COMMITTEE EXTRACT

Committee Date: 5 May 2009

Reference:- 09/00280/COU **Parish:- Barlestone Parish Council**

Applicant:- Mr Robert Hodgetts (Snr) And Others
The Stables
Garland Lane
Barlestone
Hinckley

Location:- Land To The North Of Bagworth Road Nailstone Leicestershire

Proposal:- CHANGE OF USE FROM KEEPING OF HORSES TO KEEPING OF HORSES AND RESIDENTIAL CARAVAN SITE FOR TEN GYPSY FAMILIES WITH TWO CARAVANS AND AMENITY BLOCK, INCLUDING ACCESS IMPROVEMENT, ACCESS ROAD AND LAYING OF HARDSTANDING

Introduction:-

This is a full application for the creation of 10 permanent residential pitches each capable of accommodating 2 caravans and an amenity building at land to the north of Bagworth Road Nailstone. A new hedgerow to the north side of the site is proposed along with some landscaping adjacent to the access point. The site will provide accommodation for 10 families that fall under the definition of a Gypsy for the purposes of Circular 01/2006 Planning For Gypsy And Traveller Caravan Sites.

The development subject to this application has already been carried our and is partially complete, with the exception of the siting of a number of caravans and the construction of the amenity buildings.

The site covers approximately 0.82 hectares and accessed from an existing field access from Bagworth Road. Modifications have taken place to this access to allow vehicles to pass clear of the highway. The site has a mature hedgerow running parallel to Bagworth Road to the south and a number of mature trees to the northeast.

The application contains a statement providing details of the families that are to occupy the plots and provides some brief detail in respect of the families needs for permanent accommodation. The Design and Access Statement confirms details in respect of the access and sustainability of the site and concludes that the proposal fully accords with Local Plan policy RES13 and would contribute to the unmet need for Gypsy sites within the Borough.

The site subject to this application previously accommodated a timber stable building, however this burnt down some time ago and as such the use of the site for the stabling of horses has ceased.

History:-

07/00604/FUL	Erection of Six Stables and Tack Room	Approved	30.07.07

Consultations:-

No objection has been received from:

The Environment Agency
The Council's Waste & Recycling Officer
Head of Community Services (Pollution)

No objection subject to conditions have been received from

Severn Trent Water

The Director of Property Services (Leicestershire County Council Gypsy Liaison Officer) has provided a detailed response in respect of the occupier's needs and history having visited the site. The gypsy status of the occupiers is confirmed along with confirmation of the travelling families' need of a place to live. The response further details that the occupants (those surveyed) are from unauthorised roadside encampments, some from overcrowded sites, but all are in need of accommodation. The response details that the site would accommodate their need and if the application were not successful would have no where to legally park their caravans. The Gypsy liaison Officer further confirms that the content of the Good Practice Guide entitled 'Managing Unauthorised Camping' and Circular 01/06 provides further advice on considering such proposals.

The Director of Highways, Transportation and Waste Management (Highways) objects to the proposal as it results in a large scale intensification in vehicular use of an existing field access taken from an unlit section of Class II road in a location remote from main development where traffic speeds are generally high. Additionally, an increase in turning traffic onto or off the B585 at this location would not be in the best interests of Highway safety. The proposal is contrary to the Highway Authority's access to road network and development control policies.

Barlestone Parish Council objects to the applciation on the following grounds:
Environmental grounds
- Intrusion into open countryside
- The area is within the National Forest
- Over proliferation of sites in the area
- Highway concerns regarding extra traffic and access to the site
- Visual amenity
- Pressure on local public services

The National Forest Company objects to the application because of the potential impact it will have on the rural environment, the National Forest setting and the prematurity of the proposal in light of the LDF Site Allocations consultation.

Site notice and Press notice were displayed and neighbours notified.

At the time of writing the report comments have not been received from:

Director of Community Services (Archaeology)
Director of Community Services (Ecology)
Parish Council (Nailstone /Bagworth and Thornton)
Head of Community Services (Land Drainage)

Development Plan Policies:-

National Planning Guidance
Circular 01/2006 - Planning for Gypsy and Traveller Sites replaces Circular 1/94. Its main intentions are:

To significantly increase the number of Gypsy and Traveller sites with planning permission in order to address under-provision;
To recognise, protect and facilitate the traditional lifestyle of Gypsies and Travellers;
To identify and make provision for the resultant land and accommodation requirements;
To help or avoid Gypsies and Travellers becoming unintentionally homeless;
To reflect the status of Gypsy and Traveller accommodation as a part of wider housing provision;
To 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;
To 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;

To 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;
To ensure that Development Plan Documents include fair, realistic and inclusive policies to ensure identified need is dealt with fairly and effectively; and
To 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.

