Item: **03**

Reference: **11/00464/OUT**

Applicant: **Mr James Smith**

Location: **Land West Of Windycott Peckleton Road Kirkby Mallory**

Proposal: **ERECTION OF ONE DWELLING FOR OCCUPATION BY A GYPSY/TRAVELLER FAMILY (OUTLINE - ACCESS AND LAYOUT)**

Target Date: **15 August 2011**

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it has generated five or more objections.

Application Proposal

Outline planning permission is sought for the erection of a detached dwelling located on land adjacent to Windycot, Peckleton Road, Kirkby Mallory. Layout and access are the only matters for determination at this stage, with all other matters being reserved for approval at a later date.

Whilst not formally seeking approval for scale at this stage, the application sets out the approximate scale parameters; a max of 11.5 metres in length by 7.5 metres in width, with maximum dimensions of 5 and 9.7 metres to the eaves and ridge, respectively.

The development will be served by the creation of a new access from Peckleton Road and the indicative layout plan shows turning areas and the creation of 2 no. car parking spaces.

During the course of the application the description of development has been amended to include the reference 'for occupation by a Gypsy/Traveller family' and an additional statement justifying the need for the dwelling. Re-consultation has been undertaken.

The Site and Surrounding Area

The site is described as garden land within the submitted application form and is located within the countryside, as defined by the adopted Hinckley and Bosworth Local Plan.

Technical Documents submitted with application

The application is accompanied by a Design and Access Statement which states in their opinion that planning policies at national and local level all support the provision of adequate permanent facilities of a minimum health and safety standard for accommodation for travellers and gypsies, in order to prevent 'ad hoc' transitory parking area.

The Need Statement refers to the requirement for a permanent structure which is in keeping with the surrounding properties and in close proximity to local amenities including shops and schools for the occupation of one family. The statement compares the dwelling to a mobile home, which the applicant considers would withdraw from the streetscene, where a dwelling would enhance it. The applicant refers to their belief that there is a shortage of Gypsy and Traveller sites available and the need to accommodate Gypsy and Travellers within permanent structure/dwellings within this statement.

History:-

10/00874/OUT	Outline planning permission for One detached house	Withdrawn	13.12.10



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Consultations:-

Objections from:-

Director of Environment and Transport (Highways)
The Gypsy and Traveller Liaison Officer.

No objections have been received from Head of Community Services (Land Drainage).

No objection subject to conditions from:-

Head of Community Services (Pollution)
Head of Business Development and Street Scene Services (Waste Minimisation).

Director of Environment and Transport (Highways) recommends refusal on the ground that the proposal could result in an unacceptable increase in traffic using an access which lacks appropriate visibility for the speed of traffic on the main road which would lead to increase dangers for road users.

The Gypsy and Traveller Liaison Officer has confirmed that the application has been made by a long established Leicestershire Gypsy family and can therefore confirm their Gypsy status, but have failed to see the relevance of the families Gypsy status in determining this application, and states that this application is for a dwelling house and should be determined in the same way as any other dwelling house. The Officer considers that within the Gypsy and Traveller Accommodation Needs Assessment that additional housing for Gypsies and Travellers will be needed but that these figures should not be included into the general allocated need for housing within the Borough. Notwithstanding this point, the Officer has stated that it is a common aspiration for Gypsies and Travellers to live in rural of edge of settlement locations as their culture has a strong connection to the countryside, but that this is true of many different people.

Site notice displayed and neighbours notified.

