

ITEM NO:

<u>Location:</u>	Land At Junction Of Pottersheath Road And Danesbury Park Road Welwyn
<u>Applicant:</u>	Mr Connors
<u>Proposal:</u>	Retrospective application for the change of use of land to use a residential caravan site for two gypsy families, each with two caravans including no more than one static mobile home and laying of hardstanding and erection of a timber fence
<u>Ref. No:</u>	17/02755/1
<u>Officer:</u>	Tom Rea

Date of expiry of statutory period: 29.12.2017

Reason for Delay (if applicable)

An extension of the statutory period for determining this application has been agreed with the applicants until 24th August 2020

Reason for Referral to Committee (if applicable)

This application was originally called in to Committee by Councillor S. Hemingway in the wider public interest. Cllr Hemingway is no longer a Councillor but in light of this call in and the level of public interest this planning application is being reported to the Committee at the discretion of the Development and Conservation Manager and to ensure continuity of decision making in relation to this site.

1.0 Relevant History

- 1.1 On 13th March 2013 NHDC issued an injunction order on part of the application site relating to the siting of caravans and residential use.
- 1.2 16/02460/1: Retrospective application for the change of use of land 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, entrance gates, timber fence and ancillary works. Refused permission 19/1/17 for the following reasons:

The development represents inappropriate development in the Green Belt which causes harm to the Green Belt by reason of inappropriateness and harm to openness. In the opinion of the Local Planning Authority the applicant has not demonstrated sufficient very special circumstances to outweigh this harm. The development is therefore contrary to Policy 2 of the North Hertfordshire District Local Plan No. 2 – with Alterations and paragraphs 88-90 of the National Planning Policy Framework (NPPF).

An appeal was submitted on 23rd March 2017 against the above decision. A Public Inquiry was due to take place on 5th – 7th December 2017, however the appeal was withdrawn on 20th November 2017.

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 (2019)

Generally relevant throughout although the following section is particularly relevant:

▣ Section 5 'Delivering a sufficient supply of homes'

▣ Section 13 'Protecting green belt land'

2.3 North Hertfordshire District Local Plan 2011-2031 Proposed submission (September 2016) incorporating the Main Modifications (November 2018)

Policy SP5: Countryside and Green Belt

Policy SP6: Sustainable transport

Policy SP8: Housing

Policy HS7 'Gypsies, Travellers and Travelling Show people'

Policy D3 'Protecting Living Conditions'

Policy NE9 'Contaminated Land'

ELP Background paper:

North Hertfordshire District Council Gypsy and Traveller Accommodation Assessment Update Final Report January 2018

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

2.5 **Codicote Neighbourhood Plan**

The Codicote Neighbourhood Plan are was designated on 24th June 2014. Consultation is currently being carried out by the Codicote Neighbourhood Forum. At present the Plan has no statutory weight.

3.0 Representations

The following representations have been received:

3.1 **NHDC Environmental Health Service:**

Contamination

Recommend a condition requiring confirmation of quantity and quality of surface cover material to garden area.

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

3.3 **Highways England:** - 'Offer no objection'

3.4 **Codicote Parish Council:**

Advises that previous objection (to application 16/02460/1) still stands and make the following comments:

- ❑ Inappropriate development in the Green Belt (PC do not believe that there are any special circumstances to warrant this development)
- ❑ Loss of openness
- ❑ Refer to NHDC to the grounds on which the Appeal relating to planning application 17/00320/1 land at Gragil and 29 Danesbury Park Road, Welwyn was dismissed by the Planning Inspectorate (APP/X1925/W/17/3181783)
- ❑ Clarification is required on how many caravans and static homes per family are being applied for
- ❑ Inaccuracies on the site plan and description

3.5 **Welwyn Parish Council:** Objects to the application

3.6 **Woolmer Green Parish Council:** Objects to the application

3.7 **Hertfordshire Ecology:** No concerns have been identified, no ecological survey work is required and the application can be determined accordingly.

3.8 **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. Advises that the 2 pitches at Pottersheath/ Danesbury Park Road would meet the planning definition for Traveller sites.

3.9 **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.

