

Officer Report On Planning Application: 16/01967/COU

Proposal:	Change of use of land to private gypsy caravan site consisting of 4 No. pitches and associated development
Site Address:	Land OS 5743 The Drift Forton
Parish:	Tatworth and Forton
TATWORTH AND FORTON Ward (SSDC Member)	Cllr A Turpin
Recommending Case Officer:	Andrew Gunn Tel: (01935) 462192 Email: andrew.gunn@southsomerset.gov.uk
Target date:	6th July 2016
Applicant:	Michael And Jason Ayres
Agent: (no agent if blank)	Mrs Maggie Smith-Bendell 1 Bradley Lane Ashcott TA7 9RD
Application Type:	Other Change Of Use

REASON FOR REFERRAL TO COMMITTEE – APPLICATION UPDATE

Members will recall that a decision on this application was deferred at the October meeting of the Area West Committee to enable an ecology survey and an assessment of the water supply to be undertaken. These have now been undertaken and reports submitted. An accompanying letter has also been received from the agent in regard to the reports. A letter has also been received from a local resident in regard to the water supply.

In relation to ecology, a Phase 1 habitat survey has been undertaken of the application site. In regard to bats, the buildings and trees were assessed for their suitability to support roosting bat species. No suitability for roosting was observed within the site boundary. The woodland will remain and thus no further assessment is required in terms of impact on bats. Similarly, no old or recent bird nests were found and unless any works to the trees are proposed, no further action is required.

The site was not considered suitable for reptiles and no further action required. No badgers setts were found either within the site or within 30 metres of the site boundary. Moreover, the consultant advises that the development would have an impact on dormice. There are no ponds on site and thus no evidence of /impact upon water voles or other water based animals.

In regard to the water supply, a water pump test at the existing water well at Little Drift Farm has been undertaken. The consultant has confirmed that the existing well is capable of providing more than double the estimated requirement of 3.2 cubic litres per day. In regard to the possible impact on the private water supply of existing local residents, the consultant has advised that as the usage is relatively small, it is very unlikely to have any effect on their supply.

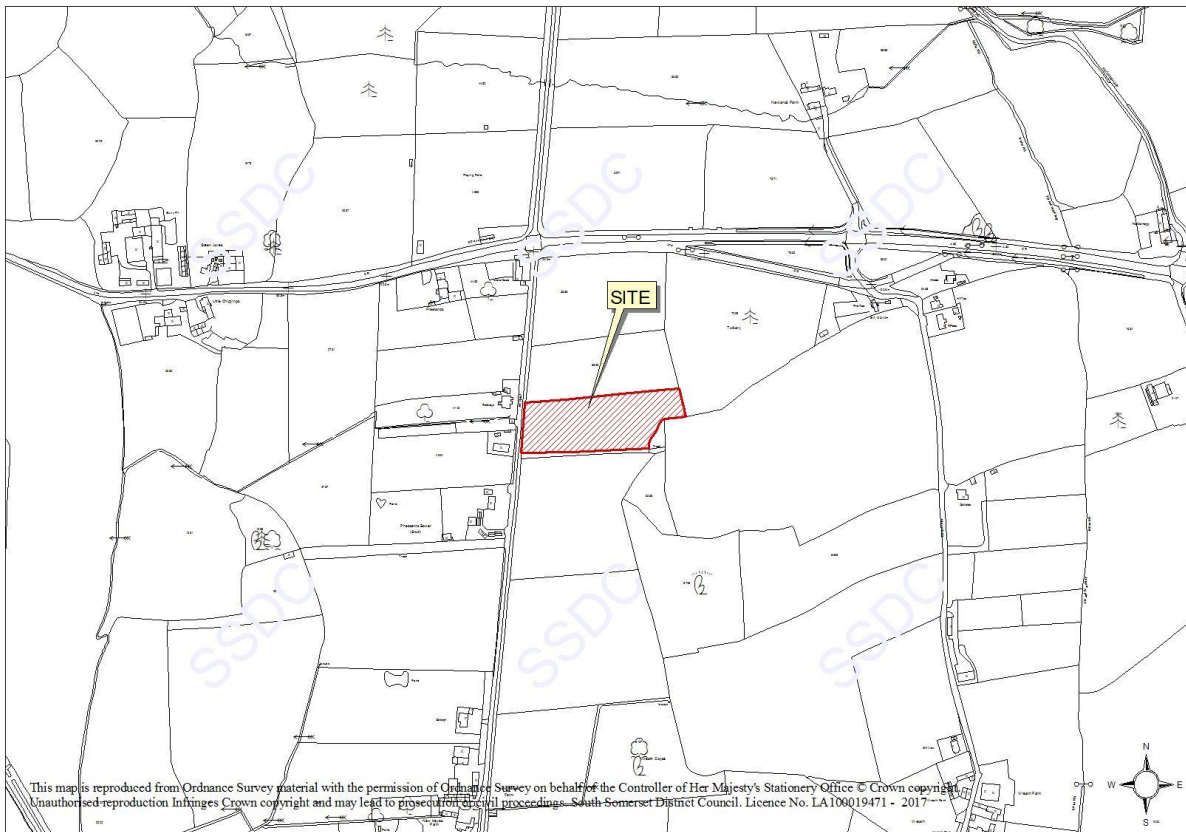
Both of the above reports have been forwarded to the relevant consultees for their assessment. The case officer will orally update the committee in regard to any responses received from those officers.

