

20/2008/003

MR JAMES HARRIS

**SITING OF 2 ADDITIONAL MOBILE HOMES AND 2 ADDITIONAL TOURING CARAVANS FOR GYPSY FAMILY (EXTENDED FAMILY USE) AT PARK GATE, DODHILL CORNER, NAILSBOURNE AS AMENDED BY REVISED SITE PLAN, BLOCK PLAN AND APPLICANT'S LETTER AND SUPPORTING INFORMATION RECEIVED 2<sup>ND</sup> MAY 2008**

322065/128170

FULL

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**PROPOSAL**

Permission is sought for the siting of two additional mobile homes and two touring caravans for gypsy family (extended family) use at Park Gate, Dodhill Corner. The application site, previously used as a pony paddock, was granted planning permission in 2003, reference 20/2003/013, for the siting of two mobile homes and two touring caravans for a gypsy family. This comprised Mr Harris and his spouse, together with their children and Mr Harris's parents living as one family unit.

The application site is roughly triangular, located to the west of the Taunton – Kingston St Mary road at the junction with the road leading to Dodhill. The site is screened partially by hedges on the boundaries with these roads (north and east). To the west of the site are two industrial units and to the south agricultural land. The previous permission accepted that on the basis of the information submitted the applicant, Mr Harris, was a bonafide gypsy. On the basis that the application is now for Mr Harris's extended family – Paul Harris and Alison Harris are the brother and sister of the applicant. It is therefore accepted that both Paul and Alison Harris are bonafide gypsies.

**CONSULTATIONS AND REPRESENTATIONS**

**LANDSCAPE OFFICER** – The mobile homes are prominent in the local countryside especially travelling north to Kingston St Mary. It will be difficult to mitigate the landscape impact and therefore the proposals are contrary to Policy EN12.

**HIGHWAY AUTHORITY** – The proposal relates to the siting of two additional mobile homes and two touring caravans within an existing caravan site. The proposal is considered to meet the requirements of Policy 36 (Sites for Gypsies and Travelling People) of the Structure Plan. The proposal will see an increase in traffic movements from the site, however it was apparent from visiting the site that the improvements that were required under previous planning permission 20/2003/013 have been met. As such no objection is raised to the proposal.

**PARISH COUNCIL** – The Parish Council strongly object to the proposal for the following reasons:

1. Members of the Council consider it to be a contentious issue and requests that it go before Planning Committee at which the Parish Council intends to be represented.
2. It is considered unnecessary as the current owners have not yet made use of the existing planning agreement;
3. Overdevelopment of the site;
4. The existing unit is visually intrusive and further development will add to this in a Special Landscape Area (SLA) and on an approach to an Area of Outstanding Natural Beauty to the Quantocks.

WARD MEMBER

I strongly support the view that this application should go before the Planning Committee.

### **CONSULTATIONS AND REPRESENTATIONS**

14 Letters of objection – Summary of objections: - outside of settlement limits; development ‘creep’; residential development previous refused; discrimination to allow development contrary to accepted protection of rural areas – planning decisions inconsistent and contrary to government guidance to treat people fairly; can I put caravans in my back garden for extended family?; overdevelopment of the site; where would the children play?; improved visibility splays would require loss of hedgerow adversely affecting the landscape; previous permission not yet implemented, where has that ‘need’ gone – what circumstances have changed; views of the community and Parish Council should be taken into account and not ignored; lack of consultation on original application; landscape impact close to AONB and gateway to the Quantocks, area sited within Special Landscape Area; green belt land; detrimental to rural character and appearance; landscape mitigation not the solution; a temporary permission for a timber hut (for breeding rabbits) on this field has now led to two sheds for industrial use, a stable block, a mobile home, another mobile home (not yet brought onto the site) and space for two tourers, all with planning permission, what is to stop further expansion?; site was never assumed to be suitable other than for one family; has the need been verified?; TDBC provide more sites than other districts within Somerset, expanded sites should be looked at elsewhere; local authority had developed a policy aimed at providing permanent sites for gypsies as part of an overall strategy; additional vehicles will have adverse impact upon highway safety in this location; having established a permanent home the applicant does not follow a gypsy lifestyle as such the application is to set up a mobile home park irrespective of gypsy status; increase sites value; precedent.

