

Delegated Report

Planning Ref: 24/00464/CONDIT

Applicant: Mr John Price

Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: Pinehollow Barn Stoke Lane Higham On the Hill

Proposal: Variation of Condition 12 (Additional Caravans or Mobile Homes) of Planning Application 08/00891/FUL to allow for the siting of four static caravans and two touring caravans for residential use

1. Recommendations

- 1.1. **Grant planning permission** subject to:
- Planning conditions detailed at the end of this report.

2. Planning Application Description

- 2.1. Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition previously imposed on a planning permission.
- 2.2. In this case, planning permission for application 08/00891/FUL approved the change of use of land to the keeping of horses and a residential caravan site for one gypsy family with two caravans and the formation of an access onto Stoke Lane.
- 2.3. Planning condition 12 of this planning permission stated:

"No additional caravans and/or mobile homes, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan and Sites Act 1968, other than those approved by this permission, whether for storage or human habitation shall be placed onto the land whether for temporary or permanent purposes without the prior written approval of the Local Planning Authority."

Reason: *For the avoidance of doubt and in the interests of highway safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan"*

- 2.4. This application seeks planning permission for the variation of Condition 12 of planning permission 08/00891/FUL to increase the capacity of the site to four static caravans and two touring caravans for residential use to accommodate the Applicant's family members.

3. Description of the Site and the Surrounding Area

- 3.1. The application site comprises a narrow strip of land along the western side of Stoke Lane to the north of, and outside of the identified settlement boundary of, Higham on the Hill. The site is enclosed by close-boarded timber fencing, but the vehicular access to the site features wrought iron fencing.
- 3.2. Pinehollow Barn is an established gypsy and traveller residential site that approved by planning permission 08/00891/FUL for one gypsy and traveller family.
- 3.3. To the north, south, and west, the site is bounded by open agricultural land. The Higham on the Hill Conservation Area and Public Right of Way (PRoW), Footpath T47, both abut the southern boundary of the application site. On the opposite side of Stoke Lane is Vale Farm and its outbuildings, and Elm Barn, which both feature residential dwellings and agricultural structures. Stoke Lane is an adopted and classified 'C' road that is subject to the National Speed Limit.

4. Relevant Planning History

4.1 11/00815/FUL

- Use of land as a residential caravan site for four gypsy families with 8 caravans including laying and additional hard standing
- Refused
- 08.03.2012

The development was refused for the following reasons:

1. In the opinion of the Local Planning Authority, the proposed development, by virtue of its distance from local services and facilities, would be contrary to Policy 18 of the adopted Hinckley and Bosworth Core Strategy.
2. In the opinion of the Local Planning Authority, the proposed development would be visually intrusive, constitute overdevelopment of the site, and would be out of keeping with the character of the area. It would not be capable of sympathetic assimilation into its surroundings and would be contrary to Policy 18 of the adopted Hinckley and Bosworth Core Strategy.
3. In the opinion of the Local Planning Authority, the development, by virtue of the number of pitches proposed, would not be proportionate with the scale of the nearest settlement, Higham on the Hill, its local services and infrastructure and would therefore be contrary to Policy 18 of the adopted Hinckley and Bosworth Core Strategy.
4. In the opinion of the Local Planning Authority, the proposed development is not considered to meet the standards set out in the document, *Designing Gypsy and Traveller Sites: Good Practice Guide*, and would therefore be contrary to Policy 18 of the adopted Hinckley and Bosworth Core Strategy.

5. In the opinion of the Local Planning Authority, the proposed development is not considered to provide a safe and healthy environment for residents and would therefore be contrary to Policy 18 of the adopted Hinckley and Bosworth Core Strategy.

4.2 **11/00475/CONDIT**

- Variation of Condition 12 of planning permission 08/00891/FUL to allow occupation of the site with 8 caravans, of which no more than 4 would be static caravans.
- Withdrawn
- 09.08.2011

4.3 **08/00891/FUL**

- Change of use of land to the keeping of horses and a residential caravan site for one gypsy family with two caravans and formation of access.
- Permitted
- 03.11.2008

4.4 **08/00117/COU**

- Change of use of land to the keeping of horses and a residential caravan site for one gypsy family with two caravans
- Refused
- 12.03.2008

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents A site notice was also posted within the vicinity of the site.

- 5.2. No responses have been received.

6. Consultation

- 6.1. Higham on the Hill objects to the planning application for the following reasons:

- Harm to the character of the area.
- Harm to the intrinsic value, beauty, open character, and landscape character of the countryside.
- Highway safety concerns.
- The scheme represents an unacceptable development in the countryside.

- 6.2. There have been no objections from the following consultants:

- Leicestershire County Council (LCC)'s Highways Department

- 6.3. LCC's Gypsy Liaison Officer did not comment on the planning application.