Members will also recall that the case officer was asked about the earlier planning history of the site, in particular the applications for residential development, 2 of which were submitted in the 1960's and 2 in the 1980's. All 4 of these were for the erection of 1 dwelling and all were refused. 3 of the applications were located on the same site as the current application with 1 on land to the immediate north of the site. All were refused due to the impact on the visual and rural appearance of the locality and road safety concerns due to the increased use of the junction with the A30. The 1984 application

was appealed but dismissed by the Inspector, where he agreed that there was no justification for the dwelling and was contrary to Structure plan policies that protect the countryside. No direct reference was made in the decision letter to the highway issue and thus it is not clear if the Inspector supported this reason for refusal.

The original report considered by members at the October meeting is attached below.

SITE DESCRIPTION AND PROPOSAL





The application site is located approximately 2 km from the centre of Chard, on the southern side of the A30. The site lies on the eastern side of the access track known as 'The Drift', 200 metres from its junction with the A30. The site is rectangular in form measuring 170 metres x 60 metres. Access to the site is gained via a track that runs off The Drift which runs along the southern side of the site. The Drift was established at the time of the "enclosures" in the 19th century to give local farmers access to their newly-created fields.

The site currently comprises a mixed range of uses/buildings with outbuildings, a caravan and day room, a consolidated access/internal access drive and timber boarded boundary fencing in the first third (western end) of the site. The central part of the site is wooded and grassed whilst the far eastern section of the site comprises largely an area of hardstanding with an agricultural building and an assortment of building related materials.

Some of the buildings and structures formed part of a planning permission granted in 2002 in connection with an agricultural use of the site. More recently, a Certificate of Lawfulness was granted in 2013 for the change of use of land for the siting of a caravan for storage and occasional residential accommodation in connection with an agricultural use on site.

The application seeks consent for the change of use of the land to 4 gypsy and traveller pitches. 2 of the pitches will be located at the western end of the site where permission was granted for a caravan in connection a previous agricultural use. The 2 other pitches at the eastern end of the site are located on the area of existing hardstanding. Each of the pitches will comprise a mobile home, a touring caravan, a day room and parking area. A play area will be provided for each of the 2 separate areas. Access will be gained via a track off The Drift on the southern side of the site.

The agent has outlined that the applicants are two brothers Michael and Jason Ayres. They are gypsies who have a long established family connection with the local area. Their grandparents lived on the gypsy site at Ilton, which has been owned by the Council for a number of years. Michael was

born on the Ilton site. The family are now seeking a permanent base from which to access health and education services and a base from which to travel to earn their respective livings.

HISTORY

02/03059/FUL - Erection of fencing and outbuildings, and the formation of hardstanding (approved 2003).

13/00860/COL - Application for a Certificate of Lawfulness for the proposed change of use of land for the siting of caravan for storage and occasional residential accommodation in connection with agricultural activities on the land (approved 2013).

The caravan referred to in the above application is sited on the western part of the current application site. Consent was not granted for the permanent siting of the caravan, rather it could remain whilst the related agricultural use continued but required to be removed as soon as reasonably practicable once the agricultural uses have ceased.

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

Relevant Development Plan Documents

South Somerset Local Plan (adopted 2015)

SD1 - Sustainable Development

HG7 - Gypsies, Travellers and Travelling Showpeople.

TA5 - Transport Impact of New Development

EQ2 - General Development

Policy-related Material Considerations

Planning Policy for Traveller Sites

CONSULTATIONS

Tatworth Parish Council: Recommend Refusal for the following reasons:

WATER SUPPLY - All of the properties in The Drift and Wreath are dependent on bore, spring and well water. Several of these wells dry up in hot weather. Four Gypsy families would also need to take their water from the same source. This would put strain on the supply both for existing residents and the Gypsy families.