### **RELEVANT PLANNING POLICY**

#### **Somerset and Exmoor National Park Joint Structure Plan Review**

POLICY STR6 - Development Outside Towns, Rural Centers 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 traveling 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) 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 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 Regional Spatial Strategy (RSS) is formulated by the Regional Assembly and will be responsible for deciding 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, referred to in the Draft RSS, has made significant progress and has now completed its Examination in Public. The EiP Panel's report is due in May (this will be updated if the report is issued prior to the committee date). This report will specify additional pitch requirements to 2011 for Unitary Authority and District Council areas. The Draft Review identified a requirement for 17 additional pitches in Taunton Deane, although it is anticipated that this may be increased to around 20, taking into account a need for existing gypsy pitches to expand. To date, 10 new pitches have been permitted in the Borough since the start of the RSS period in 2006.

## **GYPSY 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**

Circular 01/06 relating to gypsy and traveller sites has amended the definition of 'gypsies and traveller's' to be more wide-ranging. The new definition is:-

*'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such'.*



The proposed occupiers of the additional two mobile homes are the brother and sister of Mr Harris. The status of Mr Harris as a bonafide gypsy has been demonstrated and accepted as part of the determination of the previous permission relating to this site. There is therefore a clear family link which must be taken into account in the assessment of the application. Circular 01/06 identifies that some gypsies...live in extended family groups and that this is a key feature of their traditional way of life that has an impact on planning for their accommodation needs.

The supporting documentation identifies that both Paul and Alison Harris do not have any permanent base of their own, but are 'in dire need of a base and address, from which they can register with doctors, dentists and schools'. The Council's housing department have attempted to contact both Paul and Alison Harris but understand that both are outside of the County at present. Circular 01/06 makes it clear that local planning authorities should not refuse private applications solely because the applicant has no local connection; furthermore in this case there is clearly a family connection to the site. It is accepted that there is currently an unmet need for gypsy sites within the area. Furthermore, the applicant has stated that both Paul and Alison Harris were not accounted for in the previous assessment.

Circular 01/06 recognises that traditional patterns of work are now changing and that the 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 design and access statement outlines the desire to settle in the locality and to be in close proximity to educational and health care facilities.

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 units is considered to be acceptable given that the site already has planning permission. The application site is located approximately one mile from Kingston St Mary, which is the closest settlement to the site, and a similar distance to the northern edge of Taunton. It is considered the proposal would not place undue pressure on the local infrastructure given the relative low number of mobile homes.

The applicant has recently submitted clearer plans to identify the position of the mobile homes within the site. In relation to concerns regarding overdevelopment of the site, the users would be required to obtain a caravan site licence. The main issue with regards to the additional mobile homes would therefore be from a visual perspective.

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 an Area of Outstanding Natural Beauty. Despite concerns from the public regarding the impact upon the Quantocks AONB to the north it is considered that the proposal would not directly affect the AONB landscape such as to warrant a refusal. It is not questioned that the proposal would have a landscape impact, as highlighted by the Council's landscape officer and by the Parish Council and representations received from local residents. The question is whether the need for the development outweighs any harm to the character and appearance of the area.

The guidance within Circular 01/06 states that local landscape and local nature conservation should not be used in themselves to refuse planning permission for gypsy and traveller sites. It is therefore important that the assessment relates to whether the position of the mobile homes causes demonstrable harm to the rural character and appearance of the landscape in this location. The previous assessment with regards to the original permission referred to the existing visual impact of the two industrial units at this point, which already has a impact on the visual amenities of the locality. As such whilst the addition of further mobile homes would have an impact it is not considered in this context that it would be so harmful as to substantiate the refusal of the scheme when taking into account other material considerations. Moreover, it is considered that additional supplementary landscaping would help to mitigate the visual impact of the development. The Highway Authority consider that the proposed visibility splays implanted previously are acceptable and there would not therefore result in any further loss of hedgerow.

The Highway Authority do not raise any objection with regards to parking or highway safety implications.

To conclude, the applicant's personal circumstances and family connections for choosing this private site are considered to be a material consideration, and would offer a settled base for the extended family to provide for their education and health requirements, balanced against the degree of landscape impact. It is concluded that the visual harm of the mobile homes in this location would not be so harmful as to outweigh the applicant's need and as such it is recommended that the application be approved subject to the imposition of appropriate conditions.

## **RECOMMENDATION**

Permission be GRANTED subject to the conditions of occupation by extended gypsy family only, personal occupancy, no fencing, details of any external lighting, details of foul drainage and surface water; no more than four mobile homes on the entire site, no business activities unless agreed by the LPA, no open storage of items connected with business activities; landscaping.

**REASON(S) FOR RECOMMENDATION:-** The additional mobile homes are considered to fulfil an outstanding gypsy need in accordance with Taunton Deane Local Plan Policy H14 (as amended).

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

**CONTACT OFFICER: MR A PICK**

NOTES: