

Committee date 11/06/2024

Application No: 42/22/00029

Application Type: Full Planning Permission

Case Officer: Amelia Elvé

Registered Date: 21/03/2023

Expiry Date: 15/05/2023

Parish: Puriton

Division: Huntspill

Proposal: Change of use of land to private gypsy and traveller site, including 3no. pitches each with 1no. mobile home, 1no. utility/ dayroom and 1no. tourer caravan. Also with, parking provisions and associated works (retrospective).

Site Location: Land Off, Batch Road, Puriton, Bridgwater, Somerset, TA7

Applicant: Mr & Mrs O'Hara



Committee decision required because

The application is referred to Chair/Vice-Chair as the officer's recommendation is contrary to the view of the Parish Council.

Recommendation

Grant Planning Permission

Background

The application is located within the parish boundary of Puriton, to the east of the M5 motorway and to the west of *Batch Road*, a Class C road that the site has a vehicular access onto.

The application seeks retrospective consent for the change of use of land to a private gypsy/traveller site, providing three pitches – each pitch is to accommodate 1 mobile home, 1 utility/day room and 1 tourer caravan. The site also includes the provision of parking, lawned areas and a play area.

Relevant History

None

Supporting information supplied by the applicant

Site Location Plan Drg No. 01636/10

Existing Layout Plan Drg No. 01636/1

Site Development Scheme Drg No. 01636/2

Static Van Drg No. 01636/3

Amenity Block Drg No. 01636/4

Access and visibility Drg No. 01636/5

Consultation and Representations

- Date of consultation: 04 April 2023
- Press Date (if applicable): 16 November 2023
- Site Notice Date (if applicable): 17 November 2023

The submitted comments are available in full on the Council's website.

Consultees the following were consulted:

Consultee Name	Summary of Response
Puriton Parish Council	<p>Object</p> <p><i>It was resolved to object to this application due to the size of the development as it is significantly larger than other compared applications in the parish. If the application is approved by the Planning Department at Sedgemoor, can the following consideration be made:</i></p> <p><i>The site shall not be used for any commercial activity.</i></p> <p><i>Reason: The access to the site is not suitable for a commercial operation which is likely to generate significant levels of traffic (this is the condition that SDC placed on a similar application 42/15/00013).</i></p> <p><i>The Parish Council resolved to send the same response as submitted in April 2021 to application 42/21/00015 as the application is unchanged.</i></p>
Huntspill 1 - Cllr. Aujla	No response
Huntspill 2 - Cllr. Healey	No response
Axe Brue Drainage Board	Standing Advice and provision of an informative.
Environmental Health	No comment/observation

Planning Enforcement	No response
Civil Contingencies	Recommendation of the creation and maintenance of a flood warning and evacuation plan.
Gipsy Liaison Officer	No response
Highways	No objection and recommendation of condition to ensure that the access onto the highway network is of an acceptable standard.
Environment Agency	<p>Object</p> <p><i>(17/04/2023) – NPPF Annex 3 classifies development types according to their vulnerability to flood risk. PPG Table 2 provides guidance on which developments are incompatible with certain Flood Zone. This site lies within Flood Zone 3 which is land defined by the PPG as having a high probability of flooding.</i></p> <p><i>The development is classed as highly vulnerable in accordance with Annex 3 of the NPPF. Table 2 of the PPG makes it clear that this type of development is not compatible with this Flood Zone and therefor should not be permitted.</i></p> <p><i>(16/05/2023) – The FRA concludes that the site benefits from existing defences and that this standard of provision will remain the case in future over a proposed 75 year design life.</i></p>

The FRA concludes the site is not at residual risk of flooding (breach or overtopping) based on breach modelling undertaken for the Bridgwater and Burnham areas in the Level 2 SFRA, but acknowledges that neither SFRA model explicitly includes the site and immediate surrounds. It is important to note that this is not exhaustive, if a breach were to occur in a location that has not been modelled the site may be inundated.

Since the production of the SFRA, further detailed flood modelling has been undertaken in support of the Bridgwater Tidal Barrier project. Outputs from this modelling including assessment of alternative breach locations not considered in the SFRA and failure of the proposed tidal barrier to close, demonstrate that the area surrounding the M5 embankment faces a residual risk of flooding in the present day and in future when the predicted impacts of climate change is accounted for until 2125. This residual risk (and potential for further as yet un-modelled risk associated with failure of defences in alternative locations) justifies the in principle position of the PPG, and our objection, with respect to highly vulnerable development in defended coastal floodplain locations.

(19/02/2024) – The proposed site is within an

area which is at a high residual risk from flooding. The proposal site fails to incorporate an area with an internal safe refuge which resides above the breach flood depths. During a residual risk event, the access/egress will be come inundated with flood water making evacuation impractical and unsafe for occupants. Therefore, its fair to conclude with no safe refuge and no safe escape that this location for this type of development not only conflicts with policy, but additionally fails the second part of the Exception Test.

Furthermore, the development is surrounded by a Rhyne network to which we have no modelled data. The Rhyne will present a fluvial flood risk in both the present and future scenarios.

The LPA should ensure the Sequential Test has been adequately satisfied. This proposal is faced with flood risk from multiple sources, which extents will become increasingly dangerous with time.

(15/04/2024) - Please see all previous EA planning consultation responses to this proposal. The development is located within a high residual tidal flood risk area. Additionally, the proposed site is surrounded by a Rhyne network,

which presented a fluvial flood risk to both the site and access/egress route.

The LPA should ensure the Sequential Test has been adequately satisfied. This proposal is faced with flood risk from multiple sources, which extents will become increasingly dangerous with time.

However, whilst our flood risk objection remains, we recognise flood risk is one element to the adequacy of a development and we therefore defer to the LPA to decide the overall suitability of this development.

Local representations:

Due to isolated location of the application site, only a site notice was issued with no neighbour consultation letters sent.

No representations have been received.

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

Section 5 – Delivering a sufficient supply of homes

Section 9 – Promoting sustainable transport

Section 12 – Achieving well-designed places

Section 15 – Conserving and enhancing the natural environment

Local Plan (2011-2032)

CO1: Countryside

D1: Flood Risk and Surface Water Management

D2: Promoting High Quality and Inclusive Design

D8: Gypsies, Travellers and Travelling Show People

D14: Managing the Transport Impacts of Development

D20: Biodiversity & Geodiversity

D25: Protecting Residential Amenity

Main Issues

Principle of Development

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 (both updated in December 2023). 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 application 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.

There is currently no active work on a site allocations document based upon the current Gypsy and Traveller Accommodation Assessment (GTAA) and Policy D8. Given the time that has elapsed since the previous GTAA and the need to provide an up to date evidence base for the new Somerset Local Plan, the Council has commissioned a new GTAA. This will provide an updated assessment of current supply and future demand for new pitches. This evidence will be used to develop updated policy to deliver necessary additional pitches either through a criteria based policy or through

specific allocations. It is likely that dependant upon the resultant demand, any allocations would be included in a separate development plan document.

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.

As of April 2016, there was a residual need for 45 pitches. Since then, 28 pitches have been granted, leaving a requirement to date of 17 pitches. As of April 2024, a further 9 pitches (including the 3 that development is sought for via this application), which would still leave a requirement of 8 pitches if all of these were consented.

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, three further pitches sought 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, landscaping, residential amenity and historic environment 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 modest three pitches on the site which would serve one extended family. Whilst the site is in a fairly isolated location, it is considered to be reasonably well related to Puriton, the nearest village and is of a scale that is proportionate and is therefore not considered to dominate the nearby settled community. 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 three family pitches and would provide facilities generally associated with that use.
- Promote and facilitate access to schools and health facilities - It is considered that at approximately 650m outside the village of Puriton (an identified Tier 2 settlement in the Local Plan on the basis of its offer of a good range of services) the site is reasonably well related to services and facilities. Inspectors elsewhere have considered distances up to 5km as reasonably accessible. Furthermore the previous applications were not refused on the grounds of accessibility to services and facilities.
- 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 three pitches 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. 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, and the fluvial risk from adjacent rhynes. 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. 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.

On this basis it is considered that the principle of the proposal complies with the requirements of policy D8 and would deliver a further site of three pitches 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, landscape and visual impact, historic environment and residential amenity. These matters are dealt with individually below.

Flood Risk

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.

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 lifetime of the development, there is a possibility that the 0.5% AEP flood level when considering the Higher Central estimate of climate change and taking into account the degree of flood protection given by the M5 embankment, would be 6.6m AOD.

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.

Within the comments received February 2024, the EA set out that during a residual risk event, there

would be no internal safe refuse which resides above the breach flood depths and the access/egress will also become inundated. The EA also state that there is also a risk of fluvial flood risk due to the surrounding rhyne network.

Following this, a further response was provided by the applicant's flood consultant, confirming that the finished floor levels of the static caravans would be set at 6.7m AOD, 0.5m above the 2125 0.5% AEP tidal flood level at the Higher Central estimate of climate change, and at the 2125 0.5% AEP tidal flood level when considering the Upper End estimate of climate change. In respect of the fluvial risk, the consultant sets out that whilst there is a risk, this would unlikely be significant when compared to that from tidal flooding.

In April 2024, the EA responded to these comments reiterating their previous objection however also state *we recognise flood risk is one element to the adequacy of a development and we, therefore, defer to the Local Planning Authority to decide the overall suitability of this development.*

In respect of flood risk and the adequate delivery of traveller sites, the allowed appeal at Withy Road (planning references 25/15/00023 and 25/18/00013) should be considered.

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.

From this it seems that the Environment Agency will not support this application based on the national policy conflict. This is regardless of the case that can be made to the extent of risk arising from the site's nature, standard of tidal defences and distance to any potential breach location.

Officers consider 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 when considering this application. Given the likelihood that a lower residual risk could be demonstrated and there remains an outstanding need for pitches, a refusal on flood risk grounds is considered unreasonable given these circumstances.

Civil Contingencies have advised that a Flood Warning Evacuation Plan is created and maintained, and an informative to this effect will be provided to the applicant.

