

Committee date 12/12/2023

Application No: 31/20/00002

Application Type: Full Planning Permission

Case Officer: Sharon Redman

Registered Date: 18/03/2020

Expiry Date: 12/05/2020

Parish: Lympsham

Division: Knoll

Proposal: Change of use of land to form 1no. Gypsy/Traveller pitch comprising of 1no.mobile home, 1no.touring caravan, erection of one dayroom, formation of pony paddock and associated works (part retrospective).

Site Location: The Stables, Bridgwater Road, Lympsham, Weston-super-mare, Somerset, BS24

Applicant: Mrs Ayres



Committee decision required because

The application is to be considered by the committee at the request of the Chair and Vice-chair to enable the issues relating to flood risk and the objection of the Environment Agency to be considered.

Background

The application site is located to the north of Lympsham, outside of the settlement boundary and is adjacent to Bridgwater Road (A370). The site is enclosed by existing tree planting and is directly south of car and motorhome dealerships. A large residential property is to the south (Oakwood Grange) and there is a residential development (Ferry Lane) opposite on the eastern side of Bridgwater Road. Access to the site is via an unmade track that runs along the western boundary with access via a gate at the south of the site. The point of access onto the A370 is shared with Oakwood Grange.

This application seeks part retrospective consent for the change of use of the land to site a mobile home and for the erection of a utility/day room. The mobile home is positioned towards the centre of the site while the utility room is located adjacent to the south western boundary. The utility room is 9m x 6m in area with a maximum height of 4.675m and finished in red brick and red clay tiles. The submitted layout plan indicates the northern part of the site will form a grassed area to be used as a pony paddock with additional hedge screening to be added along northern, western and south western boundaries. The site is occupied by one gypsy family.

Several visits to the site have identified one static caravan, one touring caravan, a small wooden outbuilding and a portable toilet on the site. In addition there was a part built building works in blockwork to the west of the mobile home, where the day room is now proposed. Hardstanding exists across the site with the exception of the northern part of the site, although remnants of building material used to consolidate the site remain visible.

Relevant History

None.

Supporting information supplied by the applicant

Supporting letter and Flood Risk Assessment.

Consultation Responses

Consultation Responses received on Amended Plans – July/August 2023

Lympsham Parish Council – Objection

“Parish Council stand by original comments of 20th June 2020. The revised day room is in size more like a bungalow and it is noted that a window in the storage room could be a bedroom.”

Somerset Council - Environmental Health – Comment

- Comments remain the same as previously submitted

Somerset Drainage Boards Consortium – Comment

- No principal objection
- Surface water attenuation and discharge must be in accordance with NPPG and appropriate for the development
- Applicants advised to check proposal is in accordance with standing advice
- Land Drainage consent may be required and informative should be added to any decision

Somerset Ecologist – No Objection

- Recommends condition regarding external lighting

Somerset Civil Contingencies – Comments

- Recommends condition requiring flood warning and evacuation plan.

Somerset Highways – No Objection

- Previously recommended a surface water condition but on review the FRA identifies the site will be permeable therefore the condition is not required and there is no objection from the Highway Authority.

Environment Agency – Objection

“We maintain our ‘in principle’ objection to the proposal on the basis that the development falls within a flood risk vulnerability category which is inappropriate to the flood zone in which the development site is located. This is not disputed within the supporting flood risk assessment (FRA) which identifies the proposal as being ‘highly vulnerable’ development (as defined in Annex 3: Flood risk vulnerability classification of the National Planning Policy Framework (NPPF) located within flood zone 3. Therefore, in line with Table 2: Flood risk vulnerability and flood zone ‘incompatibility’ of the national Planning Policy Guidance (PPG) the proposed development should not be permitted.

We have however reviewed the submitted flood risk assessment (FRA) completed by “SLR Consulting Ltd”, dated July 2023, and we are able to offer the following comments in addition to the above policy objection.

Upon review, we consider the FRA fails to demonstrate how people will be kept safe from the potential flood hazards, which is contrary to the requirements for site specific flood risk

assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change planning practice guidance.

Reasons

In our letter dated 6th October 2022 we state, “The proposed development falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework and its associated planning practice guidance. We recommend that planning permission is refused on this basis”.

In the data provided by the Environment Agency, the undefended, 1 in 200 year level is 6.54mAOD, with maximum predicted flood depths on site in excess of 1 metre. However, this is a current day level which excludes an adequate climate change allowance. Therefore, it’s fair to conclude, with an additional climate change allowance, the predicted flood depths of the proposed site would likely reach a “Danger for most/Danger for all” level as outlined in the “Danger to People Velocity”.

