

Validation Officer
Wokingham Borough Council
Civic Offices
Shute End
Wokingham
RG40 1BN

01 November 2024

Dear Sirs,

**CHANGE OF USE OF LAND TO USE AS A GYPSY CARAVAN SITE
(RETROSPECTIVE) –
LAND AT THE PADDOCKS, KYBES LANE, READING, RG7 1NG**

Please find attached planning application forms, plans and supporting information in respect of the above-mentioned development.

Planning History

The site was first occupied by the applicant and members of her family in 2012. A retrospective planning application was made in December 2012, and the Council resolved in November 2013 to grant temporary planning permission, for a period of 2 years, for the change of use of the land to use as a residential caravan site for 4 Gypsy families, including the stationing of 4 mobile homes, 4 touring caravans, and the erection of 4 dayrooms, together with the laying of hardstanding. The time-limited permission was granted in the expectation that the occupiers would look for an alternative site. However, that grant of planning permission was subject to a legal agreement which was never secured, and hence the permission never came into effect. Subsequently a February 2016 application for the change of use of the land to 10 gypsy pitches was refused and, an enforcement notice was issued. There were 11 pitches on the site at the time the enforcement notice was served.

Planning permission was granted on appeal on 02 July 2018 for a material change of use of land for the stationing of caravans for human habitation. Condition 1 attached to that permission made occupation of the land personal

to named occupants and, limited the duration of the permission to 3 years expiring on 02 July 2021.

Planning permission was granted on 24 August 2021, under application No. 212241, for a variation of Condition 1 attached to planning permission No. APP/X0360/C/16/3153193, which extended the life of the permission for a further 3 years. Condition 1 was amended to read:

- 1. The use hereby permitted shall be carried on only by (1) Danny and Georgina Ray and their resident dependants, (2) Danny and Margaret Ray and their resident dependants, (3) Digger and Crystal Ray and their resident dependants, (4) Luke and Mary Ray and their resident dependants, (5) John and Kate Nicholson and their resident dependants, (6) Noah and Sherry Kempster, (7) Betsie Kempster and her resident dependants, (8) Darren and Amy Ayres and their resident dependants, (9) Noah Jnr and Renita Kempster and their resident dependants, (10) John, Mary and Mary Dorothy Loveridge and (11) Jimmy and Sherina Loveridge and shall be for a limited period being the period of three years from the date of this permission. When the premises cease to be occupied by those named above, or at the end of three years, whichever shall first occur, all caravans, buildings, structures, materials and equipment brought onto, 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.*

Purpose of the Application

The purpose of this application is to seek planning permission for the change of use of land to use for the stationing of caravans for the purposes of human habitation. This would have the effect of making the permission permanent, albeit restricting occupancy of the existing caravan site to the same named persons as under the 2021 appeal.

Planning Considerations

The Planning Inspector's decision letter accepts that residents of the application site are Gypsies and Travellers for planning purposes. This was at a time when the definition of Gypsy and Traveller was more restrictive than it is today. The proposed development must, therefore, be considered against

national and local policies for the provision of Gypsy and Traveller caravan sites.

In the latter regard, PPTS (2023) makes clear in Policy C that traveller sites may be appropriately located in rural and semi-rural areas. This is re-iterated in Policy H which states that traveller sites should be very strictly controlled in the countryside “*away from settlements*”. It has been accepted in case law that the settlements that sites are not away from do not have to be designated settlements or, contain any services. In this case, The Paddocks is located no more than a mile or so from the edge of Reading to the north and Grazeley to the south-west. It is less than 2 miles from Three Mile Cross and Mere oak Park and Ride. The site is not “*away from*” existing areas of settlement and, in principle, is an appropriate location for a traveller site.