18 letters of objection have been received raising the following concerns:-

a) reason for the application is ambiguous
b) why is the application restricted to a travelling family – it will not be close or at the edge of a community, it is in a rural location
c) land is classified as Greenfield/open countryside and does not meet the criteria with local plan policy NE5
d) same reasons for previous refusal should apply
e) unsure of the difference between a family dwelling and a travellers dwelling – it should be the same reason for refusal
f) site is within a rural hamlet which has no local amenities or services, and future occupiers would be dependent upon a vehicle; the need for access to local services is flawed, as there are no local services; will not facilitate the applicant's needs
g) future occupiers could live in other traveller communities
h) needs controls to ensure that it remains for the use of a single family and not caravans or expansion of the site
i) will the Rag and Bone business be operational from the site; the site is not large enough to accommodate this
j) the site is 'open land' and in a strip and not appropriate for development, outside settlement boundary where there are no justifiable grounds for allowing this proposal to proceed; the countryside should be protected
k) a precedent could be set; a further 3 dwellings could be sought if this request is granted; could lead to other dwellings in the countryside; urbanisation of a quiet rural village
l) Peckleton has a historic road and a full archaeology survey should be undertaken before any works commence
m) de-valuation of property prices
n) noise pollution from both construction and future occupiers
o) impact upon residential amenity
p) entrance is on the brow of a hill; narrows road; no footpath; no lighting; many accidents on this lane; road safety hazard; impact upon traffic flow; hedgerow removal required; no provision to state that the access to and from these properties will be better controlled; inadequate turning area.

Peckleton Parish Council raise the following concerns:-

a) narrow strip
b) rural, narrow road, difficult to enter the site in a forward direction, at the brow of a hill, no footpath of street lighting
c) land is classified as Greenfield/open countryside and does not meet the criteria with local plan policy NE5
d) outside development area and as such it is not within the local policy RES5
e) the application is for domestic residence and it should be assessed on this basis only, and does not relate to Circular 01/2006
f) previous planning permission have been refused
g) this application could set a precedent.

MP David Tredinnick states that the application site is outside settlement boundary where there are no justifiable grounds for allowing this proposal to proceed.

Policy:-

National Policy Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' refers to the delivery of sustainable development through the planning system. It advises that planning policies should protect and enhance the environment, promote high quality design and reinforce local distinctiveness.

Planning Policy Statement 3 (PPS3): 'Housing' sets out the national planning policy framework for delivering the Government's housing objectives.

This document states at paragraph 12 that good design is fundamental to the development of high quality new housing.

Paragraph 13, reflecting policy in PPS1, states that good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to improve the character and quality of an area and the way it functions, should not be accepted.

Paragraph 16 lists matters to be considered when assessing design quality; this includes assessing the extent to which the proposed development is well integrated with and compliments the neighbouring buildings and the local area more generally in terms of scale, density layout and access.

Paragraph 21 of the document states that "Local Planning Authorities should plan for a mix of housing on the basis of the different types of households that are likely to require housing over the plan period. This will include having particular regard to…The diverse range of requirements across the area, including the need to accommodate Gypsies and Travellers".

Paragraph 41 states that at least 60 per cent of new housing should be provided on previously developed land and that a key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed.

Paragraph 48 states that Local Planning Authorities should facilitate good design by identifying the distinctive features that define the character of a particular local area.

Paragraph 71 states that where the LPA cannot demonstrate an up-to-date five year supply of deliverable sites, they should consider favourably planning applications for housing, having regard to the policies in PPS3 and considerations in paragraph 69.

Paragraph 69 requires the LPA to ensure that the proposed development is in line with planning for housing objectives, reflects the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives. In addition, development should provide high quality housing of a good mix and make effective and efficient use of land.

PPS3 was updated in June 2010 to specifically refer to garden land not being Brownfield land and Paragraph 47 has been amended and 30 dwellings per hectare is no longer a national indicative minimum density in order to allow local planning authorities to develop their own range of policies whilst having regard to the continued need to develop land in the most efficient manner.

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' states that development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness.

Government Circular 01/2006 - Planning for Gypsy and Traveller Sites. Its main intentions are:-

To significantly increase the number of Gypsy and Traveller sites with planning permission in order to address under-provision:-

a) recognise, protect and facilitate the traditional lifestyle of Gypsies and Travellers
b) identify and make provision for the resultant land and accommodation requirements
c) help or avoid Gypsies and Travellers becoming unintentionally homeless

d) reflect the status of Gypsy and Traveller accommodation as a part of wider housing provision
e) create and support sustainable, integrated communities where Gypsies and Travellers have equality of access to suitable accommodation, education, health and welfare provision, and where there is mutual respect between all communities for the rights and responsibilities of each community and individual
f) promote more private Gypsy and Traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own sites
g) underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively
h) ensure that Development Plan Documents include fair, realistic and inclusive policies to ensure identified need is dealt with fairly and effectively
i) reduce the number of un-authorised encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this circular.
j) where there is unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, local planning authorities should give consideration to granting a temporary permission.

