

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

4 NOVEMBER 2009

**REPORT OF CORPORATE DIRECTOR,
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES**

09/1752/FUL

High Tree Paddock, High Lane, Maltby

Application to allow permanent retention of 1 no. residential static caravan, calor gas tank, timber gates and stone piers.

Expiry Date: 9 October 2009

SUMMARY

Planning permission is sought for the permanent use of land as a gypsy site which includes the provision of a residential caravan, stables gas tank and other ancillary structures.

One letter of objection has been received from Maltby Parish Council which raises concerns over the way in which the site has developed the use of the stable block on the site, encroachment on agricultural land, the nature of services to the site and egress from the site for vehicles.

The Acting Head of Technical Services considers the proposal would not unduly affect highway safety.

The site is located on the urban fringe within close proximity to a range of services, which although not extensive are considered to give a sufficient degree of sustainability for a use of this type.

The site is screened in part whilst should not have any significant detrimental impacts on highway safety, privacy or amenity as a result of its scale of provision and location.

The existing designated gypsy site at Bowesfield is currently at capacity whilst previous temporary approvals have been granted at the site subject of this application in 2003 and 2005. In view of a current lack of designated sites, the relative sustainable location of the site and its grouping with other uses and its limited impact on the surrounding environment, it is considered that the proposal would accord with Government Guidance contained within circular 01/06 - Planning for gypsy and traveller caravan sites.

The Planning application was previously considered at the Planning Committee on 23rd September 2009, when Members were originally minded to refuse the application based upon the reasons for objection set out by the Parish Council, many of which were considered by the Legal Officer not to be reasonable material planning considerations or grounds for refusal. This report sets out the main planning policies, the guidance from Circular 01/06 and the material planning considerations in detail and explains why the application meets the necessary criteria. Members must have sound reasons to disagree with the officer's report on one or more of the material planning considerations or on policy grounds which can be substantiated to warrant a refusal of the application. It is the opinion of the Head of Planning that a refusal would be unreasonable on the information before her.

Members had also debated whether they could grant the application for a further temporary period of 3 years on the basis that a GTAA was currently being undertaken and the Regeneration DPD was likely to be produced within 3 years. Members therefore considered that a new appropriately

located Gypsy and Traveller site would be provided by the Council within a reasonable number of years and there was the possibility that the Government might step in if the required Gypsy and Traveller site provision was not forthcoming within a reasonable period. Members were advised that these issues had been previously considered on appeal when a Planning Inspector had clearly indicated that the Council were not sufficiently advanced in finding suitable sites to justify a temporary permission and that they were not convinced that there was any reasonable expectation that a site would be available at the end of, or shortly after a 3 year period. Having regard to the merits of the application site and the lack of Gypsy traveller site being made available within a reasonable period the granting of a further temporary permission could not be supported.

The Head of Planning and the Principal Planning Solicitor have investigated the issues raised further and whether a temporary approval is reasonable and sustainable. The Council have previously granted temporary permission for the site and Circular 11/95 advises that repeat temporary permissions should not normally be granted. There is no known alternative provision, due to the Bowesfield site being at capacity and there being no DPD relating to such provision. As such the Council are required to consider windfall sites such as this. It is the Head of Planning's opinion that a temporary planning approval is unsustainable in this instance and a full planning consent should be granted for the reasons set out in the main body of this report.

RECOMMENDATION

Planning application 09/1752/FUL be Approved subject to the following conditions:-

01. *Approved Plans*

The development hereby approved shall be in accordance with the following approved plan(s); unless otherwise agreed in writing with the Local Planning Authority.

<i>Plan Reference Number</i>	<i>Date on Plan</i>
<i>SBC0002</i>	<i>24 July 2009</i>
<i>1591/1</i>	<i>14 August 2009</i>
<i>SBC0003</i>	<i>24 July 2009</i>

Reason: To define the consent.

02. *Gypsy use only*

This permission does not authorise use of the land as a caravan site by any other persons other than gypsies, as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 as amended.

Reason: In order to restrict the use of the site to that which it has been considered against.

03. *Limitation to scale of development*

The development on site shall be restricted to 1no. Static caravan unit of accommodation which is of a scale as detailed within the approved plans unless otherwise agreed in writing with the Local Planning Authority.

Reason: In order to adequately control the extent of development on the site in the interests of visual amenity and highway safety in order to accord with saved Policy GP1 of the Stockton on Tees Local Plan.

04. Scheme of lighting

Details of any external floodlighting or illumination of the site shall be submitted to and approved in writing by the Local Planning Authority before works to provide any such lighting or illumination is carried out and shall thereafter only be carried out in accordance with the approved details.

