

10/00412/FUL: USE OF LAND FOR ONE EXTENDED GYPSY FAMILY COMPRISING TWO RESIDENTIAL CARAVANS AND ONE FAMILY ROOM CARAVAN AT LAND OPPOSITE 3 HURN ROAD, WERRINGTON, PETERBOROUGH

VALID: 19 OCTOBER 2009

APPLICANT: MR BROWN

AGENT: BARRY NICHOLLS

REFERRED BY: CLLR LANE

REASON: HEALTH AND SAFETY OF PERSONS ON THE SITE

DEPARTURE: NO

CASE OFFICER: MIKE ROBERTS

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1 SUMMARY/OUTLINE OF THE MAIN ISSUES

The main considerations are:

- The principle of the proposed development on this site
- Landscape Impact
- Highways
- Drainage
- Archaeology
- Noise
- Access to local services

The Head of Planning Services recommends that the application is REFUSED.

2 PLANNING POLICY

In order to comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 decisions must be taken in accordance with the development plan policies set out below, unless material considerations indicate otherwise.

Development Plan Policies

Relevant policies are listed below with the key policies highlighted.

The Peterborough Local Plan (First Replacement)

- U1 Water supply, sewage disposal and surface water drainage
- U9 Pollution of Watercourses and Groundwater
- CBE2 Other areas of archaeological potential or importance
- T1 New development should provide safe and convenient access to and from the site
- H16 Residential design and amenity

Material Planning Considerations

Decisions can be influenced by material planning considerations. Relevant material considerations are set out below:

ODPM Circular 01/06 – Planning for Gypsy and Traveller Caravan sites

ODPM Circular 03/99 – Planning requirement in respect of the use of non mains sewerage incorporating sewerage tanks in new development

East of England Plan (May 2008) (Secretary of State's proposed changes March 2009)

- Policy H3 – Provision for Gypsies and Travellers

Peterborough Core Strategy – Preferred Options May 2008

- Policy CS7 – Gypsies and Travellers

PPG24 Planning and Noise

3 DESCRIPTION OF PROPOSAL

The proposal is seeking planning permission for the erection of two static caravans for residential occupation, both to have a length of 5.50m and a width of 2.29m and a third caravan to be used as a family room. All three caravans are to be used by one extended family. A foul water treatment plant is also proposed with the surface of the site being of permeable materials. The site area is approximately 0.07 hectares and is 'L' shaped in plan form. The vehicular access is proposed directly opposite no.3 Hurn Road and is shown with a width of 8m. Entrance gates are to be set approximately 10m from the edge of Hurn Road, allowing vehicles to stand off the highway when entering/leaving the site. The two 'living' caravans are to be located approximately 27m from Hurn Road to the rear of a grass field. They are to be positioned end to end immediately adjacent to each other. The family room caravan is to be located at the very rear of the site approximately 48m from Hurn Road. The underground water treatment plant is to be located towards the south east corner of the site. The surface water drainage of the site is to be via a soakaway. The 'living' caravans are proposed at a distance of 46m from the nearest line of the London to Edinburgh mainline railway.

4 DESCRIPTION OF SITE AND SURROUNDINGS

The sole vehicular approach to the site is via Hurn Road which is of a single carriageway width and does not benefit from passing bays along its immediate length up to the access to the application site. The road has a mature hedge along its northern side whereas to the south there are clear views into the open countryside. The application site is located within a triangular shaped area of land that is owned by the applicant. This land is generally overgrown with various vegetation including scrub type land, shrubs, hedging and small trees. Immediately to the north of the application site is a row of 6 modest sized terrace houses the frontages of which are set back 9m from the vehicle carriageway. A detached dwelling is located very close to the railway line to the west of the terraced row. To the east/south east of the site is arable farmland. The nearest line of the East Coast mainline railway is approximately 37m from the western boundary of the application site. In total there are three mainline tracks with two further to the west that connects Peterborough with Leicester.

5 PLANNING HISTORY

None Relevant

6 CONSULTATIONS/REPRESENTATIONS

INTERNAL

Section 106 Officer – No financial contributions would be required from the development

Head of Building Control – Building Regulation approval would not be required.

Archaeology Team – No objection - The site is surrounded by crop marks of uncertain interpretation, whilst some of these have in the past been found to represent geological features others could be of archaeological origin. Suitable archaeological mitigation should be attained through, should planning permission be granted, a condition requiring an archaeological investigation of the site prior to the commencement of the development.

Head of Transport and Engineering – No highway objections

Senior Housing Enforcement Officer – Strongly advises that an environmental impact assessment be undertaken. Waste collection and disposal statement from the applicant should be required advising that waste collection and disposal would not cause a detrimental impact to the neighbourhood. The site will provide for only 3 proposed units and therefore no site licence would be required. There could be an impact on local traffic and access to the site for emergency vehicles. The use of generators for a power supply may give rise to noise complaints.

Education Department – No financial contribution to fund places at local schools would be required.

Wildlife Officer – No objection - The site is close to the Marholm Crossing County Wildlife Site but the proposal would be unlikely to have an impact upon the features for which the site has been designated.

Environmental Health – Pollution Control Team – Objects as it has not been demonstrated that the occupants would not be adversely affected by noise from the railway.

By comparison with other previously considered applications, at broadly similar locations the site would fall within Noise Exposure Category B. The advice for NEC B is that “Noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise. The World Health Organisation has provided guidance that “general outdoor noise levels of less than 55dB L_{Aeq} are desirable to prevent any significant community annoyance” and that “a level of less than 35dB(A) is recommended to preserve the restorative process of sleep”. These recommendations should be regarded as the maximum noise levels to be permitted within or around the noise sensitive development. The Building Research Establishment document “Sound Control For Homes” (ISBN 0-85125-559-0) provides guidance on scheme design and controlling external and internal noise. It will be necessary for the applicant to demonstrate that appropriate noise levels can be achieved for the proposal with respect to the above guidance. Particular emphasis in the determination of the noise environment is needed with respect to the lightweight building elements involved. For instance, whilst a conventional building may utilise glazing options to achieve suitable sound reduction, this may not be appropriate for the proposed structure. The structure will need specific consideration in determining the appropriateness of the application, in terms of its' sound reduction performance, and in the potential for resonant excitation of the lightweight building elements from passing trains. The use of bunds/fences may result in adequate noise mitigation, but this will need to be sufficiently demonstrated.

Landscape Officer – No objections

Head of Operations (City Services) – No objections

EXTERNAL

Environment Agency – No objections. Any culverting of a watercourse requires approval of the Environment Agency. Consent would be required from the Environment Agency for any works/structures within 9 metres of the Brook Drain that runs close to the eastern boundary of the site.

Network Rail – No objection to the principle of the development but there are requirements that must be met, especially with the close proximity of the site to the electrified railway. Specifically all surface and foul water must be directed away from Network Rail property. Development for residential use adjacent to an operational railway may result in neighbour issues arising. Every endeavour should be made by the developer to provide soundproofing for each dwelling. The worst case scenario could be trains running 24 hours a day and sound proofing should take this into account. This can be secured in such cases by way of a condition to a planning approval.

Werrington Neighbourhood Council – Objection on the grounds that:-

The proposal would result in a significant loss of amenity to the properties overlooking the site, particularly nos.3 to 8 Hurn Road and it would have a significant adverse impact upon the appearance and character of the locality. The surrounding area is rural and notwithstanding the intermittent noise from passing trains the local environment is quiet and secluded. There is concern that as the applicant

has indicated that he also owns adjoining land that these areas would be used for activities that may have an adverse impact upon the amenities of the occupiers of the adjacent residential properties. The site has not been identified by the City Council as one which has the potential to be suitable to accommodate a Gypsy family. ODPM Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites advises that Local Planning Authorities should have regard, amongst other considerations to noise and other disturbance from the movement of vehicles to and from a site, the stationing of vehicles on the site and business activities. Residential development in the open countryside should only be permitted where there is an overriding need as stated in policy H13 of the Peterborough Local Plan (First Replacement). The proposal would also not meet the criteria of policy H22 of the Local Plan which relates to sites adjacent to Rural Growth or Limited Rural Growth Settlements. The proposal does not satisfy policy H27 (Development of Gypsy Caravan Sites) of the Local Plan as the development of the site would have a general adverse impact upon the amenity, appearance and character of the location with it being situated directly within the environs of existing residential properties. The proposal also does not satisfy the requirements of policy CS7 of the Peterborough City Council Submitted Core Strategy Document on the grounds the development of the site would have an adverse impact upon the amenities of the occupiers of the close by residential properties and would have a detriment impact upon the appearance and character of the area.

NEIGHBOURS

Objections to the proposal have been received from the occupiers of the terraced row of residential properties immediately to the north of the application site on the grounds that:-

- The occupation of the site would affect the peace and quiet and the general character and appearance of the area
- Hurn Road is only a single lane road and a no through road and cannot accommodate more traffic without it becoming congested at times as there are no passing bays along its length as the site is approached from the east. This could have implications for emergency service vehicles accessing the existing dwellinghouses and the application site.
- The proposed residential use of the site could lead to vehicles associated with the occupation of the having to park in Hurn Road to the detriment of the free flow and safety of traffic/pedestrians
- The occupation of the site would lead to a reduction in property values of the residential properties in Hurn Road.
- The occupation of the site with caravans and ancillary structures would detrimentally impact upon the outlook from the residential properties to the north of the site
- The occupation of the site would increase noise levels within an area that is generally quiet other than the long established noise generated by the passing trains on the East Coast Main Line Railway.
- The occupation of the site would give rise to a loss of privacy currently afforded to the residents of the dwellinghouses to the north of the site.
- The site has no mains water supply or sewerage facility.
- The site is very close to the East Coast Mainline Railway and there are fears that any children on the site could be at risk were they to trespass upon the railway lines.
- The Greenwheel Cycle route passes the site and the presence of caravans and ancillary structures would detract from the enjoyment of the route by cyclists/walkers
- Hurn Road has no footpaths/pavement alongside it and hence no safe pedestrian route from the application site to the services in Werrington
- The large sized vehicles that are commonly owned by Gypsy's for business purposes would be unsuitable for use along Hurn Road due to its narrow width
- The accessibility to everyday services such as shops, medical facilities and schools is poor from the site.
- The proposal has not met the locational requirements in the Government guidance for the location of Gypsy sites
- The proposal has not met the locational requirements in the Peterborough City Council Strategy for the Gypsy and Traveller population.
- There have been sittings of Great Crested Newts on the site which are a protected species that should not be disturbed.
- There is the potential for attacks by the dogs of the occupiers of the site on people walking or cycling past the site.

- No mention has been made on with regards to the drainage of surface water off the site.
- There are more suitable sites within which Gypsy's could be located
- The site is not vacant as stated in the application forms but has been used for agricultural purposes

A petition has been submitted, by the occupiers of 8 residential properties in Hurn Road, Werrington objecting to the proposal on the grounds that:-

- The proposal would set a precedent for similar proposals in the area
- Impact upon the residents of the adjacent dwellinghouses
- The water pressure in the road cannot cope with more residential development
- There are no mains sewerage facilities in Hurn Road
- The proposal would devalue the dwellinghouses opposite the site
- The proposals would be inappropriate in view of the proposals for the larger development of the area
- Hurn Road is a single carriageway and cannot cope with more traffic particularly if other gypsy vehicles are attracted to the site
- Planning permission has previously been refused for the residential development of the site
- Would the Local Authority provide waste bins for the residents of the site
- Should fires be lit on the site the prevailing wind would tend to blow the smoke directly towards the occupiers of the dwellings opposite the site.
- The site is only 32 feet away from the boundary of dwellings opposite the site

Two letters of support have been received from a resident of Werrington and a business in Werrington

Councillors

Cllr John Fox – The site is within a rural area and its use has to be conducive to the local residents. Hurn Road is basically a cul-de-sac with only one way and out. The extra traffic that could reasonably be expected to be generated as a result of the proposed occupancy of the site would cause problems to nearby residents. Any residential development of the site should reflect the established designs of nearby properties i.e. a bungalow in keeping with the existing two bungalows present along the south side of Hurn Road. There is a concern that if planning permission was granted that it would be next to a Mainline Railway and children would be vulnerable in this location.

Cllr Stephen Lane – Principle concern is for the health and safety of any residents on the site. The application does not meet the standards outlined in the CLG Good Practice Guide – Designing Gypsy and Traveller Sites. It is also considered that the proposal would contravene the advice contained within PPG24: Planning and Noise.

7 REASONING

a) Principle of development

The application site is located within the countryside i.e. outside of a village envelope. At the time of compiling this report Policy CS7 of the Core Strategy stated that there would be a minimum of 30 pitches for Gypsy and Traveller caravan accommodation to meet the need for the number of pitches in Peterborough as identified by the Gypsy and Traveller Accommodation Single Issue Review of the Regional Spatial Strategy for the East of England. However, the new Central Government administration has disbanded the Regional Spatial Strategies and as a result a report is being put before the meeting of the Full Council (14 July 10) by Officers for advice on how to proceed with such development given that there would be no planning policy base with which to seek to allocate permanent Gypsy and Travellers sites in the district. Notwithstanding the changing policy background the application site is not one that had been proposed for a specific allocation for Gypsy and Traveller use and therefore the application should be determined on the basis Circular 01/06 (which must be used instead of the superseded Local Plan policy H27) and emerging policy CS7 (a) to (e) of the emerging Core Strategy.

The agent has provided evidence to demonstrate that the intended occupiers meet the definition of Gypsies and Travellers. In terms of location, the proposal is considered to be within a reasonable travelling distance of the built up area of Werrington and that it is not so isolated as to be considered unsustainable. Circular 01/06 states that sites on the outskirts of built-up areas may be appropriate and that sites may also be found in rural or semi-rural settings. Rural settings, where not subject to special planning constraints are acceptable in principle. The key issues relate to detailed evaluation of the site in question and relationship to immediate surroundings and these are considered below;

b) Landscape Impact

The application site is not located an area of the district that has been identified as having the best landscape value. The caravans and curtilage, with improved boundary planting could, it is considered, be an acceptable addition to this countryside location. This would be assisted by the presence of the mainline railway immediately to the west of the site and the set back of the caravans from Hurn Road. That restricts views of the site from ground level and it is a visually well contained site. Part of the railway line in this location is designated as a Local Nature Reserve (policy LNE16) and it is considered that the proposal will not have an adverse affect upon this.

c) Access to Services

Criteria (b) of Policy CS7 - requires the site to be located within reasonable travelling distance of a settlement which offers local services and community facilities, including a primary school.

The site is within approximately 1.1km from the nearest shops at the Loxley Centre, off Lincoln Road Werrington. The nearest Primary School Is William Law School that is 1.5km away from the site. The Primary School in Glinton is approximately 2.6km away. However, the distances are far greater by car (due to the particular nature of the road connections leading to / from the site) which is considered to be the most likely form of transport used. It is considered that these distances are reasonable travelling distances to these services. Circular 01/06 states that issues of sustainability are important and should not only be considered in terms of transport mode and distances from services. Other considerations include the wider benefits of easier access to GP and other health services and children attending school on a regular basis and the provision of a settled base that reduces the need for travel by car. On balance it is considered that the location of the site is not sufficiently sustainable.

d) Highways

Criteria (c) of Policy CS7 – requires safe and convenient pedestrian and vehicle access to and from the public highway, and adequate space for vehicle parking, turning and servicing.

The Highways team have raised no objection to the proposal on the grounds that the proposal is for only one extended family which would not materially increase the number of vehicle movements along Hurn Road such that there would be minimal interruption in the free flow of traffic. The road also forms a part of the Peterborough Greenwheel Cycle Route the safe use of which should not be affected by the occupation of the site.

e) Drainage

Criteria (d) of Policy CS7 – requires the site to be served, or be capable of being served, by adequate mains water and sewerage connection.

The Environment Agency raises no objection to this application. The site could be serviced with mains water and the use of a small sewerage treatment plant would be acceptable. The latter could be secured by a planning condition. The proposed structures on the site would all be at least 9m away from the nearby drains.

f) Impact on surrounding sites

Criteria (e) of Policy CS7 – the site should enable development and subsequent use which would not have any unacceptable adverse impact on the amenities of occupiers of nearby properties or the appearance or character of the area in which it would be situated.

It is considered that the proposed development would not adversely impact on the amenities of any occupiers of nearby residential properties. The caravans could in time be screened by vegetation that

could be secured by a planning condition. The amount of traffic movement generated by the occupation of the site, given that the proposal is for one gypsy family, would not be significant to cause harm to residential amenity.

h) Archaeology

The Archaeological Officer has advised that the site may contain remains of interest but would not require an archaeological investigation prior to the determination of the planning application. A planning condition could be imposed that sought archaeological investigation works prior to the commencement of development.

i) The Residential amenities of the future occupiers of the caravans.

As the application site is located extremely close to the mainline railway connecting London to Edinburgh the noise generated from the passing high speed trains would be very audible within both the application site in general and also within the proposed caravans. The thin metal walls of the proposed static caravans would not shut out the noise from the trains and no sound insulation measures have been proposed to the caravans to seek to provide for a quiet internal residential environment. Similarly, no measures have been proposed to mitigate against the noise from the passing trains within the open areas within the site. On that basis the proposal would not provide for a satisfactory level of amenity for the occupiers of the caravans and therefore the site would not be suitable for residential occupation.

Whilst the use of the site for caravan occupation is not considered appropriate on residential amenity grounds there has been some confusion with regards to the noise readings being used by Environmental Health Pollution Control Team to assess the proposal. Initially historical noise reading data, that monitored noise from the passing trains travelling between Peterborough and Spalding, (a single line railway that only has approximately two trains an hour), was used. This noise data was used as Environmental Health were under the assumption that the application site was that at the existing Foxcovert Road Gypsy Caravan Site just to the north of Werrington. Based on those readings they initially satisfied the addition of three more caravans would be acceptable given the low level of rail movements along the adjoining railway line. This was on condition that rail movements had not significantly changed from the time of the earlier noise readings. On that basis the applicant was advised that it would be unlikely that noise would be an issue and as a result noise readings on the actual application site ceased.

However upon discovering the locational error Environmental Health revised its comments as stated earlier in this report. Noise readings at the site have not been taken by the applicant but it is possible to assess the likely noise environment by comparison with other previously considered applications on sites in broadly similar locations. The advice is that the site is expected to fall with Noise Exposure Category B in accordance with advice in PPG24 – Planning Noise - which means that noise has to be taken into account when determining planning applications and where appropriate conditions could be imposed to ensure protection against noise. The applicant is to be required to demonstrate that appropriate noise levels can be achieved on the site and within the caravans to provide for a satisfactory living environment. Having been advised of this the applicant is somewhat aggrieved that he is now not being given the opportunity to provide noise readings and possible solutions to reduce the noise levels to standards required by the World Health Organisation (WHO) under the current application. Given the time that the taking of readings and any discussions with Network Rail can be expected to take, rather than hold the application in abeyance Officers have suggested to the applicant that the application should be withdrawn and then resubmitted once the noise readings have been taken and analysed. By doing this the applicant would not be required to submit a further application fee.

The applicant is however unwilling to adhere to this suggested approach and as a result officers would advise that the application should proceed to a decision. Therefore given the close proximity of a loud noise source to the site, the lightweight construction of the caravans and the absence of any mitigation measures that would reduce the noise levels within the caravans to WHO standards and also to the external areas of the site the proposal would provide for an unacceptable living environment and would be contrary to the requirements of policy H16 of the Peterborough Local Plan (First Replacement).

j) Miscellaneous

Objectors have raised a number of other points and these are addressed below:

- The most likely noise source from the site would be that from a generator. Such noise levels could be controlled by the implementation of attenuation measures which could be secured by condition
- The privacy of the occupiers of the residential properties opposite the application site is already affected by the cyclists/walker on the Green Wheel Route that passes directly to the front of their houses and it is not envisaged that the occupation of the proposed site would compromise their existing privacy levels.
- Concern has been expressed that the safety of children living at the site may be compromised through access to the mainline railway. However, the railway is secured by security fencing along its boundary to restrict access.
- A near neighbour to the site has mentioned that a Great Crested Newt has been seen on the application site although the Wildlife Officer has advised that no such sightings have ever been reported in the past and the environment is not best suited to such newts who tend to inhabit ponds rather than streams that flank the applicants property.
- Policy H22 of the Local Plan refers to rural exceptions sites for affordable housing and is not relevant to gypsy and traveller sites. Policy H27 was the relevant policy but this has not been saved as the relevant policy is contained within Circular 01/06.

8 CONCLUSIONS

It is considered that the intended occupants meet the definition of Gypsies and Travellers as set out in Government Guidance, and criteria a) to e) of Policy CS7.

The level of site occupation will not cause undue disturbance or harm to nearby residents or the character of the area. In this respect the proposal complies with advice in Circular 01/06 and Policy CS7.

Despite the removal of the trees on site, this proposed development, subject to replacement planting, is not considered to unacceptably impact on the surrounding best landscape and Local Nature Reserve designation (that part of the railway line) in accordance with Policies LNE5, LNE9, LNE16 and LT11. There is no unacceptable access or highway safety issues in accordance with Policy T1 of the Local Plan.

However, the issue of noise impact on the occupiers of the site remains and due to the location immediately next to the main railway line, it is considered reasonable that the applicant to demonstrate up front, that the site is suitable for residential occupation. As this has not been sufficiently demonstrated, the application should be refused for this reason. In addition, the site is not in a location which is considered sufficiently sustainable in terms of travel to key services.

9 RECOMMENDATION

The Head of Planning Services recommends that this application is REFUSED for the following reason:

R1 The application site is unsuitable for residential occupation by three residential static caravans as it would, in the absence of suitable noise mitigation measures, provide for a poor living environment for future occupants both within the caravans, due to their lightweight building elements, and also within the general confines of the site, due to the significant high and frequent noise levels resulting from high speed rail movements the close by London to Edinburgh mainline railway. The proposal is therefore contrary to policy H16 of the Peterborough Local Plan (First Replacement) which states:-

H16 Planning permission will only be granted for residential development (including changes of use) if the following amenities are provided to a satisfactory standard:

- a) daylight and sunlight; and
- b) privacy in habitable rooms; and
- c) noise attenuation; and

d) a convenient area of private garden or outdoor amenity space with reasonable privacy.

R2 The site is not located in a sufficiently sustainable location in relation to key services and therefore the proposal is contrary to Circular 01/06.

Copy to Councillors: Fower, Burton, Thacker

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