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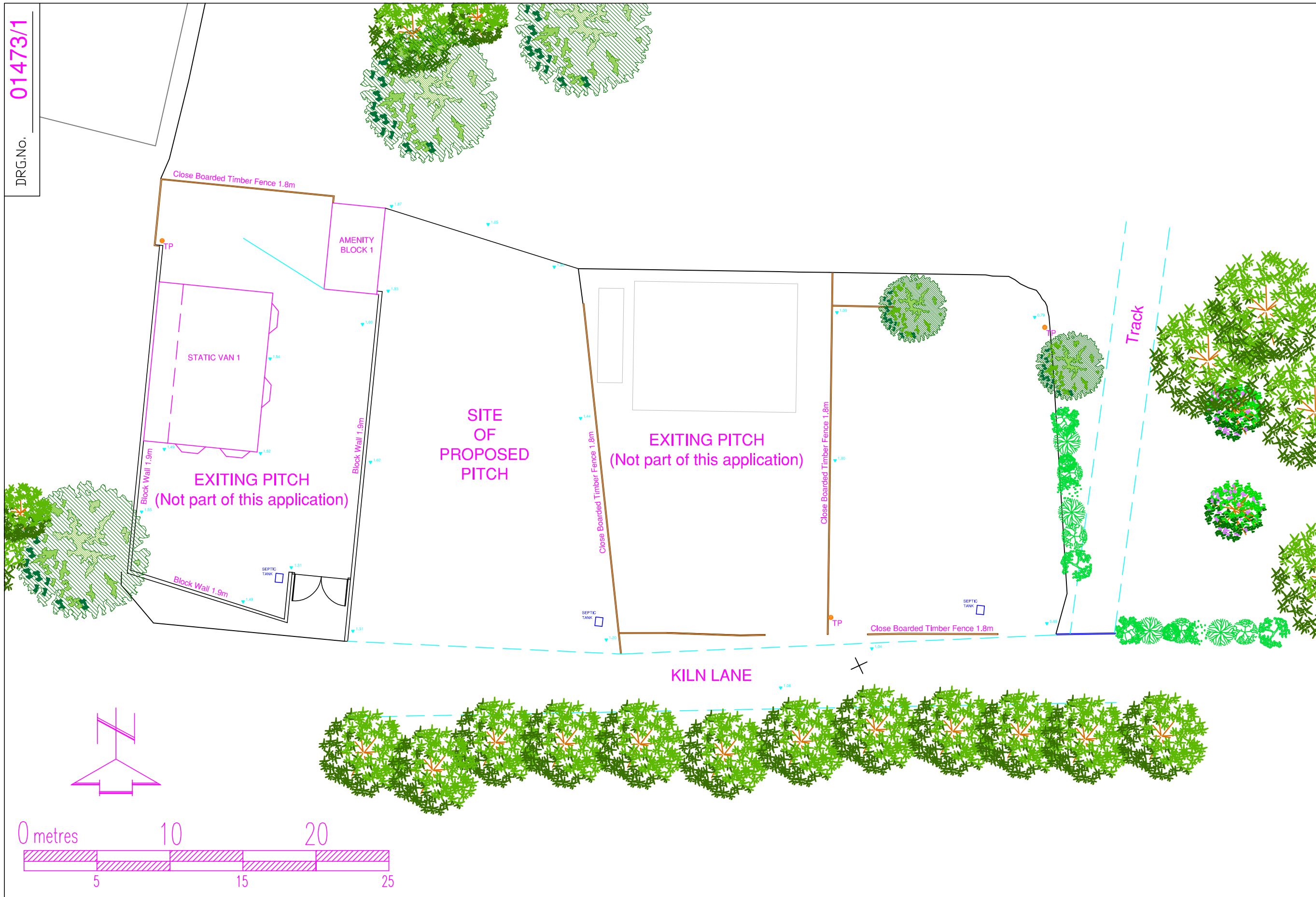
South and Vale GIS
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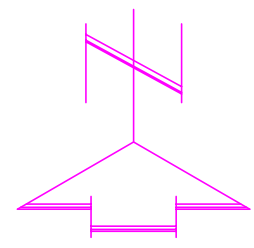
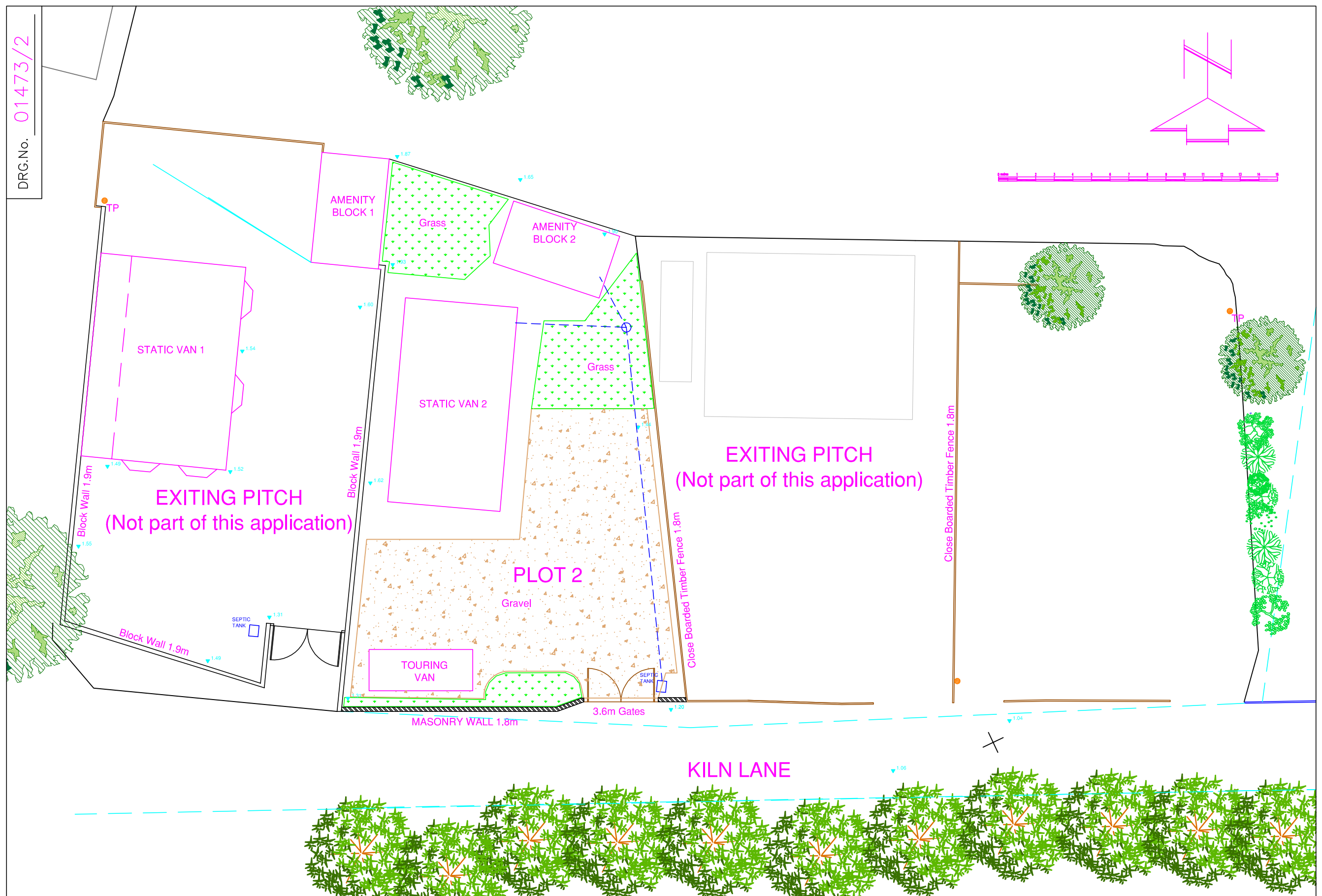
Rev	Date	Revision

TITLE
 PROVISION OF SINGLE PITCHES ON LAND OFF
 KILN LANE, GARSINGTON, OXFORD, OX44 9AR.
 EXISTING LAYOUT

CLIENT
 Mr McDONAGH

DRN. SAB
 DATE 23.10.17
 SCALE A3 1:250

DRG. No.
 01473/1
 Rev: 3 (27.11.17)



 <p>S.A.B.DRAWING & DESIGN 26 MARGUERITE ROAD TIVERTON DEVON UNITED KINGDOM EX16 6TD TEL: +44 (0) 1884 254004 E-MAIL: steve@sabdrawings.com</p>	<p>THIS DRAWING IS SUBJECT TO COPYRIGHT AND MUST NOT BE REPRODUCED OR REPRODUCED WITHOUT THE PERMISSION OF SAB DRAWING & DESIGN. THIS DRAWING HAS BEEN PRODUCED FOR PLANNING/BUILDING REGULATION APPROVAL ONLY AND DOES NOT GUARANTEE THAT THE WORKS HAVE BEEN DESIGNED OR INCLUDED. ALL DIMENSIONS MUST BE CHECKED BY THE CONTRACTOR BEFORE COMMENCEMENT OF CONSTRUCTION. NO RESPONSIBILITY OR LIABILITY FOR NONCOMPLIANCE OR LACK OF INFORMATION WILL BE ACCEPTED. NO RESPONSIBILITY OR LIABILITY FOR CHANGES MADE BY THE CLIENT OR CONTRACTOR EITHER PRIOR OR DURING CONSTRUCTION WILL BE ACCEPTED. SCALE AS SHOWN IS SUBJECT TO CORRECT PRINTING.</p>	<p>Rev</p>	<p>Date</p>	<p>Revision</p>	<p>TITLE</p> <p>PROVISION OF SINGLE PITCHE ON LAND OFF KILN LANE, GARSINGTON, OXFORD, OX44 9AR.</p> <p>SITE DEVELOPMENT SCHEME</p>	<p>CLIENT</p> <p>Mr McDONAGH</p>	<p>DRN. SAB</p>	<p>DRG. No.</p> <p>01473/2</p>
		<p>DATE</p> <p>23.10.17</p>	<p>SCALE</p> <p>A3 1:200</p>	<p>Rev: 3 (27.11.17)</p>				



Appeal Decision

Hearing held on 31 July 2012

Site visit made on 31 July 2012

by Claire Sherratt DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 September 2012

Appeal Ref: APP/Q3115/C/12/2173778

Land at 8 Kiln Lane, Garsington, Oxfordshire OX44 9AR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr John Collins against an enforcement notice issued by South Oxfordshire District Council.
 - The Council's reference is P12/S0421.
 - The notice was issued on 12 March 2012.
 - The breach of planning control as alleged in the notice is without planning permission the erection on the Land of a building (in use as a dwelling) including timber decking and block walls around and block piers beneath; and the carrying out of associated development, namely the laying of hardstanding across the land and the erection of a gate and fencing (of a height which exceeds permitted development rights) on the eastern boundary of the Land fronting Kiln Lane.
 - The requirements of the notice are to:
 - (i) Take down and remove from the Land the building and associated timber decking, block walls and block piers referred to in 3 above (the description of the alleged breach of planning control).
 - (ii) Dig up and remove from the Land the materials used to form the hardstanding referred to in 3 above.
 - (iii) Reinststate the Land by spreading topsoil and sowing grass seed.
 - (iv) Take down and remove from the land the gate and fencing referred to in 3 above.
 - (v) Remove from the Land all materials resulting from the carrying out of steps (i) – (iv) above.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (d) and (f) of the Town and Country Planning Act 1990 as amended.
 - An application for planning permission is deemed to have been made under S177(5) of the Act as amended.
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Procedural Matters

1. It was agreed at the hearing that the enforcement notice can not include a large area of the hard standing. Photographic evidence shows that most of the site was covered in hardstanding in 2008, before it was occupied by the appellant. This is further substantiated by plans that accompanied an application in 2008. Only a small triangular area of hardstanding should be included in the notice. I will therefore correct the notice to refer to this smaller 'triangular' area of land only by making reference to the block plan that accompanied the 2008 application. On this basis, the appeal lodged under ground (d) falls away.

Decision

2. The enforcement notice is corrected by:
 - the insertion of the words 'part of' between the words 'across' and 'the land' and the insertion the words 'as shown hatched on Plan 2' after 'the land' in the description of the alleged breach of planning control in section 3 of the notice;
 - the addition of the words 'as shown hatched in black on Plan 2' to the requirement at Section 5 (ii) of the notice;
 - by the addition of the plan annexed to this decision (and referred to as Plan 2 above) to the plan attached to the enforcement notice.

Subject to these corrections the appeal is allowed and the enforcement notice is quashed.

3. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the erection of a building (in use as a dwelling) including timber decking and block walls around and block piers beneath; and the carrying out of associated development, namely the laying of additional hardstanding across part of the land as shown hatched on Plan 2 and the erection of a gate and fencing on the eastern boundary of the Land fronting Kiln Lane on Land at 8 Kiln Lane, Garsington, Oxfordshire, OX44 9AR, subject to the conditions attached in Schedule A.

Reasons

Ground (a), the deemed application.

4. The development plan includes the South East Plan (May 2009) and the South Oxfordshire Local Plan 2011 (LP), adopted January 2006. The appeal site is situated within the Green Belt. LP Policy GB2 states that within the Green Belt the construction of new buildings will not be permitted except in certain circumstances including (criteria (iv)) limited infilling in existing villages which have an adequate range of services and facilities provided it complies with the requirements of Policy H5. Garsington is defined in the LP as one of the 'larger villages' washed over by the Green Belt where Policy H5 permits infill which is defined as the filling of an appropriate small gap in an otherwise largely built-up frontage by the erection of one or two detached or up to four small terraced or semi-detached dwellings, or backland development of the same scale, provided that criteria set out in Policy H4 are met.
5. These development plan policies broadly accord with those contained in the National Planning Policy Framework, a material planning consideration in the determination of this appeal, and so the weight to be afforded to these policies at the current time is not lessened following its publication.
6. The South Oxfordshire Submission Core Strategy Document (December 2010) defines Garsington as one of the 'smaller villages'. Within these smaller villages, CS Policy CSR1 permits infill on sites of up to 0.2ha – the equivalent of 5-6 houses. The supporting text defines infill development as 'the filling of a small gap in an otherwise built up frontage or on other sites within settlements where the site is closely surrounded by buildings'.
7. From my observations on site and the various plans and photos submitted by the main parties there is no doubt in my mind that the development of the site could not be regarded as 'infill development'. The nearest properties to the north of the appeal site are the properties on Combewell that back on to Kiln Lane and numbers 1 and 2 Kiln Lane. These are clearly within the built – up

settlement pattern of Garsington. There is a substantial gap between these properties and The Cottage and the complex of farm buildings at Kiln Farm to the south of the appeal site. Beyond these buildings to the south are open fields. Between these buildings are the appeal site and an unauthorised mobile home occupied for residential purposes. The site could not be described as a gap in an otherwise 'built up' frontage as Kiln Lane is simply not built-up. Furthermore, the gap would accommodate more than 5-6 detached properties within similar plots to those in the general area. The appeal site is not closely surrounded by other buildings. I find that the development would not constitute infill development as defined in LP Policy H5 or emerging CS Policy CSR1.

8. I note the proximity of Garsington and the boundary of Oxford city. One of the purposes of including land in the Green Belt is to prevent neighbouring towns from merging in to one another, rather than all settlements. Nevertheless I recognise that the gap between Garsington and Oxford is important in retaining a sense of openness between two built-up areas, albeit that Garsington is washed over by Green Belt. I do not accept that a precedent would be set for further development that would reduce the gap between Garsington and Oxford should the appeal succeed as inappropriate development would not be permitted unless very special circumstances exist.
9. The appellant and his partner are Irish Travellers. I am satisfied based on the evidence before me that the appellant and his partner would meet the definition of a gypsy and traveller as set out in Annex 1 of the Planning Policy for Traveller sites. LP Policy H17 permits sites for gypsies and travellers subject to a number of criteria. These include that the site is not within the Green Belt. The development would therefore conflict with Policy H17 of the LP. Emerging CS Policy CSH5 stipulates that a supply of pitches for gypsies and travelling showpeople will be provided by safeguarding existing sites, extending existing sites where possible and identifying sites through the Site Allocations Development Plan Document (DPD) and Didcot Area Action Plan (AAP).
10. The development would be inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt. It is for the appellant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development.
11. The Council suggests that in addition to the harm by reason of inappropriateness further harm would be caused to the openness and visual amenities of the Green Belt, and to the character and appearance of the countryside.
12. Notwithstanding that the notice (as corrected) does not attack the existing fencing along three sides of the site or the majority of the hardstanding; I consider the actual harm to openness arising from the building is still great. However, I consider the impact on the character and appearance of the countryside and visual amenities of the Green Belt is lessened as the site would retain some urbanising characteristics due to the fencing and area of hardstanding. A number of other considerations are advanced in support of the development which I shall address in turn below.

Need for additional pitches for gypsies and travellers

13. A Gypsy and Traveller Accommodation Assessment (GTAA) was conducted in 2006 to assess the needs of the gypsy and traveller community. It identified a need for 28 additional pitches in South Oxfordshire between 2006 – 2011. The

GTAA informed the RSS Single Issue Review in relation to the needs of gypsies and travellers. The review was not adopted given the intention of the Government to abolish regional strategies. However, it identified a requirement for 43 pitches in South Oxfordshire to 2016. Although the CS does not specify the number of pitches to be identified, the supporting text refers to a need for 9 pitches up to 2016. This is a long way from the 28 pitches initially identified to 2011, particularly as the GTAA was criticised for relying on a relatively high supply of pitches as a result of turnover. It was not clear how the requirement to provide 9 pitches to 2016 had been arrived at. Nevertheless, there was no dispute between the main parties that a need exists for additional pitches to accommodate the needs of the gypsy and travelling community.

14. The Council is about to embark on an up-to-date GTAA which should be published towards the end of 2012 and will inform the DPD and Didcot AAP. For the moment at least, the 2006 GTAA is the most robust and up-to-date evidence base before me which suggests a greater need than 9 pitches. Nevertheless, it is sufficient for me to find that a need exists without putting a precise figure upon it and that the Council has failed to provide sites within the timescales anticipated in the GTAA. Despite a need for sites being identified in the 2006 GTAA and the publication of Circular 01/2006 (recently revoked) seeking to address the shortfall of sites in the 3 to 5 years following its publication, no sites have been identified some 6 years on.
15. The Council anticipates adoption of the DPD in 2016 and the Didcot AAP earlier in 2014. These documents will identify suitable sites to accommodate pitches for the gypsy and traveller community. CS Policy CSH5 clarifies that the location of new sites will be determined in accordance with three priorities which include sites incorporated within the greenfield neighbourhood at Didcot. It will therefore be 2014 before some, but possibly not all, of the required sites are identified. In the meantime a shortfall of pitches remains not only in South Oxfordshire but also in the wider sub-region that the GTAA covered.
16. I give the identified need for additional pitches in the area significant weight particularly as it is unlikely to be fully addressed until 2016, despite a clear need being identified in the 2006 GTAA.

Personal needs of the appellant and his family

17. The site was purchased by the appellant in 2008. It is occupied by the appellant, John Collins and his wife Geraldine (nee Joyce) and three of their children, the eldest of which is attending college and the younger being at school. There was no dispute about the gypsy status of the appellant a view with which I concur. I heard that the appellant and his family have doubled up on other pitches occupied by family members in breach of the site licence or lived on the road. A settled base ensures that the children can attend school on a regular basis and the family can access medical facilities. This would be applicable to any settled base. However, no alternative sites were advanced by the Council that would be available to the appellant. As such, this is a consideration that can be attributed significant weight. It is probable that if the appeal were to fail, the appellant and his family would have to return to a roadside existence. These are considerations that weigh in favor of the appeal.
18. It is necessary to weigh these various factors against and in favour of the development. 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 favor of the development is the long outstanding need for additional sites to accommodate gypsies and travellers and the personal needs of the appellant and his family for a settled base, particularly given the lack of alternative sites available to them.

19. Overall I do not consider those considerations weighing in favor of the development clearly outweigh the permanent harm I have identified. Dismissal of the appeal would, in all likelihood, require the appellant and his family to vacate the site (which has to be regarded as their home) without any certainty of suitable alternative accommodation being readily available. I recognise that this would represent an interference with their home and family life. However, the permanent harm which has been and would continue to be caused by the development, in terms of its effect upon the purposes of including land in the Green Belt would be considerable.
20. The possibility of a temporary permission was discussed at the hearing 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. In my view any temporary permission should expire to coincide with the adoption of the DPD as the Didcot AAP may not identify sufficient sites to meet all the needs arising although it is likely to identify some given that Didcot is to be prioritised. In such circumstances, the harm arising would only be for a temporary period. The general need for sites in the area until alternative provision has been made would alone clearly outweigh the harm if only for a temporary period until such time as sites have been identified through the AAP and subsequent DPD.

Conditions

21. As stated any permission should be for a temporary period only expiring in 2016. It was also suggested that conditions requiring the approval of the layout of the site, relating to areas of hardstanding, amenity areas and parking would be necessary in order to ensure the visual impact of the development is mitigated as far as possible. For the same reason permitted development rights should be removed and details of the fencing and any gates along the front boundary should be approved by the local planning authority.

Overall Conclusions

22. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (f) does not therefore need to be considered.

Claire Sherratt
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs Alison Heine B.Sc, M.sc, MRTPI Mr & Mrs Collins	Heine Planning Consultancy. The Appellant.
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FOR THE LOCAL PLANNING AUTHORITY:

Natasha Ireland BA(Hons) DipTP MRTPI	Team Leader (Appeals section) for South Oxfordshire District Council.
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INTERESTED PERSONS:

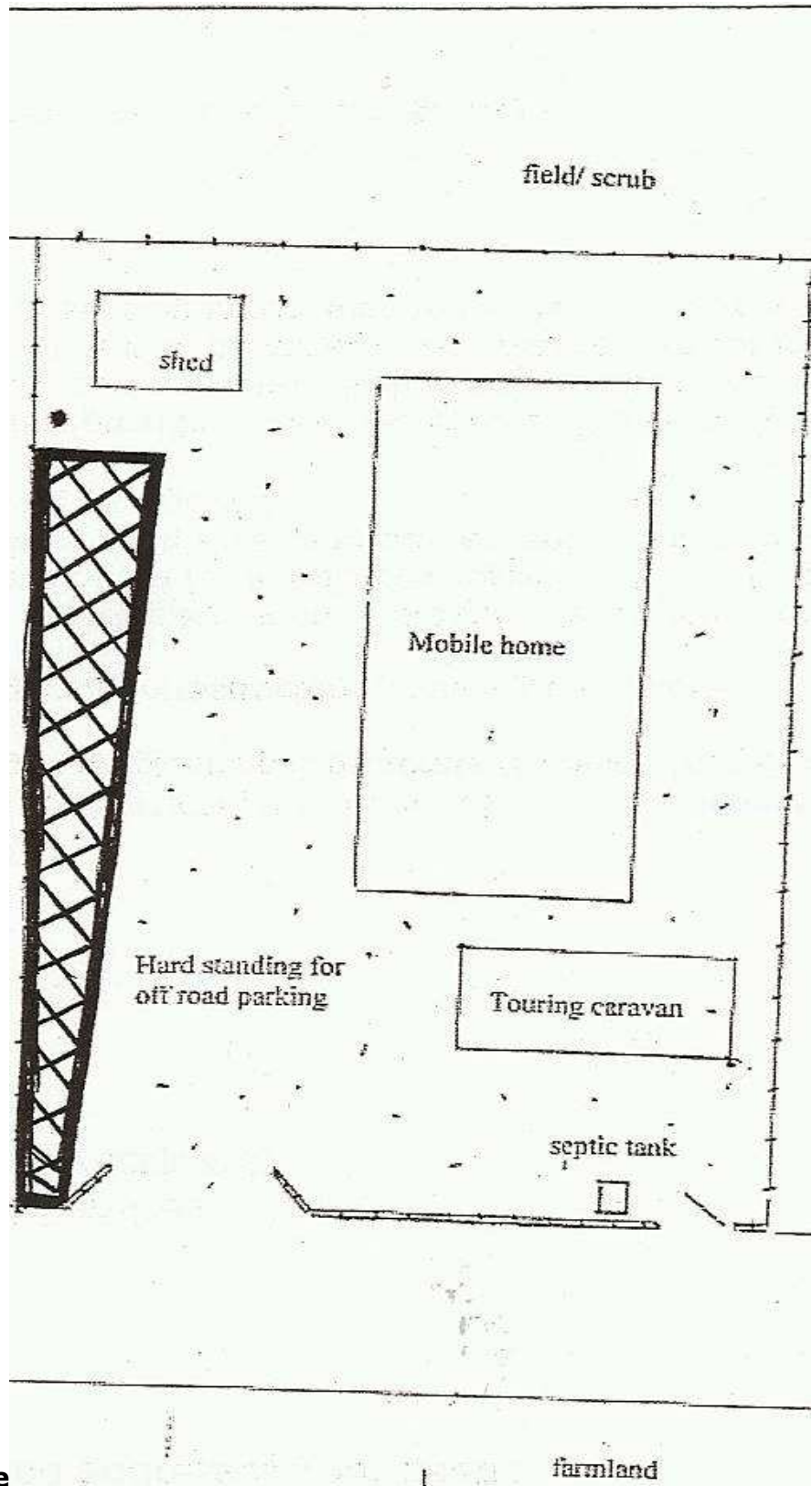
Councillor Elizabeth Gillespie Christopher Wright	District Councillor Chairman of Garsington Parish Council
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DOCUMENTS

- 1 Copy of appeal notification and list of persons notified.
- 2 Estate agent details relating to the sale of 8 Kiln Lane.
3. Extract of Proposals Map.

Annex A - Schedule of Conditions

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning policy for traveller sites.
- 2) The use hereby permitted shall be for a limited period being the period of 4 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.
- 3) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days, or such longer period as considered reasonable of the date of failure to meet any one the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for:
 - the means of foul and surface water drainage of the site;
 - proposed and existing external lighting on the boundary of and within the site;
 - the internal layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas;
 - proposed and existing fences, gates and walls;
 - the restoration of the site to its condition before the development took place, (or as otherwise agreed in writing by the local planning authority) at the end of the period for which planning permission is granted for the use, or the site is occupied by those permitted to do so, as appropriate],(hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
 - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions, garages or other ancillary buildings shall be erected.



Plan 2 - Not to Scale