

Appeal by Larissa Jennings

Appeal against the refusal of planning application 20/01747/F

Change of Use of land to a 6no pitch Gypsy and Traveller site to include 6no mobiles, 6no tourers and associated operational development including hardstanding and fencing

Site Address: Land on South side of Widnell Lane, Piddington, Bicester, OX25 1AE

Our Ref: SWEENEY30102020

LPA Ref: 20/01747/F

PINS Ref: APP/C3105/W/20/3262394

CHERWELL DISTRICT COUNCIL

FINAL COMMENTS

The appeal relates to the proposed change of use of the land to be used as a gypsy and traveller caravan site comprising 6 pitches, each pitch containing one mobile home and one touring caravan.

COMMENTS ON THE REASONS FOR REFUSAL

The LPA state at 3.1 that Planning Committee resolved at their 8 October 2020 meeting to refuse the application for three main reasons.

1. The proposed development, by virtue of its siting in the open countryside, overall scale, and appearance, would have an urbanising effect on the open countryside, and would result in significant and demonstrable harm to the rural character and appearance of the area.

The Council has already stated that the views would be limited, and it also agrees that PPTS policy H can be met and that this would positively enhance the environment and increase the openness. This was also addressed during the previous appeal APP/C3105/W/18/3209349 for the neighbouring site which has not yet been implemented. The Council seem to be relying on the fact that the neighbouring site will mean that if this site is approved, cumulative harm will take place. However, this was not a reason for refusal and therefore should not be relied upon.

It is widely accepted that Gypsy and Traveller sites will cause a certain amount of harm in rural areas by the nature of the location. The LPA state at 5.3 that this cannot be mitigated by landscaping which is simply not true. A sensitive landscape scheme can secure natural screening and prevent the urbanising effect which has been suggested.

At 5.4, the LPA state that the land Council's landscape officer is ONLY a consultee and therefore the fact that the officer has not objected is not a reason to accept no harm. Whilst I would partially agree that there are other issues which would need to be reviewed as part of the decision-making process, I would argue that the lack of objection should add weight in favour of the development.

The landscape officer did not note anything of concern and the LPA itself have stated that views into the site would be minimal. The LPA have again relied on the neighbouring site which was approved in any case.

2. The planning application has not been supported by adequate information to demonstrate the impact of the proposed development on protected species has been properly understood and the requirement for mitigation to secure a net gain in biodiversity can be met.

The Council state at 5.5 that the appeal site is bounded by mature hedgerows and the access would require the removal of a strip of hedgerow. The LPA also say that their records had findings of GCN within the site and that a pond is within 2m of the southwest corner of the site. The Council have not stated how old or historical the GCN siting's are and no evidence of GCN's were found during the appellants preliminary ecology survey.

A Phase 1 survey was submitted, and mitigation measures were put forward which could be implemented into the scheme with ease. A condition relating to further surveys needing to be undertaken PRIOR to any development could be granted. The appellant has no issue at all with commissioning further GCN surveys and any mitigation measures found because of the survey can and would be adhered to. The report writer did contact the LPA and was advised to carry out a preliminary survey which she did. Had the LPA come back to the appellant at the time the survey was submitted and requested a GCN survey, this would have been commissioned immediately.

3. A Flood Risk Assessment has not been submitted with this application. Therefore, an assessment has not been made of the flood risks arising from the proposed development and it has not been clearly demonstrated that the development and its future users will be safe over the lifetime of the development.

The appellant is correct in that an FRA was not required and has acted in line with the government guideline and as per the validation requirements for Cherwell Council. The committee report would not have been seen prior to the decision-making process. Again, I would contest that if an FRA were required as part of the LPA's own toolkit and had this been requested, the appellant would have commissioned such a report.

There is no evidence to suggest that the development would increase the flood risk in the surrounding area, and this can again be mitigated by a condition requiring a clear and concise SUDS report PRIOR to any development. This would need to be signed off by the LPA.

INTERESTED PARTIES

I have read through the comments made by interested parties and they are based on rumours and not fact especially concerning where Mr Sweeney lives and where the intended occupants are from. There also seems to be some confusion that 6no mobiles have already been approved. This is not the case, and this is a different site which has not been implemented.

The Parish Council state that the site is not sustainable which we have proven is false. This was also looked at in the previous appeal for the neighbouring site and allowed. The parish further state that services to the site would be expensive. This is not a planning concern but one for the appellant who has already explored this and is aware of the cost implication.

The proximity to the MOD training centre was also discussed at the previous appeal and again dismissed as an issue by the inspector and not a reason to refuse the development. The flooding issue also raised could again be mitigated by the submission of a precise SUDS report but the environment agency have no evidence of this flooding which is why an FRA was not submitted or requested by the Council.

CONCLUSION

For the reasons set out in this statement of case, we are still of the opinion that the appeal proposal does not conflict with Government guidance contained within the National Planning Policy Framework as well as development plan policy. All issues and reasons for refusal that have been supplied by the LPA can be mitigated and accordingly great weight should be applied to this fact. We would kindly request that the Inspector moves to grant permission in favour of the appellant and approve the appeal submitted and dismiss the decision made by the Local Planning.

SUGGESTED CONDITIONS

If the Inspector is minded to allow the appeal, the following conditions are agreed by the appellant as necessary to make the development acceptable:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application Form; Site Location Plan and Proposed Block Plan.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites (August 2015).

Reason - This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent and to comply with Government advice contained in the PPG

4. There shall be no more than six pitches on the site, and no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on each residential pitch at any time.

Reason - This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent and to comply with Government advice contained in the PPG

5. One of the caravans stationed on each pitch shall be a static caravan or mobile home, and that static caravan or mobile home shall comply with the specification of paragraphs 4.8 and 4.9.4 in British Standard BS 3632:2015 – Residential park homes – Specification.

Reason - This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent and to comply with Government advice contained in the PPG7

6. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy Framework

7. Prior to commencement of the development, full details of the internal road and turning area including swept path analysis showing that an 11.6m long refuse collection vehicle can enter and leave the site in forward gear, shall be submitted to and approved in writing by the Local Planning Authority. There shall be no occupation of the site until the internal road and turning area have been constructed in accordance with the approved details.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

8. No development shall take place until a site development scheme has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include:

a) Details of proposed tree and shrub planting, including their species, number, sizes and positions, together with grass seeded/ turfed areas.

b) Details of the existing trees and hedgerows to be retained and those to be felled, including the minimum distance between the base of each retained tree and hedgerow and the nearest edge of any hardstanding or excavation.

c) Details of the hard surface areas, including vehicular access, turning and parking space.

d) Details of site enclosures.

e) Position of pitches and caravans.

f) Location of waste bin storage.

The development shall be carried out in strict accordance with the approved site development scheme and the hard landscape elements shall be carried out prior to the first occupation of the development and shall be retained as such thereafter.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. All planting, seeding or turfing comprised in the approved site development scheme shall be carried out in the first planting and seeding season following the first occupation of the site. Any trees and plants which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. No development shall take place until detailed schemes for the foul and surface water drainage of the site have been submitted to, and approved in writing by, the Local Planning Authority. The surface water scheme shall be based on sustainable drainage principles, and no surface water from the site shall be discharged onto the public highway or into the adopted highway drainage system. The approved foul and surface water drainage schemes shall be implemented prior to the first occupation of the site, and they shall be retained thereafter.

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. No development shall take place until a landscape and ecological management plan (LEMP), to secure a biodiversity net gain from the development site, has been submitted to, and approved in

writing by, the Local Planning Authority. The LEMP shall be carried out in accordance with the approved details and shall be retained thereafter.⁹

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

12. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a mitigation strategy for great crested newts, which shall include timing of works, exclusion fencing, the location and design of alternative ponds/habitats together with the timing of their provision, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the mitigation works shall be carried out in accordance with the approved details.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

13. No external lighting shall be installed on the site, other than in accordance with a scheme, including details of the position, height and type of lights, which has been submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

14. No commercial activities shall take place on the land, including the storage of materials, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on this site at any time whatsoever.

Reason - In order to safeguard the amenities and character of the area and in the interests of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan 2011 –2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

15. The site shall not be occupied until a water supply and an electricity supply have been provided in accordance with schemes which have been submitted to and approved in writing by the Local Planning Authority.¹