3.10 **Local residents: -**

The Local Planning Authority has received a number of representations from local residents objecting to the development (copies of the correspondence can be viewed on the web site under planning ref: 17/02755/1). The concerns raised include the following comments:

- ? Previous application was refused permission – no change in circumstances, no new evidence submitted
- ? Inappropriate development in the Green Belt, contrary to local and national planning policy
- ? Loss of openness
- ? No very special circumstances have been presented
- ? Granting permission would create a precedent for similar unauthorised development
- ? Not included in local plan
- ? Should be refused and site reinstated
- ? Consideration should be given to relationship to surrounding community
- ? Noise and disturbance
- ? Detrimental to quality of life
- ? Case should be escalated to Secretary of State
- ? Query how future usage of the site will be enforced
- ? Concern at environmental impact of fires,
- ? Increased HGV traffic in residential area
- ? In appropriate fencing / landscaping
- ? Injunction not enforced
- ? Residents not supportive
- ? Contrary to Planning Policy for traveller sites
- ? NHDC have provided for travellers in the area
- ? Resulted in waste of public funds and unnecessary costs to residents
- ? Could lead to adjoining site being developed for travellers
- ? If permitted conditions should be imposed to restrict the use
- ? Site being used for business purposes / migrant workers
- ? Interests of the children do not constitute special circumstances
- ? Need to consider A1 (M) smart motorway development
- ? Waste of taxpayers funds
- ? Contaminated land
- ? Impact on openness

3.11 Secretary of State for Housing, Communities and Local Government

On 24th January 2018 the Council received notice that the Secretary of State had been asked to consider a call-in of the current application in accordance with the call-in policy set out in the Written Ministerial Statement of 26th October 2012. The Secretary of State has requested that should the Local Planning Authority be minded to approve the application that it withholds the issuing of the decision until the Secretary of State decides on whether he wishes to call-in the application.

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 access is currently gated with the gates set back approximately 12 metres from the highway boundary. The eastern boundary of the site abuts the top of the embankment with the A1(M) motorway. The south western boundary adjoins a former quarry site, the last use of which was for agricultural uses including the rearing of poultry. The site is within the Green Belt

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).

- 4.1.2 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 (although only one has been constructed), 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 on 18th October 2016. Currently on the site there are three caravans and one static mobile home.
- 4.2.2 In support of the application the applicant's agent has made the following points within a Planning Statement :-

- ☐ It is accepted that the development is inappropriate development in the Green Belt but that there are material considerations that outweigh the harm to the Green Belt
- ☐ No specific policy in current development plan that identifies and allocates gypsy and traveller sites
- ☐ The Council does not have a five year supply of sites
- ☐ The development is consistent with national policy or can be made so with appropriate planning conditions and obligations
- ☐ Limited weight can be attributed to the site's actual impact on the openness and purpose of the Green Belt
- ☐ There are material considerations in favour of the development – need for gypsy and traveller sites, lack of suitable sites, failure of policy, lack of five year supply. These outweigh harm and therefore permanent planning permission should be granted
- ☐ The personal circumstances of the applicants can be included as a material consideration in favour of the application
- ☐ Site would make a contribution towards the clear and immediate need for additional permanent privately owned gypsy and traveller sites in the District

4.2.3 The application is supported by the following documents:

1. Planning Statement
2. Environmental site assessment report
3. Noise Assessment report

4.2.4 In July 2020 an update was provided by the agents on the current personal circumstances of the applicants residing at the application site. This has confirmed that a number of children are living on the application site and that the applicants continue to meet the definition of travellers as identified in the PPTS (2015).

4.3 **Background and key issues**

4.3.1 Background

4.3.2 In considering this application it is important to take into account the history of the earlier application (ref: 16/02460/1) and the events that led to the submission of this second application seeking planning permission for use of the site as gypsy and traveller accommodation.

4.3.3 Planning application 16/02460/1 seeking retrospective permission for use of the site for two gypsy families was reported to the Council's Planning Committee on 18th January 2017. The officer recommendation was to grant a temporary 3 year planning permission personal to the applicants. The recommendation was based on the personal circumstances of the applicants, the best interests of the children living on the site, unmet traveller accommodation need and in the interests of facilitating the gypsy way of life. The application was refused permission, contrary to the officer recommendation, on the grounds of harm to the Green Belt through inappropriateness and harm to openness.

- 4.3.4 An appeal was submitted against the refusal of planning permission for application ref: 16/02460/1 and a Public Inquiry was scheduled to take place between 5th and 7th December 2017. In the lead up to the Inquiry additional information revealed that there had been a significant change in circumstances since the refusal of planning permission in January 2017.

These changes included a review of the Council's Gypsy and Traveller Accommodation Assessment which identified a need for additional pitches for travellers over the Plan period, further information regarding the personal circumstances of the applicants and advice that additional children were residing at the site.

At a meeting of the Council's Planning Control Committee on 12th October 2017 the Council's appointed expert planning witness for the Inquiry advised that in the light of the new information the Council's case at the scheduled Inquiry could not be defended. This view had been corroborated by Counsel advice obtained by Planning Officers on behalf of the Council.

