

**Item 1**                      **09/00437/COU**                      **Refuse Full Planning Permission**

**Case Officer**              **Mr Peter Willacy**

**Ward**                        **Heath Charnock And Rivington**

**Proposal**                    **Retrospective application for the use of land for stationing of two mobile homes and up to 14 touring caravans for residential occupation for temporary period of 3 - 4 years with associated development (hard standing, utility building, septic tank, 6 small toilet buildings, second access off Hut Lane, brick pillars and gates)**

**Location**                  **Land 65m South Of 3 Olde Stoneheath Court (bounded By M61 And Hut Lane) Hut Lane Heath Charnock Lancashire**

**Applicant**                 **Mr Michael Linfoot & Mr J Boswell**

**Proposal**                    This application relates to a triangular shaped area of land of approximately 0.25 hectares located on the eastern side of the M61 between the motorway and Hut Lane and lying to the south of residential properties at Stoneheath Court and Red Row. The site is situated between the settlement areas of Adlington and Chorley.

The application is in part retrospective as 12 caravans have already moved onto the land and a septic tank installed and utility building erected. Other unauthorised works have also been carried out including the laying of hardstanding, erection of gate pillars/gates and construction of a new vehicular access.

**Planning History**        In 2008 an application was submitted to erect a stable on the land together with a riding arena. The application accorded with Green Belt policy and the Council's supplementary guidance policy on development involving horses and was granted planning permission. During the 1990s the land was used to store timber and wood shavings without planning permission and enforcement action was taken. An appeal against the enforcement notice was dismissed and the land was cleared of stored timber and sawdust. The land had been covered with trees and undergrowth up to last year when the trees and undergrowth were removed.

**Applicant's Case**        Permission is sought for a caravan site with 8 plots for occupation by two extended Romany Gypsy families. The site is within 2 miles of the centre of Chorley. The planning system recognises that Gypsy-Travellers have particular accommodation needs that should be met.

The proposal is inappropriate development in the Green Belt. Substantial weight must be attached to the definitional harm and any other harm. The proposal results in loss of openness and it is harmful to the character and appearance of the area. The onus is on the applicants to demonstrate that there are material considerations capable of providing the very special circumstances needed to clearly outweigh harm.

There are considerable benefits to the families of a settled site where they can live in accordance with their Gypsy tradition. They are all homeless. They have never lived in housing. They have lived on farms in this area but without consent. They have been stopping on car parks and laybys – not doubt causing inconvenience to others. Para 4 C 1/2006 recognises the conflict and distress this can cause and harm to community relations. There are young children who need to be settled in order to access education.

The site is well screened. Little can be seen from outside the site. Water and electricity is connected. . The site is well located to access everyday services.

There is need to interpret policy flexibly and positively to facilitate provision to meet this need. As sites will have to be found as part of a site allocation DPD it could be seen to pre-empt the LDF process to grant permanent permission. For this reason the applicants would accept a temporary consent. Having checked the Council web site it is unclear as to the timetable for LDD adoption. I note that work is progressing with Preston and Ribble on a Central Lancashire Core Strategy with adopted scheduled (AMR 2007-2008) in December 2010 and a Site Allocation DPD scheduled for May 2010. . The appropriate period for a temporary consent would appear to be 3-4 years. This would provide the families with somewhere lawful to stay whilst the need for additional sites is resolved in this part of Lancashire.

I summarise the main points as follows

#### **Harm against**

- inappropriate development in the Green Belt
- loss of openness from siting of caravans
- encroachment into the open countryside and harm to the character and appearance of the site

#### **Weight in favour**

- Weight to be attached to C 1/2006 and in particular the substantial weight to be attached to unmet need in considering a temporary consent
- Clear, immediate and substantial need for sites in Lancashire
- absence of any socially provided site in Chorley
- evidence that there are repeated unauthorised incursions in the district
- Lack of alternative sites and limited scope for finding suitable sites not in the Green Belt
- Location close to other built development
- Site is connected/capable of being connected to all essential services
- The personal need of the families to be settled in accordance with their traditional way of life and the importance attached to the importance of the extended family to the Gypsy way of life.
- The site is in a reasonably sustainable location close to essential services and facilities in Adlington and Chorley.

