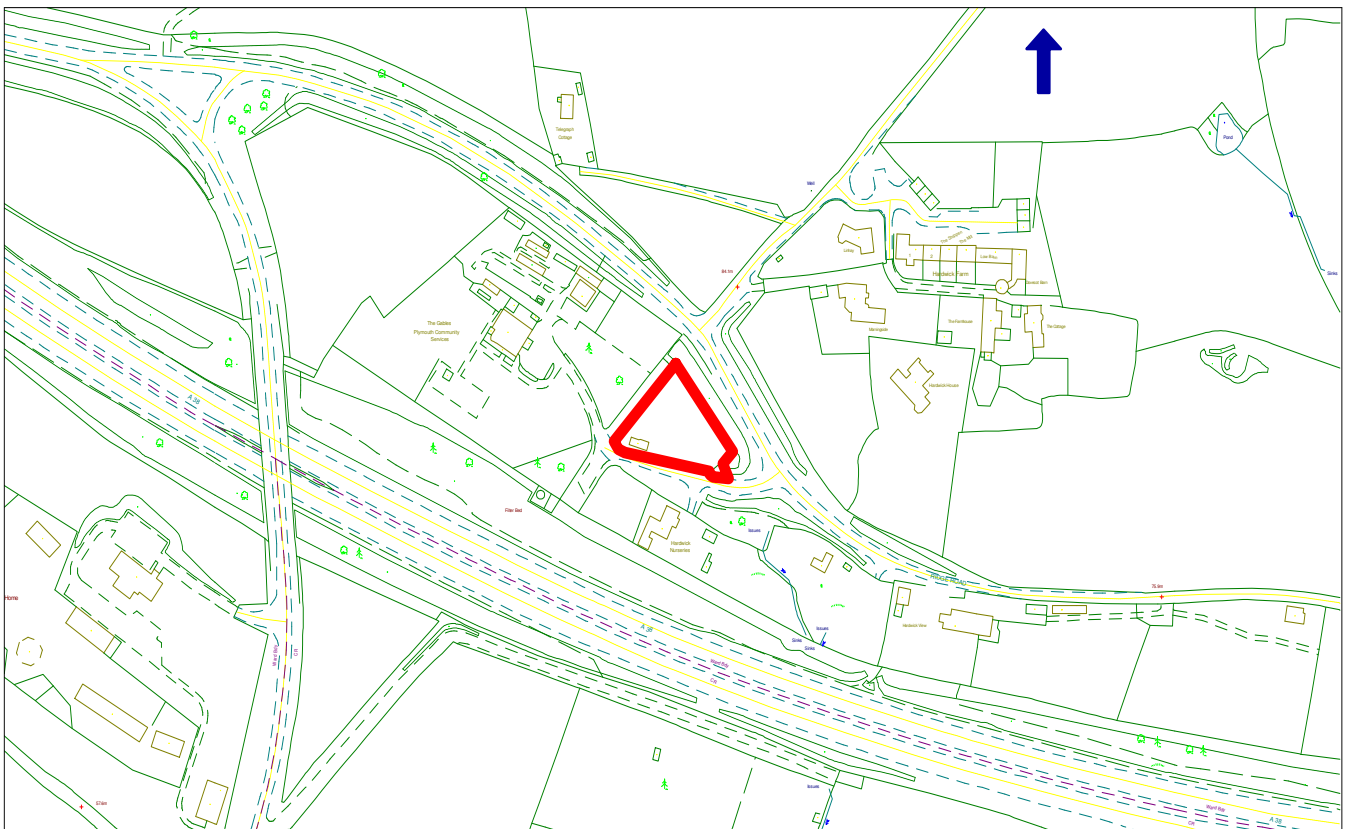


ITEM: 04

Application Number: 09/00983/FUL
Applicant: Mr Alfred and Peter Reilly
Description of Application: Use of land for a two-pitch gypsy site, consisting of two mobile homes and two touring caravans and parking
Type of Application: Full Application
Site Address: LAND AT RIDGE ROAD HARDWICK PLYMOUTH
Ward: Plympton Erle
Valid Date of Application: 15/07/2009
8/13 Week Date: **09/09/2009**
Decision Category: Assistant Director of Development Referral
Case Officer : Jon Fox
Recommendation: Grant Conditionally
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This case is brought back to the Committee following a resolution by members at the previous Committee meeting to refuse permission in respect of this application. Members instructed officers to compile planning refusal reasons based on agreed grounds of refusal and the following reasons are therefore recommended:

(1) The site is in a relatively isolated location and the Local Planning Authority considers that the proposal would not accord with sustainable development principles as it is remote from adequate services, employment, education, public transport, etc, and the gypsy sites would therefore increase the need for journeys to be made by private vehicles, which is not sustainable. It is therefore considered to be contrary to the aims of policies, CS16 and CS28 of the Core Strategy of Plymouth's Local Development Framework 2007 and to Planning Policy Guidance Note 13 (Transport).

(2) The Local Planning Authority considers that the site is not well located on the highway network and the proposals fail to provide safe and convenient vehicular and pedestrian access to the site as well as safe and convenient access to schools and local facilities. For these reasons the Local Planning Authority considers that the proposed gypsy site is not adequately integrated into the local community and is therefore contrary to policy CS17 of the Core Strategy of Plymouth's Local Development Framework 2007.

(3) The Local Planning Authority considers that the proposal would result in isolated development on a strategically important greenspace area beyond the limits of any existing urban/suburban area. It would be detrimental to the character and appearance of this part of the greenspace and set an unwelcome precedent for further sporadic development. The proposal is therefore considered to be contrary to policy CS18 of the Core Strategy of Plymouth's Local Development Framework 2007.

(4) The site falls within the area identified for designation as a countryside park in the Area Action Plan for North Plymstock. The Local Planning Authority considers that the proposal would be detrimental to the character and function of this area of greenspace and therefore be contrary to the aims of proposal NP11 of the Area Action Plan for North Plymstock and policy CS18 of the Core Strategy of Plymouth's Local Development Framework 2007.

(5) There is a potential for contamination to be present at the site as a preliminary risk assessment including an adequate desk study, conceptual model and initial assessment of risk has not been submitted with the application. The Local Planning Authority considers that this risk is unacceptable because there is no evidence to indicate otherwise. The proposals are therefore contrary to policy CS34 of the Core Strategy of Plymouth's Local Development Framework 2007.

What follows is the text of the original planning report and officer recommendation.

OFFICERS REPORT

Site Description

The site consists of a triangular piece of land some 0.166 ha in size, which is set below Ridge Road. Access from the main road is via a road shared with Hardwick Nurseries and The Gables Hospital. The access road and Ridge Road do not have footways. The site is surrounded to all sides by a tree screen, although large sections of hedge have been extensively cut back. The site is designated as Greenscape land and is of city-wide importance for its visual amenity quality, as a separation/buffer zone and as an area for countryside/food growing. The site is also within the countryside park as outlined in the NPAAP (North Plymstock Area Action Plan).

The site is surrounded to the west by the hospital; to the south by a plot of land proposed under application 09/00562 as a gypsy site; to the south and east by Hardwick Nurseries, which is a single residence with attached land, and to the north by Hardwick House and Hardwick Farm (on the opposite side of Ridge Road), which some time ago was converted to a number of residential properties.

The development has been carried out and two mobile homes are on the site, which has been surfaced with chippings. The proposed touring caravans have yet to be installed. A section of the land has been left as grass and fenced off.

Proposal Description

Use of land for a two-pitch gypsy site, consisting of two mobile homes and two touring caravans and parking. The site also contains a double stable block.

This application is referred by the Assistant Director of Planning to the Committee, for determination, under the following criterion:- "The history of the site is complex and as a result has a bearing on the case".

Relevant Planning History

09/00562 - Use of land at Twin Oaks, Ridge Road for siting of mobile home and touring caravan. This application is pending determination.