In terms of drainage matters, the Internal Drainage Board have stated that *Standing Advice* is to apply. This requires maintenance buffers around the existing watercourses to be retained and maintained. The proposed site layout indicates that the maintenance buffers can be retained due to the distance of the development from the drains. A condition will also be imposed to secure details of a scheme for the management of surface and foul water.

On the basis of the above no objection on flood risk or drainage grounds is raised and subject to conditions being imposed in respect of finished floor levels, 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.

Design and Layout

The proposed site plan identifies that the site would be laid out to accommodate three static caravans, each with an associated lawn area separated by a gravel access and courtyard area to provide a turning and parking area in the centre of the site. Adjacent to each static caravan, an amenity block is to be provided with associated patio areas. To the west of the site would be a further lawn area to provide an informal play area. Access will be via the existing access from Batch Road. The site layout indicates that landscaping is to be provided and a condition to secure this will be imposed.

It is considered that the layout will provide an attractive living environment for the occupiers of the pitches, providing the level of facility generally expected on such sites including sufficient space for

parking, turning, play area and the parking of touring caravans as required. The additional landscaping will help provide a degree of privacy as well as screening to 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.

Residential Amenity

Policy D2 states that development should 'respect the amenity value of the occupiers of nearby buildings or the wider area' and new development should deliver buildings that are "enjoyable to use". This is further supported by Policy D25 which states that 'Particular consideration will be given to the extent that the proposal could result in unacceptable impacts'. This includes consideration of loss of privacy, overlooking, visual dominance, loss of light, noise/disturbance, odour, fumes, vibration and living conditions of future occupants.

The application site is in an isolated location and is at a considerable distance from residential dwelling. Environmental Health have raised no objection and it is considered that on this basis, the application complies with policies D2 and D25 of the Local Plan.

Highways Safety

Policy D14 of the Local Plan states that managing the transport impacts is essential for creating sustainable communities. The policy sets out that development proposals should seek to manage the transport impacts of development.

The Highways Authority have reviewed the application and have recommended conditions in respect of the vehicular access. It is therefore considered that in this respect, the application complies with policy D14 of the Local Plan.

Historic Environment

Policy D26 sets out that development proposal should avoid harm to, sustain and, where appropriate enhance the significance of heritage assets and their setting, in a manner consistent with their historical significance.

The application site is within an area denoted as *archaeological site*. SW Heritage have reviewed the application and have raised no objection. It is therefore considered that in this respect, the application is compliant with policy D26 of the Local Plan.

Other Issues

The Parish Council have raised a concern that the site will be used for commercial activity. The application does not seek consent for such a use, and a planning application would be required if such a use is required on site.

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 three family pitches for 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

Conclusion

The proposal is considered acceptable in principle in light 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 heritage, visual or landscape impact or 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 and the raising of finished floor levels. This needs to be balanced with the outstanding levels of need for gypsy and traveller pitches within the District.

As such the proposal 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 pitches hereby approved shall not be occupied by any person other than gypsies or travellers, as defined in Annex 1 to Planning Policy for Traveller Sites (December 2023) or any such definition arising from amendments to that document. Each approved pitch shall comprise no more than 1 touring caravan 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 The areas allocated for parking and turning on the submitted plan (drawing number 01636/2 Rev 1) 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 interest of highways safety as in accordance with policy D14 of the Sedgemoor Local Plan 2011-2032.

- 4 Within 6 months of the date of this decision, the access shall be constructed in accordance with the details shown on the submitted and hereby approved plan, drawing number 01636/5 Rev 2, including measures to prevent the discharge of surface water onto the highway, and once constructed, shall be maintained and retained in that condition in perpetuity.

Reason: In the interest of highways safety as in accordance with policy D14 of the Sedgemoor Local Plan 2011-2032.

- 5 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.

- 6 The finished floor levels of the static vans hereby approved shall be set no lower than 6.7mAOD.

Reason: In the interest of protecting future residents from the risk of flooding as in accordance with policy D1 of the Sedgemoor Local Plan 2011-2032.

- 7 Within 6 months of the date of this decision, a landscaping plan will be submitted to and approved in writing by the local planning authority. The approved plan shall be implemented no later than the end of the first planting season following the approval of the landscaping plan. Notwithstanding the submitted details and for the avoidance of doubt the landscape scheme shall comprise a landscape masterplan which identifies the trees to be retained, removed and proposed. The proposed planting scheme shall include a detailed scaled drawing which identifies the proposed green infrastructure and includes a plant schedule and planting specification. The planting schedule shall detail the proposed species, quantities, stock sizes, planting

densities and spacings. All landscape areas shall be protected and maintained, and any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

Reason: In the interest of visual amenity and that planting schemes are established and managed into the future as in accordance with policies D2 and D19 of the Sedgemoor Local Plan 2011-2032.

- 8 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.

Schedule A

Site Location Plan Drg No. 01636/10

Existing Layout Plan Drg No. 01636/1

Site Development Scheme Drg No. 01636/2

Static Van Drg No. 01636/3

Amenity Block Drg No. 01636/4

Access and visibility Drg No. 01636/5

DECISION
