

**Case Officer:** Stuart Howden                      **Contact Tel:** 01295 221815

**Applicant:** Clifford Smith And Robert Butcher

**Proposal:** Change of use of land to use as a residential caravan site for 9 gypsy families, each with two caravans and an amenity building. Improvement of existing access, construction of driveway, laying of hard standing and installation of package sewage treatment plant.

**Expiry Date:** 2<sup>nd</sup> December 2017                      **Extension of Time:** 23<sup>rd</sup> December 2016

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**Ward:** Fringford And Heyfords                      **Committee Date:** 15<sup>th</sup> December 2016

**Ward Councillors:** Cllrs Corkin, Macnamara and Wood

**Reason for Referral:** Major Development

**Recommendation:** Refuse

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## 1. APPLICATION SITE AND LOCALITY

- 1.1 The site is located to the north of the A4095 (Kirtlington Road) and the east of the site runs adjacent to the M40, but the site sits at a higher level to this Motorway as the Motorway is within a cutting. To the north and west of the site is open countryside. The site is located approximately 1.1 KM to the north west of Chesterton as the crow flies. The 2.7 hectare site comprises of an agricultural field and a small structure to the very south of the site. Access is achieved off the Kirtlington Road at the south west corner of the site.
- 1.2 The site is not within close proximity to any listed buildings and is not within a Conservation Area. Public Footpath 161/11/10 is shown to run along the western boundary of the site, but is noted by the OCC Public Rights of Way Officer to likely run on the other side of this boundary. The site has some ecological potential as protected species have been recorded within the vicinity of the site, including the Common Kestrel, Small Heath Butterfly and Brown Hare.

## 2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 Planning permission is sought for a change of use of the site to a traveller caravan site comprising 9.No pitches, containing a mobile home, touring caravan and an amenity building. The amenity building is proposed to be approximately 5 by 4 metres and a height of approximately 3.6 metres. The pitches would be divided by fencing and hedging. The structures within the pitches are proposed to sit on permeable hard standing, whilst the rear of each pitch will contain a private garden area. A driveway running along the western and southern boundaries of the site, constructed from permeable hardstanding, is proposed to serve each pitch. Works to the access to the south west of the site are also proposed, including its widening in order for two vehicles to pass within the site entrance.

- 2.2 The installation of package sewage treatment plant is proposed to the north of the site, which would receive waste water from the pitches and would process it until a clear effluent is discharged into the environment. Details in relation to specification and dimensions of this plant are limited.
- 2.3 The proposed pitches, sewage treatment plant and hard standing would not fill the whole site area and there would still be access to the remaining field as a result of the proposal.
- 2.4 A screening opinion (ref: 16/00075/SO) issued by Cherwell District Council earlier this month (December 2016) stated that an Environment Statement was not required for this application.

### **3. RELEVANT PLANNING HISTORY**

- 3.1 There is no planning history directly related to this application.

### **4. PRE-APPLICATION DISCUSSIONS**

- 4.1 No formal pre-application discussions have taken place with regard to this application.

### **5. RESPONSE TO PUBLICITY**

- 5.1 This application has been publicised by way of a two site notices displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records.
- 5.2 The Local Planning Authority has received 40 letters of objection in respect of the proposed development. The concerns raised by third parties are summarised as follows:
  - Consideration has not been given to alternative sites;
  - Contrary to policy as it is located within the open countryside;
  - Not an identified site in the Local Plan;
  - Not sustainable development as it offers no economic, social or environmental improvements;
  - Not sustainably located;
  - Housing would not be accepted on this site;
  - Too close to the village of Chesterton;
  - Chesterton does not have the capacity;
  - The village has limited facilities and services and no bus service;
  - The school is almost full and does not have the capacity required for this application;
  - Would be to the detriment of the village of Chesterton;
  - Would be of no benefit to Chesterton;
  - Would set a precedent for housing outside the village;
  - Would harm the character of the area;
  - Would be visible from Public Footpaths and Kirtlington Road;
  - Loss of enjoyment for users of the Public Footpath to west of the site;
  - The local road network cannot accommodate the extra traffic this will create;
  - Access is dangerous;
  - Required length of visibility splay could not be achieved;
  - There is no footpath next to the site along the Kirtlington Road and the development would be car reliant;

- Noise and air pollution to future residents as the site is located next to the M40;
- Loss of privacy to existing residents;
- Will create noise nuisance;
- Would cause harm to protected species;
- Would increase the flooding risk;
- Consideration needs to be given to drainage;
- Questionable whether the site has an adequate water supply;
- No access to electricity and current supply overloaded;
- No sewage facilities;
- The applicant should update the facilities at the existing park (Newlands Caravan Site);
- Is it the case that the applicant no longer wants to accommodate the gypsies on the site?
- They were asked to leave because of 'issues' caused at the current site;
- Would be 18 families instead of 9 and could be up to 72 people living on the site;
- Will not be managed properly and will go beyond what consent allows for;
- Site nearby was closed due to lack of demand and now contains park homes;
- Burden on Council with refuse collection;
- Waste disposal arrangements should be provided;
- Should be the inclusion communal recreation area;
- No consultation with local community before submission;
- Travellers would not successfully integrate with the local community;
- Fear of crime and anti-social behaviour;
- Loss of private view;
- Devaluation of property prices.

5.3 The comments received can be viewed in full on the Council's website, via the online Planning Register.

## 6. RESPONSE TO CONSULTATION

6.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

### PARISH/TOWN COUNCIL

6.2 CHESTERTON PARISH COUNCIL: **Object** to the application on the following grounds:

- The proposal constitutes a residential development in an agricultural area. Incidentally, when the Parish Council supported a residential development in the village on agricultural land adjacent to a playing field the application was refused twice by the LPA;
- Could set a precedent for future changes of use;
- Due to concerns raised by the owner of Newlands Caravans Site at Bloxham;
- This proposal is excessive;
- Chesterton School is near capacity and could not accommodate the volume of entrants the proposal would bring;
- Chesterton is not in practice a Category A Village and is wrongly classified;

- Is it the case that mains water and electricity services are connected to the site?
- Would cause further traffic problems on the A4095;
- Chesterton had a site for travellers, but is now residential because it was deemed not to be required.

### STATUTORY CONSULTEES

- 6.3 ENVIRONMENT AGENCY: **No comments received.**
- 6.4 OCC HIGHWAYS AUTHORITY: **Object** to the proposal. The Local Highways Authority (LHA) note that the proposed access is along Public Footpath 161/11 and discussions will therefore need to be entered into with OCC's Countryside Access Team and legal permissions sought from the relevant parties. The LHA note that if permission is to be granted, then they have requested conditions for full details of the means of access, full specification of the parking and manoeuvring areas, full details of waste storage/collection and that hard-standing being constructed from a permeable material or provision must be made within the site for surface water to discharge to soakaway/SuDS feature.
- 6.5 THAMES WATER: **No objections.** In relation to the Package Treatment Plant, foul water for this development is not draining into Thames Water assets and therefore does not affect Thames Water.
- 6.6 HIGHWAYS AGENCY: **No comments received.**

### NON-STATUTORY CONSULTEES

- 6.7 CDC ECOLOGY OFFICER: **No comments received.**
- 6.8 CDC ENVIRONMENTAL PROTECTION OFFICER: **Objects** to the application. Before the submission of the noise survey, the Environmental Protection Officer (EPO) noted that the noise levels will be very high for the residents being adjacent to the M40. The EPO went on to state that there is no mitigation proposed and no noise report has been produced to show that the noise can be mitigated to acceptable levels and that the site is unsuitable for such a development. A noise survey was subsequently submitted by the applicant's agent. However, the EPO still has concerns with the proposal and noted that whilst the noise levels can be reduced to a lower level inside the caravans, they are still (just) above the recommended limits for bedrooms at night. The EPO also notes that the levels to the outside amenity are well above the top end of recommended levels. The EPO goes on to state: *"The internal noise at night may just be acceptable but couple this with the external noise and I don't feel that this site is appropriate for a development such as this as the noise in the external area (even with the mitigation) would give rise to significant adverse impacts on the health and wellbeing of the residents of the new development which the Noise PPG and NPSE advises should be avoided. Therefore I still object to this scheme on noise grounds."* The EPO states that if permission is granted there should be conditions in place to ensure that the site is built with the mitigation proposed in the noise report and that the mobile homes provided are in accordance with BS3632:2015 as recommended in the report.
- 6.9 OCC GYPSY & TRAVELLER SERVICES: No comments received.

