

REPORT CONSIDERED BY THE PLANNING CONTROL COMMITTEE ON 18 JANUARY 2017

ITEM NO:	<u>Location:</u>	Land At Junction Of Pottersheath Road And, Danesbury Park Road, Welwyn
	<u>Applicant:</u>	Mr J Connors
	<u>Proposal:</u>	Retrospective application for change of use of land to use as a residential caravan site for two gypsy families, each with two caravans including no more than one static mobile home, erection of two utility buildings, additional hardstanding, associated parking spaces, erection of entrance gates, timber fence and ancillary works (as amended by plan no. 3 and site layout plan received 7/12/16)
	<u>Ref. No:</u>	16/02460/ 1
	<u>Officer:</u>	Tom Rea

Date of expiry of statutory period: 15 December 2016

Reason for Delay (if applicable)

An extension of the statutory period for determining this application has been agreed with the applicants until 20th January 2017.

Reason for Referral to Committee (if applicable)

The application has been referred to Committee in accordance with Section 8 of the Council Constitution as Councillor S. Hemingway has confirmed support for the Codicote Parish Council objection. In addition, the Strategic Director of Planning, Housing and Enterprise has referred this matter to the Committee due to the significant public interest.

1.0 Relevant History

- 1.1 The application site previously formed part of the route of Cannonsfield Road prior to the construction of the A1 (M) and the provision of a new road bridge across the motorway. More recently the site was used for agricultural purposes with the rearing of poultry and the siting of various associated structures.

13/01285/1EUD – this application was submitted to regularise the previous use of the land and structures for agricultural purposes. The Local Planning Authority concluded in a design letter dated 16th September 2013 that ‘sufficient evidence had been presented to satisfy the Local Planning Authority that on the balance of probability that the use of the land, and the siting of ancillary moveable chicken coups and ancillary building (mobile home) did not require planning permission for continued uses in connection with agriculture’.

In March 2013 North Hertfordshire District Council served an Injunction on the then owners of the site to prevent additional development on the land without planning permission.

2.0 Policies

2.1 North Hertfordshire District Local Plan No.2 with Alterations (Saved Policies 2007)

Policy 2 - Green Belt
Policy 34 - Residential Caravans and Mobile Homes
Policy 55 - Car Parking Standards
Policy 57 - Residential Guidelines and Standards

2.2 National Planning Policy Framework

Generally relevant throughout although the following section is particularly relevant:
Section 9. Protecting green belt land

2.3 North Hertfordshire District Local Plan 2011-2031 Proposed submission Local Plan and Proposals Map

Policy SD1 'Presumption in Favour of Sustainable Development'
Policy T1 'Sustainable Transport'
Policy T2 'Parking'
Policy SP5 'Countryside and Green Belt'
Policy HS7 'Gypsies, Travellers and Travelling Showpeople'
Policy D3 'Protecting Living Conditions'
Policy NE9 'Contaminated Land'

2.4 Department for Communities and Local Government (DCLG) - Planning Policy for Traveller Sites August 2015

Relevant throughout and in particular Policy E: Traveller sites in the Green belt

3.0 Representations

3.1 NHDC Housing and Environmental Health Service:

Contamination

Recommend a condition requiring confirmation of soil covering material of garden area

Noise:

Recommend a condition ensuring that the development is carried out in accordance with the submitted noise report

3.2 Hertfordshire Highways: Does not wish to restrict the grant of planning permission subject to a condition.

3.3 Highways England: - 'Offer no objection'

3.4 Hertfordshire County Council Families and Children Department:

Manager - Access to education for travellers and refugees - comments as follows:
Confirms children are in local schools. Confirms that Traveller families are finding it consistently challenging to secure appropriate accommodation, suitable to their needs and cultural requirements. Advises that, due to lack of sites provision travellers have moved to houses which frequently presents the families with challenges of isolation and deteriorating mental health. They do not have their immediate family around, which is very important within the Traveller community. The childrens way of life changes dramatically .Social isolation, without the support of their community presents many problems.

The importance for the children of Traveller families of being able to attend the same school in order to achieve continuity of education, as per other communities cannot be underestimated. Where there is no stability of accommodation, it becomes very difficult to maintain regular attendance and children miss out on a full time education.

Travellers are the most marginalised community and still continue to suffer extreme levels of prejudice and discrimination. Traveller children are amongst the lowest achieving group in the country due to circumstances around accommodation, continuity of education, low levels of literacy within the older generations due to lack of opportunity and poor experiences.

Where the above barriers can be eliminated, Traveller children have the opportunity to become part of the local and school community and therefore have the opportunity to achieve.