Reason: In order to prevent undue light intrusion into the surrounding environment.

BACKGROUND

- 03/1986/P - Retrospective application for one no. residential static caravan, calor gas tank and timber gates and stone piers, High Tree Paddock, High Lane, Maltby. Granted approval as a personal permission for a temporary period of 2 years.
- 05/2700/ARC - Application to remove condition 2 from planning approval 03/1986/P to allow the permanent retention of 1no. Residential static caravan, calor gas tank, timber gates and stone piers. Approved on the 17th November 2005 with conditions imposed in respect to the approved plans, 2 year temporary approval, and the use of the land as a private gypsy site.
This approval expired and was not renewed or varied.
- 08/2308/ARC - Application submitted to remove the 'temporary' condition associated with application 03/1986/P. This application could not be considered as application 03/1986/P had lapsed.

Separate sites (within close proximity)

- 96/1214/P- Waynesland, Low Lane
Change of use of site to private gypsy caravan site and conversion of existing stable block to amenity block.
Approved as permanent site with Conditions (1996 pre Local Plan)
- 04/0548/REV - Site at Old Filling Station, Low Lane, High Leven, Stockton on Tees.
Retrospective application for the change of use to private gypsy site and retention of 1 no. residential caravan, 2no. stable blocks, 3no. security floodlights, 7no. ornamental garden lights, external walling and gates, LPG tank and shed.
- Application refused for the following reason:
The proposed change of use of the site and the retention of the associated development is considered to be unacceptably intrusive and has a detrimental impact on the character and appearance of the rural area contrary to Policies GP1, EN13 and H07 of the Stockton on Tees Local Plan, Circular 1.94 and PPS7.
- Appeal decision, considered the designation of the site within the Green Wedge, limits of development and former use of the site as a Petrol Filling Station. Also considered the proximity of local services. Concluded that the site was acceptable for permanent provision.

PROPOSAL

1. Planning permission is sought for the provision of a permanent gypsy site and to allow the permanent retention of the existing development on site which includes a residential static caravan, gas tank, timber gates and stone piers. See appendix reference 2.

CONSULTATIONS

Consultations were undertaken and comments received are summarised below;

2. Acting Head of Technical Services
This application will not adversely affect highway safety therefore we raise no objections
3. Maltby Parish Council
The piece of land was acquired and occupied without any permission being sought in advance.
The subsequent planning application, which included stabling, was rejected by Stockton Planning Committee.
The owners were served with an order to vacate the site within a prescribed period – this has now well and truly expired.
There is evidence to suggest the stables have a residential and not equine use.
The development represents a residential encroachment onto land designated for agricultural purposes. It does not fall within an area earmarked for housing development.
The source and nature of utilities services is a matter of concern on health and hygiene grounds.
The location of the site at the junction of High Lane and the unclassified road leading to Low Lane is at a very dangerous 'blind' corner. The egress is therefore unsuitable for any development or encampment.
The establishment of permanent gypsy sites within Stockton Borough must be effectively planned in order to benefit all parties. This site would be totally inappropriate.

PUBLICITY

4. Neighbours were notified although no comments were received at the time of writing this report.

PLANNING POLICY

Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plans is the Stockton on Tees Local Plan (STLP) and the Regional Spatial Strategy (RRS).

The following planning policies are considered to be relevant to the consideration of this application:-

Policy GP1

Proposals for development will be assessed in relation to the policies of the Cleveland Structure Plan and the following criteria as appropriate:

- (i) The external appearance of the development and its relationship with the surrounding area;
- (ii) The effect on the amenities of the occupiers of nearby properties;
- (iii) The provision of satisfactory access and parking arrangements;
- (iv) The contribution of existing trees and landscape features;
- (v) The need for a high standard of landscaping;

- (vi) The desire to reduce opportunities for crime;
- (vii) The intention to make development as accessible as possible to everyone;
- (viii) The quality, character and sensitivity of existing landscapes and buildings;
- (ix) The effect upon wildlife habitats;
- (x) The effect upon the public rights of way network.

Policy EN13

Development outside the limits to development may be permitted where:

- (i) It is necessary for a farming or forestry operation; or
 - (ii) It falls within policies EN20 (reuse of buildings) or Tour 4 (Hotel conversions); or
- In all the remaining cases and provided that it does not harm the character or appearance of the countryside; where:
- (iii) It contributes to the diversification of the rural economy; or
 - (iv) It is for sport or recreation; or
 - (v) It is a small scale facility for tourism.

