

**Reference:** 15/00048/COU

**Applicant:** Mr Michael Cash

**Location:** Field North West Of Cold Comfort Farm Rogues Lane Hinckley

**Proposal:** Change of use of land for two gypsy and traveller pitches with associated infrastructure

**RECOMMENDATION:-** Refuse planning permission.

**Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as the Chief Planning & Development Officer considers it necessary to be determined by the Planning Committee.

**Application Proposal**

This application seeks consent for the provision of two gypsy and traveller pitches with associated infrastructure to include two day rooms and hardstanding.

The site would form an area approximately 50 metres in length by 63 metres in width. The two pitches would be laid out with a static caravan and a day room situated in a linear formation from the site access. The structures would be sited on an area of hardstanding, which would provide the required parking and turning provision within the application site.

The day rooms would comprise of a pitched roofed building measuring 4 metres in width by 5 metres in length with an overall height of 4.5 metres. Internally it would be subdivided, to provide a utility/dayroom and a shower/toilet room.

The site is proposed to be accessed directly from Rogues Lane, via a new access into the field. The scheme would remove approximately 13 metres of the mature hedgerow which denotes the north western boundary of the application site to create the access.

This is a resubmission of an earlier scheme which was withdrawn. The previous scheme proposed an access from the existing farm track which serves Cold Comfort Farm adjacent to the eastern field boundary.

**Site and Surrounding Area**

The site comprises of a parcel of agricultural land approximately 0.3 hectares in size. This land forms part of a larger agricultural field within the ownership of the applicant. An access track bounds the field to the east, from Rogues Lane and currently serves two residential dwellings Cold Comfort Farm and The Barn.

The site is currently open agricultural land bounded by mature hedgerows. Public footpath, T60, runs along the field boundary to the west. The site is within the countryside, and open fields surround the application site.

