

## **REPORT**

**REASON FOR REPORTING THE APPLICATION TO THE DEVELOPMENT CONTROL COMMITTEE:** A request has been received from Councillor Tim Ball for the application to be referred to the Committee in light of the level of public interest and the Chairman has agreed that the application should be determined by the Committee for this reason.

The application relates to a site which is located within the Bristol/Bath Green Belt and forms part of an SNCI. The application seeks planning permission for the use of the site for a Gypsy and Traveller use with associated works. The development is comprised of the formation of 12 pitches and a play area. Each pitch would accommodate a mobile home, touring caravan and a dayroom.

The area within the application site boundary is a shale tip which has been created from the former operation of the site for mining. The site is served by a vehicular access from Wick Lane which also provides access to the former colliery buildings adjacent to the western boundary of the application site. The site is located in the open countryside between Pensford and Stanton Wick and is currently undeveloped with vegetation growing across the site. Two of the former colliery buildings at the northern end of the former colliery site have been converted to residential dwellings. The Filers coach depot has also been established to the southern end of the former colliery site.

### **RELEVANT HISTORY:**

38125 - Erection of Lamp Room - PERMIT 13 April 1957

48345 - The use of buildings and yard at Pensford Colliery for the manufacturing of concrete products - PERMIT 19 October 1959

55864 - The Conversion of the Old Power House at Pensford Colliery for use in connection with the storage for agricultural fertilisers - PERMIT 30 December 1960.

55864/B - Continued use of the Old Power House at Pensford Colliery for the storage of agricultural fertilisers - PERMIT 20 January 1966.

55864/C - Continued use of the Old Power House at Pensford Colliery for the storage of agricultural fertilisers - PERMIT 03 February 1971.

98/02751/FUL - PERMIT - 9 October 1998 - Conversion of engine house to dwelling as amended by revised plans received on 28th September 1998.

99/02260/FUL - REFUSE - 10 December 2001 - Reclamation of spoil heap to form pasture land and erection of four loose boxes.

04/00129/RF - APPEAL WITHDRAWN - 1 September 2005 - Conversion of existing buildings to dwelling and ancillary residential buildings

04/00026/CLEU - INVALID WITHDRAWN - 25 October 2004 - Stationing of 1 no. caravan for residential purposes (Re-submission)

04/00509/FUL - REFUSE - 1 July 2004 - Conversion of existing buildings to dwelling and ancillary residential buildings

05/01513/FUL - WITHDRAWN - 24 June 2005 - Conversion of existing building to 1 dwelling and conversion of remaining buildings to ancillary residential accommodation.

05/02227/FUL - PERMIT - 9 August 2005 - Change of use from B2 site to provide one residential dwelling, ancillary residential accommodation, B1 floorspace and garaging for 5 vehicles.

06/00075/FUL - PERMIT - 20 April 2006 - Provision of new vehicular access

10/01429/FUL - REFUSED - 30 December 2010 - Change of use and conversion of ancillary accommodation (building 1) to a self-contained dwelling and variation of condition 7 of planning permission 05/02227/FUL.

10/03029/REN - PERMIT - 18 March 2011 - Renewal of application 05/02227/FUL (Change of use from B2 site to provide one residential dwelling, ancillary residential accommodation, B1 floor space and garaging for 5 vehicles.)

13/00125/FUL - WITHDRAWN - 1 May 2013 - Change of use of land from B2 to 12 pitches for Gypsy and Traveller use with associated works - 12 dayrooms, and hardstanding.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

### **CONSULTATIONS:**

Arboricultural Officer: No objection is raised to the application subject to two conditions to secure tree protection measures.

Archaeologist: No objection is raised to the application subject to two conditions to ensure features of architectural interest are examined and recorded.

Chelwood Parish Council: An objection is raised to the application as it is considered to present inappropriate development within the green belt and would be detrimental to highway safety.

Chew Magna Parish Council: An objection is raised to the application due to the appropriateness of the development and the potential for contamination on the site.

Children Services: A financial contribution of £13771.96 would be required for primary school places and £1600.80 for services for young people.

Coal Authority: The site falls on the edge of the Coal Mining Development Referral area and therefore no objection has been raised.

Contaminated Land Officer: An objection is raised to the application as insufficient information has been submitted to assess the potential impact from land contamination at the site.

Councillor Tim Ball: A request has been received for the application to be referred to the Development Control Committee.

