

OFFICER: Lee Walton (01935) 462324

APPL.NO: 08/02225/S73 APPLICATION TYPE: Section 73 Determination

PARISH: Pitney WARD: TURN HILL

DESCRIPTION: Application to remove condition 3 of decision notice 02/00835/FUL i.e. so the permission is not personal. GR (344154/127567)

LOCATION: The Caravan, Pitney Hill, Pitney, Langport, Somerset TA10 9ES

APPLICANT: Mrs Alice Loveridge

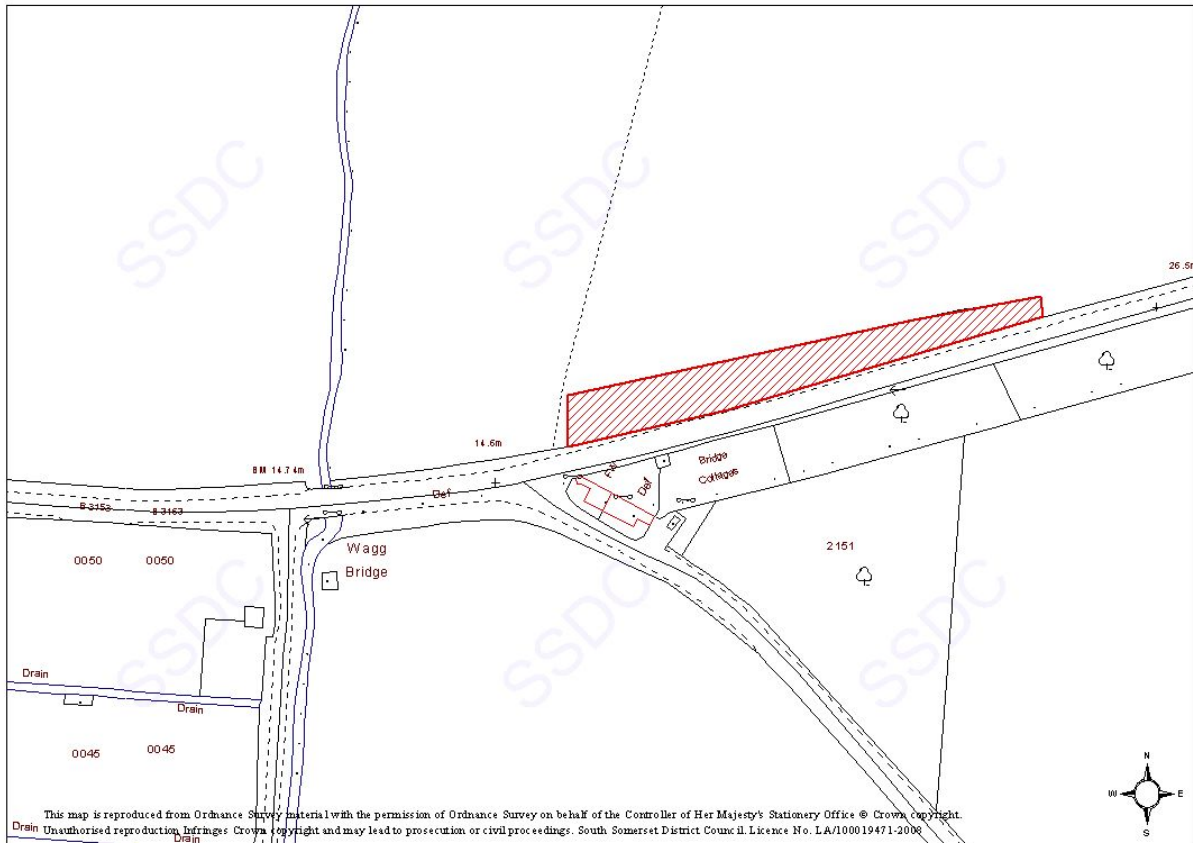
AGENT: Marie Louise Green, 61 The Park, Yeovil, Somerset BA20 1DF

DATE ACCEPTED: 9th May 2008

Reason For Referral to Committee

At the request of the Ward Member and Chairman to allow Members to consider the implications of removing the condition in terms of potential visual and environmental impacts.

Site Description and Proposal



The site lies within the countryside beyond any development area and is adjacent to, and set lower than the main Langport - Somerton Road. The site is enclosed with evergreen hedge to front and side and is screened as viewed from the west. A dwelling lies across the road from the site and the area is characterised by loose ribbon development.

The 1995 planning permission conditioned the site as a permanent site without any personal restriction for gypsies and travellers.

In 2002 the planning permission was given for the siting of 2(no.) additional mobile homes/ caravans. A condition restricted their use to 'the sons of the applicant and their families', which reflected the description given on the application form. The current proposal is to

remove condition 3 that sought to restrict the use of the mobile homes/ caravans to enable use by other gypsy and traveller families.

Condition 3 is worded:

'The caravans to be stationed on the site shall not be used other than for the purposes of providing accommodation for the gypsy family members specifically referred to in the application; namely the two sons of the applicants and their families'. The reason given for this condition was that the district council were only allowing the enlargement of the site on the basis that there was a particular need for this family.

History

07/00877/FUL - Permanent retention of two wooden/ profiled metal sheds and one laundry and sanitation block. Approved.

02/00835/FUL - Siting of 2(no.) additional caravans/ mobile homes. Approved.

01/02171/FUL - Erection of two wooden/profiled metal sheds (for electricity inset and storage purposes) Approved.

97/00428/FUL - Erection of laundry and sanitation block. Approved.

95/00174 - Use of land as a site for a mobile home and alterations of access (95/06676/FUL) Approved

93/01028 - Use of land as a site for a site for a caravan for gypsy family. Refused. Dismissed at Appeal 25.8.94

92/00107 - Use of land as a caravan site for one gypsy family - Refused.

91/02435 - Use of land as a caravan site for one gypsy family. Refused.

89/03568 - Use of land as a site for a caravan. Enforcement. Appeal dismissed.

Policy

Section 73(2) of the Town and Country Planning Act 1990 requires determination of applications to develop land without compliance with conditions previously attached.

Relevant Development Plan Documents:

South West Regional Spatial Plan
Policy VIS 1 - Expressing the Vision
Policy VIS 2 - Principles for Future Development

Somerset and Exmoor National Park Joint Structure Plan Review 2000
Policy STR1 - Sustainable Development
Policy STR5 - Development Inside...
Policy 49 - Transport Requirements of New Development
Policy 36 - Gypsy and travellers

South Somerset Local Plan (2006)
Policy ST5 - General Principles of Development
Policy ST6 - The Quality of Development
Policy HG11 - Gypsy and Travellers

Circular 01/2006 - Gypsies and travellers.

The circular applies equally to the development of public sites, to applications for planning permission from gypsies and travellers themselves or from other wishing to develop land for use as a gypsy and traveller caravan site.

Consultations and Representations:

Parish Council - Thank you for forwarding the additional information. On the basis that the original condition placed clearly states that "The District Planning Authority would not wish to see a caravan site established in this locality except to meet the particular need to provide accommodation for the gypsy family specifically referred to", we fail to see how you can now say that it is a suitable gypsy site. It is a site for a named gypsy family to reside in.

Should the condition be removed, who would then become responsible for adhering to the other conditions imposed, if it is not Mrs Loveridge or her family?

We are all too familiar with sites that have had additional caravans added without the required planning consents and retrospective planning later being granted. This obviously helps the statistics for providing suitable sites without having to go through the full planning process.

We hope that a note is made of our comments and that the original conditions are retained.

Area Engineer - No comment

Highways - As you are aware the Highway Authority raised concerns relating to the site's location and the existing access arrangements on to the B3153. Given that the site was permitted at appeal it appears that the principle of the development has previously been accepted and therefore it may be unreasonable to raise an objection on this point. However there are concerns relating to the means of access to the site. The proposal appears to be seeking to provide two additional pitches within the site to be used by separate families. This is likely to result in an intensification in the use of the site and a significant increase in the use made of the access. This is a highway safety concern given that the existing access is substandard by reason of the acute angle in which it meets the highway and level of visibility currently achieved for emerging vehicles.

As a result, if this is to be the case and the units to be used by separate families then the Highway Authority would wish to see improvements made to the access arrangements.

A Site notice was posted (General Interest) at the site. There were 4 Neighbour notifications issued. There have not been any responses received.

Considerations

The purpose of this Section 73 application is to consider whether Condition 3 should be deleted, or whether it might be re-worded and a new condition imposed. The effect of a decision under Section 73 is that a new planning permission is granted, whilst the original permissions remain intact and un-amended. Members are able to consider fully the planning merits of the application, but if they decide to grant permission, their decision must be limited to the conditions to be imposed. No other consideration is permissible. The key issue is therefore: Is it necessary to retain the condition relating to a personal permission?

The site has lawful use as a gypsy and traveller's site which was granted permission in 1995. The 2002 permission sought to personalise use for the additional caravans restricting their occupation to the sons of the applicant and their families. The condition reflected the description that was given by the applicant's as against a wider planning concern. Since that permission was granted, Circular 01/2006 has been published and must be considered as a material planning consideration in terms of this application. The Circular is very clear in stressing that it is not normally appropriate to personalise a planning permission if the site is acceptable.

In terms of the visual appearance of the site the number of stationed homes remain and the site is so located as to reduce its visual impact off site. The site is screened as approached from the west. Approached from the east the vehicular access leaves the site a little more

open and occupation of the site is glimpsed. It is not considered that the removal of the condition will increase the site's visibility within the landscape.

It is not considered that the removal of this condition will have a significant impact upon the amenity of other properties in the locality.

The Highway Authority consider that the use of this site by 3 separate pitches has the potential to increase, albeit marginally, the amount of vehicles using the site and as a result they have recommended that improvements be carried out to the junction. The required works have not yet been clarified however Members will be informed of what they are requiring at the meeting.

The site is served by mains sewers.

It is considered that the condition that was imposed is no longer justified and can be deleted. Consideration is given to the relevance of imposing an alternative condition but again an extended family restriction is likely to be seen as unreasonable given the presence of Circular 01/2006 and the reality is that there might be little difference between the level of the site's occupation as three separate pitches whether their occupation involved related family members or had distinct and unrelated occupants.

In conclusion, the site outlined in red is conditioned for use by gypsy and travellers and deletion of Condition 3 will not alter that status. It is considered that the use of the site for 3 separate pitches in lieu of 3 pitches occupied by members the same family will not alter its character to such an extent that a refusal could be justified and to retain such a restriction would be directly contrary to the most recent planning guidance. It is considered that no further condition is necessary to control the site, although a reminder of the site's status is proposed.

The Parish Council have raised the issue of the enforcement of other conditions however there is no reason to believe that the deletion of the personal permission will have any impact upon the other conditions.

Recommendation:

APPROVE

JUSTIFICATION

01. The proposal, by reason of its location and scale represents a suitable site for use by gypsies and travellers in accordance with the aims and objectives of policy HG11 of the South Somerset Local Plan 2006.

Application Permitted with Conditions

01. The site shall not be occupied by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006.

Reason: To avoid any ambiguity as to the scope of the permission.

02. This permission relates to the siting of two caravans in addition to the existing caravan the subject of planning permission no 950174, in the positions detailed on the submitted 1:500 plan, hereby approved. No other caravans, mobile structures or buildings shall be stationed/erected on the site and used for human habitation purposes, whether for secondary or for main accommodation purposes.

Reason: To safeguard the character and appearance of the area all in order to determine the scope of this permission further to policy ST6 of the South Somerset Local Plan 2006.

03. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modifications), no sheds, greenhouses or other domestic outbuildings or structures shall be erected on any part of the site without the prior express grant of planning permission.

Reason: To safeguard the character and appearance of the area further to policy ST6 of the South Somerset Local Plan 2006.

04. Any means of external illumination shall be previously submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the rural appearance of the locality further to policy ST6 of the South Somerset Local Plan 2006.

05. There shall be no trade or business activities carried out from any part of the site including the parking or storage of commercial motor vehicles.

Reason: To safeguard the amenities and character of the area and in order to determine the scope of this permission further to policy ST6 of the South Somerset Local Plan 2006.

06. The existing roadside hedge, extending across the whole frontage of the site shall be retained at a height of not less than 2.5 metres in height. Should any part of the hedge become dead, dying or seriously diseased or removed it shall be replaced in the next planting season with a similar species unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and in order to retain the existing level of screening further to policy 49 of the Somerset and Exmoor National Park Joint Structure Plan 2000.