- 6.10 CDC LANDSCAPE TEAM: **No objections** in respect of landscape and visual impact subject to conditions including a detailed landscaping scheme, the retention of the hedgerows on the southern roadside boundary and western boundary, with the filling of gaps in these hedgerows. The Landscape Officer has also requested rabbit guards for proposed hedgerow plants and trees, and that hedgerows and their root protection areas are protected with fencing during the construction period.
- 6.11 CDC LICENSING: **No objections**. The site owner will need to apply for a caravan site licence if planning permission is granted. In order for the licence to be granted the site owner must comply with the licence conditions.
- 6.12 CDC PLANNING POLICY: **No objection** in principle, subject to detailed consideration of the noise impact from the adjacent M40 and consultation with the Council's Environmental Protection Team. Policy BSC 6 of the Cherwell Local Plan Part 1 provides for 19 net additional pitches from 2012-2031. Since the adoption of the Local Plan, 20 pitches have been lost. This has now increased the requirement to 35 pitches (2015 AMR). The current published five year land supply position for gypsies and travellers is reported in the 2015 AMR. Currently it is 0 years for the period 2016-2021 (base date: 1 April 2016). Policy BSC 6 provides a sequential and criteria based approach for identifying suitable locations for new traveller sites whether through site allocations in the Local Plan Part 2 or in the determination of planning applications. The proposed site is within 3km of Chesterton which is a Category A village, one of the more sustainable villages in the District (Policy Villages 1).
- 6.13 CDC RECREATION & LEISURE: **No comments received**.
- 6.14 RAMBLERS ASSOCIATION: **No comments received**.
- 6.15 OCC RIGHTS OF WAY: **No objections** to the proposal. Public Footpath 11/161/11 is shown on the Definitive Map (the legal document showing the position and status of the public rights of way) to run along the western boundary of the site. However, the footpath is currently provided for and walked on the other side of the field boundary, outside the site. The footpath was diverted via a Side Roads Order (SRO) in 1987 associated with the building of the M40. The alignment of the path of the SRO is consistent with the position that was laid out on the ground and is currently used, therefore suggesting that the path was recorded incorrectly on the Definitive Map. The applicants will need to consider the alignment of the footpath as shown on the Definitive Map even though this may be incorrect. There should be no structures placed across the line of the path that may obstruct it. The design of the access into the site will also need to take the footpath into account. If permission is granted, conditions will need to be attached to ensure that the footpath is not adversely affected.
- 6.16 CDC WASTE & RECYCLING: **Object** to the development. The developer has stated that there are no plans to incorporate areas to store and aid the collection of waste. The developer will have to satisfy that they have adequate provision for waste and recycling, before the application is agreed. Section 106 contribution of £106 per property will also be required.

## **7. RELEVANT PLANNING POLICY AND GUIDANCE**

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

- 7.2 The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

#### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 - Presumption in Favour of Sustainable Development
- BSC6 - Travelling communities
- ESD1 - Mitigating and Adapting to Climate Change
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- Villages 1 - Village Categorisation

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8 - Sporadic development in the countryside
- C28 - Layout, design and external appearance of new development
- ENV1 - Development likely to cause detrimental levels of pollution

- 7.3 Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Planning Policy for Traveller Sites (August 2015) (PPTS). This document sets out the Government’s planning policy specifically for traveller sites and should be read in conjunction with the NPPF
- Designing Gypsy & Traveller Sites (2008) (although this document was withdrawn by the Government on 1st September 2015).
- Gypsies and Travellers: Planning Provisions – Briefing Paper January 2016. Provides useful background information and summarises changes to the updated PPTS. It is noted however that as this is only a Briefing Paper, it carries very limited weight and should not be relied upon as a substitute for specific advice
- Annual Monitoring Report 2015 (AMR). Assessment needs to 2020 for gypsy-traveller provision have been completed and the number of pitches is noted
- Cherwell, West Oxfordshire and South Northamptonshire Gypsy and Traveller Needs Assessment (2012/2013) (GTAA)
- The European Convention on Human Rights (ECHR) Articles 8 and Article 14 of Protocol 1
- Housing Act (2004)
- The Equality Act (2010)
- Noise Policy Statement for England (NPSE) (2010)

## **8 APPRAISAL**

- 8.1 Officers’ consider the following matters to be relevant to the determination of this application:

- Principle of the Development;

- Visual Impact and Effect on Landscape Character;
- Highway Safety;
- Residential Amenity;
- Ecological Impact;
- Flooding Risk and Drainage;
- Other Matters.

### Principle of the Development

- 8.2 Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.3 Policy PSD1 contained within the Cherwell Local Plan Part 1 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 8.4 The provision of sites for the travelling community is dealt with within the main housing policy context. The most recent Government guidance relating to this topic can be found in the guidance issued in August 2015 'Planning Policy for Traveller Sites' (PPTS) (revises the original 2012 guidance) which should be read in conjunction with the NPPF.
- 8.5 A Briefing Note issued in January 2016 Gypsies and Travellers: Planning Provisions sets out the planning policies relating to gypsy and traveller provision in an informative way for Members of Parliament. This highlights a change to the definition of "traveller" set out in the revised version of PPTS.
- 8.6 The Government's overarching aim is to ensure fair and equal treatment for travellers in a way that facilitates the traditional and nomadic way of life that they have whilst at the same time respecting the amenity and appearance of the settled community.
- 8.7 The definition of Gypsies and Travellers reads as follows: "*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such*". It goes on to state: "*In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:*"
- a) whether they previously led a nomadic habit of life;*
  - b) the reasons for ceasing their nomadic habit of life;*
  - c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances."*

8.8 In relation to this planning application, it is the case that the site is proposed to be used as a long term residence. That said, the proposed residents of the site currently reside at a recognised traveller site in the District (Newlands Caravan Site, just outside Bloxham). Furthermore, each pitch is proposed to accommodate a touring caravan and these would be used for nomadic purposes. Officers are therefore satisfied that the application is for a site that would be used gypsies/travellers.

