

ITEM 7

APPLICATION NO.	11/00884/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	12.05.2011
APPLICANT	Mr D Love
SITE	Furb, Newtown Road, Newtown LOCKERLEY
PROPOSAL	Part-retrospective application for alterations and extension to existing mobile home to create dwelling
AMENDMENTS	
CASE OFFICER	Mrs Georgina Wright / Mrs Anna Duignan

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

1.1 This application is referred to the Planning Control Committee (PCC) again because the specific personal circumstances of a member of the applicant's family was not known by the Planning Control Committee at its last meeting when this application was considered and when members resolved to refuse the application. In the consideration of any application or appeal process it is considered necessary that the committee are fully aware of all of the circumstances surrounding the case.

1.2 A copy of the Officer's report and update sheet to the 5 July 2011 SAPC, from which the application was initially deferred, are attached as **Appendix A** and **Appendix B** respectively and the Officer's report and update sheet to the 26 July 2011 PCC are attached as **Appendix C** and **Appendix D** respectively. Details of the site and its location, the proposal, history, consultations and policy are all described in those two previous committee reports.

2.0 REPRESENTATIONS Expired 13.06.2011

2.1 Letter of support from Southampton General Hospital The oldest child in the family is currently under the care of Paediatric Gastroenterology. He is currently on treatment for Crohn's disease. This requires continuous access to a toilet and I support the family in their application regarding construction of a bathroom at their home.

2.2 Additional information from the applicant:

A copy of an email from the applicant to Lockerley Parish Council explains that there is a desperate need for another bathroom as the eldest child has Crohn's disease. The aim is to create a bedroom for him so that he no longer has to share with his brother and that he has access to a bathroom at all times. At the age approaching 13 this would give him his own space and privacy.

A web site link to the National Association for Colitis and Crohn's (NACC) disease was included and NACC advised the applicant to contact the Parish. The applicant's son has a very low immune system and takes medication accordingly with quite nasty side effects. The blocking around the mobile home and the replacement of the roof tiles are because the mobile home is very damp. A lot of mould develops on the walls, ceilings and soft furnishings etc. which is not good for the family and the son in particular. It is unfair to say there is no need for this. When the project is finished it will look better than before and will fit into the surrounding area, more so than a mobile home. The applicant states that sympathy is not being sought and that she did not want to make a spectacle of her son but does feel that she wishes that her family's needs are understood.

3.0 PLANNING CONSIDERATIONS

- 3.1 The additional information for consideration for this application is the personal circumstances of the health issues for a member of the applicant's family.
- 3.2 At the meeting of the PCC members resolved to refuse the application for the following reasons:
- 3.3 1. *There is no overriding need for the permanent building of blockwork and render surround and extension to the mobile home that is not being already met by the existing mobile home as a dwelling for a gypsy family. Accordingly the development is contrary to policies SET 03 and ESN 13 of the adopted Test Valley Borough Local Plan (June 2006), Circular 01/2006 - Planning for Gypsy and Traveller Caravan Sites, and PPS7 - Sustainable Development in Rural Areas.*
- 3.4 2. *The development of the extension would require the removal of a length of approximately 4m. of the frontage hedgerow, as measured from its western end, to accommodate the widening of the frontage of the site to accommodate vehicular access into the site for adequate on site car parking provision, thereby increasing the visual impact of the property on the site to the detriment of the appearance and character of the local area. The development is therefore considered to be contrary to the Test Valley Borough Local Plan (2006) policies DES 01, DES 06 and DES 07.*
- 3.5 In the consideration of the application to date, leading to the resolution for refusal as set out above, it is apparent that the committee have not had the benefit of the information of the material considerations on the circumstances in which the alterations and extensions to the mobile home known as Furb have been proposed and carried out. At the time of the recent site visit, since the PCC meeting of 28 July 2011, made by the Senior Enforcement Officer, the applicant explained that the particular need for the planning permission was for the urgent requirement of an additional bathroom as a child in the family suffers Crohn's disease. In addition this particular health condition is described in an accompanying letter from the Consultant Paediatric Gastroenterologist & Honorary Senior Clinical Lecturer at Southampton General Hospital and

confirms that the child requires continuous access to a toilet and gives support to the construction of the bathroom at their home. This information had previously been held as confidential, whereby detailed medical information is not usually publicly available but the applicant has confirmed that this can now be public information. The applicant has further advised that the local parish council has recently been advised of the particular medical conditions of a member of the family and hence the need for the extra bathroom and the other works of the block surround to the mobile home. The health matter is a material consideration and the amount of weight to be put to it is for further consideration.

- 3.6 The submitted Design and Access Statement describes the purpose for development only as: 'The design layout is to provide a larger kitchen and additional bedroom to accommodate the now extended family. The existing building does not provide adequate number of bedrooms.' This commentary does not address the family's needs of the extra bathroom and the applicant has advised that the additional bedroom with its en-suite facility is intended for the child with Crohn's disease so that he can benefit from the private space and the uninterrupted access to the bathroom.
- 3.7 The particular personal circumstances of an applicant can give added weight to the merits of a scheme and be taken into account as a material consideration. Government guidance on this subject is helpful but not conclusive as each case is to be taken on its own merits. Health conditions of an applicant are not peculiar to gypsy families, but in this case the means of addressing the problems for this site and family have resulted in the works now on site. PPS1 gives some lead in that exceptionally the personal circumstances of an occupier may be material to the consideration of a planning application. Permission can therefore be granted in such cases but equally it is not uncommon for such arguments not to outweigh general planning considerations.
- 3.8 The weight to be assigned to the additional information of the special circumstances of health problems for a child in the family can be difficult to quantify but the fact that the information is set before the committee is necessary and relevant to the consideration of the application as a whole. Personal circumstances do not normally override the planning policies relevant to an application but it is considered that the information should be available as this is a material consideration. The development includes an extension to the mobile home as well as its blockwork and render surround. The enlargement does include an extension to the kitchen but also provides for the provision of the fourth bedroom and its en-suite bathroom facility together with steps to minimise the dampness of the mobile home by the new external blockwork.
- 4.0 **CONCLUSION**
- 4.1 Notwithstanding the personal circumstances described, it was reported to the SAPC and PCC that it is considered that the works are acceptable without undue detriment to the appearance of the area or the change to the gypsy