**Technical Documents submitted with the application**

Personal Circumstances Statement

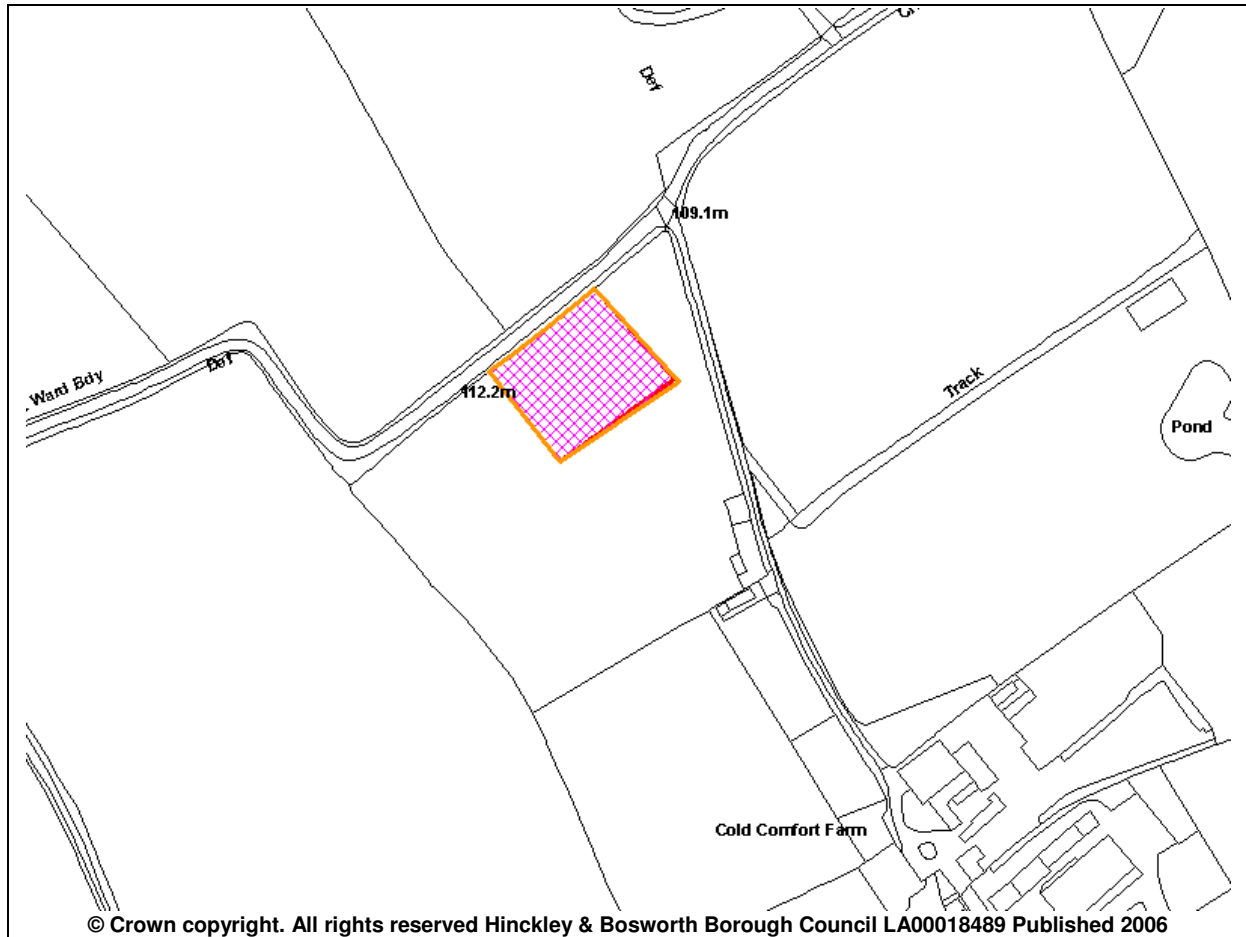
## Relevant Planning History:-

14/00768/COU

Change of use of land for two gypsy and traveller pitches with associated infrastructure

Withdrawn

26.01.15



## Consultations:-

A site notice and press notice were displayed. In addition neighbouring properties were notified.

No objection has been received from:-

Leicestershire County Council (Gypsy & Traveller Liaison)  
Leicestershire County Council (Ecology)  
Leicestershire County Council (Flood Risk Management)  
Severn Trent Water Limited  
Environmental Health (Pollution)  
Environmental Health (Drainage)  
Severn Trent Water  
Environmental Agency

Objections have been received from Leicestershire County Council (Highways).

Stoke Golding Parish Council have objected on the basis of there being a highway safety issue in respect of the proposed access onto Rogues Lane.

Five letters of neighbour representation have been received raising the following issues:-

- a) the applicant is not the owner of the access and therefore access improvements would not be implementable
- b) the application lacks detail
- c) the application fails to demonstrate that there is a need
- d) the proposal is contrary to countryside protection policy
- e) Rogues Lane has a history of accidents and therefore this proposal would only exacerbate this
- f) the access track is inadequate for an increase of traffic
- g) lack of detail of personal circumstances requiring a site
- h) there would be an impact on the character of the open countryside, not in keeping with the character of the area
- i) the council can demonstrate the requisite supply of traveller sites
- j) there would be an increase in crime and anti-social behaviour
- k) position of foul and surface water drainage is unclear and ground conditions may not be suitable
- l) the proposal will cause an increased conflict between horse riders and vehicular traffic using the track
- m) impact on public access.

### **Policy:-**

#### National Policy Guidance

National Planning Policy Framework (NPPF) 2012  
National Planning Policy for Traveller Sites 2012  
National Planning Practice Guidance (NPPG) 2014

#### Hinckley & Bosworth Core Strategy 2009

Policy 13: Rural Hamlets  
Policy 18: Provision of Sites for Gypsies, Travellers and Travelling Show People

#### Hinckley & Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development  
Policy NE5: Development in the Countryside  
Policy NE14: Protection of Surface Waters and Groundwater Quality  
Policy T5: Highway Design and Vehicle Parking Standards.

#### Other Material Policy Guidance

Hinckley & Bosworth Gypsy and Traveller Accommodation Needs Study (January 2013)  
The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016  
DCLG Designing Gypsy and Traveller Sites: Good Practice Guide 2008

### **Appraisal:-**

The proposal is for two pitches and associated development for occupation by gypsy and traveller families.

The main issues for consideration in the determination of this application are:-

- Principle of development
- Impact on character of the surrounding countryside
- Highway safety
- Residential amenity
- Drainage
- Other matters

#### Principle of development

The Planning Policy for Traveller Sites came into effect on the 27 March 2012, in conjunction with the National Planning Policy Framework (NPPF). Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and the Planning Policy for Traveller Sites as material considerations.

In this case the development plan constitutes the adopted Core Strategy and the Local Plan. The most applicable policy in the determination of this application is Policy 18 of the Core Strategy: Provision of Sites for Gypsies, Travellers and Travelling Showpeople. This policy outlines the numerical requirement for the delivery of pitches for use by Gypsies and Travellers. The policy identifies that the Borough is required to provide 42 residential pitches (26 up to 2012, 16 from 2012 - 2016) and five transit pitches (to accommodate 10 transit caravans) up to 2012.

The Council does not have an adopted Needs Assessment for Gypsies and Travellers for decision making purposes beyond 2017. However, evidence was presented by the appellant to the recent Good Friday public inquiry (Appeal reference number APP/K2420/C/13/2205416) to suggest that Hinckley and Bosworth had a 5 year land supply of Gypsy and Traveller pitches. For the purposes of that appeal, the appellant's evidence was not challenged. While the evidence presented to the Good Friday public inquiry is a material consideration, there is an ongoing need to maintain the supply moving forward and as such there remains an unmet need for a small number of pitches, taking account of Core Strategy Policy 18.

Furthermore, aside from the evidence and figures relied upon within the Good Friday appeal, there remains the requirement within the NPPF to determine applications in accordance with the presumption in favour of sustainable development.

In addition to the requirements of Policy 18, which considers the overall needs of the borough in terms of Gypsy and Traveller provision, the Planning Policy for Traveller's Sites (March 2012) requires consideration of b) the availability of alternative accommodation for the applicant and c) other personal circumstances of the applicant.

#### The availability (or lack) of alternative accommodation for the applicant

The Aston Firs Caravan Site, which is located in the district of Blaby, and is the closest County operated and owned Gypsy and Traveller site, and provides accommodation for gypsies and travellers, and is currently at capacity. Whilst it is accepted that granting consent for this application would go towards meeting the current shortfall in pitches and relieving the strain on the Aston Firs Caravan Site, the applicant has provided no evidence of attempts to find alternative sites prior to the submission of this application. Therefore it is not considered

that the applicant has reasonably considered alternative existing sites or whether there are other sites that would be more suitable within the locality.

#### Other personal circumstances of the applicant

Leicestershire County Council Gypsy and Traveller Liaison Officer has submitted a letter in support of the personal circumstances of the applicant, which provides information about the personal details and specific needs of the end users of the site. This states that the site would be able to accommodate the applicant and his wife, and the applicant's parents on the second pitch, who are currently residing on a temporary pitch outside the Borough of Hinckley and Bosworth.

The information provided contains personal details, including details in respect of the health and welfare concerns of the applicant's parents and how a permanent pitch as opposed to a temporary road side pitch would be of benefit in health and welfare terms. The personal needs of the applicant should be attributed weight in the determination of this application.

#### Proximity to Settlement/Local Services (Sustainability)

Policy 18 states that where a proposed site is not within or adjacent to a settlement boundary, it should be located within a 'reasonable' distance of local services and facilities (including shops, schools and healthcare), although what constitutes a 'reasonable' distance is not quantified. This is similar to the requirements within Paragraph 23 of the Planning Policy for Traveller Sites (PPTS). This states that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Similarly, Paragraph 55 of the NPPF states that "local planning authorities should avoid isolated new homes in the countryside".

The application site is situated in excess of 1 kilometre from the edge of the settlement boundary for Hinckley, which provides a full range of services. The site is connected to Hinckley by road with no footpaths present along Rogues Lane, meaning that safe travel to facilities from the site could only be accomplished by means of private car. The site is a distance of 3 kilometres from the town centre of Hinckley itself. This distance would be unreasonable to travel to access services and facilities as required by the policy and therefore the location of the site in an isolated countryside location would be contrary to the intentions of Policy 18.

In summary, it is considered that the proposed gypsy and traveller pitches would be located in an unsustainable location, removed from the community, services and facilities and no overriding special justification or need outweighs the principle of development in this location. The proposal is considered to conflict with Policy 18 of the Core Strategy and the Planning Policy for Gypsy and Traveller Sites.

#### Highway Safety

Policy 18 (criteria 4) of the Core Strategy requires gypsy and traveller sites to have a safe highway access as well as provision for parking and servicing. This is supported by Policy T5 of the Local Plan.

The proposed access to the site is to be taken directly from Rogues Lane. The application proposes to remove a 12 metre section of the mature hedgerow which defines the field boundary, to create a new access from Rogues Lane into the application site. Leicestershire County Council (Highways) has objected on the basis of the unsustainable location of the site and from a highway safety perspective, in respect of the introduction of additional

vehicular and pedestrian movements on Rogues Lane which would introduce an additional danger to roads users. Given its rural location, Rogues Lane lacks both footways and street lighting and concerns have also been raised in respect of the intensification of the use of Rogues Lane which is unsuitable in width.

The proposal is therefore considered to have a detrimental impact upon highway safety and is contrary to Policy 18 of the Core Strategy and Policy T5 of the Local Plan.

#### Location of the Site in the Countryside

Paragraph 23 of the Planning Policy for Traveller Sites states that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing undue pressure on the local infrastructure. This position is supported by Paragraph 55 of the NPPF.

Rogues Lane has a predominantly undeveloped rural character, with field boundaries denoted by mature native hedgerows. The application site is located a considerable distance away from important local services and facilities such as schools, shops, health centres and public transport, with the nearest settlement boundary of Hinckley being approximately 1 kilometre away. Rogues Lane is an unlit road and narrow in width due to the rural nature of the surrounding area, the proposed access would also result in the loss of some of the mature hedgerow boundary. These factors, in combination with the open rural surroundings would lead to conclude that the proposal would be unacceptably isolated.

#### Sympathetic Assimilation within the Countryside

Policy 18 of the Core Strategy requires that gypsy and traveller sites are capable of sympathetic assimilation to their surroundings. This is supported by Policy NE5 of the Local Plan which seeks to preserve the intrinsic character and appearance of the countryside with criteria permitted certain forms of development. New residential development or development for gypsy and traveller sites is not one of the criteria that are permitted by the policy.

Paragraph 24 of Policy requires local planning authorities to attach weight to the following matters when considering applications:-

- a) effective use of previously developed (brownfield), untidy or derelict land
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment
- c) promote opportunities for healthy lifestyles such as providing adequate play areas for children
- d) not enclosing the site with hard landscaping to isolate the occupants from the rest of the community.

The site is not immediately adjacent to any existing dwelling and is in excess of 190 metres from Cold Comfort Farm, the closest residential property on Rogues Lane. There is a public footpath which runs adjacent western boundary of the field from which glimpses of the site would be available, however from surrounding residential properties and from Rogues Lane the site would be visually isolated within the surrounding landscape. Whilst the application site proposed would be defined by a post and rail fence planted with Hawthorne and Blackthorne hedging proposed, the subdivision of an open field in this area of open countryside would be incongruous and not in keeping with the rural landscape in this area, which characterised by large uninterrupted agricultural fields.

The site comprises of a parcel of land that forms part of a larger field. Rogues Lane has a predominantly undeveloped rural character, enclosed by mature native hedgerows and the application site would be located directly adjacent to Rogues Lane, and would be accessed via the provision of a proposed new access from Rogues Lane. Whilst the design, appearance, and form of the static caravan proposed would be generic and utilitarian and would offer little in the way of architectural detail, they are functional and suitable for their intended purpose, and views of the site would be available. Given the site is not immediately adjacent to any existing dwelling or development, with the closest residential property approximately 190 metres away, the site would appear to occupy a visually isolated position within the surrounding landscape.

The proposal is not previously developed land, and is open agricultural land which has not been previously development. Notwithstanding the proposed boundary treatment to the site, it is not considered that the proposed site would satisfactorily assimilate into its surroundings and could not be overcome by the imposition of a condition requiring further landscaping to be carried out, which would be contrary to the open character of the area, therefore the proposal would not be wholly compliant with the intentions of Core Strategy 18 or Paragraph 24 of the Planning Policy for Traveller Sites.

### Design and Layout

The Planning Policy for Travellers states that sites of various sizes, layouts and pitch numbers operate successfully and work best when they take account of the size of the site and the needs and demographics of the families residing on them with the safety and protection of children in mind. The site has clear demarcation of its boundaries and has a gate to the access with to its entrance. The permanent pitches proposed on this site are for related family members and the guide makes reference to this as a positive approach and can be advantageous in making good use of small plots of land.

The design of the site affords amenity space and some degree of privacy for the individual pitches whilst providing natural surveillance. The guidance suggests that smaller permanent pitches should have sufficient space for one large trailer, an amenity building, drying space and parking for at least one vehicle and goes on to say that amenity buildings for each pitch are essential. In this case there is adequate space on site to meet this criteria and a day room is proposed providing for each pitch for bathroom and laundry facilities, which is considered acceptable. The separation distance between each caravan is in excess of 6 metres on the current plan as advised within the policy. The proposal would meet these requirements.

### Impact upon Residential Amenity

Policy 18 of the Core Strategy suggests that sites should not cause an unacceptable nuisance to existing neighbours by virtue of noise or other disturbance caused by vehicle movements. This is supported by Policy BE1 (criterion i) of the Local Plan.

As the proposal will result in two pitches, there will be increased activity on site and more vehicle movements generated. The site is in excess of 150 metres to the nearest residential property at Cold Comfort Farm and therefore on site activity and vehicle movements are unlikely to affect nearby residential amenity. By virtue of this distance, and the scale of the proposal, there are not considered to be any materially detrimental impacts on the residential amenity of neighbouring properties.

## Drainage

Saved Policy NE14 of the Local Plan states that development proposals should provide satisfactory surface water and foul water measures.

In respect of foul water drainage the scheme proposes to install a package treatment plant in which the overflow water would run into a constructed soakaway, the final details would be required to be submitted and approved prior to the implementation of the scheme to ensure adequate mitigation measures. No objection has been raised by the Environmental Agency subject to appropriate conditions requiring the full implementation of the proposed drainage measures.

In summary, the Environment Agency has no objection to the scheme, subject to the imposition of planning conditions. Accordingly it is considered that the proposed works will be in accordance with Saved Policy NE14 of the Local Plan and overarching intentions of the NPPF.

## Planning Balance

Paragraph 14 of the NPPF sets out a presumption in favour of sustainable development and sets out that a balancing exercise must be undertaken when weighing up the material considerations of each proposal.

Paragraph 25 of the Planning Policy for Traveller Sites states that if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites; this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.

The council currently does not have a five year supply of gypsy and traveller pitches. This is a significant material consideration that should weigh in favour of support for the need for the two pitches proposed in achieving a supply of gypsy and traveller sites.

However it is considered for reasons set out above that due to the isolated location of the site, in the open countryside, remote from services and facilities would be unsustainable and in this instance would outweigh the need for the pitches proposed. The personal circumstances presented are not considered to outweigh the harm the proposal would create in terms of its impact upon the character and appearance of the rural landscape through the introduction of the proposed site. Furthermore, the proposal would lead to impacts upon highway safety due to the narrow, rural nature of Rogues Lane. These issues when balancing the various material considerations as discussed above would lead to harm and an unsustainable form of development which would outweigh the benefits of providing further supply of gypsy and traveller pitches.

As per Paragraph 25 of Policy H of the Planning Policy for Traveller Sites given that the borough does not currently have a five year supply of pitches, the grant of a temporary permission has been considered. However, given the highway safety issues that the proposal would create and the harm to the character of the open countryside that would result, a temporary permission is not considered to be appropriate in this instance.

## Other Considerations

Issues raised within the neighbour letters of representation not addressed elsewhere in the report are considered below:-



Concerns over being disturbed by anti-social behaviour and increased crime in the area. Whilst crime and community safety are important material planning considerations as per Paragraph 69 of the NPPF it is not considered that the introduction of two gypsy and traveller pitches in this location would result in increased anti-social behaviour or increased crime.

There are a number of errors and inaccuracies on the application forms and lack of detail within the plans. The inaccuracies identified within the submitted documentation have been corrected with the applicant and are not materially influential in the determination of the application.

### Conclusion

The proposed two gypsy and traveller pitches in this isolated open countryside location would result in a form unsustainable development. Whilst the borough does not currently have a five year supply of gypsy and traveller sites no special personal circumstances or demonstration of overriding need for a site in this location has been presented to outweigh the harm to the countryside or in permitting development in an unsustainable location. The proposal would result in a degree of landscape harm to the character of this rural environment and would lead to a detrimental impact upon highway safety.

Overall these material considerations are considered to outweigh any residual need and the proposal is considered to be contrary to Policy 18 of the Core Strategy, Policy NE5 and T5 of the Local Plan and the overarching intentions of the National Planning Policy Framework in achieving sustainable development and the Planning Policy for Traveller Sites.

### **RECOMMENDATION:- Refuse planning permission.**

#### **Summary of Reasons for Recommendation and Relevant Development Plan Policies :**

In dealing with the application, through ongoing dialogue and the proper consideration of the proposal in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the local planning authority has attempted to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application, however in this instance the proposed development remains in conflict with the development plan and is therefore unacceptable.

#### **Reasons:-**

- 1 The proposal would introduce development within an isolated, unsustainable location outside of or adjacent to a settlement boundary and as such it is not considered to be located within a reasonable distance of local services and facilities. The proposal would be contrary to Policy 18 of the Hinckley & Bosworth Core Strategy 2009, Policy NE5 of the Hinckley & Bosworth Local Plan 2001 and Paragraph 14 of the National Planning Policy Framework 2012.
- 2 The proposed development would fail to assimilate with the landscape and would have an adverse impact on the appearance of the countryside contrary to the requirements of Policy 18 of the Hinckley & Bosworth Core Strategy 2009 and Policy NE5 of the Hinckley & Bosworth Local Plan 2001 and therefore results in an unjustified harm to the intrinsic character and beauty of the countryside contrary to Paragraph 17 of the National Planning Policy Framework 2012.

- 3 The development proposed would introduce additional vehicular and pedestrian movements on Rogues Lane which lacks both footways and street lighting, impacting upon highway safety. This would be contrary to Policy T5 of the adopted Hinckley & Bosworth Local Plan 2001, Policy 18 of the Core Strategy and Paragraph 32 of the National Planning Policy Framework 2012.

**Notes to Applicant:-**

- 1 List of plans used in the determination of this application:- Site Location/Layout Scale 1:1250, Site layout Scale 1:500, Day room details Scale 1:50 received by the Local Planning Authority 27 February 2015

**Contact Officer:-** Jenny Brader Ext 5620