3.5 Hertfordshire County Council Gypsy Section:

The Head of Section Comments as follows:

'I am aware of the families making this application both of whom have been on our waiting list for some time. With few vacancies becoming available each year and the uncertainty of any new public sites being built in the near future it is doubtful they will ever be accommodated on a public site. Having known these families for many years they are unlikely to be a problem to people living in the vicinity of this site and I would support their application for full planning permission'.

3.6 Welwyn Hatfield District Council:

Raise no objections to the proposals.

Advises that travellers sites in the Green Belt are inappropriate development. Subject to the best interests of the child personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

Acknowledges from the supporting documents that the families have been moved on from several unofficial encampments in the local area and have children in local schools and use local medical services and as such considers that the families have strong local connections. Advises that there are currently no suitable sites to accommodate the families in the Welwyn Hatfield area. Considers that the families need for accommodation is a cross-boundary matter that should be taken into account.

Request that all consultation responses from Welwyn Hatfield residents are taken into consideration including issues raised with increased traffic on Cannonsfield Road and Pottersheath Road, the number of gypsy sites in the area, that the site has not been allocated in the North Herts local plan and is in the Green Belt.

3.7 Codicote Parish Council:

Object to the application for the following reasons:

- Inappropriate development in the Green Belt (Policy E of the Planning policy for traveller sites refers)
- Loss of openness

- 3.8 **Welwyn Parish Council:** Object to the application. Development is on Green Belt land. Traveller sites (temporary or permanent) in the Green Belt are inappropriate developments. In 2013 a High Court injunction was obtained against the owners preventing use of the site by caravans/mobile homes.
- 3.9 **Woolmer Green Parish Council:** Woolmer Green Parish Council objects to this application as no "very special circumstances" have been demonstrated that would permit a travellers site to be established on Green Belt land. Granting this application could set a precedent for future similar planning applications.
- 3.10 **Affinity Water:**
Any comments received will be reported to the Committee meeting
- 3.11 **NHDC Housing Supply Officer:** Advises that evidence from the Gypsy & Traveller Accommodation Study, undertaken by ORS in 2014, identifies a requirement for 7 additional pitches over the period to 2031. The area covered by the temporary planning permission on the Pulmore Water site meets this requirement though the existing permission expires in 2017.

This area is therefore allocated for permanent provision and to provide certainty going forward. Based on current evidence, it should prevent the need for future 'single issue' reviews of this policy and the long-term needs of these communities will be considered as part of the next general review of the plan alongside the needs of the settled community.

3.12 **NHDC Waste Management:**

Advises that refuse collection would be kerbside and that sufficient space appears to be available within the site for waste and recycling storage. Advises on waste collection distances for residents.

3.13 **CPRE Hertfordshire :**

Considers the application as inappropriate development in the Green Belt Acknowledges that the very special circumstances are lack of gypsy and traveller sites and the particular circumstances of the families. NHDC has made additional pitch provision in its emerging local plan which can be given due weight. The application site is not included in the provision. Green Belt policy should take precedent.

The Council should give significant weight to the needs of the children involved under Article 8 of the Human Rights Act. Consequently the Council must decide whether or not the need of the children to access schools and medical facilities (as expressed in the Design & Access Statement) can only be met at this site.

In assessing the planning balance in this case the Council should also take into account that the regulation of land use is essentially a matter of public policy, which requires the balance of the interests of individuals with the public interest in controlling development, in this case the encroachment into the Green Belt. The inspector in the case of Tullochside Farm, St. Albans, (Appeal Decision APP/B1930/A/09/2113116) held that while giving the Green Belt precedence "*does involve some interference in the rights of occupiers under Article 8 of the European Convention on Human Rights, this does not amount to a violation of those rights, having regard to the test of proportionality and the importance which is properly attached to the protection of the Green Belt and the environment.*"

In our opinion the Council should reject this application to normalise inappropriate development in the Green Belt.

3.14 Local residents:-

The Local Planning Authority has received 102 representations from local residents and one petition signed by 19 residents objecting to the development raising the following concerns:

