

PLANNING REFUSAL

Name and Address of Applicant

Mr Frank Sykes
c/o agent

Name and Address of Agent (if any)

Mr Matthew Green
3A High Street
Much Wenlock
Shropshire
TF13 6AA

Part I - Particulars of Application

Date of Application: 25th June 2008

Application No: 08/00886/FUL

Grid Ref: Easting: 378929 Northing: 230851

PROPOSAL: Change of use to enable residential use by a gypsy family on a single pitch with 3 caravans.

LOCATION: Land At (OS 7892 3085) Malvern Road Staunton

Part II - Particulars of Decision

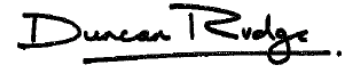
The Malvern Hills District Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act, 1990 that **permission has been refused** for the carrying out of the development referred to in Part I hereof in accordance with the application and plans submitted subject to the following reasons:

- 1 The site is situated within 'open countryside' as defined within the Malvern Hills District Local Plan, where policy DS14 sets out a presumption against housing development, subject to specified exceptions. Accommodation for gypsy use is not a specified exception use set out within policy DS14, however, policy CN11 of the Malvern Hills District Local Plan recognises the need to consider the personal circumstances of the applicant where gypsy accommodation is proposed and therefore permits the use of such land, subject to the criteria specified therein and would normally be acceptable. However, the site lies within the flood plain, where central government guidance PPS 25 (Development and Flood Risk) states that development proposals should be subject to a 'sequential risk-base approach,' in order to direct development to those areas where there is a lower probability of flooding (Zone 1).

The Flood Risk Assessment dated August 2008 demonstrates that the development is located within Flood Zone 2 (medium probability). On the basis of the Flood Risk Assessment, both the Sequential Test is relevant for this 'highly vulnerable' residential development and that of the exception test as clarified by Tables D.2 and D.3 of PPS 25 for development within Flood Zone 2. The Council considers that the development fails on part a) of the exception test, as the information submitted does not justify why this particular site is required to meet the applicant's needs and would not provide a wider sustainability benefits to the community that outweighs flood risk. With regard to part b), the

applicant has not demonstrated that 'there are no reasonable alternative sites on developable previously developed land' in accordance with paragraph D9 of PPS 25.

The Council considers that the personal circumstances of the applicant have to be balanced against the flood risk of the development. Given that the applicant has not provided sufficient information to demonstrate that parts a) and b) have been met, the development does not fully meet the Exception Test. The personal circumstances of the applicant therefore does not override the flood risk of the development, contrary to Policies DS16 of the Malvern Hills District Local Plan.



Date: 2nd October 2008

Development Control Manager (Planning Services)

The Council House Avenue Road Malvern Worcs WR14 3AF (See Notes Attached)

01905 25121 آپ انگریزی میں مدد چاہتے ہیں۔ نسلیاتی رسائی [Ethnic Access] سے رابطہ کریں ٹیلیفون: [Urdu]
ইহুয়েজি ভাষার বিষয়ে সাহায্য চান - এথনিক অ্যাকসেস [Ethnic Access] এর সঙ্গে যোগাযোগ করুন, টেলিফোন: 01905 25121 [Bengali]
'Necessita de ajuda com o seu Inglês? - contacte Ethnic Access Tel.: 01905 25121' [Portuguese]
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This document is also available in large print upon request

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TOWN & COUNTRY PLANNING ACT 1990 (SECTION 78)

Right of Appeal against decision of the Local Planning Authority

1. If the applicant is aggrieved by the decision(s) of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the First Secretary of State for the Environment in accordance with Section 78 of the Town & Country Planning Act 1990 within six months of the date of this notice (appeals must be made on a form which is obtainable from the Department of the Environment, address shown below). The First Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The First Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him.

If you wish to appeal against this decision then you should write to:

**Planning Inspectorate
Customer Support Unit
Temple Quay House
2 The Square
Temple Quay
BRISTOL BS1 6PN**

You should ask for a set of appeal forms and when you have completed these you should send one copy of the appeal form to:

**The Planning Officer
Malvern Hills District Council
The Council House
Avenue Road
MALVERN
Worcs WR14 3AF**

The second copy of the appeal form should be returned to the Planning Inspectorate in Bristol

2. If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, he may serve on the Council of the district in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town & Country Planning Act 1990.
3. In certain circumstances a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town & Country Planning Act 1990.