

CASE OFFICER'S (MBB) REPORT ON APPLICATION NUMBER 23/02984/FUL



**Site: Land Approximately 150 Metres South Of
Brimpton Lane and West Of
Blacknest Lane
Brimpton Common
Reading**

MEMBER EXPIRY DATE - 2nd February 2024.
Overall expiry date - 21st February 2024.
EOT to 29/03/24

INTRODUCTION

This application seeks planning permission for the change of use of land at Brimpton Common to the stationing of one mobile home and one touring caravan for gypsy accommodation with an associated day room and grazing land for horses plus the retrospective permission for a new access onto an unnamed road, to the west of the Common. There will be 2 parking spaces on site as well. The site area is 0.1ha in extent and rectangular in shape. The application plans were amended during the course of the application with the addition of a day room.

PLANNING HISTORY

75/03304. Erection of one detached house with garage. Refused 1975.

PROCEDURAL MATTERS

EIA:

Given the nature and scale of this development, it is not considered to fall within the description of any development listed in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. As such, EIA screening is not required.

Publicity:

Site notice displayed on the 3rd January 2024 . Expiry on the 24th January 2024.

CIL:

Community Infrastructure Levy (CIL) is a levy charged on most new development to pay for new infrastructure required as a result of the new development. CIL will be charged on residential (C3 and C4) and retail (A1 - A5) development at a rate per square metre (based on Gross Internal Area) on new development of more than 100 square metres of net floorspace (including extensions) or when a new dwelling is created (even if it is less than 100 square metres).

However, CIL liability will be formally confirmed by the CIL Charging Authority under separate cover following the grant of any permission. More information is available at www.westberks.gov.uk/cil. It is likely that the day room would be liable for the CIL charge only.

CONSTRAINTS AND DESIGNATIONS

Open countryside (outside of any defined settlement boundary)
Within the DEPZ of the Aldermaston [AWE] site
Red zone for Great Crested Newts
Public right of way runs to the edge of the application site

PLANNING POLICY

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The relevant policies of the statutory development plan for West Berkshire are listed below. These policies can be read online at www.westberks.gov.uk/planningpolicy.

West Berkshire Core Strategy 2006-2026
Policies: ADPP1, ADPP6, CS7, CS8, CS13, CS18, CS19.
Housing Site Allocations DPD 2006-2026
Policy TS3.
West Berkshire District Local Plan 1991-2006 Saved Policies 2007
Policies: Nil

The following are relevant material considerations:

- The National Planning Policy Framework (NPPF)
- The Planning Practice Guidance (PPG)
- PPTS of December 2023.

CONSULTATION RESPONSES

Brimpton Parish Council: Strong objections to the application. Inappropriate site in the countryside, contrary to policy, visual impact, drainage problems, impact on local services, such services are a long distance away anyway, unauthorised development of the access, highways safety will be compromised, no access to electricity or a fresh water supply. In DEPZ area, and would set a worrying precedent if approved for further plots in the area. Out of character with the nature of the agricultural land. Is the pitch actually needed?

Highways Authority: No objections on parking grounds and traffic generation but concerned about the configuration of the new access - more details required regarding swept paths of larger vehicles to see if the access is adequate. Revised plans requested. No plans received by the Council.

Basingstoke and Deane BC: No response received to date.

Planning policy: The policy officer has carefully set out the policy position in relation to the application and notes in conclusion that the decision maker should take into account the short term need of 3 pitches overall across the District in arriving at a recommendation to the proposal but also have regard to other planning matters such as the location of the application site.

SUDS: Conditional permission - pre condition to be applied.

AWE: Objection to the application on the grounds that the site lies in the DEPZ for Aldermaston and hence given it involves an increase in occupants on site this is not acceptable in terms of the REPIR of 2019 and the advice in policy CS8.

Emergency planning: Advise against the development.

ONR: No response to date.

Public rights of way: No response to date.

Council newt officer: Cannot comment since no PEA has been submitted with the application. Newts may be present on the application site.