Paragraphs 47 – 55 of this document make specific reference to development of gypsy and traveller caravan sites within rural areas.

Paragraph 54 states that "rural settings, where not subject to special planning constraints, are acceptable in principle. In assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Sites should respect the scale of, and not dominate the nearest settled community".

The SoS announced on 29 August 2010 his intention to revoke Circular 01/2006. Whilst the current Circular 01/2006 has yet to be revoked, a recent appeal decision found that the substance of the consultation document gives a clear indication as to the Government's intended direction and is thus a significant material consideration. However the appeal decision also advises that because the consultation may prompt amendments to the draft guidance and because the extant Circular remains in place, regard still has to be had to the existing Circular.

In a recent appeal (ref: APP/F4410/A/10/2142715) the Inspector acknowledged that there is a clear intention to revoke regional strategies but that this should be given limited weight in determining that case as it was considered that it was not certain when the Localism Bill will complete its passage through Parliament or what its final form will be. Regard was also had to the draft Planning Policy Statement on Planning for Traveller Sites to replace the Circular and the draft of the National Planning Policy Framework (NPPF) as material considerations, however it was decided that as these have been published for consultation and are therefore subject to amendments, the Inspector considered that only limited weight should be given to them.

Draft Circular 'Planning for Traveller Sites' - Consultation (April 2011)

In April 2011 the SoS published in Draft Circular 'Planning for Traveller Sites' which intends to align Gypsy and Traveller planning policy more closely with that applied to other forms of housing. This document sets out the context, background and reasons for replacing Circular 01/2006 and how it will seek to do this through a range of broader policy initiatives in relation to traveller communities, including publication of a new national Planning Policy Statement.

Draft Planning Policy Statement - The draft Planning Policy Statement is set out at Annex A of the consultation document.

Paragraph 4 states that the Government's overarching objective is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.

Paragraph 5 states that the Government's objectives in respect of traveller sites include:-

a) enable local planning authorities to make their own assessment of need for the purposes of planning
b) ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites
c) encourage local planning authorities to plan for sites over a reasonable timescale
d) promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites

e) increase the number of traveller sites, in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply
f) reduce tensions between settled and traveller communities in plan making and planning decisions
g) enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure
h) have due regard to the protection of local amenity and local environment.

Policy C: sites in rural areas and the countryside
Paragraph 12 states that when assessing the suitability of sites in rural or semi-rural settings, local authorities should ensure that the scale of such sites does not dominate the nearest settled community.

Policy H: determining planning applications for traveller sites
Paragraph 20 states that local planning authorities should consider the following issues when considering planning applications for traveller sites:-

a) the existing level of local provision and need for sites
b) the availability (or lack) of alternative accommodation for the applicants
c) other personal circumstances of the applicant
d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
e) that they should determine applications for sites from any travellers and not just those with local connections.

Paragraph 22 states that local planning authorities should strictly limit new development in open countryside that is away from existing settlements or outside areas allocated in the development plan. However, they should recognise that some rural areas may be acceptable for some forms of traveller sites. Local authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

Paragraph 23 states that local planning authorities should look favourably upon applications that:-

a) involve the development of previously developed (brownfield), untidy or derelict land
b) are well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
c) ensure adequate landscaping and play areas for children
d) do not enclose a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

Government Circular 05/2005: Sets out the Secretary of State's policy on Planning Obligations, and should be given significant weight in decision making and developer contributions.

The Community Infrastructure Levy (CIL) Regulations 2010, Part 11, Regulation 122 provides a statutory duty in respect of planning obligations and requires them to be necessary, directly related and fairly and reasonably related in scale and kind to the

development proposed. The Regulation does not replace Circular 05/2005 but gives it a statutory foothold in planning legislation.

