

## BOROUGH OF KETTERING

<b>Committee</b>	<b>Full Planning Committee - 17/12/2019</b>	<b>Item No: 5.6</b>
<b>Report Originator</b>	<b>Natalie Westgate Senior Development Officer</b>	<b>Application No: KET/2019/0562</b>
<b>Wards Affected</b>	<b>Welland</b>	
<b>Location</b>	<b>Woodside (land adj Unit 3), Stoke Albany Road, Desborough</b>	
<b>Proposal</b>	<b>s.73A Retrospective Application: Stationing of mobile home for residential use</b>	
<b>Applicant</b>	<b>Mr P Badger</b>	

### 1. PURPOSE OF REPORT

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

### 2. RECOMMENDATION

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be APPROVED subject to the following Condition(s):-

1. The development hereby permitted shall not be carried out other than in accordance with the approved Plan No.KET/2019/0562/1A and Plan No.KET/2019/0562/2A.

REASON: In the interest of securing an appropriate form of development in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

2. The single pitch hereby approved shall only be for the occupation by Mr Paul Badger and subject to his response to a Planning Contravention Notice confirming that he meets the definition in Appendix 1 to the Planning Policy for Travellers Sites, August 2015 (or its equivalent in replacement policy). In the event that Mr Paul Badge should cease to occupy the site, this permission shall cease and the mobile home hereby approved shall be removed from the land and the land cleared of all structures and other items associated with the residential occupation.

REASON: In recognition of a local need and the PPTS and Policy 31 of the North Northamptonshire Joint Core Strategy.

3. This permission is for 1 pitch containing 1 mobile home, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended), shall be stationed at any time. In addition, for the purposes of use when travelling, no more than 1 touring caravan may be retained on the land at any one time.

REASON: In the interest of visual amenity, taking account of site size, and to define the terms of this consent.

4. Within 3 months of the date of this permission an area for amenity open space, vehicle parking and manoeuvring to accommodate a minimum of 2 parking spaces (each 5m x 2.5m) shall be provided on site in accordance with details on plans at a scale of 1:500, and details of how the ground is to be prepared and finished, that shall have been submitted to and approved by the Local Planning Authority. Thereafter, development shall not proceed other than in complete accordance with the approved details. The recreation area, parking and turning shall be retained for these purposes only for the lifetime of this permission.

REASON: In the interests of safeguarding visual and residential amenities and for highway safety in accordance with Policies 8 and 31 of the North Northamptonshire Joint Core Strategy.

5. Within 1 month of the date of this permission a refuse and recycling store shall have been provided on site in accordance with details first submitted to and approved in writing by the Local Planning Authority. The approved refuse/recycling store point shall be retained as approved thereafter.

REASON: Refuse details are necessary in the interests of residential amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

6. There shall be no external illumination on the site.

REASON: In the interests of the amenity and Policies 8 and 31 of the North Northamptonshire Joint Core Strategy.

## **Officers Report KET/2019/0562**

This application is reported for Committee decision because there are unresolved, material objections to the proposal.

### **3.0 Information**

#### **Relevant Planning History**

None relevant

#### **Site Visit**

Officer's site inspection was carried out on 26/09/2019.

#### **Site Description**

The site is located within a small development of mixed industrial/commercial uses. Existing neighbouring uses include haulage repairs and storage business, etc. The site is accessed by a single access road which serves the various commercial uses. The site is situated behind high metal boundary treatment. The site is outside the settlement boundary and therefore it is situated within open countryside.

The site consists of 1 no. mobile home containing 3 bedrooms, 2 no. caravans with 1 bedroom each, a septic tank, a covered area containing agricultural parts and open areas containing storage of agricultural parts. The applicant confirmed that one of the caravans was used by him for staying and working at charity events around the country whilst the other caravan is awaiting removal.

#### **Proposed Development**

The proposal is for retrospective permission to use the land for the siting of a mobile home for the applicant.

#### **Any Constraints Affecting the Site**

Outside Settlement Boundary/Open Countryside

### **4.0 Consultation and Customer Impact**

#### **Parish Council**

Stoke Albany Parish Council objects that the site is used for storage and is not a residential area so therefore the proposed mobile home would be inappropriate use of the site.