PUBLIC CONSULTATION RESPONSES

Total received: 68

Object: 68

Summary of representations:

Many faceted objections. This report is necessarily a summary only of the objections received.

Landscape and visual impact.

Detrimental impact on the nature of the area and community cohesion.

Impact on users of the local footpath running nearby.

Impact on drainage and possible public health implications.

Traffic and safety issues.

Disregard to proper planning procedures as well

Impact on local ecology and wildlife.

Not a sustainable location.

Impact on local facilities e.g. schools.

Contrary to well established planning policy as well.

In the DEPZ for Aldermaston. If approved will set a harmful precedent.

The site is not needed as there is a traveller site at Paices Hill nearby.

Impact on local listed buildings setting.

How was the land sold?

Property values will fall.

One joint letter of objection from Brimpton Common Residents Association. Re iterates many of the above concerns but in greater planning detail. These are set out below in summary only.

- o the substantial adverse impact on the landscape character of the greenfield site in the open countryside and the area;
- o the substantial adverse impact on the visual amenities of the area from a range of close and longer distance viewpoints;
- o the cumulative considerable landscape impacts that would result in serious and irreversible harm to the area;
- o the incompatibility of the residential use and increase in residential population with the operation and safety management of AWE Aldermaston;
- o the conflict with the aims of the sustainable development of gypsy and traveller sites to avoid locating sites in the open countryside, in the failure to locate the site with easy accessibility by non-car means relative to the essential services and facilities; and
- o other matters including biodiversity, drainage, heritage and safe access are not adequately addressed by the planning application

APPRAISAL

The main issues for consideration in this application are:

- o Principle of Development
- o Whether the proposal complies or conflicts with national planning policy on gypsy and traveller sites.
- o Local need and supply
- o Personal Circumstances
- o Design, Character and Appearance

- o Neighbouring Amenity
- o Highways
- o Ecology
- o DEPZ
- o Other Matters
- o Human rights and equalities.

PRINCIPLE OF DEVELOPMENT

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF provides a presumption in favour of sustainable development (paragraph 11), which for decision taking this means approving development proposals that accord with an up-to-date development plan without delay. Conversely, paragraph 12 states that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.

Paragraph 11d of the NPPF gives a 'tilted balance' in favour of granting permission where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date. The development plan includes relevant development plan policies which are consistent with the NPPF and up-to-date. The 'tilted balance' of paragraph 11d is therefore not engaged.

The application site lies outside any defined settlement boundary in the countryside where there is a general restriction against new development unless the application comprises one of the exceptions in the Local Plan.

The most important policies for determining whether the principle of development is acceptable are Policies ADPP1, ADPP6 and CS7 of the Core Strategy, and Policies C1 and TS3 of the Housing Site Allocations DPD. The Core Strategy includes a Spatial Strategy (ADPP1 and ADPP6) that provides a broad indication of the overall scale of development in the district, applying the principles of sustainable development, and based on defined spatial areas and a settlement hierarchy. Policies CS7 and TS3 relate to gypsy and traveller sites.

According to Policy ADPP1, most development will be within or adjacent to the settlements in the hierarchy and related to their transport accessibility and level of services. The urban areas will be the focus for most development. The scale and density of development will be related to the site's accessibility, character and surroundings. Only appropriate limited development in the countryside (outside of the defined settlement boundaries) will be allowed, focused on addressing identified needs and maintaining a strong rural economy.

Policy C1 of the HSADPD sets out a presumption against new residential development outside of the settlement boundaries. Exceptions to this are limited to rural exception housing schemes, conversion of redundant buildings, housing to accommodate rural workers, extension to or replacement of existing residential units and limited infill in settlements in the countryside with no defined settlement boundary.

Policy ADPP6 is the spatial strategy for the East Kennet Valley. With regards to the presence of AWE Aldermaston and Burghfield, the policy states that the Council will monitor housing completions and population levels in conjunction with the ONR and neighbouring authorities. Residential development in the DEPZ [under the 2019 REPPiR which supersedes the inner zone set out in CS8] is likely to be refused planning permission in accordance with Policy CS8.

