

BOROUGH OF KETTERING

Committee	Full Planning Committee - 27/03/2012	Item No: 5.1
Report Originator	Anne Dew Senior Development Officer	Application No: KET/2010/0133
Wards Affected	Slade	
Location	Millwinds, Harrington	
Proposal	Full Application: Change of use of land to siting of 2 no. mobile homes and 2 no. traveller vans	
Applicant	Mr & Mrs J Stretton	

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 permission hereby granted shall be for a limited period expiring on 30 March 2015, on or before which date the use of the land for the siting of caravans shall be discontinued permanently and the site shall be restored to its former condition through the removal of all mobile homes, touring caravans, sheds, vehicles, materials and equipment brought on to the land in connection with the use, and all hard surfacing, gravel and shingle on the land.

REASON: To allow a sufficient period of time for the sustainability of the site to be assessed strategically with other potential sites and delivered through a site-specific Development Plan Document for Gypsy and Traveller sites, in accordance with the guidance provided by ODPM Circular 01/2006, and policies 13 and 17 of the North Northamptonshire Core Spatial Strategy.

2. The site shall not be occupied by any persons other than Gypsies and Travellers as defined in paragraph 15 of ODPM Circular 01/2006.

REASON: To ensure that the use is implemented as an exception to the general presumption against development in the open countryside, in accordance with policies 1, 9, 13 and 17 of the North Northamptonshire Core Spatial Strategy and PPS7.

3. No more than four caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time, of which only two of these caravans shall be a residential mobile homes.

REASON: In the interests of visual, the character and appearance of the open countryside and residential amenity in accordance with policies 13 (h) and (l) of the North Northamptonshire Core Spatial Strategy.

4. No existing trees or hedgerows on the site or adjoining land within the same ownership as identified on the approved drawings shall be removed without the prior written consent of the Local Planning Authority.

REASON: To ensure the continuity of amenity afforded by existing trees or hedgerows in accordance with policy 13(h) of the North Northamptonshire Core Spatial Strategy.

5. There shall be no external illumination on the site at any time other than in accordance with a detailed scheme which shall first have been submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of the amenities of the area and adjoining residential properties in particular in accordance with policy 13 (l) and (l) of the North Northamptonshire Core Spatial Strategy.

6. The land shall not be used in connection with any trade, industrial or business activity.

REASON: In order to protect the amenities of occupiers of nearby properties and the appearance of the open countryside in accordance with Policy 13 (h) and (l) of the North Northamptonshire Core Spatial Strategy.

7. There shall be no additional hardstanding on the site at any time other than in accordance with a detailed scheme which shall have first been submitted to and approved in writing by the Local Planning Authority.

REASON: To control the appearance of the site in accordance with policy 13 (h) of the North Northamptonshire Core Spatial Strategy.

8. Prior to first occupation of the site, a scheme for the disposal of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully completed prior to first occupation.

REASON: To provide satisfactory foul and surface water drainage in accordance with policy 13 (q) of the North Northamptonshire Core Spatial Strategy.

9. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no fence, gate or other means of enclosure permitted by Class A of Part 2 of Schedule 2 of the Order shall be erected on the application site.

REASON: In the interests of visual amenity and the character and appearance of the open countryside in accordance with policy 13(h) of the North Northamptonshire Core Spatial Strategy.

10. Vehicular access to and from the site shall only be made from the bridle way to the west of the site as shown on approved drawing number 1001-1C received on 4 October 2011.

REASON: In the interests of highway safety in accordance with policy 13(n) of the North Northamptonshire Core Spatial Strategy.

Notes (if any) :-

- Under the Caravan Sites and Control of Development Act 1960, prior to the occupation of any caravan park a site licence is required from the Local

Authority. An application for a site licence can be obtained from Kettering Borough Council Environmental Health.

The applicant is advised of the possibility of badgers occupying the site to which the permission relates. These species are protected under Schedules 1 and 5 of the Wildlife and Countryside Act 1981. In this respect the applicant is advised to contact English Nature, East Region, The Maltings, Wharf Road, Grantham NG31 6EH prior to the commencement of any works on the site.

The Police have been consulted on the scheme and advised that the development should be built to the ACPO CPI Ltd "Secured by Design" award guidance. This is the minimum standard for safety, details can be found at www.securedbydesign.com.

The Environment Agency have been consulted on this application and advised that the package treatment plant associated with this development will require an Environmental Permit under the Environmental Permitting Regulations 2010, from the Environment Agency, unless an exemption applies. The applicant is advised to contact the Environment Agency on 08708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be granted. Additional 'Environmental Permitting Guidance' can be accessed via www.environment-agency.gov.uk.

The Environment Agency has issued a series of downloadable Pollution Prevention Guidelines which are accessible at www.environment-agency.gov.uk/ppg. Given the nature of the proposed development, it would be advisable that the applicant refer to these notes for further action, specifically Pollution Prevention Guideline 4.

Justification for Granting Planning Permission

Having regard to the status of the applicants as Gypsies, there is general compatibility with the criteria, aims and objectives of national and local policies as set out in PPS/G 1, 3 & 7, Circular 01/2006, Policy 16 of the EMRP, and Policies 9 and 13 of the NNCSS and Policy 7 of the Local Plan. However, until the site is compared with other potential sites coming forward in the DPD process the proposal appears to have some conflict with the location/access to services criteria of Policy 17 of the NNCSS. The issues relating to the protection of the open countryside are material planning considerations and, in reaching the decision to approve the proposal, have been carefully weighed against all relevant policy and other considerations. On balance, the weight of policy and material considerations indicate that a temporary permission should be granted to allow time for the site to be assessed with other potential sites through the DPD process.

Officers Report

3.0 Information

Relevant Planning History

KE/85/0403 – Sale and repair of farm vehicles and some light fabrication work. Approved 31.07.1985

KE/85/0790 – Workshop, welding, fabrication and repairs. Refused 11.12.1985

KE/88/0415 – Agricultural buildings and agricultural machinery repair and dwelling houses. Part approved 23.06.1998

KE/88/1438 – Putlien for permanent agricultural dwelling. Refused 16.02.1989. Appeal Dismissed.