- Inappropriate /illegal and intentional unauthorised development in the Green Belt
- Not a designated site in North Herts
- There are no very special circumstances
- Already sufficient traveller sites
- Openness is substantially reduced
- Unacceptable scale of the development
- Further unauthorised development has occurred on the site
- No barriers to existing residential development
- Query accuracy of statements in the Design and Access statement
- Site is very prominent and visible
- New fencing obscures visibility
- Applicant fails to demonstrate very special circumstances exist to justify Green Belt development/misuse of Green Belt
- Exceptions to Green Belt policy can only be made through the local plan process
- Previous agricultural use was not viable/significant
- Enforcement action should be considered
- Unsuitable in this residential area of permanent housing
- Contrary to Policy E (16) of Planning Policy for travellers sites
- Contrary to Policy H of Planning Policy for travellers sites
- NHDC should follow Government guidelines - if not a precedent will be set
- Use and storing of heavy goods vehicles causes disruption/ damage to highway
- Traffic and Parking of HGV's on local roads is illegal and cause accidents to other road users
- Business use of the site would be detrimental to wildlife/plant forms and the barrier to the motorway
- Site has contained previous unauthorised uses/ containers/mobile home
- Infilling may have caused damage to the motorway banks and fences
- There are two other gypsy sites nearby and a traveller site at Pulmore Water and further land may be available to allow gypsies to arrive in the area
- Recommend rejection and the site cleared
- Increase in volume and speed of vehicles on local roads, hazardous during school hours
- Will have a detrimental impact on Mardley Woods
- Application will decrease the quality of life for the vast majority and increase tensions. Detrimental to wellbeing of residents
- Concern on house prices
- Local road network inadequate to cope with extra traffic
- Additional resources on local schools
- Will lead to increased dumping and burning of rubbish and contamination/disturbance of toxic material detrimental to road users, residents and wildlife
- Site not fit for human habitation / site may be contaminated/ toxic
- Local children passing the site are often threatened/ unsafe for local children
- Environment Agency could provide evidence of contamination
- Injunction should be served

APPENDIX A

- Contrary to the rural characteristics of the area/ damage to chalk valleys conservation zone, nature reserve -a natural asset
- Site may include some highway land
- Development contrary to a previous appeal decision
- loss of trees/landscaped area, planting and fencing is out of keeping
- Site may grow/ expand into adjoining site
- Additional strain on sewage/ drainage infrastructure
- No notification/site notice
- Query why Council have not acted/ NHDC should develop statutory pitches
- Damage to roadside and signage
- NHDC at risk of a lack of judgement and regard to Government guidelines if permission is granted
- If house prices reduce council tax contributions should reduce
- Trade waste is likely to be burnt on site leading to pollution
- No strategy for removing surface water or bio-waste
- Site not within easy reach of public amenities
- Planting will obstruct the highway
- Applicants should resolve their family issues
- Location adjacent the A1 (M) not in the best interests of the children's health
- Restrictive covenants do not allow structures to be built on the land
- The site includes the old Cannonsfield Road which is still public and therefore cannot be subject to planning approval
- Lack of enforcement

Representations in support of the development have been received from two including the following comments:

- The fence looks lovely
- The site shows a big improvement, looking a lot better , very nice and clean and tidy
- Families would be an asset to the community

The Council has received 10 representations making the following comments:

- family pleasant, friendly and hospitable
- moving around the district has had a detrimental effect on patients health
- families have supported community events and causes and respect others

4.0 Planning Considerations

4.1 Site & Surroundings

- 4.1.1 The site is located at the junction of Danesbury Park Road and Pottersheath Road approximately 1.5 miles to the south east of Codicote. The site is irregular in shape and is approximately 0.15 hectares (0.37 acres). The site is relatively flat and enclosed by close boarded fencing and it contains several mature trees. The site has a corner vehicular access onto the junction of Danesbury Park Road and Pottersheath Road. The eastern boundary of the site abuts the top of the embankment with the A1 (M) motorway. The south western boundary adjoins Cardens Gardens a former quarry site currently being used for agricultural uses including the rearing of poultry. The site is within the Green Belt.

4.1.2 The surrounding pattern of development is characterised by mainly low density residential development and highway infrastructure. The area is well landscaped with a large amount of trees interspersed throughout the area. To the north of Pottersheath Road and east of the A1 (M) the area is more wooded in character particularly the Mardley Heath area north of the residential settlement of Welwyn Heath. To the south east of the site is a Scout Hut and to the south west, along Danesbury Park Road, a large private mobile home site comprising 42 static caravans (Woodlands Park Homes).

4.1.3 The A1 (M) essentially bisects the settlements of Pottersheath and Oaklands/Welwyn Heath and the carriageway is set down several metres from the application site and Pottersheath Road in a cutting running north - south.

4.2 Proposal

4.2.1 This planning application seeks retrospective consent for the change of use of the site from its former use as a poultry farm as a residential caravan for two gypsy families with two caravans and two static mobile homes, two utility buildings, additional hardstanding, associated parking spaces, erection of timber fencing, entrance gates and additional landscaping. The application is retrospective as the use commenced with the introduction of caravans on the site in October 2016. Currently on the site there are three caravans and one static mobile home. An amenity block is also under construction.