- 6.4. No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- Policy 18: Provision of Sites for Gypsies, Travellers and Travelling Showpeople

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (December 2023)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)
- Planning Policy for Traveller Sites (PPTS) (2015)

7.4 Other Relevant Guidance:

- DCLG Designing Gypsy and Traveller Sites: Good Practise Guide
- Good Design Guide (2020)
- Gypsy and Traveller Accommodation Needs Study (2016)
- Leicestershire Highway Design Guide (2022)

8. Appraisal

8.1. The principle of gypsy and traveller residential development within this site has already been established through the earlier grant of the extant planning permission on the site.

8.2. The key issues in respect of this application are therefore:

- Highway safety
- Character of the area
- Other issues
- Conditions

Impact upon Highway Safety

- 8.3. Policy DM17 of the SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe.
- 8.4. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.5. Leicestershire County Council, as the Local Highway Authority (LHA) noted that a previous planning application, 11/00475/CONDIT, also sought the variation of Condition 12 of planning permission 08/00891/FUL. 11/00475/CONDIT sought permission for the provision of eight caravans within site, of which no more than four would be static caravans. Whilst this application was subsequently withdrawn, the LHA highlighted that they raised no objection to the variation of this condition on 29 June 2011.
- 8.5. In comparison to this withdrawn planning application, the current proposal seeks the provision of two less touring caravan pitches. As such, the LHA confirmed that the current development is likely to lead to less trips on the public highway than the previously withdrawn scheme, to which they raised no objection to. By virtue of these factors, the LHA do not seek to resist the proposal, subject a suitably worded condition that ensures no additional caravans/ mobile homes can be placed on the site without prior written approval from the Local Planning Authority.
- 8.6. In conclusion, the development is not considered to create an unacceptable impact on highway safety or the road network and remains compliant with Policies DM17 and DM18 of the SADMP.

Impact on the Character of the Area

- 8.7. Policy DM4(i) of the SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside.
- 8.8. Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.9. Paragraph 25 of PPTS states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning 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.

- 8.10 The application site is an established gypsy and traveller site and therefore benefits from an existing residential use. This use is visually prominent from Stoke Lane and from the Public Right of Way and has been since the implementation of the planning permission in 2010.
- 8.11 In light of this, although the proposal increases the number of static caravans within the site by two, this is not considered to result in a significant adverse impact on the character of the area. Moreover, given the length and size of the site, two additional static caravans and touring caravans are not considered to represent significant overdevelopment of the site.
- 8.12 Whilst Higham on the Hill is a small rural village, it is not considered that the provision of four static caravans is likely to dominate the community nor place an undue pressure on the local infrastructure.
- 8.13 In conclusion, the proposal is not considered to result in any significant adverse impacts to the character of the site or the surrounding area and is therefore acceptable under Policies DM4 and DM10 of the SADMP.

Other Issues

- 8.14 Given the existing use of the site and its siting in relation to nearby residential properties, the modest intensification of the use of the application site is not considered to result in significant adverse impacts on neighbouring residential amenity. Therefore, the development remains compliant with Policy DM10 of the SADMP.

Conditions

- 8.15 Planning permission 08/00891/FUL was subject to 18 conditions.
- 8.16 The original development has been implemented and therefore Condition 01 (Time) is no longer required.
- 8.17 As the original development is already occupied, Conditions 02 (Visibility Splays), 03 (Turning Facilities), 04 (Drainage), 05 (Surfacing), 06 (Access Width), and 08 (Access Radii) require amending to ensure that these facilities are retained and maintained on site. These conditions remain reasonable and necessary in the interests of highway safety.
- 8.18 The original vehicular into the access has been closed in accordance with Condition 07 (Closure of Existing Access) and therefore this condition can now be removed.
- 8.19 Condition 09 (No Access Obstructions) remains reasonable and necessary in the interests of highway safety.

- 8.20 Conditions 10 (No Commercial Uses) and 13 (No Trade or Business Use) overlap and therefore both are not necessary. Therefore, the conditions shall be revised into one reasonable and necessary planning in the interests of highway safety and to safeguard the intrinsic value, beauty, open character, and landscape character of the open countryside.
- 8.21 Whilst it is unclear at this stage what improvements have been made to the existing bus stop outside of the site, the original development has already commenced and been occupied for over 14 years. Therefore, Condition 11 (Improvements to the Existing Bus Stop) is no longer required.
- 8.22 As the development is also constructed, Condition 14 (Landscaping) is no longer required. In addition, as the development has been on site for over five years, Condition 15 (Landscaping Implementation) is no longer required.
- 8.23 Condition 16 (No Burning of Waste Materials) remains reasonable and necessary to safeguard the residential amenity of neighbouring properties.
- 8.24 Condition 17 (Occupation Limitation) remains reasonable and necessary to ensure that the approved development meets the needs of gypsies and travellers as the planning permission was granted for.
- 8.25 Condition 18 (Vehicle Limitation) remains reasonable and necessary in the interests of visual amenity and to protect the intrinsic value, beauty, open character, and landscape character of the countryside.
- 8.26 All the conditions remain reasonable and necessary to ensure satisfactory development of the site.
- 8.27 An additional planning condition is necessary to ensure that the development is implemented in accordance with the revised plans.
- 8.28 No further conditions are considered to be necessary.

