

# Planning

HEAD OF SERVICE: Adrian Duffield



Listening Learning Leading

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Council Offices, Abbey House, Abbey Close,  
Abingdon, OX14 3JE

12 April 2024

Dear Mr Brown,

**Proposal: Change of use of land to use as a residential caravan site for 3 gypsy families together with the laying of hardstanding.**

**Location: Emmanuel Ranch Windmill Road Towersey OX9 3QQ**

**Reference: P24/S0941/FUL**

I refer to the above planning application for which you act as agent. I am familiar with this site and have completed a preliminary assessment of your proposal and now raise the following matters for your consideration.

## Relevant Development Plan Policies

South Oxfordshire Local Plan 2035 (local plan) Policies:

DES1 - Delivering High Quality Development

DES2 - Enhancing Local Character

DES5 - Outdoor Amenity Space

DES6 - Residential Amenity

DES7 - Efficient Use of Resources

DES8 - Promoting Sustainable Design

ENV1 - Landscape and Countryside

ENV11 - Contamination

ENV12 - Pollution

ENV3 - Biodiversity

H1 - Delivering New Homes

H14 - Provision for Gypsies, Travellers and Travelling Showpeople

INF4 - Water Resources

STRAT1 - The Overall Strategy

TRANS5 - Consideration of Development Proposals

Towersey Neighbourhood Plan (neighbourhood plan) Policies:

TOW1 - Village boundaries and infill development

TOW4 - Design

TOW7 - Biodiversity

Emerging Joint Local Plan 2041

The Council is preparing a Joint Local Plan covering South Oxfordshire and Vale of White Horse, which when adopted will replace the existing local plan. Currently at the Regulation 18 stage, the Joint Local Plan Preferred Options January 2024 has limited weight when making planning decisions. The starting point for decision taking will remain the policies in the current adopted plan.

### **Planning Unit**

The entire site (including both red and blue edged areas) is likely to constitute a single planning unit comprising a mixed use involving both the creation of gypsy traveller pitches and, as I understand it, the keeping of horses. The apparent use of the same yard for both the stationing of caravans and the stabling of horses would suggest that there is no strong physical or functional separation between these uses. The enclosing nature of the close boarded fence around the wider site and presence of CCTV and lighting poles within the blue edged areas would also suggest that the material change of use extends to the full extent of the site and not just the red edged area. The absence of any suitable outdoor amenity spaces within the area covered by the red edged area would also suggest that the blue edged area provides some element of outdoor recreation to proposed occupants of the caravans. However, I would of course be happy to hear further from you on this matter.

### **Unauthorised Earthworks and Hardstandings**

Your client has recently undertaken extensive earthworks over the entire site (both within the red edged area and the wider blue edged area). As a result of those works levels of the land over the entire site have been significantly altered. Indeed, a significant amount of earth has been taken from the blue edged area in order to create a platform on which your client has now laid an extensive hardstanding area. None of these works, comprising the earthworks or laying of the hardstanding and access drive benefit from planning permission.

Question 1 - Does the current application, in so far as it relates to the red edged area covered by the current application seek to retain these unauthorised works?

If yes – then the description of the development should be amended to seek retrospective permission for the retention of these unauthorised operations; and the red edged area should be enlarged to cover the entire site (red and blue edged areas) as spoil taken from the blue edged area has been used as part of the same operation to create the platform in the red edged area.

Question 2 – If the existing unauthorised works are not proposed to be retained by the current application, then how is the land to be altered to accommodate the proposed use?

In any event the application should be supported by a plan showing the existing and finished levels of the site. As it currently stands the unauthorised hardstanding areas, including the access driveway sit proud of the surface of the surrounding lands by approximate 0.3 metres towards the front of the site (west), rising to approximately 1.5 metres to the east, as the land falls. These recent alterations to the natural levels of the land did not form part of the proposal approved by planning

permission P22/S3712/FUL and would need to be regularised as part of the current application if the works are to be retained.

If the intention is to extend the existing platform at its current level further to the east, corresponding to the additional hardstanding areas proposed by the current application, then the height of the proposed new hardstanding area above the natural levels of the adjoining lands will be even greater due to the natural fall of the land.