The latest FRA states, “The LiDAR data indicates that levels across the Site vary between a minimum elevation of 4.5m Above Ordnance Datum (AOD) to the east of the Site, to a maximum elevation of 6.4m AOD to the east of the Site. As shown by Drawing 002, the mobile and amenity block are to be located on the western half of the Site which has a minimum elevation of circa. 6.0mAOD”.

The residual risk is something which is site specific and a key aspect to cover when considering safety of a development. Whilst the latest FRA disagrees a residual risk caused by an overtopping/breach in defences would significantly impact the site, this will need to be supported by appropriate flood modelling, as referenced in our previous response, before this can be accepted.

As stated in our previous correspondence from the 6th October 2022, to definitively determine whether the site is at residual risk of flooding due to a breach in the defences would require a comprehensive modelling assessment simulating breaches at a number of locations along the coastal frontage to determine the worst--case at the site, something which is not proportionate for a planning application of this scale.

In conclusion, the submitted FRA fails to adequately demonstrate the proposed development is safe for occupants for its lifetime. Data provided by the Environment Agency demonstrates flood depths to the site in excess of 1 metre, at a present--day level, without the potential impacts of climate change. Therefore, when this additional risk is included, it presents an unnecessarily high risk to occupants. In the absence of a safe access/egress and/or safe refuge, the occupants could be subjected to potentially deep/dangerous flood waters with no safe escape/evacuation.

In order to pass the Sequential Test the applicant must demonstrate that there are no reasonably available sites in a lower flood risk area within an agreed area. The applicant should agree a Sequential Test position with the Local Planning Authority prior to committing further resources

into the proposal.”

Natural England – No Objection

Wessex Water – Comments

- Comments as before – use of a septic tank requires Local Authority agreement.

As originally consulted – March 2020

Lympsham Parish Council - Objection.

"Lympsham Parish Council Object to this Retrospective Application on the following valid planning grounds;

1) The Application falls outside the Lympsham settlement and development boundary and is on a green field site.

It does not seek to protect or enhance the natural environment and does not demonstrate specific countryside needs, contrary to Strategic Policy S7 of the Sedgemoor Local Plan 2011-2032. This land was sold on the understanding that it was to continue to be a pony paddock.

2) The low level of the site (flood zone 3) gives concern that to prevent or reduce any flooding risk to the site and to any buildings or caravans , the ground level would need to be raised significantly - this will also impact on neighbouring properties. Looking at the neighbouring garage it can be seen how low lying the proposed site is for this retrospective application.

3) There has been considerable clearance at the site already and with mature hedgerows and trees removed , this will have an effect on the landscape, diminishing the appearance and character of the area, and causing loss of natural habitat to wildlife. This will have a substantial negative impact on the enjoyment of the residents of the surrounding properties. The cleared area is also much more significant in size than is required for one mobile home, and raises concerns that a business will also operate from the site.

4) The access in and out of the site is via a private single -track lane which joins on to the A370. This is a known accident spot and this stretch of road is unlit in a 60mph zone. Additional cars, caravans and commercial vehicles pulling out on a regular basis would clearly add to the risk of more accidents. A previous Application to build on the site was refused for these reasons . Highways have yet to produce a report on this Application.

5) There will be a loss of privacy for local residents. The site is overlooked by a number of properties and the privacy of residents especially from the first floor of their accommodation will be affected.

6) Sewerage disposal from the site would need addressing. The new septic tank legislation of 1st January 2020, would mean a full treatment plant with documentation would be required. There are no details in the Application for the provision of utility services."

Environmental Health - Recommend drainage condition.

Natural England - No objection

“Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.”

Environment Agency (Initial Comment) - Objection.

"We advise the proposed development falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework (NPPF) and its associated planning practice guidance (PPG). We recommend that planning permission is refused on this basis.

The PPG classifies development types according to their vulnerability to flood risk and provides guidance on which developments are appropriate within each Flood Zone. This site lies within Flood Zone 3a , which is land defined by Sedgemoor District Council Strategic Flood Risk Assessment as high risk.

The development is classed as highly vulnerable in accordance with table 2 of the Flood Zones and flood risk tables of the PPG. Tables 1 and 3 make it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted."

Environment Agency (Further Comment) – Objection

“We refer to the letter from SLR Consulting dated 25 August 2022. We apologise for the delay in response. The 2009 Sedgemoor District Council Level 2 Strategic Flood Risk Assessment (SFRA) modelling provides potential indication of overtopping and breaching of the defences, including climate change, in the area of the site.