KE/90/0649 – Renewal of temporary permission KE/88/0415. Approved 14.08.1990.

KE/1991/0399 – Renewal of temporary permission: 1 no. temporary dwelling. Approved 23.07.1991

KE /91/0400 – Renewal of temporary permission for agricultural buildings and agricultural machinery repair. Approved 23.07.1991

KE/92/0427 – Renewal of KE/91/0399. Refused 08.09.1992

EN178 – Enforcement and stop notices served (siting and occupation of caravan) 25.11.1992. Withdrawn.

KE/92/0683 – Change of use to traveller/ caravan site (10 pitches). Refused 01.12.1992. Appeal dismissed 19.07.1993

KE/95/0561 – Change of use to timber seasoning, preparation and storage. Refused 21.11.1995

KE/96/0363 – Proposed dwellings and stables. Refused 16.07.1996

KE/96/0550 & EN/96.167 – Change of use to private caravan site for 5 Gypsy families. Refused and appeal dismissed 18.07.1997. The inspector concluded that the development had an urban character and caused very significant harm to the rural character of the area. In addition, the site was considered remote in location from local services and facilities resulting in reliance on the private car which is contrary to the aim of reducing the need for travel. The period for compliance with the enforcement notice was extended to 9 months.

KE/98/0090 – Change of use to private Gypsy caravan site for 4 caravans plus screen building. Refusal 31.03.1998 on the grounds of its remote location from services and consequent reliance on the private car and harmful impact on the character and appearance of the open countryside. Appeal 09.10.1998

allowed – visual impact could be overcome by location of caravans and landscaping. The issue of proximity of services was considered, it was recognised the site was poorly located, however the distances are not great and acceptable in the absence of other harm.

04/04/2000 – Planning Inspectorate's decision re-determined. Appeal dismissed. The caravans are visually intrusive, particularly from Kelmarsh Road and residential use is harmfully out of character with the open countryside. A distance of 5km from local services was considered to be well beyond what is considered to be a reasonable distance.

KE/00/0620 – Change of use: Proposed use of existing building for light industrial and craft workshops. Withdrawn 27.11.2000

KE/01/0499 – Change of use of existing buildings to light industrial and craft workshops. Refused 13.11.2001. Appeal Dismissed.

KET/2003/0546 – Use of existing building for light industrial and craft workshops. Refused 18.11.2003.

Site Description

Officer's site inspection was carried out on 31 March 2010, 11 May 2010, August 2011 and 19 January 2011.

The site is located within the open countryside in an area which is agricultural in character. The site was a former camp site for a second world war airfield and is currently vacant. There are two dwellings located nearby to the site, Wheatfield Lodge Farm located to the north east of the site, on the northern side of Kelmarsh Road and Warth Lodge located to the south west of the site, accessed off the byway to the west of the site.

There are various areas of hard standing/ hardcore on the site, including access tracks into and within the site. The site currently has two vehicular accesses, one directly into Kelmarsh Road located centrally within the site and a second from the by way that is located immediately to the west of the site, both of which are secured by a locked gate. Views of the site can be clearly gained from the west of the site from the by way. Views from the north and east of the site are limited with existing landscaping in place and the earth bund that has been constructed on land on the east boundary of the applicants ownership, but not within the application site. The earth bund does not form part of this planning application.

A largest biotec treatment plant has been installed on land adjacent to the southern boundary of the site. Vehicular access to the site is proposed via the existing access into the site via the byway immediately to the west of the site.

Proposed Development

The scheme is for the use of the land for the siting of 2 mobile homes for Gypsy families, each of which will have 2 bedrooms, and the stationing of 2 day caravans which will be used by the occupants when they are away from

the site. One of the mobile homes will be occupied by Joseph and Cath Stretton and the second occupied by Rose and John Boswell and their young son, all of whom are Gypsies. In May 2010 Joseph and Cath Stretton lived at Justin Park Travellers site at Harborough Road, Great Oxenden, however it is understood that they have now sold this part of the site. The reason for Mr and Mrs Stretton left this site was due to social problems. Since then, Mr and Mrs Stretton have been living in unauthorised sites within Northamptonshire. In March 2010, the Boswells were living in unauthorised sites across Northamptonshire and Leicestershire and were seeking to move to a more settled lifestyle.

Revised plans have been received which slightly increase the size of the site to the south to include the area where the klargester biotec treatment plant has been installed.

Whilst the applicant owns a larger piece of land which surround the application site on all sides, the application site area has been restricted to a small parcel of land that only provides sufficient space for the accommodation of the two families. If Members were to grant temporary planning permission as recommended, it would only extend to the area applied for as shown on the plans submitted with the application.

Any Constraints Affecting The Site

C Road

4.0 Consultation and Customer Impact on Re-Consultation Exercise Undertaken in October 2011

Harrington Parish

Object to the application on the grounds of:-

- Open countryside, occupying a ridge line position within two valleys. The surrounding area is attractive rolling farmland, interspersed with woodland and the remains of military camps. On the other side of Kelmarsh Road is an area of Special Landscape Character. In 1997 the Planning Inspectorate referred to the land as an attractive landscape worthy of protection for its own sake. Given elevated position the site will be highly visible from Kelmarsh Road, the public right of way to the west and night time illumination would exacerbate this situation. This impact cannot be overcome by condition. Conditions attached the quashed decision were enforceable.
- Site is remote, not being within a reasonable distance of schools, shops and medical facilities
- The applicant has failed to establish evidence of need
- Planning decisions need to be consistent, this site has a history of refusals for similar applications over the last 20 years
- Drainage problems for dispersal of foul water. A klargester biotec is proposed which is ideal for discharging to a suitable watercourse – there is no watercourse on site and the land is impermeable clay which does not allow percolation. The associated compressor may be noisy. A Klargester Biodisc system has already been installed which is

unsuitable. The problem may be overcome with two cess pits, these would be expensive, require frequent emptying and be unsustainable.