- The site is contained by existing hedgerows and trees which produce good cover during summer months
- The concerns of the Council could be dealt with by condition.

## **Planning Policy**

The relevant planning policies are –  
 Policy DC1 - Green Belts  
 Policy PS14 - Gypsies and other Travellers  
 PPG2 - Green Belts  
 PPS3 - Housing  
 PPS1 - Delivering Sustainable Development  
 PPS7 - Sustainable Development in Rural Areas  
 Circular 01/2006 - Planning For Gypsy And Traveller Caravan Sites  
 Gypsy & Traveller Accommodation Assessment  
 Draft Policy L6 of the Submitted Draft North West Plan Partial Review  
 Policy 29 - Sites For Gypsy and Traveller Families Joint Lancashire Structure Plan

## **Consultations**

LCC (Highways) have no objection to the development.

The Crime Reduction/Architectural Liaison Officer advises that this situation has potential for a rise in tension between the communities involved and after consultation with Chorley Police it would be in the interest of all concerned parties to deal with this matter and bring it to a satisfactory conclusion as quickly as timescales permit.

Heath Charnock Parish Council object to the development in the Greenbelt and are concerned about the access to the site and the increase in traffic using Long Lane. They also consider that the development will result in increased noise levels for neighbouring residents.

The Ramblers object on the grounds that the development would set a precedent for the use of land within the Greenbelt, lead to an increase of traffic along Hut Lane, have insufficient screening from vegetation during the winter months and harm the visual amenities of users of public footpath No 13.

CPRE object to the urbanisation of this Greenbelt site and wish to see the site returned to its previous natural state.

Neighbourhoods recommend that adequate provision is made for the safe and secure storage and collection of waste. They also ask for an informative adding in the event of planning permission being granted to advise the applicant that a caravan site licence will also be required.

The Environment Agency have no objection in principle to the development.

The Fire Authority has no observations provided the proposals are carried out in accordance with the submitted plans

Rivington Parish Council object to the application.

United Utilities have no objection to the proposal.

Building control have inspected the septic tank and advise that the tank installed actually forms a cess pit and is not a septic tank which would require additional land to discharge to. However, the tank is currently being emptied on a fortnightly basis and this would be satisfactory on a temporary basis only. Connection to mains sewage is possible and could be conditioned if planning permission was granted.

The Highways Agency have no objection.

Lancashire Gypsy Roma and Traveller Achievement Service comment that the achievement of Gypsy, Roma and Traveller children in the education system is already significantly lower than that of any other ethnic group. This is partially as a result of mobility and lack of provision, which results in the children and young people often being unable to access education for long periods of time. These families are keen to ensure that their children are not part of this statistic, and are able to achieve their full potential within the formal educational system. If planning permission cannot be granted, this will inevitably mean a return to the side of the road, where continuity of education cannot be guaranteed, and where the children's educational achievement will inevitably suffer.

Lancashire Environment Directorate advises that there is insufficient information to determine the application due to an absence of an ecological assessment for the area.

## **Representations**

To date, 119 letters and 41 emails of objection have been received. In addition two petitions with 60 and 27 signatures respectively have been received objecting to the development.

The contents of the letters of objection/petitions, and supporting letters can be summarised as follows: -

- Not retrospective to stabling (plans were never implemented)
- Development is inappropriate for the Green Belt (PS14)
- Impact on wildlife
- Council already confirmed approval would never be granted
- Does not meet sustainability criteria
- Deception negates chances for creation of a respectful and inclusive community
- More suitable sites are potentially available
- Water-logging (Perched water table)
- Inability to adequately screen the site
- Traffic related problems
  
- Health risks living in caravans close to a motorway (noise, pollution etc)
- No sustained past proven connection to Chorley (closer connections elsewhere)
- Dispute that past evidence supports permanent need

- Concern regards Gypsy status (property in other boroughs)
- Fire Evacuation (Hallsworth Fold Cottage/Farm/Manor; Brindles Farm; Red Row Cottages)
- Light Pollution
- Drawing inaccuracies (and impact on site density)
- Site density causing overspill of activities off site
- 2nd entrance near Transco pipeline
- Increased volumes of people having significant impact on this small community
- Visual impact on Green Belt amenity
- Deception negating future community integration
- Restrictive covenants on land use
- Impact on children (existing residents)
- Impact on character (commercial vehicles, burger bar, candy-floss trailer etc)

Two letters have been received from planning consultants objecting to the development on behalf of local residents. They object on the grounds of - inappropriate development in the Green Belt, impact on residential and visual amenity, noise from motorway, unsustainable location, unsatisfactory drainage provision and no evidence of search for alternative sites.

Four letters supporting the application have been received they consider that the gypsies should be allowed to live on their own land and have access to medical and educational facilities.

## **Assessment**

The main issues for consideration are as follows: -

### **Green Belt**

The development is not listed in any of the categories of appropriate development in the Green Belt given in Policy DC1 of the Chorley Borough Local Plan Review or in PPG2. The use of the land as a caravan site is by definition therefore inappropriate development. It is for the applicant to show whether there are any 'very special circumstances' which outweigh the presumption against such development. Circular 2006/1 makes it clear that such development is normally inappropriate development in the green belt and alternatives should be explored before Green Belt locations are considered.

Only appropriate uses of land, which do not harm the character, appearance, and openness of the Green Belt will therefore be permitted in such areas. The caravans because of their form and appearance together with other works carried out to the land are a prominent feature in this rural area and affect the openness of the Green Belt.

Landscaping would not outweigh the harm that is caused to the Green Belt by virtue of inappropriateness and the concept of "openness" in Green Belt terms means freedom from development, which is only partly concerned with the degree of visibility. Additional landscaping of the site could not be achieved because there is insufficient land within the site to accommodate any

meaningful planting and the land surrounding the site is not within the applicants ownership which would adequately mitigate these harmful effects and the fact that a site is well screened, or out of sight, does not overcome the inherent policy failings in that the development is by definition inappropriate.

Such a situation would have a damaging effect on the areas of Green Belt within the Borough by facilitating a gradual erosion of the attractive open rural areas that characterise Chorley and are an integral feature of the Boroughs rural attractiveness.

### **Effect on Character and Appearance of area**

The land in the vicinity of the application site is undulating gradually rising up towards Rivington Pike. Hut Lane crosses the M61 motorway at an elevated level. The area is characterised by hedgerows and stone walling around field parcels in agricultural use. Next to the site is a residential housing estate surrounding by a stone wall and mature trees.

Prior to the unauthorised development, the site was open in nature and until last year covered with trees/undergrowth. The approval of planning permission for stables would have had a neutral effect on the site's openness and was a form of development appropriate to the Green Belt.

The current development has an urbanised appearance from short-distance views of gated access and stone pillars and views of caravans and vehicles between gaps in vegetation, together with the upper parts of caravans within the site.

Existing vegetation outside of the application site serves to screen the development during the summer months from some vantage points. However during winter months the impact of the development would be more obvious within the locality and more damaging visually to the rural landscape. Furthermore there is no space within the application site for carrying out additional landscaping of a sufficient scale and density to adequately screen the development.

### **Residential Amenity**

Stoneheath Court are the nearest residential properties to the site and the nearest building is about 25 metres from the boundary of the application site.

Initially when the travellers first moved onto the land there was disturbance caused from noise and traffic movements by the works carried out to the land which led to a temporary loss of amenity to neighbouring residents. Since then following the service of a Temporary Stop Notice no further works have been carried out.

In terms of loss of amenity from the development itself, whilst the site is close to Stoneheath Court no direct views are possible because of existing vegetation however this would not be the case during the winter months due to loss of vegetation and caravans and other structures would be highly visible leading to a loss of outlook. This loss of visual amenity would harm the visual amenities of residents which they could have reasonably expected

to enjoy within this attractive rural Green belt environment.

### **Very Special Circumstances**

The proposal constitutes inappropriate development in the Green Belt. There must be other material considerations that amount to 'very special circumstances' sufficient to outweigh the presumption against such inappropriate development.

The applicants supporting statement accepts that the development is 'inappropriate' and has identified the following material considerations in support of the application.

1. The applicants rely on their Gypsy status. They have a clear nomadic habit of life and strong local connections to this District.
2. Strong connections to this district
3. Unmet need in Lancashire / Greater Manchester for additional sites
4. Government policy encourages Gypsy-travellers to self provide. Housing is an inappropriate option for many Gypsy families.
5. Absence of alternative provision. No authority in Lancashire has been able or willing to identify suitable sites for Gypsy-Travellers. Recent guidance in C 1/2006 and PPS3 weighs very strongly in support of this site.
6. Scope for temporary permissions as outlined in the Transitional Arrangements in C 1/2006.
7. With most of the district covered by Green Belt scope for finding a suitable alternative site is very restricted. Planning policy provides little guidance for Gypsy-Travellers searching for a site.
8. The concerns of the Council could be addressed by condition (i.e. personal/temporary consent with limit on the number and siting of caravans on site)
9. Human rights and Race Relations rights.

### **Need for gypsy sites in the area**

Circular 01/2006 states that the evidence shows that proceeding circular 1/94 failed to deliver adequate sites for gypsies and travellers over the previous 10 years. There is a clear and undisputed significant national and regional need for Gypsies and Travellers Provision in England and Wales.

So far as the need in Chorley is concerned, a Gypsy Traveller Accommodation Assessment was carried out for Lancashire in 2007. This indicated that no pitches were needed in Chorley.

The Circular highlights that it is the role of the Regional Spatial Strategy to specify how many gypsy and traveller pitches are required in each local planning authority area. However, the adopted RSS does not include a policy on gypsies and travellers.

Therefore, currently there is no adopted pitch requirement for the Borough.

4NW, who are the Regional Planning Body, are currently undertaking a Partial Review of the RSS that will include policy coverage of gypsies and travellers and may include a pitch requirement for the Borough.

As part of the RSS Partial Review process, 4NW produced an Interim Draft Policy on accommodation for gypsies and travellers that was subject to consultation from January – March 2009. This indicated a requirement for a minimum of 10 additional permanent residential pitches and 5 transit pitches over the period 2007 – 2016 in the Borough, with further pitches required beyond 2016. The Council objected to these requirements as they did not accord with the GTAA and very little evidence was presented to support them.

The next stage of the RSS Partial Review process is formal submission of the Draft RSS to Government and formal public consultation on the submitted policies. This consultation began on 27 July 2009 and will run to 19 October 2009. The Submitted Draft Policy on accommodation for gypsies and travellers sets out the same pitch requirement for the Borough as those in the Interim Draft Policy. The timetable for the next stages of the RSS Partial Review is as follows:

Examination in Public: October 2009 – May 2010  
Examination in Public Panel Report published: May 2010  
Preparation & consultation on Secretary of State's  
Proposed Changes: May 2010 – October 2010  
Final version of RSS published by Government: December 2010

The submitted draft policy figures can currently be given little weight, due to their draft status and a lack of robust evidence. 4NW have formally submitted these pitch requirements for the Borough to Government. However, representations can be made to these figures and there remains potential for them to be changed later on in the process. Therefore, at this stage, there are no fixed pitch figures in regional policy.

The Circular provides transitional advice for Local Planning Authorities in situations where regional consideration of pitch numbers has not been completed and there is a clear and immediate need, for instance evidenced through the presence of significant numbers of unauthorised encampments. However, this is not the situation in Chorley, as there are no significant numbers of unauthorised encampments. There is just one current encampment, which is the subject of this application.

### **Personal circumstances**

It has been established through case law that personal circumstances are a material consideration and in this application matters relating to education and health are most relevant.

There are four children enrolled at school in lower Adlington with



two more due to start school in September. Places are to be found for three other children who are away travelling at the moment. There is no evidence that any of the children have special needs.

The families are registered at the Granville Medical Centre in Adlington. Although generally in good health, one person is diabetic and another receiving treatment for depression related problems. However, there does not appear to be anything that would result in a material consideration.

There is no evidence that the families have healthcare and education needs that require them to live on this particular site.

### **Human Rights**

With regard to the human rights implications of the consideration of the application this may give rise to an interference with the applicants and families rights under Article 1 of the first Protocol and Article 8 of the European Convention on Human Rights. However, this interference must be balanced against the public interest in pursuing the legitimate aims stated in Article 1 and 8 such as the well being of the country, which includes the protection of the environment.

The harm which has been and would continue to be caused by the development is considerable. Should the recommendation be accepted there will clearly be an interference with the Human Rights of the travellers requiring them to relocate to an alternative location. However, in my opinion such interference is outweighed in this case by the harm caused by inappropriateness and visual amenity of the Green Belt and the rural landscape.

### **Other Representations Received**

Correspondence has been received both objecting and supporting the application.

Matters arising from the correspondence have highlighted issues in relation to water logging of gardens as a result of the development and the effect on protected trees. Both the Environment Agency and Neighbourhoods who are responsible for land drainage have been consulted on the application and have been advised of the concern and have visited the site. They have raised no objection to the application and do not consider that the development has given rise to any problem with water logging. The Council's arboriculturist has inspected the trees and found that one tree has been dead for sometime but found no evidence of water pooling or other signs that the trees had been affected by the development.

### **Departure Application**

The development is a departure from the Development Plan in that it involves development inappropriate in the Green Belt. This would significantly prejudice the implementation of the Development Plan's policies and proposals. The Council would have to consider referring the application to the Secretary of State for the Environment if the Council is minded to approve it.

## **Conclusion**

Circular 01/2006 states that new gypsy and traveller sites in the Green Belt are normally inappropriate development and that national planning policy on Green Belts applies equally to the applications for planning permission from gypsies and travellers, and the settled population. The applicants agree that this proposal is inappropriate development in the Green Belt, but highlight a number of factors that they believe constitute very special circumstances that justify the inappropriate development and outweigh the harm caused. Those factors most relevant to planning policy are considered below.

The applicants state that there is a clear, immediate and substantial need for sites in Lancashire. This may be the case for some parts of the county, but is not the case in Chorley, where there is one encampment, that is the subject of this application. Whilst there have been a small number of unauthorised encampments in recent years, these have been short term visits and there have been no other planning applications received for sites. There are no records of encampments in the twice yearly caravan count over the last five years and the recent GTAA does not identify a need in the Borough. On that basis the Council have had regard to circular 01/2006 in considering that the evidence available does not support the granting of a temporary permission.

The applicants state that there is a lack of alternative sites and limited scope for finding suitable sites not in the Green Belt. The Circular states that alternatives should be explored before Green Belt locations are considered. The circular highlights that locations in or near existing settlements with access to local services, such as shops, doctors and schools should be preferred. No evidence has been provided by the applicants to indicate that any alternative sites have actually been considered in more appropriate locations within or adjoining settlements, and no consultation took place with the Council before the land was purchased, as recommended in the Circular.

The applicants state that the site is in a reasonably sustainable location close to essential services and facilities in Adlington and Chorley. However, the distance from this site to these settlements and their services means that this site is not genuinely sustainable, with the vast majority of trips likely to be via private vehicle, rather than by walking or other more sustainable transport forms.

In conclusion, it is not considered that the very special circumstances provided by the applicants are sufficient to justify this proposal and outweigh the harm caused to the Green Belt.

## **Recommendation: Refuse Full Planning Permission**

### **Reasons**

1. The site is located within the Green Belt and the development constitutes inappropriate development and so conflicts with Policy DC1, Policy PS14 of the Chorley Borough Local Plan Review, Policy 29 of the Joint Lancashire Structure Plan and PPG2 and Circular 01/2006. Very special circumstances must exist therefore in order to justify planning permission being granted. In this case, the material considerations advanced in support of the application are not considered to be of sufficient weight to justify planning permission being granted.
  2. The development by reason of its urban appearance is visually detrimental and harmful to the rural character and appearance of the Green Belt contrary to PPG2.
  3. The development by virtue of its form and appearance is detrimental to the visual amenities of the occupiers of neighbouring property.
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