CONTAMINATION - Waste water and septic tank effluent near a water course can cause contamination. As the ground is clay and green-sand 250mm below the surface, this is highly likely. As with the water supply, this would put a strain on the current infrastructure both for existing residents and the Gypsy families.

FLOODING - The Drift and surrounding ditches flood on a regular basis. Creating large areas of hard standing on the proposed site would only exacerbate the situation. Water run-off from site as it is on a hill.

ECOLOGY - There would appear to have been no Ecological survey carried out on the site. There is

evidence of bats, badgers, owls and slow-worms in the area.

ACCESS - The Drift is no more than a certified footpath which is maintained by the residents and is not suitable for 4 wheeled vehicles. The access off the A30 is difficult. The added traffic movement if the site did go ahead would damage the footpath further. Large vehicles already have a problem negotiating the track and there are no turning places.

PLANNING RULES - There should be two entrances/exits but there is only one.

The scale of development is out of character.

It is not clear if it's for transit use or permanent use.

This will increase traffic on footpath - it's only 2 metres wide - not suitable for larger vans or caravans.

It will dominate the character of the area - scale and development.

Not near local amenities which will increase the vehicle usage of the footpath.

No water for a fire hydrant.

No parking for visitors and insufficient space to turn vehicles.

Removing trees from the site will damage the ecology of the site and could exacerbate flooding.

existing footpath is not suitable for extra vehicles.

Below are summaries of the responses received from consultees. The full responses are available on the planning file/website.

Highway Authority: (summary)

No objection raised subject to 3 conditions in regard to the construction of a properly consolidated access, disposal of surface water to prevent discharge onto the highway and keeping parking and turning clear of obstruction. They are satisfied that the development would not result in an adverse traffic impact and that there is sufficient visibility at the junction of The Drift with the A30. They did seek information regarding the amount of movements associated with the touring caravans due to the single width nature of The Drift.

Officer comment: In respect of the touring caravan movements, the agent advised that given the weekly or longer periods away from the site, use of the Drift by touring caravans would only be infrequent and low level. On this basis, The Highway officer was satisfied that that this would not create an adverse highway impact.

County Rights of Way:

The officer confirms that a public right of way runs along the proposed vehicular access. No objection is raised to the proposal. Advice is offered in respect of maintaining the health and safety of users of the footpath during development works and that it is not SCC's responsibility to repair any damage that may occur to the footpath during works.

It is also confirmed that it is an offence to drive a vehicle along a footpath unless the driver has lawful authority (private rights) to do so.

Landscape Officer:

The site is already characterised by structural forms and currently has an access and internal track. It is visually contained and defined by bounding hedgerows and groups of trees. Pockets of development and built form including residential development exist along The Drift and provide a context for low intensity development. If there is an acceptable case, the level of landscape impact of this proposal is no more than a minimum. Thus, no case for an over-riding landscape objection.

Natural England:

No objection. Advise that the application area includes an area of priority habitat, as listed on Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. In such locations, if significant harm resulting from a development cannot be avoided or adequately mitigated, planning

permission should be refused. Advise the LPA to seek their own specialist ecological advice on the environmental impacts of the development.

Ecologist:

No objection raised but recommends retention of the woodland area as woodland habitat to retain the integrity of the local ecological network. This will allow for the sustainable management of the woodland but prevent any permanent removal/conversion of the woodland to pasture or other open habitat.

REPRESENTATIONS

26 letters/emails have been received objecting to the application. A summary of the main points are outlined below:

- Highway safety - narrow track to access the site
- The A30 is a fast, busy road
- Not suitable for additional traffic, particularly for larger vehicles
- Caravans would harm the physical condition of the Drift
- Lack of turning area within the site
- Parking for visitors?
- Water supply issues - water supplied via a spring - with no mains or sewerage in the area. Additional 30/40 people could not be supported by the current water supply.
- Risk of contamination of the water supply
- Concern about use and location of septic tank
- Risk of flooding - the ditch becomes full and overflows into gardens
- additional areas of hardstanding would increase flood risk
- Harmful impact to ecology
- Not in a sustainable location - distance from services and facilities.
- The development does not meet the design criteria for gypsy sites - only 1 access.
- Harmful to the visual character of the area
- Character of area would be changed by upto 40 people.
- Additional noise and impact on residential amenity.
- Would set a precedent for more caravans
- Previous residential applications in the 1960s and 1980's have been refused in the past.
- Removal /loss of residential agricultural land should be marketed.

