

# **Submission from Nash Parish Council**

This submission is in respect of Planning Application 18/01455/APP, change of use of land to 13 Gypsy / Traveller pitches with associated works including, 13 no. mobile homes, 13 no. touring caravans, 13 no. day rooms, and 13 no. cesspits.

## **Summary of objections:**

1. Works have already been carried out in respect of the application notwithstanding that such works are in breach of a High Court injunction prohibiting any unauthorised works from being carried out on the land.
2. The works were carried out without planning permission and this is a material consideration in determining whether or not planning permission should be granted.
3. The site has already been assessed as part of the District Council's Traveller and Travelling Showpeople Site Assessment (July 2016) which found that it was unsuitable for intensification or extension.
4. The application fails on numerous grounds under the Planning policy for traveller sites August 2015.
5. The application is very similar to two earlier applications both of which have been rejected. The main difference with this application (apart from an increase in numbers) is that it argues that *'it is materially different from the previous applications on account of the personal circumstances submissions'*. However, those details have not been publically disclosed because they are said to be *'confidential'*. This is a material part of the application and the failure to provide information which is described as *'material'* invalidates the application.
6. There is concern that any extension of Nash Park would add to the amount of crime already prevalent at the existing site.
7. The application provides for an excessively intensive and over-developed use of the site and makes inadequate provision for drainage and sewerage disposal.

### **1. Breach of a High Court injunction**

The land subject to the unauthorised development forms part of the existing gypsy and traveller site known as 'Nash Park'. The existing developed part of Nash Park has planning permission for 11 gypsy/traveller pitches with associated works including, 11 mobile homes, 11 touring caravans (pitch 10 is permitted to have 4 caravans of which no more than 2 shall be static) and 11 day rooms (with it is assumed 11 cesspits).

The above existing site at Nash Park arose through unauthorised development without planning permission. As a result and to prevent any further unauthorised development the District Council obtained a High Court injunction dated 8 November 2012 (the Injunction) prohibiting any further development without planning permission. Breach of the Injunction is a criminal offence punishable by imprisonment or fine.

The Parish Council understands that prior to the bank holiday weekend of 26-28 August 2017 the District Council received information to the effect that there was the possibility that unauthorised work would be carried out at Nash Park over the holiday weekend. As a result the District Council displayed details of the Injunction at Nash Park and warned the occupants at Nash Park that any works without prior planning permission would be in breach of the Injunction. Notwithstanding this unauthorised works (the works) were carried out over the August 2017 Bank Holiday weekend. This involved numerous large trucks delivering hard core, rubble and waste products to the site and depositing this over the land subject to the applications (the land). Other unspecified excavations and other works were also carried out at the same time on the land. As a result the whole of the land is covered by hard core, rubble and waste products.

The two earlier planning applications (which were rejected) were submitted around the time that the works were carried out on the land. This indicates that the works were carried out in the knowledge that planning permission was required even though it was also known that no such planning permission existed.

The applicant's agent is Ruston Planning Limited who state that they specialise in Gypsy and Traveller work. As a result both the agent and the applicant should have been fully aware of the legal consequences of carrying out work in breach of the Injunction and without planning permission.

The applicant's intention would appear to be to extend the size of Nash Park through the addition of the further units as set out in the application. If the application was granted then this would mean that in addition to existing 11 gypsy/traveller pitches with associated works including, 11 mobile homes, 11 touring caravans (pitch 10 is permitted to have 4 caravans of which no more than 2 shall be static) and 11 day rooms the combined site would give rise to a total of 24 gypsy/traveller pitches with associated works including, 25 mobile homes, 25 touring caravans, 24 day rooms, and 24 cesspits.

Even if the numbers of caravans, etc was kept within the permitted numbers (and there have been many incidents on the existing Nash Park where this has not happened and the numbers have been exceeded) and no day rooms were occupied for habitation then assuming 4 people for each mobile home and each caravan this would give rise to a total population of an extended Nash Park of 192. Assuming that the occupants were itinerant this would also be a moving population with little allegiance to the local area or inhabitants.

## 2. Unauthorised works carried out without planning permission

In Department for Communities and Local Government Consultation: Planning and Travellers September 2014 it was stated at paragraphs 4.9 & 4.10

*4.9 The Government therefore proposes to amend national planning policy and Planning Policy for Traveller Sites to make clear that intentional unauthorised occupation, whether by travellers or members of the settled community, should be*

regarded by decision takers as a material consideration that weighs against the grant of permission.

*4.10 For the avoidance of doubt, this does not mean that retrospective applications should be automatically refused, but rather failure to seek permission in advance of occupation will count against the application. It will, the Government hopes, encourage all applicants to apply through the proper planning processes before occupying land and carrying out development.*

There was extensive discussion on the Consultation Paper (and publicity about the proposed changes) with a large number of submissions from the Gypsy and Traveller Community. As a result the proposed change in policy would or should have been well known to those concerned and in particular their advisers.

The Consultation was followed by the Planning policy for traveller sites August 2015 and the issue on 31 August 2015 by the Chief Planner of the following planning guidance:

*“The government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action. For these reasons, this statement introduces a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This policy applies to all new planning applications and appeals received from 31 August 2015.”*

It is submitted that the carrying out of the works without planning permission and in breach of the Injunction is a material consideration that should lead to both applications being rejected.

### 3. Department of Communities and Local Government Planning policy for traveller sites August 2015 (2015 Policy)

Notwithstanding the foregoing the Parish Council comments on the 2015 Policy.

Is the applicant a ‘traveller’?

Annex 1 to the 2015 policy document provides that,

1. For the purposes of this planning policy “gypsies and travellers” means: *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, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.*
2. *In determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:*
  - a) *whether they previously led a nomadic habit of life*
  - b) *the reasons for ceasing their nomadic habit of life*

*c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.*

The applicant has provided no evidence that he satisfies the definition of a 'traveller'. In the absence of this someone who does not travel is to be considered in the same way as an application from the settled population – rather than being considered under policies relating to travellers.

While the applicant and the other two owners of the land (the land ownership is divided up) have all used the agent as their contact address they each appear to have fixed bodes of residence as evidenced from public records.

Paragraph 4 f. provides *“that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective”*.

Both applications are in respect of unauthorised developments. If the application(s) were approved it would encourage further unauthorised developments and undermine attempts at enforcement.

*Paragraph 13. Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:*

*a) promote peaceful and integrated co-existence between the site and the local community*

An increase to the already large site would do nothing to promote the above and would more likely lead to the greater isolation of the enlarged site from the local community.

*b) promote, in collaboration with commissioners of health services, access to appropriate health services.*

There are no local health services in the immediate vicinity.

*c) ensure that children can attend school on a regular basis.*

The nearest primary school is at Great Horwood. Some of the current children from Nash Park attend this school and older children the Sir Thomas Freemantle School (secondary school). The Parish Council understand that there is a strict cap on the number of available places at Sir Thomas Freemantle School. Hence any expansion of Nash Park will put pressure on places there, and might result in the exclusion of Nash children from the school, which is currently the closest secondary school to Nash. The same considerations may apply to the primary school at Great Horwood, and if it should be appropriate then enquires should be made of it to ascertain whether it has the capacity to take in more children from an enlarged site.

*d) provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*

The works have already caused damage to the environment through the dumping of hard core and rubble on to a green field. Further this is visible from Little Horwood Road presenting a visual eye-sore to the rural landscape. There is no evidence that the development would reduce long-distance travelling.

*e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development) avoid placing undue pressure on local infrastructure and services*

The existing Nash Park already places an undue pressure on the local infrastructure and services. Sewerage from the site is deposited in cess-pits which should then be emptied. There is no mains sewerage. However, sewerage has been pumped from the site into adjacent ditches posing a threat to human health. A further extension of the site as a result of either planning application would be likely to increase this problem.

Without these issues being fully and properly addressed then there is a real potential to present health risks to residents in the locality. Infections can easily be transferred through the air and via livestock, rats and insects. In addition, given the general changes in our climate it can be assumed that bad contamination is in fact a real issue for any site where residents do not have the requisite sanitation systems as required by building regulations.

Paragraph 14. Provides that *“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.”*

The nearest community is Nash which is 1 mile away. The population of Nash is approximately 450. An increase in the size of ‘Nash Park’ would be disproportionate and would dominate Nash.

Paragraph 24. *“Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller Sites [...] personal circumstances of the applicant.”*

The applicant has provided no evidence that the site is for his own use or for ‘travellers’. Indeed, the applicant would not need a site with either thirteen pitches.

Paragraph 25 provides that *“Local planning authorities should very 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 applications do not adhere to any of the requirements of paragraph 25.

Paragraph 27 provides that *“If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material*

*consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.”*

The District Council will no doubt provide evidence of its supply of deliverable sites. However, these are not applications for temporary planning permission. Even if they were temporary planning permissions are often used as a vehicle to regularise unauthorised development and are invariably renewed and/or made into permanent permissions. This has happened with the existing ‘Nash Park’.

Paragraph 27 should be out-weighed by the fact that unauthorised development has been carried out in clear disregard to the need for prior planning permission and in contravention of the terms of the Injunction prohibiting unauthorised development. To allow the works to remain and to regularise them through a temporary or permanent planning permission would be to disregard the terms of the Injunction, a matter upon which the High Court would not doubt have a view.

#### 4. The District Council’s Traveller and Travelling Showpeople Site Assessment July 2016

The Aylesbury Vale Gypsy, Traveller and Travelling Showpeople Site Assessment July 2016 is relevant to the applications.

Paragraph 1.23 states that, *“The PPTS sets out that Local Planning Authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan (para 25). New sites in the open countryside where there has been no authorised planning history of Gypsy and Travellers occupying them should therefore be excluded.”*

Paragraph 1.48 states that, *“National policy suggests that Gypsy and Travellers prefer small sites with only a small number of pitches to accommodate their immediate family and extended family. Government guidance suggests that ‘experience of site managers and residents alike suggest that a maximum of 15 pitches is conducive to providing a comfortable environment which is easy to manage. However smaller sites of between 3-4 pitches can also be successful, particularly where designed for one extended family’ (para 4.7). The restriction of sites to 15 pitches should be generally applied but assessed on a site by site basis.”*

It should be noted that there are two other sites near to Nash Park. One site in Great Horwood Road, Nash where there is permission for two pitches (although there are more caravans there than permitted) and temporary permission for one pitch on land off Little Horwood Road, Nash.

Taking the above other two sites and adding them to the existing Nash Park site (which while it has permission for eleven pitches effectively has twelve pitches as pitch ten is a double pitch) that would mean that the total pitches of these three sites equals fifteen.

The Assessment then carries out an assessment of existing sites for intensification/extension. With reference to an extension of Nash Park it states that it is unsuitable for intensification/extension because *“It is close to sites GT12 and GT7 and any expansion should not lead to the merging of sites to form one large site. It is however in a rural location with poor access to services and facilities so would not be suitable for an extended site or further intensification. Further expansion would also have a detrimental impact on the landscape and character of the countryside.”*

5. The application and the applicants planning statement from Ruston Planning dated 1 May 2018 (the Statement)

This application provides for an excessively intensive and over-developed number of gypsy/traveller pitches with associated works including, mobile homes, touring caravans, day rooms, and cesspits relative to the size of the land. There is very little common space and the intensity of the development means that for this reason, among many, it should be rejected. The application also makes inadequate provision for drainage and sewerage disposal.

The Statement is based on the *‘personal circumstances’* of the proposed residents. At paragraph 29 it states that *‘this application is materially different from the previous applications on account of the personal circumstances submissions’*.

Yet details of the *‘personal circumstances’* are stated to be confidential and no details are provided with the application.

It is submitted that this reason alone invalidates the application as a material part of the application has not been submitted nor publically disclosed and which is necessary if others are to be provided with a proper opportunity to consider and comment on the application.

The Statement makes no mention of the fact that this is a retrospective planning application in respect of unauthorised works that have been carried out prior to the application and in breach of a High Court injunction, see earlier comments.

At paragraph 9 it is stated that *‘the proposal is for 13 Gypsy/Traveller pitches to be occupied by Gypsies/Travellers who fulfil the definition of Gypsies and Travellers...’* This requirement also applies to the existing site to the west of the application site and yet pitches on that site are being advertised for letting to third parties without any reference to needing to be occupied by Gypsies/Travellers. This in itself indicates that there is no demand or need for more Gypsies/Travellers pitches.

At paragraph 12 it is stated that *‘the proposals include a scheme of planting and soft landscaping in order to mitigate the impact of the proposed development’*. The application is for the intensive development of the site with little space available for landscaping. The site is also on the side of a hill facing Little Horwood Road so that the intensive development of the site would be visible from that road and could not be hidden by nominal landscaping.

From paragraph 16 onwards the Statement refers to the emerging Vale of Aylesbury Local Plan (VALP). The Parish Council considers that the applicants have misinterpreted the VALP and the Parish Council refers to and supports the

comments already made on this by Great Horwood Parish Council in their May 2018 submission.

At paragraph 34 it refers to the Department of Communities and Local Government Planning policy for traveller sites August 2015 (described as 'PPTS'). Please also refer to the Parish Council's comments with regard to this under section 3 above. The statement refers to paragraph 13 of the PPTS which provides that,

*13. Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies: a) promote peaceful and integrated co-existence between the site and the local community.*

The Statement then goes on to say that *'There is no reason to anticipate that the site will not enjoy peaceful co-existence with the local community.'*

The Statement provides no evidence that the proposed site will be sustainable whether economically, socially or environmentally.

The existing site cannot be regarded as 'peaceful' given the high amount of crime emanating from the site and evidenced by a murder having been committed there and the regular visits of Thames Valley Police to the site.

The Statement refers to paragraph 13 (e) of the PPTS which provides that a site should *'provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development'*.

The Statement then goes on to say that *'there is no reason to anticipate any significant effects on local environmental quality for the occupants or for neighbouring land uses'*.

The Parish Council have been advised that the existing site regularly discharges effluent from cesspits on that site into the water courses around the existing site causing consequent pollution and environmental damage. Any development of the subject site will risk making a bad situation far worse for local land owners and residents. The proposed new site would be far more intensively occupied and be likely to give rise to even greater problems both to the local community and to the environment.

At paragraph 36 it quotes paragraph 25 of the PPTS,

*25. Local planning authorities should very 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 Statement then goes on to say at paragraph 37 *'Whilst, as a matter of principle, the policy does not exclude entirely sites which are found to be 'away from existing settlements', in our view, the application site is well related to existing development,*



*including the Gypsy/Traveller site immediately adjacent the proposal site. As the site is less than a mile from Nash, in our view it cannot realistically be considered to be 'away from existing settlements'.*

The subject site is in open countryside and its development would have a highly visible and detrimental effect on the surrounding area. Given the size of the proposed development it would, together with the existing adjacent site, considerably dominate both Nash, being only one mile away, and to a lesser extent Great Horwood. Regard should be given to the likely effect on the school in Great Horwood with a further large increase in school children from the subject site, children who may often only attend for a limited period as occupants at the site move to other sites.

#### 6. Does the application breach the terms of an existing planning application?

Condition 6 of Appeal A App/JO405/C/11/2148933 relating to the adjacent site required that there be *'the construction and permanent availability of a turning area at the eastern end of the site access road'*.

The Parish Council ask the District Council to ascertain whether this turning area has been erected? If not whether the turning area forms part of the application site? If so then this application could not be approved as it would not allow for the turning area.

#### 7. Crime

Paragraph 58 of the National Planning Policy Framework provides *"that Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area" [...]* to *"create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion;"*

Section 17 of the Crime and Disorder Act 1998, as amended by the Police and Justice Act (2006), requires all local authorities *"to exercise their functions with due regard to their likely effect on crime and disorder, and to do all they reasonably can to prevent crime and disorder. The prevention of crime and the enhancement of community safety are matters that a local authority should consider when exercising its planning functions under the Town and Country Planning legislation. Local authorities may, therefore, wish to consider how they will consult their Police and Crime Commissioners on planning applications where they are Statutory Consultees and agree with their police force how they will work effectively together on other planning matters [...]* *It is important that crime reduction-based planning measures are based upon a clear understanding of the local situation, avoiding making assumptions about the problems and their causes. Consideration also needs to be given to how planning policies relate to wider policies on crime reduction, crime prevention and sustainable communities. This means working closely with the police force to analyse and share relevant information and good practice."*

The existing Nash Park has had a direct impact on the residents of Nash through the many occasions that have involved the police. These occasions have included a murder, firearms discharge, affray, wildfires, violent and threatening behaviour to the

public (even towards AVDC planning officers which has been recorded in correspondence), the fraudulent use of residents names, addresses and telephone numbers and the misuse of the children's recreation and playground in the village. An extension of Nash Park would most likely add and exacerbate the problems already experienced.

#### Drainage and sewage disposal from the land

The arrangements for drainage and sewage disposal from the site have not been adequately dealt with.

The village of Nash is 1 mile down-hill from the site and is likely to be adversely affected by the illegal discharge of sewerage. The existing development at Nash Park has for some time caused problems with the discharge of untreated sewerage into the water courses. A larger site would add to these problems.

Proper and adequate provision should be made for drainage and sewerage disposal with regular on-going monitoring by the District Council.

#### **Conclusion**

For all of the above reasons the Parish Council requests that the application is rejected.

If however the District Council were minded to grant planning permission then the Parish Council would request that the matter is dealt with by the Development Committee and that the Parish Council be given an opportunity to speak at the meeting.

Nash Parish Council

25/05/2018.