8.9 Policy C of the Government guidance advises that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities (LPAs) should ensure that the scale of such sites does not dominate the nearest settled community. In this instance Chesterton, with a population of approximately 850, is the nearest settled community being some 1.1KM to the south east of the site. Officers are of the opinion that the proposed number of occupants at the site would not result in a development that dominates the nearest settlement of Chesterton.

8.10 Policy H of the same guidance states that LPAs should consider the following matters:

- a) the existing level of local provision and need for sites;
- b) the availability (or lack) of alternative accommodation for the applicants;
- c) other personal circumstances of the applicant;
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
- e) that they should determine applications for sites from any travellers and not just those with local connections.

8.11 Policy H goes on to advise that LPAs should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. When considering applications LPAs should attach weight to the following matters:

- a) effective use of previously developed (brownfield), untidy or derelict land;
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;
- d) not enclosing sites with excessive 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.

8.12 Policy BSC 6 of the Cherwell Local Plan Part 1 states that to meet the requirements set out, and in order to provide and maintain a five year supply of deliverable traveller sites, allocations will be made in Local Plan Part 2 and planning permissions will be granted for suitable traveller sites. Policy BSC6 also goes to state that: *"In identifying suitable sites with reasonable accessibility to services and facilities the following sequential approach will be applied:*

- 1) *Within 3km road distance of the built-up limits of Banbury, Bicester or a Category A village.*

- 2) *Within 3km road distance of a Category B village and within reasonable walking distance of a regular bus service to Banbury or Bicester or to a Category A village.*

*Other locations will only be considered in exceptional circumstances.*

*The following criteria will also be considered in assessing the suitability of sites:*

- a) Access to GP and other health services;*
- b) Access to schools;*
- c) Avoiding areas at risk of flooding;*
- d) Access to the highway network;*
- e) The potential for noise and other disturbance;*
- f) The potential for harm to the historic and natural environment;*
- g) The ability to provide a satisfactory living environment;*
- h) The need to make efficient and effective use of land;*
- i) Deliverability, including whether utilities can be provided;*
- j) The existing level of local provision;*
- k) The availability of alternatives to applicants.”*

- 8.13 Under Policy Villages 1 of the Cherwell Local Plan Part 1, Chesterton is identified as a Category A village which allows for minor development, infill and conversions. Category A villages are considered the most sustainable settlements in the District's rural areas and have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. The site is located approximately 1.1KM by road from Chesterton therefore the site meets the first criteria as set out in Policy BSC6 relating to sequential tests.
- 8.14 Whilst Chesterton has a primary school, nursery, church and public house, it is acknowledged that Chesterton Parish Council has raised concerns in relation to the sustainability of the village, and it recognised that Chesterton does not have as many services and facilities as a number of other Category A settlements and that the bus service through the village is now extremely limited. That said, the site is also approximately 2.5 KM road distance away from the built up limits of the town of Bicester which contains GP and health services, schools, shops, recreational facilities, a library and many other services. The site also benefits from a good access to the highway network. The site is therefore considered acceptable in general sustainability terms.
- 8.15 The suitability of the site for gypsies/travellers will be discussed later in this report.
- 8.16 In January 2013 the final report for a district-wide Gypsy and Traveller Housing Needs Assessment (GTAA) was completed. This informs the Council in terms of the district provision for gypsy and travellers up to 2031 (GTAA) and has been used to inform Policy BSC6 within the Cherwell Local Plan Part. The GTAA calculated that Cherwell had a population of 851 gypsies and travellers at the time of the report (not all of whom lived on authorised traveller sites). It goes on to outline that there are 70 authorised pitches throughout the District which are spread over seven sites at that time.