#### **Highway Authority**

The Highways Authority cannot support the application and require further information. There are no details of access from Stoke Albany Road. There are no details on parking within the site. It is recommended that there should be 2 parking spaces provided within the site. There is guidance on recommended measurements with respect to highway access, visibility splays and parking spaces.

### **Northamptonshire Police**

No formal objection, however, there should be a condition to a named individual on the site. The site is laid out to comply with the access for emergency vehicles guidance.

### **Environmental Protection Officer**

Recommends a condition on unexpected contaminated land.

### **Neighbours**

There were 3 objections from nearby properties as the land is within an industrial estate. There is concern of precedent this would create for more mobile homes within the industrial estate.

## **5.0 Planning Policy**

### **National Planning Policy Framework**

Section 5: Delivering a sufficient supply of homes

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable transport

Section 12: Achieving well-designed places

Section 15: Conserving and enhancing the natural environment

### **Planning Policy for Traveller Sites**

### **Development Plan Policies**

#### **Local Plan for Kettering Borough**

Policy 7: Protection of the Open Countryside

Policy RA5: Housing in the Open Countryside

#### **North Northamptonshire Joint Core Strategy**

Policy 1: Presumption in Favour of Sustainable Development

Policy 3: Landscape Character

Policy 5: Water Environment, Resources & Flood Risk

Policy 8: North Northamptonshire Place Shaping Principles

Policy 31: Gypsy and Travellers and Travelling Show People

#### **Emerging Policies (Local Development Framework)**

A Gypsy and Traveller Accommodation Assessment (GTAA) to identify pitch need in the Borough has recently been published

A new Gypsy and Traveller Site Allocation policy is proposed but it is not at an advanced stage to be a material consideration in the determination of this application

#### **Emerging Policies (Local Development Framework)**

Part 2 Local Plan-Not yet advanced enough to afford much weight.

## **6.0 Financial/Resource Implications**

None

## **7.0 Climate Change Implications**

Addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin both plan-making and decision-taking. The National Planning Policy Framework emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development. National planning policy and guidance is clear that effective spatial planning is an important part of a successful response to climate change as it can influence the emission of greenhouse gases. In doing so, local planning authorities should ensure that protecting the local environment is properly considered alongside the broader issues of protecting the global environment. The adopted Development Plan for Kettering Borough is consistent with and supports these national policy aims and objectives.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The development plan comprising the North Northamptonshire Joint Core Strategy, Local Plan and Kettering Town Centre Action Plan makes clear the importance of climate change and seeks to create more sustainable places that are naturally resilient to future climate change. This will be further amplified by the emerging Site Specific Part 2 Local Plan once adopted which is being prepared within this context. Policies contained within the Part 2 Local Plan will help contribute towards a reduction in greenhouse gas emissions and will secure that the development and use of land contributes to the mitigation of, and adaption to, climate change.

## **8.0 Planning Considerations**

The key issues for consideration in this application are:-

1. Principle of development
2. Gypsy / traveller status
3. Personal circumstances and Human Rights
4. Need and supply of sites
5. Sustainability of location
6. Highway safety
7. Design: size of pitches, character, residential amenity and landscape provision
8. Flood risk, surface water drainage and other environmental considerations
9. Comments on other points raised by proposal

### **1. Principle of development**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

Material considerations include the Planning Policy for Traveller Sites (PPTS) and the presumption in favour of sustainable development and other policies contained within the National Planning Policy Framework (NPPF).

In terms of sustainable development, consideration needs to be given to the three dimensions running through the NPPF, namely; economic, social and environmental.