The Housing Act requires Local Authorities to take account of the accommodation needs of Gypsies and Travellers and to create strategies for meeting those needs in the same way as they do for the settled community.

Planning For Growth (2011) This suggests that the planning system has a key role to play in ensuring that the sustainable development needed to support economic growth is able to proceed as quickly as possible. When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. This statement confirms that particular weight will be attached to the need to secure economic growth and employment.

Regional Policy

The Court of Appeal, in May 2011, gave judgment on an appeal by CALA Homes in relation to their continuing challenge to the SoS's proposal to abolish regional strategies. The Court confirmed that the Government's proposal to abolish regional strategies is a material planning consideration, but that is up to the LPA to decide what weight to give to the proposal in considering planning applications. The Localism Bill is still going through the Parliamentary process and the SoS has now confirmed that the actual revocation of any regional strategy will be subject to a Strategic Environmental Assessment. The view taken currently is that little if any weight should be given to the proposal to abolish regional strategies. This advice may change as the Bill progresses and officers will monitor the progress and report appropriately to committee.

East Midlands Regional Plan 2009

This is the Regional Spatial Strategy for the East Midlands and provides a broad development strategy for the East Midlands. The following relevant policies apply to this proposal:-

Policy 2 promotes better design including highway and parking design that improves community safety.

Policy 3 directs development towards urban areas with priority being given to making the best use of previously developed land.

Policy 16 outlines the regional priorities for the provision for Gypsies, Travellers and Travelling Showpeople. This policy states that Local Development Frameworks should make provision for the minimum number of additional pitches identified in Appendix 2 of the Regional Plan. The figures identified in this document were derived from the Leicester, Leicestershire and Rutland Accommodation Needs Assessment (2007), although the timescale for the provision of these sites was amended from the original study.

Policy 43 seeks to improve highway safety across the region and reduce congestion.

Local Development Framework Core Strategy 2009

Policy 18: Provision of Sites for Gypsies, Travellers and Travelling Showpeople states that the council will allocate land for residential pitches up to 2017. It states

that planning permission for new Gypsy and Traveller sites will be granted providing the site is:-

a) within of adjacent to the settlement boundary of Hinckley, Burbage, Barwell and Earl Shilton or
b) within or adjacent to the settlement boundary of any of the Key Rural Centres/Rural Villages or
c) is located within a reasonable distance of local services and facilities including shops, GPS's and schools, even if the site is not directly adjacent to the settlement boundary, and
d) has safe highway access, provision for parking and servicing
e) can be capable of sympathetic assimilation into the surroundings and
f) is appropriate to scale of the nearest settlement, its local services and infrastructure
g) will not cause unacceptable nuisance to existing neighbours by virtue of noise and other disturbance caused by movement of vehicles to and from the site
h) appropriate to provide a safe and healthy environment for residents.

Hinckley and Bosworth Local Plan 2001

The site lies mid way between the settlement boundaries of both Peckleton and Kirkby Mallory, as defined in the adopted Hinckley and Bosworth Local Plan.

Policy NE5: Development in the Countryside states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is either: important to the local economy and cannot be provided within or adjacent to an existing settlement; is for the change of use, re-use or extension of existing buildings; and only where it does not have an adverse effect on the appearance or character of the landscape, is in keeping with the scale and character of the existing buildings and general surroundings, will not generate traffic likely to exceed the capacity of the highway network or impair road safety and is effectively screened by landscaping.

Policy RES5: 'Residential Proposals on Unallocated Sites' states that on sites not specifically allocated in the plan for housing, planning permission will only be granted for new residential development if the site lies within a settlement boundary and the siting, design and layout of the proposal do not conflict with the relevant plan policies.

Policy BE1: 'Design and Siting of Development' seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Development should ensure adequate highway visibility for road users and adequate provision for on and off street parking for residents and visitors together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

Policy T5: 'Highway Design and Vehicle Parking Standards' states that in considering proposals for new development which involve new accesses the Local Planning Authority will apply the highway design standard set out within in the current edition of Leicestershire County Council's document 'Highways Requirements for Development'.