- 8.17 The most recent Annual Monitoring Report (AMR) 2015 (December 2015) outlines that at the 31<sup>st</sup> March 2015 the total number of authorised pitches in Cherwell for Gypsies and Travellers was 61. It states that the District currently has a 2.9 year land supply for accommodation of gypsies and travellers for the period 2015-2020 and a 0.0 year land supply for the period of 2016-2021. The AMR further outlines that there is an overall requirement of an additional 23 pitches (taking into account all those that have been completed or projection completions in the period 2016-2021). However, It is worth highlighting that 11 pitches were approved at Corner Cottage and The Stable Block in Mollington last month (ref: 16/01740/F and 16/01760/F)
- 8.18 Given the above evidence there is clearly an identified need for additional gypsy traveller pitches, whether that be on existing sites or the bringing forward of new sites. It should also be noted that the lack of authorised pitches within the district is to be further exacerbated with the expected closure of the Smith's gypsy traveller site (Newlands Caravan Site) at Bloxham, with the owners giving notice that they plan to close the site on 31<sup>st</sup> January 2017; which will result in the loss of 20 authorised pitches. In addition to this, there are currently no identified sites that could provide alternative accommodation. Officers consider that the significant unmet need in the District, the lack of suitable and available alternative sites, and the failure development plan to meet the identified need should be afforded considerable weight in the determination of this application.
- 8.19 Despite the referendum on the 23<sup>rd</sup> July 2016 where the United Kingdom opted leave the European Union, the European Convention on Human Rights is still in force to date. Under Article 8 there is a positive obligation to facilitate the gypsy way of life (Paragraph 96 of Chapman v UK (2001)). The Article 8 rights of those travellers on the Newlands Caravan Site are clearly engaged. The travellers who reside at Newlands Caravan Site and are looking to move to this application site are likely to face eviction on the 31<sup>st</sup> and if the application is to be refused, this could lead to a roadside existence and make access to health and education more difficult. Weight should be given to this matter.
- 8.20 The Equality Act 2010 places a general equality duty on decision makers in respect of planning permission. Travellers are believed to experience one of the worst health and education statuses in England. The Local Planning Authority has a duty to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people of different racial groups. Article 14 requires that the Convention rights shall be secured without discrimination on any ground including race.
- 8.21 Given the above, officers are of the opinion that the principle of creating 9 pitches on the site would be compliant with Policy BSC6 of the Cherwell Local Plan Part 1 and Government guidance contained within the NPPF, and would contribute towards the Council's requirement for a five year supply of deliverable sites. However the principle of the proposal is subject to further material planning considerations, notably the suitability of site for gypsies/travellers, which will be discussed below.

#### Visual Impact and Effect on Landscape Character

- 8.22 ESD13 of the Cherwell Local Plan Part 1 notes that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to the

local landscape character cannot be avoided. Policy ESD13 also states that: *“Proposals will not be permitted if they would:*

- *Cause undue visual intrusion into the open countryside;*
- *Cause undue harm to important natural landscape features and topography;*
- *Be inconsistent with local character;*
- *Impact on areas judged to have a high level of tranquillity;*
- *Harm the setting of settlements, buildings, structures or other landmark features; or*
- *Harm the historic value of the landscape.”*

8.23 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”*

8.24 Saved Policy C28 of the Cherwell Local Plan 1996 reflects Government guidance in relation to the design of new development by seeking to ensure that such development is in harmony with the general character of its surroundings and is sympathetic to the environmental context of the site and its surroundings. Saved Policy C8 of the Cherwell Local Plan 1996 seeks to protect the character of the open countryside.

8.25 The proposed development would clearly be visible from the public footpath to the west of the site and despite a hedgerow along the southern boundary of the site, it will be visible from the A4095, notably from the bridge section over the M40 and through the access. Undoubtedly the proposal, with the addition of mobile homes and day rooms, hardstanding and domestic paraphernalia would be alien within this landscape and would have an urbanising effect on this agricultural field within the open countryside. The proposal would therefore cause significant harm to the rural character and appearance of the landscape.

8.26 In addition, the noise survey supplied by the applicant’s agent concludes that a bund or bund/fence of a height of up to 5 metres will be required to the east of the pitches to mitigate the noise from the M40 and without such mitigation being implemented, the M40 would produce unacceptable levels of noise for the proposed future occupants of the site. However, details of such a feature have not been submitted and full details of this are required prior to the determination of the application, and this would be subject to public consultation. However, because a bund or bund/fence would be required in order to make the development acceptable to officers in terms of noise nuisance to future occupants of the site, it is considered that such a feature at a height of 5 metres would be clearly visible from bridge over the M40 on the A4095 and would likely be visible from the M40 itself, and would have an urbanising effect on the countryside and would appear alien in this landscape. It is considered that such a feature would therefore cause further harm to the rural character and appearance of the area.

