

23/2002/008

EDWARD THOMAS TUCKER

**USE OF LAND TO SITE ONE MOBILE HOME FOR RESIDENTIAL PURPOSES AND USE OF OUTBUILDINGS FOR DOMESTIC PURPOSES, HIGH PARK VIEW, MILVERTON AS AMENDED BY LETTERS DATED 13TH, 21ST AND 26TH JUNE, 2002 WITH ACCOMPANYING INFORMATION**

11470/26640

FULL PERMISSION

---

**PROPOSAL**

The application was deferred from consideration at the Committee on 19th June, 2002 for proper assessment of additional submitted information.

A previous planning application for the use of land to site two mobile homes for residential purposes was refused by the Planning Committee on 1st August, 2001. The site is located to the north of the Class III Milverton to Wiveliscombe road. The applicant's agent had confirmed that the applicant is a member of the Romany community and as such claimed special status. The current proposal provides for one mobile home to be sited in the form of a timber clad 'Pinelodge' unit. There is presently a mobile home on the site. The application is accompanied by additional documentation comprising a consulting engineer's observations on the highways aspect of the proposal and extracts from recent case law. Points arising include that the Court of Appeal have ruled that many factors need to be taken into account as in a recent case in South Buckinghamshire District Council area. It also contended that offering a Romany Traveller a council house as an alternative to living on his own land is a breach of human rights. The applicant's agent also draws attention to the proposed Traveller Law Reform Bill where Local Authorities will be expected to give planning permission for owner occupied sites. The proposal also provides for the use of existing outbuildings at the site for domestic purposes associated with the occupation of the mobile home. The applicant is married with 5 children. The family is registered with a local doctor and until recently moving to the site the applicant lived and traded from a mobile round in the Taunton/Wellington area. His family come from Wellington and Taunton and previously he was living at the Stoneyhead Caravan Park, but owing to a limit on the size of caravan that he was permitted to occupy and the fact that it is predominantly a retirement park, he found it necessary to relocate. The applicant purchased the site following making extensive enquiries but being unable to find any other site suitable to settle with his family and to be able to lead his independent way of life as a member of the Romany community. The applicant asks that the Planning Committee takes into account his human rights in determining the planning application. There were three earlier refusals of permission, all in 1991, for use of the site for a mobile home to accommodate a gypsy family (different applicant). One of these was dismissed on appeal.

Since the previous application, the applicant has cut back the vegetation on his own land to improve visibility to the site entrance. He also proposes to replace the standard mobile home which is currently on the site with pine log mobile home, which falls within the definition of a mobile home/residential caravan as it is fully portable and on wheels. It is contended by the applicant's agent that this would be extremely ergonomic bearing in mind the sensitive environment. The engineer's observations accept that there are some problems concerning the visibility splays at the junction of the accessway serving the site with the public highway. He notes that the access also serves the adjacent residential property and the agricultural land to the rear and that there appeared to be very little in the way of traffic movement along the road, which is also served by a public bus service. The site is also on the school bus run for both local schools and the Kingsmead School at Wiveliscombe. He considers that the engineering requirements to achieve perfect visibility towards Milverton are almost impossible. He concludes that a simple alternative would be to install a close circuit television camera system mounted on a pole or similar construction at or near the entrance to the property. The applicant's agent also points out that on the original planning appeal decision, the Inspector was not overly concerned about the access. Also in the past the access has been used by cattle lorries as a depot at a time before the bypass was built.

## **CONSULTATIONS AND REPRESENTATIONS**

COUNTY HIGHWAY AUTHORITY the proposed development site is located on an unrestricted section of the B3187, remote from public transport facilities and adequate services. The B3187 is a designated County Route in the Joint Structure Review. The existing access suffers from severely limited visibility and would not wish to see any increase in traffic generation at this location. Therefore recommend refusal of the application on grounds of remote from adequate services, etc, increasing the need for journeys to be made by private vehicles which is non-sustainable; direct access from a County Route where no overriding special need or benefit has been substantiated for the proposed development; any increased use made of the existing sub-standard access such as would be generated by the development proposed would be prejudicial to road safety; and the site has insufficient frontage to the B3187 to enable an access to be satisfactorily laid out incorporating the necessary visibility splays which are essential in the interests of highway safety. Visibility splay requirements would be 2 m back at the access point and 215 m in each direction. The use of cameras is not an accepted method of achieving visibility, due to the potential for loss of power and damage to the equipment. GYPSY LIAISON OFFICER in my opinion Mr Tucker and his family are bone fide gypsies as defined in Circular 1/94 and the Caravan Sites and Control of Development Act 1960. At the present time Somerset County Council is unable to offer accommodation to this family on the Otterford site. The only accommodation immediately available would be on a temporary basis on the transit facility at Middlezoy, but their time on the site would be limited to 28 days.

DRAINAGE OFFICER note that drainage is to be effected by the use of soakaways and an existing septic tank. Soakaway should be constructed in accordance with Building Research Digest 365 and standard note should be added with regard to overloading

existing septic tank. PARISH COUNCIL recognise that the evidence placed before Taunton Deane has caused a re-examination of reasons for recommending refusal and is likely to lead to the application going before Committee with a recommendation for Approval. As a result of this change of circumstance Milverton Parish Council now wish to withdraw their objection to this application. However, if Taunton Deane are minded to pass this application Councillors would like to be assured that the final dwelling will be in the form of the log cabin that was shown to them by Mr Tucker at an earlier meeting. In addition Councillors also seek assurance that if this application is passed there will be no further development on this site and hope that Taunton Deane will impose suitable conditions.