- Drainage problems for disposal of surface water. In May 2010 top soil was removed from the site and adjoining land, a bund has been built and vegetation reduced. These works have all affected the site's ability to disperse surface water which now floods Kelmarsh Road and Wheatfield Farm
- The dispersal of discharge water from the treatment plant would be over land not in the ownership of the applicant. No wayleave agreement has been included and without such agreement the applicant has no right to discharge water.
- Application form is filled in incorrectly – there are trees and bushes on the site
- The application is incomplete and should include a survey for dealing with surface and foul water.
- NCC Highways Department have objected to the scheme. Kelmarsh Road is busy and used as a short cut and has no footpath and no bus service.
- There is an over concentration of Gypsy and Traveller sites in the area
- The development is contrary to Harrington Village Design Statement
- Site is green field in the open countryside
- The site selection methodology included within the background paper 'Gypsy and Traveller Site Allocations November 2011', if used for the site, shows the site to be unsuitable for such development
- If permission is granted, it should be specific to the applicant. A plan for drainage needs to be submitted, the site should not be used in connection with any trade or business use, no trees to be felled or trimmed, no external lighting to be allowed, fire extinguishers required on site and access to Wharf Lodge should not be impeded.
- If planning permission is refused, the applicants should be required to restore the site to its condition prior to May 2010.
- Reasoning in the original committee report was not sound and was not tested by the Courts
- There are no material considerations that exist which outweigh this conflict. It has not been established that there is an unmet need which cannot be accommodated on the vacant pitches at Broughton. It has not been established that there is no suitable alternative site within the urban area. The site is in a location which is wholly unsuitable in transport terms.
- There is no proven need. Policy 17 of the CSS only supports the grant of planning permission where there is an identified need for additional accommodation. Circular 01/2006 only supports the grant of temporary permission where there is unmet need but no available alternative sites in the area. The committee report clearly states that sites are vacant in Broughton and is misleading when it states the Council has no knowledge of any alternative sites.
- The applicant has not established that there is no available pitch at Broughton. No explanation of why they cannot occupy a vacant pitch at the Broughton site has been provided. Thus it has not been established

that there is an unmet need or that there is no available alternative site.

- Policy 9 of the CSS states that new development in the open countryside will be strictly controlled. The site is located in the open countryside and no appraisal has been provided by the applicant to establish that there is no suitable site within the defined urban areas. This is a clear conflict with policy 17 (a) of the CSS.
- PPG13 and policy 17 c require sites to be closely linked to an existing settlement and to reduce the need to travel by car. In a planning appeal in 2000 a Planning Inspector found that the land was too remote from local facilities and permission was refused on these and other grounds. He noted that the nearest shops are 5km away and this was contrary to PPG13 and beyond a reasonable distance as required by policy 119 of the then local plan. Former policy 119 of the Local Plan and policy 13 k and 17 c of the CSS are effectively the same policy.
- Previous planning decisions and appeal decisions relating to similar forms of development are material considerations as it has been found that a previous appeal decision is capable of being a relevant consideration in the determination of a later planning application. Consistency is desirable and inconsistency may occur if the authority fails to have regard to a previous decision.
- An Inspector has already determined that the site is not appropriately located because it is not within a reasonable distance of services. Since this decision the policy test has remained the same and there has been no material change in circumstances. The Council is required to have regard to the decision of the Inspector in determining if the application is in accord with policy 13k and 17c of the CSS. As there has been no change in circumstances the development is in breach of 13k and 17c and PPG13. There is also a strong objection from Highways that the site is unsuitable because of its remoteness from existing settlements
- The report fails to tell members that the scheme is in conflict with policies 9, 13, 17 of the CSS and PPG13.
- The report has not identified what the material considerations are which outweigh the policy conflict and this misleads members.
- Land Registry documents confirm the ownership of a plot on Justin Park in the name of Catherine Stretton and the wider site at Millwinds is owned by Leanne Boswell and not the applicants.

Braybrooke Parish Council

Object to the scheme on the grounds of:-

- Contrary to policy 7 of the Local Plan, policies 7 and 13 of the North Northamptonshire Core Spatial Strategy, contrary to PPS1, PPS7 and PPG13
- The site is located in the open countryside and is incongruous and an intrusion into the landscape and appearance of the open countryside
- The site is isolated, is distant from main centres and services and reliant on private transport
- No real need has been established or proven

Highway Authority

Resist the development. The use of the site is entirely unsustainable due to its remoteness from existing settlements. Access to the site cannot be promoted via sustainable transport modes and will be dominated by the motor vehicle. If planning permission is granted, the entrance giving direct access to the site off the C15 Kelmarsh Road should be closed off permanently in the interests of highway safety. The sole access is via the Byway Open to all Traffic GP16 Harrington, the first 26 metres of which to be resurfaced with a hard-bound material such as macadam to prevent loose stones on C15 Kelmarsh Road. Visibility is acceptable in both directions.

Northamptonshire Police

No formal objections. Recommend that conditions and informative be added to reduce the likelihood of crime, disorder and anti-social behaviour occurring, in the interests of the security and quality of life of future occupants. The planning permission should be specific to named individuals. Small family sites integrate better with local settled communities. The permission should be restricted to two static mobile homes and two touring caravans to be stationed. The development should be built to Secured by Design standards.

Environmental Health

No objections. Informative required regarding the need for a site licence.

Environment Agency

No objections subject to informatives. The package treatment plant proposed will require an Environmental Permit under the Environmental Permitting Regulations 2010.