8.27 The Council’s Landscape Team has raised no objections to the proposal in terms of the landscape and visual impact subject to conditions including a landscaping scheme, but this is not in the knowledge that a bund is also required. The Landscape Officer wants to see the southern roadside hedgerow retained and maintained to a height of 3.5 metres in order to

screen the site and the planting of trees within this hedgerow at irregular spacing. The Landscape Officer has also requested that the western boundary hedgerow is retained and maintained to a height of 3.5 metres and the planting of trees within this hedgerow at irregular spacing for the benefit of visual receptors using the Public Right of Way through the site. Officers hold the view that the retention of the hedgerows on the western and southern boundaries of the site and the planting of trees within gaps of these hedgerows would reduce the visual impact of the development. Thus, should planning permission be granted, a landscaping scheme and the retention and maintenance of the hedgerows on the southern and eastern boundary of the site will be recommended as conditions. The Landscape Officer has also requested that all hedgerows and their root protection areas are protected with fencing during the construction period so as to protect these hedgerows which will contribute in screening the proposed development. Whilst the aforementioned landscape conditions would reduce the visual impact of the development, officers consider that the proposal would cause significant harm to the rural character and appearance of the landscape.

### Highways Safety

- 8.28 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.”*
- 8.29 The Local Highways Authority (LHA) has objected to the proposal. Public Right of Way 161/11 runs along the western boundary of the site and is accessed via the access into this site. The LHA has noted that in order to change the surface of this access, and thereby change the surface of the Right of Way and pass vehicles over it, the relevant permissions would need to be retained off the relevant parties. Officers do not consider that this constitutes a reason for refusal. As noted by OCC Rights of Way, whilst the Public Footpath line of the definitive map runs along the western side of the boundary within site, the Public Footpath currently runs outside the site along the western boundary. This is because the Public Footpath was diverted via a Side Roads Order (SRO) in 1987 associated with the building of the M40. Whilst the Public Footpath runs on the site at the current access and the proposed works to the access would likely result in a temporary diversion of this footpath at the access section of the site, this could be achieved via an agreement with OCC.
- 8.30 In relation to the access, the LHA has noted that any improvements to the access would require the applicant to enter into a Section 278 agreement with OCC, for works done on the highway. The LHA has also stated a detailed plan showing the access will need to be submitted for approval, which meets the required standards for an access off a 60mph A road. Should permission be granted, full details of the access will be proposed in the interests of highway safety. A 6 metre radii is currently being proposed, but the LHA has noted that in order for a refuse vehicle to pull up into the entrance way, it would be beneficial to increase the radii, to allow for easier pulling in and pulling out. The LHA has stated that the access way will, however, allow for 2 cars to pass each other, which will prevent vehicles having to reverse back out onto the A4095, minimising rear shunt collisions.
- 8.31 In relation to visibility splays, the LHA has stated that for a 60mph road, splays of 2.4m x 215m should be demonstrated and the LHA hold the view that these visibility splays are achievable given that the section of the road that the access opens on to is straight.

- 8.32 The LHA would like to see further information regarding parking for each pitch and has stated that each unit will have manoeuvring space so that vehicles can leave in a forward gear from their plot. Given the pitches are relatively spacious, officers are of the opinion that this can be achieved.
- 8.33 The LHA has stated that suitable areas for storage and collection of waste on the site, should be accommodated for, that are not in conflict with vehicle users, but allow easy access for refuse vehicles. Officers are confident that this can be accommodated on the site without being in conflict with vehicle users and being overly prominent from the public domain and should permission be granted a condition will be recommended requesting full details the waste storage/collection area.
- 8.34 Thus, given the above, officers consider that the proposal would not cause detrimental harm to the safe and efficient operation of the highway subject to conditions.

#### Residential Amenity

- 8.35 Paragraph 17 of the NPPF notes that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 8.36 Saved Policy ENV1 of the adopted Cherwell Local Plan states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke other type of environmental pollution will not normally be permitted.
- 8.37 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“Development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.”*
- 8.38 The site is not within close proximity to any residential properties therefore it is considered that other residential properties would not be directly affected by the proposal.
- 8.39 With regard to the layout of the proposal, the proposed pitches would be relatively spacious being approximately 12 metres in width 30 metres in length, and officers are of the view that this is sufficient as it would allow for some privacy for each pitch and would avoid the overcrowding of the site.
- 8.40 However, the eastern boundary of the site runs adjacent to the M40 therefore there is the potential for significant nuisance for the proposed residents in terms of noise. A noise survey has been submitted by the applicant’s agent. This states that the present noise levels across the site are relatively high during day and night, and that the mobile homes, particularly within the northern part where noise levels are higher would be unlikely to be acceptable for residential development without additional mitigation measures being implemented. This has resulted in an amended site layout with the northern extremity of the pitches being moved further the south and because of this it is noted that boundary mitigation can also be provided alongside the motorway, this being an earth bund or bund and fence of 5 metres in height. Double glazing, with minimum sound insulation is also recommended. It is concluded within the report that with appropriate mitigation measures implemented, a good to reasonable standard of noise would be achieved within the homes and these measures would ensure that there are no significant impacts. Reference has also been given to the new residential development off Southam Road the north of Banbury and adjacent to the M40, by the applicant’s agent, where a noise barrier has been constructed on the boundary.