We note the modelled Level 2 SFRA outputs indicate the available 1 in 200 (0.5%) events in 2108 are not shown to affect the site and surrounds but the 1 in 1,000 (0.1%) events shown to surround them. It is however important to note that, by definition, the three locations were selected as part of the SFRA to provide a range of conditions throughout the district, and not to identify the worse potential flood scenarios at the site and immediate surrounds. Should a breach occur in a location that has not been modelled in the SFRA or an exceedance event occur, the application site may be impacted.

To definitively determine whether the site is at residual risk of flooding due to a breach in the defences would require a comprehensive modelling assessment simulating breaches at a number of locations along the coastal frontage to determine the worst-case at the site, something which is clearly not proportionate for an individual planning application.

Notwithstanding the above, the inherent vulnerability of this type of development and its occupants to flood risk, the uncertainty as to the potential for worse residual risk conditions than those considered in the SFRA and the potential for the site to be cut-off by floodwater mean we maintain our 'in principle' flood risk objection. The proposed development falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework and its associated planning practice guidance. We recommend that planning permission is refused on this basis."

Wessex Water - No comments.

Internal Drainage Board - Objection.

"The Board would like to retain its objection due to there being insufficient information regarding the proposal for the management of foul drainage. The proposed septic tank appears to be some way from the dayroom and the mobile home. This does mean that flows under gravity may not be achievable. There are also no details of how the treated effluent will be disposed of, it is unlikely that a drainage field and infiltration will work in this location.

Further information is required, prior to determining the application."

Highway Authority - No Objection

- The access is an existing access onto the A370 and in the opinion of the Highway Authority this planning application would not place the existing access or existing highway network over capacity
- Access benefits from suitable visibility onto the A370 but should be maintained to allow for the egress/ingress of vehicles
- Water should not be discharged onto the highway (condition recommended)
- Highway Authority would have concerns if further development in the site at a future date

Representations

Responses to Neighbour Notification received on Amended Plans - July/August 2023

4 additional letters of objection received reiterating previous concerns and the following issues:

- Precedence would be created if this is allowed
- Sites like these have a tendency to grow
- Similar schemes previously refused
- Object to large bungalow on the site (day room)

As originally Consulted March 2020

Twenty four letters of objection received raising the following concerns:

- Inaccuracies on block plan with mobile home being larger and in different position
- Remains against local policies
- Concerned there is no proper sewage disposal and inadequate drainage information
- Plans are not dimensioned or to scale
- Traffic generation and road safety is a concern
- Not in keeping with the landscape and countryside
- Applicant was granted consent for different site in 2019
- Outside of development boundary
- Would not maintain the environment and would increase traffic
- Countryside location has not been justified
- Impact on landscape and character of Lympsham
- Doesn't meet the requirements of Policy D8
- Has resulted in removal of hedgerows, trees and grassed areas and is damaging to the environment
- Bats and wildlife impact
- Is contrary to flood policies and could increase flood risk elsewhere
- Septic tank is not appropriate
- Access is dangerous, located on blind bend with limited visibility and there have been several accidents on this stretch of road
- Lack of lighting adds to the safety issues
- Numerous planning applications for dwellings refused in the past around Boat Lane
- Mobile homes have higher flood vulnerability
- Highway authority have not properly assessed the junction
- Replacing pony paddock with gypsy caravan site will negatively impact on enjoyment of homes, gardens, walking and recreation and enjoyment of the countryside by others
- No details of hardstanding has been provided and what has been provided is enough for 25 vehicles
- Little amenities close to the site and so environmental impact through traffic
- No evidence of gypsy status and no justification for gypsy site here as other official gypsy sites within the area
- No evidence of occupational need to live on this site
- Size of proposed mobile home is large and clearly is not to be used for a nomadic lifestyle
- Contrary to Policy CO1 as it does not demonstrate countryside need
- No safe route to schools, local shops or health facilities and no public transport
- Track becomes muddy and access difficult in the winter months
- Significant local concern raised to the application on highway safety grounds
- Will dominate local community and is not of an appropriate scale
- Impact on badger sett on site and wider TB risk to local livestock

