

**Case Officer:** Wayne Campbell

**Recommendation:**

**Applicant:** Mr James Doran

**Proposal:** Discharge of condition 5 (Site Development Scheme) of 20/02060/F  
(Appeal ref APP/C3105/C/21/3268454)

**Expiry Date:** 13 April 2022

**Extension of Time:**

## **1. APPLICATION SITE AND DESCRIPTION OF APPROVED DEVELOPMENT**

- 1.1. The application relates to an existing traveller site (1no pitch) located off the Main Street midway between Cropredy and Great Bourton. The site is accessed via a single access point through a wooden gate leading into a large area of crushed stone, a series of wooden buildings.
- 1.2. The surrounding area is open countryside with the west and eastern boundaries marked by a mix of low post and wire fence and hedgerow while the southern boundary is marked by an embankment then the railway line. To the front of the site the northern boundary is marked by a mature hedgerow.
- 1.3. Permission was granted on appeal for the use of the site as a caravan site accommodating one mobile type caravan designed for human habitation together with associated parking and storage of motor vehicles and a trailer, storage of touring caravans and associated domestic paraphernalia.

## **2. CONDITIONS PROPOSED TO BE DISCHARGED**

- 2.1. This application seeks to discharge condition 5 attached to the appeal decision. Condition 5 states the following:
- 2.2. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:

*i) Within 4 months of the date of this decision a scheme for: the internal layout of the site, including the siting of caravans, hardstanding, soft landscaping, including native species, boundary treatments around the boundary of the site and between pitches, parking and amenity areas, and for the provision of foul and surface water drainage works, (hereafter "the Site Development Scheme") shall have been submitted for the written approval of the local planning authority and the Site Development Scheme shall include a timetable for its implementation.*

*ii) If within 8 months of the date of this decision the local planning authority refuse to approve the Site Development Scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.*

*iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted Site Development Scheme shall have been approved by the Secretary of State.*

*iv) The approved Site Development Scheme shall have been carried out and completed in accordance with the approved timetable.*

*In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined*

### **3. RELEVANT PLANNING HISTORY**

3.1. The following planning history is considered relevant to the current proposal:

05/00198/F: Erection of stables. - Permitted 06/01284/F: Resubmission of 06/00599/F - Retrospective: Temporary caravan on site for a period of 3 months for use by builders. – Permitted

13/00431/CLUE: Certificate of Lawful Use Existing - An area of rolled gravel hardstanding, a lean-to pig pen and a small soakaway/duck pond. – Permitted

20/02060/F: Change of use of land to a mixed use for the keeping of horses (existing) and as a residential caravan site for 4no gypsy families. Each with two caravans (including no more than 4no static caravans / mobile homes) together with the laying of hardcore. – Refused

20/03140/CLUE: Certificate of Lawfulness Existing for mixed use of land for agricultural and as a caravan site for residential purposes. - Refused

Enforcement Notice: Without planning permission the change of use of the land to use as a caravan site currently accommodating one mobile home type caravan designed and used for human habitation together with associated parking and storage of motor vehicles and trailer, storage of touring caravans and associated domestic paraphernalia. Allowed on appeal APP/C3105/C/21/3268454.

22/00851/F: Removal of existing livestock/hay store building and its replacement with a day room ancillary to adjacent caravan site and relocation of stables. – Permitted

### **4. RESPONSE TO PUBLICITY**

4.1 This application has been publicised by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 8 August 2022 (Thames Water re-consult; Thames Water has provided comments and therefore a decision can be issued before this date). Other than Thames Water the final date for comments was 25.07.2022.

4.2 The comments raised by third parties are summarised as follows

- Lorry loads of hard core have been delivered and laid which, far exceed the requirement for 1 mobile and 1 static caravan allowed

- Appeal Inspector stated drainage could be addressed by siting caravans on existing area of hard standing but additional hardstanding will compromise further drainage situation
- Due to nature of the soil the suggested soakaways would not be viable option
- The 2m fence would not be sufficient to screen the development resulting in spoiling the natural character of the valley
- Plan shows a dog leg diversion to the line of the Public Footpath that crosses the fenced off area of the application site but this is incorrect and leads one to believe the footpath does not go through the fenced off area of the site.
- Sewage system in the village of Cropredy is stretched to an almost unacceptable level catering for developments which have taken place in recent years both in Cropredy and Gt. Bourton.
- Access to the site is a danger to all road users
- Owner has already installed a septic tank on the site without permission

4.3 The comments received can be viewed in full on the Council's website, via the online Planning Register.

## **5. RESPONSE TO CONSULTATION**

5.1. CROPREDY PARISH COUNCIL: Comment. Asks that Cherwell District Council ensures the proposed site plan including drainage scheme does not bring any increased risk of flooding, and that the site plan is not substantially different from that envisaged during the Appeal in November 2021. Cropredy Parish is likely to be affected by any increased flooding as it is believed that any surface water flows towards Cropredy Primary School.

5.2. CDC - LAND DRAINAGE: Comment. Drainage/Flood Risk 1. Foul Drainage It is noted that the applicant proposes to connect foul drainage to the public sewer which runs under the highway between Great Bourton and Cropredy. For information there is also a public sewer which runs parallel to the railway corridor at the bottom of the northern field. I have no objections provided this is the method of foul drainage. If a connection to the public sewerage system is not possible and a private disposal system is proposed it must comply strictly with BS 6297. The nature of the ground locally is such that a compliant system is unlikely to be achieved. 2. Surface Water Drainage/Flood Risk The site is shown to be at very low risk of flooding from fluvial sources but at medium risk of flooding by surface water. This infers that the site may not be suitable for soakaways. The surface water flood risk must be mitigated by a compliant scheme. In his proposals the applicant has proposed a system of infiltration drains. This does not in itself represent an acceptable method of disposal. The infiltration drainage must be discharged to a system of soakaways that has been proven will be successful. To determine this the applicant should undertake soakage tests in strict accordance with BRE 365 at the proposed locations of the soakaway(s). Soakaways, if they are proved to be feasible, must then be designed and constructed in compliance with BRE 365 with details to be submitted to the Council for approval. If a compliant design cannot be achieved due to ground conditions a positive discharge to a suitable ditch/watercourse will be required for which a Land Drainage Act consent will be needed.

5.3. OCC RIGHTS OF WAY: Objection. Bourton Footpath 8 runs through this site but the amended plan does not show the correct definitive line of the footpath. But instead shows only the permissive route. The proposed screen fence and tree/hedge planting is welcomed, as it is hoped this will separate the dogs on site from the footpath users. However, I believe the screen fence and planting on the amended proposal may obstruct the definitive line of the footpath (not shown on the plan), particularly the planting. Adjusting the layout of the planting and screen fence where the footpath enters the site would resolve this issue.

5.4. THAMES WATER: no objections.

## **6. APPRAISAL**

6.1. This application seeks to discharge condition 5 attached to the planning permission issued by the Planning Inspectorate following the allowing of the Enforcement Appeal. Condition 5 covers a number of issues and for the purpose of this appraisal the areas will be treated as separate sections.

### **TIMESCALE**

6.2. The first is that the applicant needed to submit the application to discharge the condition within a period of 4 months from the date of the appeal decision. The appeal decision is 6 December 2021 and this application to discharge the condition was valid on 22/02/2022. The timescale criterion of the condition has therefore been met.

### **INTERNAL LAYOUT**

6.3. The details submitted show the provision of a large area of hardstanding formed from gravel and hard core. The area of the hardstanding has expanded from that area used as hardstanding at the time of the appeal. The area of further hardstanding is not in accordance with the area considered by the Inspector during the consideration of the appeal and as such represents a further expansion of works not covered by a condition but which would itself require planning permission.

6.4. As a result of this further expansion of hardstanding the area allocated for the mobile home and the touring caravan has also expanded allowing for a larger area of development land than considered under the appeal. The details of the hardstanding and the siting of the caravans is therefore not considered to comply with the requirements of the appeal decision / condition.

### **SOFT LANDSCAPING**

6.5. The requirement of the condition is for details of soft landscaping to be provided to be used in and around the site. The details submitted with this application show the use of hedgerow to contain a mix of 45% hawthorn, 45% blackthorn and 10% holly. It is accepted that these species are native species and would comply with the requirements of the condition. Notwithstanding this it is considered that the width of the hedgerow along the southern boundary is too small to allow for an adequate depth of fencing to provide an effective screen. The depth of hedgerow is not stated while the height of the new hedgerow is stated as 45 – 60 cm although it is accepted that both the Hawthorn and Blackthorn have a fast growth rate compared to that of the holly.

6.6. In addition to this the application states that the hedgerow would also contain a number of trees in the form of 40% Silver Birch, 40% Mountain Ash and 20% oak. It is not how clear where these trees are to be located on the site. The plan submitted

fails to clearly identify where the trees would be located on the site and as such the applicant has failed to clearly demonstrate the landscaping to be used on the site.

## BOUNDARY TREATMENT

- 6.7. The information provided with the application is confusing in that two sets of fences are shown on the plan but only one fence is within the area of the red line plan considered as part of the appeal. The 2m high fence allocated along the edge of the appeal site would appear as a hard edge to the site which would be seen from the public right of way which runs along the southern edge of the site. Although it is accepted that the proposed hedgerow is to be located immediately alongside the new fence it is not considered that adequate space has been shown to allow the hedgerow to grow and mature. The fence would therefore remain as a hard urban edge to the site.
- 6.8. The second fence shown on the plan is that of a post and rail fence which had initially shown to be enclosing an area of amenity space. The post and rail fence is an existing fence of around 1.5m in height and encloses an area of land *which the applicant is gradually covering with hardstanding without consent*. This second fence is not within the area of the appeal decision and although shown on the plan and in the covering letter as a fence to be considered as part of the discharge of condition is not considered to comply with the requirements of the condition but results in the extension of the area of built form beyond the red line plan. In addition to this, the post and rail fence cuts across the route of the existing public right of way resulting in a diversion of the route around the southern edge of the post and rail fencing. An objection to this diversion has been raised by the County Rights of Way Officer. For these reasons it is not considered that the applicant has complied with the requirements of the condition.

