

APPLICATION NO.	P16/S2314/FUL
APPLICATION TYPE	Full application
REGISTERED	25.7.2016
PARISH	Garsington
WARD MEMBER(S)	Elizabeth Gillespie
APPLICANT	Mr J Collins
SITE	8 Kiln Lane, Garsington, Oxfordshire, OX44 9AR
PROPOSAL	Application for temporary planning permission pursuant to previous planning permission ref. P12/S0421 (refused but allowed on appeal PINS ref. APP/Q3115/C/12/2173778).
AMENDMENTS	None
GRID REFERENCE	457294/202653
OFFICER	Marc Pullen

1.0 **INTRODUCTION**

1.1 This application is referred to the Planning Committee because the officer's recommendation conflicts with the view of the Parish Council.

1.2 The site (which is shown on the OS extract **attached** as Appendix A) lies down a single track lane running south of Garsington, within the Oxford Green Belt.

2.0 **PROPOSAL**

2.1 This application originally sought permanent residency on site, pursuant of temporary planning permission allowed by planning appeal APP/Q3115/C/12/2173778.

2.2 The application allowed on appeal was granted on 19 September 2012 for a temporary period of 4 years.

2.3 Following discussions with the applicant it has been explained and accepted that permanent residency is not possible here and only temporary permission could be sought, pursuant of the previous temporary permission. The description of the application has been amended accordingly.

3.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

3.1 **Garsington Parish Council – Object**

- Concerns that the applicant does not live here currently.
- When taking into account a shortage of sites in the locality, the Parish Council objects to any temporary permission past March 2017.
- The Parish Council objects to any changes of buildings on the site. The Parish Council observes that the drawings supplied seem to encroach onto Plot No7
- The Parish Council objects to any attempt to move from a temporary to a permanent residency.

Health & Housing - Env. Protection Team – Approve, subject to conditions

Health & Housing – Contaminated Land – unable to comment at present as no appropriate contamination assessment, condition requested in lieu of this information

Neighbour Object (2)

- Further development within Green Belt
- Increase of HGVs travelling down track
- Applicants do not reside on the site
- No special needs have been demonstrated

4.0 RELEVANT PLANNING HISTORY

4.1 [P12/S2599/DIS](#) – Approved (17/12/2012)

The erection on the land of a chalet building (in use as residential accommodation) together with associated timber decking, block wall and laying of hardstanding. (APP/Q3115/C/12/2173778). Discharge of condition 3 on P12/S0421

[P12/S0421](#) – Appeal against and enforcement notice (20/09/2012) – Approved on appeal (19/09/2012)

The erection on the land of a chalet building (in use as residential accommodation) together with associated timber decking, block wall and laying of hardstanding. (APP/Q3115/C/12/2173778).

5.0 POLICY & GUIDANCE

5.1 National Planning Policy Framework & National Planning Practice Guidance

5.2 South Oxfordshire Core Strategy 2012 policies;

CS1 - Presumption in favour of sustainable development
CSEN2 - Green Belt protection
CSH5 - Gypsies, Travellers and Travelling Showpeople
CSQ3 - Design
CSS1 - The Overall Strategy

5.3 South Oxfordshire Local Plan 2011 policies;

C4 - Landscape setting of settlements
D1 - Principles of good design
D2 - Safe and secure parking for vehicles and cycles
D3 - Outdoor amenity area
D4 - Reasonable level of privacy for occupiers
D10 - Waste Management
G2 - Protect district from adverse development
GB4 - Openness of Green Belt maintained
H15 - New residential caravans and mobile homes
H17 - Provision of gypsy caravan sites
T1 - Safe, convenient and adequate highway network for all users
T2 - Unloading, turning and parking for all highway users

5.4 South Oxfordshire Design Guide 2016

5.5 Government Planning Policy for Traveller Sites 2015

6.0 PLANNING CONSIDERATIONS

6.1 The main considerations in the determination of this application are

- Principle of development within the Green Belt
- Whether very special circumstances have been demonstrated
- Visual impact on the Green Belt and impact on character
- Impact on neighbours

- Impact on highway
- Planning balance
- Other matters

Principle of development within the Green Belt

6.2 The National Planning Policy Framework (NPPF) attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open – the most important attribute of Green Belts is their openness.

The Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

6.3 Whilst the Green Belt contains areas of attractive landscape, the quality of the landscape is not relevant to the inclusion of land in the Green Belt or its continued protection. It is the openness of land that is important. In order to protect openness there is a general presumption against inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt. New buildings in the Green Belt are not appropriate unless for those uses identified under paragraph 89 of the NPPF:

6.4 A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- buildings for agriculture and forestry;
- provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

6.5 The application originally sought to retain an existing building for use for residential purposes permanently. Officers uphold the Inspectors view in the 2012 appeal that the site and the building cannot be regarded as infill within the village of Garsington. Furthermore as the site only benefits from temporary permission, the structures are also regarded as temporary – therefore the site cannot be regarded as previously developed land (brownfield land). The previous assessment of the development was seen to be acceptable by the Inspector, only subject to allowing the development for a temporary period of time and not permanently subject to the special circumstances previously demonstrated by the applicant. As such the application has been amended to seek a further temporary permission for a period of three years.

- 6.6 Policy CSH5 of the South Oxfordshire Core Strategy (SOCS) assists the delivery of pitches for Gypsy, Travellers and Travelling Showpeople. In addition to this, Policy H17 of the South Oxfordshire Local Plan (SOLP) assists the delivery of gypsy caravan sites. Both should be read together and in conjunction with the NPPF. Neither policy would support the principle of a new site within the Green Belt. In addition the site is not part of an existing (permanent) site, an extension to an existing (permanent) site and is not an identified site which has been identified through a site allocations process.
- 6.7 Current Government publication, Planning Policy on Travellers Sites, (PPTS, 2015) stipulates that in determining planning applications for traveller sites, council's should determine them in accordance with the development plan, unless material considerations indicate otherwise. Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the NPPF and the PPTS.
- 6.8 The Council are currently unable to demonstrate a five-year supply of deliverable sites for Gypsy and Traveller pitches. In addition the Council's Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessment (2014 update), identified a need to find new sites within the South Oxfordshire District to deliver 19 additional Gypsy and Traveller pitches.
- 6.9 In accordance with the PPTS, in determining applications for new traveller sites or renewal of temporary permissions within the Green Belt, permission should not be granted unless the best interests of the child can be demonstrated in conjunction with the development. The needs of the child is regarded as a 'very special circumstance' which can outweigh the harm caused by inappropriate development within the Green Belt. If this can be substantiated then temporary permission can be granted.
- 6.10 As the site falls within the Green Belt and the proposal is regarded as inappropriate development in principle, planning permission should not be granted permanently in your officers view; only a further temporary permission should be granted.

Whether 'very special circumstances' have be demonstrated

- 6.11 In considering any planning application for development that is considered inappropriate within the Green Belt, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Paragraph 88 of the NPPF stipulates that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 6.12 As identified above, in order to overcome the presumption against the principle objection to this development, the best interests of the child/children need to be demonstrated.
- 6.13 Officers are in receipt of information that firstly, confirms the nomadic nature of the applicant, which confirms their gypsy and traveller status. But secondly supports that the applicant has children which are currently in education within the local area and benefit from their places at these schools/colleges when they are not travelling. During periods of travel the children benefit from home tutoring. Often the children do not travel and instead stay with family to allow them to continue attending their studies. In addition the applicant has expressed their struggles with finding sites to stay on, having been moved on/evicted a number of times from other known traveller sites whilst on their travels.
- 6.14 The applicant is aware of the undersupply for new pitches and would apply for a pitch

within a new site, should it be brought forward and formally permitted. Until such time the applicant would be happy to be granted another temporary planning permission.

- 6.15 In this case, it is considered that the above factors demonstrate that there is a need for the children to stay on this site and in this locality. Officers consider that the best interests of the child has been demonstrated and therefore this can form a very special circumstances.
- 6.16 Paragraph 24 of the PPTS advise that Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites such as the existing level of local provision and need for sites; the availability (or lack) of alternative accommodation for the applicants and other personal circumstances of the applicant. As previously identified within this report there is an undersupply of sites for travellers and there is a great need for new sites to come forward to meet this undersupply. In addition to this there is no capacity on existing County Council sites, which there is a waiting list.
- 6.17 As per the PPTS and the Compulsory Purchase Act 2004, the proposed development should be considered in accordance with the Development Plan as a whole. With this said it is important to assess the other material considerations.

Impact on the Green Belt and impact on character

- 6.18 Officers must consider whether the development harms the openness, rural character and visual amenity of the Green Belt, as per Policy GB4 of the SOLP and the NPPF. At the previous appeal in 2012, the Inspector considered the harm to openness of the Green Belt arising from the building was great. However she considered the impact on the character and appearance of the countryside and visual amenities of the Green Belt was lessened as the site would retain some urbanising characteristics due to the fencing and area of hardstanding. This would certainly be the case currently as the site is already developed with permeable hard standing and the chalet building itself. The Inspector weighed in favour of the development, despite the acknowledged harm on the openness of the Green Belt and the rural character of the area, owing to the temporary nature of the development. It is acknowledged that permanent permission would weigh against this development as it would result in permanent loss of open land within the Green Belt.

Impact on neighbours

- 6.19 The site would be relatively well distanced from neighbours. The site would be bound by tall vegetation which would safeguard the amenity of the occupants and the neighbours. It is not anticipated that this development would significantly or adversely harm the amenity of these neighbours therefore.

Impact on highway

- 6.20 There will be no increase in traffic movements along Kiln Lane, given that the site is currently in use. No changes to the access or parking arrangement are proposed and therefore officers are satisfied that the impact caused on the highway would not be harmful.

Planning balance

- 6.21 Previously the site was granted temporary planning permission for 4 years at appeal, up until 2016. Weighing against the development is the harm by reason of inappropriateness which is to be attributed substantial weight. Added to this is the harm to openness, the most important attribute of Green Belts, together with the harm to both the visual amenities of the Green Belt and the character and appearance of the area. In favour of the development is the long outstanding need for additional sites to

accommodate gypsies and travellers and the personal needs of the appellant family for a settled base, particularly given the lack of alternative sites available to them.

- 6.22 In assessing the previous appeal on this site, the Inspector concluded that the considerations weighing in favour of the development did not clearly outweigh permanent harm. The permanent harm which would be caused by the development, in terms of its effect upon the purposes of including land in the Green Belt would be considerable. Therefore permanent permission could not be allowed. However it was considered that a temporary and personal permission could be granted until such time as the Council has identified sites to meet the needs of the gypsy and traveller community based on an up-to-date assessment.
- 6.23 For this reason officers consider it reasonable to consider granting temporary permission once again as the balance of harm temporarily is outweighed by the benefit of the development, given the best interest and needs of the child. An additional temporary period of time would allow for the new Local Plan (2032) to scope and allocate for a new Gypsy and Traveller site(s) to meet the current and future need for pitches.
- 6.24 Environmental Protection conditions – Officers are in receipt of a consultation response from the environmental health team at the council, which raise no objection subject to a number of suggested conditions. However officers do not consider these conditions to be reasonable or necessary given that the site is currently occupied for the intended use and the implications of the construction process would be null. Therefore in accordance with paragraph 206 of the NPPF officers do not consider these conditions reasonable.
- 6.25 Community Infrastructure Levy (CIL) – The council’s CIL charging schedule has recently been adopted and has applied to relevant proposals since 1 April 2016. CIL is a planning charge that local authorities can implement to help deliver infrastructure and to support the development of their area, and is primarily calculated on the increase in footprint created as a result of the development. In this instance CIL is not liable. CIL is applicable to the creation of new buildings. Mobile homes are not commonly defined as buildings under law and therefore this application is not liable to pay CIL under the Council’s CIL charging schedule.

7.0 CONCLUSION

Your officers recommend that planning permission for a further temporary period of three years is granted because very special circumstances exist that overcome the presumption against inappropriate development in the Green Belt. There have been no real changes in circumstances since the previous appeal was allowed and the council are no closer to resolving the under provision of traveller pitches. The circumstances that led the inspector to grant temporary planning permission previously continue to apply. In terms of impact, the proposal does not materially harm the visual amenity of the Green Belt, the amenity of neighbours or the local highway. The development is in accordance with the relevant Development Plan policies, subject to the attached conditions.

8.0 RECOMMENDATION

8.1 To grant planning permission subject to the following conditions:

1. Temporary use of land for three years.
2. Development in accordance with approved plans.
3. Personal permission to Mr Collins and dependent children.
4. Withdrawal of P.D rights (extensions).

5. Withdrawal of P.D rights (outbuildings).

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