Drainage Technician: An objection is raised to the application as it relates to a site over 1 hectare and is not supported by a flood risk assessment.

Ecologist: An objection is raised to the application as insufficient information has been submitted to assess the impact on the ecological interest of the site.

Environment Agency: An objection is raised to the application as it relates to a site over 1 hectare and is not supported by a flood risk assessment.

Highway Development: An objection is raised to the application to the unsustainable location of the development and the impact on highway safety.

Natural England: An objection is raised to the application as insufficient information has been submitted to assess the impact on the ecological interest of the site.

Publow and Pensford Parish Council: An objection is raised to the application on the basis of the appropriateness of the development within the green belt, sustainability, the impact on local communities, land contamination, suitability of the site, planning history and access to local services.

Stanton Drew Parish Council: An objection is raised to the application due to the planning history of the site, the inaccuracies in the application form and background documents, land contamination, land stability, ecology, highway safety, the appropriateness of the development within the green belt and sustainability.

**REPRESENTATIONS:** A total of 295 representations have been received with 290 in objection and 5 making general comments. The following issues have been raised within these representations:

Affordable Housing: There is a lack of affordable housing in the area for existing residents which should be prioritised over this type of development.

Anti-social Behaviour / Vandalism: There are insufficient facilities to occupy children in their spare time. The proposal may lead to increased levels vandalism and anti-social behaviour.

Arboriculture: The trees which have been removed from the site were protected by TPO.

Archaeology: The site is of potential archaeological significance.

(Repeated later)

Consultations: Inadequate consultations have been carried out to assess the proposal.

Costs: The application has resulted in a substantial financial burden at the expense of the taxpayer. Future management of the site would incur further costs.

Drainage / Utilities: The site is not served by a drainage system or utilities to accommodate the proposed use. Drainage from the site could contaminate Salter's Brook.

Ecology: The site provides a habitat for nationally and locally important species which would be adversely affected by the proposal.

Education: There is inadequate provision within local schools to accommodate the development.

Employment: There are insufficient employment opportunities in the area for future occupiers of the site.

Flood Risk: The application is not supported by a flood risk assessment.

Green Belt: The proposal is deemed to constitute an inappropriate form of development within the green belt which would be harmful to openness and no very special circumstances have been demonstrated. The site is not previously developed land.

Highway Safety: The intensification of the use of the access serving the site and the increased volume of traffic on the local road network would have an adverse impact on highway safety.

Inaccuracies: The application incorrectly refers to the B2 use of the site. The details set out the application form are inaccurate. The background documents refer to the B2 use of the site and have not been commissioned specifically for this application. The red line boundary does not include the entire site layout.

Intensification: The pitches are oversized. The site would be more valuable with a greater number of pitches and it would not be possible to prevent intensification in the future.

Land Contamination: The previous use of the site will mean that the area is unsafe and unsuitable for Gypsy and Traveller occupation.

Local Community: The settlements in the area are not of sufficient scale to support the increase in population which would be created by the development. The proposal would overwhelm local communities.

Local Opposition: There is strong local opposition to the proposal.

Planning History: Planning permission has previously been refused for other forms development on this and adjacent sites.

Plan-making Process: The allocation of Gypsy and Traveller sites, in addition to changes to the extent of the green belt, should be undertaken through the plan-making process, not by a planning application. The site has previously been assessed under the DPD process and was considered to be unsuitable. Other sites would be more suitable.

Planning Policy: The proposal is contrary to national and local policies relating to Gypsy and Traveller Sites.

Procedure: The representations for the previous application should be transferred to this application. The applicant should not be entitled for a resubmission without paying another fee. The process of assessing the application is not transparent.

Public Consultation: The applicant has not undertaken public consultation prior to the submission of the application.

Residential Amenity: The increased numbers of people will cause increased levels of disturbance for residents in the area. The proposal would result in increased level of disturbance, a loss of privacy and a loss of a view for occupiers adjacent to the site.

Sustainability: The site is located in an isolation position with inadequate access to public transport, medical centres and other local services and would not be readily accessible by foot.

Unstable Land: The previous use of the site has created unstable land which has rendered the site unsafe for development.

Visual Impact: The proposal would have a harmful impact on the visual amenity of the surrounding landscape and is located in close proximity to the Pensford Conservation Area and Stanton Drew Stone Circles. The existing buildings are an important feature which should be protected.

NB: The consultation period for this application extends until 26 July 2013 and any further responses will be reported to the Committee as an update.

## **POLICIES/LEGISLATION**

### **LOCAL POLICY:**

Bath & North East Somerset Local Plan including minerals and waste policies  
- adopted October 2007

D.2: General design and public realm considerations  
D.4: Townscape considerations  
BH.6: Development within Conservation Areas  
GB.1: Control of development within the Green Belt  
GB.2: Visual amenities of the Green Belt  
HG.16: Gypsy and Traveller Sites  
ES.4: Adequacy of water supply  
ES.5: Foul and surface water drainage  
ES.14: Unstable land  
ES.15: Contaminated Land  
NE.1: Landscape character  
NE.4: Trees and woodland conservation  
NE.9: Locally important wildlife sites  
NE.10: Nationally important species and habitats  
NE.11: Locally important species and habitats  
NE.12: Natural features: retention, new provision and management  
BH.6: Development within or affecting Conservation Areas  
T.1: Overarching access policy  
T.24: General development control and access policy  
T.26: On-site parking and servicing provision

Bath & North East Somerset Draft Core Strategy December 2010

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework.

Gypsies, Travellers and Travelling Showpeople Site Allocations Development Plan Document (DPD).

**NATIONAL POLICY:**

National Planning Policy Framework (NPPF) - March 2012

Policy Paper - Planning policy for traveller sites (PPfTS) - 2012

Written Ministerial Statement by Local Government Minister Brandon Lewis  
Originally given at House of Commons - July 2013

## **OFFICER ASSESSMENT**

**INTRODUCTION:** The primary issues to consider when determining this application are the allocation of Gypsy and Traveller sites in Bath and North East Somerset, the appropriateness of the development within the green belt, the visual impact of the development, the sustainability of the location of the

site, highway safety, residential amenity, the ecological interest of the site and land contamination. The application is a resubmission of application 13/00125/FUL which was withdrawn following advice from officers in relation to the accuracy of the submitted plans.

**PLANNING POLICY:** The application should be considered in relation to the requirements of policy HG.16 of the Local Plan. This policy confirms that Gypsy and Travellers will be permitted outside the scope of policies GDS.1, HG.4 and HG.6 providing the following criteria are met:

- i) the site has good access to local services, facilities and public transport;
- ii) it has safe and convenient access to the road network;
- iii) it is capable of being landscaped to ensure that it blends in with its surroundings;
- iv) adequate services including foul and surface water drainage and waste disposal can be provided;
- v) there would be no harmful impact on the amenities of local residents by reason of noise or fumes

These criteria are addressed in the assessment set out below. Policy CP11 of the draft Core Strategy is also a material consideration however this policy cannot be given full weight as it is not yet part of the statutory Development Plan.

**SITE ALLOCATION:** The Council is progressing a site allocations DPD to specifically allocate land to meet the local need for Gypsies, Travellers and Showpeople. This will form a constituent part of the Local Development Framework (LDF) sitting alongside the Core Strategy once completed. There are currently no allocated sites within Bath and North East Somerset. The DPD is timetabled for adoption by winter 2014 and there have been two stages of public consultation undertaken within this process so far. The second stage of consultation (Preferred Options) focused on 6 sites which included the application site (reference GT.2) which was considered for a maximum of 15 permanent pitches and 5 traveller sites. It should be noted however that the area of the site within the Preferred Options consultation included both the shale tip and former colliery buildings whereas the current application relates solely to the shale tip. The Council's Cabinet resolved that this site should be removed from further consideration under the DPD process on the basis of evidence presented at the meeting of 12 September 2012. The areas of concern which were highlighted in relation to this site were highway safety, the impact on the ecological interest of the site and the conclusions of a viability assessment which indicated that the costs of implementing the development would be prohibitive to it being brought forward. Since this time the Council has reviewed the work on the DPD and an update report was presented to Cabinet on 12 June 2013. The refreshed GTAA 2012 identifies an on-going need for 24 permanent traveller pitches between 2012 and 2017. The sites identified within the preferred options public consultation document which remain under consideration could provide a total of 22 permanent pitches. An additional 29 sites have also been put forward within the DPD process, as reported at the Cabinet meeting on 12 June 2013.

GREEN BELT: The proposal must be considered in the context of the presumption against inappropriate development within the green belt. Policy E of the PPfTS confirms that traveller sites constitute an inappropriate form of development within the green belt. Although there is a general provision for the redevelopment of previously developed land within the green belt this is not deemed to be applicable in this instance. The glossary to the NPPF includes a definition of previously developed land which confirms that '...land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures...' is excluded from this definition. In this case the question arises as to whether the shale tip of the former colliery yard is previously developed land as the former colliery buildings are not included within the application site boundary. Planning permission was granted in 1959 (ref 48345) for the use of the former colliery buildings for the purposes of concrete manufacturing. The file documents for this planning permission indicate that the Local Planning Authority engaged in consultation with the applicant when determining this application to establish landscaping measures for the shale tip area. The definition in the NPPF specifically excludes sites developed for minerals extraction where such restoration provision has been secured. It is recommended therefore that the site should not be considered as previously developed land.

Notwithstanding the above assessment in relation to the definition of previously developed land, paragraph 89 of the NPPF specifies that this exception to the presumption against development within the green belt can only be applied where a development does not conflict with the purposes of including land within the green belt or have a materially greater impact on openness. In this case the proposal would result in the development of a site which is isolated from established settlements which would be contrary to the purpose of preventing encroachment into the open countryside. The site currently provides an area of pleasant open space to the rear of the former colliery yard buildings which slopes up in stages to the east boundary of the site. The formation of the twelve pitches with temporary and permanent structures would erode the openness of this area and would substantially change the character to a residential use. Although the level of development would be consistent with the 2008 good practice guidance, the proposed layout of the pitches would extend up to each boundary of the application site which would emphasise the density of development being proposed. The associated paraphernalia which would result from this use would also have a significant impact on the openness of the green belt.

For the reasons set out above it is considered that the proposal constitutes an inappropriate form of development which would conflict with the purposes of the green belt and would have detrimental impact on openness. In order to justify the development therefore, very special circumstances would need to be demonstrated which would serve to outweigh the harm caused to the green belt. This assessment can only take place once all of the areas of benefit and harm are considered in the round.

**SUSTAINABILITY:** The Council's Highway Development Officer has recommended that the application should be resisted on the basis of the unsustainable location of the site. The former colliery site is located on Wick Lane approximately equidistant between Pensford and Stanton Wick. It would be necessary to walk just under a mile to the centre of either settlement on a section of highway with no footways and with poor visibility. Furthermore, these settlements provide only limited services and it should be noted that Stanton Wick is not defined by a housing development boundary. It has been highlighted in the representations received in relation to this application that the nearest doctors' surgery is located in Chew Magna and the local facilities in the area would not be able to cope with the additional demand brought by the development. Whilst these comments are noted, it is the separation from the village centre of Pensford which is of primary concern in this case.

This is a comparatively small village which is designated as R.3 under policy SC.1 of the Local Plan and is washed over by the green belt however further limited residential development could be supported within the housing development boundary on the basis of current planning policies. The application site does not have satisfactory access to this or any other settlement and consequently the future occupiers of the site are likely to be reliant on private car journeys in order to meet their day-to-day needs. The ability to access local services and public transport by foot is a key objective of sustainable development which is reflected in policies HG.16 and T.1 of the Local Plan.

**LOCAL COMMUNITY:** Concern has been raised by local residents that the scale of the development would have an adverse impact on the adjacent settlements of Pensford and Stanton Wick. In particular it is suggested that local services could not meet the demand from the development and that the number of residents would overwhelm the existing communities. Paragraph 23 of PPfTS 2012 states the following:

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 an undue pressure on the local infrastructure.

The current proposal would provide 12 pitches with the total number of occupiers being derived from the makeup of individuals within each group/family. It should be noted that the total number of residents could not be controlled by a condition attached to a planning permission however the number of caravans and day rooms would be enforceable and could be controlled in this way. Although it is not possible therefore to state precisely how many people would occupy the site, any future expansion of the level of accommodation would require a further planning permission. Whilst the comments which have been submitted are noted, there is not considered to be sufficient justification to warrant a further reason for refusal based on the impact on local communities. The fact that the site is not adequately

connected to either Pensford or Stanton Wick has generated concern that the future occupiers of the site would be reliant on private car journeys. It is recognised that the adjacent settlements are relatively small scale however it is anticipated that, because the site would be remotely located from these settlements, future occupiers would access services across a wider area. The effect of the additional population created by the development is unlikely therefore to be directed to a single community or settlement. The Council's Children Services Department have requested a financial contribution for school places if planning permission is granted. This would ensure that no undue pressure is placed on schools in the area.

**RESIDENTIAL AMENITY:** The application site is bounded by the curtilage of a residential property to the east (The Winding House) and there is a further dwelling located to the opposite side of Wick Lane (The Bath House). Both of these properties have been created through the conversion of former colliery buildings. Pitch 2 would be located in the closest proximity to The Winding House with the mobile home being sited approximately 10m from the boundary and 50m from the rear elevation. This level of separation is considered to be sufficient to prevent an unacceptable loss of privacy for the occupiers of this property.

The development is not proposed to incorporate any commercial activities on the site and the level of noise or other disturbance generated by the development would be limited to that associated with the residential use. It is noted that the remaining former colliery buildings could be reoccupied for a general industrial use which would cause a substantial level of disturbance for the adjacent residential occupiers. The Filers coach depot to the south of these properties will also cause a degree of disturbance through the movements of large vehicles. Although the proposal would inevitably change the character of the area through the introduction of a residential use on an undeveloped piece of land, this is not considered to present sufficient harm to residential amenity to warrant a further reason for refusal. This development would change the outlook from the adjacent properties however there is no provision within the planning system to resist development on the basis of the loss of a view.

Concern has also been raised in relation to the impact on the wider area and the potential for anti-social behaviour and vandalism. There is no evidence submitted to support the view that this type of development would lead to these problems arising. The effect on the wider area is deemed to be limited.

**HIGHWAY SAFETY:** The Council's Highway Development Officer has also raised concern in relation to the impact of the development on highway safety. The development is proposed to be served by the existing access from Wick Lane. The primary areas of concern are the restricted level of visibility from the access and the impact on the highway network in the vicinity of the site.

The reference within the Transport Statement to the fall back position of the former colliery yard buildings being brought back into a B2 use has been highlighted within the representations. It is understood that the concrete works

ceased operating from the site in 2003. These buildings are excluded from the application site boundary and the implementation of this proposal would not prevent these buildings from being reoccupied for a general industrial use. The application should therefore be assessed on the basis that the proposed Gypsy and Traveller use and a general industrial use could both generate vehicular movements using this access if planning permission is granted.

The Council's Highway Development Team provided pre-application advice in relation to this proposal and had recommended the following mitigation measures:

1. The site access will need to be laid out in a similar and with similar dimension as the adjacent coach depot.
2. A visibility splay in accordance with current standards will need to be provided to ensure appropriate visibility to the north for emerging vehicles.
3. The Traffic Regulation Order (TRO) which enforces a vehicle width restriction north of the coach depot access will need to be amended to move it further north to a point north of the proposed site access. If this were not done any large vehicle leaving the site could turn right because they had legitimate access to premises within the restricted length of the lane.
4. The potential to make visibility improvements for vehicles emerging from Stanton Wick Lane onto A368 should be investigated.
5. The potential to provide additional passing places in Stanton Wick Lane and Wick Lane should be investigated.

The intensification of the use of the access is a primary concern due to the restricted visibility for vehicles emerging from the site onto Wick Lane. The suggested visibility splays could improve this situation however this is not proposed under the current application and it has not been demonstrated that the applicant has control of sufficient land to secure such splays. In terms of the surrounding highway network, the improvements to the level of visibility and the incorporation of passing places does not appear to have been pursued and is not set out within the submission. The TRO is also not included within the submission however this could be secured by way of a section 106 legal agreement to ensure that no development is commenced until the TRO is in place. In the absence of the suggested mitigation measures being implemented it is recommended that the proposal would have an adverse impact on highway safety contrary to policy T.24.

**ECOLOGY:** The Council's Ecologist and Natural England have raised an objection to the application on the basis of the lack of information to demonstrate the impact of the development on the ecological interest of the site. The site forms part of the Pensford Complex Site of Nature Conservation Interest (SNCI) and supports a range of habitats of ecological value and botanical interest. The site is also likely to be used by a range of species which are protected by European and National Legislation including, Greater Horseshoe and Lesser Horseshoe bats, other bat species, Barn Owls, Little Ringed Plovers and Badgers. The Council's Ecologist has noted that the ecological report which has been submitted was produced (commissioned by B&NES) for the purpose of a general assessment of the potential suitability of

the site for use as a gypsy and traveller site. This report does not assess the potential ecological impacts of this proposal and is not suitable to use for the purpose of ecological survey and assessment for this planning application. Furthermore, the details of the proposal do not appear to have been designed in response to the findings of the submitted ecological report nor its recommendations and conclusions. The proposed development and layout would cause unacceptable harm to the ecological value of the site and the SNCI. No mitigation measures have been incorporated into the scheme.

In order to address these concerns surveys would need to be undertaken to assess the impact of the development on habitats and species in order to establish whether the proposals are acceptable and whether any mitigation measures are required. In the absence of this information the application is contrary to policies NE9, NE10, NE11, and NE12.

**CONTAMINATED LAND:** The former use of the site as a colliery yard has generated concern in relation to the potential for sources of land contamination. The application has been submitted with a Contamination Liability Report and a Preliminary Land Quality Risk Assessment however these documents have not been specifically prepared for the purposes of this development. The Council's Contaminated Land Officer has concluded that these documents do not provide sufficient information to assess the potential impact of land contamination issues. No further information has been submitted at this stage and therefore the application is contrary to policy ES.15.

**LAND STABILITY:** The Coal Authority have confirmed that the site falls outside of the Coal Mining Development Referral Area and therefore no objection has been raised to the proposed development. It remains however the development would be located on a shale tip which is in parts formed with sheer edges which are not supported and are vulnerable to land slippage. The proposed layout of the site extends to the boundaries of the shale tip and there is considered to be the potential for health and safety issues to arise if the development is brought forward. No details have been provided with the application to assess the potential dangers from land instability. Policy ES.14 confirms that where there is a risk of land instability it must be demonstrated that the site is capable of development without adversely affecting stability within the site or on adjacent land and, if necessary, that mitigation measures would not be harmful to local amenities of environmental interests. The preamble to this policy confirms that the onus is on the developer to investigate and address this issue. In the absence of any information to assess land stability the proposal is considered to be contrary to policy ES.14 and the NPPF.

**FLOOD RISK:** An objection has been raised by the Environment Agency and the Council's Drainage Technician in relation to the assessment of the potential impact of flooding. The site falls within Flood Zone 1 where there is generally a low risk of flooding however a flood risk assessment is required as the area of the site is larger than 1 hectare. The application refers to the need for a flood risk assessment which is to be submitted in due course. No further

details have been submitted within the application process. In the absence of any information to assess flood risk the proposal is considered to be contrary to policy NE.14.

**CONSERVATION:** A numbers of concerns have been raised in relation to the wider visual impact of the development on the Pensford Conservation Area and the Stanton Drew Stone Circles. The setting of these heritage assets is secured under planning policy however the site is deemed to be sufficiently separated from these areas to prevent any adverse impact.

**LANDSCAPE IMPACT:** The proposed development would have a substantial impact on the character of the surrounding landscape. Although the site benefits from a degree of screening provided by the vegetation to the boundaries in addition to the former colliery yard buildings adjacent to the highway, the development would remain visible from public view points. There are long range views to the site from the A37 to the east and the development would also be visible in the immediate vicinity of the site from the public footpath located to the boundary of the Winding House. The topography of the site rises up towards the east and it would not be possible to completely screen the development without high level boundary treatments which would be out of character in this context. The open aspect to the rear of the former colliery buildings would be entirely lost as a result of the proposed formation of pitches which would extend to the boundaries of the site. The proposal is therefore considered to be harmful to the character of the landscape contrary to policy NE.1.

**BENEFITS OF THE PROPOSAL:** The proposed development would provide significant benefits in terms of the delivery of traveller sites. In this case B&NES has a lack of authorised pitches to meet the identified need for 24 pitches as set out in the GTAA. The provision of a site with 12 pitches would therefore go some way to meeting an unmet housing need. There are however no details within the submission which identify that the site is needed to accommodate a particular group of Gypsies and Travellers. The site is currently unoccupied and consequently the determination of this application will not directly affect the human rights or personal circumstances of any particular individual(s).

**VERY SPECIAL CIRCUMSTANCES:** The application is supported by a Design and Access Statement and Cover Letter which set out the rationale for the development with reference to the assessment undertaken within the DPD process in addition to national level policy guidance. These documents do not explicitly state whether there are contended to be any very special circumstances associated with the development however the following issues are relevant to this assessment.

Policy H of the PPfTS states that '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 this planning policy for traveller sites.' As noted above,

there are currently no allocated sites within Bath and North east Somerset and the evidence included within the GTAA indicates that 24 permanent pitches are required between 2012 and 2017. The Written Ministerial Statement by Local Government Minister, Brandon Lewis which was published in July this year, subsequent to the application being registered, provides confirmation in relation to the weight to be attached to the supply of deliverable sites when considering whether very special circumstances exist. This statement was issued in response to a number of decisions which had been taken by local planning authorities and the Planning Inspectorate where ministers' had considered that the protection of the green belt had not be given sufficient weight. The following extract is taken from this statement.

'The Secretary of State wishes to make clear that, in considering planning applications, although each case will depend on its facts, he considers that the single issue of unmet demand, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the 'very special circumstances' justifying inappropriate development in the green belt'.

This statement prescribes a clear direction to the interpretation of planning policy in this area. It is recommended in this case that the current lack of allocated sites in Bath and North East Somerset cannot be relied upon, in isolation, to establish very special circumstances associated with the development. Moreover, the possibility of allocating sites within the green belt through the DPD process does not support the case to approve such developments through the determination of a planning application. Paragraph 15 of the PPfTS provides the relevant guidance on this issue:

'Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan-making process and not in response to a planning application'.

The Design and Access Statement refers to the characteristics of the site and the suitability for this Gypsy and Traveller use. The proposed development would however constitute an inappropriate form of development which would conflict with the purpose of safeguarding the countryside from encroachment and would be harmful to openness and the character of the surrounding landscape. Furthermore, the site is an unsustainable location for this type of development. Insufficient information has been submitted to demonstrate the potential harm from land contamination, land instability and flood risk or the impact on the ecological interest of the site. The benefits which have been identified in relation to this scheme would not clearly outweigh these areas of harm and therefore very special circumstances do not exist in this case.

OTHER ISSUES:

**ACCURACY OF SUBMISSION:** A number of concerns have been raised within the consultation period in relation to the procedure for the assessment of the application. It is understandable that local residents are concerned about the accuracy of the details within the submission and the agent has been notified of these issues. A revised site location plan has been received to reflect the proposed layout of the site and the site area on the application form has been amended. The agent has agreed that the description of the proposal should be changed to omit the reference to the B2 use and the application has been re-advertised on this basis. Whilst there remains aspects of the application form and background documents which refer to the B2 use, the application can be determined on the basis of the submitted drawings. In light of the in principle objection to the development it was not considered to be expedient to request the submission of revised background documents which do not refer to a B2 use as this would have put the applicant to further unnecessary costs.

**CONCLUSION:** For the reasons set out above the proposal is considered to be unacceptable and is recommended for refusal.

## **RECOMMENDATION**

REFUSE

## **REASON(S) FOR REFUSAL**

1 The proposed Gypsy and Traveller site would constitute an inappropriate form of development within the green belt which would conflict with the purpose of safeguarding the open countryside from encroachment and would be detrimental to the openness of the green belt and the character of the area. No very special circumstances have been demonstrated which would serve to clearly outweigh the harm to the green belt and other areas of identified harm and therefore the proposal is contrary to policies GB.1, GB.2 and NE.1 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007 and the guidance within Planning Policy for Traveller Sites 2012 and the National Planning Policy Framework 2012.

2 The proposed Gypsy and Traveller site, by reason of the unsustainable location of the site which is remote from local services and public transport, would lead to future occupiers of the site being dependent on private car journeys contrary to policies HG.16 and T.1 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007 and the guidance within the National Planning Policy Framework 2012.

3 The proposed Gypsy and Traveller site, by reason of the intensification of the use of an access with substandard visibility and the increased number of vehicular movements on a section of the highway with restricted width carriageways and substandard visibility, would have an adverse impact on highway safety contrary to policy T.24 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

4 Insufficient information has been submitted to demonstrate that the proposal would not have an adverse impact on the ecological interest of the site contrary to policies NE9, NE.10, NE.11 and NE.12 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

5 Insufficient information has been submitted to demonstrate that the proposed development would not be adversely affected by potential sources of land contamination on the site contrary to policy ES.15 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

6 Insufficient information has been submitted to demonstrate that the proposed development and adjacent sites would not be adversely affected by the potential dangers from land instability contrary to policy ES.14 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

7 Insufficient information has been submitted to demonstrate that the proposed development would not be adversely affected by flood risk contrary to the guidance within the National Planning Policy Framework 2012.

**PLANS LIST:**

1 1271/01, 1271/02a, 1271/03, 1271/04, 1271/05, 1271/06 received 08 May 2013.

1271/SP received 02 July 2013.