

30/12/0046

MR J BIRCH

**VARIATION OF CONDITION NO. 6 OF APPLICATION 30/02/0013 TO SITE AN ADDITIONAL 2 NO. MOBILE HOMES AND 1 NO. TOURING CARAVAN FOR FAMILY MEMBERS AT FOSGROVE PADDOCK, FOSGROVE LANE, PITMINSTER**

Grid Reference: 322891.120673

Removal or Variation of Condition(s)

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval for the following reason:

The proposal for two additional mobile homes and a touring caravan for family members is considered not to have a detrimental impact upon visual or residential amenity and is therefore considered acceptable given the lack of suitable alternative sites and, accordingly is considered in line with the NPPF 'Planning policy for traveller sites' and does not conflict with Policy DM1 (General Requirements) and Policy DM3 (Gypsy and Traveller sites) of the Taunton Deane Core Strategy.

**RECOMMENDED CONDITION(S) (if applicable)**

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

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

2. The site shall be occupied by a single gypsy family group as set out under the current submission.

Reason: The Local Planning Authority do not consider that this site located in the countryside in this location would be suitable for an unrestricted use.

3. No trade or business or storage of goods or materials in connection with any trade or business shall take place at the site.

Reason: In the interests of the visual amenity of the area in accordance with policy DM1 of the Taunton Deane Core Strategy.

4. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any subsequent order amending or revoking and re-enacting that Order), the design, siting and external appearance of any ancillary building or structure, whether or not required by

the conditions of a site licence for the time being in force under Part I of the Caravan Sites and Control of Development Act, 1960 (revised 1977) shall be approved by the Local Planning Authority before such building or structure is erected or placed on the land.

Reason: To safeguard the amenities of the area in accordance with Taunton Deane Core Strategy policy DM1.

5. No more than one commercial vehicle shall be parked at the site at any one time.

Reason: In the interests of the visual amenity of the area in accordance with Taunton Deane Core Strategy policy DM1.

6. No caravans or mobile homes other than those hereby approved shall be sited on the land at any time without the prior written approval of the Local Planning Authority.

Reason: In the interests of the visual amenity of the area in accordance with Taunton Deane Core Strategy policy DM1.

#### Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.
2. You are advised that the boundary hedges should be allowed to grow and maintained at 2m or above.

## **PROPOSAL**

The proposal is to site two additional mobile homes and a touring caravan on the site to accommodate family members already resident on the existing traveller site.

## **SITE DESCRIPTION AND HISTORY**

The site is one that was granted use by a gypsy family in 1997 for a temporary 10 years (ref 30/97/0014). An application in 2002 (30/02/0013) granted permanent permission for a mobile home, 2 touring caravans and a utility block. The utility block was granted an extension in 2006 (ref.30/05/0036)

An application was made in 2007 for the provision of 4 separate gypsy pitches on adjoining land. This application 30/07/006 was refused and dismissed on appeal.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*SCC - TRANSPORT DEVELOPMENT GROUP* – comment:

The proposal seeks to allow new caravans to be placed on an existing Gypsy site at Fosgrove Paddock near Pitminster. The Paddock is accessed along the narrow and winding Fosgrove Lane. The lane links the B3170 Corfe Road south of Taunton and east of the M5 lanes to Poundisford, Pitminster and Trull which latter is also south of Taunton and to the west of the M5. As such though the lane is very narrow with informal parking places where it widens slightly or in field gateways and other accesses it is nevertheless quite well used. For much of its length pedestrians have no choice but to walk in the road.

The location is not close to a settlement providing shopping and services, schools etc. People dwelling here will have relatively high reliance on the private car to access such. However the proposal appears to be to accommodate an existing extending family. The access itself is consolidated, the gate is hung sufficiently far from the highway and visibility is quite good as the access is on the outside apex of a relatively tight bend.

In the event that the Local Planning Authority should choose to grant permission the Highway Authority has no additional highway conditions to request.

#### *SCC - RIGHTS OF WAY – Comment*

There is a public right of way that runs along the track south of Fosgrove Lane (T21/17). The health and safety of the public using the footpath must be taken into consideration during works to carry out the proposed development. Somerset County Council (SCC) may have some maintenance responsibility for the surface of the footpath, but only to a standard suitable for pedestrian use. The surface of the way must be reinstated following any disturbance that may occur from the development. It should be noted that it is an offence to drive a vehicle along a footpath unless the driver has lawful authority (private rights) to do so.