- 8.41 However, the Council's Environmental Protection Officer (EPO) has objected to the proposal. The EPO has stated even though the noise levels within the caravans can be reduced to a lower level, they will be still (just) above the recommended limits for bedrooms at night. The EPO goes on to state that the levels of noise to the outside amenity are well above the top end of the recommended levels. The EPO notes that the internal noise at night may just be acceptable on its own, but when this is combined with the external noise (even with mitigation) the EPO does not consider that the proposed development is appropriate on this site and would give rise to significant adverse impacts on the health and wellbeing of residents of the new development which the Noise PPG and NPSE advises should be avoided.
- 8.42 As noted above, further details of a bund or bund/fence would be required prior to the determination of the application and such a feature would also require public consultation. However, even with this feature, officers concur with the Environmental Protection Officer in that the proposed development is inappropriate on this site as the proposal would fail to provide a good standard of amenity for the proposed future occupiers of the site and would give rise to significant adverse impacts on the health and wellbeing of these proposed future occupiers.
- 8.43 A third party has raised concerns in relation to air pollution from vehicles using the M40 affecting the proposed residents of the development, but the Environmental Protection officer has raised no objections in relation to this matter. It is worth noting that the M40 is sited to the east of the site and the prominent wind direction is west to east. Furthermore, measures such as planting or a bund could reduce the impact of such emissions.

#### Ecological Impact

- 8.44 Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: *"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision"*.
- 8.45 Paragraph 109 of the NPPF states that: *"The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible."*
- 8.46 Comments have not been received from Council's Ecology Officer during the consultation process and an Ecology Survey has not been submitted alongside this application. Regard is had to Government advice contained within the PPG in relation to biodiversity by officers.
- 8.47 The site is not within a 'sensitive area', is not within 2KM of an SSSI and there are no ponds or ancient woodlands on the site or within close proximity to the site. There is nothing that appears to raise the likelihood of protected species on the site, apart from the hedgerow along the boundary of the site. However, the widening of the access at the southern end of the site would result in the loss of a small section of a hedgerow and this has the potential to harm protected species. As the application also proposes hard standing on the site, there is also the potential for harm here as well. However, it is considered that this matter can be appropriately dealt with by a condition and that the harm could be compensated.

### Flooding Risk and Drainage

8.48 The site is identified as being within Flood Zone 1, which is land which has a less than 1 in 1,000 annual probability of river flooding. Policy ESD6 of the Local Plan and the Framework states that a Flood Risk Assessment is required for proposals of 1 hectare or more in in Flood Zone 1. The site exceeds 1 hectare, but a Flood Risk Assessment has not been submitted alongside this application therefore an assessment has not been made of the flood risks arising from the proposed development and it has not been clearly demonstrated that the development and its future users will be safe over the lifetime of the development. The proposal is therefore contrary to Policy ESD6 of the Cherwell Local Plan Part 1 and Government guidance contained within the NPPF.

### Other Matters

8.49 Concerns have been raised in relation to the primary school at Chesterton being near full capacity and that there would be no more places at the school as a result of this proposal. It is worth noting however, that if the proposal were for 9 dwellings instead of 9 traveller pitches, this would fall below the threshold in the PPG for contributions towards schooling. It is therefore considered unreasonable to justify the refusal of the planning application on such grounds.

8.50 The installation of package sewage treatment plant is proposed to the north of the site, which would receive waste water from the pitches and would process it until a clear effluent is discharged into the environment. That said, details in relation to specification and dimensions of this plant are limited and should permission be granted, full details of this will be conditioned.

8.51 Concerns have been raised by third parties in relation to the matter of electricity supply, but this is a matter for the utility companies. Concerns have also been raised in relation to the matter of water supply, but this is not a material issue in this case and it is not likely to involve above ground infrastructure.

8.52 Reference has been made to Bicester Trailer Park by third parties, which is within close proximity to Chesterton, and it has been noted that this is no longer used as a traveller site, but a park home site, because there was no demand from travellers. Whilst there are park homes on this site, and these benefit from planning permission, the site also contains 8 gypsy pitches.

8.53 Third parties have noted that the proposal would set a precedent for housing outside the village. However, each case is assessed on its own merits and the policy context is different for such application.