After a lengthy debate the Planning Control Committee resolved to accept the officer recommendation that the Council should not defend the appeal but invite the Appeal Inspector to grant planning permission for application ref: 16/02460/1. Furthermore, the Committee resolved that the appellant should be invited to submit a further planning application to allow the Local Planning Authority to consider such an application in the light of the additional information available which included the personal circumstances of the occupiers of the site and the Council's interim Gypsy, Traveller and Show person Accommodation Assessment Update (2017). A copy of the Minutes of the Planning Control Committee meeting of 12th October 2017 is attached at **Appendix A**

- 4.3.5 On 3rd November 2017 the current application was submitted and the appeal relating to the earlier application (16/02460/1) was withdrawn on 20th November 2017 and the Inquiry cancelled.
- 4.3.6 The determination of the current planning application has been delayed primarily because of progress on updating the Council's Gypsy and Traveller Accommodation Assessment and the various stages that have occurred with regard to the Emerging Local Plan 2011 – 2031 which now proposes the allocation of the application site at Pottersheath Road as a Gypsy and Traveller site to accommodate 4 permanent pitches (Policy CD6 – Land at Woodside Place, Danesbury Park Road).
- 4.3.7 The key issues in the consideration of this application are considered as follows:
- ☐ Planning Policy
 - ☐ The impact of the development on the green belt
 - ☐ The impact of the development on the character and appearance of the area
 - ☐ Living conditions
 - ☐ Highway issues
 - ☐ Sustainability
 - ☐ The Planning Balance

4.3.8 Planning Policy

4.3.9 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 143 - 145 of the NPPF are relevant in that they set the test and general criteria for considering development within the Green Belt.

Paragraph 60 of the NPPF also advises that the size, type and tenure of housing needed for different groups (including travellers) should be assessed and reflected in planning policies.

4.3.10 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'

4.3.11 Paragraph 144 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 paragraphs 143 – 144 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

4.3.12 Since the submission of this application the Council has undertaken a significant amount of work in relation to making appropriate provision to meet the needs of Gypsies, Travellers and Travelling Show people in North Hertfordshire and to ensure that the Council's strategy complies with Planning Policy for Traveller Sites (PPTS 2015) advice that local planning authorities should use *'a robust evidence base to establish accommodation needs to inform the preparation of local plans'*. As such the Council commissioned a new Gypsy and Traveller Accommodation Assessment (GTAA) the final report being published in January 2018.

- 4.3.13 The Councils strategy for assessing and making provision for gypsies and travellers was examined at the Emerging Local Plan Hearings held between February and March 2018 under a document '*Matter 12 – The housing strategy: provision for gypsies, travellers and travelling show people (Policies SP8 and HS7)*'. A full copy of the paper Matter 12 is attached at **Appendix B** to this report. The document set out the need for four additional pitches over the Plan period to 2031 to meet the needs of the families currently at the Pottersheath Road site. Arising from these Hearing Sessions were a number of actions required by the Local Plan Inspector to require the Council to produce evidence including a capacity and sustainability assessment of the Pottersheath Road site and its suitability to meet the need for additional pitches arising over the whole of the Plan period.
- 4.3.14 In November 2018 the Council published the Proposed Main Modifications to the Submission Local Plan 2011 – 2031 and this included a proposed revision to Policy HS7 Gypsies, Travellers and Travelling Show people to revise the number of pitches required to meet the District's Gypsy and Traveller pitch needs up to 2031. This included an increase in the number of pitches at Pulmer Water to 8 permanent pitches (Policy CD4) and a new provision at Land at Woodside Place, Danesbury Park Road for 4 permanent gypsy and traveller pitches (Policy CD6).
- 4.3.15 In accordance with the Actions required by the Local Plan Inspector following the Matter 12 statement considered at the Local Plan Hearing Sessions between February and March 2018 the Council has produced an additional statement to be presented at the further round of Local Plan Hearing sessions (dates yet to be confirmed). This statement – '*Matter 25 – new land proposed for allocation through the main modifications MM139 & MM385 – Land at Danesbury Park Road as a Gypsy and Traveller site*' A full copy of this document is attached at **Appendix C** to this report. The statement sets out the reasons why the allocation is justified in terms of the local plan process and relevant policy but also sets out that there are exceptional circumstances that exist to warrant its allocation.
- 4.3.16 As already mentioned above in the background to this application the Local Planning Authority through the Council's Planning Control Committee has already resolved in October 2017 that there were very special circumstances apparent to support the grant of planning permission for the use of this site for gypsy and traveller accommodation for two families.
- 4.3.17 The personal circumstances of the families present on the site continues to provide a very strong case to support the grant of planning permission. Moreover, the evidence base now established by the Council through its GTAA Update 2018 reinforces the case for the granting of planning permission.
- 4.3.18 Summary
- 4.3.19 There is no doubt that the application for the use of the site for gypsy and traveller accommodation including the associated structures constitutes inappropriate development in the Green Belt and that it is harmful to openness. It is also contrary to one of the five purposes of the Green Belt in that it leads to encroachment into the countryside. However, there are material considerations in relation to this application including the personal circumstances of the applicants and the best interests of the children living on the site that are not well served by a refusal of planning permission.

Moreover, the Council has produced evidence through its GTAA 2018 that this site is required to meet the recognised need for gypsy and travellers over the Emerging Local Plan period (2011 – 2031).

4.3.20 The impact of the development on the Green Belt

4.3.21 The application site is in the Green Belt. Paragraph 133 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.

4.3.22 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, 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 the development has a significantly adverse impact on openness.

Apart from harm by way of inappropriateness the development is contrary to one of the five purposes of Green Belts i.e. it would fail to assist in safeguarding the countryside from encroachment.

4.3.23 Summary

4.3.24 The development fails to comply with the fundamental characteristic of Green Belts which is their openness and their permanence.

4.3.25 The impact on the character and appearance of the area

4.3.26 There is a mixed character to the area within which this site is located. To the north is the low density housing forming the settlement of Pottersheath with a linear pattern of development along Pottersheath Road. To the south immediately beyond the site and A1(M) motorway is the urban settlement of Welwyn Heath. To the east is the more open pattern of fields and woodland forming part of Mardley Heath. 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. Beyond the quarry site is the Danesbury Park mobile home site containing a large number of static caravans.

4.3.27 The application site was, prior to the occupation in October 2016, predominantly open in character and well landscaped containing several mature trees, although it was partly enclosed with a low timber fence. The site is now more enclosed with a 2 metre high fence continuous along all of the site boundaries. The utility room and various mobile homes and caravans are partly visible above the fence line.

4.3.28 Policy H ('Determining planning applications for traveller sites') advises (at paragraph 26) against enclosing a site with so much hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. In this case the boundary fencing is softened by shrub planting along the external boundary and there are no walls. That said, the site does give the impression of containment and isolation particularly with the fencing and front gates. This needs to be balanced against the reasonable security and welfare needs of the families especially in view of the fact that there are several young children living on the site.

4.3.29 Summary

4.3.30 The development is not inconsistent with the general density of the surrounding residential properties. However features of the site such as the high boundary fencing and gates are not consistent with the prevailing pattern and form of development and as such do detract from the character and appearance of the locality.

4.3.31 **Living conditions**

4.3.32 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 .

4.3.33 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 Protection 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

4.3.34 Summary

- 4.3.35 The living conditions of both the applicants living on the site and the surrounding residents are considered to be acceptable

4.3.36 **Highway issues**

The residential use of this site utilises a previous vehicular access point used in association with the former agricultural use of the site. Traffic movement at the Pottersheath Road / Danesbury Park Road junction is relatively light and the use itself generates comparatively low levels of vehicular movement. The Highway Authority has not objected to the development subject to the provision of specified visibility splays.

- 4.3.37 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 is via a kerbside collection and the required amount of refuse and waste recycling bins can easily be accommodated on the site.

4.3.38 Summary

- 4.3.39 The Highway 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.

4.3.40 **Sustainability**

- 4.3.41 The site has been checked against sustainability criteria as part of the allocation process through the Emerging Local Plan and found to be a suitable location in terms of the required infrastructure and services needed.
- 4.3.42 There are positive economic and social benefits from the development. The occupiers are employed locally in the landscaping business, the use meets an identified housing need and children attend local schools and nurseries.

No objections are raised on environmental grounds by the statutory consultees. Whilst there may be reliance on the car to access the full range of facilities, public transport options are available nearby and the site is within walking distance of local shops, a primary school and some other services.

4.3.43 Summary

- 4.3.44 The economic, social and environmental objectives necessary to achieve sustainable development as required by paragraph 11 of the NPPF can be delivered as part of this development.

4.3.45 **The Planning Balance**

- 4.3.46 It is clear that the use of the land as a residential caravan site, together with associated structures is inappropriate development in the Green Belt and there would be a loss of openness and encroachment into the countryside. Significant weight must be attached to this harm. Consideration should therefore be given as to whether this harm is outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development
- 4.3.47 The Council has, through a review of its Gypsy, Traveller and Show person Accommodation Assessment (GTAA Update 2018), established a requirement to allocate the Pottersheath site to accommodate 4 permanent pitches (Policy CD6 – Land at Woodside Place, Danesbury Park Road). This has been based on a robust and defensible evidence base on the accommodation needs of Gypsies and Travellers in North Hertfordshire District for the Emerging Local Plan period up to 2031. This evidence has shown that the need at Pottersheath Road is over and above that to be met at the only other authorised gypsy and traveller site in the District at Pulmer Water (site CD4). The Council has followed the guidance in Planning Policy for Traveller sites (2015) in identifying and updating annually a supply of deliverable sites to provide for the Plan period. It is considered that the GTAA evidence must weigh heavily in favour of the use of the Pottersheath Road site as a Gypsy and Traveller site.
- 4.3.48 There are no policies in the adopted local plan concerning the provision of appropriate sites for gypsies, travellers and show people. Whilst this is now being positively addressed in the Emerging Local Plan allocations there has been a failure of policy with the current development plan which adds significant weight in favour of the application.
- 4.3.49 The granting of planning permission would facilitate the traditional gypsy way of life and their protected characteristics in accordance with statutory legislation. The families also require a settled base to enable children to benefit from local education and healthcare. There are other personal circumstances such as local employment and that the families have no alternative housing accommodation. The best interests of the children living on the site would not be well served by a refusal of planning permission. These personal circumstances weigh in favour of the grant of planning permission.
- 4.3.50 Taking all the above matters into account it is considered that the harm to the Green Belt by reason of inappropriateness, a loss of openness and encroachment into the countryside is outweighed by other material circumstances which can be summarised as follows:
- ☐ The lack of a five year-year supply for gypsies and travellers;
 - ☐ The personal circumstances of the families;
 - ☐ The protection of the characteristics of the Gypsy way of life
 - ☐ The best interests of the children

In October 2017, the Council were of the view that very special circumstances existed that outweighed the substantial harm caused to the Green Belt by the use of the site for residential caravans. This because of the GTAA review and the level of identified housing need, the personal circumstances of the applicants and the best interest of the children. The case for the granting of a permanent planning permission in respect of the current application is arguably more compelling now given the evidence base of housing need, the continued personal circumstances of the families and that this would be in the best interests of the children living on the site.

- 4.3.51 Notwithstanding the convincing case for the grant of a permanent planning permission it is acknowledged that the Local Plan Examination has not yet concluded and the Plan is not yet adopted. It would not be appropriate to undermine this process even though it is at an advanced stage. However, it would be reasonable to assume that the Plan will be adopted within two years. A temporary two year permission is therefore recommended.

4.3.52 **Enforcement action**

- 4.3.53 The LPA had suspended any enforcement action with respect to the unauthorised occupation of this site until the outcome of this planning application was known. However, due to the length of time it has taken to resolve this matter should the LPA decide to refuse planning permission or the Secretary of State decide to call-in the application it will be necessary to commence enforcement action to prevent a lawful use of the site being established.

4.4 **Conclusion**

- 4.4.1 A decision on this application has been delayed while the Council has been assessing the number of Gypsy and Traveller pitches required to meet the District's needs up to 2031. The Council's evidence base set out in its GTAA 2018 follows the work of independent experts and a methodical approach that has been tested both at planning appeals and local plan examinations and found to be sound (source: Matter 12 document, NHDC Emerging Local Plan hearing papers).

This process conducted as part of the Local Plan Examination has led the Council to recommend to the Local Plan Inspector that the Pottersheath site is allocated for the provision of four permanent Gypsy and Traveller pitches (site CD6 as part of Policy HS7).

- 4.4.2 In addition to the evidence of need mentioned above there remain compelling personal circumstances of the families currently residing on the site and as such it is considered that the grant of planning permission would also be in 'the best interests of the child' as referred to in the PPTS 2015.
- 4.4.3 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 each, 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 Recommendation

- 5.1 That planning permission be **GRANTED** subject to the application being referred to Secretary of State for Housing, Communities and Local Government and the following conditions:

1. The development hereby permitted shall be for a limited period being for a period of 2 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.

2. 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.

3. 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

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

Reason: In the interests of visual amenity

5. 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.

6. 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.

7. 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.

8. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of the Planning Policy for traveller sites (PPTS) 2015

Reason: To accord with the very special circumstances relevant to this application and the recommendations of the Council's Gypsy and Traveller Accommodation Assessment January 2018

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 (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.