

## BOROUGH OF KETTERING

<b>Committee</b>	<b>Full Planning Committee - 24/09/2013</b>	<b>Item No: 5.5</b>
<b>Report Originator</b>	<b>Alan Davies Development Officer</b>	<b>Application No: KET/2013/0517</b>
<b>Wards Affected</b>	<b>Welland</b>	
<b>Location</b>	<b>Black Paddock, Park Lane, Braybrooke</b>	
<b>Proposal</b>	<b>s.73A Retrospective Application: Use of land as a traveller site for 3 no. families</b>	
<b>Applicant</b>	<b>Messrs Biddle, Foster, Smith</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 be begun before the expiration of 3 years from the date of this planning permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and to prevent an accumulation of unimplemented planning permissions.

2. This permission hereby granted shall be limited to a 2 year period expiring on 25/09/2015. At or before the expiration of this period the use of the land hereby permitted shall be permanently discontinued and the buildings, mobile homes, touring caravans, sheds, vehicles, materials and equipment brought on to the land in connection with the use shall be permanently removed and the land restored to its former condition.

REASON: To enable the Local Planning Authority to assess the suitability of the site to see whether it is the most appropriate and sustainable site within Kettering Borough for the provision of three traveller pitches in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy and the National Planning Policy for Traveller Sites.

3. The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Paragraph 15 of Circular 01/2006 and each of the 3 Gypsy/Traveller pitches hereby granted permission shall not be occupied by more than 1 family and at no time shall there be more than 1 static caravan/mobile home per family on site.

REASON: To ensure that the use is implemented as an exception to the general presumption against development in the open countryside and to

ensure that each site is occupied by 1 family only to prevent an over intensive use of the site in accordance with Policies 9, 13 and 17 of the North Northamptonshire Core Spatial Strategy.

4. 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 amenity of occupants of neighbouring properties in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

5. Any gates provided at the point of access to the site shall be hung so as to open inwards into the site only.

REASON: In the interests of highway safety in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

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

REASON: In the interests of the amenity of neighbouring residents in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

7. No existing trees or hedgerows on the site shall be removed without the prior written consent of the Local Planning Authority.

REASON: To protect the visual amenity of the surrounding area in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

## Officers Report for KET/2013/0517

### 3.0 Information

#### **Relevant Planning History**

KET/2010/0566 – Variation of Condition 1 of KET/2010/0288; change of time limit from temporary to permanent. Refused 08/10/2010.

KET/2010/0288 – Retention of use of land as Traveller site for 3 no. Traveller families. Approved with conditions 29/06/2010. Use expired by condition June 2013.

KET/2008/0289 – Retention of use of land as Traveller site for 3 no. Traveller families. Approved with conditions 18/06/2008. Use expired by condition June 2010.

KET/2006/0086 – Change of use of land as Traveller site for 3 no. Traveller families. Refused 23/05/2006.

KET/2003/0172 – Change of use: provision of two mobile homes for residential use and two touring vans for temporary accommodation. Refused 17/04/2003.

2006 was the first application for 3 pitches on the site and the first time the Council became aware of the proposed use. Planning permission KET/2010/0566 included Condition 1, which limited the use up until 30<sup>th</sup> June 2013. This latest application was not made valid until 05/08/2013 and therefore there has not been a constant lawful or unlawful use of the site for 3 pitches for a period of 10 years or more.

#### **Site Description**

Officer's site inspection was carried out on 12/08/2013.

The application site is an area of land approximately 0.5 hectares located to the east of Braybrooke. The site is on the east side of Park Lane and to the immediate north of the application site is a residential property. To the east of the site there is open countryside and the land to the south between the site and the railway track is predominantly grassland.

The application site is divided into 3 separate Gypsy sites. The north half of the site is divided into 2 plots separated by a timber fence, whilst the south half, separated from the 2 north by a hedge, provides 1 further plot. The plots are all covered with gravel with two of the sites having a mobile home and the third – the one in the northwest area of the site - having a prefabricated mobile home and caravan instead as indicated by the plans. This is a mobile structure and falls within the description of a mobile home as defined by Section 13 of the Caravan Sites Act 1968. However, aesthetically it has the appearance of a more permanent structure due to the co-joining of the day room and washroom facilities,

the timber cladding and pitched roof and the brick plinth at the base of the mobile home. Whilst the mobile home is no longer visibly mobile this is not a fixed structure and could be removed from site if required.

In the Design and Access Statement submitted with the application it states that the retention of what is currently on site (approved under KET/2010/0288) is sought; permission for 3 pitches for a total of 3 Traveller families. There will be 3 mobile homes on the site, 2 sheds and 2 day vans. The number of touring caravans on site has not been confirmed either on the submitted plan or on the application form; although a full breakdown of all of the family members living on the site has been provided.

Temporary planning permission was granted under KET/2010/0288 for a period of 3 years, expiring on the 30<sup>th</sup> June 2013. Temporary permission was granted because at the time the Council had no alternative sites to offer or knowledge of any alternative sites to which the current occupiers could move. The plan as originally submitted with the application is the same plan as the current application, indicating that there has been no change on site since 2010.

#### **Proposed Development**

It is proposed to permanently retain the use of the land for 3 Gypsy/Traveller pitches. As Gypsy/Travellers by their very definition lead a nomadic lifestyle they will, from time-to-time, leave the site and thus one touring caravan in addition to each of the existing mobile homes would be expected at site. 1 mobile home and 1 touring caravan would constitute a pitch.

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

C Road  
Outside Settlement Boundaries

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

#### **Parish/Town Council**

Desborough Town Council: Objection. Overdevelopment and should be considered after the Site Specific Document has been adopted.

Harrington Parish Council: Objection. This site is in an unsustainable location.

Braybrooke Parish Council: Objection. The site is unsustainable and in open countryside. It will overwhelm the few services that exist in the village of Braybrooke.

#### **Environmental Health**

No objection.

## **Neighbours**

31 objections to the proposal from neighbouring residents have received with the following reasons:

- Unsustainable location
- Within the open countryside
- Contrary to local/national planning policy
- Overprovision of Traveller sites close to Braybrooke
- The emerging Site Specific Proposals document should be adopted first before this application is considered
- There are alternative sites elsewhere

## **5.0 Planning Policy**

### **National Policy**

National Planning Policy for Traveller Sites

### **National Planning Policy Framework**

Policy 6. Delivering a wide choice of high quality homes

Policy 11. Conserving and enhancing the natural environment

### **Development Plan Policies**

#### **North Northamptonshire Core Spatial Strategy**

Policy 1. Strengthening the Network of Settlements

Policy 9. Distribution & Location of Development

Policy 13. General Sustainable Development Principles

Policy 17. Gypsies and Travellers

#### **Local Plan**

Policy 7. Protection of the Open Countryside

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

Site Specific Proposals Local Development Document Gypsy and Traveller Accommodation – Options Paper Consultation: June 2013

## **6.0 Financial/Resource Implications**

None

## **7.0 Planning Considerations**

The key issues for consideration in this application are:-

1. Principle of development
2. Proximity to services
3. Landscape and appearance
4. Highway safety
5. Residential amenity

### 1. Principle of development

Section 225 of the Housing Act 2004, in conjunction with the National Planning Policy for Traveller Sites (March 2012), places a statutory duty for local authorities to assess the demand for Gypsy and Traveller accommodation in their area and to make provision to meet that demand by allocating suitable sites through the planning process.

In Northamptonshire the Countywide Traveller Unit has updated the Gypsy and Traveller Accommodation Assessment (GTAA), the results of which were published in October 2011. For Kettering Borough the GTAA concluded that a further 13 residential pitches should be provided by 2022. However, that included 7 pitches at 'The Laurels' which was granted permission in 2013 (KET/2013/0263). As such, there was a need of 20 pitches within the GTAA. Minus the 7 pitches at 'The Laurels', 1 pitch at Stoke Albany Road, 2 pitches at Northampton Road and 1 pitch at Springfield the remaining requirement up until 2022 is 9 additional pitches.

However, the GTAA included 5 temporary pitches that will need to be provided once their temporary permissions have expired and thus the actual remaining GTAA requirement is 14 pitches within the Borough up until 2022. This is the same number of pitches required by the Site Specific Proposals Local Development Document Gypsy and Traveller Accommodation – Options Paper Consultation. The provision of temporary pitches does not count towards the total number of pitches provided. Therefore this site, were permanent permission to be granted, would provide 3 pitches towards the total of 14 required in Kettering Borough by 2022.

Each of the 3 proposed pitches would provide a mobile home and at least 1 touring caravan. Consideration has been given to whether this would result in more than 3 pitches being created. Based on the existing temporary permission and the use of the site during this period which expired on 30<sup>th</sup> June 2013 it is considered that each of the 3 pitches would continue to be occupied by a single family unit as demonstrated in the Design and Access Statement submitted with this application. This would not result in the intensification of the use of the site and if it were it would represent a breach of the permission.

It is evident from both the GTAA and the Site Specific Proposals that

there is a need for 14 additional pitches for Gypsies and Travellers in Kettering Borough in order to meet current and future need. However, at this current point in time, notwithstanding the Council's duty under the Housing Act and National Planning Policy for Traveller Sites to provide pitches, the Council has no alternative sites to which the applicants could move. As such it is therefore considered unreasonable to refuse this application outright. Whilst permission for 7 pitches at 'The Laurels' was granted in 2013 under KET/2013/0263 there still exists a shortfall of 14 pitches in the Borough. Whilst the proposed site is in an unsustainable location within the open countryside, it is outside of town and settlement boundaries and its nearest village only provides some limited services (Braybrooke), this site is not considered to be completely isolated.

It is within 1000 metres walking distance to Braybrooke and approximately 2000 metres walk to Desborough. Whilst pedestrian footpath links to both settlements from this site are virtually non-existent, it is conceivable that one could walk or cycle to either settlement for the available services due to their relatively short distance from the site. This site is surrounded by existing development with a dwelling to the immediate north, Park Hill Farm further to the north and an additional 4 Gypsy and Traveller sites to the south of the site and next to Braybrooke Crossroads. Therefore whilst the proposed site is considered to be contrary to Policies 1, 9 and 17 of the North Northamptonshire Core Spatial Strategy and Policy 7 of the 1995 Local Plan for Kettering Borough, which form part of the Development Plan, there are existing approved sites nearby. In spite of the existing sites nearby this site is still considered to be contrary to the Development Plan and the National Planning Policy for Traveller Sites in respect of its location.

Notwithstanding the fact that the location of this site is contrary to both local and national planning policy there is a legal duty on the Council to provide suitable sites. As there are no other approved sites that the residents of this site could currently move to, were planning permission to be refused, the duty of the Council under Section 225 of the Housing Act 2004 to provide suitable accommodation is considered to be of greater weight than the location-based conflict with planning policy. The Council is currently preparing the Site Specific Proposals Local Development Document (LDD) which will identify the location of appropriate Gypsy and Traveller sites in accordance with the need identified in the GTAA. Once the LDD has been adopted the Local Planning Authority will be able to release sites for development based on those identified within the LDD.

At this stage the site selection process has identified this site as an 'alternative' option – therefore not being totally discounted, but also not featuring as one of the favoured sites. It received a low score on its proximity to facilities, existence of pedestrian/cycle links, its location outside of an existing settlement and the impact on agricultural land/a

greenfield site. The emerging policy document has undergone public consultation and the Council is in the process of reviewing the responses and taking the favoured options to the next stage. The results have not yet been published and therefore at this stage and for this particular site, given that there are no other available sites for the occupants, it is considered necessary to grant a temporary 2 year permission at this site to both satisfy the Council's duty to provide accommodation under Section 225 of the Housing Act whilst also ensuring that the Site Specific Proposals LDD has been fully adopted and those sites favoured in the document have become available so that the occupants of Black Paddocks are able to relocate to a suitable alternative and more sustainable site. It is therefore considered appropriate to limit any planning permission to 2 years to allow further re-assessment once the LDD has been formally adopted. A temporary period of 1 year or 3 years has also been considered, but it is concluded that a 2 year period is a sufficient time frame for the document to have been adopted and for sustainable sites in accordance with the LDD to become available.

Since it is recommended that temporary planning permission is granted it is considered that several conditions are required to mitigate the impact of the scheme. A condition is suggested that ensures that only 1 mobile home is provided per site and that each site is occupied by one family only. It is considered that restricting the occupancy in this way would not contravene any human rights case the applicants may put forward, since it is in line with what is proposed and what has existed for the last 3 years under permission KET/2010/0288 (3 Traveller sites for 3 families). It would ensure that the occupiers would have the accommodation necessary to meet their needs. It is considered that it would be unreasonable to restrict the number of touring caravans per pitch since the existing arrangement does not result in significant harm and therefore the number of touring caravans should not be limited. In the event additional touring caravans occupied by non-family members are taken onto the site this can be investigated in the normal way by planning enforcement if considered necessary.

## 2. Proximity to services

The site is outside of the village of Braybrooke and therefore it is some distance away from the nearest local shops and services as discussed above. Braybrooke is the closest settlement and offers a public house – thus some facilities are provided locally. In addition to the facilities of Braybrooke the town of Desborough is approximately 2000 metres from the application site and Market Harborough is approximately 4000 metres from the site, both of which would provide additional amenities. It is therefore highly likely that there would be a dependence upon motor vehicles to access local facilities. The emerging Site Specific Proposals LDD has so far identified this site as an alternative option due to it scoring badly on sustainability criteria.

The Council has received 31 neighbouring objections to the proposal



and 3 from Parish Councils. One of the main reasons for objection is the unsustainable nature of the location of the site and therefore the conflict with Policies 1, 9 and 17 of the North Northamptonshire Core Spatial Strategy and Policy 7 of the 1995 Local Plan for Kettering Borough. These objections on the basis of the location of the proposal being in conflict with policy are considered to be justified and therefore, as stated above, it is considered that a permanent permission on this site would represent an unjustified conflict with policy in light of the emerging Site Specific Proposals LDD, which may or may not allocate this site as preferable. 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 has been formally assessed and allocations made via the LDD process.

### 3. Landscape and appearance

The application site lies in a rural location where new development is strictly controlled by Policy 7 of the 1995 Local Plan for Kettering Borough and Policies 1 and 9 of the North Northamptonshire Core Spatial Strategy. Due to the location of the site within the open countryside and its position directly adjacent to a highway and not far from a railway line the proposed development would be visible from the surrounding area. However, at the front of the site there is a band of mature vegetation that largely screens the site from the highway. The scale of the proposed development would have a noticeable impact upon the visual amenity and rural character of the locality. However, the aforementioned planting at the front of the west boundary of the site provides a degree of screening and serves to minimise the visual impact of the proposed development upon the character of the landscape.

In isolation from assessment against other potential sites that have been assessed as part of the LDD it is considered that the impact the proposal will have upon the appearance of the surrounding area has to be outweighed by the demonstrable need for 14 Gypsy and Traveller pitches in the Borough up to and including 2022. Therefore it is considered that this proposal would not have a harmful impact upon the landscape character and visual amenity of the area if permission is granted for a temporary period, but were permission to be permanently granted it would have a lasting harmful affect upon visual amenity. Therefore it is considered that due to the requirement to provide additional pitches outright refusal of the application based on its impact upon the landscape is unwarranted as the site can be returned to its previous form once alternative sites have been identified. The proposal, in so much as this permission is time limited, is therefore considered to accord with Policy 13 of the North Northamptonshire Core Spatial Strategy.

### 4. Highway safety

Policy 13 of the North Northamptonshire Core Spatial Strategy states that new development should not have an adverse impact upon the safety of the local highway network. The highways authority has been

consulted on the application and they have raised no objection to the proposal. The proposed development would not result in a significant increase to the level of traffic using the local highway network and the existing vehicular access points comply with Highways Standing Advice for Local Planning Authorities. The proposal would not have an adverse impact upon highway safety and therefore the proposal accords with Policy 13 of the North Northamptonshire Core Spatial Strategy.

#### 5. Residential amenity

There is a residential property to the north of the application site. The boundary treatment to the north of the site comprises of a close boarded fence. The boundary between the residential dwelling and the proposal is considered to be an appropriate residential boundary treatment and given that the use of this site is for residential accommodation it is considered that this proposal would not have a significant impact upon the living conditions of the occupiers of the neighbouring property in terms of overlooking, overbearing impact or increased pollutants such as light or noise. The proposal therefore accords with Policy 13 of the North Northamptonshire Core Spatial Strategy in terms of the impact upon the amenity of neighbours.

#### Conclusion

The proposed development would have an impact upon the rural character of the landscape. However, the visual impact will be minimised by the mature hedgerow along the west boundary of the site. Although the proposed development would have a detrimental impact upon the visual amenity of the locality were it to be permanently granted it is considered that the need for additional Gypsy sites in this instance has to outweigh the level of visual harm created by the proposal, which would be for a temporary period. By granting a temporary permission the visual impact is also therefore temporary and it would be reversible. It would also allow alternative sustainable sites to be identified and developed in the meantime. It is considered that the proposal would not have an adverse impact upon the occupiers of the neighbouring dwelling to the north and the proposal will have an acceptable impact upon the highway network. On balance the need for the additional pitches, albeit for a temporary period, is considered to outweigh the detrimental visual impact upon the surrounding landscape.

Taking into account the identified need for Gypsy and Traveller sites in the Borough and the restriction of 2 years of the proposed Gypsy site as required by condition it is considered that the proposal conflicts with the National Planning Policy for Traveller Sites and the Development Plan, but material planning considerations, namely the onus on Local Authorities to provide suitable accommodation for Gypsies and Travellers, outweigh policy considerations and therefore a 2 year temporary permission is recommended for approval.

**Background  
Papers**

Title of Document:

Date:

Contact Officer:

**Previous Reports/Minutes**

Ref:

Date:

Alan Davies, Development Officer on 01536 534316