Account is taken in the assessment of the proposals of PPTS Policy H (Determining planning applications for traveller sites) in Paragraph 24, that:

*“Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:*

- a) The existing level of local provision and need for sites*
- b) The availability (or lack) of alternative accommodation for the applicants*
- c) Other personal circumstances of the applicant*
- d) That the locally specified criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites; and*
- e) That they should determine applications from sites from any travellers and not just those with local connections”.*

The PPTS in paragraph 25 states that *“Local planning authorities should very strictly limit new traveller development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas should respect the scale of, and not dominate, the nearest settled community, and avoid placing an undue pressure on local infrastructure.”*

The PPTS in paragraph 26 states that *“When considering applications, local planning authorities should attach weight to the following matters:*

- a) Effective use of previously developed (brownfield), untidy or derelict land*
- b) Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness*
- c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children*
- d) Not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.”*

North Northamptonshire Joint Core Strategy (JCS) policy 31 sets out criteria to be met by applications for gypsy and traveller accommodation. *“Applications for planning permission should satisfy all of the following criteria:*

- a) The site is closely linked to an existing settlement with an adequate range of services and facilities*
- b) The site, or cumulative impact of the site, in combination with existing or planned sites, will not have an unacceptable impact on local infrastructure*
- c) The site provides a suitable level of residential amenity for the proposed residents*
- d) The site is served (or can be served) by an adequate water supply and appropriate means of sewage disposal*

- e) *There is satisfactory access and adequate space for operational needs including the parking, turning and servicing of vehicles*
- f) *The health and well-being of occupants is not put at risk including through unsafe access to the site, poor air quality and unacceptable noise or unacceptable flood risk and contaminated land*
- g) *The size of the site and number of pitches does not dominate the nearest settled community*
- h) *The proposed development does not have a significant adverse impact on the character of the landscape and takes account of the Landscape Character Assessment of the area. Appropriate landscaping and treatment to boundaries shall be provided to mitigate impact.”*

Assessment of these detailed points shall be covered in the following sections:

Policy 31 of the JCS and the PPTS do not preclude traveller sites from being located outside of settlements subject to various criteria being met.

The site is located outside the settlement boundaries contained in the local plan. Saved policy 7 of the Local Plan states that planning permission for development in the open countryside will not be granted except for where otherwise provided for in that plan. Saved local plan policy RA5 states that planning permission for residential development will not normally be granted and lists exceptions to this, one of which is gypsy sites (criteria vi); however the related policy 119 has not been saved.

The nearest settlement is Desborough. The role of Desborough in the JCS is that of a market town, where development is to provide a strong service role for their local communities and the surrounding rural area. The site is located approximately 350m from the Desborough town boundary.

## 2. Gypsy / traveller status

The 2015 PPTS outlined a fundamental change in the definition of gypsies and travellers: *“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, but excluding members of an organised group of travelling show people or circus people travelling together as such.”*

The applicant has confirmed through responding to Planning Contravention Notice (PCN) that he meets the PPTS definition stated above. Responding to such a notice in that way has weight.

Northamptonshire Police recommend the attached condition to ensure only the named individual resides on the site.

## 3. Personal circumstances and Human Rights

The applicants’ Human Rights, including their right to respect for private life, have been considered and weighed against all other considerations. The applicant works adjacent to the site within Woodside Industrial Estate and that would be continued and enhanced should this application be approved.

The applicant would improve his work life balance with living near to work and would be able to improve security within the site by keeping an eye on plant and equipment within the site.

The consideration of human rights is a material consideration which carries some weight in favour of the proposal. However, the site would not be suitable for an unspecified traveller family because of the nature of its context. The reasons for the applicant needing to reside here are specific and bespoke. Hence any approval should be on the basis of a personal consent. This in effect would make a permission temporary for as long as Mr Badger were to reside on the site.

#### 4. Need and supply of sites

Paragraph 4 of the PPTS (2015) requires local planning authorities to make their own assessment of need for the purposes of planning and to ensure that local authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites. Paragraph 4 (h) highlights the aim to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply.

Paragraph 27 of the PPTS states *“If a local planning authority cannot demonstrate an up-to-date 5-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of a temporary planning permission”*.

This has been held not to be the same as the presumption in favour of sustainable development as set out in the NPPF (Swale Borough Council and Secretary of State for HCLG) and Mr S Maughan and Others 2018 EWHC 3402 Admin). This judgement sets out that two features of paragraph 27 are of particular relevance, namely;

- The existence of a shortfall (in supply) is in itself a *“significant material consideration.”* This excludes a characterisation of the shortfall, so although there is still a balance to be struck it is not the same as the tilted balance to be applied through paragraph 14 of the NPPF. The balance mechanism under the PPTS remains the same throughout and paragraph 27 gives indication to the weight of the factor in the balance (i.e. significant).
- The second feature of paragraph 27 is that it is expressed to go to a decision on temporary planning permission. The footnote to paragraph 27 provides *“there is no presumption that a temporary grant of permission should be granted permanently.”* The intention is that the response to a shortfall in the required five-year supply of deliverable sites may, in an appropriate case, be the granting of planning permission for a temporary period during which, the LPA will make efforts to address the shortfall and meet its obligations under paragraph 10 (of the PPTS) to ensure a five-year supply of deliverable sites.

