CASE OFFICER'S REPORT

Application Reference:	PL/2023/05836
Application Type:	Removal/variation of conditions
Site Inspection:	
Consultation ends:	20 November 2023
Case officer:	Callan Powers

Site Address:	Jacobs Park, Land adjacent to 40 Marlborough Road, Royal Wootton Bassett, Wiltshire, SN4 7SA
Proposal:	Variation of condition 4 relating to PL/2021/04476 (The change of use of land to provide an extension to existing Gypsy site, consisting of four pitches including 4 mobile homes, 4 day rooms, 4 touring caravans and associated hardstanding and landscaping)
Recommendation:	Approve with Conditions

Application Reference: PL/2023/05836

POLICIES
National Planning Policy Framework December 2023 Paras 2, 11, 38, 47, 56, 128, 131, 157, 158, 165, 180
Planning Policy for Traveller Sites December 2023 Policy H
Wiltshire Core Strategy Jan 2015 CP1 CP2 CP19 CP47 CP57
Royal Wootton Bassett Neighbourhood Development Plan April 2018
ISSUES
Impact on residential amenity
REPRESENTATIONS
Neighbour Representations – None received.
Royal Wootton Bassett Town Council – No objection.

SITE DESCRIPTION
The application site comprises approximately 0.9 hectares of land on the south-west side of Marlborough Road, approximately 1.5 km south of Royal Wootton Bassett. The north and northwestern parts of the site already benefit from planning permission for the use of land for the siting of 3 mobile homes, a shared dayroom, hardstanding and play area for occupation by gypsies and travellers. Access to the site is taken from Marlborough Road through a pair of entrance gates set back from the edge of the highway.

The north-eastern boundary of the site adjoins the curtilage of a dwellinghouse named ‘Carlotta’. The north-western boundary adjoins a track from Marlborough Road to Kendricks Farm. The south-western edge of the site runs alongside Brinkworth Brook and a tributary. On the opposite (north-eastern) side of Marlborough Road is Glenville Park; an existing travellers’ site.

The site is in open countryside and, while most of it is within Flood Zone 1, the south-western edge lies within Flood Zones 2 and 3.

Relevant planning history
The most relevant planning application is:

PL/2021/04476: The change of use of land to provide an extension to existing gypsy site, consisting of four pitches including 4 mobile homes, 4 day rooms, 4 touring caravans and associated hardstanding and landscaping. Approved, subject to conditions, 16th August 2022.

This application relates directly to the above as an application to vary a condition subject to which permission was granted.

Other historic applications of relevance include:

17/07276/FUL: The change of use of land to 1 no. Gypsy Traveller pitch and associated works including, 1 no. mobile home, 1 no. touring caravan, 1 no. dayroom and hardstanding. Approved 18 October 2017.

19/03202/FUL: The change of use of land to provide an extension to existing Gypsy / Traveller pitch comprising 2 no. additional mobile homes, and associated works including hardstanding, replacement of existing mobile home and replacement of existing stables with shared dayroom. Approved 21 June 2019.

THE PROPOSAL
This application seeks a variation of condition 4 that was attached to the original permission. The original permission read as follows:

"Occupation and use of the mobile homes and touring caravans hereby permitted for each pitch shall be limited solely to and by close family members of the occupants of the existing consented pitches on site. Close family members are defined as dependents, sons, daughters and grandchildren.

REASON: In the interests of residential amenity."

It is proposed that this is amended to read as follows:

"Occupation and use of the Mobile homes hereby approved shall be limited solely to and by close family members of the occupants of those pitches. Close family members defined as dependents, sons, daughters and grandchildren."

ASSESSMENT:
Under the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, and the provisions of the NPPF i.e. para 2, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. At the current time the statutory development plan in respect of this application consists of the Wiltshire Core Strategy (WCS) (Adopted January 2015); the 'saved' policies of the North Wiltshire Local Plan (NWLP) 2011 (adopted June 2006); the Wiltshire Housing Site Allocations Plan (WHSAP) (adopted February 2020) and the Royal Wootton Bassett Neighbourhood Development Plan (Made April 2018).

Section 73 of the Town and Country Planning Act 1990 allows for an applicant to seek to develop land without complying with conditions subject to which planning permission has been granted. In the course of such an application, the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and should grant permission if satisfied that planning permission should be granted subject to differing conditions, or refuse the application if it is held that the permission should only be granted subject to the condition originally imposed.

This application is made under section 73 of the Act and pertains to a variation of condition. As such the principle of development is not at issue in this application; rather, the relevant question is the extent to which the variation would give rise to impacts that are not otherwise present in the established permission and whether such impact would indicate that the variation should not be permitted.

Residential amenity
The stated reason for the condition is in the interests of residential amenity. It is therefore appropriate to consider whether the variation of this condition would cause harm in this respect, to the extent that the development would resultingly conflict with Core Policy 57 of the WCS and would therefore otherwise have been refused. Residential amenity is considered to be the main issue in this application.

As part of the original permission, it was ascertained that the site offered ample space for the occupants include room for circulation and a play area. This is unaffected by the application. Nor does the application give rise to any additional concerns arising from without the site.

The proposal includes internal boundary treatments consisting of post and rail fencing that may otherwise afford privacy to the occupants from other pitches within the site. Nevertheless the division of the site into more private spaces through use of appropriate means of enclosure is open to the occupants utilising rights conferred under the General Permitted Development Order.

The government's 'Design Gypsy and Traveller Sites: Good Practice Guide' places some importance on providing adequate privacy within traveller sites as well as ensuring privacy from without the site. This guide has since been withdrawn however this clearly remains a positive aspiration. Nevertheless it is material to note, as has been pointed out by the applicant, that other historic planning approvals were not subject to quite the same form of condition – it is reasonable therefore to conclude that a degree of relative openness is characteristic of the wider site. Indeed, the group of pitches located directly to the west of the site, established following planning permission granted in Application No. 19/03202/FUL, involves no hard boundary demarcation in the plans. In that instance, the corresponding condition then imposed was worded in the same manner as this application proposes the relevant condition to be varied.

Approval and variation in this way would therefore be consistent with the approach taken for the wider site. It is therefore not concluded that, absent the relevant condition, the development would conflict to the requirement to have regard to amenity set out at Core Policy 57 to the extent that planning permission would be refused in this instance.

Material considerations

It is not a requirement that planning decisions are consistent with one another; each application is to be taken on its merits. Previous permissions are nevertheless a material consideration and an appropriate degree of weight is to be given to any material consideration in the balancing exercise, including other material considerations such as the Framework. In this case the planning history informs the degree to which the condition in question can be considered to meet the relevant tests for planning conditions set out within the Framework.

The departure from the wording of similar conditions on the wider site was precipitated by relatively minimal boundary treatments that did not give confidence that the level of privacy provided would be adequate to suit the needs of the site's future occupants. In doing so, however, it departed from a condition imposed on a more open site that offered less in the way of boundary protection. Doing so was therefore not demonstrably necessary, and the condition therefore fails to meet this test set out in national policy.

The condition sought to achieve a high standard of amenity with a view to protecting the privacy of the future occupants of the site. Notwithstanding the conditions performance in respect of the test of necessity, therefore, imposition of the condition was reasonable in other respects.

Conclusion
The condition as previously imposed was not ultimately necessary to the extent that it would meet the relevant tests for planning conditions. It is not considered that a variation, in line with that put forward by the applicant, would cause significant harm or otherwise bring the development into conflict with the development plan. As a result it is recommended that this application be approved, and the planning permission varied accordingly.

RECOMMENDATION:
That the application be approved, and the relevant condition varied in line with the applicant's proposal.

Conditions: (11)

1 The development hereby permitted shall be begun before the expiration of three years from the date of the grant of Planning Permission No. PL/2021/04476, the date of that grant being 16 August 2022.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Site location plan – TDA.2606.01 – dated March 2021
- Proposed site layout & detailed landscape scheme – TDA.2606.03 Rev. B
- Landscape Design Statement - TDA/2606/RhC/03.21 (Rev. A) (Updated 14.11.21)·
- Proposed semi detached utility/shower blocks (plan & elevations) – TDA.2606.04
- Flood Risk Assessment – SLR Ref: 407.08934.00001 – November 2021
- Proposed Foul Drainage Strategy – 006 – April 2022

REASON: For the avoidance of doubt and in the interests of proper planning.

3 The site shall not be permanently occupied by persons other than gypsies and travellers as defined in Annex 1 of Planning policy for traveller sites.

REASON: Planning permission has only been granted on the basis of a demonstrated unmet need for accommodation for gypsies and travellers and it is therefore necessary to keep the site available to meet that need.

4 Occupation and use of the Mobile homes hereby approved shall be limited solely to and by close family members of the occupants of those pitches. Close family members defined as dependents, sons, daughters and grandchildren.

REASON: In the interests of securing a high standard of residential amenity for occupants of the development.

5 There shall be no more than seven (7) permanent pitches on the site.

REASON: In the interests of visual amenity and the amenity of occupants of the site.

6 There shall be no more than two (2) caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 stationed on each pitch, of which no more than one (1) shall be a static caravan or mobile home.

REASON: It is important for the local planning authority to retain control over the number of caravans on the site in order to safeguard interests of visual and residential amenity in accordance with Core Policy 47 of the Wiltshire Core Strategy Adopted January 2015.

7 No commercial, business or service activity or use, including the storage of materials and waste or commercial vehicles, shall be carried out on the site.

REASON: In the interests of residential amenity, highway safety and the character of the

countryside.

8 No portable buildings, van bodies, trailers, vehicles or other structures used for storage, shelter, rest or refreshment, shall be stationed on the site without the prior approval in writing of the Local Planning Authority.

REASON: In order to protect the living conditions of nearby residents and/or the rural character of the area.

9 The development hereby permitted shall be connected to mains foul drainage only.

REASON: To protect the water environment from pollution.

10 The development hereby permitted shall be constructed in compliance with the flood risk assessment (SLR, Ref: 407.08934.00001, November 2021), in particular finished floor levels shall be set no lower than 89.36m AOD.

REASON: To protect the development from flooding.

11 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

Informatives: (6)

12 Any alterations to the approved plans, brought about by compliance with Building

Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

13 The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

14 The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

15 The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy.

16 Safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:
- the use of plant and machinery
- wheel washing and vehicle wash-down
- oils/chemicals and materials

- the use and routing of heavy plant and vehicles
- the location and form of work and storage areas and compounds
- the control and removal of spoil and wastes.

17 A Flood Warning and Evacuation Plan should be put in place post development to (i) ensure that owners and occupiers of the property are aware that the land is at risk of flooding and (ii) instruct the appropriate course of action to be taken by occupants in the event of a flood.

The site operator can sign up for flood warnings here - Sign up for flood warnings - GOV.UK (www.gov.uk)