

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Mr Martin Doherty	The use of land for the stationing of caravans for residential purposes and the erection of a dayrooms and laying of hardstanding ancillary to that use. Mintola Corral, Batemans Lane, Wythall, Worcestershire, B47 6NG	23.09.2022	22/01042/FUL

Councillor Baxter has requested that this application be considered by Planning Committee rather than be determined under delegated powers.

RECOMMENDATION: That planning permission be **REFUSED**

Consultations

Wythall Parish Council

Objection, it is considered to be inappropriate development of Green Belt land with no special circumstances

North Worcestershire Water Management

Recommends a condition relating to a scheme for surface water drainage if planning permission is approved.

Highways - Bromsgrove

The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted the Highway Authority concludes that there would be unacceptable highways impact and therefore recommends that this application is refused.

Severn Trent Water Ltd

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

Private Sector Housing Team

As the licensing officer for mobile homes across the two districts we encourage consistency therefore the following comments relate to how the site will be assessed in accordance with the Mobile Home Licence and model standards. Dealing with these at the planning stage reduces the level of upheaval for the occupants later on down the road. I understand some of the items may not be included within the planning e.g. the fire extinguishers, however if there could be reference made to the presence of fire protection that would be great as it is to maintain the safety of the residents. Therefore, any installation of hydrants may affect the road layout or the positioning of the mobile homes.

Bromsgrove Strategic Planning And Conservation

The 2021 Bromsgrove GTAA Update finds that over the period 2021/22 to 2039/40, there is a need for 14 traveller pitches and 3 travelling showperson plots. As at 1st April 2022, the Council currently has a 4.07 year supply of traveller pitches.

The study recommends that the Council should also consider options for transit provision to assist with unauthorised encampments.

Publicity

3 letters sent 16.09.22 (expired 10.10.22)
Site notice displayed 20.09.22 (expired 14.10.22)

Two representations received.

The CPRE made comments in objection to the scheme which included the following:

- The proposal is contrary to the purposes of the Green Belt and as such is unacceptable.
- The application is premature in view of the ongoing Green Belt review.

In addition, Councillor Kent (Worcestershire County Councillor) covering the application site commented on the application raising concerns relating to the unauthorised development on the site and the manner in which the works had been carried out.

Councillor Baxter

My reason for calling in this application is that it is inappropriate development in the green belt and that any shortfall in traveller sites should be considered as part of the green belt review / local plan review.

Relevant Policies

Bromsgrove District Plan

BDP1 Sustainable Development Principles
BDP2 Settlement Hierarchy
BDP4 Green Belt
BDP11 Accommodation for Gypsies, Travellers and Showpeople
BDP16 Sustainable Transport
BDP19 High Quality Design
BDP20 Managing the Historic Environment
BDP21 Natural Environment
BDP23 Water Management

Others

NPPF National Planning Policy Framework
NPPG National Planning Practice Guidance
PPTS Planning Policy for Traveller Sites
GTAA Worcestershire Gypsy and Travellers Accommodation Assessment 2014
GTAA Gypsy and travellers Accommodation Assessment Addendum 2019
Bromsgrove Gypsy and Traveller Assessment (GTAA) Update – Dec 2021
The House of Commons briefing paper entitled Gypsies and Travellers; Planning Provisions 19 December 2019
High Quality Design SPD

Relevant Planning History

18/00736/FUL	Change of use of the land for equestrian use and replacement stables together with tack room.	Granted	01.02.2019
04/00053/COL	Use of the land for the storage of one caravan.	Granted	06.09.2004

Site Description and Proposal

The application seeks permission for the use of the site to facilitate a gypsy lifestyle. The site takes the form of a long narrow parcel of land, approximately 150 metres long and 11 metres wide. To the far western end of the site is a stable block which is shown as being retained on site. The site lies within the Green Belt and open countryside, approximately 0.7kms from the edge of the residential area of Wythall.

The plans submitted with the application show the site laid almost entirely in loose bound permeable hardstanding with a tarmac area adjacent to the highway access into the site. Two pitches are proposed on the site, with each pitch comprising a mobile home, a touring caravan and a utility/day room. A landscaped area would run along the majority of the southern boundary of the site, setting the proposed caravans and dayrooms off the boundary by 3 metres. The plans show provision for cycle parking, electric vehicle charging space and a soakaway to deal with drainage from the site.

Procedural matter

Some Members may be aware that certain works have been undertaken at the site without the benefit of planning permission. This application does not seek to regularise that work, hence why the application is not described as retrospective. For the avoidance of doubt, permission is sought for a development which differs to that which has been carried out at the site.

Assessment of Proposal

Gypsy Traveller Status

The definition of gypsies and travellers is set out in Annex 1 (Glossary) to the Planning policy for traveller sites 2015 (PPTS) as:

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”

Whilst the application seeks permission for a permanent settled base the application sets out that the proposed occupiers of the pitches continue to travel frequently throughout the year. As such it is considered that the occupiers fall within the above definition as gypsies.

Green Belt

The site lies in the Green Belt. Policy E of the PPTS states that traveller sites, whether temporary or permanent, in the Green Belt are inappropriate development. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness and the Purposes of the Green Belt

Paragraph 137 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open with the essential characteristics of Green Belts being their openness and permanence. There is no definition of openness within the NPPF, however the courts have found that openness has both visual and spatial aspects.

Prior to the unauthorised works taking place the site was largely laid to grass with post and wire fencing to the two long site boundaries and an agricultural style access gate to the site frontage. To the far west/ rear of the site there was and remains a caravan being stored in accordance with application 04/00053/COL and a small range of stables. The site is broadly level.

The proposal seeks to introduce two dayrooms, two touring caravans and two mobile homes on to the site along with associated vehicular parking and hardstanding at the vehicular entrance to the site as well as covering the whole of the site in 'loose bound permeable hardstanding'. As a matter of fact the introduction of these structures will impact on the spatial openness of the Green Belt. Views of the site and the proposed development would be possible when passing the site entrance as well as glimpsed views above the roadside hedge likely to be possible when travelling along Batemans Lane. As such there will be a visual impact on the Green Belt and taking matters overall, it is considered that the proposed development would have a significant impact on the openness of the Green Belt.

The purposes of the Green Belt are set out in paragraph 138 of the NPPF. One of these purposes is to assist in safeguarding the countryside from encroachment. As stated above, prior to the unauthorised works taking place, the site was largely undeveloped. The proposal introduces development on to the land, with the hardstanding proposed over the whole extent of the site. In this regard it is considered that the proposed development will result in encroachment into the countryside and therefore be contrary to the purposes of the Green Belt.

Overall, the development would harm the Green Belt through inappropriateness, there would be spatial and visual harm to the openness of the Green Belt and harm to the purposes of including land within the Green Belt. Paragraph 148 of the NPPF goes on to state that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Policy E of the PPTS goes on to state that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

Need and Supply of Pitches

In 2021 the Council commissioned external consultants to update the current supply and future need position for Travellers in the District. The conclusion of this report is that over the period 2021/22 to 2039/40 there is a need for 14 traveller pitches. As at 1st April 2021 the Council currently has a supply of 4.07 years for traveller pitches.

Policy H of the PPTS states that if a local authority cannot demonstrate an up to date 5 year supply of deliverable sites, this should be a significant material consideration when considering the grant of temporary planning permission. However, one of the exceptions to this is where the site is located on land designated as Green Belt.

Policy BDP11.3 of the Bromsgrove District Plan (BDP) states that if additional sites are required land will be identified through a Local Plan Review. This review is ongoing and may identify sites for additional pitches which are outside of the Green Belt.

Character and Appearance

Policy H of the PPTS states that a number of matters should be given weight when considering applications for traveller sites. These include, at paragraph 26:

- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness*
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children*
- d) not enclosing 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*

The site lies in an area where there is a variety of different land uses, including agricultural, residential and commercial. Development is, however, sporadic and interspersed by areas of undeveloped open space. Save for a planted tree line area along the majority of the southern boundary, it is proposed to finish the entire site in permeable hardstanding. Combined with the introduction of two mobiles homes, two touring caravans, two dayrooms and the associated vehicular parking the proposal introduces a substantial amount of development into a parcel of land largely devoid of development.

Having regard to the list of matters for consideration above, it is considered that the site has not been designed with these matters in mind and therefore is contrary to Policy H of the PPTS. This, in turn, means that the proposed development would detract from the existing character and appearance of the area contrary to policy BDP19 of the BDP.

Location of the Site

Policy H of the PPTS sets out a series of issues which should be considered when considering planning applications for traveller sites. Amongst these at d) it states: 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.

Policy BDP11 of the BDP at 11.2, seeks to ensure that sites should be in sustainable locations that provide good access to essential local facilities e.g. health and education. In addition, sites should accord with the sustainable development principles set out in BDP1.

The site lies approximately half a kilometre (as the crow flies) from the edge of the defined settlement of Drakes Cross and Hollywood. Wythall, which includes Drakes Cross, Grimes Hill and Hollywood, is defined as a 'large settlement' in Policy BDP2 of the BDP. The site lies a short distance from the junction of Batemans Lane with Silver Street where there is footpath access into the defined settlement of Drakes Cross and Hollywood which benefits from street lighting. In addition, just south of the application site on the opposite side of Batemans Lane there is a pedestrian pathway which leads to Wythall Park. Along the northern side of Silver Street from its junction with Batemans Lane for almost the entire length until it reaches the defined edge of Drakes Cross and Hollywood it is comprised of residential dwellings and Wythall Park Community Club. To the south of Silver Street, development is slightly more sporadic with Wythall Landscape Centre, residential development associated with Silvermead Court and then more consistent residential development from the junction of Wilmore Lane with Silver Street. Drakes Cross and Hollywood provide a wide range of facilities including shops, schools and medical facilities as well as access to public transport by way of bus services running along the Alcester Road to Kings Heath, Redditch and Alcester.

Having regard to the characteristics of the surroundings, the distance and nature of the route to Drake Cross and Hollywood and the number of services available when arriving at this settlement it is considered that the site lies in a sustainable location and therefore complies with BDP11 and Policy H of the PPTS.

Ecology

Ordinarily a proposal of this nature would be accompanied by a Preliminary Ecological Appraisal and any subsequent survey effort that was identified as being necessary. In this case, unauthorised works have already taken place at the site which have removed much of the parts of the site which may have formed a habitat for any protected species, therefore a survey has not been requested. If planning permission was forthcoming for the proposed development would be reasonable to attach a condition seeking details of biodiversity enhancement for the site.

Best Interests of Children and Personal Circumstances

The application is supported by information regarding the occupiers of the proposed pitches and their personal circumstances. It has been requested that this information is kept confidential due to the sensitive nature of the contents.

It is clear from the information submitted that the site is proposed to be occupied by an extended family, with the intention that both pitches will have occupants that include children. One of the occupants of one of the pitches is also registered disabled.

Article 8 of the European Convention on Human Rights states that everyone has the right to respect for their private and family life, home and correspondence. Where the article 8

rights are those of children, they must be seen in the context of article 3 of the United Nations Convention on the Rights of the Child (UNCRC), which requires a child's best interest to be a primary consideration. It is however important to note that a child's best interest is not determinative of the planning issue and may be outweighed by the cumulative effect of other considerations provided that the adverse impact on the child of any decision is proportionate.

The supporting information submitted with the application sets out the occupiers needs for the proposed pitches. The proposed occupiers of pitch one have no alternative accommodation and would be forced to travel continuously on the roadside and doubling up on friends and family pitches. This would not be conducive to providing a stable base in order to provide the children who it is proposed to occupy the pitch with a good education. The occupiers of pitch one also provide support to the proposed occupiers of pitch two. Similarly, the proposed occupiers of pitch two wish to provide a stable base for the children it is proposed to occupy the pitch. They have limited alternative accommodation available to them and recently been living in a house with relatives. This accommodation is becoming cramped and being 'bricks and mortar' accommodation the occupiers have frequently resorted to travelling to escape this way of living and better accommodate their cultural needs. Due to disability, one of the proposed adult occupiers of pitch two rely on the occupiers of pitch one for assistance with transportation, raising the children and monitoring of the health condition.

In view of the above, it would therefore be in the best interest of the children to have a settled base where they can access education facilities. The children's best interests are a primary consideration and no other consideration must be given greater weight than the interests of the child. In this case, it is also clear that the personal circumstances one of the adults, means that it is important for their health that they have a settled base with good access to health and care facilities.

Highway Safety

The highway authority has raised objection to the application and have requested a speed survey is submitted to understand the requirements for visibility splays at the site entrance. The applicants have provided justification for not requiring a speed survey as follows:

"The objection from the highway authority regarding the visibility splays appears to be underpinned by a perception of intensification of use. However, the recent planning permission for stables appears to provide for 4 stables, a tack/storage room, plus there is lawful use to store a caravan. Importantly, it does not appear that there is any condition limiting the stables to private or personal use. If that is the case, potentially, the stables could be rented to 4 separate people who could easily visit their horse/pony 2 or 3 times per day. Each stable would therefore attract 4 to 6 movements per day at the site access, resulting in 16 to 24 movements per day. When allowing for the storage element, for both the equestrian uses and the caravan, the site access could already accommodate movement of towed vehicles, such as the caravan or horse-trailers etc. or larger vehicles such as horseboxes. By comparison, two residential gypsy / traveller pitches are unlikely to attract more vehicle movements, or movements of larger vehicles than the extant baseline for the site. On that basis, I would resist the requirement for speed surveys on a nil-detriment basis in terms of vehicle movements".