9. Equality Implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application
- 9.3 The equality implications arising from this application relate to persons with protected characteristics as identified within the Equality Act 2010. This has been addressed in the assessment of this application by having regard to the National Planning Policy Framework (2021), Planning Policy for Traveller Sites (2015), and National Guidance (Designing Gypsy & Traveller Sites, Good Practise Guidance), and other National Guidance.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission is granted, subject to amended conditions and one additional planning condition securing accordance with the new revised plans.

11. Recommendation

- 11.1 **Grant planning permission** subject to:

- Planning conditions detailed at the end of this report.

11.2 Conditions and Reasons

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:

- Revised Block Plan (submitted: 06.08.2024)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. Visibility splays of 2.4 metres by 59 metres to the north of the access with Stoke Lane and 2.4 metres by – metres to the south of the access with Stoke Lane shall be maintained in perpetuity. Nothing shall be allowed to grow above a height of 0.9m above ground level within the visibility splays.

Reason: In the interests of general highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD (2016).

3. There shall at all times be provision on site for vehicles to enter and leave the site in forward gear.

Reason: To ensure that vehicles entering and leaving the site may do so in a forward gear in a slow and controlled manner, in the interests of general highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD (2016).

4. The site's drainage shall be maintained in perpetuity so that surface water shall not drain into the Public Highway.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with the National Planning Policy Framework (2023).

5. The hard bound surfacing of the vehicular access and turning space within the site shall be maintained for a distance of at least 7 metres behind the highway boundary at all times.

Reason: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not lead to on-street parking problems in the area in the interests of general highway safety in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD (2016).

6. The effective width of the access of a minimum of 6 metres for a distance of at least 5 metres behind the highway boundary shall be maintained so at all times.

Reason: In the interests of general highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD (2016).

7. The 4 metre control radii on both sides of the vehicular access onto Stoke Road shall be maintained in perpetuity.

Reason: In the interests of general highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD (2016).

8. Notwithstanding the submitted details, if any gates, barriers, bollards, chains, or other such obstructions are to be erected they shall be set back a minimum distance of 10 metres behind the highway boundary and shall be hung so as to open inwards only.

Reason: In the interests of general highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD (2016).

9. There shall be no trade, commercial, or business activities undertaken at the site, including the external storage of goods or materials not ancillary to the residential use or the keeping of horses, and no vehicles over 3.5 tonnes shall be stationed, parked, or stored on the site.

Reason: In the interests of visual amenity and to safeguard the intrinsic value, beauty, open character, and landscape character of the open countryside in accordance with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016), the Good Design Guide, and Section 15 of the National Planning Policy Framework (December 2023), and in the interests of highway safety in accordance with the National Planning Policy Framework (December 2023).

10. No additional caravans and/or mobile homes, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968), apart from four static caravans and two touring caravans shall be placed on the land whether for temporary or permanent purposes without the prior written approval of the Local Planning Authority.

Reason: In the interests of visual amenity and to safeguard the intrinsic value, beauty, open character, and landscape character of the open countryside in accordance with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016), the Good Design Guide, and Section 15 of the National Planning Policy Framework (December 2023).

11. No horse manure or other waste materials shall be burnt on the site at any time.

Reason: To protect the amenities of the occupiers of neighbouring residential properties from odours in accordance with Policies DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. The site shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites (2015).

Reason: To enable the provision of accommodation from which gypsies and travellers can access education, health, welfare, and employment infrastructure, in accordance with Planning Policy for Traveller Sites (2015).

13. There shall be no more than one vehicle (other than private motor cars) for each caravan stationed on site at any one time.

Reason: In the interests of visual amenity and to safeguard the intrinsic value, beauty, open character, and landscape character of the open countryside in accordance with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016), the Good Design Guide, and Section 15 of the National Planning Policy Framework (December 2023), and in the interests of highway safety in accordance with the National Planning Policy Framework (December 2023).

a. **Notes to Applicant:**

1. Public Right of Way, Footpath T47, runs in a separate corridor between a hedge and the fence that forms the southern boundary of the existing site. Please ensure that the Public Right of Way remains in situ. Public Right(s) of Way must not be re-routed, encroached upon, or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.