Neighbours

45 third party representations received. Objections are on the grounds of:-

- Site is unsustainable location away from existing services and facilities resulting in a reliance on the private car. Harrington only has a public house and a church
- Development does not incorporate techniques of sustainable construction and energy efficiency
- Scheme will undermine objectives set out in the Northamptonshire Environmental Character Strategy
- Desborough is 4 miles away and Rothwell 6km away where roads are narrow, fast moving, with no pavements meaning walking and cycling is unlikely to be an option.
- The scheme wont contribute towards a target of 5% modal shift away from the private car, over the plan period required by policy 13e of the NNCSS
- Highways object to scheme stating it is entirely unsustainable due to its remoteness from existing settlements
- Concerns over increase in criminal activity and speeding vehicles
- Development will be a danger to walkers and cyclists
- The direct vehicular access from Kelmarsh Road needs to be blocked up in the interests of highway safety
- Vehicular access to and from the site is unsuitable
- Doubt that the site would score well on sustainability compared to other

sites

- Agree with Daventry District Council that the area needs to be considered as a whole and there is a need to protect the countryside against cumulative impact.
- Development will encroach on Braybrooke and Arthingworth
- Harrington village is a Conservation Area
- Site borders a valuable open landscape
- Litter, rubbish and fly tipping will increase
- The applications site green field
- High land. If screen trees are removed the site would be visible from miles around
- There is no control over trees on the site
- Loss of existing trees and bushes have left the site with poor screening and homes would be seen from Harrington and Kelmarsh Road.
- Various other developments already approved in the locality
- Adverse impact on the landscape. In 1997 the Planning Inspectorate considered the landscape worthy of protection.
- Light Pollution
- Mobile homes will be visually incongruous in the open countryside
- Site is located in the open countryside and will have a detrimental effect on rural character
- Contrary to national and local policy (PPS1, PPS3, PPS7, policies 9, 10 and 13 of the NNCSS and policy 7 and RA5 of the Kettering Local Plan)
- Contrary to Harrington's Village Design Guide
- Issues with foul and surface drainage
- Sewerage treatment plants have failed percolation tests
- Plans indicate the discharge will go to a soak away to the south east corner of the site. This area is no different in soil structure to the other areas of the site which previously failed percolation tests.
- Location of the installed treatment plant is queried
- A cess pit is required as the land is heavy clay. Failure to empty would endanger the quality of ground and surface water
- No details of surface water disposal submitted. Soak ways will not work.
- Site is not suitable for any klargester projects and a cess pit would have to be used
- Works on site heave resulted in flooding problems on Kelmarsh Road
- Existing problems with surface water drainage on Kelmarsh Road and flooding has resulted to the road, farmland and Wheatfield Farm. If permission was granted this would increase.
- Comments from the Environment Agency contradict the Environment Agency's Regulation Position Statement
- There is insufficient evidence to show there is a general need for sites. 7 sites have been granted for The Pastures
- The applicant has not investigated the availability of pitches on other private sites
- The applicants are not homeless
- There are other sites in the Borough
- The County Traveller Unit have not encountered the applicants on

unauthorised encampments over the last 5 years

- There are already 11 traveller sites in the area, some under used
- The application needs to be considered with other Gypsy Applications in the Borough and adjoining authorities
- There is an over concentration of Gypsy sites in this area
- Traveller families prefer to live in close knit extended communities
- Concern over lack of control of future occupation
- Concern that the site could expand to up to 20 pitches
- Concern over enforceability of conditions and the application should be refused
- Granting planning permission would set a precedent
- Impact on Wildlife
- Buildings have been removed before being assessed for bats
- Change in circumstances since the application was originally approved; trees / plants have been removed; top soil has been stripped; agricultural building extended to provide a day room; tipping of 228 tonnes of road planning's; construction of unauthorised bund on the eastern boundary of the site; failed attempts to install sewage disposal systems and site is being used for the tipping of cuttings and old fencing
- All previous applications have been refused over the last 20 years
- Neither permanent or temporary consent should be granted
- It is not the responsibility of KBC to provide a site for the applicant just because they want to move, they should move to vacant sites in Leicestershire
- The applicants intend to run a business
- Site is not a brown field site
- KBC have already exceeded their requirements for pitch provision up to 2012-01-18 a dangerous precedent will be set if planning permission is granted
- The scheme impinges on human rights of occupiers of nearby dwellings
- New dwellings are not allowed in other locations within the open countryside
- Safety of livestock
- Loss of land values
- Scheme will not promote good race relations

5.0 Planning Policy

National Policies

PPS1. Delivering Sustainable Development

PPS3. Housing

PPS7. Development in Rural Areas

PPG13. Transport

PPG23. Planning and Pollution Control

PPG24. Planning and Noise

PPG25. Planning and Flood Risk

ODPM Circular 01/2006: Planning Gypsy and Traveller Caravans Sites
Communities and Local Government Consultation: Planning for Traveller Sites

Development Plan Policies

East Midlands Regional Plan

P2. Promoting Better Design

P3. Distribution of New Development

P11. Development in the Southern Sub Area

P16. Regional Priorities for Provision for Gypsies, Travellers and Travelling Show People

P26. Protecting and Enhancing the Regions National and Cultural heritage

P35. A Regional Approach to Managing Flood Risk

P48. Regional Car Parking Standards

North Northamptonshire Core Spatial Strategy

P1. Strengthening the Network of Settlements

P9. Distribution and Location of Development

P13. General Sustainable Development Principles

P14. Energy Efficiency and Sustainable Construction

P17. Gypsies and Travellers

Local Plan

P7. Protection of the Open Countryside

SPGs

Sustainable Design SPD

Emerging Policies (Local Development Framework)

Work is currently in progress on the DPD and allocation of sites, no sites have yet been allocated. It is anticipated the final adoption of this document should be completed in 2013.

6.0 Financial/Resource Implications

None

7.0 Planning Considerations

The key issues for consideration in this application are:-

1. Background / Planning History
2. Need for Additional Gypsy Sites
3. Sustainability of the Site
4. Landscape Implications
5. Impact on Residential Amenity
6. Highway Safety Implications
7. Drainage
8. Ecology

1. Background / Planning History

This planning application was submitted to the Local Planning Authority on 26

March 2010. The application went to Planning Committee on 25th May 2010 (a copy of the report that went to committee is attached to this report in italics) and Members voted in favour of the officer recommendation, subject to an additional condition requiring details of the sewerage treatment works to be submitted.

On 17th August 2010 an application for permission to apply for Judicial Review was submitted by a third party and permission was granted on 26th October 2010. On legal advice a decision was made by the Local Planning Authority to agree that the original decision be quashed and to re-determine the application. The Final Court Order was issued on 28 March 2011 confirming that the temporary permission be quashed. The Local Planning Authority and the applicant for Judicial Review agreed the extent of the Order. The decision was quashed on the following grounds:-

1. "The reasons indicate that the Defendant concluded that the proposed development would be in accordance with policy 17 (c) of the North Northamptonshire Core Spatial Strategy. This requires that sites for Gypsy caravans must be closely linked to an existing settlement with an adequate range of services and facilities. These requirements are not in fact satisfied in the present case".

It is important to emphasise that the assessment/ reasoning in the original committee report by the officer was sound; it was the fact that the reason/ justification used was a standard template had been inserted which was at odds with the report.

2. "The Defendant has not investigated the availability of pitches on other private sites in the Borough when it made its decision and so was not in a position to address this material consideration when reaching its decision".

The application now needs to be re-determined by the Local Planning Authority. Revised plans have been submitted by the applicant for redetermination in respect of a revised location and site plan and details of the sewerage treatment plant installed.

There has been significant planning history of the site in respect to Gypsy settlements on the site all of which have been resisted by the authority and by the Planning Inspectorate at appeal. The last assessment of Gypsy/ Traveller accommodation on site was in April 2000 with an appeal of planning application KE/98/0090 (change of use to provide Gypsy caravan site for 4 caravans. Historically the two main reasons for the refusal for the accommodation of Gypsy's on site is the adverse impact on the character of the surrounding area and the remote location of the site in respect of shops, schools and health facilities. Since this time, there has been a significant change in policy with the publication of Circular 01/2006 *Planning for Gypsy and Traveller Sites* and the undertaking of a Gypsy and Traveller Accommodation Assessment for the East Midlands which was updated in 2011.

2. Need for Additional Gypsy Sites

The applicant has confirmed within the application that the two families are Gypsies and their Gypsy status is accepted. To establish the need of the two families for this site, information has been sought as to where the two families have been living over the last year. In response to this, the agent has advised that they have left Justin Park and rather than move onto the site, have chosen to move onto unauthorised sites and on occasion on the roadside. The agent has advised that the applicants have not kept records on where they have stayed, and for how long in any one location, other than they have been in Northamptonshire during this period. Northamptonshire County Traveller Unit has been consulted on the application and advised that they have not encountered the applicants on any unauthorised encampments in the county over the last 5 years, and also they have not made themselves aware to the CTU for information or help during this period.

In Northamptonshire, the Countywide Traveller Unit coordinated a Gypsy and Traveller Accommodation Assessment (GTAA) the results of which were published in March 2008. The GTAA is a tool used to identify the level of need that exists in the local area for Gypsy and Traveller accommodation. This 2008 assessment identified a need for 18 additional pitches within Kettering Borough up to 2017. The GTAA was updated in October 2011 and this identified the need for an additional 3 residential pitches to 2017 assuming delivery of 7 pitches that has planning permission, but not yet been implemented at The Pastures and a further 10 residential pitches between 2017 – 2022. The figures identified in the 2011 GTAA updates the figures quoted in the East Midlands Regional Plan which based upon the 2008 GTAA.

Work is being progressed by KBC on identifying sites for Gypsy accommodation. A background paper to the Site Specific Local Development Document was approved by Planning Policy Committee on 15th November which outlined the current provision and need within the Borough followed by a description of options which will form part of the Site Specific Local Development Consultation Document (this will be undertaken in early 2012). The options set out in this paper are option 1: identifying additional pitches on existing sites or in close proximity to existing sites, option 2: provide new sites away from existing ones, option 3: identify the ideal site using a set of search criteria and option 4: a combination of the above options. The identification of specific sites and consultation will follow on once the options consultation has been reported back to the Planning Policy Committee. Final adoption of the Site Specific LDD is scheduled for April 2013.

Section 225 of the Housing Act 2004, in conjunction with ODPM Circular 01/2006, created a statutory duty for local authorities to assess the demand for Gypsy Traveller accommodation in their area and to take the assessment into account in exercising all its functions, including planning functions.

The Government has announced its intention to withdraw Circular 01/2006 in favour of a new light-touch guidance on provisions for Gypsies and Travellers. In April 2011 the Government published the 'Planning for Travellers Sites Consultation', the consultation which expired on 4th August 2011. The changes

within this consultation document are designed to give Local Planning Authorities discretion to meet site provision in the area, in consultation with the local community, to ensure greater fairness in the planning system and align policy more closely to other housing policy and be more streamlined and effective. Whilst this consultation document and Government intentions are a material consideration, Circular 01/2006 does still remain national policy and as such a greater weight has been given to this in the determination of this application.

Concern has been expressed by a third party that the applicant, Catherine Stretton still owns a plot at Justin Park and Land Registry documents have submitted and checked by the Council which confirm this. This matter was raised with the agent who has advised that; Mrs Stretton gave the plot by way of a gift to her daughter; that they do not reside at it was made difficult for them to reside at the site and they have no intention to return; they were unaware that they had to transfer the land legally by Solicitors; a Conveyancing Solicitor is currently drawing up the legal documentation so that it will be registered with Land Registry and the Strettons are due to sign documentation shortly.

Concern has been expressed in some third party representations that there is no need for extra pitches as there are a number of vacant pitches within authorised sites within the Borough, specifically sites at Braybrooke Crossroads and Broughton. In investigating the availability of additional sites within the Borough, the Authority has identified that for all unauthorised sites, with the exception of Broughton, there are no vacant pitches. At the Braybrooke crossroads some sites were not occupied, however, this was because the occupiers were away travelling, however, would be returning to the site. With respect to Broughton, of the 11 pitches, 4 were clearly vacant. Vacancy rates may in fact be higher as Council Tax records indicate that up to 7 pitches may be vacant, however this information may not be up to date. To better inform members of the extent of vacant site, letters have been sent out to all possible vacant plots in Broughton asking owners to confirm if the site is vacant and if so, is it accessible for other Gypsies to occupy. All of the letters sent were delivered, however, no responses were received.

Whilst it is evident from the GTAA there is a need for additional pitches for Gypsies and Travellers in order to meet current and future need, this identified need must be balanced with other material considerations, including advice in Circular 01/2006 and policies in the North Northamptonshire Core Spatial Strategy and these issues are discussed below.

3. Sustainability of the Site

Policy 17 'Gypsies and Travellers' of the North Northamptonshire Core Spatial Strategy sets out criteria that needs to be met where a need is identified for additional accommodation for Gypsies. These criteria are set out below along with a consideration as to whether they can be met.

(a) be in accordance with the locational requirements set out in Policy 9 of the Core Spatial Strategy and should also meet the criteria set out in policy 13 of the Strategy;

Policy 9 of the Core Spatial Strategy as is referred to in policy 17, requires that development be distributed to strengthen the network of settlements, being principally directed to the urban core, and new building development in the open countryside shall be strictly controlled. In addition policy 9 identifies that priority will be given to the reuse of suitable previously developed land and buildings within the urban area, followed by other available land in urban areas.

Policy 13 (c and k) of the North Northamptonshire Core Spatial Strategy require that developments maintain and improve the provision of accessible local services and community services and allow for travel to home, shops, work and school on foot and by cycle and public transport. Policy 13 (e) of the Core Spatial Strategy requires that developments incorporate measures to contribute to a target of 5% modal shift in developments over the plan period.

Circular 01/2006 adopts a more flexible approach to the location of Gypsy sites than policies set out in the Core Spatial Strategy. Circular 01/2006 states 'Rural settings, where not subject to specific planning constraints are acceptable in principle. In assessing the suitability of such sites, Local Planning Authorities should be realistic about the availability, or likely availability of alternatives to the car in assessing local services'. However, the Circular does clearly states that in deciding where to provide for Gypsy and Traveller sites, Local Planning Authorities should first consider locations in or near existing settlements with access to local services including shops doctors and schools.

The application site is located within the open countryside. Whilst policy 9 and 17 of the Core Spatial Strategy require that development be located within urban areas and development in the open countryside be strictly controlled, Circular 01/2006 is less strict stating that rural sites are acceptable in principle. However an important consideration is how each site compares in terms of sustainability and this is explored below.

(b) not be within an area designated as environmentally sensitive

The site is not located in an area designated as environmentally sensitive. The impact of development on the landscape is considered under 'Landscape Implications'.

(c) should be closely linked to an existing settlement with an adequate range of services and facilities in order to maximise the possibilities for social inclusion.

The closest settlement to the site is Harrington village, which is approximately 0.8 miles from the site and provides very limited local services in the form of a public house and a church. Harrington is accessed from the application site via Kelmarsh Road, which is a fast moving, narrow road with no pavements. Whilst this distance is walk able, given the nature of the road, it is considered unlikely that it would be an attractive option for occupants of the site to walk or cycle into Harrington on a regular basis. Desborough and Rothwell are the closest towns to the application site which provide for a better range of facilities, including shops, doctors, community and leisure facilities. The

application site is located approximately 5 miles from Desborough and Rothwell town centre and the roads are narrow, fast moving with no pavements. Given the distances involved and the nature of the roads, walking or cycling is again unlikely to be an option. There is no public transport service that links the application site with either Harrington, Rothwell or Desborough, further increasing the reliance on the private car.

In considering sustainability, Circular 01/2006 makes it clear that distance from services is not the only consideration. Consideration also needs to be given to the promotion of peaceful and integrated existence between the site and the local community; the wider benefits of access to a GP and school, the benefits a settled base has in reducing the need for long distance travelling no not being located in an area at a high risk of flooding.

In conclusion the site is located in an unsustainable location within the open countryside and occupiers of the site will be reliant on the private car to access local services in Harrington, Rothwell and Desborough in the context of policy. However, relative to Desborough and Rothwell it is comparable to Harrington village. Whilst Circular 01/2006 states that Local Planning Authorities should be realistic about the likely alternatives to the private car, this site will inevitably be dependent upon vehicle use contrary to policies 13 c, e and k and policy 17 of the North Northamptonshire Core Spatial Strategy.

The forthcoming DPD process will identify and assess sites for sustainability in consideration of Policy 17 of the Core Spatial Strategy. And hence it is not clear at the moment as to whether the proximity of the site to services would score well in relation to other potential sites. It is therefore considered that it would not be appropriate to grant full planning permission, or conversely to refuse planning permission, until the application site is properly assessed via the DPD process. The granting of a temporary planning permission meets the requirements for planning conditions as set out in Circular 11/95 'Use of Conditions in Planning Permission'. Paragraph 110 of Circular 11/95 states that where a proposal relates to a use where it is expected that the planning circumstances will change in a particular way at the end of that period, then a temporary permission may be justified.

4. Landscape Implications

Policy 13(o) of the North Northamptonshire Core Spatial Strategy requires that developments conserve and enhance the landscape character, historic landscape, designated built environment assets and their settings and biodiversity of the environment making reference to the Environmental Character Assessment and Green Infrastructure Strategy. PPS1 and PPS7 state that planning authorities should continue to ensure that the quality and character of the wider countryside is protected and where possible enhanced. PPS1 also states that where design is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area it should not be accepted.

Policy 17(b) of the Core Spatial Strategy also requires that Gypsy/ Traveller sites are not located within an area designated as environmentally sensitive.

The applications site is not located within an area designated as environmentally sensitive.

The wider landscape character of the area has been identified by the Northamptonshire Environmental Character Strategy as falling within the Clay Plateau Character Area. This is an area of simple landscape, particularly across the more elevated plateau areas, with a land use dominated by agricultural production within medium and large scale fields. Long distance and panoramic views across open areas of plateau reinforced the sense of elevation and separation from urban areas. There is limited woodland and tree cover comprising broadleaved woodlands and mature trees. The Landscape Strategy for the Clay Plateau is to conserve the simple, unified and orderly character, conserve local variation and conserve and enhance expansive, panoramic views across elevated, open areas of plateau landscaping.

Views of the site from Kelmarsh Road will be very limited with the existing hedgerows which runs along the northern boundary of the site and the eastern boundary of land within the applicant's control but not part of the application site. The mobile homes and touring caravans will be visible in parts from the by way that runs immediately to the west of the site, however views of the site currently include a number of agricultural buildings. The access proposed within the site is already established with hard core and a condition has been recommended to control any additional hard surfacing material added to these or other areas within the site. Whilst it is acknowledged that the development will have some impact on the open countryside, given the sites limited visibility it is not considered that the scheme will detract from its simple countryside character or be at odds with the landscape strategy for the Clay Plateau character area.

Concern has been raised that the scheme will result in an over concentration of Gypsy sites in the area which will have a harmful effect on the appearance and character of the areas. There are no other Gypsy/ Traveller sites visible from the site and other sites are considered to be located sufficiently far away not to result in any over concentration. In any event the site should be assessed in a more planned and strategic way via the forthcoming DPD as previously described.

In conclusion, in isolation from assessment against other potential sites to be brought forward in the DPD, the appearance of the proposal is not considered to have sufficient harmful impact on the landscape character and visual amenity of the area to warrant outright refusal of the application in the context of policy 13(l) of the North Northamptonshire Core Spatial Strategy and the Harrington Village Design Statement. Such assessment can be more robustly made as part of the DPD process.

5. Impact on Residential Amenity

Policy 13(l) of the North Northamptonshire Core Spatial Strategy requires that developments do not result in an unacceptable impact on the amenities of neighbouring properties or the wider area, by reason of noise, vibration, smell, light or other pollution, loss of light or overlooking.

The closest residential properties to the site are Wheatfield Lodge Farm to the north east which is approximately 30 metres away and Warth Lodge to the south west which is approximately 110 metres away. Whilst the application site is visible from these two properties, there is considered to be a sufficient separation distance not to result in any adverse noise or disturbance, overshadowing or loss of privacy. A condition is recommended that prevents any trade or commercial uses operating from the application site and limits the size of the site. A condition is also recommended that controls the extent of external illumination on the site.

In conclusion, subject to conditions, it is not considered that the scheme will adversely impact on the residential amenity of occupants of the nearest dwellings and as such the scheme in accordance with policy 13(l) of the North Northamptonshire Core Spatial Strategy.

6. Highway Safety Implications

Policy 13(d) of the North Northamptonshire Core Spatial Strategy requires that developments have a satisfactory means of access and provide for servicing and manoeuvring in accordance with adopted standards.

The proposed vehicular access to the site is from the existing access to the western boundary which is served via the by way. The Transport Assessment has identified that there will be approximately 20 car movements per day to and from the site. Highways have been consulted on the scheme, and with respect to highway safety issues, subject to a conditions. A condition is recommended requiring that the existing direct access from Kelmarsh Road be blocked up and that the vehicular access from Kelmarsh Road be re-surfaced for the first 26 metres with a hard bound material to prevent the transfer of loose stones or mud onto the highway. A condition is recommended that only the vehicular access shown on the approved plans be used, however, given it is a temporary consent, it is considered unreasonable to request that such a long section of road be hard bound and the existing arrangement is considered acceptable.

The Highways Department have objected to the scheme on the basis of its unsustainable location. Isolated location and these matters have been considered in part 3 of the planning considerations of this report.

7. Drainage

Policy 13(q) of the North Northamptonshire Core Spatial Strategy requires that developments do not cause a risk to the quality of the underlying ground water of surface water.

It was originally proposed that a klargester package sewerage treatment plant be located centrally within the site, however following percolation tests and advice from the Environment Agency and Building Control, it was found that such a system would not work due to the clay soil in the area proposed for the soak away. Following this, the applicant has installed a klargester biotec package treatment plant adjacent to the southern boundary of the site as

shown on the submitted plans, with an area of land to the south east of the unit being proposed for the soak away. Having spoken with the Environment Agency and Building Control, no consents have been given for this and further tests and design solutions need to be investigated to see if the land is, or can be, made suitable for a soak away. In the event that a soak away is not suitable in this area another option would be a sealed system which would require foul sewerage to be taken away by tanker. Concern has been expressed by third parties that a sealed unit would not be emptied and would overflow, subject to an appropriately sized and design scheme, this is not considered to be a valid reason for refusal.

In conclusion, the disposal of foul sewerage can be dealt with one way or another on site and a condition is recommended that a scheme to deal with foul drainage be submitted for approval.

Concern has been expressed by third parties that operations that have been undertaken on site have resulted in flooding to Kelmarsh Road and Wheatfield bungalow. It is evident from site inspections that there is evidence of some run off from the site and the authority is currently in discussion with the highways authority to ensure that the development does not result in any adverse flooding of the road and locality and a condition is recommended requiring details of surface water drainage being submitted for approval.

8. Ecology

PPS9 'Biodiversity and Geological Conservation' sets out planning policies on the protection of biodiversity and geological conservation through the planning system. In relation to planning applications, PPS9 states that planning applications should not be refused if development can be dealt with by conditions that will prevent unacceptable impact on wildlife habitats or important physical features.

On the original consultation exercise in 2010, concern had been expressed verbally by a neighbour that there were badgers on the site which could be affected by the development. Following discussions with The Wildlife Trust and North Northants Badger Group, they have no record of badgers being on the site or being close enough to suggest any connection with the site. On this basis it was considered unreasonable to request that the applicant undertakes a badger survey, however an informative is recommended alerting the applicant to the potential presence of badgers. Concern has also been expressed by a third party that there is potential for bats to be present within the buildings proposed to be demolished. A bat survey has been submitted by the applicant that indicates that no bats were present in the buildings which were demolished. In an application to discharge conditions, which was submitted prior to the re-determination of this application, a bat survey had been carried out by an ecologist licensed by English Nature, of the buildings to be demolished and the buildings were found to be unsuitable for bat occupation.

Other Matters

The Police have been consulted on the scheme and requested in the interests

of the security and quality of life of future occupants of the development that the occupation of the site be restricted to named individuals. They have also recommended that the permission be limited to the two static mobile homes and 2 touring vans. It is not considered reasonable or necessary to restrict the occupation of the site to named individuals. Restricting the size of the site by condition will ensure that the development will ensure a secure quality of life for future occupants.

Conclusion

Whilst the applicant has failed to submit any evidence to support their claim for a need for accommodation, the updated GTAA recognises the need for additional Gypsy accommodation within the borough. At this current point of time the Council has no alternative sites, or knowledge of any alternative sites available for the two families. That is an important policy consideration in favour of granting permission.

Set against that members must consider how much weight to give the fact that the application site is not in a sustainable location in the terms set out in policies 17 of the North Northamptonshire Core Spatial Strategy for the reasons set out above. Officers consider that it is not possible to come to a final conclusion on that matter, until work has been undertaken on the site selection for the DPD, since that will show how well this site compares to other sites in the locality. The fact the site raises no adverse highway safety implications, and the impact of the development on the character and appearance on the open countryside is limited, is a factor that suggests that the ultimate weight to be given to this element of policy is limited.

Background Papers

Title of Document:

Date:

Contact Officer:

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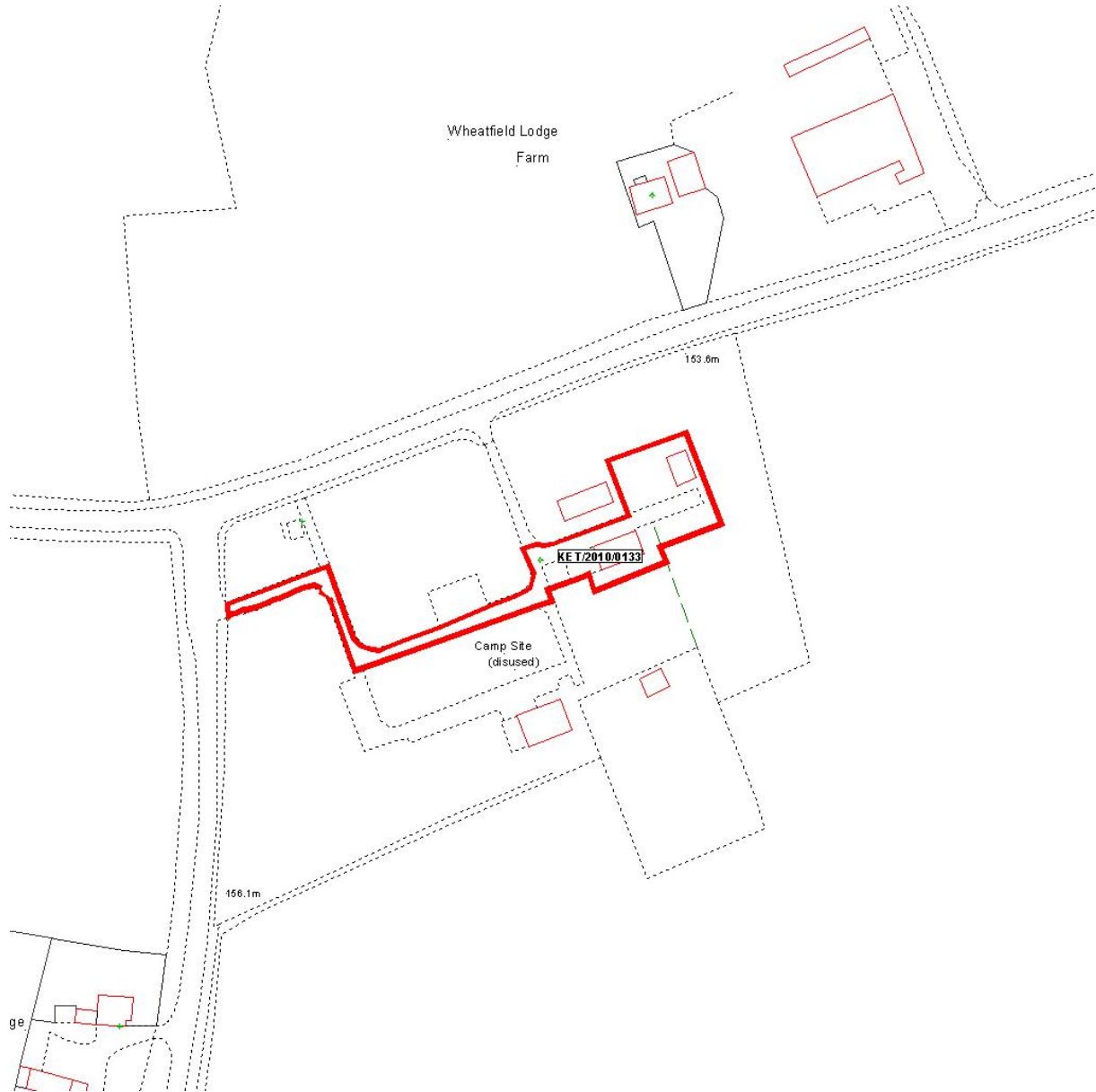
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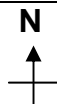
Date:

SITE LOCATION PLAN

Millwinds, Harrington
Application No.: KET/2010/0133



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