8.54 It is noted by third parties that if planning permission is to be granted, the site would not be well managed and the use of the site will exceed what has actually been granted. However, this is not relevant to the determination of this planning application as consideration needs to be given to what is proposed in this planning application.

8.55 Whilst a number of issues have been raised by third parties, the following are not material planning considerations in this case:

- Fear of crime to surrounding properties as a result of the proposal;

- Would create anti-social behaviour;
- Loss of private view; and
- Devaluation of property.

## 9. CONCLUSION

- 9.1 The proposal seeks permission for a change of use of the site to a traveller caravan site comprising 9.No pitches. The site is within 3KM of the Category A village of Chesterton as well as the town of Bicester and benefits from a good access to the highway network. In terms of general sustainability the proposal is in compliance with Policy BSC6 of Cherwell Local Plan and is considered acceptable.
- 9.2 In terms of the suitability of the site for gypsies/travellers, as the site is located less than 3KM to a Category A village and the town of Bicester, it has relatively good access to health services and schools. In addition, the site is not located within close proximity to a conservation area or very close proximity to any listed buildings and is not considered to cause harm to the historic environment.
- 9.3 That said, the proposed development, would give rise to very high levels of noise that would impact upon the health and wellbeing of residents of the proposed development, and this should be afforded significant weight. Even with the addition of a bund or bund/fence, details of which would be required prior to the determination of the application, officers consider that the proposal would give rise to significant adverse impacts on the health and wellbeing of residents of the new development which the Noise PPG and NPSE advises should be avoided.
- 9.4 Furthermore, even with the mitigation measures suggested by the Council's Landscape Team, the proposal would have an urbanising effect on this agricultural field within the open countryside and would cause harm to the rural character and appearance of the landscape. In addition, the addition of a bund or bund/fence at a height of 5 metres would further exacerbate the overall harm to the character and appearance of the countryside. It is therefore considered that the proposal is not suitable for this proposed development.
- 9.5 It is acknowledged that there is an identified need for gypsy travellers pitches in the district and this issue will be further exacerbated with the expected closure of the Newlands Caravan site at Bloxham, with the owners giving notice that they plan to close the site on 31<sup>st</sup> January 2017, which will result in the loss of 20 authorised pitches. In addition to this, there are currently no identified sites that could provide alternative accommodation. Officers consider that the significant unmet need in the District, the lack of suitable and available alternative sites, and the failure of the development plan to meet the identified need should be afforded considerable weight in the determination of this application. That said, this is not considered to outweigh the harm identified above as a result of the site being unsuitable for such development. Thus, it is concluded that the proposal does not constitute sustainable development and the application is therefore recommended for refusal.

## 10. RECOMMENDATION

That permission is **refused**, for the following reasons:

1. The proposed development, by virtue of its siting adjacent to the M40, would be adversely affected by noise, thereby resulting in an unacceptable living environment for the occupiers of the proposed traveller pitches. Insufficient information has been submitted to display that such harm could be appropriately addressed. As such, the development would not provide a good standard of amenity for the proposed residents and is considered to be unsustainable, contrary to Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice within the National Planning Policy Framework.
2. The proposed development, by virtue of its siting in the open countryside, overall scale and appearance, would have an urbanising effect on the open countryside, and would result in detrimental harm to the rural character and appearance of the area. Furthermore, the mitigation recommended in the Noise Survey would further exacerbate the harm to the rural character and appearance of the area. Thus, the proposal is contrary to Policies ESD13 and ESD15 of the Cherwell local Plan Part 1, saved Policies C8 and C28 of the Cherwell local Plan 1996 and Government advice within the National Planning Policy Framework.
3. A Flood Risk Assessment has not been submitted with this application therefore an assessment has not been made of the flood risks arising from the proposed development and it has not been clearly demonstrated that the development and its future users will be safe over the lifetime of the development. The proposal is therefore contrary to Policy ESD6 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

## **PLANNING NOTES**

For the avoidance of doubt, the plans and documents considered by the Local Planning Authority in reaching its decision on this application are:

- Application Form submitted with the application;
- Design & Access Statement by Philip Brown Associates submitted with the application;
- Site Plan at 1:2500 scale print at A4 submitted with the application;
- Plan 3 Utility Building submitted with the application;
- E-mail received from the applicant's agent on 23<sup>rd</sup> November 2016;
- Site Layout Plan at 1:1000 Scale received from the applicant's agent by e-mail on 23<sup>rd</sup> November 2016; and
- Noise Assessment by LFAcoustics dated November 2016, received from the applicant's agent by e-mail on 23<sup>rd</sup> November 2016.