain conspicuous from across the valley.

- c. Access to schools and community facilities is not 'safe and convenient' as required by the local plan.
- d. The development breaches H14(B) and (C) of the local plan and local and national policies which seek to protect the character of the countryside.
- e. Visibility at the junction of Oxen Lane and Greenway falls well short of the required 60m. The conditions are so substandard that there is a material highway objection.
- f. The six monthly counts of gypsy caravans present a reliable picture of the situation in Taunton Deane. Occupation of the Land has altered the need position.
- g. The Council failed to carry out a quantitative assessment when preparing the local plan. The local plan does not make allocations of land for gypsy sites as it should. The failings in the local plan weigh in favour of the grant of planning permission, despite the fact that the Council has a good record of site provision.
- h. There is a need for further sites in Taunton Deane but this is difficult to quantify.
- i. There is no substantive case that all the occupants of the Land need to be accommodated on the same site.
- j. A number of children at school exhibit typical educational problems associated with their past lifestyle and the previous lack of a settle base. If the occupants have to leave the Land the children are likely to lose continuity of education and so will suffer a major disruption. This would also affect children not yet of school age.
- k. The stability of the residential base provided by the Land brings benefits to the occupants in terms of healthcare

- l. The personal circumstances of the occupants are a material consideration which lends support to the case for planning permission

- m. It is likely that the occupants would be on the roadside if there have to leave the Land. This consideration in favour of planning permission is strengthened by educational and health factors. The Secretary of State gives these issues considerable weight.

- n. It would not be appropriate to grant a temporary planning permission, given the serious planning objections to the development.

- o. In the absence of alternative sites for the occupants, dismissal of the appeals will involve a serious interference with their human rights. However the objections to the development are serious ones which cannot be overcome by conditions. The public interest can only be safeguarded by the refusal of planning permission

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

6.0 **RELEVANT PLANNING POLICY**

Somerset and Exmoor National Park Joint Structure Plan Review

POLICY STR6 - Development Outside Towns, Rural Centres and Villages.
Development in the Countryside will be strictly controlled to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel.

POLICY 5 - Landscape Character

The distinctive character of the countryside of Somerset and the Exmoor National Park should be safeguarded for its own sake. Particular regard should be had to the distinctive features of the countryside in landscape, cultural heritage and nature conservation terms in the provision for development.

POLICY 8 - Outstanding Heritage Settlements

The special character of the Outstanding Heritage Settlements identified below,

should be respected. North Curry is considered such a settlement.

POLICY 36 - Sites For Gypsies and Traveling People

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.

POLICY 49 - Transport Requirements of New Development

Proposals for development should be compatible with the existing transport infrastructure, or, if not, provision should be made for improvements to infrastructure to enable development to proceed. In particular development should:-

- (1) Provide access for pedestrians, people with disabilities, cyclists and public transport;
- (2) Provide safe access to roads of adequate standard within the route hierarchy and, unless the special need for and benefit of a particular development would warrant an exception, not derive access directly from a National Primary or County Route; and,
- (3) In the case of development, which will generate significant freight traffic, be located close to rail facilities and/or National Primary Routes or suitable County Routes subject to satisfying other Structure Plan policy requirements.

Taunton Deane Local Plan (Revised Deposit) adopted 19th November 2004)

Taunton Deane Local Plan Revised Deposit. The following policies are considered especially relevant: -

S1 General Requirements

Proposals for development should ensure that:-

- (A) additional road traffic will not lead to overloading of access roads or road safety problems;
- (C) the proposals will not lead to harm of protected species or their habitats;
- (D) the appearance and character of any affected landscape, settlement, building or street scene would not be harmed as a result of the development;
- (E) potential air pollution, water pollution, noise, dust, glare, heat, vibration and other forms of pollution or nuisance, which could arise as a result of the development will not harm public health or safety, the amenity of individual dwellings or residential areas or other elements of the local or wider environment;

- (F) the health, safety or amenity of any occupants or users of the development will not be harmed by any pollution or nuisance arising from an existing or committed use.

S7 Outside Settlements

Outside defined settlement limits, new building will not be permitted unless it maintains or enhances the environmental quality and landscape character of the area and

- (B) accords with a specific Development Plan policy or proposal;
- (C) is necessary to meet a requirement of environmental or other legislation. New structures or buildings permitted in accordance with this policy should be designed and sited to minimise landscape impact, be compatible with a rural location and meet the following criteria where practicable
- (E) avoid breaking the skyline;
- (F) make maximum use of existing screening;
- (G) Relate well to existing buildings; and
- (H) use colours and materials, which harmonise with the landscape

H14 Gypsy and Travellers sites

Outside the defined limits of settlements, sites for gypsies or non-traditional travelers will be permitted, provided that:

- (A) there is a need from those residing in or passing through the area;
- (B) there is safe and convenient access by bus, cycle or on foot to schools and other community facilities;
- (C) a landscaping scheme is provided which screens the site from outside views and takes account of residential amenity;
- (D) adequate open space is provided;
- (E) accommodation will enjoy adequate privacy and sunlight;
- (F) accommodation for incompatible groups of gypsies and/or non-traditional travellers are not mixed on the same site;
- (G) areas for business, where appropriate, are provided within sites, with satisfactory measures for their separation from accommodation spaces and the safety and amenity of residents; and
- (H) in the case of transit sites, there is convenient access to a County or National route;
- (I) the site is not within an Area of Outstanding Natural Beauty or a Site of Special Scientific Interest, or would harm the special environmental importance of any other protected area;
- (J) adequate fencing, capable of preventing nuisance to neighbouring areas, is provided.

EN12 Landscape Character Areas

Development proposals must be sensitively sited and designed to respect the

distinct character and appearance of Landscape Character Areas.

Executive report dated 3rd May 2006 - Providing for Gypsies and Travellers

Impact of Circular 01/2006 on the Determination of Planning Applications.

7.4 All proposals will still need to be assessed in terms of Policy H14 of the Taunton Deane Local Plan. H14 Outside the defined limits of settlements, sites for gypsies or non-traditional travellers will be permitted, provided that: (A) there is a need from those residing in or passing through the area; (B) there is safe and convenient access by bus, cycle or on foot to schools and other community facilities and they are sited near a public road; (C) a landscaping scheme is provided which screens the site from outside views and takes account of residential amenity; (D) adequate open space is provided; (E) accommodation will enjoy adequate privacy and sunlight; (F) areas for business, where, appropriate, are provided within sites, with satisfactory measures for their separation from accommodation spaces and the safety and amenity of residents; (G) in the case of transit sites, there is convenient access to a County or National route; (H) the site is not within an Area of Outstanding Natural Beauty or a Site of Special Scientific Interest, or would harm the special environmental importance of any other protected area; and (I) adequate fencing, capable of preventing nuisance to neighbouring areas, is provided.

7.5 However, in light of the new Circular the criteria may need to be considered more flexible in cases where an identified need has been established. The fact that a site may be in an area with a landscape, wildlife or conservation designation should no longer in itself be a reason for refusal, unless it can be demonstrated that the development would undermine the objectives of that designation. A more flexible approach should also be taken in terms of distance to local facilities. Whilst sites immediately adjoining settlements may best meet sustainability criteria they can also give rise to other problems, particularly in relation to impact upon residential amenity.

7.6 Circular 01/2006 identifies the issue of the scale of sites in relation to existing settlements. Large-scale gypsy sites should not dominate existing communities. In implementing Policy H14, the relative size of any proposed site in relation to nearby settlements must be taken into account.

7.0 RELEVANT CENTRAL GOVERNMENT GUIDANCE

**Up to date Government advice is contained within ODPM Circular 01/2006
Of particular relevance are paragraphs referred to below**

Paragraph 4

This circular will help to promote good community relations at a local level, and avoid the conflict and controversy associated with unauthorised developments

and encampments

Paragraph 12 The Circular comes into effect immediately. Its main intentions are;

- (a) to create and support sustainable, respectful, and inclusive communities where gypsies and travellers have fair access to suitable accommodation, education, health and welfare provision; where there is mutual respect and consideration between all communities for the rights and responsibilities of each community and individual; and where there is respect between individuals and communities towards the environments in which they live and work;
- (b) to reduce the number of unauthorised encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this Circular;
- (c) to increase significantly the number of gypsy and traveller sites in appropriate locations with planning permission in order to address under-provision over the next 3-5 years;
- (d) to recognise, protect and facilitate the traditional travelling way of life of gypsies and travellers, whilst respecting the interests of the settled community;
- (e) to underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- (f) to identify and make provision for the resultant land and accommodation requirements;
- (g) to ensure that DPDs include fair, realistic and inclusive policies and to ensure identified need is dealt with fairly and effectively;
- (h) to promote more private gypsy and traveller site - provision in appropriate locations through the planning system, while recognising that there will always be - those who cannot provide their own sites; and
- (i) to help to avoid gypsies and travellers becoming homeless through eviction from, unauthorised sites without an alternative to move to.

The scheme of C1/2006 is that all local planning authorities must carry out Gypsies and Travellers Accommodation Assessment (GTAAs) to ascertain the need for pitches in their districts. These must be submitted to the relevant regional authority. The regional authority will use the information from the

GTAAs to impose quotas of gypsy pitches on all the districts in the region. Each district will be obliged to allocate sufficient land in their Development Plan Documents (DPDs) to meet its quota. The circular contemplates that this process will lead to the provision of an adequate number of gypsy sites.

C1/2006 sets out what is called "transitional arrangements" to govern the period before quotas are imposed by the relevant regional authority (paragraphs 41-46). In certain circumstances it may be necessary for local planning authorities to make allocations in this period. Further, in districts where there is a clear need for additional sites and a likelihood that allocations will be made within a defined period, it may be appropriate to grant temporary planning permissions for gypsy sites.

The relevant paragraphs 45 and 46 state as follows:

Paragraph 45

Advice on the use of temporary permissions is contained paragraphs 108-113 of DoE Circular 11/95 The Use of Conditions in Planning Permissions. Paragraph 110 advised that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission. Where is unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet the need, local planning authorities should give consideration to granting a temporary permission.

Paragraph 46

Such circumstances may arise, for example, in a case where a local planning authority is preparing its site allocations DPD. In such circumstances, local planning authorities are expected to give substantial weight to the unmet need in considering whether a temporary planning permission is justified. The fact that temporary permission has been granted on this basis should not be regarded as setting a precedent for the determination of any further applications for full permission for use of the land as a caravan site. In some cases, it may not be reasonable to impose certain conditions on a temporary permission such as those that require significant capital outlay.

Although the point is not made expressly, the thinking is obviously that temporary planning permission could be granted for sites which might or might not be good enough to be allocated as permanent site, in order to provide gypsies with somewhere to stay in the period before the allocations come forward. This aspect of C1/2006 has been raised by solicitors for some of the present occupants in the context of recent applications for planning permission.

Paragraph 45 refers to the guidance on temporary planning permissions in another Circular, C11/95. The relevant passages of C11/95 provide:

Principles applying to temporary permissions

109. Advice on minerals permission is given in Minerals Policy Guidance notes. In other cases, in deciding whether a temporary permission is appropriate, three main factors should be taken into account. First, it will rarely be necessary to give a temporary permission to an applicant who wishes to carry out development which conforms with the provisions of the development plan. Next, it is undesirable to impose a condition requiring the demolition after a state period of a building that is clearly intended to be permanent. Lastly, the material considerations to which regard must be had in granting any permission are not limited or made different by a decision to make the permission a temporary one. Thus, the reason for granting a temporary permission can never be that a time-limit is necessary because of the effect of the development on the amenities of the area. Where such objections to a development arise they should, if necessary, be met instead by conditions whose requirements will safeguard the amenities. If it is not possible to devise such conditions, and if the damage to amenity cannot be accepted, then the only course open is to refuse permission. These considerations will mean that a temporary permission will normally only be appropriate either where the applicant proposes temporary development, or when a trial run is needed in order to assess the effect of the development on the area.

Short-term buildings or uses

110. Where a proposal relates to a building or use which the applicant is expected to retain or continue only for a limited period, whether because they have specifically volunteered that intention, or because it is expected that the planning circumstances will change in a particular way at the end of that period, then a temporary permission may be justified. For example, permission might reasonably be granted on an application for the erection of a temporary building to last seven years on land which will be required for road improvements eight or more years hence, although an application to erect a permanent building on the land would normally be refused.

I consider that this makes it clear that a gypsy site cannot be permitted on a temporary basis where this would involve injury to amenity which cannot be overcome by the imposition of conditions.

Paragraph 48

In applying rural exception site policy, local planning authorities should consider in particular the needs of households who are either current residents or have an existing family or employment connection.

Paragraph 53

However, local landscape and local nature conservation designations should not be used in themselves to refuse planning permission for gypsy and traveller sites.

Paragraph 54

Sites on the outskirts of built-up areas may be appropriate. Sites may also be found in rural or semi-rural settings. Rural settings, where not subject to special planning constraints, are acceptable in principle. In assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local serviced. Sites should respect the scale of, and not dominate the nearest settled community. They should also avoid placing an undue pressure on the Local infrastructure.

GTAA

The regime of the Planning and Compulsory Purchase Act 2004 provides for Regional Spatial Strategy (RSS) to be formulated by the regional authority, the South West Regional Assembly.

In April 2006 the Regional Assembly published a draft RSS of which paragraph 6.1.1.13 states 'at the time of publication of the draft RSS the RPB was of the view that there was not sufficiently robust information on which to establish district level numbers, that it is necessary to establish transitional arrangements in accordance with C1/2006 and that there will be an early review of the draft RSS 'to fully implement the Government's requirements' (i.e. to impose quotas).'

For the South West, this regional context can be summarised as follows:

- The extent of existing provision in the region is approximately 550.
- The following parts of the region have relatively high numbers of unauthorised sites; South Gloucestershire, City of Bristol and North Somerset, Unitary Authority areas, and parts of Devon, Gloucestershire and Dorset counties.
- An interim estimate of the additional pitch requirements at regional level is about 1,100 pitches which will be used to monitor delivery in LDDs.

Regarding pitch requirements, the indicative regional figure set out above will serve as a monitoring basis until local authorities have completed their needs assessments and are able to provide a more comprehensive position for site requirements. It is anticipated that all local authorities in the region will have completed their GTAAs in 2007, and it is hoped a single issue review of the Draft RSS can be completed in step with this.

Assessment for need for Gypsy and Traveller Accommodation Requirement

Local authorities should work together to carry out detailed assessments of need for Gypsy and Traveller accommodation requirements. This should include consultation with Gypsies and Travellers, both housed and travelling. Working with the RPB and RHB, local authorities will provide for about 1,100 additional

pitches for gypsies and travellers and identify need for residential pitches, park homes and transit pitches for inclusion in their DPDs, and identify realistically deliverable sites to meet the need.

I do not read the policy of the Draft RSS as suggesting a present obligation on the council to allocate land as gypsy sites, or to prepare a pre-quota allocations DPD. My reading of paragraphs 6.1.13 and 6.1.15 is that the quotas will be imposed in the 'single issue review of the Draft RSS'. Certainly no interim/transitional arrangement of the kind referred to in paragraph 42 of C1/2006 has been made by the Regional Assembly.

The Regional Assembly subsequently announced that First Draft Proposals for this single issue review would have to be presented by the relevant authorities (in the case of Somerset the Somerset County and the five District Councils) by March 2007. It is understood that the single issue review will seek to impose quotas for pitches to be provided 2006-2011.

The Ark Report and the GTAA

As I have pointed out, it was known for sometime that the Government intended to replace C1/94. One well-known criticism of the C1/94 regime was the local planning authorities had not carried out quantitative assessments of the need for gypsy sites (a point raised by the Inspector in the present case). It was clear from this criticism and from the draft Circular that the replacement for C1/2006 would contain more robust advice requiring such assessments to be carried out. It was also expected that there would be guidance on how such assessment should be conducted.

The local planning authorities in Somerset consider that they have always been fairly assiduous in monitoring the need for gypsy sites and in making provision for them. In June 2006 they decided to set up a panel to consider the best approach to assessing and meeting the needs of gypsies to work in conjunction with consultants ARK who were carrying out an overall housing needs assessment. It is important to stress that this was deliberate decision to start the process of assessment before the new policy/guidance was published: it was not thought appropriate simply to do nothing before this happened. In this regard I note that a very considerable period in fact elapsed before new policy was published; the draft replacement for C1/94 came out in December 2004 but the final replacement (C1/2006) was not published until February 2006. It was accompanied by draft guidance on the conduct of GTAAs – this guidance remains in draft form.

The panel included representatives of the County and district councils and of the gypsy community. They have considered (i) the planning permissions for the permitted sites, so as to ascertain the total number of caravans that could lawfully be stationed on these, (ii) the actual number of caravans stationed on

these sites and (iii) the number of caravans stationed unlawfully in each district.

The Panel recommended that the gypsy families on unauthorised sites should be assessed so that the planning authority could judge whether it was appropriate to seek alternative pitches for them.

The elements of the ARK report relating to the needs assessment for gypsies and traveller was reported to the Housing Review Panel of the Council on 11 April 2006 and to the Strategic Planning Transportation and Economic Development Review Panel of the Council on 12 April 2006. I have dealt with this under Policy Section as part of a report updating the provision for gypsies and travellers. The recommendations of these Panels were reported to the Council's Executive on 3 May 2006. The reports to the Panels and the Executive also dealt with other gypsy matters, notably policy H14.

The draft guidance on GTAAs published in February 2006 made it clear that a GTAA should assess not only how many pitches are required for gypsies already on unlawful sites, but also how many pitches are required to meet 'hidden' demand (e.g. growth of existing gypsy households, needs of gypsies wanting to move out of houses etc.). It was clear to the Somerset authorities that it would not be possible to complete a full GTAA by March 2007, the deadline for the First Draft Proposals, so a decision was taken to present an assessment of the number of pitches required to meet the needs for gypsies already on unauthorised sites. It will be appreciated that meeting this need is an obvious priority and that the single issue review will only deal with allocation to be made 2006-2011. It is intended that the remaining parts of the GTAA will be completed after March 2007.

The implications for these applications can be shortly stated. The needs of the families who reside on the Land (the Packmans, Ms O'Neil, the Hollands, the Smiths and Dolans) have been assessed several times and it will be accepted that they have a need for pitches to be provided for them.

8.0 **RELEVANT LEGISLATION**

European Convention for the Protection of Human Rights and Fundamental Freedoms (Human Rights Act 1998)

Articles 8 and 14 of the Convention and the First Protocol Articles 1 and 2 are of particular importance in the consideration of this application.

Article 1

1. Everyone has the right to respect for his private and; family life, his home The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin,

association

2. No person shall be denied the right to education. In the exercise of any function which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religion and philosophical convictions.

Criminal Justice and Public Order Act 1994

In respect of Gypsies, this act repealed the duty of Local Planning Authorities to provide and manage Gypsy sites and provided powers to evict unauthorized camper

9.0 **CONSULTATIONS**

County Highway Authority

Object to the proposals written views awaited

Environment Agency

The Agency has no objections to the proposed development but wishes the following informatives and recommendations are included within the Decision Notice.

The applicant should ensure that the existing septic tank and soakaway is in a good state of repair, regularly desludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of this proposal.

The septic tank and soakaway system shall meet the requirements of the British Standard BS 6297: 1983; there shall be no connection to any watercourse or land drainage system and no part of the soakaway system shall be situated within 10 metres of any ditch or watercourse, or within 50 metres of any well, borehole or spring.

Oil or chemical storage facilities should be sited in bunded areas. The capacity of the bund should be at least 10% greater than the capacity of the storage tank or, if more than one tank is involve the capacity of the largest tank within the bunded area. Hydraulically inter-linked tanks should be regarded as a single tank. There should be no working connections outside the bunded area.

Any waste oils must be collected and contained prior to disposal in an approved manner. On no account should waste oils be discharged to any drainage system.

There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses, ponds or lakes, or via soakaways/ditches.

Wessex Water

The development is located within a foul sewered area. It will be necessary for the developer to agree a point of connection onto the system for the satisfactory disposal of foul flows generated by the proposal. This can be agreed at the detailed design stage.

According to our records, there is a public foul sewer crossing the site. Please find enclosed a copy of our sewer records indicating the approximate position of the apparatus. Wessex Water normally requires a minimum, three-metre, easement width on either side of its apparatus, for the purpose of maintenance and repair. Diversion or protection works may need to be agreed.

It is further recommended that a condition or informative is placed on any consent to require the developer to protect the integrity of Wessex systems and agree prior to the commencement of works on site, any arrangements for the protection of infrastructure crossing the site. The developer must agree in writing prior to the commencement of works on site, any arrangements for the protection of our infrastructure crossing the site.

There are no public surface water sewers in the vicinity of the site; it is advised that the developer investigate alternative methods for the satisfactory disposal of surface water from the site (e.g. soakaways). Surface water should not be discharged to the foul sewer. Your Council should be satisfied with any suitable arrangement for the disposal of surface water.

With respect to water supply, there are water mains within the vicinity of the proposal. Again, connection can be agreed at the design stage. However for capacity reasons, it should be noted that connection would need to be made to the 150mm PVC main that crosses Oxen Lane near Borough Post, and not to the main to the rear of numbers 1 - 6 Oxen Lane. In addition no connection is to be made to the 800mm spine main to the north of Oxen Lane.

It is recommended that the developer should agree with Wessex Water, prior to the commencement of any works on site, a connection onto Wessex Water infrastructure.

Landscape Officer

Individually the plot will have some landscape impact that could be reduced with substantial landscaping, but given the other neighbouring applications, my view is that overall it would not be possible to reduce the visual impact of the

proposals and that, as agreed by the Planning Inspector, the proposals would be detrimental to the landscape character of the area.

Fire Safety Officer

The details of the proposals have been examined and the following observations are made:

1. Access for Appliances

Access for fire appliances should comply with Approved Document B5, of the Building Regulations 2000.

2. Water Supplies

All new water mains installed within the development should be of sufficient size to permit the installation of fire hydrants conforming to British Standards.

3. The Regulatory Reform (Fire Safety) Order 2005

This authority will be responsible for enforcement of the above legislation relating to any communal buildings on this site. Applicants should be directed as set out below. For technical detail and guidance you are strongly advised to obtain the appropriate publication that has been published by HM Government, details of these publications are available at <http://www.communities.gov.uk> for purchase or free download. When purchasing or installing equipment, compliance with the relevant British Standard is normally taken as being adequate. Should the issues set out in this report require major changes or costs then you are advised to take professional advice before proceeding.

4. Other Legislation

It is understood that yourselves or other agencies will be responsible for the enforcement of the following legislation:

Public Health Act 1936

Caravan Sites Act 1968

Caravan Control & Development Act 1960

Gypsy and Traveller Liaison Officer

It is still my opinion that Oxen Lane, North Curry is by definition an unauthorised development in an inappropriate location.

At the present time there are no vacancies on any of the authorised Local Authority sites.

In the recent Gypsy and Travellers Accommodation Needs Survey, Taunton Deane accepted that a total of six pitches were needed immediately to relocate the families on this site.

Somerset County Council has identified to the Deane two sections of land owned by the County Council which could be leased to the District Council as possible sites. I am also informed that the applicants have identified over 20 possible locations which could be developed as sites.

Under existing legislation it is the responsibility of the District Council to address accommodation applications from Gypsies and Travellers and that both the District and the County Council are working together to address this difficult issue.

Drainage Officer

I note surface water is to be discharged to soakaways. This should be constructed in accordance with Building Research Digest 365 (September 1991) and made on condition of any approval.

I note that foul drainage is to be dealt with by means of a cesspit. I believe this nature of treatment is against Council policy and therefore a connection to the public sewer which crosses the site should be investigated. The Council's Environment Protection team should be consulted on the proposed means of sewage disposal.

Forward Plan

"In commenting on the earlier planning application for the change of use and occupation of the site at Oxen Lane as a gypsy site (24/2004/042) I drew attention to policy H16 (H14 as Adopted) of the Taunton Deane Local Plan. This remains the key Development Plan policy, although others such as Structure Plan policy 36 and TDLP policies S1 and EN12 are relevant.

Additionally, the findings and decisions of the Inspector and Secretary of State in relation to the Appeal against the refusal to grant permission for that earlier application must also be taken into account, as should new advice on Planning for Gypsy and Travellers Caravan Sites contained in ODPM Circular 01/2006.

As before, I consider that the majority of the criteria of H14 are matters of detail on which others are better able to comment. However, I do have the following views in relation to criteria (A) and (B).

In relation to criterion (A), a county-wide assessment of needs has been undertaken by consultants since the consideration of the earlier application on the site, as part of a wider housing market assessment. This concluded that the priority should be to secure sites for those households which are currently residing on unauthorised sites. In some cases, where sites are considered acceptable, this could be achieved by granting planning permission. However, where they are so inappropriate that they cannot be tolerated, alternative sites will need to be found. The Council thus accepts that there is a need to find

suitable sites for those applicants that are resident on the Oxen Lane site, but for a number of reasons including those set out below, Oxen Lane is not considered to be suitable for continued occupation.

In commenting on criterion (B) previously I indicated that I considered the distance of the site from the services and facilities of North Curry to be acceptable, but did not comment on the safety and convenience of the route. In his decision letter on the Appeal the Secretary of State judged that access could not be considered to be 'safe and convenient' and so the proposal failed to satisfy criterion H14(B).

The major issues in relation to the adverse effect of the previous application on residential amenity, visual amenity, and highway safety, which led to the dismissal of the Appeal, all appear to still be relevant considerations.

In response to the publication of ODPM Circular 01/2006 the Council has reviewed its approach to gypsy and travellers site provision. As an interim measure, pending the formal review of the relevant policy in the preparation of the LDF, it has resolved to adopt a more flexible approach to the implementation of policy H14. As a result of this, and its acceptance of the need to accommodate the needs of gypsies and travellers, six planning applications have been approved or resolution made to approve since the time of the previous application and Appeal on this site. These have authorised nine additional pitches, many of them on sites that were previously occupied on an unauthorised basis. In addition, the Council has established a Working Group of officers that is actively seeking to identify further suitable sites that can be brought forward in the short term. In the longer term if there is a remaining need for additional sites these will be identified in the Local Development Framework."

Housing Officer

No observations to make on this planning application other than to say to refer to ARK report recommendations to G & T sites.

Environmental Health Officer

The applicant should be advised that suitable and satisfactory drainage provision shall be made. With respect to the proposed use of the existing septic tank the applicant shall ensure that the septic tank systems capacity is satisfactory to provide drainage for the maximum likely numbers of occupants of the property.

