

44/09/0008

MR J ISAACS

REMOVAL OF CONDITION 5 (PERSONAL PERMISSION) OF PLANNING APPLICATION 44/06/0021 AT TWO ACRES, FORD STREET, WELLINGTON

315334.118198

Full Planning Permission

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PROPOSAL

Condition 05 on planning permission 44/06/0021 states that “The use of the site hereby permitted shall be carried on solely by Mr J Isaacs and his spouse, together with their children and Mr Isaacs sister, Louise Isaacs and her daughter.” The applicant has requested the removal of the condition to give the family security for the distant future.

SITE DESCRIPTION AND HISTORY

Planning permission was granted in October 2006 for the change of use of land for a residential gypsy site for 2 no. mobile homes and 2 no. touring caravans. In addition to the condition the subject of the current application, further conditions limited the use of the site to bona fide gypsies and that there be no more than two mobile homes and two touring caravans at any one time. An application was submitted in 2008 for the variation of one of the conditions which states that not more than two mobile homes and two touring caravans shall be stationed on the site at any one time to allow two additional mobile homes for extended family use and two additional touring caravans for transit use. That application was withdrawn prior to determination.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SOMERSET COUNTY COUNCIL - TRANSPORT DEVELOPMENT GROUP - The Highway Authority have been consistent in their consideration of proposals on this site and as you will be aware a previous submission (44/03/0019) on this site was refused by Taunton Deane Borough Council and appealed by the family. The Inspector dismissed the appeal and determined that highway safety was a serious consideration.

The situation with regard to the highway network has not changed since this application, and as such all previous comments made, apply equally at this time.

The Highway Authority continue to object to any increase in traffic from this site, which could be detrimental to highway safety and provided therefore that the number of units on site does not change, and the there is no material alteration in the current use of the land there is no highway objection as to who occupies the site

WELLINGTON WITHOUT PARISH COUNCIL - This application was considered by the Wellington Without Parish Council at their meeting in July which was attended by

10 members of the public whose properties are in the vicinity of Two Acres. The clerk outlined details of the several previous applications which have been made for this site and the apparent history of the conditions imposed. The current application and its ramifications were of great concern to the parishioners attending and these were supported by the Council. The Council strongly objects to granting of permission for the removal of the restrictions. Whilst making this decision the various factors appertaining to the future use and size of the site were considered and the possible effects on the environment in this area of Outstanding National Beauty.

BLACKDOWN HILLS AONB – no comments to make.

ROMANI GYPSY ADVISORY GROUP – must think of the distant future and preserve all our private gypsy sites with full planning permission for future generations because of the lack of sites. The occupant's children and grand children will need the site. This private site is too precious to the family to lose on the demise of the parents. Appeal inspectors are also taking note of this issue.

Representations

NINE LETTERS OF OBJECTION (FROM SEVEN ADDRESSES) – making the following points:-

- Unnecessary and no justification as the children's future is already secured under the condition.
- Original application was turned down.
- Question how many people will be allowed to stay on such a small site, which is of made-up ground and has inadequate services, eg foul drainage.
- Site is off a very narrow lane which cannot cope with the extra traffic, including large vehicles.
- It is an Area of Outstanding Natural Beauty, opening the site up would be detrimental and have an impact on the surrounding countryside.
- Would allow the applicant to increase the number of static and touring caravans.

- There is already a site for mobile homes in Ford Street.
- Concerns over drainage with extra people on site.
- Similar application last year was withdrawn after it had provoked much opposition.
- Allowing the site to grow would create a dangerous precedent – question where it would end.
- Site is too small to accommodate further units.
- An open permission could mean that the site could become sectioned into different pitches and either sold or leased with potential consequential and detrimental issues.
- Proposal would be in fundamental conflict with Policy H14.3 – whole ethos of nomadic life would be overridden and seemingly removed. The site could be turned over to full, unregulated residential occupation of gypsies with the possibility of 30 or more caravans to be on the site at any one time.
- The limitation of the touring caravans to those belonging to the Isaacs family would be removed.
- Would not object to suitable, more permanent dwellings limiting the number of individuals residing on the site.

PLANNING POLICIES

H14 - TDBCLP - Gypsy and Traveller Sites,

DoE Circular 11/95 "Use of conditions in planning permission".

ODPM Circular 01/06 'Planning for Gypsy and Traveller Sites'. This Circular replaces Circular 01/94 and provides updated guidance on the planning aspects of finding sites for Gypsies and Travellers and how local authorities and Gypsies and Travellers can work together to achieve that aim. The circular has the following stated aims:

- (i) To create communities where there is respect between the travelling and settled communities;
- (ii) To reduce the number of unauthorised encampments and developments;
- (iii) To significantly increase the number of gypsy and traveller sites in appropriate locations;
- (iv) To protect traditional ways of life whilst respecting the interests of the settled community;
- (v) To stress the need for regional assessments of need and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- (vi) To make provision for sites where need is identified;
- (vii) To ensure that Development Plan Documents include fair, realistic and inclusive policies;
- (viii) To promote more private gypsy and traveller site provision through the planning system;
- (ix) To help avoid gypsies and travellers becoming homeless through eviction from unauthorised sites.

DETERMINING ISSUES AND CONSIDERATIONS

Circular 01/06 sets out the circumstances in which gypsy and traveller sites may be acceptable and emphasises that private sites are to be encouraged. The Human Rights Act refers to the question of proportionality and the weighing up of the harm which could be caused by permitting the applicants to occupy the land as against the harm which could be caused to them and their families by refusing permission. Removal of the condition gives more flexibility in terms of occupation of the site in that it will not be restricted to occupation by the applicant and his extended family. The occupation of the site will, however still be limited to bona fide gypsies and there will still be the limit of 2 mobile homes and 2 touring caravans on the site. I consider that these conditions, particularly the latter, will ensure that the number of occupants on the site is limited. This ought to allay the concerns of local residents in this respect.

The County Highway Authority do not object provided the number of units does not change and there is no material alteration in the current use of the land. As indicated above, other conditions from the original approval will ensure that this is the case.

General advice on the use of conditions is given in DoE Circular 11/95. This states that conditions should be imposed only where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. It says that personal conditions should only be used on exceptional occasions. At Little Shamba in Bishops Hull, there was an appeal decision where the Inspector noted that as the site would be subject to a caravan site license, there was no

need to make the planning permission personal. Also in considering an appeal against the imposition of various conditions on a recent planning permission for a gypsy site at Sunny Dene, Cotford St Luke, the Inspector concluded that a personal occupancy condition was unnecessary. She considered that the occupation of the site could be adequately controlled by conditions limiting occupation to bona fide gypsies and by limiting the number of mobile homes and touring caravans. This is exactly the same situation as with the current proposal. Other gypsy sites within the district have also been granted planning permission to remove personal conditions, following the Little Shamba decision. Against this background I consider that it would be inappropriate to resist the proposal.

RECOMMENDATION AND REASON(S)

Recommended Decision: Approval

The remaining conditions ensure that the site will only be occupied by bona fide gypsies in this open countryside location, in accordance with Taunton Deane Local Plan Policy H14 (Gypsy and Traveller Sites).

RECOMMENDED CONDITION(S) (if applicable)

Notes for compliance

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

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