

APPLICATION NO.	P17/S4216/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	29.11.2017
PARISH	GARSINGTON
WARD MEMBER(S)	Elizabeth Gillespie
APPLICANT	Mr James McDonagh
SITE	Plot 9, Kiln Lane, Garsington, Oxon, OX44 9AR
PROPOSAL	Change of use of land as a private gypsy and traveller caravan site, consisting of a mobile home, a touring caravan, an amenity block and associated development.
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. The site lies vacant.

2.0 PROPOSAL

2.1 This application seeks planning permission to change the use of the land to allow the stationing of a mobile home and touring caravan and an amenity block to be used as residential use by a travelling family.

2.2 A copy of all the current plans accompanying the application is **attached** as Appendix B. Other documentation associated with the application can be viewed on the council's website, www.southoxon.gov.uk.

3.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

3.1 Garsington Parish Council - Object

- The application is in the Green Belt and therefore incompatible with current planning policy
- No exceptional circumstances have been demonstrated
- A refusal on Highway Grounds was sent on 25th October 2017 to the application P17/S3211/PEM to Mr David Clarke of Kiln Lane
- Temporary planning permission is not an option since a) In practice temporary permission becomes evergreen and b) Investment in civil works on the site is most unlikely ever to be reversed
- Planning Committee has no authority to create a de-facto traveller site without public consultation

Highways Liaison Officer (Oxfordshire County Council) - Object

- The proposal is likely to increase vehicle movements along Kiln Lane which is substandard in terms of its geometry
- No parking/turning space plan has been submitted demonstrating access, turning and egress using vehicle swept paths
- The access arrangements including Visibility splays have not been demonstrated in accordance with standards

- Refuse collection and storage details will need to be demonstrated for consideration

Highways Liaison Officer (Oxfordshire County Council) **Revised assessment** -

- Raise no objection to the development following further consideration; the proposal itself is likely to generate additional movements along Kiln Lane, however this is unlikely to be considered significant, so as to warrant a recommendation for refusal, in addition given the characteristics of the access lane, vehicular speeds and traffic are considered to be relatively low. With regard to the other issues, in my opinion these can be dealt with via conditions

Health & Housing (Contaminated Land) – Unable to make a view, details required by condition

Countryside Access - Informative attached requiring no obstruction to footpath

Health & Housing (Env. Protection Team) – Approve; If the applicant is successful then they will need to contact Environmental Health to apply for a site licence in order to legally station the home within the plot

Neighbours - Support (1)

- The district needs more traveller sites
- Development would result in a tidying up of the site

Neighbours - Object (12)

- Temporary or permanent development should not be allowed in Green Belt
- Kiln Lane is not designed for heavy traffic
- In the past 12 months, there has been a noticeable increase in the amount of traffic using the lane, the noise and vibration this is causing is becoming disturbing
- Further development will cause more traffic, increased risk on pedestrians and further impact on the condition of the track
- If approved, this application would further intrude on the green belt within this village
- Before the onset of SODC issuing temporary planning permissions in the lane, this was a quiet rural way enjoyed by horse riders, hikers, dog walkers and families alike. There are now barely any locals who use this lane
- Similar views from highways on local proposals should be shared for this site; and resisted
- Development is not a Green Belt compliant use
- The application does not provide any substantive technical analysis justifying its approval or personal circumstances
- The approval of this application will lead to further applications of this nature
- The rules have not previously been followed down Kiln Lane
- Development would result in a change to the character of the lane
- SODC should consider the long-term effect of granting this application rather than considering it as a short term 3-year solution to temporary housing problem, and if necessary come up with another solution to the asserted housing problem
- The unspecified associated development is worrying as other plots on Kiln Lane house large commercial highway maintenance and rubbish removal vehicles
- Three developments in a row disrupt the open, green, and natural nature of the lane
- Kiln Lane is becoming a de facto traveller site which is not in SODC's own planning policy

- It has proved very hard for SODC to restore sites that have been granted temporary planning permission back to a semblance of their former state
- Loss of planting and vegetation along Kiln Lane would be worsened
- Development would result in an overdevelopment of Kiln Lane
- Height of the wall would be out of keeping

4.0 RELEVANT PLANNING HISTORY

4.1 [P16/S0784/FUL](#) - Withdrawn (21/09/2017)

Pitch for mobile home/caravan. (As amended to re-site the proposed mobile home).

[P84/N0550/R](#) - Approved (08/10/1984) - Appeal allowed (10/09/1985)

Retention of a caravan

[P84/N0335/O](#) - Refused (18/07/1984) - Appeal dismissed (13/12/1985)

Demolition of existing dwelling; use of the land for residential estate development with access from Kiln Lane.

[P84/N0334/O](#) - Refused (18/07/1984)

Demolition of 153 and 155 Oxford Road and The Bungalow, Kiln Lane; use of land for residential estate development with access from Oxford Road. (Duplicate application of P84/N0333/O).

[P81/N0455/R](#) - Approved (16/09/1981)

Retention of site for a caravan.

[P78/N0337/R](#) - Approved (10/07/1978)

RENEWAL OF SITE FOR CARAVAN

[P67/M0830](#) - Approved (13/10/1972)

[P71/M0039/D](#) - Approved (21/04/1971)

[P70/M0912/D](#) - Approved (21/04/1971)

[P68/M0364/D](#) - Approved (24/05/1968)

[P67/M0797/D](#) - Approved (12/01/1968)

[P67/M0724/D](#) - Approved (27/11/1967)

[P64/M0944/D](#) - Approved (22/02/1966)

[P61/M1349/D](#) - Approved (04/12/1961)

For the continued use of land as a site for caravans.

[P58/M0343/D](#) - Approved (30/04/1958)

[P57/M0232/D](#) - Approved (30/03/1957)

[P56/M0100/D](#) - Approved (31/03/1956)

[P54/M0727](#) - Approved (11/02/1955)

Caravan site for 5 caravans and 2 storage sheds.

[P51/M0325](#) - Approved (04/09/1951)

Retention of site for four caravans.

[P50/M0367](#) - Approved (17/08/1950)

Site for 3 caravans

5.0 POLICY & GUIDANCE

5.1 National Planning Policy Framework & National Planning Practice Guidance

5.2 Government Planning Policy for Traveller Sites 2015

- 5.3 **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
- 5.4 **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

5.5 **South Oxfordshire Design Guide 2016**

5.6 **Garsington Neighbourhood plan – currently in early stages**

6.0 **PLANNING CONSIDERATIONS**

- 6.1 The main considerations in the determination of this application are
- Background – explanation of traveller policy
 - Principle of development
 - Impact on Green Belt
 - Whether very special circumstances have been demonstrated
 - Impact on neighbours
 - Impact on highway
 - Planning balance
 - Other matters

Policy background

- 6.2 The Department for Communities and Local Government publication 'Planning policy for traveller sites' (PPTS August, 2015) sets out the Government's policy for traveller sites. It should be read in conjunction with the National Planning Policy Framework (NPPF). Planning law requires that applications for planning permission must be determined 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. The PPTS sets out policy as to how local planning authorities should identify need for new pitches, plan for new sites within the plan making process and how to determine applications for new sites. The PPTS is a material consideration in making planning decisions.
- 6.3 The Council are currently unable to identify a deliverable number of sites for the current need for new pitches. The Council's joint Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA, 2017) identifies a need for 9 new pitches between 2017-2033.

Principle of development

- 6.4 Policy E of the PPTS states that traveller sites (temporary or permanent) in the Green Belt are considered to be inappropriate development. Personal circumstances and unmet need are unlikely to clearly outweigh harm caused to the Green Belt and any other harm. However, the best interests of the child can establish very special circumstances that could outweigh the harm caused to the Green Belt.
- 6.5 Policy H of the PPTS refers to determining planning applications. It advises 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 development plan. If a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision. However, exceptions to this rule are when the proposal is on specially designated areas of land such as the Green Belt.
- 6.6 Policy CSH5 of the South Oxfordshire Core Strategy (SOCS) states that the supply of pitches for Gypsies, Travellers and Travelling Showpeople will be provided by (i) safeguarding existing sites; (ii) extending existing sites where possible to meet the needs of existing residents and their families or (iii) identifying new sites through site allocations within the plan making process. To date, the SOCS does not allocate any sites for Gypsies, Travellers and Travelling Showpeople. Policy H17 of the South Oxfordshire Local Plan (SOLP) states that the provision of additional sites will only be permitted by meeting the outlined criteria within this policy. One criterion is if (ii) the site is not within the Green Belt. This policy provides a clear indication of how applications for new sites should be considered.
- 6.7 The proposed development consists of the provision of a single pitch for a travelling family. Proposed, is a static mobile home, touring caravan and an amenity block. The site is situated within the Oxford Green Belt, as such the development is regarded as inappropriate development. In the circumstances, it is necessary for the best interests of the child to be established in order to establish very special circumstances to overcome the principle objection to the scheme and the impact caused on the Green Belt.
- 6.8 The applicant wishes to live on the site permanently. Officers uphold the view of planning inspectors on this site on a previous application ([P84/N0550/R](#)) and on neighbouring 8 Kiln Lane ([P12/S0421](#)) which deemed the granting of permanent planning permission as unacceptable. Indeed, this would be consistent with the provisions of the PPTS. The previous assessment of the development at 8 Kiln Lane was seen to be acceptable by the planning Inspector, only subject to allowing the development for a temporary period of time and subject to the special circumstances demonstrated by the applicant. Officers do not consider there is any means to allow this development on a permanent basis and that only temporary permission could be granted if the best interests of the child can be established and can outweigh in the impact upon the Green Belt and any other harm.

Whether ‘very special circumstances’ have been demonstrated

- 6.9 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. As stated above, the PPTS identifies that the best interests of the child can establish very special circumstances which could outweigh the harm to the Green Belt. In addition, the granting of temporary permission would mitigate against the harm to the Green Belt.

- 6.10 Officers are in receipt of confidential information to support the case of the applicant and his family. Officer's do not dispute the nomadic nature of the family and are aware of their connections to local residents who reside down Kiln Lane. The information submitted by the applicant details significant and serious health problems that are well documented. Letters from a health visitor from Oxford Health NHS support the need for the family to live down Kiln Lane. It is considered important for the family to live down Kiln Lane by the health visitor to allow the mother to provide the necessary care to look after her children. In addition, the site would allow for the ailed child to benefit from continued monitoring and care, including visits from a Community Children's Nurse.
- 6.11 The information submitted would argue that there is a need for the family to live on this site to address the health and welfare of the child, to which officer's attribute significant weight. In addition, the council are unable to demonstrate available sites to accommodate the need for new gypsy and traveller pitches, which must be attributed some weight in the determination of this application.

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. In addition, the PPTS requires an assessment into all harm to be made in order to consider whether very special circumstances could overcome the harm caused by development within the Green Belt. With this said it is important to assess the other material considerations.

Impact on Green Belt

- 6.12 This development is regarded as inappropriate development within the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Policy GB4 of the SOLP states that new development within the Green Belt, if permitted, should be designed and sited in such a way that its impact on the open nature, rural character and visual amenity of the Green Belt is minimised.
- 6.13 Officer's consider that the development on this site would have a significant impact upon the openness of the Green Belt and would conflict with the aims of the Green Belt identified by Government. This view was shared by the planning Inspector when considering the appeal on the adjacent 8 Kiln Lane site. The impact on the character and appearance of the countryside and visual amenities of the Green Belt would also be considerable given that it would introduce new structures and associated hardstanding on a site which is otherwise vacant. In addition, views of the site would be possible from the public bridleway which runs along Kiln Lane which only serves to heighten the visual impact of the development.
- 6.14 The planning Inspector weighed in favour of the neighbouring development ([P12/S0421](#)), 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 not be acceptable as it would result in

permanent loss of open land within the Green Belt. See **attached** Appendix C for details of this appeal outcome.

Impact on neighbour amenity

- 6.15 The site would be relatively well distanced from neighbours. The site would be bound by two existing gypsy and traveller pitches. Owing to the orientation of the proposed structures it is not anticipated that views into or from the home would result in any adverse levels of harm to either neighbouring plot. It is officers view therefore that this development would significantly or adversely harm the amenity of these neighbours.

Impact on highway

- 6.16 The Local Highways Authority raise an objection to the proposed development. In the view of the highways liaison officer the follow are matters of concern:

- The proposal is likely to increase vehicle movements along Kiln Lane which is substandard in terms of its geometry
- No parking/turning space plan has been submitted demonstrating access, turning and egress using vehicle swept paths
- The access arrangements including visibility splays have not been demonstrated in accordance with standards
- Refuse collection and storage details will need to be demonstrated for consideration

- 6.17 It is your officer's view that despite the objection raised by the highways liaison officer, pedestrian visibility splays along Kiln Lane could be secured via condition. The vehicular traffic movements and speeds along Kiln Lane are likely to be low given the number of properties along this lane and given the characteristics of the lane. The addition of one more home down this lane is unlikely to be harmful and whilst the poor condition of the lane is noticeable the duty to improve it cannot be addressed by this application. Whilst the highways authority raise a concern relating to the substandard geometry of the lane it is important to consider that this development will only benefit from temporary planning permission; thereby removing the permeant harm to the lane and to the occupiers. In addition to this, traffic levels and vehicular speeds are likely to be low which would mitigate against any severe harm to the lane. Accordingly, the highways authority revised their view on this application.

- 6.18 The site appears to be sufficiently large enough to accommodate refuse storage and the occupants would adopt similar collection practices as other neighbours. The site also appears to be sufficiently large enough to allow a vehicular turning area and parking for at least two vehicles; which would meet the requirements of the SOLP. Whilst these are not demonstrated on plan, it is reasonable to consider these requirements can be met based on an assessment of the plans. This is coherent with paragraph 203 of the NPPF which states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Paragraph 206 of the NPPF continues to state that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Planning balance

- 6.19 It is officer's view that the personal needs of the child have been clearly demonstrated and can be substantiated through evidence. The impact upon the Green Belt would be significant. However, the impact caused would be limited to a temporary time frame with the grant of temporary planning permission. In addition, a condition allowing the use of the site for the use of the applicant and his dependent family only would ensure that no misuse of the permission will occur. Furthermore, a condition requiring the removal of all buildings from site and the requirement to make the site good following the expiration of the temporary permission will ensure the site is restored back to its open state.
- 6.20 It is officer's view that the development would facilitate the needs of the family in the best interest of the child. The impact upon the Green Belt would be significant but would be temporary. The use of the lane by vehicular traffic would also be minimal and temporary. The best interests of the child would demonstrate very special circumstances which would, in officer's view, weigh against the harm to the Green Belt. In addition, there is an unmet need for pitches within the district, which in itself would not outweigh the harm to the Green Belt, but should be given some weight in determining new applications. Planning conditions would ensure safe and convenient access to the highway and allow the council to control the use of both hard and soft landscaping on site. To this end, officer's take the view that this development should be allowed with a grant of temporary permission for a period of three years. In which time, the council will endeavour to find a sufficient number of sites through the local plan process to meet the district wide need for sites.
- 6.21 Mobile home licence - In order to occupy this mobile home legally, the applicant will need to apply for a mobile home site licence from the Environmental Protection team. This licence has conditions to ensure the welfare and safety of the occupant which need to be complied with throughout the occupancy of the home, the home will then be inspected from time to time to ensure compliance with the licence. An application form for a licence can be obtained from the Health and Housing team.
- 6.22 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.
- 6.23 The Garsington Neighbourhood Plan is in its early stages. The area designation has been agreed, however the plan has yet to reach draft stage and hasn't been consulted on. Accordingly, no weight can be given to this plan at this stage.

7.0 CONCLUSION

- 7.1 Your officers recommend that planning permission for a temporary period of three years is granted because very special circumstances exist that overcome the presumption against inappropriate development in the Green Belt. Subject to condition, the proposed development would not have any adverse impact upon the amenity of neighbours, the local highway or the environmental constraints of the site. The development is in accordance with the relevant Development Plan policies and the National Planning Policy Framework (NPPF) and the Planning Policy for Traveller Sites (PPTS).

8.0 **RECOMMENDATION**

8.1 **To grant planning permission subject to the following conditions:**

1. **Temporary use of land for three years from date of permission.**
2. **Development to be implemented in accordance with the approved drawings.**
3. **Personal permission, to Mr James McDonagh and his dependent family.**
4. **Contamination - (contaminated land statement questionnaire) – details of land contaminates to be submitted prior to commencement of development.**
5. **Landscaping (including access road and hard standings to be submitted for approval prior to first occupation).**
6. **Vision splay dimensions to be implemented.**
7. **Drainage (details relating to surface water and foul drainage to be submitted for approval prior to commencement).**
8. **Removal of all buildings following expiration of temporary planning permission.**

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