- Site is overlooked by several properties and screening will be insufficient to protect privacy of occupants from views from first floor accommodation of properties north, east and south
- Object on basis it is retrospective and will affect property values
- It will impact on security and privacy of surrounding properties
- Applications for housing previously turned down on highway safety concerns
- Concerned it grow to be a larger site
- Will not be in keeping with two storey dwellings established over years and mobile home will disturb character, design and have adverse landscape impact
- Is against Wildlife and Countryside Act and has already caused irreparable damage to wildlife including bats and other protected species
- Utility block is excessive for one family when compared to utility blocks provided on campsites
- Applicant has already converted an existing building to be a utility block which means there would be two utility blocks on site
- Size shape and material for mobile home has not been specified
- Allowing caravan at flood risk would mean council were failing to provide safe environment for the health and wellbeing of the applicant
- Will impact on the human rights of the settled community and right to respect for private and family life, protect property and investment and children's futures
- Site has previously been refused for housing
- Increased use of the lane will affect the privacy of properties adjacent to it
- No signage on the field when put up for auction

Most Relevant Policies

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF require that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

National Planning Policy Framework 2021

Sedgemoor Local Plan (2011-2032)

Policy S1 - Presumption of Sustainable Development

Policy S2 - Spatial Strategy for Sedgemoor

Policy D1 - Flood risk and surface water management

Policy D2 - Promoting high quality and inclusive design

Policy D8 - Gypsies, Traveller and Travelling Show People

Policy D14 - Managing the Transport Impacts of Development

Policy D19 - Landscape

Policy D20 - Biodiversity

Policy D25 - Pollution Impacts of Development and Protecting Residential Amenity

Policy D26 - Historic Environment

Other Relevant Documents

Somerset Gypsy and Traveller Accommodation Assessment (GTAA) 2013 update

Main Issues

Principle

Identified local need for gypsy and traveller pitches

The site is in the countryside where Local Plan policies do not support new residential development unless there is a recognised exception. In this case the application would deliver gypsy/traveller pitches to meet an identified local need and for which there is a policy exception. It is accepted that this potentially addresses national and local policy requirements, set out as follows.

The National Planning Policy Framework (NPPF) needs to be read in conjunction with the Government's 'Planning Policy for Traveller Sites' published alongside the original NPPF in March 2012. The Government's aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life whilst respecting the interests of the settled community.

In determining planning applications for traveller sites, LPAs are required to determine applications in accordance with the development plan unless material considerations indicate otherwise; applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the NPPF and the Planning Policy for Traveller Sites.

For planning purposes, the Planning Practice Guidance provides the following definition of Gypsy and Travellers:

'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such.'

The adopted local plan includes a specific policy (D8) relating to gypsy and traveller sites. This sets out that the identification and delivery of pitches in Sedgemoor is challenging, particularly given the extent of flood risk within the District and the requirement of national policy to demonstrate a five year deliverable supply of sites to meet identified local needs. Policy D8 sets out the intention to produce a Site Allocations Development Plan Document in order to address these challenges, however, as this is yet to happen, the policy sets out criteria against which applications that seek to address outstanding need are to be assessed.

In terms of outstanding need, the Somerset Gypsy and Traveller Accommodation Assessment (GTAA) 2013 update currently provides the most up to date information in respect of local need. In terms of outstanding need, the Somerset Gypsy and Traveller Accommodation Assessment (GTAA) 2013 update advises that 69 pitches are needed up to 2032. Whilst the GTAA update technically covered the period from 2010-2032 (rather from 2011), for simplicity it was considered appropriate to apply the full pitch requirement over this time to the Local Plan 2011-2032 period. This approach was agreed at the Local Plan examination.

At the time of examination of the Local Plan, 24 pitches had been delivered against the requirement, leaving a residual pitch requirement of 45. This is the 45 pitches referred to in Policy D8. This was up to the 2015/2016 monitoring period at the time. Since that time our monitoring confirms consents for an additional 19 pitches have been granted. Therefore, this leaves a current residual need of 26 pitches up to the end of the plan period (Noting that there is potential for another current live application for 4 additional pitches to be consented at the same Planning Committee meeting (reference 54/23/00002) - in which case a further update will be given at the meeting). It should be noted also that the GTAA figures are minimums. On this basis the Local Planning Authority is unable to demonstrate a suitable supply of pitches and there remains a demonstrable need for pitches, and an exceptional policy justification to meet the need for gypsy/traveller pitches. Accordingly, it is considered that, in principle, the further pitch proposed by this application could be supported.

Compliance with Policy D8

Given the above and the absence of a site allocations development plan document the principle of the site has been assessed against the criteria of policy D8 and this is set out in italics under each bullet point of the policy. The assessment of further detailed technical matters such as design and layout, highways, flood risk, drainage, landscaping, and residential amenity are set out in more detail in subsequent sections of the report.

