



# Appeal Decision

Site visit made on 01 September 2004

AD 2637

by Daphne Mair BA(Econ), MPhil, MRTPI

an Inspector appointed by the First Secretary of State

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Date

11 SEP 2004

**Appeal Ref: APP/J3910/A/04/1138406**

**Site at Christian Place, Malmesbury Road, Kington Langley, Chippenham, SN15 5PS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
- The appeal is made by Mr and Mrs S Smith against the decision of North Wiltshire District Council.
- The application Ref 03/00211/S73A, dated 27 January 2003, was refused by notice dated 18 July 2003.
- The application sought the variation of a condition attached to a planning permission Ref APP/J3910/A/00/1052914, dated 24 January 2001, for change of use to residential gypsy caravan site with 3 hardstandings, single amenity block and landscaping.
- The condition in dispute is No 3 which states that: "No more than 3 residential caravans (inclusive of the mobile home), and the storage of 1 caravan used for touring shall at any time be stationed on the site, and the site shall be occupied only by a single family of gypsies as defined in s.24 (8) of the Caravan Sites and Control of Development Act, 1960, as amended."

**Summary of Decision: The appeal is allowed and planning permission Ref APP/J3910/A/00/1052914 is varied in the terms set out below in the Formal Decision.**

## Procedural Matters

1. At the site visit it was apparent to me that the application plan had been reproduced in such a way that one could not use the 1:1250 scale shown to accurately measure the site. The measurements shown on a sketch plan with the Local Planning Authority's stamps of April 2000 were found by my colleague in 2001 to be inaccurate. At my request the parties measured and agreed the boundaries of the site on 2 September. I have based my decision on those measurements of 77m along the main road, 98m along the minor road and 24m along the boundary with Heathlands.
2. I saw on my visit that there were four residential mobile homes/caravans on the site but the touring van was absent. I shall therefore treat the appeal as for the retention of the fourth residential caravan without complying with condition no.3 as above.
3. Having read my colleague's decision it is not entirely clear to me why he limited the number of residential caravans to 3, other than that was the number of hardstandings stated in the planning appeal accompanying the enforcement appeal.

## The Main Issues

4. The main issues are whether the proposal would cause significant additional harm to the character of the countryside outside Chippenham and whether sufficient space would be retained within the site for the safe manoeuvring and parking of vehicles.

### Planning Policy

5. The relevant Development Plan policies are RC9 and RH17 of the North Wilts Local Plan and policy DP16 of the Wiltshire Structure Plan. Both plans were adopted early in 2001 shortly after my colleague's decision. Policy RC9 follows current national planning policy set out in Planning Policy Statement 7 regarding the importance of protecting the countryside from development that does not need a rural location and protecting its open character from undue visual and other impact. Policies DP16 and RH17 address the special needs of gypsies and are broadly consistent with Circular 1/94 and Planning Policy Guidance 3. Policy DP16 seeks to minimise the impact of such caravan sites on the natural and built environment and adjoining land uses. Policy RH17 addresses enlarged as well as new sites and sets various criteria by which to assess proposals.

### Reasons

6. There is no dispute that the additional caravan is occupied by a member of Mr S Smith's family and that he was resident on the site with his parents at the time of the earlier appeals. That a new household would wish to have a separate home of their own is wholly understandable and I know it to be a common wish of component parts of an extended gypsy family to live on the same site. There is no evidence before me that the caravan is needed by someone who would no longer meet the definition of a gypsy.
7. On the first issue, I saw that the site is a short distance to the north of a roundabout to the immediate south of which is a sign announcing arrival in Chippenham. The buildings there signalled to me that it is the edge of the urban area. The longest side of this site directly adjoins the busy A350 Malmesbury Road which links Chippenham to the M4. The other long side of the site fronts a road which appears to have no official name, across which is land and buildings shown on the application plan as a Milk Marketing Board Cattle Breeding Centre but which appeared to me disused at the time of my visit. To the north of the short boundary of the site are the grounds of the house Heathlands. Beyond that house is the public house "The Plough", across the road are some cottages and a large motor maintenance garage and further north the signal controlled road junction of the A350 with Plough Lane from which the villages of Kington Langley (to the east) and Kington St Michael (north west) are reached. To the south west of the site is the Chippenham Golf Club. There is a dense well established hedgerow on the west side of the site and around the apex of the site. The hedge continues north past Heathlands and is broken only by the drives into that house and to the appeal site.
8. I set the above out in some detail because, whilst I have no doubt that my colleague was entirely correct in locating the site in the countryside in planning policy terms, this is not a site which is as visually sensitive as some may be where such countryside policies should also be applied. It is not subject to any landscape or other special designations and the site is conveniently close to the range of shops and services of the major town of Chippenham.
9. The site is at a lower level to the main road such that, when within the centre of the site the roofs of cars were just visible on the nearside northbound carriageway. When driving north on the main road the tops of the caravans near the road and most of the mobile home in the far corner are briefly glimpsed. I saw that the appellants have planted leylandii at the edge of their land on the main road side. The top growth of those is already nearing the level of the carriageway and would, within a small number of years obscure the present rather limited glimpses of the site available to northbound car drivers. Those in higher vehicles

would still see the caravans. This proposal does not propose increasing the size of the site. I consider that the additional residential caravan makes no material difference in this transitory view to the impact of the established and authorised site on the semi-rural character and appearance of the countryside here. It would comply with the above Development Plan and national policies.

10. In reaching that view I have not needed to assess the Council's unsupported assertion that one space is available on a gypsy site at Thingley. I am told by the appellant that there are 6 unauthorised sites but not the locality to which that relates though it may well be North Wiltshire. The table with extracts from recent January and July counts for North Wiltshire and the County suggests remaining need for sites in the district and county. I note that in January 2002 there were a substantial number (351) of gypsy caravans on unauthorised sites in the South West of England, amounting to 31% of the 1562 gypsy caravans in the region. That proportion was almost the same as in January 2001 and 2000. It thus seems unlikely that the new Smith household would readily find a site near their relations in this locality.
11. On the second issue, I saw that with the disposition of the mobile home and 3 residential caravans that existed on my visit, there was room for 4 cars to be parked within the site opposite the site entrance. A "transit" type van was parked in the narrow apex of the site and another in one of the locations that may be used by the touring van when it returns to the site. Apart from in the apex area all the open part of the site is under tarmac and there is a block paved entrance and carriage-crossing to the minor road. Notwithstanding that the appellants have failed to submit the plan requested by the Local Planning Authority showing parking and turning arrangements, there appeared to me to be ample room for the above vehicles to turn within the site so they can enter and leave in forward gear. I saw that the minor road is lightly trafficked, that there is room for two vehicles to pass and there is a good view available from the site entrance of such traffic. It may be that there would be more traffic when the commercial premises opposite are in operation but I am satisfied that there would be no harm to road safety if an additional residential caravan was allowed here, subject to the condition below.
12. It seems to me unlikely that an extended family group would require more than 5 vehicles bearing in mind that, as the appellant says, there would be scope for car/van sharing and trip combining for school and shopping journeys. If the family continues to trade as landscape gardeners as described in the earlier appeal, it is also likely that work trips would sometimes be combined. I consider it important that the site can meet its own needs for parking and manoeuvring so that the highway is not obstructed. I shall impose a condition that spaces are always retained for parking and turning of 5 vehicles including marking out of the parking spaces on the site and that the parking and manoeuvring space is kept clear of wheelie bins, sheds and other domestic paraphernalia.
13. Various other matters have been referred to in the representations. Compliance with the landscaping condition is not before me. The matter is complicated by the Highways Authority's apparent view that planting on the side of their embankment would obstruct visibility and hence prejudice road safety.
14. It is also not my role to assess whether an adult son and his wife and child should be considered "immediate dependents" as referred to in conditions 1 and 2 of the 2001 permission, as challenged by the Langley Burrell Parish Council.

15. I am mindful that the caravans should be spaced so that a fire in one would not endanger others. The appellant will need to carefully consider advice from the Fire Service on this matter. I saw that there are two timber sheds that would separate one of the residential caravans from a potential site for the touring van. Such structures provide separation but their combustible materials may not be acceptable in safety terms.

### Conclusions

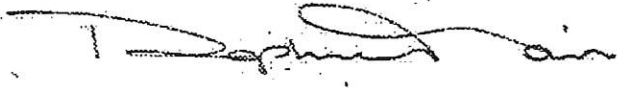
16. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed. I will vary planning permission Ref APP/J3910/A/00/1052914 granted on 24 January 2001 by deleting condition 3 and substituting others.

### Formal Decision

17. I allow the appeal and grant planning permission for change of use to residential gypsy caravan site, hardstandings, single amenity block and landscaping in accordance with application Ref 03/00211/S73A, dated 27 January 2003 without compliance with Condition 3 previously imposed on planning permission Ref APP/J3910/A/00/1052914, dated 24 January 2001 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new conditions:

- 1) No more than 4 residential caravans (including the mobile home) and the storage of one caravan used for touring shall at any time be stationed on the site and the site shall be occupied only by a single family of gypsies as defined in s.24(8) of the Caravan Sites and Control of Development Act 1960 as amended.
- 2) Parking spaces for 3 cars or small vans and 2 "transit" type vehicles shall be marked out on the site within 6 months of the date of this permission. Those spaces and space for the turning of such vehicles so they can exit the site in forward gear shall be kept clear of obstruction at all times.

The other conditions set out in planning permission APP/J3910/A/00/1052914, dated 24 January 2001 remain in force.



INSPECTOR