PPS7 - Sustainable Development in Rural Areas

Circular 01/06 - Planning for gypsy and traveller caravan sites

Circular 01/06 states the main intentions of the Circular are;

- a) to create and support sustainable, respectful, and inclusive communities where gypsies and travellers have fair access to suitable accommodation, education, health and welfare provision; where there is mutual respect and consideration between all communities for the rights and responsibilities of each community and individual; and where there is respect between individuals and communities towards the environments in which they live and work;
- b) to reduce the number of unauthorised encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this Circular;
- c) to increase significantly the number of gypsy and traveller sites in appropriate locations with planning permission in order to address under-provision over the next 3 - 5 years;
- d) to recognise, protect and facilitate the traditional travelling way of life of gypsies and travellers, whilst respecting the interests of the settled community;
- e) to underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- f) to identify and make provision for the resultant land and accommodation requirements;
- g) to ensure that DPDs include fair, realistic and inclusive policies and to ensure identified need is dealt with fairly and effectively;
- h) to promote more private gypsy and traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own sites; and
- i) to help to avoid gypsies and travellers becoming homeless through eviction from unauthorised sites without an alternative to move to.

SITE AND SURROUNDINGS

- 5. The site is located within the southern section of the Borough, at a position to the west of Maltby Village, within relative close proximity to Ingleby Barwick and Teesside Industrial Estate. See appendix reference 1.

6. There is a small cluster of other uses within the vicinity of the site, being served off the main highway of Low Lane and High Lane. These uses include a public house, car auction and a vehicle sales centre.
7. The application site comprises of a residential static caravan, gas tank, hard standing area, timber gates and associated piers. The site is surrounded by a high hedge and trees.

MATERIAL PLANNING CONSIDERATIONS

Principle of development

8. The site falls outside of the defined limits of development where development is only normally approved (under Policy EN13 and in accordance with PPS7) where it relates to agriculture, forestry, tourism and sport and where these uses and their impacts are justified. The proposal does not fulfil the criteria for development in such locations and therefore, Policy EN13 offers no presumption in favour of this development.
9. Previous decisions have taken account of Local Plan Policy HO7 which related to proposals for gypsy sites. This is no longer a saved policy and as such cannot be taken into account in determining this application. Consideration is therefore given to the more recent national guidance contained within Circular 01/06 - Planning for gypsy and traveller caravan sites.
10. Circular 01/06 advises that the assessment of gypsy and traveller accommodation needs is integral to the assessment of general accommodation needs and that the new planning process will begin by local authorities assessing need as part of the gypsy and traveller accommodation assessment (GTAA) process. The data collected through the GTAA process would then inform the preparation of Development Plan Documents (DPDs), against which applications would be determined. Local authorities are advised to have flexibility to allocate adequate land for their own sites to provide for those they have assessed as being in need of accommodation.
11. The Tees Valley Gypsy and Traveller Accommodation Needs Assessment has been published (final report) in January 2009. The GTAA final report indicates that Stockton has a requirement for a further 17 pitches within the period 2007 to 2012 although there may be variations in precise number provisions per authority taking into account the GTAA is a Tees Valley wide document. However, the council have not commenced work on a Development Plan Document (DPD) or programmed for one to be produced. The Council is in the process of considering how to move matters forward in this regard.
12. A sequential release of land for gypsy sites being used before windfall sites is advised. The Council currently operates a formalised gypsy site at Bowesfield which is running at capacity. There are no other formal gypsy sites within the Borough apart from the individual plots similar to the one being considered under this application. Circular 01/06 advises that personal sites can be acceptable where they are on the outskirts of built up areas and where they are well planned and soft landscaped to positively enhance the environment. As there are no proposed new sites within the Borough and the existing site at Bowesfield is at capacity, in order to comply with Government guidance, it is considered appropriate for the Local Planning Authority to consider windfall sites.
13. Whilst located outside of the defined limits of development, this particular site is not considered to be entirely rural, being on the urban fringe, which as advised within the circular, can form suitable places for such uses. This consideration is similar to that taken by a planning inspector in relation to a nearby plot considered by Stockton Borough Council under application reference 04/0548/REV. See appendix reference 3 for the appeal

decision in respect to application ref: 04/0548/REV and a plan showing the sites location in respect to the site subject to this application.

Sustainability in respect to local facilities

14. Planning Policy Statement 1 (Delivering Sustainable Development), PPS 3 (Housing) and Circular 01/06 (Planning for gypsy and traveller caravan sites) all require residential development to be undertaken within sustainable areas and in close proximity to a wide range of services. Circular 01/06 which relates specifically to gypsy sites also advises that consideration should include;
 - a) the promotion of peaceful and integrated co-existence between the site and the local community;
 - b) the wider benefits of easier access to a GP and other health services;
 - c) children attending school on a regular basis;
 - d) the provision of a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment; and,
 - e) not locating sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.
15. In view of these criteria, in deciding where to provide for gypsy and traveller sites, local planning authorities are required to first consider locations in or near existing settlements with access to local services, e.g. shops, doctors and schools.
16. The application site is located within close proximity to a range of facilities including Teesside Industrial Estate, schools at Ingleby, a mini market, petrol filling station and vets on Low Lane, a public house and bus routes to the wider area (see appendix ref 3). Although these provisions and their proximity to the site may not be sufficient to justify general housing development, given the nature of the development and its suitability within closer proximity to other areas of housing, in view of it being unlikely to be in keeping with designs, styles, layouts etc of such existing provision, the site is considered to be acceptable for use as a private gypsy site in this regard. The appeal decision made in respect to application 04/0548/REV (for a site on the opposing side of Low Lane) considered this area to be adequately sustainable for such uses. Paragraphs 25 – 48 of the appeal decision (appendix ref. 4) detail considerations of a site of this nature in such a location whilst para 43 specifically discusses the sustainability of the site. For ease of reference, para 43. of the appeal decision is listed below;

‘ As to local facilities and services, while not ideal, I consider that there is an adequate range including a small convenience store, schools, public house within reasonable distance and a bus stop quite close by. A little further a field are neighbourhood, medical and community centres and a large supermarket in Ingleby Barwick. I accept that this distribution may not place all facilities within the usually recommended walking distances but I share the conclusions previously reached by the Council when granting permission for ‘Waynesland’, another nearby gypsy site. On that occasion it was considered that existing services and facilities at Thornaby, Yarm and Ingleby Barwick are reasonably close. I do not consider that any short comings in this respect are significant nor should they prevent the use of this site, particularly when alternatives are not known’.
17. Taking into account the proximity of the application site to this earlier application determined on appeal (see plan at Appendix ref. 4); officers are of the opinion that the site is not materially different in the context of its location to a range of services.

Permanent permission

18. Paragraph 45 of Circular 01/2006 (Planning for gypsy and traveller caravan sites) advises; *'Where there is unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, local planning authorities should give consideration to granting a temporary permission'*. Circular 11/95 advises the same within paragraph 110.
19. Guidance further advises that the fact that temporary permission has been granted on this basis should not be regarded as setting a precedent for the determination of any future applications for full permission for use of the land as a caravan site. However, Circular 11/95 (Use of conditions in planning permissions) advises that *'a second temporary permission should not normally be granted. A trial period should be set that is sufficiently long for it to be clear by the end of the first permission whether permanent permission or a refusal is the right answer. Usually a second temporary permission will only be justified where highway or redevelopment proposals have been postponed, or in cases of hardship where temporary instead of personal permission has been granted for a change of use'*.
20. The previous application for the site (03/1956/P) was granted on a temporary basis in order to allow the Authority the ability to re-assess Local Plan Policy as it related to a need to identify suitable locations for gypsy sites, whether Local Authority or Private. Whilst the previous application was granted on a temporary basis, aside from the guidance in relation to repeat temporary approvals, the site is considered to be in a generally sustainable location on the urban fringe and associated with a cluster of other buildings. Taking into account there being no other sites allocated for such uses, it is considered that this site conforms with policy and guidance in relation to the siting of such uses. As such, it is considered appropriate to grant permanent approval, for a private gypsy site.
21. The Local Planning Authority granted temporary approval for a private gypsy site at Durham Road, Stockton under application reference 05/3333/COU. The temporary approval was appealed against (see appendix ref. 5 for appeal decision). Paragraphs 8 – 10 of the appeal decision detail the inspectors findings, these being that, there was an unmet need for Gypsy sites and that the Council had not commenced the work on producing a DPD to identify suitable gypsy sites and being in the Inspectors opinion that the Council were not sufficiently well advanced in finding suitable sites to justify a temporary permission and that it was unlikely there would be a change in planning circumstances relating to such provision at the end of the temporary 3 year period for which the Council had imposed on the approval. This appeal decision was issued on the 15th Jan 2005. The applicant applied for costs against the Local Planning Authority during the process of the appeal. Paragraphs 6 – 9 of the costs decision relating to the Durham Road appeal (appendix ref/ 6) detail the inspectors conclusions which are largely based on there being no anticipated change in the planning circumstances of Gypsy provision within Stockton at the end of the temporary period which the approved scheme was conditionally approved for.
22. It is the opinion of officers that in view of the relative sustainable nature of the site in terms of proximity to services and provisions of the scheme generally complying with other policy based locational constraints and there being no firm future provision to address unmet need via an adopted Development Plan Document (DPD) that this site is appropriate for permanent use. The same considerations may not apply to sites less suitably located.

Impact on amenity of adjacent properties

23. The nearest residential property is a single dwelling (Hazel Grove) the building to which is located in excess of 120m away. This is considered sufficient distance to prevent any undue detrimental impacts on the privacy and amenity associated with this property. Other properties are located within Maltby Village and are in excess of 400m away, which is considered to be sufficient distance to prevent undue impacts on privacy and amenity. See appendix ref. 3.
24. The permanent gypsy site approved on appeal on Durham Road as referred to above is located 90m from the nearest dwelling and 450m from the nearest group of dwellings. (See Appendix ref. 5). The proposed permanent gypsy site which is the subject of this application is located 120m from the nearest dwelling and 400m from the nearest group of dwellings. In view of distances from residential properties being relatively comparable, it is considered that this proposal would have similar impacts on surrounding residential amenity to the site the subject of the appeal at Durham Road, which were all accepted in the determination of application 05/3333/COU and the associated appeal determination.

Impact on the appearance of the surroundings

25. The site is surrounded by a high hedge and native trees which provide significant screening, particularly during summer months. The gates and associated piers are considered to be a relatively dominant and uncharacteristic addition to the area; however, reduction of their height would result in the site being more visible from the wider area, thereby having a greater detrimental impact. As such, on balance, the impact of the gates is considered to be acceptable.

Traffic generation and access requirements

26. The Acting Head of Technical Services has raised no objections to the proposed development. In view of the proposal relating to one unit of accommodation, the likelihood is that there will be only limited traffic generation and accessing onto a lightly trafficked road, it is considered that the proposal would not unduly affect highway safety.

Other Matters

27. Comments made in relation to the background to the proposal, the use of the land for this purpose and the establishment of a gypsy site, the sites access and the issue of the previous application having lapsed have all been considered accordingly in reaching the recommendation. The Parish Council is incorrect in asserting that planning permission has been refused in the past for a residential static caravan on this site or that an "order" was served by the Council for the owners to vacate the site.
28. With regard to the comment that there is evidence that stable block being used for residential purposes, the case officer is not aware of this being the case and this allegation will be investigated. However, this application relates to the permanent retention of 1 no. residential caravan and the stable block and does not seek permission for the residential use of the stable block. The recommended conditions control the details of the approval.
29. Comments have been made in respect to health and hygiene and the utility services on the site. The use of the site would require building regulation approval which would control drainage related matters and as such are not being proposed to be controlled by this application.

CONCLUSION

30. The site lies outside of the defined limits of development and there is no presumption in favour for the development within the saved policies of the Stockton on Tees Local Plan, however, there is no known alternative provision, due to the Bowesfield site being at capacity and there being no DPD relating to such provision. As such, in accordance with national guidance, the Council are required to consider windfall sites such as this.
31. The site is located on the urban fringe and is considered to be located within close proximity to a range of services, and although not extensive, this general area has been considered on appeal to be adequate for a development of this nature.
32. The site is screened in part whilst should not have any significant detrimental impacts on highway safety, privacy or amenity due to its scale of provision and location whilst would continue to form a cluster of uses within this immediate locality. The benefit derived from the wall / gate overrides the urbanising intrusive impact of views into the site.
33. The Council have previously granted temporary permission for the site and Circular 11/95 advises that repeat temporary permissions should not normally be granted. As such, in view of all of the above it is considered that the permanent use of the site conforms to national guidance and it is therefore recommended that the application be approved with conditions.

Corporate Director of Development and Neighbourhood Services
Contact Officer Mr Andrew Glossop Telephone No 01642 527796

Financial Implications – As report

Environmental Implications – As report

Legal Implications – As report

Community Safety Implications – As report

Human Rights Implications –

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report

Background Papers

Planning Policy Statement 1: Delivering Sustainable Development and Companion Guide:

Planning and Climate Change

Planning Policy Statement 3: Housing

Planning Policy Statement 7 - Sustainable Development in Rural Areas

Adopted Stockton on Tees Local Plan (June 1997)

Circular 01/06 - Planning for gypsy and traveller caravan sites

Circular 11/95 (Use of conditions in planning permissions)

Appeal Decisions in respect to Planning Application: 05/3333/COU & Enforcement Notice ref: 34130.

Ward and Ward Councillors

Ward Ingleby Barwick East

Ward Councillors K C Faulks, D C Harrington, A M Larkin