- Are of appropriate size and proportionate in scale to and avoid dominating the nearest settled community in rural/semi-rural areas - The site proposes a single pitch on the site which would serve one family. It adjoins a small group of existing properties with the size of the site not being out of character to plots of the existing properties. It is reasonably well related to Lympsham as the nearest village and is not considered to be inappropriate in this location and could not be considered to dominate the nearby settled community given the modest scale. Matters of design and layout are considered in more detail in a subsequent sections of this report.
- Take account of the particular and differing needs of different groups of Gypsies and travellers - The proposal would meet the needs of the gypsy and traveller community in the use of the site for a family pitch and would provide facilities generally associated with that use.

- Promote and facilitate access to schools and health facilities - It is considered that at approximately 1km outside the village of Lympsham (an identified Tier 3 settlement in the Local Plan on the basis of its offer as a local service centre) the site is reasonably well related to services and facilities. There are footways along the A370 that could be used to connect from the site to the entrance of the village. In considering distances from services and facilities in the context of gypsy and traveller sites, Inspectors elsewhere have considered distances up to 5km as reasonably accessible.
- Ensure that the development will not result in severe transport impacts including providing appropriately safe access - Somerset County Council as Highway Authority raise no objections in respect of highway safety subject to conditions being imposed. This is on the basis that the traffic generation associated with the development would not have a severe impact given the adequacy of the existing access arrangements. Matters of highway safety and access are considered in more detail in a subsequent section of this report.
- Provide sufficient space within the site for parking and manoeuvring of vehicles, and for transit sites, are located reasonably close to, or easily accessible from the primary or county road network - The site is intended as a permanent site and so reference to the transit site requirements are irrelevant to this application. The site plan demonstrates adequate parking and turning areas for the pitch would be provided and has not raised any objection from the Highway Authority. Matters of layout are considered in more detail in a subsequent section of this report.
- Provide opportunities where appropriate for travellers to live and work from the same location where this can be sensitively designed to mitigate potential impacts on the site surroundings or other residential uses near to the site - the proposal does not include any specific reference to working on the site although there is sufficient space on site for ancillary activities, e.g. for parking a works van, and, subject to further grant of planning permission, the site could accommodate a low level business activity. Given the site is adjacent to existing residential properties the potential impact of commercial uses would need careful consideration. Matters of residential amenity are considered in more detail in a subsequent section of this report.
- The site is suitable in flood risk terms for the proposed use - The site is within flood zone 3a where highly vulnerable uses such as residential caravans would not generally be considered appropriate. The Environment Agency object to the application on the basis of this policy principle. Whilst the site is defended the Environment Agency also raise concerns regarding the residual risk should defences fail. However reference to relevant planning decisions and the information submitted within the applicants flood risk assessment suggest that the actual level of harm arising in respect of flood risk (besides a policy principle objection) when weighed against the identified need for the site would not be objectionable. Matters of flood risk and drainage are considered in more detail in a subsequent section of this report.

With regard to the other requirements of Policy D8 the following comments are offered:-

- It is accepted that the applicant is a gypsy/traveller for the purposes of the definition in annex 1 of the Planning Practice Guidance for Gypsies and Travellers. In addition to the description of development which seeks consent for a gypsy/traveller pitch, a condition would be imposed on any permission limiting the occupation of the site to those meeting the definition. If in the event of a breach of such restrictions came to the council's attention there are enforcement powers to address the situation.
- It is not disputed that this site is required to meet the applicant's family needs including the provision of a settled based from which the family's educational and other needs would be met. The application includes supporting information confirming educational needs of the family are currently being met in Lympham.

On this basis it is considered that the principle of the proposal complies with the requirements of policy D8 and would deliver a further pitch to meet the Council's on-going need for gypsy/traveller sites. This is subject to the detailed considerations of design and layout, highway impact, flood risk, drainage, landscape and visual impact, and residential amenity. These matters are dealt with individually below.

Design and Layout

The proposed site plan identifies that the site would be laid out to accommodate a mobile home set towards the centre facing to the south east with a utility/day room shown to the south west. This plan has recently been amended to more accurately the situation on the site than the originally submitted block plan which showed the mobile home and day room further to the south of the site. A touring caravan has been present on the site on earlier site visits, located in front and to the left of the mobile home, although this was not seen on the site in more recent visits. The proposed block plan provides sufficient space for a tourer to the right of the mobile home as well as two parking spaces adjacent to the day room.