4.2.2 In support of the application the applicant's agent has made the following points within a Design and Access statement:-

- The proposed development would remove the existing structures and general untidiness and replace them with a well landscaped caravan site
- It is accepted that there would be some loss of openness although this would be ameliorated by the removal of existing structures and spread of development and new provision of new landscaping
- The proposed emerging local plan gypsy site extension at Pulmore Water (also in Green Belt) has yet to be examined in public and the policy therefore carries little weight
- There is an identified need for additional permanent traveller pitches in North Herts which this proposal would help to meet. The identified need and current absence of alternative sites in the district are both matters which should carry significant weight in favour of the development as is the likelihood of any new gypsy sites being within the Green Belt
- A personal planning permission limited to the two families is recommended
- The families have long-standing economic and social connections with children settled in local schools. The personal and specific need for a site in the area weighs in favour of the proposal
- Apart from its location in the Green Belt the proposed use satisfies all of the criteria in the Council's emerging local plan gypsy policy
- Planning Policy for Travellers sites (PPTS) specifically cites the needs of children as a factor which may tip the balance in favour of approval on Green Belt sites
- In this case there are no alternative sites and a refusal of permission will result in the families living on roadsides which would disrupt their health care and education
- Some weight must be given to absence of a five year supply of deliverable land for gypsy sites.
- Very special circumstances exist that outweigh harm to the Green Belt and any other harm

4.2.3 The application is supported by the following documents:

1. Environmental site assessment report
2. Noise Assessment report

Traffic count

The applicants have commissioned a traffic count/ speed analysis on vehicles passing the junction of the site at Pottersheath Road.

Other documents

Several documents have been received in support of the circumstances of the applicants including eviction notices from various sites in the Welwyn and Stevenage area, a letter from a medical centre and a letter from Hertfordshire Gypsy section advising that the County Council would be unlikely to accommodate the families for many years.

4.3 Key Issues

4.3.1 Members will be aware in considering this application that there is a breach of planning control in that the site has already been occupied and various works carried out.

4.3.2 It is incumbent on decision makers to judge retrospective planning applications on the same basis as a prospective application would be assessed. Therefore the fact that the development and/or use exists before planning permission is granted should not mean that the application is assessed any differently. The unauthorised occupation of the site, construction of amenity buildings and indeed provision of utility connections has been undertaken entirely at the applicants own risk and officers have made this clear to the occupiers.

My assessment of this planning application as set out in the following sections of this report is the same as it would have been had the development not taken place. When assessing a retrospective planning application the decision taker should not judge it any more harshly because development has already taken place. This application must be considered and a decision taken based on an understanding of the planning merits of the case and all relevant legislation.

4.3.3 The key issues in the consideration of this application are considered as follows:

- Statutory considerations and Planning Policy
- The impact of the development on the green belt
- The impact of the development on the character and appearance of the area
- The impact on existing residents
- Environmental issues
- Highway issues
- Sustainability
- The Planning Balance

4.3.4 **Statutory considerations and Planning Policy**

4.3.5 Statutory considerations

In considering this application the Local Planning Authority (LPA) has to have due regard to the requirements of the Public Sector Equality Duty of the Equality Act 2010. In this regard the LPA has to consider the need to eliminate discriminatory behaviour, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not.

4.3.6 From the information submitted with the planning application, the supporting documentation and from responses received from the gypsy section at Hertfordshire County Council I am of the view that the applicants meet the definition of “gypsies and travellers” as set out in Annex 1 of Planning Policy for Travellers sites 2015 (PPTS) and as such regard has to be given to their protected characteristic as a racial group forming part of this community. The Equality Act also cites ‘pregnancy and maternity’ as a protected characteristic and it should be noted in the supporting documents that a local NHS medical centre is providing midwifery support to Mrs C Connors who is currently living on the application site.

4.3.7 In addition to the above The LPA has to have regard to Article 8 of the Human Rights Act 1998 which has, through case law, been held to require that special consideration be given to accommodate gypsies as a minority group and facilitate the gypsy way of life.

4.3.8 Given the above I am of the view that the rights of the applicants under Article 8 of the Human Rights Act are engaged and it is for the LPA to consider whether such rights may be infringed in the event that planning permission may be refused for the development - subject to all other material considerations with this planning application.

4.3.9 The circumstances of this particular case is that the families involved have strong local economic and social connections with children in local schools, registration with local medical providers and employment in the wider area however they have been unable to find settled accommodation following a decision to move from the authorised gypsy site at Four Oaks on the Great North Road due to a family dispute. Evidence submitted with the application shows that they have been moved off several privately owned non-traveller sites and the Gypsy section at Hertfordshire County Council have advised that with few vacancies becoming available each year and the uncertainty of any new public sites being built in the near future it is doubtful they will ever be accommodated on a public traveller site.

4.3.10 Planning Policy

The Government's Planning Policy for Travellers sites (PPTS) (August 2015) is a key national planning policy document applicable in this case. In addition paragraphs 88 and 89 of the NPPF are relevant in that they set the test and general criteria for considering development within the Green Belt.

4.3.11 Paragraph 16 of the PPTS states that :

‘Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances’

- 4.3.12 Paragraph 88 of the NPPF states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The North Hertfordshire District Council Local Plan (Saved Policies) contains two particularly relevant policies – Policy 2 ‘Green Belt’ which reflects general thrust of paragraph 88 of the NPPF in terms of very special circumstances being required to justify inappropriate development and Policy 34 Residential Caravans and Mobile Homes. Policy 34 states that the Council may, in special circumstances, permit the use of land for mobile homes or caravans on a temporary basis if:

- (i) There is a proven need; and
- (ii) There will be little or no likelihood of a replacement application to renew the permission for a temporary period; and
- (iii) Particular attention has been paid to its siting, appearance, setting and landscaping

- 4.3.13 The current NHDC plan does not contain any specific policies or identifies sites for gypsies and travellers.

The emerging NHDC local plan has still to be submitted to the Secretary of State for it to be examined in public and therefore Policy HS7 which identifies land at Pulmore Water, Codicote for 7 additional pitches, carries little weight. The emerging policy is based on an Opinion Research Services report 'Gypsy, Traveller and Showperson Accommodation Assessment Update' dated 2014 based on a site survey in 2013.

- 4.3.14 North Hertfordshire District Council has no public travellers sites and only one private site at Pulmore Water/Wexford Park. The combined sites provide 18 pitches of which 6 have a temporary planning permission expiring in March 2017. The 2014 ORS report identifies that a number of the pitches are occupied by non-gypsy and travelling households. The report assumes that the pitches being occupied by non-travellers will be vacated and therefore these pitches will count towards the overall provision.

There is some doubt as to whether the emerging policy is based on an up to date assessment of the needs of the gypsy and travelling community within North Hertfordshire as it relies on a temporary planning permission becoming permanent and existing non-travellers moving off a private site. The policy is also based on an ORS report that predates the revised Planning Policy for Travellers Sites issued in 2015 which restricts the definition of gypsies and travellers and particularly restricts gypsy and traveller sites within the Green Belt. Furthermore the emerging local plan is seeking to create more Green Belt to offset the provision of strategic housing sites.

Welwyn Hatfield District Council has identified 8 travellers sites within its district and the Welwyn Hatfield Draft Local Plan Proposed Submission Document is proposing an additional 61 pitches across these sites following a 2016 review of the accommodation needs of Gypsies and Travellers and Travelling Showpeople. This is indicative of the severe accommodation need for the gypsy and travelling community in the area. Part of Welwyn Hatfield district (and particularly the Welwyn/Oaklands area and the A1 (M) corridor) forms part of the North Hertfordshire Housing Market Area and therefore it is appropriate to make reference to how the adjoining local planning authority is addressing the issue.

The PPTS requires (in Policy B) Local Planning Authorities to work collaboratively with neighbouring local planning authorities to provide traveller sites. Where there are cross-border issues Councils have a duty to co-operate on planning issues that cross administrative boundaries. In this case the application site, although in North Herts is immediately adjacent Welwyn Hatfield district boundary, a significant vehicular access is provided through Welwyn Heath to the site and the majority of services near to the site are within Welwyn Hatfield. The area has a relatively high traveller population with the vast majority of pitches (either private or public) in Welwyn Hatfield's administrative area. It would appear that Welwyn Hatfield is positively addressing the issue in its emerging local plan based on a pressing need including an up to date assessment. The emerging North Hertfordshire local plan identifies one site that is already occupied and the intention is to create more Green Belt between Stevenage and around Whitwell within which the PPTS advises that traveller sites should not be approved except in very special circumstances.

The PPTS makes it clear (in Policy E) that unmet need and personal circumstances are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances This does not mean that they will never outweigh harm to the Green Belt. Given the particular difficulties that the applicant families have experienced in finding authorised accommodation and the apparent acute shortage of gypsy and traveller sites both in North Hertfordshire and Welwyn Hatfield I am of the view that this is one case where very special circumstances and the need to protect the openness of the Green Belt are finely balanced. A full analysis of the very special circumstances that are apparent in this case and how much weight could be attributed to them set against harm to the Green Belt is set out in the 'planning balance' assessment below.

4.3.15 The impact of the development on the Green Belt

The application site is within the Green Belt however it does not have the characteristic of open countryside. It is flanked on three sides by roads – Danesbury Park Road and Pottersheath Road and on its south eastern boundary by the embankment to the A1 (M). There is residential development along Danesbury Park Road including the Woodlands Park mobile home site approximately 140 metres to the south west. The settlement of Pottersheath lies immediately to the north. Immediately adjoining the site is a former quarry site currently used for agricultural purposes. The site itself was formerly part of the route of Cannonsfield Road and is therefore arguably partly previously developed land (fixed surface infrastructure being considered in Annex 2 of the NPPF as PDL).

- 4.3.16 Notwithstanding the above the application site it is in the Green Belt. Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to keep land open and that the essential characteristics of Green Belts are their openness and their permanence.

- 4.3.17 The provision onto the site of two caravans and two static homes and two amenity buildings would significantly change the open character of the site and this openness has been further eroded by the replacement fencing which is of approximately 2.0 metres in height along the Pottersheath Road and Danesbury Park Road frontages. In mitigation it is acknowledged that the mobile homes and amenity buildings would be sited, according to the site layout plan, towards the rear A1 (M) boundary and the adjoining quarry site and set back from the gated entrance into the site. It is also accepted that the site was previously enclosed albeit by a lower approximately 1.2m high timber fence. However, I am of the opinion that the change of use together with the resultant structures results in the loss of open character to the site. Even taking into account the prevailing pattern of development including the location of the A1 (M) and the nearby housing and mobile home site along Danesbury Park Road I am of the opinion that the development has a significantly adverse impact on openness.
- 4.3.18 Having regard to paragraph 80 of the NPPF I consider that the development would be contrary to one of the five purposes of the Green Belts i.e. it would fail to assist in safeguarding the countryside from encroachment.
- 4.3.19 It is not disputed by the applicants in the supporting design and access statement that the use being sought through this planning application is inappropriate development and that the harm, by reason of inappropriateness must be accorded substantial weight. I would agree with this opinion.
- 4.3.20 **The impact of the development on the character and appearance of the area**
As stated above the application site is not in my view characteristic of open countryside. The site is not isolated or surrounded by open fields. It is close to the urban settlement of Welwyn Heath and the adjacent residential properties, mobile home site and road infrastructure surrounding the site, particularly the adjacent A1 (M) combine to give the appearance of an suburban edge location. Although on a prominent corner location at a junction with Danesbury Park Road and Pottersheath Road the site contains a number of mature trees and the recent shrub planting in front of the boundary fence will, over time, soften the impact of the fencing and contribute to the generally well landscaped and sylvan feel of the area. The site area (at 0.15 hectares) is not large and comparable in area to some of the adjacent established residential plots which sit in landscaped grounds. The adjoining former quarry site contains a number of trees and shrubs and acts as a landscape buffer on approaches to the site along Danesbury Park Road.
- 4.3.21 The site is occupied by two related families (four adults and four children). The vehicular activity and general comings and goings to the site would be limited as a result of this low level of occupation and this can be secured through the personal occupancy condition which is being offered by the applicants. No commercial storage of vehicles or equipment is sought as part of this application and the site layout drawing suggests that domestic vehicles and refuse and waste storage bins will be easily accommodated within the site and generally out of public views.
- 4.3.22 The residential use of the site would not be out of keeping given the number of domestic properties in the area and the form of the static homes themselves would not be dissimilar from those occupying the nearby mobile home site. The density of the residential use of the site would be comparatively low and again not at odds with the generally low density of residential development in the locality.

4.3.23 In view of all the above factors and setting aside the harm to the openness of the Green Belt which I have identified above, I do not consider that the change of use to a caravan site would result in any demonstrable harm to the character and appearance of the area.

4.3.24 The impact of the development on existing residents

There are just two immediately adjacent residential properties – ‘Grey Shingles’ and ‘The Chase’ located on the opposite side of Danesbury Park Road. The main aspect and pedestrian and vehicular entrance to ‘Grey Shingles’ faces onto Pottersheath Road and therefore the property does not overlook the application site. The Chase is a detached property set back from Danesbury Park Road and behind substantial vegetation along its front boundary. Its position to the west of the application site and behind screening means that the occupiers of the property are unlikely to overlook the site or be significantly affected by the change of use to caravan site.

4.3.25 There is a public footpath running along Pottersheath Road opposite the site. From the footpath views are obtained of the roof to the recently constructed amenity block and the top of caravans and mobile homes beyond the perimeter fencing however because of their single storey nature (maximum height 3.75 metres above ground level) I consider that views of these buildings are limited and that there would not be any dominance onto the street scene.

4.3.26 The proposal is for a small scale domestic use of the site whereas the authorised use exists for an agricultural activity involving the rearing of poultry with associated structures. Although that use has now ceased it is possible that it could re-commence under the lawful use certificate as mentioned in the planning history above. There is potential for such a use to have an adverse impact on the amenity of the area through noise and smells nuisance and the movement of associated commercial vehicles. It is likely that the domestic use of the site with caravan and static home structures will be a more compatible form of development with the surrounding land uses particularly with the separation distance and landscaping between the site and the nearest properties. I am mindful of the comments from some residents that they feel that in permitting this development that it would lead to anti-social behaviour however I have no demonstrable evidence that this would be the case.

4.3.27 Environmental issues

A number of concerns have been raised by local residents that the site is not fit for human habitation through contamination and noise from the nearby A1 (M). As such the applicant has commissioned a contamination survey and noise report. In terms of the contamination survey the Council's Environmental Health officer is satisfied that there are no ground conditions that will have a detrimental effect on human health. Low levels of non-volatile materials were discovered during site investigation works and the intention is to cover over the designated play area with 600mm of clean material. The majority of the remainder of the site is hardsurfacing set aside for the siting of the mobile homes and parking. In terms of the noise survey the results have revealed that the noise levels within the mobile homes will meet the standards required under BS 3632 and BS 8233 in terms of sound insulation. The provision of the 2.2m high acoustic fence along the A1 (M) boundary will assist in external noise reduction. The Council's Environmental Health officer raises no objections in terms of the noise impact on the development.

4.3.28 In terms of ecological impact Hertfordshire Ecology advise that the site is not part of and does not affect the local nature reserve at Mardley Heath and that furthermore that there are no biological records for the application site. A condition is recommended, should permission be granted, with regard to tree works during the bird nesting season.

4.3.29 Highway issues

The applicant has commissioned a traffic survey which has provided the Highway Authority with details of traffic movement at the junction of the site with Pottersheath Road and Danesbury Park Road. The survey confirmed that the average traffic speed at the junction was less than 19 mph and this dictates the visibility requirements of 2.4m x 27.5m along Danesbury Park Road and 2.4m x 43m along Pottersheath Road. The recent boundary fences that have been erected are required to be re-aligned slightly to achieve the above sight lines and the Highway Authority has recommended a condition to require this re-alignment should planning permission be granted.

4.3.30 In terms of parking provision the submitted site layout plan indicates a turning area within the site so that cars can leave in forward gear and there would be two parking spaces for each dwelling within the site. Refuse collection would be via a kerbside collection and the required amount of refuse and waste recycling bins can easily be accommodated on the site.

4.3.31 Following the submission of the amended plan and supplemental information, the Highway Authority has advised that the development is unlikely to result in a material increase or significant change in the number of vehicles using the site. The Authority considers that the use would not have an unreasonable impact on the safety and operation of the adjoining highway. Given this advice it is concluded that there are no highway grounds on which to object to the development or use.

4.3.32 Sustainability

The NPPF identifies three dimensions to sustainable development - economic, social and environmental. In terms of the economic dimension the occupiers of the site are involved in the landscaping business and such activity would contribute to the economy through their employment in the landscaping and construction sector. The occupiers of the dwellings would contribute to the local economy through increased expenditure in local shops and businesses including those in the adjacent neighbourhood centre at Oaklands. In short this would assist in NPPF objectives of promoting strong, competitive economies. In social terms the children on site attend the local school and nursery and the families are registered with local doctors, attend local churches and a sports centre. From correspondence received with this planning application the families appear to have strong local social connections and are well integrated with the local community and therefore the social dimension is met. In environmental terms although there is harm to the openness of the Green Belt this is mitigated by other factors such as additional landscaping and I have concluded above that the use is not, in my opinion, harmful to the character and appearance of the area having regard to the location of the site adjacent to the A1 (M) and the existence of a large mobile home park nearby. Overall, it is my view that the use would not be an unsustainable form of development and as such the presumption in favour of sustainable development, as provided for in paragraph 197 of the Framework can be applied.

4.3.33 The Planning Balance

The Local Planning Authority is required to assess the harm resulting from this change of use against the matters that weigh in favour of the scheme including having regard to any conditions which might reduce the adverse effects. I set out the factors for and against below (including the weight that may be attached) :

Against the development

1. The use of the land as a residential caravan site is inappropriate development in the Green Belt (significant weight)
2. The development results in loss of openness to the Green Belt and encroachment into the countryside (significant weight)

The issues of highway and access, site contamination, noise, character and appearance of the area, impact on neighbours and impact on ecology have all been assessed however they do not amount to any other significant harm in my opinion.

For the development

1. A refusal of planning permission would not be in the best interests of the children (significant weight)
2. Allowing the development would facilitate the gypsy way of life and their protected characteristics in accordance with statutory legislation (significant weight)
3. Notwithstanding Policy E of the PPTS it appears that there is a severe unmet need (significant weight)
4. The personal circumstances of the applicants are compelling (moderate weight)
5. The extent of the Green Belt in the area (existing and proposed) is a significantly restrictive factor (moderate weight)
6. The application site already suffers some blight from road infrastructure and noise. (moderate weight)
7. The development is not unsustainable in economic, social and environmental terms (moderate weight)

4.3.34 From the above it is my view that the harm to the Green Belt from inappropriateness and loss of openness is outweighed by the factors in favour of the scheme which cumulatively amount to substantial very special circumstances necessary to override the presumption against inappropriate development in the Green Belt. As such a question arises as to whether a permanent permission or temporary permission is justified.

4.3.35 The granting of a permanent permission would undermine the fundamental public interest principles of protecting the Green Belt from inappropriate development and it is clear that whilst there is a clear unmet need, both North Hertfordshire District Council and Welwyn Hatfield District Council are working towards resolving this issue with their emerging local plans so it is likely that in the medium term the requirements of the PPTS in terms of planning for traveller sites will be met. A temporary planning permission in these circumstances is therefore justified particularly as harm would be limited to a short period.

4.3.36 A temporary planning permission is also justified as it is clear that under Article 8 of the Human Rights Act a refusal of planning permission will infringe the rights of the applicants with the direct loss of family homes, the best interests of the child will not be served and there would be a failure to facilitate the gypsy way of life.

4.3.37 Planning circumstances in respect of gypsy and traveller sites provision is likely to change in the next 2 - 3 years as both local authority plans move towards adoption. North Herts and Welwyn Hatfield local plans are yet to be submitted to the Secretary of State and it is unlikely that examinations in public will be held until late 2017 with adoption possible in late 2018. A further period of time should be allowed to permit time for the identified sites to be built and provided. I therefore consider that a temporary permission of three years is reasonable and necessary in view of the time required for sites to become available from adoption of the Council's development plans.

4.3.38 The applicants have offered a personal permission and given that the personal circumstances of the families has been given weight it would be reasonable for a condition to reflect these circumstances. Other conditions relating to specifying the number of caravans, provision of sightlines, compliance with noise and contamination reports, landscaping details, and tree works are considered justified in the interests of the visual and residential amenities of the area.

4.4 **Conclusion**

4.4.1 I recommend that a temporary planning permission be granted for the retrospective change of use of land to use as a residential caravan site for two gypsy families, each with two caravans including no more than one static mobile home, erection of two utility buildings, additional hardstanding, associated parking spaces, erection of entrance gates, timber fence and ancillary works in accordance with the details submitted with the planning permission and subject to conditions. I consider that a temporary permission is proportionate and justified in the circumstances.

5.0 Legal Implications

5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

6.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be for a limited period being for a period of 3 years from the date of this decision. At the end of this period the use hereby permitted shall cease and all caravans, static mobile homes, buildings, structures, materials and equipment brought onto or erected on the land, or works in connection with the use shall be removed and the land restored to an open condition in accordance with a scheme of work to be submitted to and approved in writing by the local planning authority.

Reason: The use is granted on a temporary basis only due to the very special circumstances that are apparent and which override the normal presumption against granting inappropriate development in the Green Belt.

APPENDIX A

2. The use hereby permitted shall be for the benefit of Mr Patrick and Crystal Connors together with their children and John and Eileen Connors together with their children and shall be for a period of 3 years from the date of this decision.

Reason: Due to the very special circumstances advanced in support of the application.

3. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

4. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Travellers Sites, August 2015.

Reason: To reflect the considerations that justify a temporary planning permission on very special circumstances.

5. There shall be no more than four caravans stationed on the site of which no more than 2 shall be a static caravan.

Reason: In the interests of visual amenity

6. No commercial activities shall take place on the site including the storage of materials

Reason: In the interests of visual amenity

7. The development shall be carried out in accordance with the details submitted Noise Assessment by LF Acoustics, Report ref Welwyn Noise 151216 (December 2016). The caravans shall meet the Park Home Specification BS3632:2015.

Reason: To protect the residential amenities of the residents.

8. The garden area forming part of the site shall not be used until written evidence is submitted to and agreed by the Local Planning Authority to demonstrate that the surface cover material imported to the garden area has been applied to a depth of 600mm and has been verified as chemically suitable. The surface cover material shall be imported and laid out on the site and the details submitted within two months of the granting of planning permission.

Reason: To ensure that any contamination affecting the site is dealt with in a manner that safeguards human health.

9. Within two months from the granting of planning permission, vehicle to vehicle visibility splays of 2.4 metres by 43 metres to the right of the access along Pottersheath Road and 2.4 metres by 27.5 metres to the left of the access along Danesbury Park Road shall be provided and permanently maintained (as indicated on the amended site plan). Within which there shall be no obstruction to visibility between 0.6 metres and 2.0 metres above the carriageway. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.

Reason: To provide adequate visibility for drivers entering and leaving the site.

Proactive Statement

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Planning Informatives:

1. The applicants are advised that if any mature trees are to be removed from the site that they are inspected for bat roosts and that any works are carried out outside of the bird nesting season.

2. HIGHWAY INFORMATIVE: Hertfordshire County Council (HCC) recommends inclusion of the following highway informatives / advisory notes (AN) to ensure that any works within the public highway are carried out in accordance with the provisions of the Highway Act 1980:

AN) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

AN) Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.