If it is considered that the development would result in any of the outcomes listed below, then authorisation for these works must be sought from Somerset County Council Rights of Way Group.

- A Public Right of Way (PRoW) being made less convenient for continued public use.
- New furniture being needed along a PRoW.
- Changes to the surface of a PRoW being needed.
- Changes to the existing drainage arrangements associated with the PRoW.

If the work involved in carrying out this proposed development would - make a PROW less convenient for continued public use (or) - create a hazard to users of a PRoW then a temporary closure order will be necessary and a suitable alternative route must be provided. A temporary closure can be obtained from Sarah Hooper on (01823) 483069.

*LANDSCAPE LEAD* - My main concern is the existing hedges are kept low and do not provide much landscape mitigation.

*PITMINSTER PARISH COUNCIL* - object:

### Character & appearance

1. Fosgrove Paddock is located in attractive open countryside to the south-east of Taunton. It is situated on the south side of Fosgrove Lane, a pleasant, narrow, rural lane lined with hedgerows. Apart from the six dwellings (which comprise Fosgrove) on the other side of the lane the surrounding land is in agricultural use. Development in the wider area is limited to scattered dwellings and farm buildings.
2. The proposed pitches would be located in the existing authorised site fronting Fosgrove Lane. They would be visible from the lane. More significantly, however, we consider that the proposed mobile homes and caravans (and potentially 2 washroom/dayroom facilities) would be prominent in views from the public footpath that runs along the eastern boundary of the paddock. Furthermore the new mobile homes and caravans (and potentially 2 washroom/dayroom facilities) would be evident in longer distance views from Fosgrove Lane as it rises to the west.
3. In our judgement the proposed mobile homes and caravans and any associated structures and vehicles, would intrude into the landscape and seriously detract from this attractive area of open countryside. We accept that during the summer months the existing vegetation and hedgerows would soften their impact. However the 3 mobile homes and caravans (and potentially 2 washroom/dayroom facilities) would still be visible from near and far, and appear out of place. Additional planting of appropriate indigenous species would be unable to mitigate the harmful impact of the development, particularly during the winter months. We are aware that Circular 01/2006 does not rule out gypsy sites within rural settings and that local landscape designations should not be used in themselves to refuse planning permission. However this does not obviate the need to assess the impact of a sizeable extension to an existing gypsy site on the open countryside and on landscape character.
4. We conclude therefore, that the development would seriously harm the character and appearance of the local area and its unsatisfactory visual impact could not be mitigated to an acceptable extent. As such the scheme is in conflict with the objectives of Policies EN12 and H14 of the Taunton Deane Local Plan, and Policy 5 of the Somerset and Exmoor National Park Joint Structure Plan Review.

### Highway safety

1. Fosgrove Lane is far from ideal in highway safety terms as it is narrow, twisty, undulating, unlit and without footways. Consequently development that would significantly increase the number of vehicles or pedestrians passing along the lane would be detrimental to the safe and free flow of traffic and should be resisted. In this regard an increase in the number of mobile homes and caravans at Fosgrove Paddock is a cause for concern. If each of the additional mobile homes was to be occupied by a gypsy household similar to the family that currently resides on the site the number of comings and goings along the lane would be significantly increased and aggravate road safety problems to an unacceptable extent.
2. The proposal, however, is advanced on the basis of family members. In the short term the occupation of the 2 mobile homes by Lorna and John Henry is unlikely to increase the amount of traffic on the lane given that they currently reside on

the site and they both own a car. However in the medium to long term as they themselves form households the comings and goings that they are likely to generate is likely to grow substantially and in our view is likely to amount to more than a modest increase. There is also Dean who will require a car in the future. The additional vehicular and pedestrian movements generated at this time would be to the detriment of road safety along the lane. Although we are aware that the applicant and his family have been on the site for some considerable time this does not alter our view as to the harm to highway safety that is likely to result in the future.

3. We conclude therefore, that in the medium to long term the proposal is likely to be harmful to the free and safe flow of traffic along Fosgrove Lane. This would be in conflict with the highway safety objectives of Policy H14 of the Taunton Deane Local Plan and Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.