Parish Council

24/2006/043 - Change of use of land for the siting of one caravan and one mobile home and the erection of a toilet block at Plot 15, Oxen Lane, North Curry.
24/2006/046 - Change of use for gypsy occupation of one mobile home, one day room and one touring caravan, No.1 Greenacres, Oxen Lane, North Curry.
24/2006/047 - Change of use for gypsy occupation of one mobile home, one day

room and one touring caravan, No.8 Greenacres, Oxen Lane, North Curry.
24/2006/048 - Change of use for gypsy occupation of one mobile home, one day room and one touring caravan, No.16 Greenacres, Oxen Lane, North Curry.
24/2006/049 - Change of use for gypsy occupation of one mobile home, one day room and one touring caravan, No.7 Greenacres, Oxen Lane, North Curry.

Each of the above plots was the subject the subject of a previous Planning Application 24/2004/042, permission for which was refused by Taunton Deane Borough Council on 16th December 2004. That decision was the subject of an Appeal resulting an inquiry being undertaken an Inspector, Mr. Roger Priestley, in June 2005. As a result of that inquiry the Inspector's Report dated 19th July 2005 recommended that the Appeal be dismissed and that the Enforcement Notice be upheld. In September 2005 the Secretary of State upheld the Inspector's recommendation.

The main grounds for the Inspector's recommendation were as follows:

1. The impact of the proposed development on the outlook from 6 Oxen Lane and its attractive rear/side garden is severe. The visual amenities of the occupants at 6 Oxen Lane have been reduced to a level far below that which ought reasonably to be expected. "The impact could be mitigated by landscaping / planting and by regulating the siting of the facilities on plots 9 to 12 inclusive. Such new planting that would be required to supplement the existing boundary growth, however, would need to be substantial and once matured this would be likely to enclose 6 Oxen Lane to such a degree as to have in itself an undesirable oppressive effect on the enjoyment of this house and its garden. This is not therefore an appropriate option. The occupants of both No.5 and No.6 Oxen Lane also raise strong objection on account of noise disturbance caused by dogs barking, music being played from vehicles, additional traffic and through shouting.
2. The development of this site amounts to a major encroachment into the countryside. Although not given any specific landscape protection this is an attractive location, open to view from the A378 / public footpaths across the valley on the slopes of the Fivehead Ridge. The impact of the enforcement development from this direction, exacerbated by the gradual slope of the appeal land up towards the west, is significant. The development even with additional planting / landscaping would be likely to remain conspicuous from across the valley.
3. There is a fundamental conflict with SP Policy 5 which seeks to safeguard the distinctive character of the countryside for its own sake, and a failure to meet TDLP Policies S1(D) and H14(C). The developments, moreover, are and would be inconsistent with the requirement under TDLP Policy EN 12 that proposals must be sensitively sited and designed to respect the distinct character and appearance of Landscape Character Areas, with EN1 of RPG10 which seeks to

protect the character of the countryside and with the related national guidance in PPS7 seeking the protection of the countryside for its own intrinsic character and beauty.

4. The arrival of the original applicants on to the site in October 2004 significantly changed the position in respect of need for gypsy site accommodation in the area. On Friday 22 October before the arrival of the original applicants there was no pressing need for additional sites. There is no substantive case, however, that the applicants all need to be accommodated on the same site. Whilst many knew of other group members before coming to Oxen Lane, and many are related, they came together for the purpose of acquiring the land and dispersal would mean no more than a return to the pre-October 2004 situation.

5. The Parish Council contend that if permission is granted for even one of the applications, it would be very difficult to control any further incursions of caravans onto the rest of the site.

6. By the behaviour and conduct of the applicants, they have not helped their case for integration into the village.

7. These applications, if approved would result in a situation almost identical with that applied for in Planning Application 24/2004/042.

8. In the cases of 24/2006/043 (Mr & Mrs Small) the applicants do not even live on site so no claim of homelessness is valid. (The same applies for 24/2006/038 (Mrs Loveridge) though that application is not part of this parcel of five applications.)

The Parish Council contends that the reasons outlined above in the Inspector's recommendation to dismiss the earlier Appeal still held good in respect of this application and the other five applications under consideration.

The Parish Council wishes to reiterate its **STRONG OBJECTION** to these five applications on the grounds listed above.

Ward Councillor

I refer to the series of applications for gypsy sites at Oxen Lane (24/006/049 is one such). I need hardly point out the history of this site and the many reasons why the appeal by the existing residents was dismissed by the Inspector earlier last year. I do not intend to list the reasons why the Inspector considered the site unsuitable for this use but the summary the site was too large and in the wrong place.

One of the key factors in the Inspectors decision was the relatively high level of provision within the North Curry Parish which has more pitches than whole Districts in other parts of Somerset and the South West. It is recognised that making even more provision within North Curry would represent an imbalance of provision for gypsies and travellers within Taunton Deane and more widely within the County.

It is important to recognise that since the Inspectors decision last year permission has been granted for a number of additional pitches within and near the Parish of North Curry. This includes new pitches at Newport, Long Acre and at nearby West Hatch where a site for 8 pitches now has permanent consent for travellers.

The fact that the new applications for Oxen Lane have been made by individual families should make no difference to the process set in train by the Inspectors report and the subsequent court action.

These applications must be treated in the same way as the previous one and a refusal is the only logical conclusion. In the event of permission being given for just one pitch on this site it would be inevitable that the whole site would be occupied given the very obvious difficulty of enforcement once a site is established.

10.0 **REPRESENTATIONS**

Letters of objection have been received raising the following issues:-

1. The occupation has led to increased noise from children running about, dogs and cars/vans coming and going which is detrimental to the quiet rural character of the area and the amenities of the existing residents.
2. Bright lights on this site have a detrimental impact on the amenity of residents of adjacent housing and wildlife, including badgers and owls. Protected species.
3. Bright lights on this site will form a detrimental visual intrusion into this quiet, rural, Landscape Character Area.
4. The steep access into the site causes a safety hazard for traffic and pedestrians using the lane.
5. Oxen Lane is an unclassified single track Lane without a footpath and a poor junction with Greenway Road and traffic using the access is detrimental to highway safety.
6. Occupants have been stopped from emptying the septic tank onto

adjoining field in the vicinity of residential properties.

7. The location and poor drainage of the site has resulted in water, mud and ice all over the Lane and this is a danger to highway safety and the safety of residents/ pedestrians walking or driving along the lane.
8. Continued occupation flouts the existing planning laws.
9. Planning regulations must apply to everybody equally.
10. There is an underused gypsy facility at Wrantage that should be used.
11. Acceptance of the current occupants will result in an intensification of occupation, by friends and family in the future.
12. Local schools and Doctors surgery are at capacity.
13. The use sets an undesirable precedent for similar unauthorized encampments within the area.
14. Applicants have not complied with the planning regulations so are unlikely to comply with any planning conditions.
15. If the gypsies can develop countryside like this why can't existing residents?
16. I can't afford to buy a property in North Curry but I could afford a piece of land and a caravan. The gypsy exception isn't fair to the local people.
17. Whilst services remain into the site future unauthorized use is likely so it is important for them to be removed when the site is vacated.
18. Taunton's homeless people are not able to occupy this site so why should anyone.
19. North Curry already has a good provision of gypsy sites within the parish and additional sites should be spread through out the Deane and Somerset.
20. The gypsies should not have occupied the site in this illegal manner.
21. The gypsies already have sites to occupy and see this as a speculative venture.
22. Occupation has severely destroyed the amenity of nearby residents changing the area from a quiet rural haven to a noisy eyesore, out of

keeping with its surroundings.

23. The illegal occupation has had a detrimental effect on the health and well being of existing residents.
24. The impact of the proposal on the economic, social and environmental of the local area is worrying.
25. The unauthorized site has had a detrimental impact of the visual amenity of the area. The site, on high ground can be seen from the local and wider area as a detrimental incursion into this area, the continued occupation of the site is detrimental to the character of the Landscape Character Area.
26. This is a retrospective application; if everyone did this the countryside would be a mess.
27. The land is outside of the settlement and contrary to Local Plan policies including S1, S2, S7, EN12 and H14.
28. When viewed across the valley the site is an eyesore.
29. The visual impact and outlook from no 6 Oxen Lane is severe, "to a level far below that which ought reasonably to be expected" (Inspectors decision letter).
30. The occupation is detrimental to the amenity and quality of life of the existing residents.
31. The proposed tree screen would need to be very large to screen the number of caravans, dayrooms and vehicles and would be incongruous with and alter the character of the surrounding landscape from an open field to wood resulting in "hemming" in of existing residential amenity.
32. The education and medical needs of the applicants should be balanced against the statistics of the settled community where 10% of school children move schools in any one-year.
33. The existing school is now overcrowded and the large number of children requiring special attention is disruptive to all of the other school children.
34. The occupants all moved from other sites to this unauthorized site moving their children from school. Having to move schools was not a problem at that time.
35. Local schools and doctor's surgery are both at capacity.

36. The occupant's health and education needs were being provided elsewhere before moving onto this site and will continue to be provided where ever they choose to stay.
37. Families with educational needs attract additional funding for the school to enable additional support staff. This funding transfers with the child and the support remains constant. Traveller's children are well provided for in Somerset with additional support from tutors. This service is available throughout Somerset, independent of location.
38. Under Article 8 of the Human Rights Act there is an equal right to respect whose lives have been detrimentally affected by this proposal.
39. Under the Human Rights Act the rights of gypsies are no greater than those of any other person.
40. Under the Human Rights Act the rights of existing occupants need protection.
41. No person regardless of his or her ethnicity, homeless status should be allowed to flout the law.
42. Residents of Oxen Lane have had their freedoms and rights affected. Properties are unsaleable, privacy has been removed, security and safety has been endangered with: police raids on the site, fireworks through our roof, ongoing noise so that the garden is unusable and overall turmoil, tension, anxiety and stress for all the family members (including children).
43. Whilst single-family gypsy units can be integrated into the local community the larger number on this site cannot.
44. The occupants of the site have upset the balance of the existing community and the potential occupancy of the site, if allowed is much greater.
45. The local residents' views must be taken into account.
46. Having lived in the village for 50 years I have not experienced the community to be so unhappy about having gypsies in the village.
47. Incidents in the village over the last year have shown the settled community that the gypsies want to share local facilities without regard or respect for the people and property within it.
48. Walking the past the site I continually have to remove litter from the hedges and the smell from the septic tank is awful.

49. Pony and trap races have taken place through the village at great speed and is dangerous to traffic and pedestrians.
50. Crime in the area has increased since the occupation of the site.
51. There have been police raids on the site, including 2 visits from an armed response unit looking for one of the occupants of the site and this has a detrimental effect on the financial and mental well being of adjacent residents.
52. When passing the site, we have been verbally abused by occupants who make no effort to be civil to the existing community.
53. Occupants should have moved, as they have been aware of the need to vacate the site since the appeal decisions.
54. There has been no change in circumstances since the appeal therefore the applicants should be made to move.
55. The site should be vacated, cleared and returned to agricultural use now.
56. The current applications proposals to move the sites away from 6 Oxen Lane are merely an attempt to get planning permission.
57. The reduction in the number of applicants may reduce the problem but it is still the same people who cynically introduced a large site without planning permission and if allowed it is likely that further unauthorized occupation would follow.
58. The number of gypsies in the area is already high and the danger of this site is that an increased number has resulted in local tension with a significant impact on local services, schools, and health and highway safety.
59. There are sufficient sites in Somerset already.
60. Occupants of the site live closer to the site than my family and yet our children walk to school whereas the children from the site area always driven.
61. At a fair and impartial hearing an Inspector determined against this occupation and a similar decision must be taken now.
62. Plot 7 has changed occupant what is to stop the other plots changing as well and the site filling up.

63. The caravans and occupants of the site overlook the existing residential properties and this is detrimental to the privacy and amenity of existing residents.
64. The inspector and minister rejected this occupation last year and these applications should not be considered again.
65. No more taxpayer's money should be spent on considering this as the applications have been refused.
66. The site should have been vacated at the end of October.
67. This illegal encampment has gone on for a long time and should stop now.
68. People should not profit from breaking planning laws.
69. Current applications are a cynical attempt to delay the vacation of the site contrary to the planning decision.
70. Occupants of the site have made little/no attempt to fit into the community and their poor behavior has required police presence on the site.
71. Two of the applicants are not living on the site.
72. The Gypsy Liaison Officer stated that this encampment could de-stabilize the balance and planned approach to gypsy site provision within the area of North Curry.
73. South West Law's applications to move the plots to the end of the site does not take account of the other submitted applications and ignores the disturbance caused by traffic, horns beeping, occupants shouting, loud music that has continued and will continue to effect neighbouring amenity.
74. If allowed this will set a precedent for additional vans to move onto the site maybe even as a transit site with families changing all the time.
75. South west Law statement that the applications result in a reduced number of plots, 4 is already inaccurate as there are two other applications elsewhere on the site and it is fair to assume that any permissions here will result in future applications on the remainder of the site.
76. The occupation of the land has caused harm to the local, legal, community. the residents of Oxen Lane have had their rights and freedoms effected: properties are unsaleable, privacy and peace has

been removed, security and safety has been endangered with armed police raids at the site, fireworks being directed through house roofs, ongoing noise that makes it impossible to sit in the garden in the summer, overall tension/ anxiety and stress for all family members including the children.

2 Letters of support have been received raising the following issues:-

1. The applicants have not caused any trouble since moving onto the site.
2. Children have attended the local school.
3. The local community should accept the occupants.
4. The occupants if allowed to stay would turn the site into an attractive holding where stables and horses could occupy the remaining land, the children are mixing at school and are happy, and the media coverage has only represented those against the occupants.
5. We live closer to the occupants than most objectors, two fields away, and have suffered no disturbance.
6. If forced to leave the gypsies should have their money reimbursed.
7. The site should return to the pig farm as it was in recent years.
8. Other developments have been allowed in the village that are not in keeping with the rural area but this is.

11.0 **CASE FOR THE APPLICANTS**

This report covers the consideration of 6 applications for the change of use of an agricultural field for the siting of gypsy caravans and day rooms.

Four of the applications have been submitted by South West Law and two by the individual applicants. The following information is considered to be especially relevant to the consideration of the applications:-

All of the applicants are gypsies as defined in Circular 01/2006 "Planning for Gypsy and Traveller Caravan Sites"

Plot 1: Charmain and Steven Packman are original occupants of the site. They have five children: Steven (11), Cheyanne (10), Joseph (9), Charmain (8) and Paris (3). Mr Packman works as a gardener and travels the country looking for work. As at 24th September 2004, the family was living by the roadside, Charmain's father having evicted the family from his land at Sunny Fields near

Strete (south-west of Dartmouth, Devon).

Medical needs

Charmain Packman has had back problems and is unable to lift heavy objects. She has had frequent hospital appointments and takes three types of medication requiring weekly visits to a doctor's surgery. Her condition prevents her from working and she requires assistance looking after the children. Joseph suffers from Attention Deficit Hyperactive Disorder (ADHD) and he takes medication to control this condition. He also lost some toes following a motorbike accident and needs to attend Frenchay Hospital (Bristol) when his skin grafts become agitated. Paris has a problem with her left eye and requires six monthly check-ups at a hospital.

Educational needs

Stephen, Cheyenne, Charmain and Joseph all attend North Curry primary School. All are below standard and receive extra help and support at the school. Joseph has particular problems due to his ADHD.

Plot 7: Mary O'Neil is a single parent with five children. Kathleen (9), Christopher (7), Billy (5) and Andrew (2) and Alice (1).

Medical needs

Mary and Billy suffer from asthma and Billy is vulnerable to chest infections.

Educational needs

Kathleen, Christopher and Billy all attend North Curry Primary School. Kathleen and Christopher are both behind for their age.

Plot 8: Mr and Mrs Holland are original occupants of the site. They have three children: Krystle (18), Sophie Marie (15) and Tracy Jane (11). Mr Holland works as a self-employed gardener and his mother lives on an approved site in North Curry.

Medical needs

Sophie Marie was born with a hole in her heart and has undergone operations to correct the position. She requires regular attendance at hospital.

Educational needs

Krystle and Sophie Marie have been educated at home. Tracy Jane has attended North Curry Primary School but has now moved to Monkton Heathfield School where she still has special educational needs.

Plot 12: Charlotte Loveridge and Steven Loveridge. They have two children one of whom is 3 years old. Mr Loveridge works as a general labourer and travels the country looking for work.

Medical Needs

Mr Loveridge is also keen to accommodate his parents on the site. His mother has severe arthritis and needs medical attention and a carer 24 / 7 and His father has angina with breathing problems.

Educational Needs

The family is keen to register their child in North Curry primary school in order to receive full-time education which they never had.

Plot 15: Leonard and Louise Small. They have two children, Henry and Ann-Marie.

Mr and Mrs Small have not argued any medical or educational needs. Their son needs a permanent address in order to be able to get a driving licence. Mr Small now has an accountant, pays all of his taxes, and asks for no help from the Government or Council. Oxen Lane is a lovely site near to the settlement and they use the post office regularly.

Plot 16: John and Sarah Smith. They have two children, Jimmy(8) and Adam(4). Mr Smith is a landscape gardener and general labourer and tours the area seeking work.

Medical Needs

Mr Smith suffers from Asthma needing regular medication. The family are registered with the North Curry Surgery.

Educational Needs

Jimmy requires a settled base to enable him to have continuity of education.

Personal circumstances

South West Law present evidence about the personal circumstances of their clients. Officers have assessed the personal circumstances of the other two applicant families. I address the relevance of this material below.

Additional Information

South West Law on behalf of four of the applicants has provided evidence to establish the importance of Health and Education in the assessment of Gypsy applications. In addition they argue that these applications represent the following changes that render them acceptable:-

- The appeal applications were for the total occupation of the site the current four applications cover a smaller site area (25% less) and taking account of the proposed landscape scheme the Impact on the area would be much less.

- The application is for four pitches not 16 as in the appeal and the impact on residential amenity is significantly reduced. Occupants on plot 9 have now moved to plot 7 reducing the impact even further. The proposed landscaping scheme would also minimise the harm to visual amenity from existing dwellings.
- On the basis of 16 pitches, the appeal decision considered that the increased use of Oxen lane junction with Greenway would pose a danger to highway safety "despite additional movements being few". The current four families would result in one quarter of traffic movements and this should be regarded as de minimims. This assertion is supported by a traffic count, undertaken by the applicants showing the low vehicular usage of Oxen Lane 28th March to the 2nd April.
- Since the appeal decision, the applicants and Local Planning Authority Officers have been in constant contact but have been unable to find any alternative land, other than a transit site.
- The applicants have submitted possible alternative sites but none has been successful.
- The Local Planning authority have received the findings of a housing need report from Ark and this states that the number of families on unauthorised sites indicates a need for further accommodation and concludes that there is an acute need for sites which is, in part, unmet.
- The Ark report suggests that unauthorised sites should be reconsidered with a view to authorising sites that could meet the required standards.

12.0 **PRINCIPAL ISSUES FOR CONSIDERATION**

- A. THE SECRETARY OF STATE'S DECISION
 - B. POLICY
 - C. HIGHWAYS
 - D. IMPACT ON PRIVACY AND RESIDENTIAL AMENITY
 - E. CRIME AND SAFETY
 - F. IMPACE ON THE LANDSCAPE
 - G. SUSTAINABILITY
 - H. PRECEDENT
 - I. HARDSHIP/PERSONAL CIRCUMSTANCES
 - J. GENERAL NEED/AVAILABILITY OF OTHER SITES
 - K. INTERFERENCE WITH A8 RIGHT AND JUSTIFICATION
- A. The Secretary of State's decision**

In the supporting statement SouthWest Law emphasise that the proposal they present is for 4 pitches. They overlook the fact that the Dolans occupy plot 9, that the Smalls and Loveridges aspire to live on the site and have made applications to this effect and that there are caravans etc. on most of the plots. On the other hand it is true that the Inspector/Secretary of State considered an aspiration to occupy all 16 plots and to have a mobile home and 2 caravans on each plot. However the site was not being used in this way at the time of the inquiry. In fact, the position on the site at the time of the inquiry was quite similar to that today. In detail the position at the time of the inquiry compared to the position now is as follows.

At the time of the Inquiry there were caravans stationed on all plots. Plots 1, 2, 3, 4, 5, 7, 8, 9, 12, 15 and 16 were occupied. All the applicants were resident at the time. Currently plots 1, 8, 16 and 17 are occupied by four of the applicants, and plot 9 is occupied by a family who have moved on to the land within the last year. Other than for unoccupied caravans on a few of the plots, the rest of the site remains empty.

At the time it is clear that the Inspector and the Secretary of State considered the impact of the development in existence at the time of the inquiry (i.e. the development enforced against) to be unacceptable: their conclusions were not confined to the proposed full development of the site. (In any event, officers fear that if planning permission is granted for the present plots, this will lead to further development on the site, see below).

In these circumstances officers consider that the findings of the Inspector/Secretary of State on the following matters are still relevant:

- Impact on residential amenity (it is quite clear that no. 6 Oxen Lane continues to suffer unacceptable harm to residential amenity, see below);
- Encroachment of existing development into the countryside (the degree of actual encroachment is much the same);
- Access to schools and community facilities (this remains unsafe as there continues to be no footways);
- Breach of countryside policy (see below);
- Visibility at junction of Oxen Lane and Greenway (this has not changed). The applicants make a point about the levels of traffic using the site, a point addressed below, but it is to be noted that the conclusions of the Inspector and the Secretary of State were not predicated on any particular level of usage;
- The personal circumstances of the applicants (they are much the same as they were at the time of the inquiry).

On the other hand the Secretary of State's decision was based on the absence of a quantitative assessment, a need for further sites in Taunton Deane which was difficult to quantify, no suggestion that there were alternative sites for the

occupants of the site and a recognition that if the enforcement notice were to be upheld the occupants would probably be on the roadside. To extent this position has changed in the Council's favour. The Council has carried out substantial work to assess the existing level of need and it is now clear that it is relatively small, being no more than the needs of the residents of this site. The Council has shown a preparedness to grant planning permissions for new gypsy sites (see below) and alternative pitches at Tintinhull have been identified to the occupants.

Overall officers considered that the following conclusions of the Secretary of State remain sound:

- That the planning objections to this site are so great that use by gypsies must be ended even if this means that the occupants have to live on the roadside;
- Requiring the occupants to leave the land would be a justified interference with the applicants' A8 rights;
- The objections to this site are so great that even a temporary planning permission cannot be countenance.

B. Policy

The Development Plan contains policies at Structure and Local Plan level for the provision of gypsy sites within Taunton Deane. Policy H14 governs the development of Gypsy and Traveller Sites. The Council has decided that it is appropriate to apply this policy in a flexible manner, given the provision C1/2006 which indicate that planning permission should not be refused because gypsies do not have a local connection, that local landscape designations should not be used as the basis for refusing planning permission of gypsy sites and that a less restrictive approach should be taken to questions of access to local services etc

Policy H14 lists 9 criteria that need to be satisfied:

1. 'There is a need from those residing or passing through the area'. Circular 1/2006 accepts that changes in the working patterns of gypsies may result in a need for sites that are in different locations from those of the past. In this context the links to an area have become less important. The advice goes on to state. 'LPA should not refuse planning permission solely because the applicant has no local connection'. Of the 6 applicants only 1 family had a family link to North Curry and the immediate area and 2 others had a link to Somerset before occupation of the Oxen Lane site. The others have not listed any prior local connections.
2. 'Safe and convenient access by bus, cycle or on foot to schools and other community facilities'. Whilst the Council cannot now insist on close proximity

to such services, I do not consider that it is intended to encourage use that would be dangerous to users. In this case the site is located approximately 260Km from the settlement in Greenway and 400 m from the village hall/school. Access to the village is along unlit country lanes without any footpaths. In the previous planning appeal the Secretary of State considered that the use of the highway, which has no footpath or speed restriction "cannot be described as safe and convenient" and in this respect I consider that the current proposal is contrary to highway safety and criteria 2 of policy H14.

3. 'A landscaping scheme has been provided which screens the site from outside views and take account of residential amenity.' A landscaping scheme has been submitted with this application it seeks to reduce the impact of the proposal on the adjacent residential properties and the detrimental impact of the site on the wider landscape. The Landscape Officer has considered these plans and whilst he concedes that if there were a reduction in the site coverage this would reduce the visual impact of the current proposal and make the landscaping scheme more effective, this would require the permanent removal of the other plots including the drives, fencing, day rooms etc. As the other plots are not within the ownership or control of the current applicants this cannot be achieved. Indeed the reality is that the granting of planning permission, even with a landscaping scheme, would create the real prospect of further occupation of this site. As such the proposals are considered to have a detrimental impact on the landscape of the area. Ian Clark to advise if landscaping scheme overcomes visual impact of plots 1, 7, 8 and 16 on existing properties. Time to establish finished impact etc.
4. 'Adequate Open Space is provided'. A principal feature of this development is the huge size of the plots, extending to about 1/3 of an acre each. While the policy does not include a measure of 'adequate open space' so that the assessment has to be subjective, no-one could possibly suggest that there is inadequate open space within the plots.
5. 'Accommodation will enjoy adequate privacy and sunlight'. The site consists of plots laid out on an open agricultural field and as such there is abundant sunlight available to each plot. At present there are post and rail fences separating the plots and this would not provide for any privacy to occupants within the site. Around the edge of the site are native hedgerows forming a boundary with adjoining agricultural and highway uses. I consider that the boundary with the highway offers privacy for the occupants of the site, whereas the hedge boundary with the fields would require support planting to provide high levels of privacy. In the north-eastern corner of the site are two storey dwellings, the patio and upper windows of these properties (particularly those of No. 6 Oxen Lane) overlook the whole site. As a result of

the above considerations I do not consider that the proposed site offers adequate privacy for the occupants of the site. More to the point the development involves a severe impact on the privacy and amenity of the residents of existing dwellings.

6. 'Areas for business are provided with separation from accommodation to allow for the safety and amenity of residents'. There have been no areas of land allocated for business use on this site. I consider that business uses on the plots are likely to result in disturbance to other residents on the site and residents adjacent to the site.
7. 'The site is not within an Area of Outstanding Natural Beauty or a Site of Special Scientific Interest, or would harm the special environmental importance of any other protected area'. This criterion has been relaxed due to Circular 1/2006 to allow such sites to come forward provided there is no harm to those areas. In this case the site has no specific national protection. However the site does lie within a locally designated Landscape Character Area. This character is valued for its Low Vale characteristics with a patchwork of fields typically bounded by hedgerows with standard of Oak and Ash with pockets of broadleaved woodlands and orchards. The landscape Officer has confirmed that the proposal will be obtrusive in this landscape and detrimental to those qualities.
8. 'Adequate fencing, capable of preventing nuisance to neighbouring areas, is provided'. The application does not contain details of any proposed fencing. Due to the overlooking of the site by residents of existing residential properties, exacerbated by differences in ground levels, I do not consider that adequate fencing could be provided to avoid nuisance to those existing residents. Furthermore, due to the visual prominence of the site, I consider that the erection of fencing in and around the site would be detrimental to the character of the area. In conclusion I do not consider that the proposed site conforms to Taunton Deane Local Plan Policy H14 in this respect.