In 2018 the Council granted consents for three applications for travellers' pitches:

- for 2 extra pitches at The Paddock, Braybrooke under reference KET/2018/0022; (decision date 23 February 2018)
- for 8 pitches at a site known as Old Willows, Broughton, under reference KET/2017/0980 (decision date 13 April 2018)



- 5 travellers statics at land off Braybrooke Road, Desborough under reference KET/2018/0022 (Decision date 6 July 2018)

The current and future need for gypsy and traveller accommodation is set out in the North Northamptonshire Gypsy and Traveller Accommodation Assessment (March 2019). It is calculated (taking this report into account) that the requirement for pitches plus any shortfall for the period 1 April 2019 to 31 March 2024 is 15.8 pitches.

Three traveller sites have been granted planning permission but have not been completed, namely;

<b>Application number</b>	<b>Site Address</b>	<b>Number of pitches</b>	<b>Decision date</b>
KET/2018/0531	Woodside, Stoke Albany Road (land adj), Desborough	2	20/12/2018
KET/2014/0532	Woodside, Stoke Albany Road, Desborough	6	23/01/2015
KET/2009/0155	Stoke Albany Road (land at), Desborough	10	01/07/2009

Site under reference KET/2014/0532: There is evidence of works having started at the site in the form of concrete pad for the proposed dwelling and drainage work. It remains possible therefore that proposals could contribute to supply of sites.

The Council has been in discussion with the owner of the two larger sites (in the table above) to get these sites delivered. Whether these sites could be classed as deliverable at the present time is not certain, however, if they were a five-year supply of 5.7 years exists.

Paragraph 7c) of the PPTS states that in assembling the evidence base to support their planning approach, LPAs should *“use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions.”*

Whether there is a five-year supply of deliverable gypsy and traveller sites/pitches is a significant material consideration when considering the grant of a temporary planning permission. The applicant has not applied for a temporary permission although it would be open for the LPA to consider whether a grant of a temporary permission (i.e. time limited by condition) might be appropriate. This is discussed further below.

Notwithstanding the above and given the uncertainty of delivery of certain sites with planning permission a cautious approach should be adopted, the Council cannot presently evidence that it has a five-year gypsy and traveller site/pitches.

## 5. Sustainability of location

Criterion (a) of JCS Policy 31 states that sites should be closely linked to an existing settlement with an adequate range of services and facilities.

The site is situated on the outskirts of the market town of Desborough with all of its associated services facilities (including primary schools, shops, library, surgery, etc.). There are already existing traveller pitches located near the site in question, which are understood to operate successfully with the assistance of the close geographical links to the town.

In this particular instance, sustainability is demonstrated by the fact that the applicant's business and storage take place at the industrial estate.

There are two formalised footways in place nearby the site where the mobile home and the industrial units are visible, but these footways are overgrown and not well used. The site would be accessible by vehicles from Stoke Albany Road.

Given the siting and limited number of 1 mobile home, it is also considered that the proposal would have a minor impact upon local infrastructure in general terms and would comply with Policy 31b) of the JCS.

## 6. Highway Safety

Criterion (e) of JCS Policy 31 states that there should be satisfactory access and adequate space for operational needs including the parking, turning and servicing of vehicles. Criterion (f) requires that the health and well-being of occupants is not put at risk through unsafe access to the site.

The Local Highway Authority has also objected to the proposals on the basis of insufficient information with respect to access arrangements at the site. However following an officer visit to the site it is evident that the access is from existing access from Stoke Albany Road serving the industrial estate. Nevertheless, the LHA has not recommended refusal for reasons of highway safety. There is space within the site for a turning area. There is adequate space within the site for the provision of 2 parking spaces. These matters are addressed by condition.