#### Location in relation to services & facilities

1. In our view the site is not conveniently situated for the facilities and services that are likely to be needed on an everyday basis. The nearest villages, Corfe and Trull, are about 2km from the site whilst Taunton is farther away. We understand that most of the trips undertaken by the current occupiers of the site are taken in their own private vehicles. Given this and the unsatisfactory nature of Fosgrove Lane for walking or cycling we consider that the intended occupiers of the proposed mobile homes would also be heavily reliant on private vehicles to access necessary services and facilities. Lorna and John Henry are unlikely to increase vehicular movements. However in the medium to long term the households formed by Lorna and John Henry are likely generate significantly more trips from the site.
2. We are aware that Circular 01/2006 recognises that issues of sustainability should not just be considered in terms of transport mode and distance from services. However in our view the proposal, and in particular the comings and goings likely to be involved in due course, would generate a significant amount of additional vehicular use. We consider that there remains a need, given the strong emphasis in both national and local planning policy on the location of development and its influence on vehicular usage, to examine carefully the location of any proposed gypsy site in relation to facilities, including shops and health facilities. Certainly Circular 01/2006 makes it clear that in identifying gypsy and traveller sites in development plan documents access to local facilities is an integral part of the site selection process. We firmly believe that the site at Fosgrove Paddock performs poorly in terms of this aspect of the site selection process in terms of the distance to local facilities and the nature of the local road system.
3. We conclude, therefore, that the site is not reasonably related to services and facilities and that the proposal would be likely to encourage additional private vehicular usage in the medium to long term. As a result the proposal would not accord with the objectives of Policy H14 of the Taunton Deane Local Plan and Policy 36 of the Somerset and Exmoor National Park Joint Structure Plan Review.

#### Other matters for consideration

1. It is noted that the existing planning permission for the site allows two touring

caravans, one of which is not currently stationed on the land.

2. It should also be noted that application 30/2002/013 sought a mobile home and 3 touring caravans at Fosgrove Paddock. The decision on that application was changed to one mobile home and 2 touring caravans as TDBC considered 3 were too many for the site. The site is still the same size.
3. The access road floods and when in this state is impassible.
4. There is no plan showing the proposed layout of the site.

*CORFE PARISH COUNCIL* - No comment received.

## **Representations**

3 letters of SUPPORT one from local doctor and one advising of lack of alternative sites:

- Government guidance encourages small private sites and site well screened.

11 letters of OBJECTION on basis of:

- the site is on a dangerous narrow corner of Fosgrove Lane which has too much traffic for a country lane and seems to be a "fast rat run"
- it will increase traffic;
- it is on a sharp blind bend with poor visibility and the lane is often blocked in winter due to floods and ice;
- the road and drainage is insufficient to support further usage;
- there are accidents and mini traffic jams and the traffic levels should not be added to to increase risk;
- negative impact on horse riders, walkers and cyclists;
- it will effectively be a mobile home park on the edge of an AONB;
- impact on open countryside with new caravans/mobile homes visible by local residents;
- it will be visible from the public footpath and surrounding landscape and conflicts with policies EN12 and H14 of the Local Plan and policy 5 of the Joint Structure Plan;
- it will add separate additional dwellings and set a precedent;
- no details of siting or if sufficient space and a caravan is already located outside the residential curtilage;
- the site does not have the capacity to develop further;
- an appeal has been refused for a larger development but the reasons still apply, particularly the unsuitability of Duddlestone Lane, traffic, highway safety character and appearance and location in relation to services and facilities (contrary to policy H14 of the Local Plan and policy 36 of the Joint Structure Plan Review.
- it would be harmful to traffic along Fosgrove Lane, conflict with safety

objectives of policy H14 of the Local Plan and policy 49 of the Somerset & Exmoor National Park Joint Structure Plan Review;

- the existing permission allows 2 for touring caravans and there is only one on site, 3 was previously considered too many;
- there would be a potential need for more mobiles in the medium to long term and development here is unsustainable;
- it would create additional dwellings and be discriminatory against the settled population and an infringement of their human rights;
- it would create an imbalance in the population structure of the surrounding community;
- there has been no change in the area or legislation to overturn the appeal decision.