In conclusion and for the reasons set out above, I do not consider that the site complies with the criteria B, C, E, H, I and J set out in Taunton Deane Local Plan Policy H14.

C. Highways

The application site is located to the west of North Curry. It is accessed from the main A378 road (that lies to the west of North Curry) via 2 country lanes. The first lies to the south west of the settlement and passes through the hamlet of Lillesden on its route to North Curry (adjacent to North Curry it is known as Windmill Hill) and the other lies to the south of North Curry passing through Newport on its route to North Curry (known as Greenway). Both of these roads are sub standard with no footpaths for pedestrians. These roads converge near

the centre of North Curry. The application site is accessed of Oxen Lane, an unclassified lane, approximately 400m to the south of North Curry that runs between Windmill Hill and Greenway. In accordance with the access requirements of the County Highway Authority, the site access should provide 4.5m x 60m visibility splays in each direction. The current site access provides a visibility distance of 60m in one direction but only 3m in the other direction. Whilst this is substandard, the County Highway Authority considers that, as Oxen Lane is only lightly trafficked; the proposed use of the site access would be acceptable from a highway point of view. In contrast the County Highway Authority considers that the visibility at the junctions of Oxen Lane with Windmill Hill to the north and Greenway to the south, are severely substandard. In their opinion, the continued occupation of the site by the 6 applicants is likely to result in several vehicle movements from each mobile home per day still resulting in significant additional traffic using those junctions which would be prejudicial to highway safety, contrary to the requirements of the Somerset and Exmoor National Park Joint Structure Plan Review Policy 49 and Taunton Deane Local Plan Policy S1. Officers acknowledge that the Inspector and the Secretary of State found that additional usage of the junction between Oxen Lane and Windmill Hill would not be prejudicial to highway safety and so would not propose to place reliance on this as a reason for refusal.

D. Privacy and Residential Amenity

The application site shares a common boundary with an existing residential property at 6 Oxen Lane. Taunton Deane Local Plan Policy H14 criteria (c) require that existing and proposed residential privacy is adequate as the result of development and policy S1 criteria (E) and (F) requires the protection of the privacy and residential amenity of existing and proposed residents. The windows and garden area of 6 Oxen lane are raised above the application site and overlook the whole site. In his decision on the provision of 16 Caravans etc, the Secretary of State considered that the impact of the development on the outlook and visual amenities of 6 Oxen lane was severe and that additional caravans and dayrooms (i.e. from 8-16 caravans plus dayrooms) would add to that harm. I consider that, in spite of the omission of plot 9 from these current applications and the reduction in actual occupation to 6, the proposals still result in a significant reduction in the outlook, privacy and amenity of the occupants of 6 Oxen lane. I also consider that the relationship between the site and 6 Oxen Lane results in a detrimental impact on level of privacy and amenity of occupants of the caravans/mobile homes. In addition the level and type of activities carried out on the site, including noise, lighting, dogs barking and people shouting/talking has an unacceptable and detrimental impact on the amenity of other nearby properties contrary to the requirements of this policy. I therefore consider that the proposals are contrary to Local Plan Policies H14 and S1.

E. Crime and Disorder

Since the appeal decision dismissing the appeal for the provision of 16 caravans and dayrooms in September 2005 there has been a series of alleged incidents emanating from the Oxen Lane site:

2nd October - a stolen caravan was removed from the site and an occupant from the site charged; 5th November, 2006 fireworks were ignited 30 yards from the existing residential properties and "aimed" in the direction of the existing properties with one eventually hitting the roof of No. 5 Oxen Lane; 25th March, 2006 armed police closed Oxen Lane because of a suspicion of firearms being on the site; 6th July, 2006 a caravan from the site was filled with industrial waste and towed off the moor; 16th July, 2006 two women on the site were involved in a loud brawl lasting most of the evening with violent and abusive language; 29th August, 2006 a large number of police visited the site, with an overhead helicopter, looking for an occupant of the site who evaded the police; 12th September Oxen lane was closed by police while the site was visited by the police looking for the same occupant; pony and traps "racing" through the village causing traffic hazard through the summer of 2006. In addition to this list of alleged events, representations have been received from the nearby residents who have been verbally abused whilst passing the site, are frightened to leave their houses worrying if the house will be alright when they return, arrange for house sitters while they are away for a few days or more for fear that their house may be damaged while they are away etc. I consider that these are real and justifiable fears for the local residents and that continued occupation of the site would exacerbate these fears.

It is clear to me that the occupation of the site has led to crime and anti-social behaviour and that continued occupation will lead to a continuation of this. This is a material planning consideration.

F. Impact on the Landscape

The site is located in an area of open countryside whose character is recognised in the Local Plan as special and worthy of retention and protection. Taunton Deane Local Plan Policy EN12 requires this proposal to be sensitively sited and designed to respect the Low Vale character of the North Curry Ridge Landscape Character Area. As stated previously, this site lies on rising ground and is open to local and distant views. The linear formation of plots, along with the erection of fencing and the siting of mobile homes, caravans and utility blocks is completely out of character with the area. This is especially evident in views from the foothills of and road along the Fivehead Ridge, where the site stands out in contrast to its agricultural setting. The Landscaping scheme is considered to be out of keeping with the character of the area and insufficient to counter the landscape harm caused by the development. I therefore consider that the proposal is contrary to the requirements of Taunton Deane Local Plan Policy EN12.

G. Sustainability

The site is located in a location outside of the settlement limits of a recognised settlement in an area of open countryside with isolated pockets of development. The site is in walking distance of North Curry but the roads do not have footpaths and their use would be dangerous. It is therefore likely that the private car would undertake most trips to North Curry or Taunton. In this case it is accepted that gypsy sites are often in such locations and, due to the need to provide exceptional accommodation for them, non-sustainable location, such as this, are considered acceptable in principle.

H. Precedent

Officers understand that each of the 16 plots are separately owned. The site is divided into 16 plots with a central drive. Caravans remain on most of the plots. The plots in respect of which planning permission is sought are not concentrated in one part of the site. If planning permission were to be granted for these plots I think it is inconceivable that a non-gypsy use would take place on the remaining plots. Indeed I think that it is very likely that the remaining plots would be occupied by their gypsy owners. The prospect of this is a material consideration, even if it were to take place without planning permission.

I. Hardship/personal circumstances

The site provides a home for Holland, Packman, Smith and O'Neil families. Each of these families states that it has nowhere else to go and so will become homeless if planning permission is refused. Further the Council accepts that under C1/2006 each of these households has a need for a pitch and that, unless the Regional Assembly requires that this should be met in another district, the need will have to be met in Taunton Deane.

The particular circumstances of the applicants who reside on the site are as follows:

Holland, Smith, O'Neil and Packman. These four applicants have been resident on the site since October 2004 and the appeal Inspector and Secretary of State have made judgement on their educational and health needs. It was noted that children from these families attended the local schools (North Curry Primary School and now West Monkton Senior School) and all families were registered with the local doctors' surgery. The appeal Inspector and Secretary of State concluded that, if moved on from the site, the children would lose continuity of education and the typical educational problems associated with this would continue. In terms of their health needs, it was noted that the Packman and Holland families had particular health problems that benefited from a settled base and that the loss of this settled base for the Packman family would be

substantial. In terms of these families it was concluded that the education and health needs 'are a material consideration that lends support to the appellants' case'.

There is no doubt that the personal circumstances of the resident applicants are material considerations in favour of the granting of planning permission. The weight of this consideration depends on the extent to which there are or have been alternative sites available to these families. This is considered below:

Loverage. This site does not provide a home for this family. It moved on the site prior to the planning appeal and their personal circumstances were considered. The Inspector and Secretary of State accepted that they had personal circumstances that required particular care, namely that they had elderly relatives in need of care. The Loverage family have moved to their relative's temporary site in Wiltshire and are currently caring for them there but wish to provide a permanent site at Oxen Lane for their family.

Small. This site does not provide a home for this family. This family occupied the site for approximately 6 months from February 2005 and were not considered by the planning appeal. The supporting information does not argue any special education or health needs to live on the site that would weigh against the strong policy objections to the occupation of the site.

The personal circumstances of the Holland, Smith, O'Neil, Packman and Loverage families were all weighted against the objections to the development by the appeal Inspector and Secretary of State. They concluded that the appellants' personal circumstances were not of sufficient weight to overcome the substantial planning objections to the occupation in terms of the detrimental impact on residential amenity, highway safety and landscape.

The applicants now argue that the reduced number of plots currently applied for significantly reduce the detrimental impact of the unauthorised occupation of the site so that when balanced against the harm to the occupants the council should decide in favour of the applicants. I disagree for the following reasons:

As I have pointed out, the actual position on the site (as opposed to that presented in the landscaping scheme submitted by 4 of the 6 present applicants) is not very different from the position assessed by the Inspector and the Secretary of State in the enforcement notice appeal.

I consider that the reduced impact suggested by the landscape scheme could not be guaranteed, as I have explained. I note that plot 9, vacated by the original occupant Mary O'Neil, has now been occupied by Mr Dolan and the relationship between the occupation of the site and the unauthorised caravans is maintained.

Occupation of the site over the past year by the present applicants has continued

to have an unacceptable impact on the residential amenity and privacy of residents of Oxen Lane. Noise and disturbance from the site has continued to affect the residents who now have an additional fear of crime and disorder from the site. Whilst the pitches are further away from 6 Oxen Lane the differences in the levels of the sites are such that I consider the overlooking is still at an unacceptable level. Four of the applicants have submitted a landscaping scheme that provides planting within plots 1, 7, 8 and 16. Whilst this would have a limited effect on direct overlooking it would not affect the level of general disturbance, to Oxen Lane residents, from the site and would in itself have a discordant effect on the character of the area.

I have dealt with the question of the usage of the junction between Oxen Lane and Greenway

In conclusion I do not consider that the personal circumstances of the current applications outweigh the strong planning objections to the proposal.

J. General need/availability of other sites

The position in summary is that the district has a high level of existing provision, that the council has shown a willingness to grant planning permission for additional pitches, that apart from the occupation of the Land the need for additional pitches is low and that the present applicants are apparently unwilling to move into a public site. The position now is more favourable to the Council than at the time of the inquiry.

Present level of proviso/unlawful development

In January 2006, the County of Somerset had 366 gypsy caravans, a mixture of privately/ publicly owned/run sites. Of these, 134 are within the Taunton Deane Borough and 40 of these are within the parish of North Curry (including a transit site with 16 caravans). I include a list of sites within Taunton Deane showing both the number of caravans permitted under the relevant planning permission and the number of caravans actually observed on the count day in January 2007

<u>With permission on site January 2007</u>			<u>On Site</u>
1.	Stoneyhead	25 permanent caravans/mobile homes; 20 transit caravans and 16 transit	6
2.	Longacre	2 pitches permissions now 5 caravans	New
3.	Lords Wood	4 mobile homes ownership now 6 vans with permission	New
4.	Newport	Gypsy family (2 mobile homes/2 caravans)	5
5.	Greenway	1 family caravan	1
6.	West Hatch	Up to 8 mobile homes caravans (resolution to grant permission)	21
7.	Fosgrove	2 mobile home	1

8.	Dodhill	2 mobile homes	1
9.	Park View, Milverton	1 mobile home	1
10.	Pitt Farm	5 caravans	3
11.	Highview	2 caravans	4
12.	Ford Street	2 caravans	
13.	Lodge Copse	3 caravans	3
14.	Upcott	2 caravans	3
15.	Otterford	29 caravans	27

It can be seen that there is planning permission for a total of 50 caravans. Of these planning permission for 8 caravans has been granted since the Oxen lane inquiry, as follows West Hatch (2 extra), Long Acre (2 extra) and Otterford (3 emergency pitches, unoccupied at present) and Hillfarance (one caravan). This illustrates that, as an authority, Taunton Deane are keen to enable private provision of sites wherever possible. These planning permissions were granted to gypsy families already unlawfully in Taunton Deane so as to enable their needs to be met and are the result of the more flexible application of H14 referred to above.

Unlawful development

Apart from the occupation of the site at Oxen Lane there are relatively few unlawful gypsy caravans in Taunton Deane. Leaving aside Oxen Lane, on the January count day there were no caravans unlawfully stationed in Taunton Deane. Figures provided by the Enforcement Officer show that, in addition to these, there has been 1 incident of unauthorized camping in the last 12 months. This was a trespass by a group of New Age Travellers encamped at Culmhead. These were moved on by the landowner and have now moved out of Taunton Deane although one is on the housing waiting list looking for a pitch within the Borough.

Oxen Lane is currently the only unauthorised site within the Taunton Deane area.

Work currently being undertaken

Consistently with the general approach of seeking to meet the needs of gypsies in Taunton Deane, the Council has set up a working group to look at the allocation of sites to provide accommodation for gypsies and travellers and their priority has been to find sites for the current identified need. This work is on going but to date no sites are available.

However the County Council has agreed that any land in its ownership which becomes surplus to requirements will be referred to the borough Council for assessment as a potential gypsy site.

During the course of 2006 SouthWest Law, solicitors for Packmans, Mrs O'Neil,

the Hollands and the Smiths sent details of land that was on the market to the Council, inviting the Council to indicate what attitude it would take to the occupation of these sites by gypsy caravans. The Council indicated that two of the sites might be acceptable. However no application for planning permission has been received in respect of any of these sites and the Council has not received any indication that the occupants of the Land have acquired any of these sites.

Applicants' attitude to County Council sites

It is not said that the applicants have been unable to get onto a County Council site and the basis of the applications seems to be that planning permission should be granted for the occupation of Oxen Lane even if spaces area available on public sites. Thus the supporting statement states that planning permission should not be refused for a private site because spaces are available on public sites. Likewise paragraph 70 state that applications for private sites will release pitches on public sites for those unable to afford to buy their own land.

The applications are all for permanent planning permissions. In the last paragraph of the supporting statement it is said that, if the council is not minded to grant permanent planning permission, it should grant temporary planning permissions 'on understanding that County Council and Taunton Deane are trying to find alternative pieces of land to which applicants could eventually move.

Officers have ascertained that none of the applicants has ever sought a pitch on a public site in Somerset.

Members will know that on 27th September 2006 this committee decided to resume injunction proceedings to secure compliance with the enforcement notice.

On 2nd October 2006 the Council's Senior Solicitor wrote to SouthWest Law informing them of the Committee's decision and of the availability of 4 pitches at the county Council's site at Tintinhull. Tintinhull is in South Somerset and is about twenty miles by road from the Land. There was no response to this letter and the present occupants of the Land have made no attempt to secure a pitch on any public site at any time.

Had the occupants taken up these pitches, they would have been able to leave Oxen Lane without becoming homeless and would have been able to remain at Tintinhull either indefinitely or until a proper private site for them could be identified. The pitches at Tintinhull became available after the present applications for planning permission were submitted. The fact that the applications are still being pursued indicates to officers that the applicants are not interested in pitches on a public site. Officers consider that this factor; has an important bearing on the weight that can be attributed to the personal circumstances of the applicants.

Interference with A8 right and justifications

The site provides a home for the resident applicants but not the non-resident applicants. A refusal of planning permission will involve an interference with the A8 rights of the former but not the latter. Members will need to consider whether this interference is justified within A8(2). The Secretary of State considered that the interference was justified because of the public interest in ending the harm caused by the development. Officers have presented their analysis of the continuing harm caused by the development and consider that the public interest in ending this provides ample justification for the interference.

Temporary planning permission

The applications are for permanent planning permission, but the supporting statement invites the Council, as an alternative, to grant a temporary planning permission. Members will therefore need to consider whether this is a situation where such a planning permission can be granted consistently with paragraphs 45 and 46 of C1/2006, quoted above.

Officers consider that the harm caused by the development cannot be overcome by the imposition of conditions and that this rules out a temporary planning permission. Officers note that the Secretary of State considered and rejected the idea of granting a temporary planning permission in September 2005.

12.0 **CONCLUSIONS**

The Secretary of State refused the principles of the change of use of this field to 16 pitches for the stationing of caravans on appeal in September 2005. The current applications represent a reduction in the level of accommodation on the field and this will lessen, to a degree, the detrimental effects of the development on the environment. It is important that the planning objections against the 6 applications are weighed against the benefit of providing accommodation that is needed for the gypsies living on the site. In this case I consider that the relationship between the existing dwellings along Oxen Lane and the caravans, that are the subject of this application, is poor resulting in unacceptable levels of disturbance and overlooking for existing residents that is detrimental to the amenity and privacy of residents. Taunton Deane Borough Council have shown, through their granting of permissions since circular1/2006, that they are prepared to regularise unauthorised encampments where possible but on this occasion, I consider that this the impact on the neighbours is of sufficient weight to override the need for the gypsies to occupy the site. In addition the activities that have taken place on the field since the unauthorised occupation, have left the residents with a real fear for their safety and security that has worsened over time and reflects the reduced level of occupation of the site over the past year. Circular 1/2006 emphasises the desire to create good community relations, the history of the occupation of this site and the manner of the occupation appear to make this difficult if not impossible in the future.

In terms of the impact of this proposal on highway and landscape, the reduced numbers do lessen the impact the continued occupation of the site by the 6 applicants and their families but the Highway Authority and Landscape Officer still raise objections to the 6 plots. They consider that the occupation results in unacceptable harm to the Highway safety and Landscape Character Areas.

In the above report I have referred to the precedent that granting permission on part of the field may have on the use of the remainder of the field in the future. Recent Case Law has established that it is appropriate to consider this matter. In this case the history of the field and the land ownership of the field are such that in considering the applications for these 6 plots it is important to consider the likelihood that any permission will be likely to attract further applications for the remainder of the 16 plots in the future contrary to the strong planning objections, upheld on appeal. In this respect I have given some weight to the impact of an intensification of the use of the field on the residents of Oxen Lane, Landscape and Highway Safety.