## AMENITY AREA

- 6.9. As initially submitted the details provided showed an area of amenity space allocated within the area outside the appeal area and enclosed by the post and rail fencing. The Council advised the applicant that this was not acceptable as the area of land is outside the area considered under the appeal and would represent a further extension of residential, use in the countryside which in itself would require planning permission. The applicant therefore changed the description to state this area was used as paddock land which although itself would be acceptable is likely to be used as amenity space by the residents of the caravans on the site.
- 6.10. Notwithstanding this point the removal of this area as amenity space has not been replaced with any new area of amenity space on the site. It is considered that the site could provide an adequate area of amenity space with soft landscaping to the area along the western area of the site. As such the applicant has failed to demonstrate adequate amenity space within the site area as required under the terms of the condition.

## FOUL & SURFACE WATER DRAINAGE

- 6.11. As part of the consideration of the site for use as a traveller site a number of objections were received raising the issue of flooding across the site and within the surrounding area / fields. Based upon the details on the Environment Agency website regarding areas of flooding it is clear that the site is located within an area of surface water flooding with medium and low risk leading to high risk close by. The requirement of the condition is that the applicant provide details of drainage both for foul and surface water drainage to be used as part of their development.

- 6.12. Turning to the issue over foul drainage the applicant has advised that the development would be connected to the existing foul water drainage in the area. This area is covered by Thames Water and in consultation with the Thames Water no objection to this arrangement is made.
- 6.13. With regards to surface water drainage this is more of an issue than the foul drainage in that the site is covered as an area at threat of surface water flooding. The applicant has stated that they intend to implement a surface water drainage system by way of a soakaway using a layer of gravel on a sub-base of clean hardcore and a base of crushed aggregate. A filter drain located to the immediate rear of the mobile home would be provided to take rainwater from the mobile home, intercept any excess surface water run-off, provide on-site storage of storm water and assist the infiltration of surface water into the ground.
- 6.14. In considering this approach the Council's land drainage officer has requested further information to assess the drainage of the site. The comments made state that due to the nature of the site being in an area of mid risk of flooding by surface water would infer that *the site may not be suitable for soakaways*. It is further stated that the surface water flood risk must be mitigated by a compliant scheme. In proposal as submitted the Council considers that the system of infiltration drains *does not in itself represent an acceptable method of disposal*. The infiltration drainage must be discharged to a system of soakaways that has been proven would be successful.
- 6.15. To determine what method of drainage would be acceptable on this site it is recommended that the applicant needs to provide further information. This information would be in the form of soakage tests in strict accordance with BRE 365 at the proposed locations of the soakaway(s). Soakaways, if they are proved to be feasible, must then be designed and constructed in compliance with BRE 365 with details to be submitted to the Council for approval. The applicant has been made aware of this requirement, but no further information / test results have been provided by the applicant. If a compliant design cannot be achieved due to ground conditions a positive discharge to a suitable ditch/watercourse will be required for which a Land Drainage Act consent will be needed. As such it is not considered that the applicant has adequately complied with the requirements of the condition.

## CONCLUSION

- 6.16. The applicant has failed to adequately address the main parts of the condition and as such the condition should be refused.

## 7. RECOMMENDATION

That Planning Condition(s) 5 of Appeal reference APP/C3105/C/21/3268454 be refused for the following reasons:

1. The details submitted demonstrate the area of hard standing exceeds the hard-core area beyond the area considered under the appeal resulting in an excessive area of hard standing to the detriment of the rural area. The hard standing area would therefore fail to comply with Policies BSC10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.
2. The application fails to provide adequate details of soft landscaping across the site to screen the development from the public viewpoints. The proposal would therefore have a hard urbanising impact on the character and appearance of the rural area contrary to Policies ESD13 and ESD15 of the

Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework and Planning Practice Guidance.

3. The application details fail to provide adequate amenity space within the site area resulting in poor design with an excessive area of hard standing detrimental to the amenity of the future occupiers of the site. The proposal therefore fails to comply with Policies BSC10, and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.
4. The application provides inadequate level of information to demonstrate that the surface water strategy would be acceptable. It has not been demonstrated that the proposal would not result in the risk of flooding or would not lead to unacceptable risk of pollution to water quality/the natural environment. The proposal therefore conflicts with Policies ESD6, ESD7 and ESD8 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework and Planning Practice Guidance.

Case Officer: Wayne Campbell

DATE: 3 August 2022

Checked By: Nathanael Stock

DATE: 03.08.2022

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