Regional Policy
East Midlands Regional Plan - Sets the vision for the East Midlands Region providing overarching policies to give a consistent approach to planning across the region.

Policy 16 Regional Priorities for Provision for Gypsies, Travellers and Travelling Show People, requires Local Authorities are required to identify land for additional pitch provision based on clear evidenced assessment of need. These needs are identified in The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016 and the emerging Local Development Framework for the Borough.

Policy 31 Priorities for the Management and Enhancement of the Regions Landscape, requires Local Authorities to amongst other things, establish policies to ensure that development proposals respect intrinsic landscape character through landscape character assessments.

Local Plan Policy
The site lies within the countryside where policy NE5 of the Local Plan seeks to protect the countryside for its own sake and any development having a significant adverse effect on the appearance or character of the landscape will not normally be appropriate.

Policy NE10 requires development within local landscape improvement areas to include comprehensive landscape proposals to enhance these areas.

Policy NE21 allows development within the national forest providing criteria are met including design and landscaping that reflects the character of the national forest.

Policy T5 of the Local Plan relates to highway design and vehicle parking standards. The policy states development that involves the creation of a new access will be subject to the highway design standards.

Policy RES13 of the Local Plan states that as an exception to the countryside restraint policy (NE5), gypsy caravan sites may be acceptable forms of development provided all the criteria contained in the policy are satisfied. These are:

a) located within a reasonable distance of local services and facilities, eg. Shops, hospital and schools.
b) would not have an adverse effect on the amenities of neighbours.
c) would not have an adverse effect on the character and appearance of the countryside.
d) has an acceptable vehicular access and provision for parking and servicing.
e) incorporates an substantial peripheral landscaping, and
f) does not conflict with any other polices of the local plan.

Other Material Guidance
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.

Hinckley and Bosworth Landscape Character Assessment 2006 identifies the distinctive landscapes of the Borough, defines their character and provides direction for new development in light of the designation.

Appraisal:-

Given that the development is for a residential site for Gypsy families, in accordance with the Circular definition as confirmed by the ~~Director of Property Services (Leicestershire~~ County Council Gypsy Liaison Officer, the issue for consideration is whether the needs of the gypsy families and the development satisfies the criteria of Policy RES13 of the Adopted ~~Hinckley and Bosworth~~ Local Plan.

Gypsy and Traveller Need

The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016 identifies a need for 42 residential pitches for period up until 2016 within the Borough.

Since the accommodation Needs Assessment was adopted in April 2007, a total of three have received planning permission within the Borough, two pitches at The Paddock, Higham on the Hill and one pitch at Stoke Lane Higham on the Hill. Accordingly, the approval of these three pitches has reduced the Borough Council's requirements to 39 permanent pitches.

This figure forms the basis of the Local Development Framework Preferred Options that have recently been consulted upon. The outcome of the Preferred Options consultation is not yet known. In the mean time the identified need remains and planning applications must be determined on their merits.

The response form the Gypsy Liaison Officer confirms that those occupiers of the site ~~which have be~~en surveyed, which is 8 of the 10 pitches, are in need of accommodation and that the site will meet their needs. Whilst these ~~needs~~ are discussed in some detail they are by no means comprehensive and are without significant evidence to confirm the personal circumstances claimed. Additionally, the application does not provide detailed information that justifies the needs of the applicants/occupiers that support the proposal.

Notwithstanding the comments of the Gypsy Liaison Officer, the Council is aware of a degree of under occupancy at a number of existing gypsy and traveller sites within the Borough and information obtained from neighbouring local authorities and from the Gypsy Liaison Officer. Accordingly, in light of the Gypsy Liaison Officer's comments detailing the circumstances and movement of the occupiers, it is possible that the movement of the occupiers is by choice ~~that they have occupied this site~~ rather than by way of need.

The issue of capacity and under occupation at authorised and tolerated sites elsewhere is subject to the findings of the Accommodation and Needs Assessment, in so far as the assessment does through its assessment methods and modelling account for the net movement, expiry of temporary planning permission, new household formation and the unauthorised developments. Notwithstanding this point and without demonstrable need, the overarching countryside restraint policy carries a significant weight.