POLICY CS7 (Gypsies, Travellers and Travelling Showpeople) is the principal development management policy for this proposed development. It reads as follows (bullet points have been replaced by letters for ease of reference):

'To meet the identified need for Gypsies, Travellers and Travelling Showpeople pitches within the District, the Council will make appropriate provision through the identification of sites within the Site Allocations and Delivery DPD. The requirement for transit sites will be addressed through the same DPD.

In allocating sites, and for the purpose of considering planning applications relating to sites not identified in the relevant DPD, the following criteria will need to be satisfied for sites outside settlement boundaries:

- a) Safe and easy access to major roads and public transport services;
- b) Easy access to local services including a bus route, shops, schools and health services;
- c) Located outside areas of high flooding risk;
- d) Provision for adequate on site facilities for parking, storage, play and residential amenity;
- e) The possibility of the integrated co-existence between the site and the settled community, including adequate levels of privacy and residential amenity both within the site and with neighbouring occupiers;
- f) Opportunities for an element of authorised mixed uses;
- g) The compatibility of the use with the surrounding land use, including potential disturbance from vehicular movements, and on site business activities;
- h) Will not materially harm the physical and visual character of the area;
- i) Where applicable have regard for the character and policies affecting the North Wessex Downs AONB.'

Assessment against the above criteria is as follows:

- a) Safe and easy access to major roads and public transport.

Whilst the unauthorised access created onto the un-named road may be capable of being made safe, revised plans have not been submitted to satisfy the local highways officer so it is debateable whether the access will indeed be safe. In addition whilst bus services do run past the site these are limited.

- b) Easy access to local services.

There is a primary school in Brimpton to the north and more schools and shops are in Aldermaston to the east. But these would almost certainly need to be accessed by the private car given the distance involved and the nature of the link road with much traffic at peak times to e.g. the AWE.

- c) Located outside areas of high flooding risk.

This is the case so this criterion is met.

- d) Provision for adequate on-site facilities for parking, storage, play and residential amenity.

It would appear from the submitted block plan that this criterion is met.

- e) The possibility of the integrated co-existence between the site and the settled community, including adequate levels of privacy and residential amenity both within the site and with neighbouring occupiers.

Unfortunately, given the high level of local objections from the local residents the potential for integrated co-existence between the site and the settled community is unlikely. However, as

discussed later in the report, the actual impact on the amenity of nearby residential properties is limited.

f) Opportunities for an element of mixed uses on the site.

Not applicable as this is not being applied for.

g) The compatibility of the use with the surrounding land use, including potential disturbance from vehicular movements, and on-site business activities.

For reasons in more detail set out below it is not considered that this proposal would sit comfortably in the area.

h) Will not materially harm the physical and visual character of the area.

See below for detailed assessment of the proposal's harmful impact on the physical and visual character of the area.

i) Where applicable have regard for the character and policies affecting the North Wessex National Landscape (formerly AONB).

Not applicable as the proposal is not located with the National Landscape.

To conclude in respect of policy CS7 it is noted that 4 of the above criteria are not met, and this weighs heavily against granting permission for the proposed development.

To give clarity on the supporting information expected from development proposals a detailed planning considerations policy is included within the Housing Site Allocations DPD. Policy TS3 (Detailed Planning Considerations for Travellers Sites) reads as follows (bullet points have been replaced by letters for ease of reference):

'Proposals for development will be expected to comply with policies within the West Berkshire Development Plan and have regard to guidance outlined in the Government's good practice guide on Designing Gypsy and Traveller Sites where appropriate. In addition proposals will:

- a) Provide an integrated water supply and drainage strategy in advance of development to ensure the provision of adequate and appropriate infrastructure for water supply and waste water, both on and off site. Development will be occupied in line with this strategy. All sites that are not connected to the mains sewerage system will ensure there are no deleterious effects to Special Area of Conservation (SACs) and river and wetland Site of Special Scientific Interest (SSSIs).
- b) Incorporate appropriate vehicle access and turning space.
- c) Include appropriate landscaping proposals, retaining and incorporating key elements of landscape character into the site design.
- d) Be well designed and laid out with shelter and amenity buildings which are appropriately located and constructed of sympathetic materials suited for the purpose.
- e) Provide a mix of residential and business use where appropriate.
- f) Provide a Flood Risk Assessment in accordance with Policy CS16 of the adopted Core Strategy.
- g) Demonstrate that surface water will be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS).
- h) Include measures to improve accessibility by, and encourage use of, non-car transport modes. These measures should be set out in a Travel Plan for the site.
- i) Identify internal walking routes and show how they will be linked to existing routes including the Public Rights of Way network. They will also take advantage of the landscape features of value within the site. Opportunities to improve external routes to services and facilities will be sought.

- j) Identify measures to be provided to mitigate the impact of development on the local road network as identified by a site specific Transport Assessment or Transport Statement.
- k) Identify appropriate green space/green infrastructure in line with the Council's adopted standards as set out in Policy RL1 of the Local Plan 1991 - 2006 (Saved Policies 2007).
- l) Provide necessary infrastructure to meet the needs that arise from the development as a whole, in accordance with both the most up to date Infrastructure Delivery Plan (IDP) and through conformity with the appropriate standards.
- m) Provide a Landscape and Visual Impact Assessment (LVIA) in accordance with the Landscape Institute Guidelines for Landscape and Visual impact Assessment 3rd ed. 2013.
- n) This will inform the development design and layout of the site and requirements for green infrastructure.
- o) Provide an extended phase 1 habitat survey together with further detailed surveys arising from that as necessary. Appropriate avoidance and mitigation measures will need to be implemented, to ensure any protected species are not adversely affected.
- p) Provide appropriate mitigation to offset impact on key species and habitats through appropriate buffering, on-site mitigation and off-site compensation measures.
- q) Provide a design, layout and siting plan for the development.'

Assessment against the above criteria is set out in detail in the rest of the report. However, the following points are noted.

Criterion (a)

If the application were to be approved and implemented then more detail would be required on how sewerage is to be disposed of on site without harm to local amenity or ecology. More detail would also be required regarding the provision of an integrated water supply and drainage strategy prior to any development commencing. However, these details could be subject to a pre-condition which could be attached to any consent.

Criterion (h)

Despite the site being located in a non-sustainable location a Travel Plan has not been submitted with the application.

Criterion (i)

No information has been provided on how the site could be linked into the existing PROW network.

Criterion (o) and (p)

The applicant has been formally advised to submit a PEA [Preliminary Ecological Appraisal] by the case officer but none has been forthcoming. Accordingly given the paucity of technical supporting information submitted with the present proposal with regards to ecological impacts the scheme fails the advice in policy TS3. In applying the precautionary approach, the Council will accordingly be applying one reason for refusal on this basis.

NATIONAL POLICY

The DLUC publication Planning Policy for Traveller Sites (PPTS) (updated 19 December 2023) sets out the Government's planning policy for traveller sites, which should be read in conjunction with the NPPF. The Government's overarching aim 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.

According to paragraph 24 of the PPTS, local planning authorities should consider the following issues amongst other relevant matters 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 25 of the 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.

The application is located outside of any defined settlement and is therefore regarded as "open countryside" in terms of Policy ADPP1. Furthermore, it is over a mile from the nearest settlement (Brimpton is circa 1 mile to the north of the application site, whilst Tadley /Aldermaston lies to the east by at least a mile as well). It is therefore considered to be "development in the open countryside that is away from existing settlements". The introduction of an additional household would place undue pressure on local infrastructure and services. In addition, the site is not an allocated traveller site - there are 2 in the HSADPD in Enborne and Paices Hill. As such, the proposed development is not considered to comply with paragraph 25 of the PTSS.

According to paragraph 26 of the PPTS, when considering applications, local planning authorities should attach weight to the effective use of previously developed (brownfield), untidy or derelict land. The site is not previously developed land.

LOCAL NEED AND SUPPLY

According to the PPTS, the local planning authority should consider the existing level of local provision and need for sites. The Council has a legal duty to plan for adequate accommodation for the Gypsy and Traveller community.