It is considered that appropriate arrangements for the parking, turning and access to the highway and this would comply with Policy 31e) and f) of the JCS.

## 7. Design: size of pitches, character, residential amenity and landscape provision

Policy 31 of the North Northamptonshire Joint Core Strategy sets out criteria to be applied to applications for Gypsy and Traveller accommodation. Criterion (c) of Policy 31 requires that 'the site provides a suitable level of residential amenity for the proposed residents' whilst Criterion (h) requires that 'development does not have a significant adverse impact on the character of the landscape'. Criterion (g) of Policy 31 of the JCS states that the size of the site and number of pitches does not dominate the nearest community.

In this instance, it is considered plan KET/2019/0562/2A demonstrates that the site is able to satisfactorily accommodate 1 mobile home and associated areas of hardstanding for access. An officer's visit to the site also confirmed that the site is spacious and able to accommodate the quantum of development proposed. There is sufficient space for recreation and the usual domestic requirements such as clothes drying outside the mobile home. The proposal is for a single pitch, in this context it is considered that appropriate amenity facilities / standards could be provided.

In terms of landscape impact, it is noted that the site is set back, generally well screened and primarily seen against the backdrop of the adjacent industrial units to the north, west and south of the site. The nearest Public Rights of Way (PROW) have been walked by Officers and it is considered that the very limited landscape impact of the proposed mobile home in this location does not result in over riding landscape harm. The site is visible from the east of the site but given the surrounding industrial nature then the proposed mobile home has limited visual impact.

Criterion (g) of Policy 31 of the JCS states that the size of the site and number of pitches does not dominate the nearest community. In this case a single, modest sized pitch is proposed. Whilst there are other traveller pitches located in the vicinity, it is not considered that these proposals would lead to a domination of the local community.

#### 8. Flood risk, surface water drainage and other environmental considerations

Criterion (d) of JCS Policy 31 requires a site to be served (or capable of being served) by an adequate water supply and appropriate means of sewage disposal.

The applicant has confirmed that a water supply is feasible because there is a mains connection close to the site entrance which presently serves Mr Badger's land which is adjacent. Existing private sewerage is from a septic tank within the site. There is capacity for a mains connection to be put in place with respect to electricity for the site from Mr Badger's adjacent site.

Criterion (f) of Policy 31 states that the health and well-being of occupants shall not be put at risk by poor air quality, unacceptable noise or unacceptable flood risk and contaminated land. In terms of flood risk, the site is not located within a Flood Zone, so there is no reason to suspect that the proposals would exacerbate any potential flood risks, including those posed by surface water flooding. The extent of any additional hard surfacing is envisaged to be limited and would be controlled by condition in any event. Rainwater would be collected and used on site.

It is noted that there is no objection with respect to air quality received from the Council's Environmental Health officer. The Environmental Health officer has noted potential contamination at the site so therefore recommends a condition on unexpected contaminated land. This would apply in regard to any disturbance of the ground, which is best covered through Environmental Health if necessary.

To safeguard the visual amenities of the area, a further condition is recommended to ensure no external illumination.

## 9. Comments on other points raised by proposal

It has been noted in describing the site, that on land associated with Mr Badger's occupation there are or have been two touring type caravans. There are not included in the proposal though one small touring caravan remaining incidental to Mr Badger's use whilst he was at the site would not be disproportionate. A second caravan is expected to be removed and Officers will monitor to ensure this happens,

As this is a retrospective application some minor works/ details are required to create areas for open space amenity, parking, and bin storage have been addressed through planning conditions.

There is concern by a neighbouring property that this application would set a precedent for more mobile homes within the industrial estate but each application is considered on its own merits.

### **Planning balance and conclusion:**

Whilst the site within or adjacent to employment uses does not present ideal living conditions, the personal circumstances of the single occupier and his reasons for being there, when weighed with policy, site supply and all other material considerations including landscape impacts, the planning balance falls in favour of a personal permission being recommended to Committee, subject to the conditions identified.

### **Background Papers**

Title of Document:

Date:

Contact Officer:

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### **Previous Reports/Minutes**

Ref:

Date:

