

Case Officer: Imogen Hopkin

Recommendation: Refuse

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: 27 November 2023

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. There is extensive history at this site, although this application relates to an enforcement notice (reference: 22/00026/ENF), which was appealed (reference: APP/C3105/C/21/3268454). The enforcement notice was quashed, and planning permission was granted, subject to conditions.

1.4. The requirements of the notice were:

1. Cease use of the land as a residential caravan site;
2. Remove from the land the mobile home style caravan currently in the approximate location shown in blue on Plan 2;
3. Remove from the land the touring caravans in the approximate location shown in green on Plan 2;
4. Remove from the land the motor vehicles and trailer currently parked or stored on the land;
5. Remove from the land all other materials, equipment, and other paraphernalia brought onto the land in connection with the residential use of the land; and
6. Return the land to its previous condition before the breach took place.

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

2.3. This application follows a refused application reference: 22/00499/DISC, which sought to discharge the condition. This application was refused on 3rd August 2022.

2.4. The application is supported by a site layout plan, front and rear elevations of fencing, post and rail fence details, a SUDS scheme and a cover letter.

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

22/00499/DISC: Discharge of Condition 5. – Refused.

4. RESPONSE TO PUBLICITY

4.1 Formal publicity was not carried out for this application, as it is not a requirement. However, third party comments have been received and can be taken into account.

4.2 The comments raised by third parties are summarised as follows:

- Flood report and mitigation is too simplistic and does not include a risk assessment
- Concerns about visual amenity of the development as a whole
- Hardstanding impact biodiversity and ecology
- Previous non-compliance with planning conditions
- Impact on the school

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. CDC Land Drainage: No objections. The volume of the swale proposed for this particular application is adequate.

5.2. OCC Public Rights of Way: Holding objection, subject to information on the surface water drainage to cross the footpath and the SUDS scheme shows drainage to be in the immediate vicinity of the footpath. The applicant would need to demonstrate how the path will be affected during construction and occupation.

5.3. Thames Water: No comments to make.

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 6th December 2021 and the original application to discharge the

condition was valid on 22nd February 2022. The timescale criterion of the condition was met for the original application. The decision to refuse this application was made on 3rd August 2022, within the time limit. No appeal was made against that refusal, as the 6 month period expired on 3rd February 2023. This application was valid on 2nd October 2023.

- 6.3. Counsel opinion on the timescale is that the permission would continue in existence, but could not be relied upon until condition 5 is discharged. Therefore, a pragmatic approach could be taken in respect of the timescale.

LAYOUT AND SITING

- 6.4. Limited information has been submitted with the application to indicate the siting of the caravans, hardstanding, parking, amenity areas, location of fencing, and planting. Due to there being no annotations or key with the location plan, there is insufficient information provided to demonstrate the layout and siting of the site would be acceptable. As such, the requirements of the condition have not been met with regard to this element.

SOFT LANDSCAPING

- 6.5. The soft landscaping has been explained through the cover letter, although this is not demonstrated on a plan to indicate the positions of the landscaping proposed. 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, and thus does not satisfy the requirements of the condition.

BOUNDARY TREATMENT

- 6.6. The information provided includes a front and rear elevation of fencing, and a post and rail fence. The drawings provided to demonstrate these are not detailed, and there is no indicative material shown. There is no indication of the siting of either of these boundary treatments, and the condition requires the boundary of the site and between pitches to be provided. The applicant has not complied with this element of the condition, as there is insufficient information to assess the position of the boundary treatments, and to fully understand the design.

PARKING AND AMENITY AREA

- 6.7. The site plan submitted with the application does not indicate where the parking or amenity areas would be within the site. As such, there is insufficient information to assess this element of the condition, and therefore it cannot satisfy the requirements of the condition.

FOUL AND SURFACE WATER DRAINAGE

- 6.8. 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.
- 6.9. The applicant has advised that the foul drainage for 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.

- 6.10. The Council's Land Drainage Officer does not object to the application, and highlights that the volume of swale proposed is adequate.
- 6.11. OCC's Public Rights of Way Team has a holding objection to the drainage as submitted, due to the potential to impact the defined public right of way that runs through the site.
- 6.12. While the principle of the foul and surface water drainage provision is acceptable in relation to Land Drainage and Thames Water, there are potential impacts in relation to the public right of way, which have not been clearly demonstrated. As such, this fails to satisfy the requirements of the condition.

CONCLUSION

- 6.13. There is insufficient information provided with the application to satisfy the condition, and the condition should be refused.

7. RECOMMENDATION

That planning condition 5 of 22/00026/ENF (appeal reference: APP/C3105/C/21/3268454) be refused for the following reasons:

1. Insufficient information has been submitted to demonstrate the compliance with condition 5, with respect to internal and site layout, landscaping, boundary treatments, parking and amenity areas, and provision of foul and surface water drainage. The development is therefore contrary to Policies BSC10, ESD6, ESD7, ESD8, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

Case Officer: Imogen Hopkin

DATE: 2nd January 2024

Checked By: Nathanael Stock

DATE: 02.01.2024
