

27/2008/026

MRS SALLY WOODBURY

SITING OF ONE MOBILE HOME FOR GYPSY FAMILY AND TRANSIT PITCH FOR TOURING CARAVAN AT ALTONIA PARK, HILLFARRANCE AS AMPLIFIED BY APPLICANT'S REPRESENTATION DATED 14TH AUGUST 2008

317581/124749

FULL

PROPOSAL

This planning application seeks permission for the siting of one mobile home and one touring caravan for people with gypsy and traveller status at Altona Park, Hillfarrance. The application site was granted planning permission in 2006, reference 27/2006/019, for the siting of one mobile home and one touring caravan for a single gypsy family (comprising Mrs Sally Tucker and her two young children) and the erection of stables.

The rectangular site is adjacent to the road, with a field behind the site also under the same ownership, which is currently used for horse grazing. The site is located 1½ miles from the village of Norton Fitzwarren and also 1½ miles from the village of Oake. The site is screened with mature native hedging on the site frontage and side boundaries, and the rear boundary has a 1 metre earth mound with new planting on top. The applicant, Mrs Sally Tucker Woodbury, has stated the mobile home and touring caravan would be for gypsies and travellers in the Borough who require accommodation or a site, and in the long term, the accommodation and site would be for the applicant's family who currently live abroad. The mobile home and transit pitch would therefore be used by the identified need until such time when the applicant's family return from abroad.

This application is the resubmission of a previously refused planning application, where the reason for refusal was as follows:

The site is located in open countryside where occupiers of the new development are likely to be dependent on private vehicles for most of their daily needs. Such fostering of growth in the need to travel would be contrary to government advice. It has not been demonstrated that there is an identified need for gypsy accommodation in this location such as to outweigh the above concerns in addition to the harmful affect the mobile home and caravan would have on the open countryside. The proposal is therefore contrary to Policies 5 and 36 of the Somerset and Exmoor National Park Joint Structure Plan Review and Policies S1, H14, EN12 and S7 of the Taunton Deane Local Plan.

This application differs from the previously refused application on the site, by changing the occupation of the mobile home and touring caravan site for any gypsy family rather than extended family of Mrs Tucker Woodbury who currently reside abroad (even although Circular 01/06 recognises that gypsies and travellers have an

actively itinerant lifestyle, including groups of long distance travellers). Therefore the provision of the additional mobile home and transit pitch would contribute towards the identified need that is currently present in the Taunton Deane Borough.

The applicant has made further representation in response to letters of objection that have been received. This representation has raised the following issues: there is no intention to turn the site into a large gypsy site; if granted, the second mobile home will be similar to the existing mobile home; people who live over a mile from the site hold a prejudice against the applicant; the application will not effect house prices in the area, this has been demonstrated by new people moving to properties within close proximity to the site recently.

CONSULTATIONS AND REPRESENTATIONS

COUNTY HIGHWAY AUTHORITY – Previous comments equally apply: Comments and recommendations from letter dated 14th November 2006 regarding planning application 27/2006/019 equally apply to the present application: - The proposed development site is remote from any urban area and therefore distant from adequate services and facilities, such, as, education, employment, health, retail and leisure. As a consequence, occupiers of the new development are likely to be dependent on private vehicles for most of their daily needs. Such fostering of growth in the need to travel would be contrary to government advice. The proposed site is located approximately 1km from the centre of Hillfarrance; however the nearest settlement in terms of services is Norton Fitzwarren, which is approximately 3km away. There is one very limited bus service that operates for Hillfarrance, but such a limited service from the village would make access to facilities and major centres of employment difficult except by car and would be outside of the recommended walking distances as set out in RPG10. If the Local Planning Authority consider that this is an acceptable location in terms of meeting the criteria set out in Policy 36 of the Somerset & Exmoor National Park Joint Structure Plan Review and H14 of the Taunton Deane Local Plan in relation to Gypsy and Traveller Sites, it may be unreasonable to raise a Highway Objection. In detail the site will be accessed from an existing agricultural access from/onto a classified unnumbered highway. Visibility at the point of access is good to the northeast; however it is restricted to the southwest by the roadside hedge. If the Local Planning Authority is minded to grant consent it is imperative that recommended conditions are included. I would also like to recommend a further condition regarding parking be imposed if consent is granted.

LANDSCAPE OFFICER – Subject to the banking and native hedgerow planting being extended 5m into the site it should be possible to soften the impact of the proposals.

HOUSING OFFICER – No observations

RIGHTS OF WAY OFFICER – No observations

PARISH COUNCIL – Object to the proposal on the grounds that the applicant has failed to demonstrate sufficient personal need and that it is an extension from the original application for one mobile home and one touring van and could therefore

create a precedent, they would have to rely on private vehicles as the nearest bus route, as the applicant agrees, is approximately 1.5 miles away.