Para 27 of the PPTS notes that if the LPA cannot demonstrate an up-to-date deliverable 5 year supply of sites, this should be a significant material factor in determining applications for a temporary permission.

The Council are currently 3 pitches short of meeting its overall requirement in the short term, when taking the supply of Paices Hill, Four Houses Corner and Ermin Street, Lambourn into account. The Council further needs 17 pitches in the long term, and this is the basis on which work has commenced on the Gypsies and Travellers Accommodation Development Plan Document.

The proposed pitch could therefore aid in meeting the short-term need, reducing the pitches needed in the short term to 2 pitches (for details of the Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) (2021 refresh) see Planning Policy consultation response).

Whilst it is acknowledged that there is a need in the short term for 3 pitches, this shortfall is only small, and the Council are taking steps to address it, through the preparation of a Gypsies and Travellers Accommodation Development Plan Document. Indeed, this was recognised in the recent Lawrences Lane appeal decision dismissed where the Inspector did not accept such a need had to be met. Only moderate weight can therefore be given to this.

The planning policy position is that there is currently no overriding need to justify additional pitches on non allocated sites in the District at the present time. Accordingly, it is considered that the principle of the additional pitch is not accepted particularly as it forms no part of an allocated site and nor is it previously developed land. It cannot therefore accord with policies CS7 and TS3 identified above nor indeed ADPP1 or ADPP6.

PERSONAL CIRCUMSTANCES

At the request of the case officer the applicant on a confidential basis has submitted details of the personal background to the family making the application. Accordingly, the details cannot be set out in this public report. However, the PPTS (paragraph 24) notes that, subject to the best interests of the child, personal circumstances are unlikely to clearly outweigh harm so as to establish very special circumstances.

The case officer has carefully read the personal statement submitted with the application and notes that whilst the needs of the applicant are recognised it does not appear that there are special overriding personal reasons as to why a new pitch should be permitted at this particular location. In addition, it is notable that the applicant is not seeking a personal permission if that were to be granted by the Council. So if permission had been granted on the basis of the particular circumstances of the applicant [which will change over time in any event] without a personal condition being applied, then the land could be transferred with that permission to another owner/occupier without recourse to the LPA control, and who may have wholly different needs to the original applicant. To conclude whilst the case officer has had careful regard to the applicant's personal circumstances, it is not considered to override the strong policy tests and others which run contrary to the scheme. So the balancing exercise as noted in the PPTS and Court decisions has been undertaken.

DESIGN, CHARACTER AND APPEARANCE

As noted already the application site lies in the open countryside in policy terms. Whilst it is noted that a sporadic number of dwellings do lie around the common area this is a loose knit community set in a rural context. Accordingly, the Council consider that the introduction of the day room, the new vehicular access, fencing, and the mobile home/caravan pitch will inevitably have a harmful urbanising visual impact upon the surrounding area to its overall detriment. This in turn is considered to be contrary to the advice contained in policy CS19 of the WBCS which notes that [inter alia] in criterion a] new development is appropriate in terms of location, scale and design in the context of the existing area. Whilst it is accepted that the scale of the development is relatively small in the local context, its design is not attractive by definition and indeed the location is not appropriate as justified above. In addition, the case officer disagrees with the applicant's assertion that the site is brownfield land. The case officer's is of the opinion that the site is clearly greenfield.

In addition, the advice in policy CS18 relating to green infrastructure [GI] is relevant, as it includes common land and public rights of ways as GI that is to be protected. The policy notes that development which results in the loss of GI, or harm to its use or enjoyment will not be permitted. The proposed introduction of the new pitch etc. on this site will inevitably cause the loss of GI in this context. To conclude the application is considered to be contrary to the advice in policies CS18 and CS19 in the WBCS.

NEIGHBOURING AMENITY

A number of the objectors have raised concerns about the impact on their amenity if the application were to proceed. The case officer considers there will be no material impact on surrounding

residential amenity given the physical distances involved to nearby housing and the small scale of the scheme. Noise is unlikely to be a problem nor is loss of view which is not a planning matter. If permission were to be granted conditions could be applied to ensure waste is satisfactorily disposed of before any occupation of the site.