status of the site for residential purposes. These points take account of the limited visual impact of the works to the public views and the planning history including its permanent permission for the use of the land for residential purposes by a gypsy family. The personal circumstances add to the background for the applicant's family and the described justification for the works and the need for the improved facilities at the site, but make no change to the recommendation to the committee. However, taking account of the SAPC recommendation and the PCC resolution to refuse the application, it is for member's information and opportunity to take account of the additional information described.

5.0 RECOMMENDATION OF SOUTHERN AREA PLANNING COMMITTEE

5.1 REFUSE for the following reasons:

- 1. The development is considered to constitute a new dwelling in the countryside for which there is no overriding need. The development is therefore considered to be contrary to PPS7 – Sustainable Development in Rural Areas, Circular 01/2006 – Planning for Gypsy & Traveller Caravan Sites, and Test Valley Borough Local Plan (June 2006) policies SET03 and ESN13.**
- 2. The development, by virtue of its size, materials, construction and finish, is considered to be visually intrusive in the local area. The development is therefore considered to be contrary to Test Valley Borough Local Plan (June 2006) policies DES01, DES06 and DES07.**

**6.0 RECOMMENDATION OF PLANNING CONTROL COMMITTEE
(28 July 2011)**

6.1 REFUSE for the following reasons:

- 1. There is no overriding need for the permanent building of blockwork and render surround and extension to the mobile home that is not being already met by the existing mobile home as a dwelling for a gypsy family. Accordingly the development is contrary to policies SET 03 and ESN 13 of the adopted Test Valley Borough Local Plan (June 2006), Circular 01/2006 - Planning for Gypsy and Traveller Caravan Sites, and PPS7 - Sustainable Development in Rural Areas.**
- 2. The development of the extension would require the removal of a length of approximately 4m. of the frontage hedgerow, as measured from its western end, to accommodate the widening of the frontage of the site to accommodate vehicular access into the site for adequate on site car parking provision, thereby increasing the visual impact of the property on the site to the detriment of the appearance and character of the local area. The development is therefore considered to be contrary to the Test Valley Borough Local Plan (2006) policies DES 01, DES 06 and DES 07.**

7.0 RECOMMENDATION OF HEAD OF PLANNING AND BUILDING SERVICES

7.1 PERMISSION subject to:

- 1. This permission does not authorise use of the land as a caravan site by any other persons other than gypsies, as defined in paragraph 15 of Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites (or any order, circular or guidance revoking or re-enacting that Circular).**
Reason: To ensure that the site will meet some of the identified need for such uses in the borough in accordance with Partial Review of The Regional Spatial Strategy for the South East Policy H7 and Test Valley Borough Local Plan (June 2006) policy ESN13.
- 2. The occupation of the dwelling hereby approved shall be limited to a person or family who qualify for gypsy or traveller status, as defined in paragraph 15 of Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites (or any order, circular or guidance revoking or re-enacting that Circular) and to any resident dependants.**
Reason: The site is an area where new dwelling units are not normally permitted except where there is an overriding need in the interests of the needs of the gypsy and traveller community in accordance Partial Review of The Regional Spatial Strategy for the South East Policy H7 and Test Valley Borough Local Plan (June 2006) policies SET03 and ESN13.
- 3. No more than one touring caravan shall be stationed on the land at any time and no further caravans or mobile homes shall be introduced without the approval of the Local Planning Authority.**
Reason: In the interests of the landscape, residential and visual amenities of the area in accordance with Test Valley Borough Local Plan (June 2006) policies SET03, DES01, AME01, and AME04.
- 4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order amending, revoking or re-enacting that Order), no development shall be carried out which falls within Classes A, B, C, E & F of Part 1 of Schedule 2 to the Order, without the prior written consent of the Local Planning Authority.**
Reason: In order that the Local Planning Authority can exercise control in the locality to ensure the protection of the adjacent TPO trees in accordance with Test Valley Borough Local Plan 2006 policy DES08.
- 5. Within three months of the date of this decision space shall be laid out and provided for the parking of vehicles in accordance with the enclosed green hatched plan and this space shall thereafter be reserved for such purposes at all times.**
Reason: In the interests of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05, TRA09, TRA02.
- 6. As a result of condition 5, the existing detached shed will need to be relocated elsewhere on the site in order to accommodate the required parking and access provision. Within one month of this**

decision, a plan identifying the proposed re-siting of the existing shed structure shall be submitted to and agreed in writing by the Local Planning Authority. The shed shall be positioned in its agreed location prior to the provision of the parking area.

Reason: To ensure that the existing shed does not prejudice the use of the access and required parking area and its re-siting is not more visually intrusive or cause damage to any on or off site trees that are to be retained in accordance with Test Valley Borough Local Plan (June 2006) Policies TRA02, TRA05, DES01 and DES08.

- 7. Within three months of the date of this decision, at least the first 4.5 metres of the access track measured from the nearside edge of carriageway of the adjacent highway shall be surfaced in a non-migratory material and retained as such at all times.**

Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.

- 8. The existing hedgerow marked X - X on the approved plan shall be retained and maintained at a minimum height of 2 metres and any plants which die within a five year period shall be replaced unless otherwise agreed in writing by the Local Planning Authority.**

Reason: To ensure maintenance of screening to the site and to protect the appearance and character of the area and in accordance with Test Valley Borough Local Plan 2006 policy DES01, DES02 and DES08.

Notes to applicant:

- 1. The following Government Guidance and policies in the Development Plan are relevant to this decision: Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites; Circular 11/95 The Use of Planning Conditions in Planning Permission; PPS1 – Delivering Sustainable Development; PPS3 - Housing; PPS7 - Sustainable Development in Rural Areas; and PPS9 - Biodiversity and Geological Conservation. Partial Review of The Regional Spatial Strategy for the South East – Provision for Gypsies, Travellers & Travelling Showpeople, Policy H7 and Test Valley Borough Local Plan (June 2006) policies SET03 Development in the Countryside; SET12 (The Alteration or Extension of Existing Dwellings in the Countryside); ESN13 Sites for Gypsies & Travellers; TRA01 Travel Generating Development; TRA02 Parking Standards; TRA05 Safe Access; TRA08 Public Rights Of Way; TRA09 Impact on Highway Safety; DES01 Landscape Character; DES02 Settlement Character; DES05 Layout & Siting; DES06 Scale, Height & Massing; DES07 Appearance, Details & Materials; DES08 Trees & Hedgerows; DES10 New Landscaping; AME01 Privacy & Private Open Space; AME02 Daylight & Sunlight.**
- 2. The development hereby permitted shall be carried out and completed strictly in accordance with the submitted plans, specifications and written particulars for which permission is hereby granted or which are subsequently submitted to, and approved in writing by, the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.**

- 3. The decision to grant planning permission has been taken because the development is in accordance with the development plan and would have no significant impact on the character and appearance of the area or the residential amenities of the occupants of adjacent dwellings. This informative is only intended as a summary of the reason for the grant of planning permission. For further details on the decision please see the application report which is available from the Planning and Building Service.**
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APPENDIX A

Officer's Report to Southern Area Planning Committee – 5 July 2011

APPLICATION NO.	11/00884/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	12.05.2011
APPLICANT	Mr D Love
SITE	Furb, Newtown Road, Newtown, LOCKERLEY
PROPOSAL	Part-retrospective application for alterations and extension to existing mobile home to create dwelling.
AMENDMENTS	
CASE OFFICER	Mrs Georgina Wright

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 This application is referred to SAPC to ensure its determination within 8 weeks.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 This 0.10 hectare site lies to the south side of Newtown Road set between the more built-up areas of Newtown to the east and west. The site is of an irregular shape orientated east to west set parallel to the highway with a stream forming the rear (southern) boundary. Close boarded fencing of 1.8m in height demarcates part of the site to the east and west with conifer hedging to the north. Further hedging sits adjacent to Dunwood Manor Golf Course which abuts the site to the south and a group of oak trees outside but to the north-east corner of the site are covered by a Tree Preservation Order (TPO). Access to the site is at the western end and directly onto Newtown Road.

- 2.2 The site has permanent permission for its use as a gypsy site for one plot (Ref: 10/00404/FULLS). Until recently it had one mobile home on the site and a detached shed. The mobile home has since (before the application was submitted to rectify the situation), been completely clad with block work and a block work front extension on the eastern elevation has been started to create additional living accommodation for the gypsy family that currently occupy the site.

3.0 PROPOSAL

- 3.1 This is a part retrospective application to formalise the cladding of the existing mobile home and the front extension to create a dwelling. Despite these works, the site is still intended to be used as a gypsy site in line with the previous permission at the site.

3.2 The application is accompanied by a Design & Access Statement.

4.0 HISTORY

- 4.1 TVS.10360 Change of use of land for gypsy caravan site to accommodate one family only. Permission – 06.08.2004
- 4.2 07/02166/REWS Renewal of temporary planning permission TVS.10360 for change of use of the land for use as a gypsy caravan site for one family. Permission – 10.12.2007.
- 4.3 10/00404/FULLS Continuation of use of the land as a single private gypsy plot. Permission – 28.04.2010.

5.0 CONSULTATIONS

5.1 Policy – Comment:

- The application site lies within the countryside, where policy SET03 is relevant to the principle of the proposal.
- The application site has permission under application 10/00404/FULLS as a permanent gypsy site, on this basis, policy ESN13 is also pertinent to the principle of the proposal (more detail is provided in the supporting text).
- It is understood that through the proposal the mobile home is being extended and altered so as to create a permanent feature on site.
- The accommodation on site has been justified on the basis of a need for a gypsy site, therefore it is important that the current proposal does not prejudice this, otherwise the proposal would be contrary to policy SET03 as an unjustified dwelling within the countryside.
- Subject to the above, the criteria within policy SET12 provide a framework for considering the proposal.
- Other pertinent policies within the Borough Local Plan 2006 should be taken into consideration, including those within the DES/AME chapters.

5.2 Building Control – No Objection:

- Works are currently unauthorised as a building regulation application and an application has not been submitted.

5.3 Highways – No comments received at the time of writing.

5.4 HCC Ecology – No Objection.

- The site is close to a SINC.
- However it is separated from the SINC by a road.
- This proposal is not for a new house and will not result in the loss of habitats associated with the SINC.
- No concerns over the potential ecological implications of this development.

6.0 REPRESENTATIONS Expired 13.06.2011

6.1 Lockerley PC – Objection.

- This would change the temporary nature of a mobile home to a permanent structure.
- The application is for an extension when it appears that a complete new structure has been built around the mobile home.

- Strong neighbourhood objection.
- Permission was granted for the mobile home because of the applicant's status as a traveller. The mobile home would no longer be mobile if this permanent structure were permitted.

6.2 **Ramblers Association** – Objection.

- A normal application to build this house would be refused under existing regulations as unnecessary development in a beautiful part of Test Valley.
- Just because temporary permission was given for a mobile home without wheels does not give the occupants a right to start building a permanent structure around the mobile home without planning permission.
- The applicant should obey the planning rules that normal residents have to.
- Their vehicles park on the road obstructing the carriageway in a poorly sited bend as a result of the works.
- The proposals are too big for the small sized plot.

6.3 1 letter of objection received from the residents of Wychelms, Newtown Road. The following comments made:

- The site was initially granted temporary approval.
- The Local Planning Authority refused conversion to a larger permanent dwelling and the occupiers ignored this and commenced building. The council has told them to stop building but they have continued. It would be totally wrong to now allow this retrospective application.
- On the corner of a narrow country lane.
- 2 vehicles generally always parked here, partially on the road which causes a highway danger.
- Extension would make the parking and highway danger worse and will incur accidents.
- 3 other sites within 5 mins walk of the site have been allowed via a similar process all in contravention of the planning regulations. I believe that these are members of the same family. The Local Planning Authority must start enforcing the regulations and stop any future contravention of the rules.

7.0 **POLICY**

7.1 **Government Guidance:** Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites; Circular 11/95 The Use of Planning Conditions in Planning Permission; PPS1 – Delivering Sustainable Development; PPS3 - Housing; PPS7 - Sustainable Development in Rural Areas; and PPS9 - Biodiversity and Geological Conservation.

7.2 **South East Plan:** Partial Review of The Regional Spatial Strategy for the South East – Provision for Gypsies, Travellers & Travelling Showpeople, Policy H7.

Note: Policy H7 of the South East Plan was only published in draft as part of a partial review of the South East Plan. The draft policy was subject to Examination in Public in early 2010, however as a result of the Government's

announcement that the Regional Strategies were to be revoked, the final Inspector's report was never formally published and work on the partial review was abandoned.

- 7.3 **Test Valley Borough Local Plan (June 2006)** – SET03 Development in the Countryside; SET12 (The Alteration or Extension of Existing Dwellings in the Countryside); ESN13 Sites for Gypsies & Travellers; TRA01 Travel Generating Development; TRA02 Parking Standards; TRA05 Safe Access; TRA08 Public Rights Of Way; TRA09 Impact on Highway Safety; DES01 Landscape Character; DES02 Settlement Character; DES05 Layout & Siting; DES06 Scale, Height & Massing; DES07 Appearance, Details & Materials; DES08 Trees & Hedgerows; DES10 New Landscaping; AME01 Privacy & Private Open Space; AME02 Daylight & Sunlight.

8.0 **PLANNING CONSIDERATIONS**

- 8.1 The main planning considerations are the principle of the development; its impact on the character of the area; design; neighbouring amenities; impact on highway safety; and ecology.

Principle

- 8.2 The site is situated in the countryside where as per PPS7 – Sustainable Development in Rural Areas and TVBLP policy SET03 (Development in the Countryside) there is a presumption against new development unless there is an overriding need or it is of a type that is appropriate for a countryside location. TVBLP policy SET03 (Development in the Countryside) refers to a number of other policies which relate to exceptional uses that would be considered appropriate in the countryside. One such exception policy is TVBLP policy ESN13 (Sites for Gypsies & Travellers).
- 8.3 TVBLP policy ESN13 (Sites for Gypsies & Travellers) allows for gypsy and traveller sites in the countryside and therefore the principle of such development is acceptable. In line with this policy and the advice given within Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites, and despite local suggestion to the contrary, this site was given permanent permission for its use as a single gypsy plot in 2010 (ref: 10/00404/FULLS). This previous permission therefore established the lawful use of this site and the principle of this type of development on this particular site in Newtown.
- 8.4 This application seeks to alter how the existing gypsy family live on the site. Instead of residing in a mobile home as is typical of such a gypsy families they instead seek retrospectively to allow the mobile home to be altered and extended to create a more permanent structure on the site. This has involved a cladding around the mobile home in block work and a front extension which essentially creates a four bedroom dwelling on the site. The issue for consideration therefore is whether these changes are acceptable within the remit of the exceptions permitted by ESN13 (Sites for Gypsies & Travellers); whether such alterations prejudice the current and future use of the site for gypsy and traveller families; and thus whether the proposals still accords with the TVBLP policies involving development in the countryside.

Gypsy Status:

8.5 A condition is attached to the permanent permission for the site issued last year which states that the site cannot be used by any other persons other than gypsies and therefore it is considered necessary to assess the status of the applicant to see if they still comply.

8.6 Circular 01/2006 sets out a definition of a gypsy as follows:
Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling as such.

The circular also states that the traditional patterns of work for gypsies and travellers is changing and the community has generally become more settled.

8.7 During the assessment of the previous application for the permanent use of the site as a gypsy and traveller plot, the applicant's (Mr Love) status as a gypsy was confirmed and accepted even though it was also accepted that the applicant no longer travelled for the purposes of making or seeking their livelihood. In this particular case the applicant has indeed become 'more settled' because it benefits the education of his two children, who are at Lockerley C of E Primary School and Test Valley Secondary School, and assists with maintaining access to local health care. It is considered that Mr Love and his family therefore still qualify for gypsy status within the definition of a gypsy.

8.8 Having accepted that despite not travelling, the family still qualify for gypsy status, it is also considered that the type of accommodation they choose to live in also has no bearing on their status. In fact it is not completely uncommon for gypsies and travellers to choose to live in normal permanent dwellings rather than mobile home. Therefore even though the applicant has decided to make his on site living accommodation a permanent structure rather than a mobile home (which never left the site anyway), it is considered that the use of the land as a gypsy site remains unaltered and the family are still able to occupy the site within the remit of the previous permission. It is however considered necessary to attach an occupancy condition to the 'dwelling' now being erected on the site so that, much like an agricultural worker's dwelling, the dwelling and site is maintained as a gypsy plot in land use terms and does not constitute a normal open market dwelling in the countryside.

8.9 It is also considered that the proposals would not prejudice the future use of the site by other members of the travelling community if it ever became available. The reason being that the restrictive condition on the land use suggested above, would ensure that continual availability of the plot for the gypsy community. Furthermore, if a future occupant was averse to bricks and mortar and therefore did not want a permanent structure to live in, the fairly simple construction of the building means that it could be demolished and a new mobile home reinstated on the land in its place, if necessary.

Character of the Area

- 8.10 The permanent building has completely engulfed the existing mobile home and therefore is situated on the same siting as this original structure. The building is visible from the road and public domain but it is not considered that the impact, even with the additions now proposed, is significantly different to the impact of the previous mobile home.
- 8.11 Whilst it is visible from the Newtown Road the new structure continues to have no prominence in the wider views, being only seen from close proximity. Mature vegetation encloses the site and provides effective screening in this countryside location with planting to the highway edge allowing the site to further integrate into the landscape. Such screening could also be retained by condition. Furthermore the site is not in any particularly sensitive landscape designation that would make the development more sensitive or unacceptable.

Neighbouring Amenities

- 8.12 Despite the proposed alterations, it is still considered that the use of the site is modest as it still only constitutes one plot. Therefore it is not considered that the site or use dominate over the settled community in the vicinity.
- 8.13 Furthermore, the site does not have a close relationship with properties along Newtown Road, the closest neighbours being separated from the site by a small copse and open countryside. It is not therefore considered that the continued use of the site, albeit with a different more permanent means of living on the site, will have a significant or unacceptable impact on the amenities of the residents in the nearest properties of Little Orchard or Merryhills in terms of overlooking, prominence, or loss of light.

Highway Safety

- 8.14 Local concerns have been raised about the parking arrangements of the site and the fact that vehicles sometimes park on the road causing a highway concern. No comments have as yet been received from the Council's Highway Officer but it previously raised no objection to the scheme proposing the siting of a mobile home on the same siting as the permanent structure now before the Local Planning Authority for consideration. The cladding of the mobile home has not resulted in any impingement on the existing parking area as it is accommodated within the overhanging eaves of the original mobile home and the extension is to the front of the building into the garden, rather than to the side closer to the road. It is not therefore considered that these proposals result in any significant change to the previous mobile home arrangement which was deemed to be acceptable in Highway terms.

Ecology

- 8.15 Whilst the site is in close proximity to a SINC, the County Ecologist has not raised any concern or objection to the scheme in terms of impact on protected species. The scheme is therefore considered to be acceptable in this regard.

Other Issues

- 8.16 Local concern has been raised about the history of the site and the fact that this application is retrospective and therefore should be refused. However the Town & Country Planning Act 1990 allows for retrospective applications and requires such applications to be considered on their merits as per any other type of application. The history of the site or the family in terms of undertaking unlawful works without permission and the fact that this application is part retrospective, are therefore considered to be irrelevant to the consideration and determination of this application.

9.0 **CONCLUSION**

- 9.1 Whilst the proposals make the previously allowed mobile home a permanent structure on the site, it is considered that the occupants still qualify for gypsy status and the proposals do not prejudice the use or future use of the site as a gypsy and traveller plot. It is also not considered that the proposals result in any significantly different impact on the character of the area, visual or neighbouring amenities, or highway safety than the original mobile home and use of the site. As such it is recommended that the application be granted permission.

10.0 **RECOMMENDATION**

PERMISSION subject to:

1. **This permission does not authorise use of the land as a caravan site by any other persons other than gypsies, as defined in paragraph 15 of Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites (or any order, circular or guidance revoking or re-enacting that Circular).**

Reason: To ensure that the site will meet some of the identified need for such uses in the borough in accordance with Partial Review of The Regional Spatial Strategy for the South East Policy H7 and Test Valley Borough Local Plan (June 2006) policy ESN13

2. **The occupation of the dwelling hereby approved shall be limited to a person or family who qualify for gypsy or traveller status, as defined in paragraph 15 of Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites (or any order, circular or guidance revoking or re-enacting that Circular) and to any resident dependants.**

Reason: The site is an area where new dwelling units are not normally permitted except where there is an overriding need in the interests of the needs of the gypsy and traveller community in accordance Partial Review of The Regional Spatial Strategy for the South East Policy H7 and Test Valley Borough Local Plan (June 2006) policies SET03 and ESN13

3. **No more than one touring caravan shall be stationed on the land at any time and no further caravans or mobile homes shall be introduced without the approval of the Local Planning Authority.**

Reason: In the interests of the landscape, residential and visual amenities of the area in accordance with Test Valley Borough Local Plan (June 2006) policies SET03, DES01, AME01, and AME04

4. **Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order amending, revoking or re-enacting that Order), no development shall be carried out which falls within Classes A, B, C, E & F of Part 1 of Schedule 2 to the Order, without the prior written consent of the Local Planning Authority.**
Reason: In order that the Local Planning Authority can exercise control in the locality to ensure the protection of the adjacent TPO trees in accordance with Test Valley Borough Local Plan 2006 policy DES08.
5. **Within one month of the date of this decision space shall be laid out and provided for the parking of vehicles in accordance with the approved plan and this space shall thereafter be reserved for such purposes at all times.**
Reason: In the interests of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05, TRA09, TRA02.
6. **The existing hedgerow marked X - X on the approved plan shall be retained and maintained at a minimum height of 2 metres and any plants which die within a five year period shall be replaced unless otherwise agreed in writing by the Local Planning Authority.**
Reason: To ensure maintenance of screening to the site and to protect the appearance and character of the area and in accordance with Test Valley Borough Local Plan 2006 policy DES01, DES02 and DES08.

Notes to applicant:

1. **The following Government Guidance and policies in the Development Plan are relevant to this decision: Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites; Circular 11/95 The Use of Planning Conditions in Planning Permission; PPS1 – Delivering Sustainable Development; PPS3 - Housing; PPS7 - Sustainable Development in Rural Areas; and PPS9 - Biodiversity and Geological Conservation. Partial Review of The Regional Spatial Strategy for the South East – Provision for Gypsies, Travellers & Travelling Showpeople, Policy H7 and Test Valley Borough Local Plan (June 2006) policies SET03 Development in the Countryside; SET12 (The Alteration or Extension of Existing Dwellings in the Countryside); ESN13 Sites for Gypsies & Travellers; TRA01 Travel Generating Development; TRA02 Parking Standards; TRA05 Safe Access; TRA08 Public Rights Of Way; TRA09 Impact on Highway Safety; DES01 Landscape Character; DES02 Settlement Character; DES05 Layout & Siting; DES06 Scale, Height & Massing; DES07 Appearance, Details & Materials; DES08 Trees & Hedgerows; DES10 New Landscaping; AME01 Privacy & Private Open Space; AME02 Daylight & Sunlight.**
2. **The development hereby permitted shall be carried out and completed strictly in accordance with the submitted plans, specifications and written particulars for which permission is hereby granted or which are subsequently submitted to,**

and approved in writing by, the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.

- 3. The decision to grant planning permission has been taken because the development is in accordance with the development plan and would have no significant impact on the character and appearance of the area or the residential amenities of the occupants of adjacent dwellings. This informative is only intended as a summary of the reason for the grant of planning permission. For further details on the decision please see the application report which is available from the Planning and Building Service.**
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APPENDIX B

Update Report to Southern Area Planning Committee – 5 July 2011

APPLICATION NO.	11/00884/FULLS
SITE	Furb, Newtown Road, Newtown, LOCKERLEY
ITEM NO.	8
PAGE NO.	20 – 35

1.0 VIEWING PANEL

1.1 A viewing panel took place at the site on Friday 1st July 2011. It was attended by Councillors Whiteley; Hurst; Anderdon; Johnston; Cooper; Bundy; and Finlay.

1.2 Councillors Collier; Dunleavey; Hatley; Hibberd; Mrs Dowden; Mr Dowden; Busk; Tupper; Bailey; and Baverstock sent their apologies.

2.0 CONSULTATIONS

2.1 **Highways** – No Objection subject to conditions.

2.3 **HCC Gypsy Liaison Officer** – No Objection.

- No comments to make on the content of this application and the proposals.
- Not aware of any evidence to indicate that gypsy and travellers are seeking more permanent structures to live in.
- However the use of more and more mobile homes that are designed like bungalows is becoming common practice.
- There are also a large number of the community are housed but I have no statistics regarding this.
- I am aware of a number of companies who rent out mobile homes and when they are located on site they are bricked in and have pitched roofs.

3.0 REPRESENTATIONS

3.1 1 further letter of objection received from the residents of Brook Cottage, Newtown Road.

- Not necessarily objecting to the works as it will be more attractive than the mobile home it replaces.
- However concerned that the construction has taken place without prior consent.
- Also the scaffolding van parks on a blind bend and makes it difficult to overtake it.

4.0 AMENDED RECOMMENDATION

4.1 In light of the Highway Authority's comments and additional condition is proposed to the recommendation on the agenda.

7. **At least the first 4.5 metres of the access track measured from the nearside edge of carriageway of the adjacent highway shall be surfaced in a non-migratory material prior to the use of the access commencing and retained as such at all times.**

Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.

APPENDIX C

Officer's Report to Planning Control Committee – 28 July 2011

APPLICATION NO.	11/00884/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	12.05.2011
APPLICANT	Mr D Love
SITE	Furb, Newtown Road, Newtown, LOCKERLEY
PROPOSAL	Part-retrospective application for alterations and extension to existing mobile home to create dwelling.
AMENDMENTS	
CASE OFFICER	Mrs Georgina Wright

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 This application is referred to Planning Control Committee (PCC) because the Southern Area Planning Committee (SAPC) was minded to refuse planning permission contrary to Officer's advice and the reasons given could result in an application for costs against the Council if the applicant should appeal the decision.

A copy of the Officer's report and update sheet to the 5 July 2011 SAPC, from which the application was deferred, are attached as **Appendix A** and **Appendix B** respectively.

2.0 PLANNING CONSIDERATIONS

- 2.1 The main planning considerations are the principle of the development; its impact on the character of the area; design; neighbouring amenities; impact on highway safety; and ecology. All of which are discussed in detail in the SAPC report.

Considerations Of SAPC

- 2.2 Members of SAPC resolved to refuse planning permission contrary to the Officer recommendation considering that the proposed development would result in a dwelling in the countryside for which there is no overriding need and would thus be contrary to SET03 (Development in the Countryside); and that the design, material and size of the building is visually intrusive in the street scene.

History

- 2.3 In line with TVBLP policy ESN13 (Sites for Gypsies & Travellers) and the advice given within Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites, this site was given permanent permission for its use as a single gypsy plot in 2010 (ref: 10/00404/FULLS). This previous permission therefore establishes the lawful use of this site and the principle of this type of development on this particular site in Newtown.
- 2.4 This application now seeks to alter how the existing gypsy family live on the site. Instead of residing in a mobile home, as is typical of such a gypsy family, the family have built around the existing mobile home with block work to create a permanent structure. The building works have also included an extension to the front which has essentially created a four bedroom dwelling on the site. This work involves operational development, which is not permitted within the remit of the original planning permission on this site allowing for a permanent use of the site for a gypsy plot. This is because there is a condition attached to the original permission stating that only one mobile home and one touring caravan can be placed on the site and thus any new permanent structure needs planning permission. Regardless of whether the original mobile home is still within the new structure or is removed at a later date, the works therefore require planning permission and the application has been submitted accordingly for consideration.

Principle

- 2.5 Concern was raised at SAPC that the most relevant policies relating to travellers and gypsies (Circular 01/2006 and TVBLP policy ESN13 (Sites for Gypsies & Travellers)) only discuss caravans and are silent on the issue of permanent structures. It was therefore suggested that as there is no specific policy relating to this type of operational development then it is contrary to policy and should be refused. However this approach has no regard for the planning history outlined above. This application is certainly unusual, but the fact of the matter is that this site benefits from permanent permission for its use by a traveller or gypsy family. Other than the condition attached to the original permission, which the submission of this application seeks to vary, there is nothing to control how the family live on the site. There is no requirement in this condition for the mobile home to ever move on or off the site. Therefore the use of the land shall continue to be retained as a gypsy plot whether it contains a permanent structure or a mobile structure.
- 2.6 In this instance the family are considered to satisfy the definition of a gypsy as defined by Circular 01/2006. The definition and discussion in the rest of the Circular acknowledges that modern gypsy families are more settled and some do not actually travel anymore for the purposes of their livelihood as they wish to benefit from being close to educational and health care facilities. The applicant confirmed in 2010 that he no longer travels at all for his business and this was accepted when considering his permanent residence at the site. This position has been reiterated as part of the submission for this application and the status of the family is not questioned. It is however clear from this

statement that whether the applicant resides in a mobile home or a permanent building on this site, the structure is not going to leave the site and therefore it is considered that it makes little difference as to whether it is permanent or mobile in its construction.

- 2.7 The original use of the plot was considered within the remit of TVBLP policy ESN13 (Sites for Gypsies & Travellers) and was considered to comply. The changes now being made to the site need to be considered within TVBLP policies ESN13 (Sites for Gypsies & Travellers) and SET03 (Development in the Countryside). Whilst it no longer involves a caravan at this site the proposals are considered to satisfy the requirements of both policies in that there is an overriding need for sites for such gypsy and traveller families in the borough; this site already has permanent permission for such a use; the family concerned are considered to meet the definition of a gypsy family despite not travelling for their livelihood; and they have decided that they would prefer to live in a permanent structure rather than a caravan. The provision of a dwelling on this site would not preclude it from counting towards the Borough's overall gypsy and traveller site provision and it is also not considered to prejudice the future use of the site for a traveller or gypsy family because conditions are proposed to the Head of Planning & Building Service's recommendation limiting the use of the site and new building for a gypsy family only.

Visual Amenities

- 2.8 SAPC Members were also concerned that the changes to the mobile home have resulted in a permanent building that is larger and more visually intrusive in the landscape than the original mobile home. However even though it has been extended the resultant building on this site is still of modest proportions and height. The finish is to be render and an off white painted finish which is not uncommon in this part of Newtown, and can be controlled by condition if it is considered necessary.
- 2.9 The existing boundary treatment along the road screens the majority of the site from the main road so that only at the site access is the building readily apparent. As this point the end façade and the roof is apparent but as the works have essentially surrounded the existing mobile home at this point within the overhang of the existing roof, it is considered that the building is only slightly wider and of similar height to the original mobile home in this part. Furthermore the proposed finish is similar to the original mobile home. Only glimpses of the extension are afforded along the length of this road side as a result of the existing close boarded fence, trees and conifer hedging which provide screening in this location (which are to be retained by condition). As such it is considered that the structure will have very little additional impact when compared with the original mobile home on this site. It is not therefore considered that a reason for refusal based on the visual amenities of the area could be sustained in this instance.

Other Issues

2.10 A lot of discussion was had at SAPC about the fact that this is a retrospective application. However members should note that the Town & Country Planning Act 1990 allows for such retrospective applications and requires such applications to be considered on their merits as per any other application. The history of the site or the family in terms of undertaking unlawful works without planning permission in the first instance is therefore considered to be irrelevant to the consideration and determination of this application.

2.11 It was further suggested at SAPC that as gypsy and travellers are given a lot of dispensation in planning in terms of being able to live in the countryside they should not be given extra leniency when it came to having a house in the countryside. However the fact of the matter is that planning policy and guidance specifically allows for such families in the countryside and therefore any application involving such development needs to be considered accordingly.

3.0 **CONCLUSION**

3.1 Whilst the proposals involve a change from a mobile home structure to house the family, to a permanent four bedroom structure on the site, it is considered that the occupants still qualify for gypsy status and the proposals do not prejudice the use or future use of the site as a gypsy and traveller plot. It is also not considered that the proposals result in any significantly different impact on the character of the area, visual or neighbouring amenities, or highway safety than the original mobile home and use of the site. As such it is recommended that the application be granted permission.

4.0 **RECOMMENDATION OF SOUTHERN AREA PLANNING COMMITTEE**

4.1 **REFUSED for the following reasons:**

1. The development is considered to constitute a new dwelling in the countryside for which there is no overriding need. The development is therefore considered to be contrary to PPS7 – Sustainable Development in Rural Areas, Circular 01/2006 – Planning for Gypsy & Traveller Caravan Sites, and Test Valley Borough Local Plan (June 2006) policies SET03 and ESN13.
2. The development, by virtue of its size, materials, construction and finish, is considered to be visually intrusive in the local area. The development is therefore considered to be contrary to Test Valley Borough Local Plan (June 2006) policies DES01, DES06 and DES07.

5.0 **RECOMMENDATION OF HEAD OF PLANNING AND BUILDING SERVICES**

5.1 **PERMISSION subject to:**

1. This permission does not authorise use of the land as a caravan site by any other persons other than gypsies, as defined in paragraph 15 of Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites (or any order, circular or guidance revoking or re-enacting that Circular).

Reason: To ensure that the site will meet some of the identified need for such uses in the borough in accordance with Partial Review of The Regional Spatial Strategy for the South East Policy H7 and Test Valley Borough Local Plan (June 2006) policy ESN13

2. The occupation of the dwelling hereby approved shall be limited to a person or family who qualify for gypsy or traveller status, as defined in paragraph 15 of Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites (or any order, circular or guidance revoking or re-enacting that Circular) and to any resident dependants.

Reason: The site is an area where new dwelling units are not normally permitted except where there is an overriding need in the interests of the needs of the gypsy and traveller community in accordance Partial Review of The Regional Spatial Strategy for the South East Policy H7 and Test Valley Borough Local Plan (June 2006) policies SET03 and ESN13

3. No more than one touring caravan shall be stationed on the land at any time and no further caravans or mobile homes shall be introduced without the approval of the Local Planning Authority.

Reason: In the interests of the landscape, residential and visual amenities of the area in accordance with Test Valley Borough Local Plan (June 2006) policies SET03, DES01, AME01, and AME04

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order amending, revoking or re-enacting that Order), no development shall be carried out which falls within Classes A, B, C, E & F of Part 1 of Schedule 2 to the Order, without the prior written consent of the Local Planning Authority.

Reason: In order that the Local Planning Authority can exercise control in the locality to ensure the protection of the adjacent TPO trees in accordance with Test Valley Borough Local Plan 2006 policy DES08.

5. Within three months of the date of this decision space shall be laid out and provided for the parking of vehicles in accordance with the enclosed green hatched plan and this space shall thereafter be reserved for such purposes at all times.

Reason: In the interests of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05, TRA09, TRA02.

6. As a result of condition 5, the existing detached shed will need to be relocated elsewhere on the site in order to accommodate the required parking and access provision. Within one month of this decision, a plan identifying the proposed re-siting of the existing shed structure shall be submitted to and agreed in writing by the Local Planning Authority. The shed shall be positioned in its agreed location prior to the provision of the parking area.

Reason: To ensure that the existing shed does not prejudice the use of the access and required parking area and its re-siting is not more visually intrusive or cause damage to any on or off site trees that are to be retained in accordance with Test Valley Borough Local Plan (June 2006) Policies TRA02, TRA05, DES01 and DES08.

7. **Within three months of the date of this decision, at least the first 4.5 metres of the access track measured from the nearside edge of carriageway of the adjacent highway shall be surfaced in a non-migratory material and retained as such at all times.**
Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.
8. **The existing hedgerow marked X - X on the approved plan shall be retained and maintained at a minimum height of 2 metres and any plants which die within a five year period shall be replaced unless otherwise agreed in writing by the Local Planning Authority.**
Reason: To ensure maintenance of screening to the site and to protect the appearance and character of the area and in accordance with Test Valley Borough Local Plan 2006 policy DES01, DES02 and DES08.

Notes to applicant:

1. **The following Government Guidance and policies in the Development Plan are relevant to this decision: Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites; Circular 11/95 The Use of Planning Conditions in Planning Permission; PPS1 – Delivering Sustainable Development; PPS3 - Housing; PPS7 - Sustainable Development in Rural Areas; and PPS9 - Biodiversity and Geological Conservation. Partial Review of The Regional Spatial Strategy for the South East – Provision for Gypsies, Travellers & Travelling Showpeople, Policy H7 and Test Valley Borough Local Plan (June 2006) policies SET03 Development in the Countryside; SET12 (The Alteration or Extension of Existing Dwellings in the Countryside); ESN13 Sites for Gypsies & Travellers; TRA01 Travel Generating Development; TRA02 Parking Standards; TRA05 Safe Access; TRA08 Public Rights Of Way; TRA09 Impact on Highway Safety; DES01 Landscape Character; DES02 Settlement Character; DES05 Layout & Siting; DES06 Scale, Height & Massing; DES07 Appearance, Details & Materials; DES08 Trees & Hedgerows; DES10 New Landscaping; AME01 Privacy & Private Open Space; AME02 Daylight & Sunlight.**
 2. **The development hereby permitted shall be carried out and completed strictly in accordance with the submitted plans, specifications and written particulars for which permission is hereby granted or which are subsequently submitted to, and approved in writing by, the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.**
 3. **The decision to grant planning permission has been taken because the development is in accordance with the development plan and would have no significant impact on the character and appearance of the area or the residential amenities of the occupants of adjacent dwellings. This informative is only intended as a summary of the reason for the grant of planning permission. For further details on the decision please see the application report which is available from the Planning and Building Service.**
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APPENDIX D

Update Report to Planning Control Committee – 28 July 2011

APPLICATION NO.	11/00884/FULLS
SITE	Furb, Newtown Road, Newtown, LOCKERLEY
ITEM NO.	8
PAGE NO.	30 – 53

1.0 VIEWING PANEL

1.1 A viewing panel took place at the site on Monday 25th July 2011. It was attended by Councillors Mrs Whiteley; Mr Whiteley; Bailey; Hibberd; Anderdon; and Ward.

1.2 Councillors Lovell, Bundy, and Hope sent their apologies.

2.0 REPRESENTATIONS

- 2.1 A copy of an anonymous letter has been handed to the Council from a nearby resident
- It is claimed that the occupants are not of gypsy status and they both come from wealthy backgrounds.
 - Land was purchased for a small amount of money and it was said to be for pony grazing.
 - At the present time the work is still in progress.

3.0 PLANNING CONSIDERATIONS

3.1 The status of the family as gypsies has been addressed in the report of the agenda whereby the family is accepted as of gypsy origin and status by virtue of the family background. In the planning history it is noted that the gypsy status was established in 2004 by the County Gypsy Liaison Officer when the first application for the use of the land for a gypsy caravan was approved (ref. TVS. 10360). The report to SAPC in Appendix A covers the gypsy status in paras. 8.5 to 8.9.

3.2 The matter of the apparent intention on the use of the land for grazing has no bearing on the consideration of the current application since the material planning history authorises the continued use of the site for residential use by a gypsy family.

3.3 The factor of the continued building works and the retrospective nature of the application have been fully addressed in para. 2.10 of the agenda report to this committee and para. 8.16 of the SAPC report at Appendix A.