As outlined above access will be through an existing gated entrance at the southern point of the site onto an unmade track which has a shared point of access onto Bridgwater Road (A370) with the adjacent residential property (Oakwood Grange). The site plan also identifies that the existing hedgerow along the eastern boundary (adjacent to the A370) will be retained with new hedgerow for screening purposes to be planted along the northern and eastern boundaries.

The layout demonstrates that the site is large enough to provide an attractive living environment for the occupiers of the pitch, providing the level of facility generally expected on Gypsy/Traveller pitches including sufficient space for parking, turning and the parking of touring caravans as required as well as sufficient amenity space. The additional landscaping will help provide a degree of privacy as well as screening the site to help reduce any visual impact. It is therefore considered that the proposal is acceptable in respect of design and layout and accords with Policy D2 of the adopted Local Plan.

Highway Impact

As set out above, the Highway Authority, does not raise any objection on the grounds of highway safety subject to the addition of conditions should consent be forthcoming. The proposal utilises the existing access onto the A370 to the site which provides suitable visibility. The application would generate traffic movements associated with a single pitch (generally assumed to be 6-8 movements per day) above the existing situation. The Highway Authority are satisfied that the access and local highway network could accommodate the resultant traffic associated with this proposal and raise no objection on this basis.

Furthermore, the site layout makes adequate provision for parking and turning within the site. Whilst the Highway Authority raise some concern regarding the future intensification of the site, this does not form part of the application proposals and any increase in pitches in the future would require planning consent and further assessment at that stage. On the basis of the above, the application is considered to accord with Policy D14 of the adopted Local Plan.

Flood Risk and Drainage Considerations

The site lies in flood zone 3a which is land at a high risk of flooding. Mobile homes and caravans meant for permanent residential occupation are classed as 'highly vulnerable' and according to Planning Practice Guidance such development should not be allowed in this flood zone. The Environment Agency object to the application on this basis.

As Members will be aware the flood risk zoning does not take into account the presence of flood defences. The applicant's submitted Flood Risk Assessment (FRA) sets out the case that the proposed development would be adequately protected by existing tidal defences when considering the impact of climate change and that any residual flood risk (through failure or overtopping of the defences) would be low. The FRA identifies that under an undefended scenario the potential flood depth across the site in a 1 in 200 year flood event would be a maximum of 0.5m, increasing to 0.78m for a 1 in 1000 year flood event.

Drawing on the Council's Strategic Flood Risk Assessment (SFRA), the applicant's FRA identifies that taking into account any potential failure of the food defences and allowing for the impact of climate change, flood waters would not reach the site. This is in part due to the role that the north-south running railway embankment plays some 2.5km to the rear of coastal flood defences and that the site is some 4km from the tidal flood defences. The SFRA also confirms that the site has no record of historic flooding affecting the site (tidal or fluvial).

In their original comments on the application the Environment Agency set out their objection in principle, identifying the conflict with national policy in respect of the incompatibility between flood vulnerability and flood zone 3a. It did not identify any disagreement with the findings and

conclusion of the FRA in respect of the detailed assessment of risk. This was the same position taken with an application for Gypsy/Traveller pitches at Oakdale, Battleborough Lane, Brent Knoll (reference 07/18/00010) which was withdrawn prior to an Appeal Hearing.

The withdrawal of that appeal followed concerns by the then case officer that defending an appeal on policy grounds alone might be difficult, particularly given other decisions that had granted gypsy and traveller pitches within Flood Zone 3. The appeal documentation specifically referred to the 2016 allowed appeal at Withy Road, East Huntspill for 3 pitches and a subsequent consent for extension of the site in 2019 (references 25/15/00023 and 25/18/00013). In the case of Withy Road, despite the in principle policy objection the Inspector considered the detail of the applicants FRA and matters including, the lack of historical flooding, the level of protection offered by flood defences and other features (including the railway embankment), proposed mitigation of raising floor levels alongside balancing the level of outstanding need for and the lack of a five year supply of pitches for gypsies and travellers. The Inspector concluded that the use of that site as a gypsy and traveller site would therefore be safe for the site occupiers and for its lifetime. Whilst he acknowledged there is a residual risk, the Inspector considered that risk acceptable given the lack of alternative available sites.

It was on this basis that the appeal on the previous Oakdale application was withdrawn, and a further application was submitted to allow for a more detailed consideration of the flood risk issue beyond the policy principle (reference 07/19/00025). However the Environment Agency continued to object primarily on the policy principle issue without providing comment on the more detailed arguments that the site would be safe as set out in the FRA. It did though confirm that the FRA uses Environment Agency data and draws on the Council's SFRA. The response also acknowledged the applicant's case that given the standard of the tidal defences, distance to any potential breach location and the size of the floodplain, impacts to the site are likely to be minimal and the current risk is low. However, it also referred to the undefended scenarios and therefore that residual risk will remain and is likely to increase with climate change meaning it cannot be guaranteed that the existing standard of protection will be maintained over the lifetime of development.