HIGHWAY MATTERS

The highways officer has no objections to the overall traffic generation likely to be caused by the single pitch site at the existing access where forward visibility is accepted for the given traffic speeds. However, there is concern with the articulation of the access radii which may not allow for a full turning circle of hgv's which may enter and exit the site at certain times. Amended plans have been formally requested but to date none have been received. The use of the existing access as laid out may lead to conditions of road danger having regard to the advice in policy CS13 in the WBCS. Accordingly, in the light of the precautionary principle one reason for refusal will correspond to this matter.

ECOLOGY

Part of the application site is covered by a newt "red" zone where it is most likely that newts may be found. The newt officer has been consulted and he has noted that a PEA should have been submitted with the application. The applicant has been formally requested to submit a stage 1 preliminary ecological appraisal but none has been submitted. This is unfortunate as the application site may or may not comprise an area of land which could be of habitat importance in the context of the advice in policy CS17 in the WBCS which corresponds to biodiversity [inter alia]. Having regard to the clear advice in para 174 of the NPPF of 2023 which corresponds to natural ecology and how local planning authorities should determine planning applications, the precautionary principle must be applied in adding one more reason for refusal on the application. At the time of writing no response has been received from the ecology officer.

DEPZ

Policy CS8 of the WBCS sets out the Council's approach in planning terms to how new applications for additional residential sites in the DEPZ [under the 2019 REPIR which supersedes the inner zone set out in CS8], should be refused unless exceptional circumstances apply, given the need to protect the continuing operational defence capability of the AWE site as advised in para 97[b] of the NPPF having regard to the agent of change principle in the NPPF. The Emergency Planning Officer has advised against the development due to the impact it would have on the AWE Off-Site Emergency Plan and therefore the health and wellbeing of the development residents and those already in the area emergency planning.

OTHER MATTERS

For information there has been ongoing enforcement action against the existing site since the vehicle access to the paddock was not authorised. A temporary stop notice has already been served on the application site and the plots adjacent in separate land ownership which will succeed to halt any new unauthorised works at least on a temporary basis.

In addition, there is the factor of intentional unauthorised development, which the Courts have held to be a valid planning matter. In this case an access and hardstanding has been constructed, fencing installed and a mobile home placed on the land which has been connected to services. The intentional unauthorised development undertaken is also contrary to national policy set out in the DCLG Chief Planning Officer letter dated 31st August 2015, and the associated Ministerial Statement to Parliament on 17th December 2015.

HUMAN RIGHTS AND EQUALITIES

Human Rights are a material consideration in planning decision making. Such considerations may include Article 8 of the European Convention on Human Rights (ECHR) (right to respect for private and family life and home); Article 2 of the ECHR (right to a proper education), and the best interests of the child.

This assessment requires consideration of confidential personal data. It is concluded therein that the known personal circumstances do not carry sufficient weight to override the policy considerations of the proposal, together with the demonstrable harm caused by the development.

PLANNING BALANCE AND CONCLUSION

On the one hand it is necessary for the LPA to promote sustainable development in appropriate circumstances having due regard to the Development Plan and the particular needs of the applicant for this gypsy site pitch. These have been carefully taken into account, particularly the social benefit of the application if permitted to the applicants. There is also the fact that if the application were to be approved, it would reduce the Council's current shortfall in providing gypsy site pitches in the short term by 1, to 2 pitches overall rather than 3. However, it is considered that the harm identified above (and summarised below) that would be caused by the development outweighs the other considerations to the extent that planning permission should be refused.

1. There will be a harmful landscape impact if the scheme proceeds.
2. The ecological situation has not been resolved to the satisfaction of the Council.
3. The application site lies in the DEPZ for Aldermaston [A] site.
4. The application is deemed contrary to spatial policies in the Development Plan.
5. The access in its current form is unacceptable.
6. The site does not lie in a sustainable location.
7. The application will result in the loss of Green Infrastructure.

RECOMMENDATION

Refusal.