## **PLANNING POLICIES**

NPPF - National Planning Policy Framework,  
DM3 - TD CORE STRATEGY GYPSY AND TRAVELLER SELECTION CRITERIA,  
CP8 - TD CORE STRATEGY- ENVIRONMENT,  
SD1 - SD 1 TDBC Presumption in Favour of Sustain. Dev,

## **LOCAL FINANCE CONSIDERATIONS**

The development of this site would result in payment to the Council of the New Homes Bonus.

### 1 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£2,095
Somerset County Council (Upper Tier Authority)	£524

### 6 Year Payment

Taunton Deane Borough Council (Lower Tier Authority)	£12,571
Somerset County Council (Upper Tier Authority)	£3,143

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main issue here is the need for additional accommodation on site and whether this need and lack of suitable alternative outweighs any harm that may be considered to the rural character of the area, highway safety and impact on the community.

The existing site was originally granted permanent permission in 2002 and allowed for a mobile home and two touring caravans. The site is occupied by Mr and Mrs Birch and their 3 children. One child is 11, one is 23 and one is 20 and married with a baby boy. It is considered that there is a need for additional accommodation on site, particularly to enable adequate care of the baby and this is reflected by support of the local doctor. There are no alternative identified sites that the couple can move to.

Previously an application for 4 gypsy pitches of 1 caravan and a touring caravan was made and ultimately dismissed on appeal in 2009. This related to land outside of the current site and was dismissed as the Inspector considered the argument against in terms of character and appearance of the area, highway safety and relation to services and facilities outweighed the factors in favour. The Inspector did however in his decision refer to there appearing to be sufficient space within the existing site to accommodate additional accommodation.

The current proposal proposes 2 additional mobile homes and the provision of a touring caravan sited against the western conifer hedge. If allowed this would result in the removal of an unauthorised shed on the site. It is considered that the hedge will largely screen the development from long distance views to the west. Development will be visible from the public footpath to the east for the short distance of around 5m where the existing gate is. The site is largely screened to the north by the roadside hedge and the applicant has advised that further hedge planting could be provided within the site to provide additional screening. I do not therefore consider, given existing screening which will grow further, that the development would seriously harm the rural character and appearance of the area contrary to Core Strategy policy CP8.

The issue of highway safety has again been raised as Fosgrove Lane is narrow, twisty, undulating, unlit and without footways. Consequently the appeal Inspector recognised that development that would significantly increase the use of the lane should be resisted. The Highway Authority, in respect of the current proposal, recognise this is to provide accommodation for an extended family who already live on site and raise no objection. It is not considered that the proposal will significantly increase traffic over and above the current situation however it is recognised that in the longer term the development could result in an increase in traffic. There has been evidence submitted that the local road floods, however there is more than one route to the site and the site itself is safe from flooding.

The site is not ideally located for facilities and services that are likely to be need on an everyday basis. This was recognised on appeal and is quoted in the Parish Council objection. It is agreed that this is the case and would lead to private vehicular usage to access any services.

The Planning Inspector previously considered the impact on the existing community and determined that that proposal would not unduly dominate the settled community. The current application is for less development and for accommodation to house existing residents of the site. It is not therefore considered to unduly impact on the existing community.

The above issues are also specified in the criteria based policy DM3 of the Core Strategy. A further issue is the fact that there is a young couple with a baby and there is support from a doctor with regard to providing accommodation that has running water and heating. If allowed this would enable the family members to live as a family group in accordance with their traditional way of life and culture.

Other material considerations are set out in the specific document relating to travellers published by the government. This document 'Planning policy for traveller sites' is part of the NPPF and policy H deals with determining applications. There is a recognised need for additional sites in the area and it is accepted that there are no



additional sites available that the extended Birch family could utilise. This therefore has to be given considerable weight in determining the application. It is not considered that the New Homes Bonus can be given any significant weight in determine this proposal.

In summary the current proposal is for additional accommodation for family members occupying this authorised site. There are no suitable alternative sites available and while the access road and location in respect to facilities weigh against the proposal it is not considered that the proposal would unduly dominate the local community and the visual impact on the surroundings is not considered to warrant an objection in this instance. In light of this and given the need and lack of alternative provision it is considered that the arguments in favour outweigh those against and therefore the application is recommended for approval.

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

**CONTACT OFFICER: Mr G Clifford Tel: 01823 356398**