Officers considered on Oakdale that the fact that Withy Road has permission both through an appeal and through the direct grant of consent by the Council, would be material in any subsequent appeal. Given the likelihood that a low residual risk could be demonstrated and there remains an outstanding need for pitches, a refusal on flood risk grounds was considered unreasonable given these circumstances. Permission was duly granted by the Development Committee in February 2023.

Again these decisions are material to the considerations for the current application at The Stables, with again the impacts of flooding at the site occurring through failure or overtopping of defences being greatly reduced by the distance behind defences and the benefit of the intervening north-south railway embankment offering further protection. The residual risk identified by the Environment Agency relates to the unlikely scenario of the site being undefended in the future which, when balanced against the contribution the site makes to meeting an outstanding need for

pitches and the lack of identified alternative sites, is not considered to justify refusal in these specific circumstances. Furthermore mitigation is proposed including the occupiers signing up to flood warnings and that the mobile home would be raised above existing ground levels by 0.7m.

In terms of Drainage matters previous objection from the Drainage Board have subsequently been overcome and Wessex Water have now confirmed there is capacity in the foul drainage system to accommodate the proposed development with a point of connection available on the opposite side of Bridgwater Road. A condition requiring details of foul and surface water drainage to be submitted and approved is though prudent to ensure there is certainty over the drainage strategy for the site.

On the basis of the above and subject to conditions being imposed the details are acceptable and no longer are considered to be sustainable reasons for refusal. The proposal is therefore considered to be in accordance with Policy D1 of the adopted Local Plan.

Impact on Visual Impact and Residential Amenity

Although the site is in the countryside, it is not isolated or remote from other development with the site forming part of an established pattern of development alongside this part of Bridgwater Road, with a mix of commercial and residential on the west side and more predominantly residential on the eastern side. This means that the proposed development is seen in the context of other development, lessening any visual impact on the countryside. Furthermore the site benefits from existing landscaping screening along the site's eastern boundary adjacent to Bridgwater Road and additional proposed hedgerow enhancement around the other boundaries will strengthen screening of the site. The pony paddock area will ensure the proposed structures on the site will be seen as part of a spacious and green plot in keeping with the adjacent larger residential properties.

The nearest properties to the site lie to the south and north. The location of the mobile home towards the centre of the site means there is significant distance between this and the nearest dwellings with separation distances well above 20m. The large residential property to the south is orientated to minimise any overlooking effects on the pitch and vice versa, in addition the existing and proposed boundary screening, alongside the separation created by the track running along the site's south western boundary will ensure amenities are not adversely affected. Although the point of access from the A370 will be shared with this property, the level of traffic associated with a single pitch is unlikely to raise any additional amenity concerns.

The property to the north is a commercial motorhome business which will benefit from the buffer of the pony paddock to the north of the mobile home, as well as retention and enhancement of screening around the site. It is not considered that the use of the site as a single pitch to be occupied by a single family raises any significant amenity concerns in respect of additional traffic, lighting, noise or any overlooking/privacy issues on existing residents. On this basis it is considered that the proposal complies with policy D25 of the adopted local plan.

Other matters

A number of concerns that have been raised fall outside of planning matters such as impact on property value. The relevant planning considerations are covered under the main issues above. Additional matters are addressed as follows:

- There is concern regarding this application setting a precedent. Such development would require planning permission and any application would be considered on its merits and in line with local and national planning policy if such an application was received. Any grant of permission on this site would not set a precedent for other development without a suitable justification for a site in the countryside.
- Day rooms are an accepted facility on Gypsy and Traveller pitches and the proposed day room in this case is not considered excessive in size compared to other consented schemes.
- Any increase in occupancy of the site i.e. additional pitches would require planning consent.
- Inaccuracies on the plans have been addressed by the amended plans.
- Gypsy and Traveller pitches are not personal consents and therefore a site is not tied to particular family. However the pitch will be conditioned to ensure it can only be occupied by a Gypsy and Traveller. As discussed above there is sufficient evidence of the extent of need for pitches and the lack of available sites/delivery of pitches to support this application.
- Impact on wildlife – no objections have been raised by the Somerset Ecologist or Natural England in respect of the proposals.