Policy IMP1: 'Contributions Towards the Provision of Infrastructure and Facilities' requires contributions towards the provision of infrastructure and facilities to serve

the development commensurate with the scale and nature of the development proposed.

Policy REC3: 'New Residential Development - Outdoor Play Space for Children' requires the appropriate level of open space to be provided within development sites or, alternatively, a financial contribution to be negotiated towards the provision of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities in the area.

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance: 'New Residential Development' provides a series of standards that new residential development should achieve in respect of design, layout, impact on neighbours and amenity space. It specifically states that the appropriate density of the development will be determined by the general character of the surrounding area.

Supplementary Planning Document: 'Play and Open Space', provides further information on the policy supporting play and open space provision including a breakdown of the cost to maintain and provide various types of formal and informal open space.

Other Material Policy Guidance

Designing Gypsy and Traveller Sites: Good Practice Guide is primarily intended to cover social site provision and states that there is there is no single, appropriate design for sites, and that it is important to ensure that sites.

a) are sustainable, safe and easy to manage and maintain
b) are of a decent standard, equitable to that which would be expected for social housing in the settled community
c) support harmonious relations between Gypsies and Travellers and the settled community.

The Guide states that it will not be possible to meet all aspects of this guidance in every respect on every site. Local authorities and registered social landlords will need to take decisions on design on a case by case basis, taking into account local circumstances such as the size, geographical and other characteristics of the site or prospective site and the particular needs of the prospective residents and their families. In the case of small private site development there will be similarities but it should be recognised that those sites are designed to meet the individual and personal preferences of the owner and may contain elements which are not appropriate or popular for wider application in respect of social provision. It would not therefore be appropriate to use the good practice guidance in isolation to decide whether a private application for site development should or should not be given planning permission.

The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016 identifies the needs for gypsy and travellers within the Borough up until 2016.

The Black and Minority Ethnic Communities Housing in the East Midlands: A Strategy for the Region, recommendation 8 states that ' It is imperative that local authorities make immediate progress in site identification to meet the needs of Gypsies and Travellers rather than relying on the development of policies through the local development framework.'

Appraisal:-

This is an outline application for layout and access only; therefore appearance, landscaping and scale do not form part of the application and will be considered at the reserved matters stage.

The main considerations with regards to this application are the Principle of Development, Impact upon the Countryside, Gypsy and Traveller Considerations, Sustainability, Five Year Housing Land Supply, Impact upon Residential Amenity, Highway Considerations and Other Matters.

Principle of Development

PPS3 states housing developments should be located in suitable locations which offer a good range of community facilities. The revisions on 9th June 2010 also removed private residential gardens from the definition of previously developed land. The Council has considered that where development falls within this classification but is within a defined settlement boundary, that character density, mass, layout and design should be fundamental to the determination of the application alongside the development being carried out in accordance with relevant plan policies. However, the site is question falls outside the defined settlement boundary and as such countryside restraint polices apply.

Policy 13 of the Core Strategy defines the direction of development in Rural Hamlets with housing development supported within settlement boundaries. This site stands approximately half-way between Kirkby Mallory and Peckleton both of which are defined as rural hamlets in the core strategy. The site is not located within the settlement boundary of either of these hamlets, as such the scheme is considered contrary to this policy.

Saved Local Plan Policy RES5 states that on sites not specifically allocated in the plan for housing, planning permission will only be granted for new residential development if the site lies within a settlement boundary and the siting, design and layout of the proposal do not conflict with the relevant plan policies. This site is a Greenfield site situated outside development limits, as defined by the adopted proposals map of the local plan as such the proposal is contrary to Local Plan Policy RES5.

Gypsy and Traveller Considerations

The definition of Gypsies and Travellers, contained within Circular 01/2006 refers to persons of nomadic habit of life including those that have ceased to travel temporarily or permanently. The Gypsy Liaison Officer has confirmed that the applicant is known to them as a gypsy and therefore there is no evidence that suggests the applicant is not a gypsy, as per the Circular definition.

Notwithstanding this fact, paragraph 11 of the Circular states that the “This Circular applies equally to the development of public sites by local authorities or registered social landlords, to applications for planning permission from gypsies and travellers themselves or from others wishing to develop land for use as a gypsy and traveller caravan site.” In considering the wording of paragraph 11 and, given that this application relates to the provision of a dwelling and not a caravan or caravan site, the provisions of Circular 01/2006 are considered by officers not to be applicable and therefore not a material consideration in the determination of this application. It is considered therefore, in light of that view, that it is a moot point whether there is then

a requirement to consider the personal needs of the applicant and his/her family in reaching a decision.

Nonetheless, the remainder of this section of the report identifies other planning policies and assesses the needs of the appellant and his/her family with the intention of presenting as full a picture as possible to members of potential issues for consideration in respect of this application.

Policy 18 of the Core Strategy is concerned with the provision of sites for Gypsies, Travellers and Travelling Showpeople and outlines the numerical requirement for the delivery of pitches within the Borough. The policy identifies that the Borough is required to provide 42 residential pitches (26 up to 2012, 16 from 2012 – 2017) and five transit pitches (to accommodate 10 transit caravans) to 2012.

Policy 18 refers to the provision of sites and pitches within the Borough and refers to capacity of these pitches in terms of caravans. There is no mention of or commitment to the provision of dwellings and as such it is the opinion of your officers that Policy 18 does not seek to deliver dwelling houses for the occupation by Gypsies. Accordingly, Policy 18 is not considered to be material in the determination of this application.

The Gypsy and Traveller Liaison Officer has confirmed that the application has been made by a long-established Leicestershire Gypsy family and can therefore confirm their Gypsy status. The applicant has stated that there is a need for a dwelling for a daughter of Gypsy status, in order to establish a permanent residence in order for her children to be able to attend a local school and that a site to house a mobile home has already been explored and a mobile home on the site have been considered but that the applicant now seeks consent for the erection of a dwelling.

Your officers have considered the case and considered that insufficient justification has been provided which adequately demonstrates that a dwelling in this location is necessary.

Firstly, the proposed dwelling is intended for the applicant's daughter, who, based on the information provided, at the time of writing, does not have children of her own and therefore the justification which seeks need for a dwelling in proximity to schools, for a future family, represents a desire rather than a need.

In addition, there are no primary schools within either Peckleton or Kirby Mallory.

The applicant has provided limited information which has shown that alternative accommodation within existing open market housing stock has been considered. In line with the spatial vision of the Core Strategy, it is considered that there are more appropriate locations for the construction of dwelling houses, other than the application site.

In summary, the proposed dwelling does not constitute a gypsy and traveller caravan pitch or site. Accordingly the provisions of Circular 01/2006 are considered not to be applicable to this application. Policy 18 refers to the provision of gypsy and traveller sites and pitches within the Borough and refers to capacity of these pitches in terms of caravans. There is no mention of or commitment to the provision of dwellings and making the application of this policy inappropriate. In respect of Gypsy need, it is considered that no significant weight can be given to the fact that the dwelling is for the occupation of people of Gypsy origin and on this particular application site.

In addition, the Gypsy Liaison Officer is also of the opinion that this is an application for a dwelling house and therefore should be determined in the same way as any other dwelling house.

As such the application therefore falls to be considered against other local development plan policies.

Impact upon the Countryside

The proposed development is situated on land outside of the settlement boundary for Kirkby Mallory and therefore constitutes development in the countryside.

PPS7 advises that development outside existing settlements should be strictly controlled in order to protect the countryside for its own sake and that new dwellings require special justification. There are typically two circumstances where new dwellings can be justified in the countryside. Firstly, where a dwelling is required to enable an agricultural worker and certain other full time workers to live at or close to their place of work. Secondly, where a new dwelling of exceptional sustainable design is sought. The submitted details make no reference to justification in respect of ether of these exemptions and as such no justification has been provided to meet the requirements of PPS7.

Saved Local Plan Policy NE5 states that the countryside will be protected for its own sake and planning permission will be granted for built and other forms of development provided that the development is either:-

a) important to the local economy and cannot be provided with or adjacent to an existing settlement; or
b) for the change of use, re-use or extension of existing buildings, particularly those of historic value; or
c) for sport and recreation purposes.

It is accepted that some forms of development can be appropriate in a countryside location and help to sustain a healthy rural economy. For example, development that can be shown to be for the operational requirements of agriculture, horticulture, forestry, recreation, public utilities or tourism.

The applicant is proposing to build a new dwelling and has provided no evidence to suggest the development would fall within any of the policy criteria and therefore the development is not afforded support by Policy NE5.
In summary, the scheme proposes the erection of a dwelling outside the settlement boundary and provides no evidence to suggest the development is important to the local economy and as such the scheme is not afforded any policy support by PPS7 and Local Plan Policy NE5.

Sustainability

PPS1 states planning authorities should promote sustainable patterns of rural development.

Whilst the application site may be close in distance to two settlements Peckleton and Kirkby Mallory, there are minimal services within these settlements, with no schools, doctors or local shops such as a post office. Such amenities are available within Barwell (located approx. 2.9 miles away), Earl Shilton (2.3 miles) Desford (2.6 miles)

and Newbold Verdon (2.7 miles) however access to these settlements would be via car.

In summary, the application is outside of the settlement boundary of Peckleton and Kirkby Mallory and as such located where services are not readily and safely accessible by walking, cycling or public transport. As such it is considered that future occupants would be overly, if not totally, reliant on car borne trips, contrary to spatial and sustainable objectives within the Core Strategy and guidance contained within PPS1.

Five Year Housing Land Supply

The Council currently does not have a five year housing supply with the shortfall being 750 dwellings at 1 April 2011 equating to a five year supply of 3 years and 7 months and as such the principles of PPS3 paragraph 71 applies. Paragraph 71 requires that where local authorities do not have a five year land supply proposals should be given favourable consideration.

However, this must be viewed on its merits in line with other policies and the criteria of paragraph 69. Paragraph 69 states that in deciding planning applications, Local Planning Authorities should have regard to a number of factors including 'ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives.'

The spatial vision for the area is defined through the policies within the Local Plan; in this case Policies RES5 and BE1 are relevant. Policy RES5 states that planning permission will only be granted for new residential development if the site lies within the settlement boundary and the siting, design and layout of the proposal does not conflict with the relevant plan policies. The site is not within the settlement boundary and therefore there is a presumption against development.

In summary, although the Council currently does not have a five year housing supply and, as such, this is a material consideration that should be given weight in the determination of this application it should be, noted however, that the lack of 5-year housing supply by itself does not necessarily mean the approval of inappropriate and non-preferable sites, and applications should be also be considered alongside a number of other material considerations.

Highway Considerations

A new access is proposed off Peckleton Road. The scheme has been considered by the Director of Environment and Transport (Highways) who recommends refusal on the ground that the proposal could result in an unacceptable increase in traffic using an access which lacks appropriate visibility for the speed of traffic on the main road which would lead to increase dangers for road users.

In summary, it is therefore considered that the creation of the access would lead to an increase in dangers for road users. As such the scheme would be contrary Saved Policy T5 of the Local Plan.

Impact Upon Residential Amenity

The application is in outline and as such scale, landscaping and appearance are still to be considered.

The neighbouring dwelling most immediately impacted upon as a result of the dwelling would be Windycot located to the east of the application site. No letter of representation has been received from this neighbouring dwelling.

There is a distance of approximately 4.5 metres between the proposed and neighbouring dwelling. The western elevation of Windycot contains 4 no. habitable windows and the presence of single storey garage sited along the common boundary. Given the siting and footprint of the proposed dwelling it is not considered that the dwelling would create any significant material impacts upon residential amenity to warrant a refusal of permission. Other issues would be subject to further consideration under the reserved matters application when scale and design would be considered.