SIX LETTERS OF OBJECTION – Have been received, raising the following concerns: the applicant previously stated she had close family ties within the Taunton area, so why is the accommodation required; the applicant previously stated she frequently attended Musgrove hospital for back treatment but this is not a reason to live in Hillfarrance; as far as objector is aware the applicant does not have any relatives here; one objector is disabled and this does not qualify this person to any special planning permissions; the narrow lane is not safe for walking with young children; there is no bus service to Taunton from here; proposal is to the detriment of the village and its surroundings; the single track lanes in the area will not support the increase in traffic; the facilities in the area will not support the increased occupation of the land; nearest bus stop is 1½ miles from the site; applicant has failed to demonstrate sufficient local need exists; applicant has not appealed refusal of last application on site and this suggests the applicant accepts the initial decision; fostering of growth in the need to travel is contrary to government advice; granting permission for this application could set a precedent for more people wishing to erect homes on agricultural land; current mobile home on site is immobile, any future mobile homes on the site would have the same degree of permanence; Council policy is explicitly against development of this rural strip of land; no objection to the applicant keeping a touring caravan at the site; past experience has demonstrated in other areas that if an initial application is granted it will attract further development, legal or otherwise; the LPA has an inability to control or enforce conditions in their jurisdiction and further development however legal would be beyond control; the applicant's declared interest in promoting gypsy rights suggests suspicion of future enlargement of the site may be well founded.

POLICY CONTEXT

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 36 - Sites for Gypsies and Travelling 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

Taunton Deane Local Plan - 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 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

EN12 Landscape Character Areas

Development proposals must be sensitively sited and designed to respect the distinct character and appearance of Landscape Character Areas.

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

H14 Gypsy and Travellers sites

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

- (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

Taunton Deane Borough Council noted, in an Executive Report dated 3 May 2006 – titled "providing for Gypsies and Travellers", that Circular 01/2006 altered the approach to the provision and assessment of gypsy and traveller sites nationally.

In order to address these alterations the Executive agreed that whilst all proposals will still need to be assessed in terms of Policy H14 of the Taunton Deane Local Plan, the criteria that are applied may need to be considered in a more flexible way 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.

The report also acknowledged that Circular 01/2006 states that large-scale gypsy sites should not dominate existing communities. As a result, in implementing policy H14, the relative size of any proposed site in relation to nearby settlements must be taken into account as a material planning consideration.

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 unauthorized developments and encampments

Paragraph 12 The Circular's 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 unauthorized 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 recognize, 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 recognizing 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, unauthorized sites without an alternative to move to

Paragraph 19

A more settled existence can prove beneficial to some gypsies and travellers in terms of access to health and education services and employment and can contribute to a greater integration and social inclusion within the local community. Nevertheless the ability to travel remains an important part of their culture. Some communities of gypsies and travellers live in extended family groups and often travel as such. This is a key feature of their traditional way of life that has an impact on planning for their accommodation needs.

Circular 1/2006 requires all local planning authorities to carry out Gypsies and Travellers Accommodation Assessment (GTAA's) to ascertain the need for pitches in their districts. This must then be submitted to the relevant regional authority. The regional authority will use the information from the GTAA's 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.

The circular sets out 'transitional arrangements' to govern the consideration of new pitches 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.

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

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 services. 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.

Paragraph 60

In particular questions of road access, the availability of services, potential conflict with statutory undertakers or agricultural interests and any significant environmental impacts should be resolved at the earliest opportunity.

REGIONAL SPATIAL STRATEGY (RSS)

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. This Authority is to determine the amount of provision within each district for additional gypsy and traveller sites.

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 Regional Planning Board was of the view that there was not sufficiently robust information available on which to establish district level numbers and that it was 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 summarized as follows:-

- The extent of existing provision in the region is approximately 550.
- The following parts of the region have relatively high numbers of unauthorized 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.

The partial revision of the RSS to review additional pitch requirements is now well underway, with public consultation on the draft Revision running until 31 October. Additional pitch requirements to 2011 are included for Unitary Authority and District Council areas. The requirement for Taunton Deane is 17 pitches, of which 8 have already been provided.

GYPSEY AND TRAVELLER ACCOMMODATION ASSESSMENT (GTAA)

PPS3 tasks local authorities with ensuring that everyone has access to a decent home, and Circular 01/2006 requires them to undertake Gypsy and Traveller Accommodation Assessments (GTAA) in their areas, to assess the scale of need and identify pitch requirements. The information produced is to inform the preparation of Regional Spatial Strategies, which will identify the number of pitches required for each local planning authority, and the preparation of Development Plan Documents.

An assessment of accommodation needs was undertaken by the Ark consultancy in 2005 for all the Somerset local authorities, but it pre-dated the Government guidance on the preparation of GTAAs. Consequently it was not fully compliant with the guidance, and did not produce a specific recommendation for the number of additional pitches required. Since then, in order to have an input to the preparation of proposals for gypsy and traveller needs in the RSS, an estimate of pitch requirements has been made. This was made by officers of the County and District Councils and representatives of the Gypsy and Traveller communities. It identified a need for 17 additional pitches. However, it is recognised that the figure produced was an interim estimate, and that further detailed work is required as a matter of priority to properly assess the situation and inform the preparation of the Local Development Framework

Work is due to start on the updated GTAA in the near future. Its results will inform the preparation of the Council's LDF, including any need which may exist for the identification of new sites.