09/00175 – This application relates to the same site as the current application and was for demolition of existing stables, erection of replacement stables and tack room and formation of hard surfaced access track and turning/off-loading area. The proposals also include a new soakaway and septic tank. This application was approved subject to conditions including:-

(4) The building hereby permitted shall be used as a stables and tack room only and for no other purpose.

Reason:

The proposed use is considered to be in accordance with the greenscape qualities of the area, but an alternative use would need to be made the subject of a separate application to be considered on its merits, in accordance with policy CS18 of the Core Strategy of Plymouth's Local Development Framework 2007.

08/01240/OUT - Outline application to develop land by erection of two detached houses. This application has been refused for reasons similar to 00/00431, below. An additional reason is as follows:-

(4) The site falls within the area identified for designation as a countryside park in the Area Action Plan for North Plymstock. The Local Planning Authority considers that the proposal would be detrimental to the character and function of this area of greenscape and therefore be contrary to the aims of proposal NP11 of the Area Action Plan for North Plymstock.

02/00882/OUT - Outline application for one detached dwelling, including means of access. This application was refused for reasons similar to 00/00431, below.

00/00431/OUT - Outline application to erect a single dwellinghouse. This application was refused for the following reasons:-

The proposed development would involve the erection of an isolated dwelling in open countryside, beyond the limits of the existing urban/suburban area. As a result, the development would be detrimental to the character and appearance of this part of open countryside and set an unwelcome precedent for further similar sporadic development. In the absence of any agricultural justification, the proposal is therefore contrary to policies AEV2 and AHR2 of the City of Plymouth Local Plan First Alteration and to the advice of the Secretary of State for the Environment, Transport and Regions as contained in Planning Policy Guidance Notes Nos. 1, 3 and 7.

Access to the site can only be obtained by way of roads which are neither intended nor fit to carry the traffic, and in particular the pedestrian traffic, which the proposed development would be likely to generate.

The development of an isolated site such as this would be contrary to Central Government Policy (PPG13) and Plymouth City Council Policy (ARH2) insofar as the site is isolated, is distant from public facilities and is not on a public transport route. The site is therefore not sustainable in that occupants would be dependent on the private car as a means of getting to and from the site for all journeys.

90/00056/OUT - Outline application to develop land by the erection of two detached dwellings with integral garages. This application was refused planning permission.

Consultation Responses

Highway Authority

Object on the grounds that the proposed development would be located where it is remote from adequate services, employment, education, public transport etc, and will therefore increase the need for journeys to be made by private vehicles, which is non-sustainable and is in conflict with advice given in PPG13, and Policies CS16 and CS28 of the City of Plymouth Local Development Framework.

Housing

Response awaited.

Public Protection Service

Public Protection Service recommends refusal to the proposed development because there is insufficient information to demonstrate that the risk of contaminated land or that the risk of pollution to controlled waters is acceptable.

Representations

16 letters have been received. Most of these raise objections, including the grounds that this is unlawful development that is contrary to previous planning refusals for residential development on the site. It is stated that the local infrastructure cannot support additional homes and that the site is part of a green link in respect of plans for the North Plymstock and Sherford developments. The development is considered unsuitable for the site; there are official sites elsewhere and lots of little (gypsy) sites are not appropriate. It is also stated that the site is remote from services and unsustainable; is on a Greenfield site and has an adverse impact on existing built and natural environments. It would also be visible from the road in winter. The layout of the development is considered unacceptable and as well as having an adverse impact on highway safety and the flora and fauna of the area the sites are considered to be too enclosed. The site is within and conflicts with the proposed countryside park (North Plymstock Area action Plan refers) and Plymouth Green Space Action Plan. Trees have been cut back and reduced and this has had a negative impact on bio-diversity. It is stated that there are inadequate transport links to the site and that access to the site is not good with poor visibility when leaving the site – the applicants also reverse two HGV lorries out onto Ridge Road. Official sites are provided. The sites are already causing considerable annoyance due to noise and business use – the site serves as a contracting base, with crane lorries, vans, equipment and materials.

Two letters of support collectively state that the site is immaculate and that the occupiers deserve a home and roots to settle on. The site is safer than the site at Chelson Meadow.

Analysis

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

As a proposal for a two-pitch gypsy site The application turns on policies CS17 (Gypsy and Traveller sites), CS18 (Plymouth's Green Space) and CS34 (Planning Application Considerations). Government Circular 01/2006 (Planning for Gypsy and Traveller Caravan Sites) is an important material consideration in the determination of this application. Policy CS17 states that sites will be identified to meet the demand for approximately 50 gypsy and traveller pitches in the plan period and that the following considerations will be taken into account in the determination of locations for gypsy and traveller sites:

1. Safe and convenient vehicular and pedestrian access to the site should be provided.
2. The site must be large enough to provide for adequate on site facilities for parking, storage, play and residential amenity.
3. The site should be well located on the highway network.
4. Safe and convenient access to schools and local facilities.
5. The site should not be detrimental to amenities of adjacent occupiers.
6. Adequate levels of privacy and residential amenity for occupiers should be provided.

Previous applications on this site relate in the main to proposals for conventional housing development. The policy context for Gypsy and Traveller applications raises other considerations. The Government has introduced a number of measures to address the national shortage of authorised sites. These include:

- Housing Act 2004 - new obligation on local housing authorities to develop a strategy to address Gypsy and Traveller needs in their area
- Circular 01/2006: regional planning bodies to determine how many pitches are needed; local planning authorities must identify sites in Development Plan Documents
- Gypsy and Traveller Site Grant now available for provision of new sites and refurbishment of existing.

- Planning Policy Statement 3: Housing (PPS3), paragraphs 20-24 identify the key characteristics of a mixed community and make it clear that this can only be secured by achieving a good mix of housing including accommodation for Gypsies and Travellers

Plymouth City Council has a clear adopted planning policy in respect of Gypsy and Travellers: Policy CS17 of the Local Development Framework Core Strategy, adopted 2007, states that sites will be identified to meet the demand for approximately 50 Gypsy and Traveller pitches in the plan period and sets criteria against which to assess applications.

These considerations were material to the Council's decision to grant planning permission in respect of application 09/00603, for the use of land at Military Road, Efford as a permanent Gypsy and Traveller site (10 pitches) to include amenity blocks, hardstandings, a new access road and provision of a new footpath along Military Road.

The Regional Spatial Strategy target for Gypsy and Traveller sites requires the city to make provision for 40 residential pitches, and 15 transit sites by 2011, and 3% growth thereafter. To date the Council has recently granted permission for 10 additional residential pitches at Efford. Consultations have taken place on two additional sites. However, even if these two sites are eventually allocated the delivery of Gypsy and Traveller sites is still likely to constitute a shortfall in overall provision. Core Strategy Policy CS17 sets out the matters that should be taken into account when considering sites (It does not require all of the stated criteria to be satisfied).

Government advice on Gypsy and Traveller sites is contained in Circular 1/2006. The circular also acknowledges that identifying specific plots is a more difficult process than using a solely criteria based approach. The first matter to be addressed in this respect is the status of the applicant as a gypsy or traveller in terms of paragraph 15 of Circular 01/2006. Where there is unmet need, but an expectation that new sites are likely to become available, as in the case of Plymouth, the circular (paragraph 45 and 46) says that consideration should be given to granting a temporary consent.

Guidance suggests that Gypsy or Traveller sites should not be located in areas where conventional residential dwellings would not be permitted unless exceptional circumstances apply. A poorly located site can result in a detrimental impact on local residents and their ability to seek or retain local employment, attend school, further education or training and obtain access to health services and shopping facilities. Whilst not an obvious site for residential development due to considerations such as how development would impact on the Greenscape area and how remote the site is from services in the built up area, the fact that the site is in an urban fringe location is also addressed by the circular; paragraphs 53 to 55 state that local landscape and nature conservation designations are not in themselves reasons to refuse a planning application. Paragraphs 58 to 63 cover planning applications: there may be some conflict within the Circular in that it accepts

that sites on the outskirts, or in semi-rural locations may be acceptable, but then paragraphs 60 and 64 refer back to criteria based considerations and the availability of services etc, which is poor in such an outlying location. For example the nearest bus stop is at Cot Hill, approximately 1440 metres from the site. This is the basis of the Transport objection that the site is remote from services such as employment, education, public transport etc.

In terms of its layout, the site is relatively spacious and provides adequate play space and parking and turning areas for the occupier's vehicles. There is a small grassed area that could be used for horses, associated with the stable block. Outside the site there are no footways to connect the site to other services for pedestrians. However, the remoteness of the site is such that walking to services, including bus stops, is not considered viable.

With regard to the specific impact of the development on the character of the area, the site is within a small pocket of built development comprising Hardwick Nurseries, the Gables Hospital and Ridge Road and Hardwick farm to the north. The site is below, and screened from, Ridge Road and to a degree is a form of in-fill development as opposed to being visibly remote from other buildings and activity. In these respects the mobile homes are also smaller scale development than conventional housing and tend to sit within the landscape, particularly in this setting, more comfortably.

With regard to the North Plymstock Area Action Plan, the proposals for a countryside park set out in proposal NP11 aim to improve recreational activity in the area as well as providing better transport links. Overall these aims are likely to improve access to and from the area, which would to a degree lessen the remoteness of the site from services.

With regard to the objection from the Council's Public Protection Unit, a contamination assessment has been submitted and if necessary planning conditions could be imposed that require the developer to investigate the potential for contamination and any remedial works that might be necessary.

Equalities and diversities issues

Finding suitable Gypsy and Traveller sites is essential to provide equality for all. Everyone is entitled to a decent home; decent homes are a key element of any thriving, sustainable community. This is true for the settled and Gypsy Traveller communities alike. Gypsies and Travellers are defined in Circular 01/2006 as being; *Persons of a 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 organized group of travelling show people or circus people travelling together as such.* Gypsies and Travellers can be broadly broken down into the following groups:

Romani/Roma Gypsies: English, Welsh, Scottish and European. Traditionally Romani Gypsies speak Roma (a combination of the Indian Sanskrit language and English)

Irish Travellers: The first Irish Travellers were recorded in the 15th century. Originally forced to lead a travelling lifestyle through poverty evictions and famine, eventually leading to metalworking becoming one of the first trades.

New Travellers: The youngest group, with roots in 20th century. Many of the adults have grown up in mainstream society and are aware of their entitlements to education, health and other services.

Romani and Irish Travellers are both ethnic minorities protected under the Race Relations (Amendment) Act 2000.

Section 106 Obligations

There are no Section 106 obligations in respect of this application.

Conclusions

There is a lack of available Gypsy or Traveller sites in Plymouth. The proposals do not meet criteria 1 (safe and convenient pedestrian access), 3 (site should be well located on the highway network) and 4 (Safe and convenient access to schools and local facilities) of policy CS17. However, it is extremely unlikely that any gypsy/traveller sites will be found that will meet all of the policy CS17 criteria within an urban context, and the policy does not require all of the criteria to be met. The search area may have to be widened in the future to encompass sites in locations such as this where brick and mortar housing would not be acceptable. Whilst there is a history of refusal on this site for permanent dwellings, particularly with regard to impact on the greenscape (policy CS18) and sustainability, taking into account government advice in Circular 01/2006 and similar cases elsewhere it is considered that the weight afforded to the unmet need for gypsy sites in Plymouth is significant and given that the Circular offers the option of a temporary consent pending identification of adequate sites by the Council it is recommended that in this case a temporary consent would be acceptable. The Circular goes on to advise that granting temporary permission should not be regarded as setting a precedent for the determination of any future applications for full permission for use of the land as a caravan site. It is recommended that a three year permission be granted during which time further sites should receive planning permission/be implemented giving the Council the option to consider whether sites such as this should be retained or, alternatively, removed in favour of new sites in more sustainable locations.

Recommendation

In respect of the application dated **15/07/2009** and the submitted drawings, **OS location plan, site plan and accompanying design and access statement**, it is recommended to: **Grant Conditionally**

Conditions

TEMPORARY BUILDING:REINSTATEMENT

(1) The two mobile homes, two touring caravans and stable building hereby permitted shall be removed and the land restored to its former condition on or before 31 October 2012 in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority before any works commence on site.

Reason:

In the opinion of the Local Planning Authority the temporary building to which this permission relates will by the said date have fulfilled its required purpose, in accordance with policies CS17, CS18, CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

TREE AND HEDGEROW PROTECTION

(2) No tree or hedgerow on the boundary or within the site shall be cut down, uprooted or destroyed , nor shall any tree be topped or lopped without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with BS 3998:1989 (Recommendations for Tree Work)

Reason:

To ensure that trees and hedgerows are retained in order to adequately screen the site, in accordance with policies CS18 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007 .

NO BUSINESS USE ON SITE

(3) No on-site business activities shall take place other than with the prior consent in writing of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to regulate and control the use of the land in the interest of local and visual amenity in accordance with policies CS17 and Cs34 of the Core Strategy of Plymouth's Local Development Framework 2007.

NUMBER OF CARAVANS AND MOBILE HOMES

(4) The site shall be used to accommodate two mobile homes and two touring caravans and no additional mobile homes or caravans of any type shall be stationed or accommodated on the site at any time.

Reason:

To enable the Local Planning Authority to regulate and control the use of the land in the interest of local and visual amenity and highway safety, in accordance with policies CS17 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007.

ANCILLARY USE OF STABLE BUILDING

(5) The stable building shall at all times be used ancillary to the domestic use of the site as a two-pitch gypsy site and shall be used as a stables and tack room only and for no other purpose.

Reason:

The proposed use is considered to be in accordance with the use of the site for a two-pitch gypsy site but an alternative use would need to be made the subject of a separate application to be considered on its merits, in accordance with policies CS17 and CS18 of the Core Strategy of Plymouth's Local Development Framework 2007.

RESTRICTIONS ON PERMITTED DEVELOPMENT

(6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development falling within Classes A (enlargement, improvement or other alteration of a dwellinghouse), B (enlargement of a dwellinghouse consisting of an addition or alteration to its roof), C (any other alteration to the roof of a dwellinghouse), D (erection or construction of a porch outside any external door of a dwellinghouse), E (provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such), and F (provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such) of Part 1 of Schedule 2 to that order shall at any time be carried out unless, upon application, planning permission is granted for the development concerned.

Reason:

In order to preserve residential amenity and the character and appearance of the area, in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

INFORMATIVE - RESIDENTIAL USE ONLY

(1) With regard to condition 3, this permission is for residential use and incidental use only and not for any business use. The keeping of commercial vehicles at the site may need to be the subject of a separate planning application to be considered on its merits.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: the need for gypsy and traveller sites and the impact on residential amenity, highway safety, traffic generation and sustainability and the greenscape qualities of the area, the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy, (b) non-superseded site allocations, annex relating to definition of shopping centre boundaries and frontages and annex relating to greenscape schedule of the City of Plymouth Local Plan First Deposit (1995-2011) 2001,

and (c) relevant Planning Guidance (SPG) Notes, Government Policy Statements and Government Circulars, as follows:

PPG13 - Transport

PPS3 - Housing

PPS1 - Delivering Sustainable Development

CS28 - Local Transport Consideration

CS34 - Planning Application Consideration

CS18 - Plymouth's Green Space

CS02 - Design

CS30 - Sport, Recreation and Children's Play Facilities

NP11 - Countryside Park

CS17 - Gypsy and Traveller Sites