

APPLICATION NO.	P19/S1069/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	1.4.2019
PARISH	WATLINGTON
WARD MEMBER(S)	Anna Badcock
APPLICANT	Mr Jamie and Mrs Olivia Curtis
SITE	Newlands, Platts Lane, Northend, RG9 6LG
PROPOSAL	Removal of condition 1 on application P16/S2650/FUL to enable the time limited permission to be made permanent.
OFFICER	Marc Pullen

1.0 **INTRODUCTION**

- 1.1 The site (which is shown on the OS extracts **attached** as Appendix A) lies to the north of a linear pattern of built form in Northend. The site is closely associated with a number of properties, accessed of Platts Lane. The site is currently occupied by a single mobile home currently occupied by the Curtis family. The site lies within the Chilterns Area of Outstanding Natural Beauty (AONB).
- 1.2 This application is referred to Planning Committee in accordance with the council's constitution, as the recommendation for approval by officers' conflicts with the views of Watlington parish council who object to the application.

2.0 **PROPOSAL**

- 2.1 This application seeks planning permission to remove condition 1 of planning permission [P16/S2650/FUL](#). This condition reads:

That at the expiration of a period of 3 years from the date of this permission the use of the land as specified in the application shall cease.

Reason: Permission is granted in view of the special circumstances of the Curtis family in accordance with Policy CSEN1, CS1, CSH5, of the South Oxfordshire Core Strategy 2027, Policies H17, G2 and D1 of the South Oxfordshire Local Plan 2011 and the provisions of the Planning Policy for Traveller Sites, 2015.

- 2.2 For the avoidance of doubt, this application seeks, by removal of condition 1, permanent permission for a single gypsy and traveller pitch. Additional information was sought during the consideration of this application which clarified the current circumstances of the Curtis family.
- 2.3 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 **Watlington Parish Council** – Object
- WPC objects and recommends that a new 3-year temporary lease be given
- Shirburn Parish Council** – No response
- Neighbour** - Object (5)
- The mobile home is a temporary structure and therefore doesn't require permanent permission

- The land should have been returned to Chiltern countryside following the departure of the previous occupants, but this was overridden by the Planning Department when granting temporary permission recently
- If the Council's position has improved since the last application, then no renewal will be necessary
- If the Council has not yet had the opportunity to address the shortfall in provision it would represent a pre-emption and undermining of due process to covert the site to permanent
- This type of structure is out of place in the AONB, the structure should be subject to the full rigors of Planning and Building Regulations in the same way as every other home
- The applicant is a 3rd generation of a family which has lived and worked in the Stokenchurch area and do not travel out of the area for work any more or less than anyone else in modern day employment
- Northend is within the Chilterns AONB and so should be an exception under the DCLG policy, lack of alternatives sites notwithstanding
- Previous permission only granted temporary permission in view of the personal circumstances
- Concern that granting permanent permission would remove the condition limiting the occupancy to the applicants, creating a permanent gypsy and traveller site
- DCLG policy does not allow for new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan
- This area is not supported for new housing in the Core Strategy 2012

4.0 **RELEVANT PLANNING HISTORY**

4.1 [P16/S2650/FUL](#) - Approved (02/11/2016)

Removal of Condition 2 on Planning Permission P12/S2526/FUL to enable the permanent retention of the use of land for the stationing of a residential mobile home.

[P13/S0972/DIS](#) - Approved (08/07/2013)

Retain the use of land for the stationing of a residential caravan/mobile home.

Discharge of condition 4 on P12/S2526/FUL

[P12/S2526/FUL](#) - Approved (11/03/2013)

Retain the use of land for the stationing of a residential caravan/mobile home.

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

CSEN1 - Landscape protection

CSH5 - Gypsies, Travellers and Travelling Showpeople

CSQ3 - Design

CSR1 - Housing in villages

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
- H15 - New residential caravans and mobile homes
- H17 - Provision of gypsy caravan sites
- R8 - Protection of existing public right of way
- 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

6.0 PLANNING CONSIDERATIONS

- 6.1 The main considerations in the determination of this application are
- Principle of new gypsy and traveller sites and policy background
 - Personal circumstances of the family
 - Current development plan situation
 - Impact on character and appearance of site and surrounding area (including Chilterns AONB)
 - Impact on neighbour amenity
 - Impact on the highway
 - Planning balance
 - Other material planning considerations

Principle of new gypsy and traveller sites and policy background

- 6.1 Policy CSH5 of the South Oxfordshire Core Strategy (SOCS) and Policy H17 of the South Oxfordshire Local Plan (SOLP) assists the delivery of pitches for Gypsy, Travellers and Travelling Showpeople within the District. Both should be read together and in conjunction with the National Planning Policy Framework (NPPF). Policy CSH5 of the SOCS seeks to ensure that the supply of pitches is provided through utilising existing sites, extending existing sites if possible or by providing new sites through a site allocations process. Policy H17 (SOLP) provides a detailed criteria-based means of assessing new gypsy caravan sites. It states that additional gypsy caravan sites will only be permitted if there is an established need that cannot be met on existing sites and if the site is not Green Belt, in a conservation area, on open land in an Area of Outstanding Natural Beauty (AONB).
- 6.2 Current Government Policy, 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, unless material considerations indicate otherwise.
- 6.3 The NPPF does not set out how travellers' housing needs should be assessed, instead it states that the provision of traveller needs should be addressed in accordance with the PPTS. The Council are currently unable to demonstrate a five-year supply of deliverable sites for Gypsy and Traveller pitches. The Council's Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessment (GTAA, 2017 update), identified a need to find new sites within the South Oxfordshire District to deliver 9 additional Gypsy and Traveller pitches, of which this site is acknowledged as a temporary site which contributes to this need.

- 6.4 The PPTS, paragraph 13, states that local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies promote peaceful and integrated co-existence between the site and the local community, promote access to appropriate health services, ensure that children can attend school on a regular basis, provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampments, provide for proper consideration of the effect of local environmental quality on the health and well-being of any travellers that may locate there, avoid placing undue pressure on local infrastructure and services, do not locate sites in areas at high risk of flooding and reflect the extent to which traditional lifestyles can contribute to sustainability.
- 6.5 The PPTS, paragraph 14 notes that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community. Whilst it does not specifically state so, this paragraph does acknowledge that gypsy and traveller sites can be reasonably located in rural areas. Indeed, Policy H17 of the SOLP does not strictly direct where new gypsy and traveller sites should be located, it simply advises what issues should be considered when determining new applications. The provision of new gypsy and traveller sites is not as strictly guided by the development plan as new housing and the considerations are different. In theory, a new gypsy and traveller site could be located somewhere where new housing might not be considered appropriate. As such, to resist this form of development because it fails to comply with the housing policies within the development plan would not be a reasoned justification and would not respect the needs of the specially protected characteristic of gypsies and travellers.
- 6.6 Policy H of the PPTS relates to the determination of planning applications for traveller sites. Paragraph 24 states that local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:
- the existing level of local provision and need for sites
 - the availability (or lack) of alternative accommodation for the applicants
 - other personal circumstances of the applicant
 - 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
 - that they should determine applications for sites from any travellers and not just those with local connections
- 6.7 The PPTS, Paragraph 26 states that when considering applications, local planning authorities should attach weight to the following matters:
- effective use of previously developed, untidy or derelict land
 - sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
 - promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
 - 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
- 6.8 The PPTS, paragraph 27 states that if a local planning authority cannot demonstrate an up-to-date 5-year supply of deliverable sites, this should be a significant material

consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and/or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads). Importantly, this application does not seek temporary permission and instead seeks permanent permission.

- 6.9 The Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessment 'Delivery of Pitches Final Report' (April 2015) provides advice on the delivery of pitches to meet the needs identified within the GTAA, including an assessment of sites identified by the traveller communities and other stakeholders as possible locations for new pitches, and to assess them for their availability, suitability and deliverability. This report identifies the application site as a site with potential to meet the need for gypsy and traveller pitches in South Oxfordshire.

Personal circumstances of the family

- 6.10 The Curtis family attest to meet the definition of *gypsies and travellers*. This definition is identified within Annex 1 of the 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."

In officer's view, the Curtis family, who have ceased their nomadic life to allow their children to attend school do satisfy this condition and therefore do not consider it necessary to challenge this assertion.

- 6.11 The Curtis family have lived on the application site for approximately six years (March 2013). The site has historically been granted temporary planning permission on two separate occasions for three-year periods. Before this, the site had benefited from a series of temporary planning permissions dating back to 1954. The personal circumstances have not changed since the last application was made, to warrant the need to leave the site. The family have twins who are six years old and have attended the pre-school at Nettlebed for three years. A letter from the headmaster of the pre-school confirms that the children attend the school and are currently in Year 1 having attended since Reception Class. In the view of the headmaster both children have made significant friendships and the family have been part of the school community and the school has helped to try and support them and their learning throughout this time. The children require extra support in class and have specially adapted learning sessions. In the view of the headmaster, any move from the school would disrupt their learning as it has taken them a while to settle and learn. It is the view of the headmaster that the educational and social welfare of the children would be impacted if they were to have to move.
- 6.12 The family have made the application site their settled base, from which they travel for work. Mr Curtis works locally as a ground worker, specialising in laying drives and works in Henley-on-Thames and the surrounding areas, with occasional trips away to other parts of the country working with his father and brother. This pattern of work has been established since 2013 after settling at Newlands.
- 6.13 The family are registered with the doctors in Stokenchurch, approx. 6/7 miles away. Mr Curtis was partly brought up in Stokenchurch and requires regular checks with his

doctor with an established relationship with the surgery in question. The rest of the family are also registered with the same surgery.

- 6.14 The family have become settled into Northend and have been regular users of education and health services in the local area. It is important that these arrangements continue, especially the schooling of the children. In the view of the applicants, another temporary permission would result in continuing uncertainty arising from a series of such permissions which makes planning for the future precarious. Financial decisions have to be made, health and educational services benefit from a continued and settled home life, and social integration is important. If permission was not granted (temporary or permanent) the applicants would have no planning permission and would be obliged to leave the site in accordance with the most recent planning permission ([P16/S2650/FUL](#)). It might be possible for the family to pull-up with family and friends for a short time, but fundamentally they would be on the roadside if they could not obtain planning permission.
- 6.15 It is officer's view that the family clearly have a need for a settled base to allow the family to continue accessing important services including education and health care. The social benefits of staying on this site would be great as it would allow for the family to continue to flourish within the community and for the children to continue learning within a familiar and supportive environment. To move would disrupt the lives of the family, especially the children.

Current development plan situation

- 6.16 As mentioned before, the council is unable to demonstrate a five-year supply of gypsy and traveller pitches. The current development plan does not allocate any new gypsy and traveller sites to address the current need. The emerging Local Plan does allocate approximately 10 new gypsy and traveller pitches over three larger strategic sites, but the progress of this plan is premature and only limited weight can be applied to the Plan. The council has experienced a continuing under-supply of gypsy and traveller sites and whilst the need has reduced over the past couple of years, there is still a substantial need identified. It is acknowledged that the Council only permitted the use of this land temporary permission in 2016, however the Council are now three years on and have yet to make any progress on delivering sites. The undersupply of pitches, in officers view, carries further weight than before as a result, in which time the family have settled into the area.

Impact on character and appearance of site and the surrounding area (including the Chilterns AONB)

- 6.17 Policy CSEN1 (SOCS) states that high priority will be given to the conservation and enhancement of the Chilterns Area of Outstanding Natural Beauty. The site is located on the edge of the settlement of Northend and although not especially prominent in the landscape, is clearly visible from the adjacent public footpath. The mobile home is generally out of keeping with the area and officers do acknowledge that it has an impact on the distinctiveness of the area and as a result would not conserve or enhance the Chilterns AONB. Although, the siting and design of the home would not change as a result of this application and the associated landscaping would remain the same. Great weight is attached to the conservation and enhancement of the Chilterns AONB by the NPPF (para 172).

Impact on neighbour amenity

- 6.18 Similar to the previous assessment of this site, officers are satisfied that the existing circumstances would not be altered by this development, therefore ensuring that neighbour's amenity would continue to be safeguarded against harm.

Impact on highways

- 6.19 Officers are satisfied that the existing circumstances would not be altered by this development, therefore ensuring that harm to highway safety would not occur.

Planning balance

- 6.20 Officers identify that the proposed development would, by reason of being made permanent, result in harm to the Chilterns AONB. It is acknowledged that the mobile home, if removed from site, would restore the site to its previous use and better improve this part of the Chilterns AONB. However, it is also acknowledged that the site is reasonably well contained and the harm to the wider landscape is minimal. Therefore, whilst great weight is attached to the harm caused to the Chilterns AONB, it is officer's view that the proposal does little to harm the wider landscape character and appearance of the village and the wider Chilterns AONB.
- 6.21 The proposed development would allow the family to remain on site permanently. In view of the relevant planning policy considerations and the nature of the development, a condition would be needed to enable the local planning authority to limit the benefit of this permission to the Curtis family only. To remain settled would allow the family to continue benefiting from local facilities and services and allow for Mr Curtis to remain working locally. There are clear personal circumstances of the family that would benefit from a permanent planning permission. To disrupt the family from their settled base would compromise the growth and financial security of the family, including the children's education and the family's access to healthcare. The social benefits that would arise as a result of allowing a permanent pitch for the Curtis family should carry significant weight in favour of granting planning permission for this application. In addition to this, the ongoing undersupply of gypsy and traveller sites and the absence of any allocated sites within the development plan is attributed important weight in favour of granting planning permission. These, in officer's view, constitute other material planning considerations that outweigh the conflict with the development plan (including NPPF, PPTS). This was a matter agreed by the Planning Inspector when granting permission for a single pitch at 9 Kiln Lane, Garsington (ref. APP/Q3115/W/18/3209624).
- 6.22 The planning agent has submitted a number of appeal examples which demonstrate the application of the planning balance in association with applications for gypsy and traveller sites where there are personal circumstances and an unmet need, with no alternative accommodation available (**Appendix C**).

- APP/U1430/A/14/2222659 – Beeches Brook, East Sussex
- APP/U1105/A/11/2164436 – Sidbrook Nook, Sidmouth
- APP/F1610/A/09/2094221 – Icomb, Stow-on-the-Wold
- APP/U1430/C/11/2147502 – Greenacres Farm, East Sussex
- APP/V2255/A/14/2219020 – Ashford Road, Faversham
- APP/Z3825/A/12/2188572 – Deer Park Farm, Horsham
- APP/G2245/A/07/2046371 – East Hill Road, Sevenoaks

The level of weight to be attributed to these matters largely depends upon the specific matters of each application, on a case-by-case manner.

- 6.23 There is an argument that the granting of a further three years would allow the Local Plan 2034 to progress further and allow for allocated sites to be made. However, the Local Plan has failed to do so thus far and for all intents and purposes the Curtis family would wish to stay in their current residence as they have settled within the community and have established links to the area. A further temporary permission would only create uncertainty for the family and require further financial implications on having to apply for further planning permissions.
- 6.24 In the view of officers, to permit this single gypsy and traveller pitch would ensure that the existing occupiers retain their settled base to which they can continue working and living on/from site whilst they temporarily cease their travelling lifestyle. The children would continue to benefit from schooling and the family would benefit from a regular and known doctor's surgery. Without this, the family would face having to uproot their lives and relocate, possibly to the side of the road or to double up on existing private or public sites. Furthermore, the lack of alternative sites within the District makes it difficult for the family to move or for the Council to justify requiring the family to move off the site.
- 6.25 Whilst officers identify harm to the Chilterns AONB, the personal circumstances of the family and the social benefits to providing a permanent pitch would, in officer's view, outweigh the harm caused to the Chilterns AONB. The harm to the Chilterns AONB is, in officers view, further outweighed by the addition of one permanent pitch, which would contribute to the on-going and unmet gypsy and traveller needs of the District as set out within the GTAA, 2017. It is officer's view therefore that the development is considered acceptable and permanent planning permission for the siting of the mobile home, used solely by the Curtis family, should be granted. In view of the relevant planning policy considerations, and the nature of the development, if planning permission is granted then a condition is recommended which requires the removal of all structures and other operational forms of development (hardstanding, steps, patio, gates and other enclosures) in the event that Mr and Mrs Curtis no longer occupy the site.

Other material planning considerations

- 6.26 Community Infrastructure Levy (CIL) - The Council's Community Infrastructure Levy (CIL) charging schedule has been adopted and will apply to relevant proposals. 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 or net gain of residential use on site. The proposed development would not be liable to pay CIL since the CIL charge only applies to residential dwellings or other buildings, of which a mobile home (or caravan) does not qualify.
- 6.27 Conditions – A condition is recommended to require the development to implemented in accordance with the approved plans, which would the same as the existing site conditions as no changes are proposed. Further conditions seek to limit the benefit of planning permission to Mr and Mrs Jamie and Olivia Curtis and their dependant children, to require the site to be made good and tidied in the event that the occupiers leave the site and to limit the permission to only one mobile home and one touring caravan. In officer's view, these conditions are considered to be reasonable having regard to the specific needs identified and the personal benefits of the development, in relation to planning policy.

7.0 CONCLUSION

7.1 Officers recommend that planning permission is granted for the permanent siting of the mobile home, to be used by the Curtis family. The proposed development would have limited impact upon the visual and landscape quality of the Chilterns AONB. The development would allow for the Curtis family to remain on site and continue to live in a settled home and benefit from established links to important facilities and services. Additionally, the unmet need for gypsy and traveller sites, the lack of a 5-year supply for specific deliverable sites and alternative available sites combined with the ongoing failure of the Council to meet that need through the development plan process and the appellants personal needs, all provide significant weight in favour of granting planning permission. Therefore, there are strong planning reasons to grant planning permission in this particular case, subject to the attached conditions.

7.2 Granting planning permission would not interfere with the family's human rights under the provisions of Article 8 of the European Convention on Human Rights, and the implications of the public sector equality duty. Article 8 concerns a right to respect for private and family life. The Public Sector Equality Duty was introduced under the Equality Act 2010 which requires at section 149 that a public authority or person exercising a public function must, among other requirements, foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The family are gypsies by definition and the Council does not dispute this. They do have a protected characteristic therefore. Refusing planning permission may require the family to move from the site to a disadvantaged location, such as the side of a road, and may interfere with the family's human rights.

8.0 RECOMMENDATION

8.1 **Recommend: Planning Permission is granted**

- 1 : That the development hereby approved shall be carried out in accordance with the approved plans**
- 2 : The site shall not be occupied by any persons other than Mr Jamie and Mrs Olivia Curtis and their dependent children**
- 3 : That the site shall only be used for the stationing of one mobile home and one touring caravan**
- 4 : That upon the site ceasing to be occupied by the present occupiers, the use of the land shall be discontinued and tidied up**

Author: Marc Pullen
Contact No: 01235 422600
Email: planning@southoxon.gov.uk

This page is intentionally left blank