One family of two adults and two children has moved to the site because of the need for a third caravan, for which their existing site was not able to accommodate. Whilst it maybe the family's desire to have a greater amount of living space, the Accommodation Needs Assessment defines the average number of caravans per family is 1.9. In light of this average figure and the overarching countryside restraint policy that apply, it must be concluded that the desire of the family to have an additional caravan should not be met in this case.

Therefore, in view of the information available in respect of the applicants/occupiers previous residences and the lack of justification and evidence provided, the argument that the applicants/occupiers may be made homeless should be given less weight than the impact of the development upon the open countryside and highway safety.

Application of Policy of RES13

Criteria A

Whilst being located outside of any settlement, it is located within reasonable distance from a number of settlements that offer a mixed degree of choice of services. The settlements of Bagworth, Barlestone and Nailstone are not more than a couple of miles away from the site and the larger centres of Ibstock and Coalville are within easy travelling distance. The site does not benefit from being located on a bus route but routes do pass through all of the above-mentioned settlements. On balance, and given

consideration to the nature of the proposal and the desires of gypsy families to not be sited within existing communities, the general location of this site is considered acceptable.

Criteria B
Due to this sites rural location, there are no other properties close by. The nearest neighbouring dwellings are located at the Costalot site further east along Bagworth Road. Due to the degree of separation between this site and Costalot there is not considered to be any material issues in respect of neighbouring amenity.

Criteria C
The site is located within the Forest Hills landscape area as defined in the Landscape Character Assessment 2006 (LCA). This landscape is defined as a rolling rural landscape where the land levels change quickly, rising and falling frequently giving rise to long distance views. The LCA confirms 'that the siting and design of all new development should compliment the existing settlement pattern'.

The application site has been levelled through the importation of material to provide a level site for the caravan pitches, resulting in the creation of an embankment to the northeast side of approximately 2 metres higher than the original field level. This banked up area then falls away further to the stream at the bottom of valley.

The site whilst being well screened from Bagworth Road by the mature roadside hedgerow, is somewhat open on all other sides, particularly from the north where due to the shape of the landscape, views are available down the valley toward the application site.

When viewed from Wood Lane to the north, the site is visually prominent within what is a predominately undeveloped rural landscape that is very much characterised by rolling fields with low hedgerows and few hedgerow trees. The caravans on the site are easily visible from some distance and are visually dominant within this landscape. To further exacerbate the sites prominence, by way if its position on the falling valley side the site is somewhat framed from the north by the hill on the outskirts of Bagworth and visually prominent spoil heap and the rising landscape to the west towards Nailstone and Barlestone.

The advice contained within Circular 01/2006 does make specific reference to the provision of sites within rural areas and suggests that landscape concerns and designations are not alone sufficient to refuse any application. Whilst this guidance is available, consideration of the requirements of the development plan must be weighted proportionally and any planning application must be determined on its own merits and all relevant planning matters appropriately considered. In this case the impact the proposal will have on the character and appearance of the countryside is material in this determination for the reasons discussed above.

Criteria D
Whilst this criteria refers to highway matters in relation to gypsy sites, Policy RES13 is supported by the overarching highway safety policy within the local plan is Policy T5, which conforms that the local planning authority will apply the design standards set out in the current edition of Leicestershire County Council's Highways Requirements for Development. This document has been subsequently updated and now referred to Highways Transportation and Development (HTD). For the avoidance of any doubt the relationship of HTD to Policy T5 and the applicable content of HTD have been subject to a recent appeal decision relating to a gypsy site at Lodge Farm, here the inspector agreed that HTD was applicable to the proposal and that the document should be read as a whole as its content is cross referenced throughout. Accordingly, the policy and design guidance content of HTD is a material consideration in the determination of an application of this type.

The culmination of the requirements of both polices, is that all new development results in a satisfactory highway safety arrangement, in the interests of all users of the public highway. It should be noted that Circular 01/2006 contains no direct highway safety advice and as such provisions of the development plan and other materials considerations prevail in this respect.