The nearest other neighbouring dwelling is 'The Bungalow' located to the west of the application site and there is a distance of some 35 metres between the proposed and neighbouring dwelling. This is considered a sufficient distance for there not to be any significant impacts upon the amenities of the occupiers of this neighbouring dwelling.

In summary, it is considered that the proposal does not result in any significant material impacts upon residential amenity and accords with Saved Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Financial Contributions

Due to the residential element of the development the proposal triggers a requirement for a contribution towards the provision and maintenance of play and open space in accordance with Policy REC3 supported by the Play and Open Space SPD. In this instance, there is no existing open space within 400 metres of the site and as such a contribution cannot be requested under the terms of the current policy.

Other Matters

The Head of Community Services (Pollution) states that the Council's records show that the site is adjacent to an area labelled brickwork and there is a clay pit adjacent to Windycot and a condition would be required to secure a scheme for the monitoring of landfill gas.

Conclusion

The proposed dwelling does not in your officers` view constitute a gypsy and traveller caravan site in accordance with Paragraph 11 of Circular 01/2006 and therefore the Circular is not considered to be applicable or material to the determination of this application. Similarly adopted Core Strategy Policy 18 solely refers to the need for the Borough Council to deliver additional gypsy and traveller sites and caravans pitches, and not dwellings. As such it is considered that this policy is also inappropriate and again not material. It is therefore considered that this application for the erection of a dwelling only and there is no evidence to suggest that this development should be accessed in line with Circular 01/2006 or Core Strategy Policy 18.

The applicant maintains that there is a need for a dwelling for a family of Gypsy status, as opposed to other forms of accommodation such as a caravan, to house a Gypsy family. In your officer's view the justification which seeks need for a dwelling in proximity to schools, for a future family, represents a desire rather than a need and there are no primary schools within either Peckleton or Kirby Mallory. Despite the

claimed need it is considered that in light of the proposal being for a dwelling this need does not provide justification for the construction of a dwelling house in a location where both national and local policy would not support it. In addition, should there be a need for 'bricks and mortar' accommodation, there are considerably more appropriate locations for this development other than the application site.

The scheme proposes the erection of a dwelling outside the settlement boundary and provides no evidence to suggest the development would fall within any of the policy criteria and as such the proposal does not afford policy support through Saved Local Plan Policy NE5 and overarching guidance contained within PPS7. Furthermore, the application proposes a dwelling within the countryside contrary to sustainability objectives.

The Council does not have a 5-year housing land supply which should be given considerable weight. However, as stated in Paragraph 69 of PPS3 this should be balanced carefully against other policy provisions and consideration should be given to the number of dwellings proposed and the impact this will have on the housing supply and the design policy requirements. Only one dwelling is proposed which will have a negligible impact on the 5-year housing land supply position which combined with the conflict of the proposal with local plan and core strategy policies is considered to outweigh the 5-year housing land supply shortfall. The development would therefore be contrary to Planning Policy Statements 1, 3 and 7 and Saved Local Plan Policies RES5 and NE5 and Core Strategy Policy 13.

It is also considered that the proposed development would result in an unacceptable increase in traffic using an access which lacks appropriate visibility for the speed of traffic on the main road which would lead to increase dangers for road users. It is therefore considered that the development fails to meet the criteria as set out within Saved Local Plan Policy T5.

Accordingly it is recommended that the application be refused.

RECOMMENDATION:- REFUSE, for the following reasons:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies:-

Reasons:-

1 In the opinion of the Local Planning Authority, the proposed scheme constitutes the creation of a new dwelling outside of a defined settlement boundary, with no special overriding justification and is therefore contrary to national guidance contained within Planning Policy Statements 1, 3 and 7 and Saved Policies RES5 and NE5 of the Adopted Hinckley and Bosworth Local Plan.

2 In the opinion of the Local Planning Authority, the proposed residential development would result in an unacceptable increase in traffic using an access which lacks appropriate visibility for the speed of traffic on the main road which would lead to increase dangers for road users. As such the proposal is contrary to Adopted Saved Local Plan Policy T5.

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