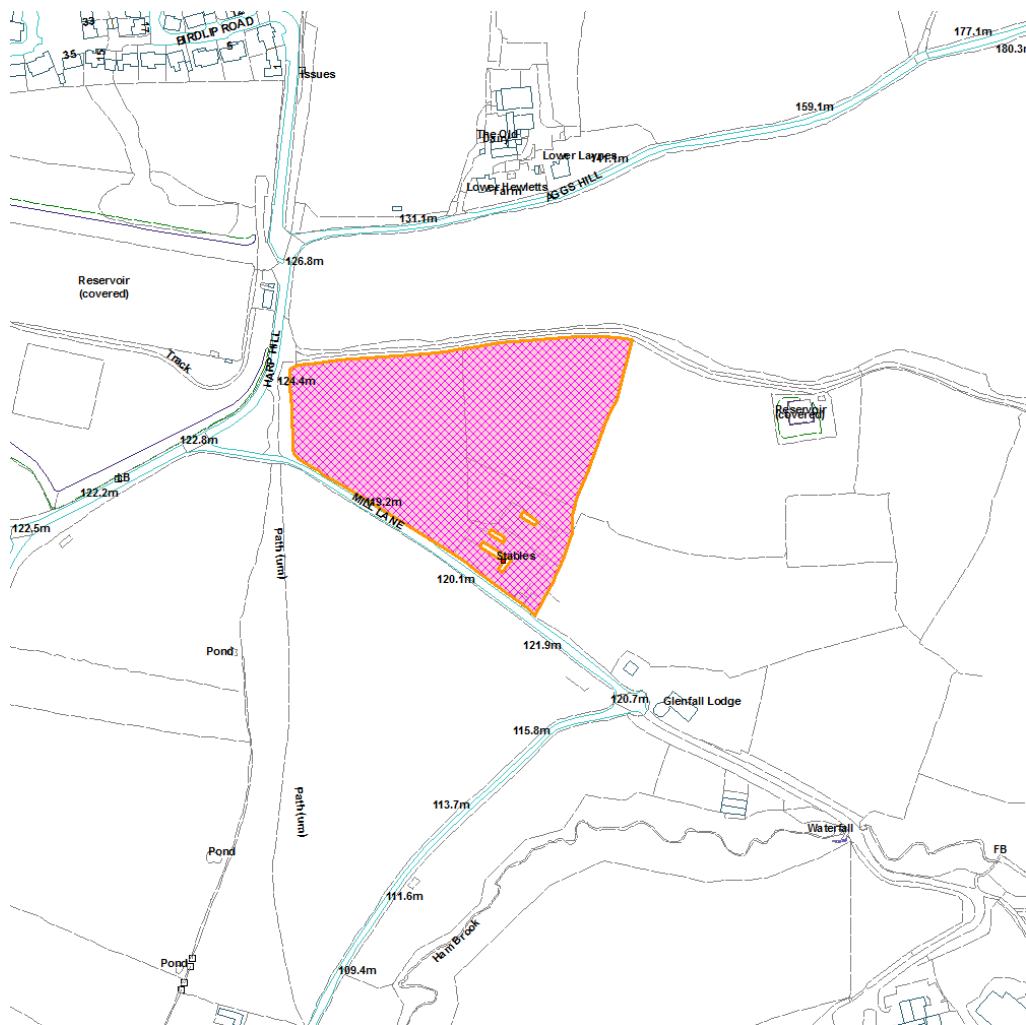


APPLICATION NO: 22/01935/FUL		OFFICER: Michelle Payne
DATE REGISTERED: 1st November 2022		DATE OF EXPIRY: 27th December 2022 (extension of time agreed until 26th April 2024)
DATE VALIDATED: 1st November 2022		DATE OF SITE VISIT:
WARD: Battledown		PARISH: Charlton Kings
APPLICANT:	Ms J Cox	
AGENT:	Heine Planning Consultancy	
LOCATION:	Castle Dream Stud Mill Lane Charlton Kings	
PROPOSAL:	Material change in use of land for mixed use for the keeping of horses with stables and the stationing of caravans for residential use with associated development (hard standing, utility block, dog run, fencing and gates) (retrospective)	

RECOMMENDATION: Permit subject to conditions



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located to the north east side of Mill Lane, and the junction with Harp Hill. The site lies within the Cotswolds National Landscape (former AONB) and outside of the Principal Urban Area (PUA) of Cheltenham.
- 1.2 Planning permission (ref. 17/00129/FUL) was granted in 2017 for the “*Change of use of land for the permanent residential occupation by a traveller family, provision of day room, retention of hardstanding, access, fencing, stables and use of associated land for keeping of horses*” in April 2017. The permission was granted by the planning committee on a temporary 5 year basis, and subject to the following conditions:

- 1 *The occupation of the site hereby permitted shall be carried on only by Mrs Cox and any dependant relatives. The use shall cease on or before 21st April 2022.*

When the land ceases to be occupied by the above named person(s) the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto or erected on the land, or works undertaken in connection with the use shall be removed and the land should be restored to its condition before the use took place.

Reason: A personal temporary permission is given only to meet the specific needs of the applicant in accordance with the National Planning Policy Framework, Planning Policy for Traveller Sites and Circular 11/95. To grant a permanent consent would result in long term harm to the AONB, contrary to policy CO2 of the Local Plan and the provisions of the NPPF.

- 2 *No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968, shall be stationed on the site at any time (1 static caravan and 1 tourer).*

Reason: In order to control the amount of structures and equipment on the land in order to avoid adverse impact on the AONB, in accordance with policy CO2 of the Local Plan.

- 3 *The stable buildings and associated land hereby permitted shall not be used for any other purposes than agriculture, the private stabling, keeping and exercise of horses, the use of the site as a stud and other non-commercial equine uses. No other commercial activities, including livery, shall take place on the land, including the storage of materials, other than those ancillary to the uses listed above.*

Reason: This is the basis upon which permission is sought and the Local Planning Authority wishes to have the opportunity of exercising control over any subsequent use in accordance with the National Planning Policy Framework, Planning Policy for Traveller Sites and Circular 11/95.

- 4 *No more than one commercial vehicle shall be kept on the land for use by the occupiers of the caravans hereby permitted and shall not exceed 7.5 tonnes in weight.*

Reason: The parking of large vehicles would detract from the amenity of the area and therefore should be limited, in accordance with the National Planning Policy Framework, Planning Policy for Traveller Sites and Circular 11/95.

- 5 *Prior to the erection of the day room hereby permitted details relating to siting and the materials to be used in the construction of the external surfaces of the building shall be submitted to and approved in writing by the local planning authority. The building shall be constructed in accordance with the approved details.*

Reason: To ensure the building has an acceptable appearance and impact upon the AONB, in accordance with policy CO2 of the Local Plan.

- 1.3 The above-referenced 2017 permission was granted following the previous grant of two earlier temporary 3 year permissions (ref. 10/01839/COU and 13/01459/COU); the 2010 application being allowed on appeal in September 2011.
- 1.4 This application is now seeking a material change in use of the land for the keeping of horses with stables and the stationing of caravans for residential use (two mobile homes and a touring caravan) with associated development (hard standing (including storage of 1-2 touring caravans for travelling), utility block, dog run, fencing and gates) on a permanent basis. The application is retrospective; the most recent permission having expired in 2022.
- 1.5 For the avoidance of doubt, the two stable blocks already benefit from planning permission on a permanent basis.
- 1.6 The application is before the planning committee due to an objection from the Parish Council. The Parish Council's main concern relates to the impact of the proposals on the AONB, being out-of-keeping and visually intrusive; their full response can be found in the appendix at the end of the report. The application was also called to committee by former councillor Matt Babbage.
- 1.7 Members will visit the site on planning view.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Cotswolds National Landscape

Relevant Planning History:

10/01839/COU

REFUSED

10th February 2011

Change of use from agricultural to residential occupation by a gypsy family with the stationing of two caravans and erection of an ancillary "day room" building and construction of new access, hardstanding and associated landscaping. Retention of stable building for the purpose of keeping horses *ALLOWED ON APPEAL*

12/00271/CLPUD

CERTIFICATE ISSUED

29th March 2012

Vehicular access and permeable hardstanding

13/01459/COU

PERMIT

6th August 2014

Change of use of land for the permanent residential occupation by a traveller family, retention of day room, hardstanding, access, fencing, stables and use of associated land for keeping of horses

17/00129/FUL

PERMIT

26th April 2017

Change of use of land for the permanent residential occupation by a traveller family, provision of day room, retention of hardstanding, access, fencing, stables and use of associated land for keeping of horses

3. POLICIES AND GUIDANCE

National Planning Policy Framework 2023 (NPPF)

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 8 Promoting healthy and safe communities

Section 9 Promoting sustainable transport

Section 11 Making effective use of land

Section 12 Achieving well-designed places
Section 14 Meeting the challenge of climate change, flooding and coastal change
Section 15 Conserving and enhancing the natural environment

Adopted Cheltenham Plan 2020 (CP) Policies

D1 Design
GI2 Protection and replacement of trees
GI3 Trees and Development

Adopted Joint Core Strategy 2017 (JCS) Policies

SD3 Sustainable Design and Construction
SD4 Design Requirements
SD6 Landscape
SD7 The Cotswolds Area of Outstanding Natural Beauty
SD9 Biodiversity and Geodiversity
SD10 Residential Development
SD11 Housing Mix and Standards
SD13 Gypsies, Travellers and Travelling Showpeople
SD14 Health and Environmental Quality
INF1 Transport Network
INF2 Flood Risk Management

Supplementary Planning Guidance/Documents

Cotswolds National Landscape Management Plan (2023 – 2025)
Planning Policy for Traveller Sites (2015)

4. CONSULTATION RESPONSES

See appendix at end of report

5. PUBLICITY AND REPRESENTATIONS

- 5.1 Letters of notification were sent to 62 nearby properties on receipt of the application, and a site notice was posted in proximity to the site.
- 5.2 An additional round of consultation was carried out on receipt of revised plans.
- 5.3 In response to the publicity, 18 representations have been received in objection to the proposal. The representations have been circulated in full to Members but the main concerns/comments are summarised below:
 - The granting of a permanent permission
 - Horses not a permanent feature on the site
 - A permanent permission would allow for more caravans on the site
 - Septic tank is smelly and has overflowed in the past
 - Site is being overdeveloped
 - Light pollution
 - Site entrance is out-of-keeping
 - Parking issues
 - Permission will set a precedent
 - Trees and hedging have been removed
 - Not appropriate development within the AONB
 - The term 'family' is open to broad interpretation
 - Another temporary permission should be granted
 - Additional access formed
 - Devaluation of surrounding properties

6. OFFICER COMMENTS

6.1 Determining issues

6.1.1 The key considerations in determining this application relate to the principle of development; landscape impact; neighbouring amenity; and highway matters.

6.2 Principle of development / policy context

6.2.1 Paragraph 60 of the NPPF highlights the importance of ensuring *“that a sufficient amount and variety of land can come forward where it is needed [and] that the needs of groups with specific housing requirements [including travellers] are addressed...”*.

6.2.2 Planning Policy for Traveller Sites (PPTS) sets out how travellers' housing needs should be assessed. In this regard, the Strategic Land Use Team (SLU) have been consulted on the application and their comments can be read in full in the attached appendix. SLU advise that a new Gypsy and Traveller Accommodation Assessment (GTAA) was undertaken in November 2022, which covers the period 2021-2041; the GTAA recommends that there is an accommodation need for 6 pitches within the 2021-26 period and a further accommodation need of 3 pitches within the period of 2026-41. The Council has a duty to meet this need.

6.2.3 SLU go on to note that two of the required pitches in the period 2021-26 could be provided through the grant of a permanent permission on this site. SLU also highlight that the GTAA recognises that there are no authorised Gypsy/Travellers sites within the borough, and therefore it would not be possible for the current occupiers of the site to move to other suitable accommodation within Cheltenham. Additionally, no other sites have been identified as being readily available for such land use through the Council's 2023 'Call for Sites' for Gypsy, Roma, Traveller & Travelling Showpeople. As such, there is no doubt that there is an established need which weighs heavily in favour of the application. Indeed, the most recent GTAA shows the need has increased.

6.2.4 In all cases, Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.

6.2.5 In Cheltenham, the development plan comprises saved policies of the Cheltenham Borough Local Plan Second Review 2006 (CBLP); adopted policies of the Cheltenham Plan 2020 (CP); and adopted policies of the Tewkesbury, Gloucester and Cheltenham Joint Core Strategy 2017 (JCS). Other material considerations include the NPPF, and Planning Practice Guidance (PPG).

6.2.6 In determining applications, NPPF paragraph 11 sets out a *“presumption in favour of sustainable development”* which means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.2.7 Adopted JCS policy SD13 states that:

Proposals for new permanent and temporary, residential and transit Gypsy, Traveller and Travelling Showpeople sites will be assessed against the following criteria:

i. Proposals on sites in areas of sensitive landscape will be considered in accordance with Policy SD6 (Landscape Policy) and Policy SD7 (The Cotswolds Area of Outstanding Natural Beauty). In all other locations the proposal must not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and should be sensitively designed to mitigate any impact on its surroundings.

ii. The site has safe and satisfactory vehicular and pedestrian access to the surrounding principal highway network.

iii. No significant barriers to development exist in terms of flooding, poor drainage, poor ground stability or proximity to other hazardous land or installation where other forms of housing would not be suitable.

iv. The site is situated in a suitable location in terms of access to local amenities, services and facilities, including schools, shops, health services, libraries and other community facilities.

v. The site can be properly serviced and is supplied with essential services, such as water, power, sewerage and drainage, and waste disposal. The site should also be large enough to enable vehicle movements, parking and servicing to take place, having regard to the number of pitches/plots on site, as well as enabling access for service and emergency vehicles, including circulation space along with residential amenity and play areas.

6.2.8 Therefore, in itself, there is no fundamental reason to suggest that the permanent residential occupation of this site by a gypsy or traveller family would be unacceptable in principle; the policy does not preclude permanent sites within the AONB.

6.2.9 The gypsy/traveller status of the applicant has been established through previous appeals and decisions, and that is not in dispute.

6.3 Design, layout and landscape impact

6.3.1 As previously identified, the application site is sensitively located within the Cotswolds National Landscape (former AONB) and therefore as per criteria (i) of JCS policy SD13, the application must be considered in accordance with adopted JCS policies SD6 and SD7.

6.3.2 Policy SD6 seeks to ensure that developments protect landscape character “for its own intrinsic beauty and for its benefit to economic, environmental and social well-being” and requires development proposals to have regard to the local distinctiveness and historic character of the landscape, and demonstrate how the development will protect or enhance landscape character and avoid detrimental effects.

6.3.3 Policy SD7 goes on to state that “All development proposals within the setting of the Cotswolds AONB will be required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities. Proposals will be required to be consistent with the policies set out in the Cotswolds AONB Management Plan.”

6.3.4 Additionally, NPPF paragraphs 180 and 182 require decisions on planning application to contribute to and enhance the natural and local environment, with 'great weight' to be given to conserving and enhancing landscape and scenic beauty in AONBs.

6.3.5 With reference to the above policy requirements, the concerns of the parish council and the objectors in relation to landscape harm have been duly noted, as have the comments of the Appeal Inspector in allowing the original temporary permission in 2011; the Inspector finding that the change of use of the land to a Gypsy and Traveller site would conflict with the primary purposes of conserving or enhancing the natural beauty of the AONB, albeit that the "*actual visual harm would be relatively limited*".

6.3.6 In this context, the Inspector considering a temporary personal permission to "*be appropriate and reasonable until such times as less harmful, alternative sites may be identified and brought forward through the JCS process.*" It can therefore be reasonably assumed that the Inspector initially granted a temporary permission on the basis that by the expiration of the temporary three year consent, there would have likely been a change of circumstances, and the Council would have identified alternative sites within the borough that would be available to the applicants; albeit, the JCS does not look to allocate specific sites but to assess sites against the criteria set out within JCS policy SD13 (refer to paragraph 6.2.7 above).

6.3.7 Furthermore, contrary to the views of the parish council and local objectors, the Cotswolds National Landscape Board (CNLB), having considered the applicant's submission and the previous planning history related to the site, on balance, raise no objection to the application. Their full and detailed comments on the proposal can be found in the appendix below.

6.3.8 That said, CNLB in their initial response did highlight the lack of information in relation to lighting; NPPF paragraph 191(c) setting out the need for planning decisions to ensure that development is appropriate to its location and limits "*the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation*". Planning Practice Guidance identifying 'Intrinsically dark landscapes' as those that are "*entirely, or largely, uninterrupted by artificial light*" (Paragraph: 001 Reference ID: 31-001-20191101). CNLB therefore recommended that, if minded to grant permission, the Council should seek additional detail to mitigate any adverse impact; limiting external lighting to low-level, down facing lights. In the board's revised response, they continue to raise no objection.

6.3.9 As such, officers are satisfied that only relatively limited harm to the AONB would be caused by the development. Although the wider site covers some 2.4 hectares, the buildings and caravans are relatively tightly grouped together and cover only a small portion of the site. Indeed, as previously noted, the Inspector in the 2010 appeal decision found that the actual visual harm was relatively limited. However, whilst limited, this harm should be afforded moderate weight.

6.3.10 Details of all external lighting to be installed/retained can be suitably secured by condition.

6.4 Access and highway safety

6.4.1 Criterion (ii) and (iv) of JCS policy SD13 require the site to have a safe and satisfactory vehicular and pedestrian access, and be suitably located in terms of access to local amenities.

6.4.2 The site is considered to have a safe and suitable access, and officer report to committee in 2017 confirmed that the Highways Officer at that time raised no objection in terms of highway safety. The entrance gates are set back sufficiently far back from the highway to allow for vehicles to pull off the lane to avoid any obstruction of the highway.

6.4.3 Notwithstanding the above, officers acknowledge that the site is not well served in terms of access to local amenities, and that occupiers will likely be reliant on the use of a motor vehicle; however, in an appeal decision (Appeal ref. APP/B3030/W/22/3304814) on a site identified as being located away from facilities necessary for day to living, the Inspector, whilst acknowledging that the occupiers of the site “*would be permanently reliant on the private car rather than sustainable transport to reach services and facilities. Walking to the local bus stop would not necessarily be safe, given the absence of street lighting and pavements*” and that only a limited bus service was available, found that “*Given the size of the site and the number of pitches proposed, this would have no more than a moderate adverse effect.*” Officers are therefore satisfied that that same applies here.

6.4.4 It is also noteworthy that the Inspector in the 2010 appeal decision found the application site to be “*reasonably sustainably located*”.

6.5 Drainage, flooding and servicing

6.5.1 In addition to the above, criterion (iii) and (v) of JCS policy SD13 advise that no significant barriers to development “*should exist in terms of flooding [and] poor drainage...*” and the site must be “*supplied with essential services, such as water, power, sewerage and drainage, and waste disposal*”.

6.5.2 Criterion (v) also requires the site to be large enough to enable vehicle movements, parking and servicing, and access for service and emergency vehicles, together with circulation space and residential amenity and play areas.

6.5.3 The site is located in Flood Zone 1, and at a low risk of surface water flooding (Environment Agency long term flood risk service online); as such, there are no concerns in relation to flooding.

6.5.4 With regard to sewerage and drainage, the site is serviced by a septic tank/soakaway system. The concerns raised by the objectors in relation to the septic tank have been duly noted; however, Environmental Health (EH) wrote to the applicant in March last year (since the initial submission of the application) to confirm that, following dye testing to ascertain whether any effluent was leaching on to the adjacent road, works carried out by the applicant to rectify earlier drainage problems had been sufficient to prevent further sewage leaks. EH have also confirmed that no further complaints have been received since their file was closed in April 2023.

6.5.5 The site is also large enough to enable the necessary vehicle movements, parking and servicing, and access for service and emergency vehicles, together with circulation space and residential amenity areas.

6.6 Other considerations

6.6.1 It is noted that it is suggested in the objections that a permanent grant of planning permission would have the potential to result in additional caravans on the site and that it would set a precedent but officers dispute this, as there is no evidence to demonstrate this. Any additional pitch provision would require the submission of a planning application.

6.6.2 In addition, the impact of development on neighbouring property values (a purely private interest) is not a material consideration in determining an application for planning permission.

Public Sector Equality Duty (PSED)

6.6.3 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

6.6.4 Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application, the planning authority has taken into consideration the requirements of the PSED.

6.6.5 In the context of the above PSED duties, this proposal is considered to be acceptable.

7. CONCLUSION AND RECOMMENDATION

- 7.1 Whilst the development would result in some limited permanent harm to the AONB, and the site is not particularly well served in terms of access to local amenities; the proposed development does conflict with JCS policy SD13 to some extent. However, the identified harm must be weighed against other material considerations; in this case, the ongoing unmet need for pitch provision within the borough. Officers consider this unmet need carries significant weight and therefore clearly outweighs the harm in this particular case.
- 7.2 The permanent grant of planning permission on this site would provide for two pitches which would contribute towards the accommodation needs identified within the GTAA. The Council has a duty to meet this need.
- 7.3 As such, on balance, the recommendation therefore is to grant planning permission on a permanent and non-personal basis, subject to the schedule of conditions set out below.
- 7.4 Officers do not consider the granting of a further temporary permission to be appropriate. Planning Practice Guidance (Paragraph: 014 Reference ID: 21a-014-20140306) advises that it is rarely justifiable to grant consecutive temporary permissions “*(except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities)*”. It goes on to state that “*Further permissions can normally be granted permanently or refused if there is clear justification for doing so.*”
- 7.5 That said, members must keep in mind that if this application were to be refused and enforcement action taken, there is currently no alternative provision for the applicant and their family within the borough; the Council having failed for some time now to bring forward any long-term provision. Furthermore, the Inspector in the 2010 appeal decision stated that “*Eviction from a site which meets all of their requirements, with no prospect of anywhere else to go, would amount to interference with their rights under Article 8 of the European Convention of Human Rights (ECHR).*”
- 7.6 With regard to issuing a temporary and/or personal permission by way of conditions there are useful appeal decisions on applications elsewhere within England which are pertinent to this application.
- 7.7 In one such appeal decision (ref. APP/T0355/W/22/3300618) within an area of Green Belt (wherein gypsy sites are inappropriate development) the Inspector found “*that the matters in favour of the appeal scheme, namely the substantial and persistent unmet need for sites, together with the ongoing failure of policy*” would clearly outweigh the identified harm to the Green Belt (which the Inspector afforded substantial weight); and as a result, determined that a condition limiting the permission to a temporary permission was no longer appropriate and that a permanent permission was warranted.

- 7.8 In the same appeal decision, the Inspector goes on to state that as it was the circumstances in respect of the need for sites and the failure of policy that justified the grant of planning permission, not the occupiers' personal circumstances, a condition restricting the permission to a personal one, was not reasonable or necessary. Instead, they imposed a condition which limited the occupancy of the site to Gypsies and Travellers in general. The condition was not linked to Gypsies and Travellers as defined in Annex A of the PPTS, as the Court of Appeal in Smith *"held that the exclusion of Travellers who have ceased to travel permanently is discriminatory and has no legitimate aim."*
- 7.9 The Inspector in the appeal decision referenced at paragraph 6.4.3 above also found that circumstances existed which justified a permanent permission without a temporary or personal condition; finding that harm in relation to location and access to services, and the effect on the character and appearance of the area, would be clearly outweighed by the significant weight afforded to the benefits of the additional pitches given that there was a unmet need and a lack of alternative sites.
- 7.10 To reiterate, officers therefore recommend that planning permission be granted on a permanent and non-personal basis, subject to the conditions below. To grant a further temporary, personal consent would result in ongoing uncertainty to the applicant and would also mean that the Council still has an unmet need.

8. SUGGESTED SCHEDULE OF CONDITIONS

- 1 The planning permission hereby granted relates to the approved plans listed in Schedule 1 of this decision notice.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 The site shall not be occupied by any persons other than Gypsies and Travellers, defined as 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 showpeople or circus people travelling together as such.

Reason: Planning permission has been granted to provide accommodation solely for gypsies and travellers who satisfy the above definition in order to contribute towards the Local Planning Authority's identified unmet need for gypsy and travellers accommodation within the borough. Any alternative occupation of the site requires further consideration by the Local Planning Authority, having regard to the provisions of the development plan.

- 3 No more than 2 pitches comprising 2 mobile homes and 1 touring caravan shall be occupied on the site, and no more than 2 touring caravans for travelling shall be stored on the site, at any time, in accordance with Plan 2: Proposed Site Layout Plan.

Reason: For the avoidance of doubt and in the interests of proper planning. This is the basis upon which permission is sought and the Local Planning Authority wishes to have the opportunity of exercising control over any subsequent use.

- 4 Within 3 months of the date of this decision, details of all external lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting will be limited to low-level, down-facing lights to minimise overspill and light pollution. External lighting shall thereafter only be installed/retained in accordance with the approved details.

Reason: To preserve the landscape character, and conserve the dark skies, of the Cotswolds National Landscape, having regard to policies SD4 and SD6 of the adopted Joint Core Strategy (2017), paragraph 185(c) of the National Planning Policy Framework

(2023), and policy CE5 of the Cotswolds National Landscape Management Plan 2023-2025.

CONSULTATIONS APPENDIX

Cotswolds National Landscape Board

1st December 2022

Thank you for consulting the Cotswolds Conservation Board ('the Board') on this proposed development, which would be located within the Cotswolds National Landscape.

In reaching its planning decision, the local planning authority (LPA) has a statutory duty to have regard to the purpose of conserving and enhancing the natural beauty of the National Landscape. The Board recommends that, in fulfilling this 'duty of regard', the LPA should: (i) ensure that planning decisions are consistent with relevant national and local planning policy and guidance; and (ii) take into account the following Board publications:

- Cotswolds Area of Outstanding Natural Beauty (AONB) Management Plan 2018-2023 (link);
- Cotswolds AONB Landscape Character Assessment particularly, in this instance, with regards to Landscape Character Type (LCT) 2 Escarpment and 7 High Wold;
- Cotswolds AONB Landscape Strategy and Guidelines particularly, in this instance, with regards to LCT 2 (link), including Section 2.1 and LCT 7, including Section 7.1;
- Cotswolds AONB Local Distinctiveness and Landscape Change;
- Cotswolds Conservation Board Position Statements particularly, in this instance, with regards to The Keeping of Horses and Ponies, Tranquillity and the Dark Skies and Artificial Light Position Statement and its appendices.

Having considered the applicant's submission and the previous planning history related to the site, the Board does not object to this application for the reasons outlined in Annex 1 below.

Without prejudice, if the local authority is minded to grant planning permission, we have made some recommendations regarding planning conditions which the local authority may consider to ensure the conservation and enhancement of the landscape and scenic beauty of the National Landscape.

ANNEX 1 COTSWOLDS NATIONAL LANDSCAPE CONSULTATION RESPONSE IN RELATION TO PLANNING APPLICATION

Paragraphs 174 and 176 of the National Planning Policy Framework ('NPPF') provide the highest status of protection for the landscape and scenic beauty of AONBs, including the Cotswolds National Landscape. Paragraph 174 states that planning decisions should both contribute to and enhance the natural environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan. Paragraph 176 then outlines the 'great weight' to be given to the conservation and enhancement of the landscape and scenic beauty of AONBs.

Policy SD6 of the Cheltenham, Gloucester and Tewkesbury Joint Core Strategy requires development to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental, and social well-being. This reflects advice in the NPPF that requires policies and decisions to recognise the intrinsic character and beauty of the countryside. Policy SD7 of the JCS states that all development proposals within the setting of the Cotswolds National Landscape will be required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage, and other special qualities. Proposals will also be required to be consistent with the policies set out in the Cotswolds AONB Management Plan.

The Cheltenham Plan, adopted in 2020, states at paragraph 8.3 that because of its attractive character, which derives from its built form as well as the landscape of the scarp edge, and its location on the urban fringe, the AONB in the Borough is particularly sensitive to development pressures. A restrictive approach is therefore necessary to conserve and

enhance both of these elements. The Council considers it particularly important to protect the scarp as the dominant feature of Cheltenham's setting and is concerned at the cumulative effect of even small-scale development and of development in new locations within the AONB.

The Landscape Character, Sensitivity and Capacity Assessment of the Cotswold AONB within Cheltenham Borough was published in April 2015 (updated May 2016). The application site is situated within site reference LCA 10.11 (Greenway Wooded Pasture Slopes). The assessment suggests that the character area has an overall landscape constraint score of 'major' and that the landscape capacity for development is 'low'. However, we acknowledge that the current application site was in residential use when the study was undertaken so does not, in a sense, represent 'new' development.

The Board is aware of the previous planning history of this site, including both the current ('fall-back') permission for stables and keeping of horses and the temporary consents for the residential elements on site, including that allowed at appeal in 2011, though it is noted that permanent consents were refused primarily for the reason that the development would not conserve or enhance the National Landscape.

The applicant's Planning Statement admits that the proposal would not conserve or enhance the landscape and scenic beauty of the National Landscape and we share that view. However, in making our overall assessment this is balanced against this is the fact that the site has been occupied for more than a decade for the residential use applied for here and that the equestrian use is already consented. We also agree with the assessment of the applicant, the Council in determining previous applications and the Inspector in determining the 2011 appeal, that any landscape and visual harm would be relatively limited owing to the existing boundary screening, site topography and the positioning of the structures towards the lowest part of the site.

We are also aware that the Council in making its decision will have to balance any assessed harm to the landscape and scenic beauty of the National Landscape, with the 'great weight' this attracts in the planning balance, against the Council's current inability to meet its housing requirements, including those of Gypsies and Travellers. Bearing all of these factors in mind, on balance we do not object to this application.

One matter we would wish to comment upon is the lack of proposals regarding lighting. Paragraph 185c of the NPPF states that planning decisions should ensure that new development is appropriate for its location and in doing so they should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. Paragraph 001 of the Planning Practice Guidance (PPG) on Light Pollution (Paragraph: 001 Reference ID: 31-001-20191101) states that 'intrinsically dark landscapes' are those entirely, or largely, uninterrupted by artificial light. National parks ... can serve as good examples'. As AONBs have the same level of protection with regards to landscape and scenic beauty as national parks within the NPPF and PPG and dark skies are one of the special qualities of the Cotswolds National Landscape, we consider it reasonable to treat the National Landscape as an 'intrinsically dark landscape' in NPPF and PPG terms.

The Cotswolds AONB Landscape Strategy & Guidelines for LCT 2 (Section 2.1) identifies 'the spread of lit elements up the Escarpment slope' as a potential (adverse) implication for development such as this. The guidelines also seek to 'conserve areas of dark skies', with these dark skies being one of the 'special qualities' of the Cotswolds National Landscape. This is particularly important in an area with relatively low levels of light pollution such as this, as indicated in Appendix 1 of the Board's Tranquillity Position Statement, referred to above.

As such, we recommend that the introduction of any lit elements should be designed to adhere to this guidance and, by extension, with the policies of the Cotswolds AONB Management Plan in particular Policy CE5 (Dark Skies) as well as the ILP Guidance Note for

Reduction of Obtrusive Light and the CfDS Good Lighting Guide which form Appendices B and C of the Board's Dark Skies & Artificial Light Position Statement (linked above).

Without prejudice, if the local authority is minded to grant planning permission, planning conditions should be imposed which seek to mitigate any adverse impact and ensure that all lighting meets the standards outlined above and will be limited to low-level, down-facing lights to preserve the landscape character of the Cotswolds National Landscape.

21st March 2024 – revised comments

Thank you for consulting the Cotswolds National Landscape Board ('the Board') on the revised information submitted in support of this proposed development, which would be located within the Cotswolds National Landscape.

In our previous response dated 1 December 2022, the Board did not object to this application but made some recommendations regarding planning conditions which the local authority may consider to ensure the conservation and enhancement of the landscape and scenic beauty of the National Landscape should, without prejudice, the local authority be minded to grant planning permission.

In our previous response, we outlined that the LPA had a statutory duty to have regard to the purpose of conserving and enhancing the natural beauty of the National Landscape under Section 85 of the Countryside and Rights of Way Act 2000. This statutory duty has since been superseded by Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act 2023 which came into effect on 26 December 2023 and introduces a new statutory duty on LPAs to seek to further the statutory purposes of the National Landscape as opposed to having regard to them. Natural England has issued the following advice in respect of the new duty to seek further the statutory purposes of the National Landscape:

Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act 2023 places a duty on relevant authorities in exercising or performing any functions in relation to, or so as to affect, land in a National Park, the Broads or an Area of Outstanding Natural Beauty ("National Landscape") in England, to seek to further the statutory purposes of the area. The duty applies to local planning authorities and other decision makers in making planning decisions on development and infrastructure proposals, as well as to other public bodies and statutory undertakers.

It is anticipated that the government will provide guidance on how the duty should be applied in due course. In the meantime, and without prejudicing that guidance, Natural England advises that:

- the duty to 'seek to further' is an active duty, not a passive one. Any relevant authority must take all reasonable steps to explore how the statutory purposes of the protected landscape (A National Park, the Broads, or an AONB) can be furthered;
- The new duty underlines the importance of avoiding harm to the statutory purposes of protected landscapes but also to seek to further the conservation and enhancement of a protected landscape. That goes beyond mitigation and like for like measures and replacement. A relevant authority must be able to demonstrate with reasoned evidence what measures can be taken to further the statutory purpose.
- The proposed measures to further the statutory purposes of a protected landscape, should explore what is possible in addition to avoiding and mitigating the effects of the development, and should be appropriate, proportionate to the type and scale of the development and its implications for the area and effectively secured. Natural England's view is that the proposed measures should align with and help to deliver the aims and objectives of the designated landscape's statutory management plan. The relevant protected landscape team/body should be consulted.

Parish Council

1st December 2022

Objection:

The Parish Council objected to the previous application (for less development). The development that has taken place has failed to comply with the previous temporary, retrospective consent and is out of keeping for the area. With the large areas of hardened surface and architecturally low-quality structures, it is detrimental to the Cotswolds National Landscape (AONB).

26th March 2024 – revised comments

Objection:

While this application is retrospective, the Committee would object to the application if it was not, on the following grounds, in particular with reference to the site being within the Cotswolds National Landscape:

The development would be out of keeping and visually intrusive. The fencing & gate are out of keeping for the rural location. The hard landscaping is visually obtrusive from higher ground. The permanent structures are architecturally very basic and again not developments that complement the high landscape value of the area. What appears to be the overflow for a septic tank continues to discharge to the Lane. This is clearly not acceptable on amenity or public health grounds.

Tree Officer

23rd November 2022

There appear to be no significant trees on site or adjacent affected by the proposal. No comments necessary from Trees Section.

6th March 2024 – revised comments

The revisions do not appear to affect trees on or adjacent to the proposed site.

Contaminated Land Officer

29th November 2022

Please note that there are no comments/ no objections from Contaminated Land/ Environmental Health in relation to 22/01935/FUL, Castle Dream Stud, Mill Lane, Charlton Kings.

5th March 2024 – revised comments

In relation to 22/01935/FUL for Castle Dream Stud, Mill Lane, Charlton Kings, Cheltenham there are no comments or conditions to add from a contaminated land perspective.

Building Control

14th November 2022

This application may require Building Regulations approval. Please contact Cheltenham and Tewkesbury Building Control on 01242 264321 for further information.

6th March 2024 – revised comments

This application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury Building Control on 01242 264321 for further information.

Strategic Land Use Team

7th August 2024

The National Planning Policy Framework (NPPF)

The application site is located within the Cotswold National Landscape, an Area of Outstanding Natural Beauty, therefore paragraphs 182 and 183 of the NPPF are relevant.

Paragraph 182 states that “great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty” (AONB), including consideration of “the conservation and enhancement of wildlife and cultural heritage” in this area. Furthermore, the NPPF states that “scale and extent of development...should be limited”, whilst any development “within their setting should be sensitively location and designed to avoid or minimise adverse impacts” on the AONB.

Paragraph 183 states that “when considering applications for development within AONB, permission should be refused for major development other than in exceptional circumstances”. It is considered that this application is not major development and as such paragraph 183 does not apply.

The key consideration therefore is whether the scheme is sensitively located and designed to avoid or minimise the impact on the AONB, when assessed against both national and local policy requirements.

Joint Core Strategy (JCS)

Policy SD7: The Cotswold Area of Outstanding Natural Beauty states any developments “in or within the setting of the Cotswold AONB will be required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage”, as per the requirements within the NPPF. The policy also states that proposals for development within the AONB will be “required to be consistent with the policies set out in the Cotswold AONB management plan”. Therefore, any consideration of this scheme will need to accord with policy SD7 and will be key consideration.

Policy SD13: Gypsies, Travellers and Travelling Showpeople, states that proposal for gypsy and traveller sites “in areas of sensitive landscape will be considered in accordance with Policy SD6 (Landscape Policy) and Policy SD7 (The Cotswold Area of Outstanding Natural Beauty), as well as other additional criteria. The purpose of this policy is provide a criteria-based policy to be used in the assessment of planning applications.

Gloucestershire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment

In November 2022, the Gloucestershire local authorities of Cheltenham Borough Council, Cotswold District Council, Forest of Dean District Council, Gloucester City Council, Stroud District Council, Tewkesbury Borough Council, and Gloucestershire County Council, undertook a new Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA). It will cover the period 2021-2041, and be used as an evidence base for policy development in planning and provides an assessment of accommodation needs for Gypsies, Travellers and Showpeople. This requirement is established through national guidance contained in Planning Policy for Traveller Sites (PPTS) 2015.

The GTAA 2022 highlights that the existing supply within the Cheltenham Borough for authorised occupied, vacant and potential pitches was 0, whilst the supply of pitches without permanent permission was 2. Three accommodation need figures have been provided by the latest GTAA; first, one based on the ‘ethnic’ definition; second, based on the needs of families who have not ceased to travel (i.e. based on the PPTS 2015 definition); and third, based on the ‘travel to work’ interpretation of PPTS 2015. The GTAA recommends adopting the ‘ethnic’ definition accommodation need figures as this will not only demonstrate knowledge of the overall accommodation need of all Gypsies and Travellers, but also how accommodation needs in relation to households not meeting the PPTS definition are being addressed.

The GTAA recommends that there is a accommodation need for 6 pitches, based on the ‘ethnic’ definition, within 2021-26 period and a further accommodation need of 3 pitches within 2026-41.

It is acknowledged that the temporary planning permission granted for a change of use of land for the permanent residential occupation by a traveller family (and other associated structures) expired at this site in April 2022. The site is still occupied and therefore is considered retrospective.

Two of the 6 pitches required within the 2021-26 period could arise from the continued use of this site if planning permission were granted on a permanent status. The GTAA 2022 recognises that there are no authorised Gypsy/Travellers sites within Cheltenham Borough, this has not changed as of August 2024, therefore it would not be possible for the occupiers of the site to move to other suitable accommodation within the Borough. Furthermore, there have been no other sites identified as being readily available for such land use through the Councils 2023 'Call for Sites' for Gypsy, Roma, Traveller & Travelling Showpeople.

Summary

The need for the Borough to provide pitches as identified in the GTAA 2022 weighs in favour of the application. The need identified by the assessment relates directly to the site in question because it currently does not have permanent permission. The Council has a duty to meet this need and no other suitable sites have been identified in the Borough.

The contribution that the site will make will need to be weighed against the impact of the development on the Cotswold National Landscape, an Area of Outstanding Natural Beauty and its landscape.