A couple of letters have also been received from a solicitor acting on behalf of a number of local residents. The solicitor has referred to a number of different issues covering access rights to use the Drift, ownership and rights of way over The Drift and access track, and points raised previously by third parties as outlined above.

2 letters of support has been received from the previous owners of the land, outlining that they have known the family for three generations and would be happy to have them as neighbours if they decided to live next to them. Moreover, they can't see a better use of the land and cannot see any problems would arise from the development and an asset to the community. They also state that they have never seen the site flood, the ditches can be cleared to deal with surface water, never had a shortage of water in regard to the bore holes/spring and that there is adequate parking for people to park on site.

CONSIDERATIONS

Gypsy status

The applicant's agent has stated that the applicants are 2 brothers with strong gypsy family connections to the area. In particular, their grandparents lived on the now Council owned gypsy site at Ilton and their parents lived for many years on the same site. Moreover, one of the applicant's was

born on the Ilton site. The applicants are now seeking a permanent base with which to access health and education services and a base from which to travel to earn their respective livings. The agent is a well respected Romany gypsy liaison officer and knows many of the local gypsy families. For these reasons, the Council accepts the gypsy status of the applicants.

Need for pitches

The Council works collaboratively with the other Somerset District Councils to assess the need for gypsy and traveller pitches. The Gypsy and Traveller Accommodation Assessment report sets out the need for pitches. A target of 23 pitches has been identified for South Somerset between 2013-2028. 18 pitches have been approved to date. Therefore, whilst the Council is making good progress towards meeting its pitch target, it should be noted that this is not a maximum figure. Moreover, the fact that an applicant is seeking permission, signifies a need for pitches.

Highways

The Highway Authority did not raise any objection to the application concluding that the visibility at the junction of The Drift with the A30 is acceptable. In addition, given the level of use, the development would not result in an adverse traffic impact. Given the single vehicle width of The Drift, additional information was sought regarding the amount of movements associated with touring caravans. The agent advised that given the weekly or longer periods away from the site, use of the Drift by touring caravans would only be infrequent and low level. On this basis, it is concluded that the use of the Drift by touring caravans would not create an adverse highway impact.

Concern has been raised that inadequate parking has been provided on the site. However, having visited the site, it is considered that sufficient parking areas have been provided within each pitch.

Access Rights/ Vehicular Use of The Drift

The Drift is recorded as a footpath. Correspondence has been received from third parties stating that the applicant has agricultural access rights along The Drift but not for motor vehicles. Moreover, based on the usual legal presumption that landowners fronting onto a public footpath would own the first half of the path/road running in front of their property, the third parties would not grant the applicant consent to use a motor vehicle to access their site.

It would be useful at this juncture to briefly outline the history of The Drift and the difference between private and public access rights. The information below was provided by the Council's former Rights of Way Officer.

The Drift was created by an Inclosure Act of Parliament in 1819 as a road. As well as public access, private rights were also created by the Act. Although public rights of way take precedent over private rights for example, landowners driving tractors have to give way to walkers, they do not alter private rights of way. Whilst there is a common law presumption, as espoused by third parties, of ownership by frontagers to the centre of tracks etc, this does not normally apply in the case of Inclosure Awards. In this case, the applicant would benefit from the same private rights that all other landowners/householders have along The Drift to access their property by a motorised vehicle. The applicant does not have to seek or secure the permission of landowners or householders.

It is understood that the landowners/householders maintain The Drift. The agent has confirmed that the applicants are willing to contribute to the maintenance of The Drift.

Sustainability of the site/access to service and facilities

Objections have been raised that the site is distant from services and facilities and hence is not located within a sustainable location. It is accepted that the site is 2 km from the nearest main settlement ie Chard and this would not normally be a site that is considered sustainable for residential use. However, it is clear from many appeal decisions in respect of gypsy sites, that Inspectors regard distances of 5 to 10 km as being acceptable an acceptable distance in rural areas to access services

and facilities. On this basis, given the distance of 2km from Chard, it is not considered that the application is unacceptable in sustainability terms. Moreover, it is considered that the use of a site that has previously been used is more sustainable than using a green field site.

Landscape Impact

The application site is currently characterised by buildings, structures and a caravan with previous planning permissions having been granted for such development. The wider area along The Drift contains a number of residential dwellings and outbuildings. Accordingly, on this basis, it is not considered that the proposed development would be adversely harmful to landscape character. In regard to the visual impact, given the existing hedgerow and tree coverage, plus the development form already on site, it is not considered that the development would have a harmful landscape impact. The Council's Landscape officer has assessed the impact of the development does not consider that there is a case for an over-riding landscape objection.

Residential amenity

The closest existing dwelling (Fieldways) is located on the opposite side of the Drift. Due to the existing boundary treatments and nature of the development, it is not considered that the scheme would give rise to any adverse impact on residential amenity.

Drainage /Flood risk

Concerns have been raised about drainage of the site, in particular questioning the use of septic tanks to deal with waste sewage when the ground conditions are not favourable for such a facility. The applicants have stated that they would not install a septic tank, rather a sewage treatment plant. This system is preferable to a septic tank and a condition shall be attached to any consent to secure the details of the treatment plant. In regard to flooding concerns, there may be certain time when the Drift becomes waterlogged. However, the site lies within Flood Zone 1 and thus it is not considered that the site is at risk of flooding. Moreover, both areas proposed for the pitches already have areas of hardstanding as a result of previous uses and the scheme proposes very little additional areas of hardstanding.

Water supply

The properties in this area are not on mains water with supply coming privately via bore holes or springs. Concern has been raised that the development would place an additional demand on this supply and may cause supply disruption to the supply. This is clearly an important issue. Having checked with one of the Council's Environmental Health officers, the advice was that the likely level of consumption would not be at a level (20 cubic metres) that would require a licence from the Environment Agency. Moreover, it is very unlikely to result in a disruption to supply.

Other issues

Number of occupants

Concern has been raised that the development would be harmful due to the number of residents that may occupy the site - a figure of up to 40 has been stated. However, this is much greater than those outlined by the applicants. If the application is approved, there will be 4 pitches with each pitch containing 1 family unit. There will be 2 adults on each pitch with a total of 8 children across the 4 pitches. Thus, a total of 16 occupants. Clearly, this number may vary over time but it is very unlikely that each pitch will ever reach 10 occupants.

Design/layout of the pitches

Comments have been made that the design and layout of the pitches does not meet guidance. Having dealt with a number of similar applications, the site layout largely reflects other sites and provides the usual facilities on site. In terms of access points, there is 1 vehicular access - it is not necessary to require 2 access points. It is not considered that the design and layout warrants refusal of the application.

SECTION 106 PLANNING OBLIGATION/UNILATERAL UNDERTAKING

Not applicable to this application.

RECOMMENDATION

Grant permission.

01. The proposed development by reason of its design, scale, siting and layout will cause no adverse harm to residential amenity, would not cause any detrimental harm to the character and appearance of the area nor create any severe highway impact. The development would also contribute to meeting the Council's gypsy pitch target as outlined in the adopted local plan. The proposal is therefore in accord with policies SD1, HG7, TA5, and EQ2 of the South Somerset Local Plan and guidance in Planning Policy for Traveller Sites.

SUBJECT TO THE FOLLOWING:

01. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites.

Reason: The LPA would not have granted planning permission except for this special need.

02. There shall only be a maximum of 4 pitches as specified within the approved layout plan.

Reason: To protect the character of the area in accord with Policy EQ2 of the South Somerset Local Plan.

03. The development hereby approved shall be carried out in accordance with the following approved plans:

Site layout plan - drawing number 1639/02, Land Registry site plan Title number WS9147, 1639/03 - proposed dayroom plan and elevations and the survey junction of the The Drift and the A30.

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

04. The development hereby permitted shall not be commenced until particulars of the materials (including the provision of samples where appropriate) to be used for the external walls and roofs for the dayrooms and sheds have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the area to accord with Policy EQ2 of the South Somerset Local Plan.

05. The areas allocated for parking and turning on the approved layout plan shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby approved.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

06. Before the development hereby permitted is commenced, foul and surface water drainage details to serve the development, shall be submitted to and approved in writing by the Local Planning Authority and such approved drainage details shall be completed and become fully

operational before the development hereby permitted is first brought into use. Following its installation such approved scheme shall be permanently retained and maintained thereafter.

Reason: To ensure that the development is satisfactorily drained to accord with the NPPF.

07. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include details of the retention and management of the central woodland area, indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development, as well as details of any changes proposed in existing ground levels; all planting, seeding, turving or earth moulding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To protect the amenity of the area and to retain the integrity of the local ecological network in accord with Policy EQ2 and EQ4 of the South Somerset Local Plan.

08. No external lighting shall be installed within any of the application site unless details of the lighting has first been submitted to and approved in writing by the LPA. Once approved and installed, the lighting shall not be altered without the written consent of the Local Planning Authority.

Reason: To protect the amenity of the area to accord with Policy EQ2 of the South Somerset Local Plan.