The Council’s locally specific criteria for the consideration of applications for traveller sites are contained in Policy TB10 of the Managing Development Delivery Local Plan, adopted in February 2014. Policy TB10 states as follows:

1. Planning permission may be granted for new gypsy and traveller pitches or travelling showpeople plots or extensions to existing sites where it can be demonstrated that:

a) The site is located in the Borough’s existing settlements or is adjacent to an existing settlement either within or adjacent to the Borough

b) Avoids impacting on the separate identity of settlements

c) The site has access to a range of local services such as shops; health facilities including doctors, schools, and a range of amenities including play areas and other recreation facilities

d) No significant barriers to development exists in terms of flooding, poor drainage, poor ground stability or proximity to other hazardous land or installations where conventional housing would not be suitable

e) Unacceptable impacts on the character and appearance of the surrounding landscape will be minimised through the sensitive and appropriate design of the scheme

f) The proposals will not result in an unacceptable loss of amenity of neighbouring land uses

g) Mixed use proposals (which are sites that include a business use) will only be considered if appropriate to the locality and such uses will not result in an unacceptable loss of amenity

h) The scheme avoids any adverse impacts on the Special Protection Area.

This is a positively worded policy and, does not require that proposals must satisfy all of the criteria or, that planning permission should be refused if one or more of the criteria are not satisfied.

Criterion (a) recognises that sites may be appropriately outside of designated settlements, albeit that it expresses a preference for sites within or adjacent to an existing settlement (without specifying whether this refers only to designated settlements). In this case, the proposed caravan site, though not adjacent to a settlement, is actually within reasonable distance of a number of designated settlements, including Reading, Grazeley, Three Mile Cross and Shinfield.

Criterion (b) relates to the spatial separation of neighbouring settlements. In this case, the proposed development would have no material impact upon the separation of Three Mile Cross from Grazeley or Reading.

Criterion (c) requires that sites should have access to a range of community services and facilities. As with PPTS, it does not specify distances to services or modes of transport. In this case, The Paddocks is within 1 mile of the closest primary school and, there are shops and medical facilities available in nearby south Reading (Whitley Wood), Tree Mile Cross and Shinfield. I attach an appeal decision at **Appendix PBA 1** in which the Inspector considered that a site 2 miles from the closest service village and, 4 miles from Shrewsbury was a reasonably sustainable location for a traveller site even though the site residents would be reliant almost entirely upon the private motor car for most of their day-to-day travel needs. As noted by the Inspector:

“this degree of reliance is not that uncommon in a mainly rural area such as this, and the distances involved are not excessive by rural standards”.

Criterion (d) - The development has been carried out on land which is not at high risk from flooding. The site is within the Detailed Emergency Planning Zone (DEPZ) for AWE Burghfield. In this case, it is important to note that the

application site has been occupied for residential purposes since 2012 and, as such, the site residents have been living within the DEPZ for more than 12 years. This is significant because the site residents are already accommodated within the Off-Site Emergency Plan prepared by West Berkshire District Council as required by the Radiation (Emergency Preparedness and Public Information) Regulations (REPPIR 2019). Should an incident occur, Wokingham Borough Council would have a role in managing and executing any emergency response.

Notwithstanding the above, in a recent appeal concerning a development of 49 affordable houses on land west of Kingfisher Grove, Three Mile Cross (APP/X0360/W/22/3304042), the Inspector found that:

“10. The AWE Burghfield site has a role in maintaining national security that includes manufacture and disposal services. Despite the small risk of any accident occurring, emergency planning must be in place. One of the risks is a serious event in which radioactive material could be released into the atmosphere and which would most likely take the form of a plume that would be carried along the atmosphere according to wind direction, eventually dispersing. The type of activity taking place at AWE Burghfield means that any release of material would not be sustained, and thus any event would likely happen over hours or a small number of days.

11. Were an incident to occur, the most likely composition of a plume would be plutonium particulates. The type of activity carried out at the AWE Burghfield site together with the distance of the appeal site from the former [2800 metres] means that although there are additional risks of different material release or various possible types of exposure, the greatest risk would be from inhalation. For example, larger particulates would be likely to drop from the atmosphere after being carried and settle on the ground before the plume were to pass over a 2.8km radius from the site.

12. The Council and the appellant agree that such a risk, or the risk of an incident occurring, is very small. The appellant carried out an exercise that considered potential risk factors of previously calculated event frequencies and the AWE Burghfield on-site fault sequences that could trigger an event,

concluding that such an event could occur on a 1 in 10,000-year basis. The consideration of additional factors such as meteorological and wind conditions

and adherence to the REPIR plan reduces the risk of a person on the appeal site being harmed by such an incident to a single event in many more thousands or millions of years.

13. The REPIR plan recommends sheltering within buildings during an event as the primary method of protection to human health. The barrier of a building (with closed doors and windows) would afford the greatest and most immediate and accessible type of protection in the event of the type described above [estimated to result in a 40% reduction in exposure]. The REPIR plan also sets out measures for potential evacuation either during or after the event, but it is unlikely that this would be required for the appeal site should the shelter-in-place recommendation be followed. The same low risk factors mean that the requirement to shelter would be over a short period of no more than two days.

14. The consideration of risk was relevant to the Secretary of State's agreement to allow 115 dwellings at Boundary Hall close to the AWE Aldermaston site, which performs similar work to that of AWE Burghfield and is also covered by the REPIR plan. The minimum distance between Boundary Hall and AWE Aldermaston was agreed to be 740 metres. He concluded in that case that the "extremely remote possibility" of an incident did not outweigh the other factors that led to him allowing the application.

15. The Council's duties under the REPIR plan include the protection of the public and the organisation of emergency services. Its concerns are predominantly based on the ability of the plan to be carried out should the appeal development occur. Although only 49 properties and around 117 people, this would add to the number already within the DEPZ and UPA. The surroundings of the AWE site are predominantly rural, but other parts of the area have also been developed, and these include Burghfield Common, a larger residential settlement than Three Mile Cross, and Green Park, a mixed-use business area. These are to the west/southwest and north/northeast, respectively, of the AWE site. Although low in risk, I acknowledge that an incident would have a high impact as set out in the Crest Nicholson judgement.

16. The unidirectional nature of wind means that if a plume was to occur then it would disperse in a singular direction. This would be dependent on specific weather conditions and wind speeds, which are factors that inform the low risk of a plume passing over the appeal site **[The wind direction would have to be**

similar to that towards The Paddocks and, would occur for less than 10% of the time]. The REPIR plan sectorises the DEPZ radially from the AWE site. The plan seeks to prioritise assistance within the sectors over which the plume would pass. Although I heard at the Inquiry that blue light and other relevant services would be working at capacity should an event occur, these are planned to address all areas within the DEPZ. The settlements elsewhere within the area that are larger than those in the appeal site sector (or a sector area comprising the sector and its neighbouring sectors) are in different directions. Given that the plan has the capacity to cover an incident in those sector areas, and that service resources would be predominantly focused on only one sector area, I consider that the addition of the proposed dwellings on the appeal site would not compromise the delivery of the plan.

18. Based on the appellant's modelling, were an incident to occur, a person at the appeal site who was not sheltering might be exposed to a radiation dose of 1.5 milliSieverts (mSv) **[this would equate to 4.66 mSv at The Paddocks, without taking into account sheltering]**. Advice from the Health and Safety Executive categorises the risk impact of such a dose to "minor" **[the Approved Code of Practice issued in support of REPIR identifies effective doses in the range of 1 to 10 mSv as "minor" with no potential for deterministic effects and minimal impacts, and unlikely to have life-changing consequences]**. By comparison, WBDC's public advice provides example levels of 0.02 mSv from a single chest X-ray, 1 mSv as the average annual dose in the UK from naturally occurring radon in homes and 2 mSv as the average total annual dose in the UK from natural radiation sources, 8 mSv as the average annual dose from all sources of radiation in Cornwall, and 500 mSv as the threshold for nausea and reduction in white blood cells. 20 mSv is listed as the annual legal worker dose limit.

19. The effective dose received by anyone within the zone within the conditions set out previously would therefore be low, and lessened if REPIR advice is followed. Although fear of contamination may prevent workers from entering the DEPZ, this could be disproportionate to the actual risk. Even in the event of plume particles settling on the ground in the appeal site, the risk from a dose

following an incident would be lower than those occurring from the alternative sources set out above.

20. Should the REPPIR shelter-in-place advice be followed by those in the DEPZ, road traffic levels are unlikely to be greater than normal and the ability of

services to access the zone would not be adversely affected. The possibility of self-evacuation by those within the zone was also raised as a potential safety issue, but this is addressed within the REPPIR plan and discouraged through the dissemination of public information. Other safety barriers such as being elsewhere on the appeal site away from shelter, travelling into the DEPZ, or not having access to a telephone landline (in the event of a safety announcement) are partly covered within the REPPIR plan. Alternatively, they are situations in which sufficient time would be available between the incident occurring and the plume passing over the site for people to become aware of the situation and gain access to shelter or other safety.

22. I therefore conclude that the proposal would not present a barrier to the ability of blue light services to safely carry out their duties, and nor would it affect the Council's ability to execute and manage its obligations under the REPPIR plan. Furthermore, people living in or using the appeal site could be safely accommodated. Together, these considerations form the thrust of MDD Policy TB04 and, as such, I find no conflict with this policy. Additionally, the development would not adversely affect the continued operation of the AWE site, and there would be no conflict with the NPPF."

The risk of an accident at AWE Burghfield with off-site consequences is extremely low. It can reasonably be assumed that the relevant Consequences Report has been prepared on the basis that such an accident is no more likely than 1 in 10,000 years. Further, taking into account that the probability of the wind blowing any contaminated plume towards the site is probably less than 10%, and that the adverse weather conditions which are the basis of the increased DEPZ occur about 12% of the time, the worst case dose contour which has informed the revised DEPZ can be assumed to occur in the direction of the proposed development around 1 time in 1,000,000 years.

The effective dose that might be received by a resident due to an accident at AWE Burghfield the proposed development is estimated at about 4.66 mSv in average weather conditions, assuming that the wind is blowing towards the site. This is a dose categorised as "minor", with no potential for deterministic

effects and minimal impacts, and unlikely to have life-changing consequences. Furthermore, it is a dose that can be reduced by at least 40% by adherence to the advice in the REPPIR for residents to shelter in a building for the duration of the incident (i.e. for up to 48 hours).

It needs to be considered whether the construction of small numbers of properties in the DEPZ (resulting in a 0.16% increase in the population residing within the DEPZ) could have an impact on the adequacy of the off-site emergency plan. However, the above-mentioned Inspector's decision shows that, if the proposed development was to be permitted, there would be no impact on responders under the emergency plan and no adverse impact on the access of emergency services to the AWE Burghfield site.

This is consistent with the position of the Secretary of State in relation to the Boundary Hall, Tadley development (referred to in paragraph 14 of the appeal decision quoted above) where it was concluded that *"while he does not seek to minimise the potential impact of any individual dose, the Secretary of State considers that this should be placed in the context of the probability of such a dose arising which, while unquantified, has been described as 'extremely remote'... Added to this, he has taken account of the fact that there is no evidence that the Off Site Plan for dealing with such emergencies would fail; and he is satisfied that the intensification of population density is not, in itself, a reason to refuse planning permission. The Secretary of State considers that these factors temper the weight to be attached to the risk of a materially harmful radiation dose relative to the benefits of the proposed scheme. No activity can ever be regarded as being risk free, each case has to be considered on its own merits, and the Secretary of State concludes that the potential benefits of this scheme, coupled with the fact that is generally in accordance with the development plan, outweigh the real, but very small, risks attached."*

Criterion (e) seeks to minimise any unacceptable impacts on the character or appearance of the surrounding landscape.

There would be little point in local and national policy accepting traveller sites in principle within the countryside if the nature and appearance of caravans was considered to be inherently unsuitable to such locations. Furthermore, there is a recognition in this policy that some level of harm will be acceptable, perhaps even inevitable. The aim is to minimise that harm.

In this case, the Appeal Inspector in 2018 observed that: *“The replacement of the grassland by hardstanding, caravans, sheds, a number of utility buildings and general domestic paraphernalia has had an adverse impact on the generally undeveloped character of the landscape locally. The visual impact, although somewhat discordant on this rural lane with only sporadic*

development, is localised, due mainly to landform and hedgerow retention. The hedgerows remain in place, though thin in places and at risk from some unsympathetic treatment, but the standard oaks appear unaffected and there are few viewpoints from which the development has a significant visual impact”.

He went on to conclude that: *“Appropriate landscaping would considerably reduce the harm to visual amenity, and sympathetic hedgerow management would help the development integrate into the local landscape”*. In my opinion, this equates to minimising any unacceptable impacts on the character or appearance of the surrounding landscape, in accordance with criterion (e). The Inspector failed to refer to this criterion when assessing the effect of the development on the character and appearance of the countryside.

Criterion (f) concerns effects on neighbouring land uses. In this case, residential activity on the application site is unlikely to have any undue adverse effects on neighbouring residential properties.

Criterion (g) is not relevant to a proposal for residential pitches with no on-site business activities.

Criterion (h) – the site is not within influencing distance of a Special Protection Area.

The proposed development is, in my opinion, capable of satisfying all of the Council’s locally specific criteria, subject to the imposition of suitable planning conditions.

Other Material Considerations

Other relevant matters for local planning authorities when considering planning applications for traveller sites are set out in paragraph 24 of PPTS as comprising:

a) the existing level of local provision and need for sites;

- b) the availability (or lack) of alternative accommodation for the applicants;
- c) other personal circumstances of the applicant;
- d) 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, used to assess applications that may come forward on unallocated sites; and,
- e) determining applications for sites from any travellers and not just those with local connections.

I have already considered the proposed development against the Council's locally specific criteria and, evidence of the families' personal circumstances can be provided separately. The last matter simply means that a lack of local connections should not weigh against applicants: obviously, the site residents have long-standing connections to this locality.

Provision and Need for Sites

Existing pitch provision, as of June 2022, is set out in Table 4.5 of the Council's latest GTAA (August 2023). There were 146 Gypsy and Traveller pitches on 29 sites across the borough. There were 2 council managed sites (35 pitches), 23 private authorised sites (94 pitches, including 3 transit pitches, 3 private tolerated sites (13 pitches) and 1 private temporary site (11 pitches).

The overall needs evidenced in the GTAA indicate a total need of 86 pitches for those that would have satisfied the 2012 PPTS definition over the period 2022/23 to 2039/40. The PPTS definition has subsequently reverted back to the 2012 definition and, therefore, it is the full cultural need that must be planned for of which, 35 pitches are required in the period 2022/23 to 2026/27.

Alternative Sites

In *Doncaster MBC v. FSS & Angela Smith* [2007] the Court set out that alternative accommodation has to be suitable, affordable, available and acceptable for it to be considered a realistic alternative. *SCDC v. SSCLG* and

Julie Brown [2008] EWCA Civ 1010 sets out as well that there is no requirement in planning policy, or indeed within any case law, for an applicant to demonstrate that there are no other sites available, or that particular needs could be met from another site. To be available a pitch must have planning permission, be vacant and be actually available to the proposed occupier.

In this case, there are no vacancies on public gypsy sites in the area and, the Development Plan does not allocate any land for the development of new traveller sites. The Council clearly cannot demonstrate that it has a five-year supply of deliverable land for traveller sites.

Conclusions

The proposed development would satisfy all of the Council's locally specific criteria for new gypsy and traveller sites set out in Policy TB10 and, therefore, the planning permission should be made permanent. For the above reasons, I trust that you will feel able to support my client's planning application, and I look forward to receiving the Council's decision in due course. If there are any aspects of the application which Officers consider could be improved upon, please do not hesitate to discuss these with me.

Yours faithfully,

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