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.

ASSESSMENT

One of the main intentions of Circular 01/06 is to significantly increase 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. Other main intentions are that local authorities develop strategies to ensure that needs are dealt with fairly and effectively – making provision for accommodation requirements, and to promote more private gypsy and traveller site provision in appropriate locations through the planning system. It is accepted that there is currently an unmet need for gypsy sites within the area. This application is aimed at providing accommodation for bona fide gypsies and travellers, and should planning permission be granted, the mobile home and transit pitch with touring caravan would contribute towards the identified and justified need for provision of gypsy and traveller sites within the Borough. The proposal is in line with government guidance in relation to the special need to accommodate gypsies and travellers.

Circular 01/06 recognises that traditional patterns of work are now changing and that the gypsy and traveller community has generally become more settled. The Circular states that a more settled existence can prove beneficial to some gypsies and travellers in terms of health and education services.

The application site is located in the open countryside where normal policies resist the erection of new dwellings or the siting of new residential caravans. However there are exceptions to this policy including policy H14, which allows the principle of gypsies and traveller sites within rural areas provided they can fulfil certain criteria. These criteria were relaxed as a result of Government advice contained within Circular 01/06 to allow additional sites and in particular to expand existing sites where appropriate. In particular the Executive agreed a more flexible approach in

terms of distance to facilities and accepted that sites could be provided in areas of local landscape designation provided they do not undermine the purpose of the designation. The guidance contained within Circular 01/06 identifies that sites in rural settings, where not subject to special planning constraints, are acceptable in principle. The location of the proposed accommodation is considered to be acceptable given that the site already has planning permission. The application site is located approximately 1½ miles from both Norton Fitzwarren, which is the closest settlement to the site, and a similar distance to Oake. It is considered the proposal would not place undue pressure on the local infrastructure given the relative low number of mobile homes. This argument is supported by the County Highway Authority who has not raised a highway objection to the proposal in their consultation response. Furthermore, the application is supported by an additional planning statement by a representative of Planning Aid SW. This statement highlights that there was no objection raised by the County Highway Authority in response to the previously refused application (27/2008/009), and on the successful application for the site (27/2006/019), highway issues were not raised by the Local Planning Authority (the consultation response from the County Highway Authority has been identical with every application submitted). As there has been no material change in circumstances of the site or policy, the point is raised of why this issue was invoked as a reason for refusal on the last application. To reiterate, Circular 01/06 states rural settings are acceptable in principle and local authorities should be realistic about the availability of alternatives to the car. The statement also clarifies there is bus service that serves both Norton Fitzwarren and Oake which are only approximately 1½ miles from the site, and therefore the site is not entirely car dependent. Notwithstanding these observations, Circular 01/06 states in paragraph 66 proposals should not be rejected if they would only give rise to modest additional daily vehicle movements and/or the impact on minor roads would not be significant. Given the scale of the proposal, the increase in vehicular movements to and from the site would be modest and the impact on minor roads would not be significant.

The site is not located in an area of nationally recognised designations as referred to within the Circular 01/06. The site is not located within a local landscape or local nature conservation designated area. Despite concerns from the public regarding the impact upon the character and appearance of the countryside it is considered that the proposal would not directly affect the landscape such as to warrant a refusal. Furthermore the Landscape Officer has stated that further landscaping should soften the impact of the proposal on the landscape.

Turning to other objections made by local residents the applicant has fully complied with the Local Planning Authority's requests for further information, and the applicant has also complied fully with guidelines set out in Annexe E of Circular 01/06 on making planning applications. The right of appeal is still an available option to the applicant for the previously refused application, and the fact the applicant has resubmitted the application instead of appealing the decision does not, as one objector suggests, imply the applicant accepts this decision – hence the resubmission of this revised application. Granting of permission of this application would not set a precedent for residential development on agricultural land, as strict exception policies would still apply to all agricultural land.

In conclusion the modest rise to daily vehicle movements, the impact on minor roads and the visual harm of the additional mobile home and touring caravan in this location would not be so harmful as to outweigh the identified need in the Borough for gypsy and traveller accommodation and as such it is recommended that the application be approved subject to the imposition of appropriate conditions.

RECOMMENDATION

Permission be GRANTED subject to conditions of accommodation for gypsies only, no more than two mobile homes and two touring caravans including those allowed by planning permission 27/2006/019, no business activities unless agreed, no open storage in connection with any business activities, landscaping, percolation tests, retention of hedges and removal of GPDO rights for means of enclosure. Note re Environment Agency consent to discharge to an underground strata required and soakaway guidance.

REASON(S) FOR RECOMMENDATION

It is considered that the proposal will cause a modest rise in daily vehicle movements and have limited impact on the local roads and visual amenity of the rural area and furthermore the proposal is in line with Central Government advice contained in ODPM Circular 01/06.

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

CONTACT OFFICER: 356469 MISS C NUTE

NOTES: