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| Application reference: | 09/05790/FUL |
| Contact: | Charles Power |
| Site address: | Land At Hemley Hill Upper Icknield Way Saunderton Buckinghamshire |
| Proposal: | Change of use of land to include the stationing of caravans for 9 gypsy pitches with utility/day room buildings and hard-standing ancillary to that use (part retrospective) |

1. Summary

- 1.1. The application is for the change of use of the land to a private gypsy site comprising nine plots each with its own amenity area, day room (including kitchen and bathroom) together with hardstanding for one mobile home, one touring caravan and parking for associated vehicles.
- 1.2. Amended plans were received during the course of the application together with a request that the application be considered on the submitted plans and not on the extant development on the site. The proposal has been considered in line with that request.
- 1.3. The site is in the open countryside, Chiltern's AONB and the Metropolitan Green Belt. Due to the number of units proposed development contributions would be required to offset the impact of the proposal upon the local infrastructure.
- 1.4. The Council cannot entertain the planning application due to the irregularities with the certificate of ownership not being correctly served on the owners of the land. The planning application is therefore deemed to be invalid and could be struck down in the Court if the Council proceeded to determine the application. The remainder of this report sets out the Council's position, if the application had been deemed to be valid.
- 1.5. It is recommended that the authority be minded to refuse the application due to it causing intrusion and significant harm to the countryside in the green belt resulting in a detrimental impact upon the green belt in general and the local area in particular. Furthermore, the development due to its design and location fails to conserve or enhance the Chiltern's AONB. The needs and Human Rights of the occupiers of the site have been weighed up against this harm but based on the available information they were not considered to overcome the demonstrable harm from the development.

2. The Application

- 2.1. The site is 0.85ha of agricultural land. The application is in part retrospective in so much as the majority of the site has been surrounded by fences. Fences have also been erected internal to the site to provide nine (9) separate plots and a central access track. An amount of hardcore has been imported into the site and laid within the plots and on the road.
- 2.2. The site is located in open countryside within agricultural land to the rear of dwellings fronting onto Shootacre Lane, Saunderton. The site is accessed off the Upper Icknield Way via an existing field access. It is within the Metropolitan

Green Belt and the Chiltern's AONB.

- 2.3. The application consists of 9 plots laid mainly to hardstanding of unbound gravel. Each plot would have a grassed area, the largest of which are within plots 4 and 5. Each plot is surrounded by a 2 metre high fence and would have; a day room (6.7 m long by 3.7 m wide by 3.7 metres high) of rendered walls under an interlocking clay tile roof, siting for one static van and one touring van. A 5 metre wide, gated, central access way, laid to tarmac.
- 2.4. The application is accompanied by a Design and Access statement
- 2.5. At the request of the case officer, during the course of the application a landscape appraisal has been submitted together with amended plans indicating alterations to the position of the fencing and details of landscaping, lighting, gates and foul drainage.
- 2.6. Paragraphs 1 and 26 of the planning application states that 21 days prior to the date of the application the owner of the land was Patrick Hanrahan. This was questioned by the objectors to the application as the Office Copy Register showed the owners to be Barry Arthur Taylor and Robert John Aldridge. A request to the applicant was made by letter on 9th June 2009 for clarification of the land ownership and while the applicant had responded to the request for clarification this was not considered to resolve the legality of the situation.
- 2.7. In addition to the above in response to questions on land ownership the agents in a letter dated 5th June 2009 have made the following statement; 'Patrick Hanrahan, John Murphy and Michael Murphy are the sole owners of the land and were at the time the application was submitted.' Together with this statement a Deed of Transfer document was submitted signed by Barry Arthur Taylor and Robert John Aldridge, however the document was not signed by Patrick Hanrahan, John Murphy or Michael Murphy.
- 2.8. Given the lack of clarity over the ownership of the land, the Solicitors acting for the gypsies occupying the site were contacted and were repeatedly requested to produce evidence to confirm the current fee simple owners of the land. The Solicitor has failed to respond to those requests. The Office Copy Register still shows the owners to be Barry Arthur Taylor and Robert John Aldridge.
- 2.9. Section 65(5) of the Town and Country Planning Act 1990 as amended states that "*A local planning authority shall not entertain an application for planning permission unless any requirements imposed by virtue of this section (Section 65) have been satisfied*". Case law suggests that the Local Planning Authority is entitled to refuse to entertain an application that is accompanied by an inaccurate certificate and there have been instances where a planning decision has been rendered a nullity following a challenge based on the accuracy and validity of the submitted certificates. Given that there is clear discrepancy between what has been submitted on certificate of ownership as being the owners of the land and who the Office Copy Register shows as being the owners of the land it is the opinion of the Local Planning Authority that the current application before this Authority cannot be entertained and a decision cannot therefore be issued. However, this report is based on what the Authority would be minded to do were the application valid.

3. **Relevant Planning History**

3.1. Permission has been granted under application 06/07713/FUL for a pole barn for use as stables and to house a tractor, the barn was proposed to be located in the south western corner of the current application site. To date the permission has not been implemented.

4. Consultations and Notification Responses

Ward Councillor Preliminary Comments

Cllr Devine - Should the case officer be minded to approve this development please refer to the Planning Committee (PC). This should be rejected on the grounds of inappropriate development in the Green Belt and an eyesore and nuisance to the tranquillity of the neighbourhood in the Chilterns AONB.

Parish/Town Council Comments

Bledlow-cum-Saunderton Parish Council

We object to the application on the following grounds:

1. The site is located in an Area of Outstanding Natural Beauty. A development of this nature, both in general terms and given its location on a prominent piece of ground, would be seriously detrimental to the beauty and character of the landscape. It would detract from the enjoyment of others using local footpaths, roads and bridleways as well as local residents who enjoy open fields, low density housing and a degree of harmony between the architecture and the landscape. What is effectively a caravan site with high close boarded fences and floodlighting could hardly be less in keeping with the local environment.

2. The site is in the green belt. There is a presumption against the development of new housing in the green belt and the rules applying to such development are strict and the exceptions relatively few. This location is not a designated area for development nor does it represent any form of in-filling. It is in an open rural area, the sort of area that the green belt was specifically intended to protect.

3. Change of use. We oppose any conversion from agricultural to residential or business use within the parish other than in exceptional circumstances. These circumstances would require development which is sympathetic to the surroundings and in character with it. This proposal is utterly out of character with the surrounding rural feel. Developments of this type should be located closer to main settlements and amenities where population density is higher, preferably on brown field sites.

4. General Planning considerations. The development is in no way in keeping with the local environment, the street scene, the character and feel of the area or any other basis on which housing/caravanning development could be supported by the Parish Council. The size and location of the plot, the density of the individual dwellings and the proposed occupancy levels are grossly out of keeping with the surrounding area and would be unsuitable in almost any area of open countryside even if they were not AONB and green belt.

5. Environmental concerns. The application does not address concerns about access to power, water, disposal of waste, noise pollution and light pollution. Currently the use of generators and floodlights are a serious nuisance particularly to the neighbouring properties. The site overlooks the houses next to it and this has

lead to a loss of privacy. Furthermore the presence of mobile homes and the associated fencing has ruined the view which these properties previously had. The Parish Council is not satisfied that the existing mains drainage could cope with the additional use without being upgraded and would not support the installation of a large waste treatment plant at this location.

6. Planning blight. The presence of a travellers' site in the current location, so out of keeping with the surrounding area and so close to other properties, will make those properties unsaleable. There are innumerable other locations where this issue would not arise or would be significantly reduced. The application of the planning rules needs to reflect the reasonable expectations of existing home owners not to have their most valuable asset devalued in this way.

7. Highway issues. The application does not address how access to the site and the increase in the number of vehicle movements will be managed safely. The road is narrow and the entrance partly obscured. These issues need to be addressed. The Parish Council would not support the removal of hedges in the AONB if this had been proposed.

We also have other concerns about the application but will make just one further comment at this stage, namely that the current owners of the site must have been well aware of the requirement to put in an application for planning permission both for the development and for the change of use. However, they chose to move into and develop the site over the Easter Weekend without applying for planning permission first. The parish council is concerned at the perception that this is part of a strategy to play the system and to extend the planning process for as long as possible in order to delay any potential enforcement proceedings. For that and other reasons the council would request that the District Council process this application and any related appeals as quickly as the law permits.

On the wider issue, we are aware that there are a limited number of traveller sites in the Wycombe District area. Whilst this does not in any way excuse the choice of the Hemley Hill site for development, it makes the likelihood of similar developments occurring elsewhere higher (such as the field opposite). It is unclear to the parish council why the District Council and other relevant authorities have been unable or unwilling to identify other sites in which the travellers can be accommodated. Sites that would be far more suitable in terms of location and access to amenities. We would ask that the District Council be more forthright about the steps it is taking to remedy this situation.

Internal & External Consultees

Environmental Services Division – Initial comments

Insufficient information provided to form a decision, but based on the information provided the application does not meet the Council's standards for caravan sites, (which are based on the Model Standards 2008 as referred to) and a caravan site licence would not therefore be issued

Access Officer – Initial comments

As this proposal appears to be forming a permanent site I would like to see access provision for people with disabilities to the caravans

Level access to the utility/ dayroom will be required under current building regulations

Have any of the parking spaces been designed for people with disabilities?

County Highway Authority – Initial comments

You will recall that I was asked by Wycombe District Council to evaluate this site shortly after it had been occupied. You may also recall that I provided confirmation of my satisfaction with layout, geometry, and safety record of the Shootacre Lane/Upper Icknield Way junction.

Furthermore, and more specifically, the site access on Upper Icknield Way is able to achieve the requisite visibility splays in both directions. Whilst, there is unobstructed visibility towards the Shootacre Lane/Upper Icknield Way junction, there is minor occlusion of the splay looking toward the south-west. However, this is caused by vegetation encroaching onto the highway verge and easily controlled by specific pruning or routine maintenance

Nonetheless, given the amount of families that are currently occupying the site, the site access will have to be upgraded to BCC Commercial Access specifications. Fortunately, the construction specifications can be tailored in order to aesthetically assimilate the bellmouth into the local surroundings (i.e. the use of granite setts).

Mindful of these comments (subject to conditions on any approval) I would not be able to sustain an objection to the creation of a new, or intensification of an existing, access in this location.

Amended plans - no further comment received

Crime Prevention Design Adviser – Initial comments

There are no police objections to this site however there is an opportunity to further design out crime.

The application lacks detail so as a result my comments may have already been thought through and addressed by the applicant. I understand that the intention is for the families to permanently reside on the site and as such my comments are based on normal Crime Prevention through Environmental Design principles. They incorporate recommendations from the Secured by Design Caravan Park accreditation scheme where appropriate. While this scheme is meant to cover holiday caravan parks, there are elements that are relevant for permanent sites. Any caravan site, no matter who resides there must meet certain standards to make it a sustainable community, and one in which the residents feel safe and free from the fear of crime.

The document produced by the Dept for Communities and Local Government's, 'Designing Gypsy and Travellers Sites, Good Practice Guide' published in May 2008 has also been consulted.

COMMENTS

Site Entrance Gate

A gate is shown on the plans on the entrance road to the site. There is no detail in the Design and Access Statement as to what type of gate this will be. Is this gate necessary? What is its intended purpose? The DCLG's Good Practice Guide states '*Many Gypsies and Travellers are in favour of controlled access to sites, for example using a lockable gate. Their experience has been that such controls can prevent unauthorised parking and unauthorised caravans being pitched on the site. However, the presence of such gates can sometimes act as a psychological barrier to effective social inclusion.*'