Public Sector Equality Duty

The Public Sector Equality Duty is a duty for public bodies to have 'due regard' when carrying out its functions to the need to promote equality for persons with protected characteristics, to eliminate discrimination, and foster good relations between different people when carrying out their activities. The application provides accommodation for gypsies and travellers, a group that has protected characteristics that fall under the Council's duty to be considered as part of the Public Sector Equality Duty. The application provides for a family pitch to meet the needs of this group and as such will not negatively impact on the traveller community or their protected characteristics as defined in the Equality Act.

Summary and Planning Balance

The proposal is for a single family Gypsy and Traveller pitch and is considered acceptable in principle in light of national and local policies with regard to the location and siting of gypsy and traveller sites. It is not considered that it would result in any significant impact on highway safety or undue visual impact or have any adverse effect on residential amenity. The nature of the site proposals will allow for a good standard of amenity for future occupiers. Although the site is within Flood zone 3a the submitted information identifies that the extent of risk is low given the good standard of the tidal defences, distance to any potential breach location, size of the floodplain and mitigation of the risk. As has been the case on other applications this needs to be balanced with

the outstanding levels of need for gypsy and traveller pitches within the District.

As such the proposal, subject to appropriate conditions, is considered to be acceptable and in accordance with the relevant policies of the adopted Local Plan.

RECOMMENDATION

GRANT PERMISSION

- 1 The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule A.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 The pitch hereby approved shall not be occupied by any persons other than gypsies and travellers, as defined in Annex 1 to Planning policy for traveller sites (August 2015) or any such definition arising from amendments to that document or relevant caselaw. The approved pitch shall comprise no more than 1 touring caravan, 1 dayroom and 1 mobile home at any one time, nor shall it be occupied by more than one family living as a single household at any one time.

Reason: In accordance with national policy on the provision of sites for gypsies and travellers.

- 3 Prior to any external lighting being installed on the site, a lighting design for bats and biodiversity, following Guidance Note 08/23 - bats and artificial lighting at night (ILP and BCT 2023), shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed. Lux levels should be below 0.5 Lux on key & supporting features or habitats. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In the interests of the 'Favourable Conservation Status' of populations of European protected species and in accordance with Sedgemoor District Council Local Plan: Policy D20 - Biodiversity and Geodiversity.

- 4 The areas allocated for parking and turning on the submitted block plan (drawing number 02923/02A) shall be kept clear of obstruction at all times

and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of highway safety in accordance with Policy D14 of the Sedgemoor Local Plan 2011-32

- 5 Within 3 months of the date of this consent, details of a scheme for the management of surface water based on sustainable drainage principles and foul water shall be submitted to, and approved in writing by the Local Planning Authority. The scheme shall be implemented, managed and maintained fully in accordance with the approved details for the lifetime of the development.

Reason: In the interests of preventing food risk and ensuring the development is served by an appropriate drainage scheme in accordance with Policy D1 of the Sedgemoor Local Plan 2011-32.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revising revoking and re-enacting that order with or without modifications), there shall be no fence, wall or other means of enclosure erected on the application site without the prior written approval by the Local Planning Authority

Reason: In the interests of landscape visual impact and in accordance with policies D2 and D19 Sedgemoor Local Plan 2011-2032.

- 7 A landscape planting scheme shall be submitted to the Local Planning Authority for approval within three months from the date of the decision of this application. For the avoidance of doubt that landscape planting scheme shall include a scale plan showing details of the proposed planting that shall include a mixed species native hedgerow in accordance with SDC tree and native hedgerow planting guide. The hedgerow and new planting shall thereafter be managed and maintained until fully established and for the entirety of the development. The approved landscape scheme shall be implemented no later than the end of the first planting season following the decision date of this application.

Reason: In the interests of maintaining adequate screening to the site and biodiversity in accordance with policies D19 and D20 Sedgemoor Local Plan 2011-2032

- 8 Within 3 months of the grant of planning permission, a Flood Warning and Evacuation Plan for the site, including a timescale for its implementation,

shall be submitted to and approved in writing by the local planning authority. The Flood Warning and Evacuation Plan shall be implemented in accordance with the approved details.

Reason: To ensure the development is appropriately safe for its lifetime and makes appropriate provision for managing flood risk and in accordance with Policy D1 of the adopted Core Strategy and Emerging Sedgemoor Local Plan and Section 10 of the NPPF.

Schedule A

Location Plan Drg No. 02923/01A

Block Plan Drg No. 02923/02/A

Proposed Day Room Ground Floor and Roof Plans Drg No. 02923/03A

Proposed Day Room Elevations Drg No. 02923/04A

DECISION
