

Applicant: Mrs Sara Wherry

Proposal: Change of use of sections of agricultural land to land to be used to site touring caravans, motorhomes and tents for no more than 21 consecutive days between certain dates (1st March - 31st October). Plus associated and ancillary works as detailed in site plan 1.

Ward: Adderbury, Bloxham And Bodicote

Councillors: Cllr Mike Bishop
Cllr Chris Heath
Cllr Andrew McHugh

Reason for Referral: This application has been called in by the Ward Member in order to consider amenity and environmental issues.

Expiry Date: 12 May 2017 **Committee Date:** 18 May 2017

Recommendation: Approve

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site currently operates as an agricultural small holding accessed from a lay-by on the B4100 to the south east of Adderbury. It is a parcel of land located between Nell Bridge House to the west and Nell Bridge House Farm to the east. The site shares a boundary with the lay-by to the south and the Oxford Canal to the north.
- 1.2. The site operates as a small-holding with a range of animals being kept on site either in small informally laid out enclosures or free range. There is one main barn on site which is understood to house agricultural equipment and paraphernalia and be used for uses ancillary to the small-holding. It is understood that some camping and caravanning has been taking place on the site, within the restrictions set out by the Camping and Caravanning Club regulations, although an Exemption Certificate has not been issued in this instance.
- 1.3. The site abuts the Oxford Canal Conservation Area. Flood Zone 2 encroaches into a small section in the north-eastern corner of the site. A protected species buffer extends out from land associated with Nell Bridge House into the south-western section of the site. Species identified in the area include bats, badgers and toads. Other constraints have been identified but given the nature of the application they are not relevant to the consideration of the proposal.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The application seeks to obtain planning permission to utilise parts of the site for the purposes of camping and caravanning for an 8 month period each year. The applicants are seeking a maximum capacity of 10 caravans and 20 tents with no individual units being allowed to remain on site for a period of longer than 21 consecutive days. The proposal is for a 'child free' campsite.

- 2.2. No permanent structures are required for the purposes of the change of use although 3 portable toilets would be provided along with a washing up area, adjacent to the existing barn and screened behind a bamboo (or similar) screen. Electric hook-ups are provided which are connected below ground and mounted on small posts at each pitch. The pitches would remain grassed and no additional hard-standing proposed.
- 2.3. The majority of the pitches are to be provided in the central area of the site whilst overflow pitches would be located in the south-western corner of the site. The original submission included a 3m buffer between any caravan and combustible structure, this was shown on the original submission. However, in order to try and alleviate concerns of a neighbouring property owner the applicants have offered to increase this buffer to 15 metres from the boundary wall.
- 2.4. The proposals had originally included the installation of a red diesel tank, for use in connection with passing canal boats. However, due to concerns arising from the Canal and River Trust, this element has been removed from the scheme.

3. RELEVANT PLANNING HISTORY

- 3.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
08/02578/F	Erection of Agricultural barn. Widening of entrance to land with new gates and access track.	Application Permitted

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No formal pre-application discussions have taken place with regard to this proposal.

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 28.04.2017, although comments received after this date and before finalising this report have also been taken into account.

- 5.2. The comments raised by third parties are summarised as follows:

Opposed to the scheme

- Appears partially retrospective
- Proposed area for tents is immediately adjacent to the boundary wall of Nell Bridge House and windows of this property and others overlook the site
- Parked vehicles, caravans and tents result in the area becoming a noisy and cluttered urban setting
- The use has resulted in noise and intrusion including barbecue smoke and smells
- Concern about security

- Concern about sanitary arrangements and impact on water quality
- Access to water is unknown
- Noise arising from regular mowing of the field
- Minimum requests are made if the Council is minded to approve the application – these include minimum distance of tents etc from the boundary, removal of the advertising van from the highway verge, insurance that the barn will be used solely for agricultural purposes
- Ambiguities not addressed could potentially lead to future expansion on this agricultural site

In favour of the scheme

- Protection and generation of welcome inflow to the local economy
- 5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

6. RESPONSE TO CONSULTATION

- 6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. **Adderbury Parish Council:** Objects to the application for the following reasons and making the following comments;

- Detrimental impact on neighbouring properties
- Development creep from unregulated activities
- Application of health and safety standards
- No authorisation from the Caravan Club, provision of Environment Agency approved facilities
- ‘Extra’ activities are not in keeping with the rural site and will cause noise and disturbance to neighbouring properties
- Further activity potentially resulting in damage to the canal bank, detrimental to wildlife and contrary to Canal Conservation Area
- Diesel storage should be properly regulated
- Visibility from the lay-by is poor and is on a fast stretch of road
- Detrimental impact on the landscape, screening should be provided

STATUTORY CONSULTEES

- 6.3. **Oxfordshire County Council Highways:** No objections.

- 6.4. **Canal & River Trust:** On the basis that the red diesel tank is removed from the proposal no objections are raised with regard to the proposal.

NON-STATUTORY CONSULTEES

- 6.5. **Ecology:** Any scrub removal should be timed to avoid nesting bird season and as such an informative should be included on a decision. Landscaping should comprise of native species. Any lighting should be low level and directional to avoid sensitive habitats including the canal and hedgerow field boundaries.

- 6.6. **Landscape Services:** Did not wish to comment

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 – Presumption in favour of sustainable development
- SLE3 – Supporting tourism growth
- ESD8 – Water resources
- ESD13 – Local landscape protection
- ESD16 – The Oxford Canal

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C7 – Topography and character of the landscape
- ENV1 – Environmental pollution including noise, vibration, smell or smoke
- ENV7 – Water quality

- 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Adderbury Neighbourhood Plan: Pre-submissions Plan (November 2016)

8. APPRAISAL

- 8.1. The key issues for consideration in this case are:

- Principle of development
- Impact on the character of the area
- Residential amenity and environmental pollution
- Add others as appropriate/relevant

Principle of development

- 8.2. Policy SLE3 of the adopted Cherwell Local Plan 2011-2031 gives support to proposals for new or improved tourist facilities in sustainable locations, where they accord with other policies in the plan, to increase overnight stays and visitor numbers within the district. This is partially about supporting the economy and the prosperity of the District. Paragraph 28 of the NPPF, whilst relating more specifically to the formulation of planning policies, encourages diversification of agricultural businesses and supports sustainable rural tourism that respect the character of the countryside.
- 8.3. The application form states that the use is already taking place. That informal pitches for camping and caravanning continue to have been provided without the benefit of planning permission or an Exemption Certificate from the Camping and Caravanning Club demonstrates in itself that there is a demand for such facilities. It is noted that Bo Peep camping site has closed in that time, which had been located closer to the village of Adderbury.
- 8.4. Policy ESD18 of the Cherwell Local Plan 2011-2031 seeks the protection and enhancement of the Oxford Canal corridor and also encourages recreation, leisure and tourism related used of the canal where appropriate. It does not deal, however, with tourism uses in close proximity to the canal.
- 8.5. Policy ESD15 of the adopted Cherwell Local Plan and Policies C28 and C29 of the Cherwell Local Plan 1996 seek to control the character of the built and historic environment and all new development including new buildings, extensions and conversions. C29 specifically refers to development within the vicinity of the Oxford Canal.
- 8.6. This application constitutes a change of use in a rural location and involves the temporary positioning of caravans and tents and the siting of temporary toilets it, does not constitute development per se and as such these policies are not directly relevant to the consideration of the proposal.
- 8.7. There is a general presumption in favour of supporting tourism development providing there is no identified harm arising from it in respect of other material considerations. This will be considered in the sections below.

Impact of the character of the area

- 8.8. Policy ESD13 of the adopted Cherwell Local plan seeks to protect the character and appearance of the landscape. It sets out that development will not be permitted if it would cause undue visual intrusion into the open countryside. This reflects the general thrust of the NPPF which seeks the protection and enhancement of valued landscapes (paragraph 109). However greatest weight is given to designated landscapes such as National Parks and AONBs.
- 8.9. The proposals are essentially a change of use of the land, for seasonal use, and as such would not result in any permanent structures or alterations to the land. The caravans and tents are all mobile structures and it would seem that, although the applicant has requested a limit to the maximum stay of 21 consecutive days, they are likely to impose shorter limits. The application has been submitted on the basis that the site would only operate between 1 March and 31 October. As such there would be no caravans or tents on site for 4 months of the year.
- 8.10. The site is not within any landscape designations but is close to the Oxford Canal Conservation Area. The site is secluded from the main B4100, screened behind a significant landscape belt adjacent to the B4100. The site is visible from within the lay-by, although partially screened behind a field hedgerow and it is only glimpsed

from the B4100 when passing the junctions with the lay-by. The only other public vantage point, within close proximity to the site, is the canal tow path. The site, in part, slopes steeply from the canal to the location where the tents and caravans are to be located, with a ridge in the land restricting direct full views between the relevant part of the site and the canal. This means that whilst the caravans and tents will be seen they would not be prominent and would be located some 80 metres from the tow path. As such they would not dominate the landscape.

- 8.11. Given the temporary nature of the structures and the fairly limited opportunities for public views to be obtained of the site it is considered that the development would not result in demonstrable harm to the visual amenities of the area or the character of the countryside. The proposal thus accords with Policy ESD13 of the Local Plan 2031 and the relevant paragraphs of the NPPF.

Residential amenity and environmental pollution

- 8.12. Saved Policy ENV1 of the Cherwell Local Plan 1996 and Policy ESD8 of the adopted Cherwell Local Plan 2031 set out that development which is likely to cause detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted.
- 8.13. A neighbouring resident has raised concerns about the noise that has occurred as a result of the camping and caravanning activities that have taken place on the site to date and also the smells that arise as a result of barbeques.
- 8.14. The applicant has sought to alleviate concerns relating to noise by imposing quiet times between 11pm and 6am and also operating a 'child free' site. Noise that arises from maintenance of the land through mowing, also a concern raised by the neighbour, is something that could occur whether the site was being used solely for agricultural purposes or the mixed used including camping and caravanning. The noise arising from mowing would not necessarily be considered as a nuisance as it could occur in any domestic or agricultural setting.
- 8.15. The issue of smells arising from barbeques is also unlikely to be considered a nuisance or form of environmental pollution given the open nature of the site. The impacts perceived by the neighbouring property owner are likely to be reduced as a result of the applicant's intention to now impose a 15m buffer between the location of tents and caravans and the boundary wall.
- 8.16. Given the nature and extent of the proposals it is not considered that the use would result in noise and disturbance sufficient to justify refusal of the application. As such the proposal complies with saved Policy ENV1 of the Cherwell Local Plan 1996 and Policy ESD8 of the adopted Cherwell Local Plan 2031.
- 8.17. In terms of other neighbour impacts it is the case that the view from neighbouring sites, across the application site would change. However, private views cannot be protected by planning legislation. It is only if a proposal were to result in harm through scale and proximity, i.e. overbearing form of development, or through loss of light or a loss of privacy, could it be refused. In this instance, while there may be a perceived impact on privacy, there is a clear division between the application site and neighbouring residential property by way of a stone boundary wall which largely screens the ground floor windows and private amenity space of the neighbouring property. The applicant has agreed that the opportunity to plant a further boundary could be discussed with the neighbour. It is not considered that adverse neighbour impact would be sufficient enough to justify imposing a condition to require such planting to take place.

- 8.18. Saved Policy ENV7 of the Cherwell Local Plan 1996 resists development that would have a detrimental impact on surface or underground water bodies including canals. The proposal includes locating three portable toilets on site. These are maintained by a waste disposal company and as such are unlikely to have any adverse impact on water quality in the vicinity of the site. The proposed red diesel tank which was of concern to the Canal and River Trust has now been removed from the submission and as such there are no likely adverse issues arising from this proposal.

Highway safety

- 8.19. Despite the Local Highway Authority (LHA) recognising that the junctions at either end of the lay-by are substandard and the B4100 being a 60mph road these are existing junctions. Only two accidents have occurred in this location, on the southern access, and these have involved vehicles turning right into the lay-by and being struck by vehicles from behind. Therefore there is no link between the campsite use and the number of collisions. It cannot be demonstrated that the proposal would be detrimental to highway safety, particularly given the above and as the use subject of this application has operated for several years. Motorhomes and vehicles towing caravans are likely to turn into or out of the access more slowly than cars but will be more visible to other road traffic due to their size.
- 8.20. The LHA has considered the use of signage but considers the benefit to be negligible and as such is not pursuing additional signage.
- 8.21. Given the above and the lack of objections from the LHA the proposal accords with paragraph 32 of the NPPF, which requires safe and suitable access to the site.

Other issues raised by objectors and the applicant's response to objections

- 8.22. Correspondence from neighbouring residents suggests some ambiguities in the application submission with regard to the areas in which the camping and caravanning is to occur and also with the number of caravans and tents which may be accommodated on site.
- 8.23. Whilst the precise area to be used for camping and caravanning purposes has not been measured in terms of its acreage the submitted site plan is to scale and clearly identifies the areas in which caravans and tents are to be located. The lack of this detail appears to be of concern to a neighbour – it is taken to suggest that a greater number of caravans and tents could be located on the site than are currently proposed. Whilst it may be the case that the site area could support a higher number of caravans and tents and still comply with Camping and Caravanning Club restrictions the submission is clear in its intention to only seek planning permission for 10 caravans and 20 tents. This planning application is to be assessed on this basis, and in the event of an approval a condition would be imposed restricting the numbers as specified. Any increase from these numbers would require a further planning application, which in turn would be considered on its own merits.
- 8.24. Concern has also been expressed about events which take place on the site at various times throughout the year. The precise nature of all of these events is not known but the applicant has provided information which suggests that touring theatre companies visit on an annual basis and attract significant numbers of spectators. It is likely that these events are being carried out under the temporary uses permitted development rights which allow for temporary uses to occur for no more than 28 days a year, subject to compliance with other restrictions. These events do not form part of the consideration of this application.

8.25. The applicant has been proactive in seeking to address the concerns of the Parish Council and neighbouring residents. The responses to the objections can be viewed in full on the Council's website. However, the following points are made, in summary;

- Adderbury Neighbourhood Plan encourages local employment and small-scale local business and lists the Pig Place as a community asset to be supported and protected
- The Neighbourhood Plan sets out that proposals for tourism along the Oxford Canal will be supported
- Willing to make some concessions regarding the extent of the buffer between the camping area and neighbouring property and happy to discuss new planting along the boundary
- The application seeks to regularise the non-agricultural activities (camping and caravanning) taking place on the site
- Legislation with regard to Environmental Health and the mixed use of land for camping and caravanning is complied with
- The canal bank will remain unaltered

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The proposal encourages tourism within the district an obvious benefit to the district. Sustainable development remains the key consideration when determining planning applications. There are three dimensions to sustainable development, those being the economic role, social role and environmental role. Whilst the Council's local plan policies do encourage tourism related development in sustainable locations, camping and caravanning sites, by their very nature, can be appropriately located in both edge of urban and rural locations. This particular location, being close to the Oxford Canal is in itself a tourist attraction, and the villages of Adderbury and Aynho are within a short driving or cycling distance. This proposal also results in the diversification of an existing small holding which would struggle to continue operating without the additional income from alternative uses.
- 9.2. The site is not within any landscape designation but the canal conservation area abuts the site. Due to the temporary and transitory nature of the proposals and the semi-secluded location of the site it is not considered that it will result in any significant landscape and visual harm or harm to the setting of the canal conservation area.
- 9.3. Neighbouring properties may be conscious of the use taking place on site and would have sight of the tents and caravans in situ but it is unlikely that there would be demonstrable harmful effects arising from the use such that would justify refusal of the application. Given the use has already been operating for several years it is not considered reasonable to grant a temporary consent. Planning conditions can be imposed to limit the number of caravans and tents permitted on site at any one time, the approximate areas of the site in which they can be located and the months during which camping can take place. However, the hours during which the campsite is to be 'quiet' and the fact that the site is proposed to be 'child-free' are not matters which can easily be enforced. As such these controls would be imposed by the operators of the site or additional legislation in place to monitor and control noise and disturbance.

- 9.4. Based on the above considerations it is concluded that the proposal complies with the relevant local plan policies. The proposal has economic and social benefits for the District and there are no adverse environmental impacts. As such the proposal constitutes sustainable development and is recommended for approval subject to conditions set out below.

10. RECOMMENDATION

That permission is granted, subject to the following conditions:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application forms, supporting statement dated February 2017, Plan 1 (site layout), Plan 3 (Location of portable toilets and washing up area), Plan 4 (site location plan), Item 1 (details of portable toilets), Item 2 (details of washing up area).

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. The site shall accommodate not more than 10 caravans/motorhomes and 20 tents at any one time.

Reason: In order to safeguard the amenities and character of the area and in the interests of highway safety and to comply with saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. No caravans, motor caravans or tents shall be stationed anywhere on the land for more than 28 consecutive nights and a register of occupiers shall be kept and made available for inspection by an authorised officer of the Local Planning Authority at all reasonable times.

Reason - In order to limit the use of the site to that of touring and not long-stay residential caravans and tents to comply with Government guidance contained within the National Planning Policy Framework.

5. No caravan, motor caravan or tent shall occupy the site during the period before 1st March or after 31st October in any calendar year.

Reason - The occupation of the site on a permanent basis by caravans or tents would be contrary to saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. Notwithstanding the details shown on Plan 1, there shall be 15 metre buffer along the western boundary within which no tent, caravan or motorhome is permitted to be pitched or parked.

Reason - In the interests of amenity and to comply with saved Policy ENV1 of

the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

PLANNING NOTES

1. The permission does not grant planning permission for fuel tank which formed part of the original application.

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