Question 3 - If the intention is to extend the existing platform then how is this to be formed and structurally retained? Will it involve the importation of fill or will it involve further earthworks to extract spoil from the blue edged area? – in which event the blue edged area should again be included within the application red edged area as part of the same operation.

In any event the existing and proposed extended platform would, in my opinion, represent an alien feature that is contrary to the appearance and character of the landscape and countryside; and would not likely be granted planning permission.

Question 4 - If the intention is not to extend the existing platform at its current height over the area covered by the additional hardstanding proposed by the current application, then how is the land to be transitioned down, structurally retained and drained given the fall of the land away from the highway?

Question 5 - The current application shows the existing and proposed hardstanding areas having a width of approximately 23 metres (north to south dimension), however, the existing unauthorised hardstanding area has a width of approximately 31.4 meters (north to south) – does your client therefore intend to reduce the size of the existing unauthorised hardstanding to conform to the proposed dimensions?

If yes – then this will involve engineering works on the adjoining blue edged lands, in which event these should again be included within the application red edged area.

If not – then how would you propose the council address this discrepancy?

### **Sustainability**

Paragraph 13 Of the PPTS states that local planning authorities should, among other things, ensure that traveller sites are sustainable economically, socially and environmentally; paragraph 25 states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

Policy STRAT1 of the local plan seeks to focus new development on existing towns and villages; and protect and enhance the countryside by ensuring that outside of the towns and villages any change relates to very specific needs such as those of the agricultural industry or enhancement of the environment. Policy DES8 seeks to promote sustainability by ensuring that all new developments seek to minimise the carbon and energy impacts of their design and improve resilience to the effects of climate change. Policy TRANS5 requires proposals for all types of development to

provided, among other things, safe and convenient routes for cyclists and pedestrians, including links to off-site walking and pedestrian links.

Policy TOW1 of the neighbourhood plan similarly states that proposals for development outside the Village Boundary will only be supported where they are considered appropriate rural development and are consistent with other policies in the development plan.

In the circumstances of the present case the development site is situated approximately 200m north of the built-up limits of the nearby village of Towersey. The village provides no services other than a public house approximately 800m away and a bus stop approximately 500 metres away, which provides a limited bus services to Princes Risborough only. The nearest railway at Thame Parkway approximately 8km away. The nearest food store is approximately 2.6 km away in Thame. The nearest primary school, secondary school, nursery, medical centres and dental surgery are also in Thame.

The travel distances to all of the abovementioned facilities would appear to exceed both the desirable and acceptable walking distances outlined in the established advice for walking 'Providing for Journeys on Foot' published by the Chartered Institute of Highway and Transport; they would also appear to either exceed or sit just within the maximum recommended limits of the above guidance.

Windmill Road outside the development site is unlit and has no footpath and is subject to national speed limit (60mph). These factors combine to discourage both walking and cycling to and from the site and make it unsafe to do so. The site does not therefore have safe pedestrian access, contrary to your assessment.

The Site is physically separate and remote from the settlement. It is therefore in an isolated location, within the meaning of paragraph 83 of the NPPF, and does not benefit from any exceptions under either the NPPF or development plan that would justify its provision in this isolated and unsustainable location in the countryside.

I would of course be happy to consider further from you on this matter, but as it currently stands the application contains insufficient information regarding the sustainability of site, contrary to policies and government guidance cited above.

### **Biodiversity**

The unauthorised works, already undertaken to the wider site (incorporating both red and blue edged areas) have resulted in removal of almost all existing vegetation from the site, including hedge rows and grassland habitat (i.e. a net loss of biodiversity). The unauthorised hardstanding material that has been laid by your client along the access driveway, sits above the surface of the adjacent paddocks by approximately 0.3 – 0.4 metres, which has obstructed the natural drainage of the land rendering the adjoining paddocks waterlogged and degraded to an extent that will likely inhibit the reestablishment of the grassland habitats in the adjoining paddocks.

The proposed development, involving the laying of additional areas of proposed hardstanding will result in a further loss of habitat and net loss of biodiversity. It is

unlikely that this net loss can be addressed by any scheme for onsite compensation given the significantly degraded condition of most of the land by the unauthorised works undertaken by your client.

The net loss of biodiversity resulting from both the existing unauthorised development and the additional works proposed by the current application have not been adequately addressed in the current application.

The application should be supported by a report prepared by a qualified ecologist, including reference to an appropriate biodiversity accounting metric, addressing the net loss of biodiversity, in accordance with policy ENV3 of the local plan.

### **Landscaping & Countryside Impacts**

Paragraph 26 of the PPTS states that when considering applications for gypsy and traveller sites local planning authorities should attach weight to the following matters, among other things: 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; and 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.

The unauthorised works, already undertaken to the wider site have resulted in removal of almost all existing vegetation from the site, including hedge rows and grassland, which has had a harmful impact on the quality of the landscape and the intrinsic beauty of the countryside.

The existing boundary treatments introduced by your client, including the extensive use of close boarded fencing in place of hedges, together with the very ornate entrance features (pillars, statues and gates) significantly compromises the rural character of the landscape with features that are more common in an urban environment. These boundary treatments also enclose the site in a manner that gives the impression that the site and its occupants are deliberately isolating themselves from the rest of the community.

The entire red edged area is to be covered in hardstanding leaving no room for garden or children's play area. The use of the blue edged areas of the site for such purposes, would again suggest a material change of use of the wider site as part of a single planning unit.

The application should therefore be supported by a landscape scheme demonstrating how the proposed development will be better assimilated into its countryside setting, including full details of both soft and hard landscaping works and boundary treatments, play areas for children, and the proposed location of external lighting and CCTV installations in accordance with policy ENV1 of the local plan.

### **Principles of Good Design and Respect for Local Distinctiveness**

Policy DES1 of the local plan states that all new developments must be of a high-quality design that uses land efficiently while respecting the existing landscape

character. Policy DES2 requires all new development to be designed to reflect the positive features that make up the character of the local area and both physically and visually enhance and complement the surroundings. Policy DES5 requires new development to provide adequate provision for outdoor amenity space. Policy H14 states that new proposals for gypsy and traveller sites should be sensitively designed to mitigate visual impacts on their surroundings.

The existing boundary treatments introduced by your client, including the extensive use of close boarded fencing in place of hedges, together with the very ornate entrance features (pillars, statues and gates) significantly compromises the rural character of the site and its surroundings, with features that are more common in an urban environment. These boundary treatments also enclose the site in a manner that gives the impression that the site and its occupants are deliberately isolating themselves from the rest of the community. The provision of external lighting and CCTV facilities also detracts from the rural character of the site and its setting. No provision has been made for outdoor amenity space in connection within the red edged area of the current application. If your client is reliant on the blue edged area for purposes of amenity then again this would suggest that the planning unit should encompass the whole of the wider site.

The application should be supported by a plan showing the full extent and design of all proposed boundary treatments, external lighting, provision of CCTV and outdoor amenity space consistent with principles of good design and respect for local distinctiveness and policies DES1, DES2, DES5 and H14 of the local plan.

### **External Lighting Scheme**

The scheme of proposed lighting should be prepared by a qualified lighting engineer and should be designed to an E1 Environmental Management Zone as defined by the Institute of Lighting Professional Guidance for the reduction of obtrusive light, in accordance with policies ENV12 of the local plan.

### **Drainage and Damage to Soil Profile**

Given the damage that has been caused to the profile of the soil and the natural drainage of the site as a result of the unauthorised works undertaken by your client, a report prepared by a suitably qualified engineer and/or agronomist should also be submitted demonstrating that the land can be adequately drained and reconditioned to support any proposed landscaping and/or any on site biodiversity compensation scheme, in accordance with policies ENV1, ENV3 and INF4 of the local plan.

### **Contamination**

The potential harm to the health of the occupants of the proposed development from known existing contaminants on the site have not been adequately addressed in the current application. Contrary to your submission this issue has not been resolved in the previous planning applications.

Although the remediation report approved by the council in connection with planning permission P22/S3712/FUL identified areas of contamination over the wider site, the recommendations sought only to address the remediation of land within the approved red edged area covered by the above permission.

There was only one location within the area approved by planning permission P22/S3712/FUL where microbial contamination was identified. The report therefore recommended the remediation of that area alone, by the excavation of the Made Ground and its replacement with clean certified fill to a depth of 600mm around a 2 metre radius of this area. Upon completion, these works were then to be validated by a remediation verification report prepared by a qualified Environmental Consultant.

The works undertaken by your client 1) to raise the level of the land (by between 0.3 - 1.5 metres) over an area well exceeding the area approved by planning permission P22/S3712/FUL, using fill obtained from other areas of the wider site which were themselves subject to contamination; and 2) the laying of hardstanding material over the top of this in an apparent effort to encapsulate the contaminants, was not agreed to by the council. These works were not approved by planning permission P22/S3712/FUL.

The red edged area of the current application now proposes the occupation of areas of the site extending beyond the area approved by planning permission P22/S3712/FUL. This additional area covered by the current application was not addressed in the conditions of planning permission P22/S371/FUL or the recommendation of the remediation report approved by council in connection with the above planning permission.

The extent to which your client has altered the wider site by unauthorised earth works that have redistributed soil over entire site, now renders previous investigation into site contamination potentially redundant.

The council's Environmental Health Team has therefore advised as follows:

*"I am aware that land contamination reports were previously submitted in connection with a separate application for smaller site that partly covered the current application. Given that the application boundary has changed I am unable to comment further on this application until an appropriate contamination assessment covering the current application site has been submitted.*

*The applicant should be asked to submit a contaminated land preliminary risk assessment consultants report in support of the planning application. If land contamination has the potential to be present and impact the development, then planning conditions would be recommended to ensure that intrusive investigations, and if necessary remedial works are undertaken to mitigate any risk to the development and environment.*

*I also understand that significant earthworks have been undertaken potentially rendering previous knowledge on ground conditions unreliable although this can be confirmed by the appointed environmental consultant.*

*To help ensure applicants submit information to the standard expected, a leaflet entitled "Dealing with Land Contamination During Development: A Guide for Developers" is available as a download on the following websites:*

<https://www.whitehorsedc.gov.uk/vale-of-white-horse-districtcouncil/environment-and-neighbourhood-issues/environmentaladvice/contaminated-land/>

<https://www.southoxon.gov.uk/south-oxfordshire-district-council/environmentand-neighbourhood-issues/environmental-advice/contaminated-land/>

This is in accordance with policy ENV1 and DES7(vi) of the SOLP 2035.

### **Gypsy/Traveller Status & Personal Circumstances**

Your client has at various time in the past strongly denied his gypsy traveller status and refuted any suggestion of his intention to develop the land as a gypsy traveller site. The current application should therefore be supported by evidence confirming the gypsy and traveller status of all those persons proposing to occupy the site. Paragraph 24 of the PPTS states the council should consider, amongst other relevant matters, the personal circumstances of the proposed occupiers. The information refers only to the applicant and his two adult sons as requiring the site as a base from which they can travel for the purpose of making their living. It makes no reference to any other persons or their relevant circumstances for the council to consider.

### **Conclusion**

The current application should be withdrawn and a new application covering the entire site (both red and blue edged areas) in order to more correctly capture the full extent of planning unit (change of use) and the full extent of unauthorised retrospective operations proposed to be retained in connection with the current proposal. The description of the development should also be amended to refer to the mixed (sui generis) use comprising 1) the creation of 3 gypsy and traveller pitches; and 2) the keeping of horses.

The revised application should also address the sustainability, biodiversity, landscape, countryside, design, external lighting, drainage, soil profile damage, contamination, gypsy status and personal circumstances issues raised above.

As it currently stands the application would be recommended for refusal on the basis that insufficient information has been provided in connection with the above matters.

If you require an extension of time in which to address the above issues prior to a determination of the current application, I would again be happy to hear from you.

Please do not hesitate to contact me on the email address or mobile number indicated at the top of this letter should you wish to discuss the matter further.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Rob Cramp".

Rob Cramp  
Principal Planning Officer (Enforcement)