The highway authority have explained, however, that the access to the site should be appropriate for the proposed use. Having regard to the justification supplied by the applicant, the fact that there is an existing access into the site, that the site is off a relatively rural country lane which is unlikely to be heavily trafficked, the proposed occupiers of the site and the personal circumstances of one of the occupiers with respect to the assistance required with transportation, the lack of a speed survey and providing the requisite visibility splays is unlikely to result in an unacceptable impact on highway safety, or the residual cumulative impacts are unlikely to be severe which is necessary to refuse planning permission on highway grounds, as advocated by the NPPF at paragraph 111.

Planning Balance

Policy E of the PPTS sets out that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. Unlikely should not be read to mean that these considerations will never clearly outweigh the harm, and any decision must take account of the weight afforded both the harm and the other considerations.

The proposal represents inappropriate development in the Green Belt by definition, it would harm the openness of the Green Belt and conflict with the purposes of including land within it. Paragraph 148 of the NPPF states that substantial weight should be given to any harm to the Green Belt. In addition, the proposal would harm the character and appearance of the area. This harm is afforded significant weight.

The best interests of the children are a primary consideration in this case, and it is clear that no other consideration must be given greater weight than the interests of the child. As such, it is considered that the best interests of the children should be afforded substantial weight. It is also clear that the personal circumstances of one of the occupiers means that it is important for their health that they have a settled base and good access to health and care facilities. This is afforded significant weight.

By refusing this application the family lives and the best interests of the children involved would be affected, as the refusal of this application could lead to the applicants resorting to roadside camping and travelling. This could undoubtedly represent an interference with their human rights under Article 8. However, this interference and harm must be weighed against the wider planning considerations and public interest, as these factors are not determinative on their own.

It is acknowledged that there is an identified unmet need for Traveller pitches in the District. However Policy BDP11 states that provision for new pitches should be made through the Plan review with could identify appropriate site outside of the Green Belt.

As part of the application, the applicants have offered to rescind the two extant applications at the site – a certificate of lawfulness for the storage of a single caravan and a planning permission for replacement stables, tack room and change of use to equestrian. It is argued that taking in to account these two applications, there would be, at worse, a limited impact on the Green Belt as a result of the proposed development.

Officers do not concur with this assessment. The certificate allows the storage of a single caravan on the site, with the proposal seeking permission for the citing of four caravans – two mobile homes and two touring caravans. In addition, the proposal seeks the construction of two dayrooms and the covering of the entire site with hardstanding. The provision of a single stable and tack room, discreetly sited at the far western end of the site is in no way commensurate to the dayrooms and hardstanding applied for. It is therefore considered that the proposal development is more harmful than the two extant permissions at the site. This matter does not, therefore, weigh in favour of the proposal.

In this case, it is considered that the harm that the proposal would cause to the Green Belt, and any other harm including harm to openness, purposes of Green Belt, character and appearance of area would not be clearly outweighed by the unmet need, lack of supply of sites or the circumstances put forward in this case in terms of the best interests of the children and the personal circumstances of the family.

On balance therefore it is considered that very special circumstances have not been demonstrated in this case, to outweigh the harm to the Green Belt and any other harm to grant planning permission.

RECOMMENDATION: That planning permission be **REFUSED**

1. The proposed development would be inappropriate development in the Green Belt which would be harmful by definition. In addition, harm would arise through the impact on the openness of the Green Belt and conflict with purposes of including land within the Green Belt. Further harm is caused to the character and appearance of the area. Circumstances have been advanced including the best interests of children, the personal circumstances of the proposed occupier and the offer to rescind extant permissions on the application site, however these are not considered to amount to the very special circumstances required to clearly outweigh the harm to the Green Belt. The proposal is therefore contrary to Policy BDP4 of the Bromsgrove District Plan, Planning Policy for Traveller Sites 2015 and the National Planning Policy Framework.
2. The proposed development would harm the character and appearance of the area through the introduction of a large area of hardstanding covering the entirety of the site combined with the dayrooms and caravans proposed. The development would not, therefore, enhance the character and appearance of the local area contrary to Policy BDP19 of the Bromsgrove District Plan.

Case Officer: Sarah Hazlewood Tel: 01527881720
Email: sarah.hazlewood@bromsgroveandredditch.gov.uk