The Highway Authority in their consultation response has confirmed that the proposal is unacceptable for the following reason and as a statutory consultee; the Highway Authority's comments carry significant weight in the determination of any planning application:

The proposal, if permitted, would result in a large-scale intensification in vehicular use of an existing field access taken from an unlit section of Class II road in a location remote from main development where traffic speeds are generally high. An increase in turning traffic onto or off the B585 at this location would not be in the best interests of Highway safety. The proposal is contrary to the Highway Authority's access to road network and development control policies.

In considering the proposal against these policy requirements, the policy and design guidance contained within HTD, the merits of the application and the Highway Authority's consultation response, it is evident that an unsatisfactory highway arrangement would be created.

The application is not accompanied by any detailed overriding justification on highway matters nor or any highway improvement works or mitigation measures proposed. The application fails to demonstrate over and above the requirements of the development plan policies that the development would not result in an unsatisfactory highway arrangement.

Both Policy RES13 and Policy T5 seek to achieve developments that have good quality access and parking arrangements that will not result in a detriment to highway safety and in this case it is evident that the proposal will not result in such an arrangement.

In further support of this case, the Council was successful in defending an appeal at Lodge Farm for a gypsy site for 5 families where the inspector agreed that the proposal by nature of the highway safety case presented resulted in an unsatisfactory highway safety arrangement. Whilst not directly comparable in terms of the physical arrangements proposed, the issues in respect of the rural location, road classification, vehicle speed and access to the highway network were similar and fully supported in the decision.

Criteria E
The proposal does include the provision of a new hedgerow to the north edge of the site and a small amount of landscaping within the site. However, due to the degree by which the site has been levelled, would mean that a hedgerow of at least 4 metres in height would be necessary to provide any kind of screening for the site and the caravans sited within it. Whilst this landscaping is welcomed, it is not considered sufficient to screen or help assimilate the development into the rural landscape and therefore does not overcome the issues in respect on criteria C.

Criteria F
By the nature of Policy RES13 being an exception policy to the local plan's overarching countryside protection Policy NE5 and the fact that the proposal is not considered to satisfy the requirements of Policy RES13, there is conflict with the requirements of Policy NE5 and also T5 of the Adopted Hinckley and Bosworth Local Plan as discussed above.

Other Matters

Size of Pitch
The pitches proposed are of an approximate size of 625 square metres each (equating to 16 pitches per hectare) which is larger than the expected 25 pitches per hectare that was used in the modelling for The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016. This projected under occupancy of the site in terms of the number of pitches and layout including separate amenity buildings indicates that the site as proposed has the capacity for further expansion within its existing boundary.

This is a large site that whilst making a significant contribution to the gypsy and traveller need, by the nature of its size and its capability for expansion within the existing site boundaries, would give rise to fivelej ~~consolidated~~ visual amenity and highway concerns.

Whilst a number of caravans have been brought onto the site, it is unclear from site inspections if these are currently being occupied as residential accommodation. Whilst the occupation is not material in the determination of this application, the Human Rights of any occupiers is a material consideration in the determination of any planning application.

RECOMMENDATION:- That subject to no further significant additional objections being raised by the end of the consultation period, the Director of Community and Planning Services be granted powers to Refuse to grant planning permission for the reasons below.

RECOMMENDATION :- REFUSE, for the following reasons :-

Reasons :-

1 The proposal results in a large scale intensification of vehicular traffic using an existing field access off Garland Lane/Bagworth Road (B585), which is an unlit section of Class II road in a location remote from main development where traffic speeds are generally high. An increase in turning traffic onto or off the B585 at this location would not be in the best interests of Highway safety. The proposal is contrary to the Highway Authority's access to road network and development control policies and the requirements of Policies RES13 and T5 of the Adopted Hinckley and Bosworth Local Plan.

2 In the opinion of the local planning authority that the site is located in a prominent and elevated position in a predominately undeveloped rural landscape resulting in an adverse effect on the appearance of the countryside. Therefore, the development is contrary to the requirements of Policy 31 of the Adopted East Midlands Regional Plan, criteria c) of Policy RES 13 of the Adopted Hinckley and Bosworth Local Plan. As such the development cannot be considered as an exception to Policy NE5 and is therefore contrary to Policy NE5 of the Hinckley and Bosworth Local Plan, which seeks to protect the countryside for its own sake. The proposal is contrary to the guidance contained in the Adopted Hinckley and Bosworth Landscape Character Appraisal 2006.

Notes to Applicant:-

Contact Officer:- James Hicks Ext 5762