MILVERTON AND FITZHEAD SOCIETY the proposed siting of this ad hoc development outside the centre of the village, with inadequate service provision, poor access visibility, in this unspoilt area is undesirable; the changes proposed including the pine log facade are felt not to substantially alter the previous submission in 2001; whilst have every sympathy with the applicant, the Society is unable to support the application. HEADTEACHER, MILVERTON PRIMARY SCHOOL supports the application; two of the applicant's children are at the school both of whom have settled beautifully, are working well and are making a valuable contribution to the life of the school; two more are due to start at the school in September when they will be entering an environment that is known to them and their family; if the family were forced to move at this stage, believe that the education of all the children would be adversely affected. 9 LETTERS OF SUPPORT (8 submitted via the applicant's agent):- adjacent property uses the same access point; the use of the road is far less than before the bypass was built; the site was at one time occupied by a livestock haulier with a large lorry; with the weight restrictions in Milverton, there are no longer large lorries using that stretch; there is a regular bus service along the road; applicant is extremely pleasant and well mannered; the children are well settled into school; will be an asset to the village; there have been considerable improvements to the site; applicant and his family have become involved with the local church. ONE LETTER OF OBJECTION buildings would be used for more than domestic purposes; the entrance does not have very good visibility and has no drop kerbstones; not appropriate to have a mobile home situated in such an unspoilt area; vans are going in and out of the property which will damage the entrance.

## **POLICY CONTEXT**

County Structure Plan policy STR1 on sustainable development is relevant. Part of this policy requires the development of a pattern of land use and transport which minimises the length of journeys and the need to travel and maximises the potential for the use of public transport, cycling and walking. Policy STR6 of the same plan states that development outside towns, rural centres and villages should be strictly controlled and restricted to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel. Policy 36 requires the provision of sites for gypsies to be within a reasonable distance of a settlement providing local services and facilities. The application site is approximately 1 km from Milverton, which is the closest settlement to the site.. Policy WD/SP/2 of the West Deane Local Plan states that outside defined settlement limits, development will not be permitted unless it is for the purposes of agriculture or forestry or accords with a specific development plan policy or proposal. Policy S1 of the Taunton Deane Local Plan Revised Deposit includes general requirements for new developments. One of these

requirements is that the accessibility of the development by public transport, cycling and pedestrian networks would be consistent with its likely trip generation and minimising the need to use the car. Another is that the appearance and character of any affected landscape, settlement, building or street scene would not be harmed as a result of the development. Policy S8 of the same plan states that 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 meets certain criteria. It is not considered that the proposal meets these criteria. Policy H16 of the same plan states that outside the defined limits of settlements, sites for gypsies will be permitted provided that certain criteria are met. With the previous refusal of planning permission, it was considered that 3 of these criteria were not met with. These were (i) there is no safe and convenient access by bus, cycle or on foot to schools or other community facilities; (ii) the development is clearly visible from outside the site and this is detrimental to the existing character of the area; (iii) The existing access suffers from severely limited visibility and any increased use made of the existing sub-standard access such as would be generated by the development proposed would be prejudicial to road safety.

## **ASSESSMENT**

The site is outside the recognised limits of any settlement and therefore open countryside policies apply with strict control on new development. Circular 1/94 requires Local Planning Authorities to have policies for the provision of private gypsy sites within the Development Plan. The advice suggests that provision should be well related to existing settlements and that care should be taken to ensure that provision of sites conforms with countryside policies. The Joint Structure Plan Review and the Taunton Deane Local Plan Revised Deposit (TDLP) both contain policies for the provision of private sites for gypsies. The County Highway Authority raise objection to the proposal because of the substandard nature of the access with its limited visibility.

The current proposal provides for a single mobile home compared to the two proposed with the previous application. Since the current application was deferred from consideration at Committee, the applicant's agent has submitted additional supporting information. One of these items is an Appeal decision in Mid Devon District where the Inspector was faced with a similar situation with regard to the distance of the site to the nearest settlement. In that instance the Inspector concluded that although in a rural area the site was within a reasonable distance of services and facilities. The agent has also submitted a copy of a letter from the Devon County Gypsy Liaison Officer in relation to another site in Mid Devon, which concludes that there is a lack of formal provision in Devon and small private sites continue to provide the only realistic solution. The Somerset Gypsy Liaison Officer also confirms that there is a lack of available accommodation for gypsies on existing sites.

Also since the deferral of the application, we have received the Appeal Decision for the gypsy site at Rockhill, Wrantage. In allowing that Appeal the Inspector concluded that there was an unmet need for gypsy sites in the area. The Inspector also placed great weight on the fact that from a health and education point of view, the stability for the

family would be seriously undermined if the family had to move away from the health and education support from which they currently benefit. Whilst the Inspector considered that the proposed development would cause significant harm to highway safety, arising from the use of the access, he concluded that this was clearly outweighed by the substantial need for a gypsy site for the family and the particular needs of the family in respect of health care and particularly education. With regard to human rights, the Inspector considered that dismissal of the Appeal would result in an interference with the appellant's private and family life under Article 8 of the European Convention of Human Rights.

In the light of the above considerations, I consider that a recommendation of refusal is inappropriate and would be likely to be very vulnerable on appeal.

### **RECOMMENDATION**

Permission be GRANTED subject to conditions of temporary (10 years) permission, occupation by gypsy only, no more than one mobile home, no business activities, no open storage of items connected with business activities, hedges and verges to be kept trimmed back to maintain visibility and personal to applicant and his family only. Notes re overloading septic tank and soakaways.

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

**CONTACT OFFICER: 356461 MR J HAMER**

NOTES: