

Application No: 12/00287/F	Ward: Launton	Date Valid: 01/03/12
Applicant:	Mr & Mrs Gerry & Kathleen Conners c/o agent	
Site Address:	OS Parcel 3431 Adjoining and North East of Blackthorn Road, Launton	

Proposal: Change of use of land to a private gypsy and traveller caravan site comprising 2 No. residential pitches, each pitch accommodating 1 No. mobile home, 1 No. touring caravan, 1 No. dayroom and associated hardstanding, retention of existing stable and septic tank.

Date site visited: 13 March & 27 March 2012

1. Site Description and Proposal

- 1.1 The site is located outside and to the south east of Launton village just beyond the sewage works and south of the brook on the east side of Blackthorn Road. The site has a 60 metre boundary alongside Blackthorn Road which is marked by an uncharacteristic 2m high close boarded fence situated behind the mature hedge which faces the road. There is also a wooden gated entrance on this boundary. The north and south boundaries are similarly identified but the eastern boundary is marked by just the close boarded fence with a gate which leads to open pasture land and countryside beyond. That land is identified as being under the same ownership and features a small shed situated on the east side of this fence behind the existing shed.
- 1.2 The application site extends to 0.5 hectares and is broadly rectangular and quite flat. It is part laid to tarmac but mostly scrub land featuring a centrally located burnt out building and a corrugated tin shed in the north east corner. Due to the site history, it is considered to be equestrian land and it has no notable site constraints save for its proximity to the brook and its consequential propensity to flood.
- 1.3 The application seeks full planning permission for the site to be used as a private gypsy and traveller site which would involve 2 pitches. Each pitch would accommodate 1 No. mobile home, 1 No. touring caravan and a dayroom. The dayrooms are proposed to have a 5m x 6m footprint, constructed of brick and clay tiles and stand to a height of 4m (2.35m to eaves). The submission did not include details of the mobile homes. The proposal includes associated hardstanding and a septic tank. The application seeks also to retain the existing stable/shed and the planning history for this would suggest that it has been in place for over 4 years.
- 1.4 The planning history to the site also reveals that retrospective planning permission was granted under reference 08/00039/F for the erection of a double stable (with hardstanding), new close boarded fence and gate to existing field and a change of use of the land for the keeping of horses. The equestrian use of the land would appear to have been abandoned with the new stable having been burnt down but the fence and hardstanding remain. The shed in the corner remains but is not a substantial structure being put together with corrugated sheeting. The applicant refers to this as a stable.

2. Application Publicity

- 2.1 The application has been advertised by way of a site notice placed on the gate post

at the site on 13 March and then again on 27 March as the first site notice went missing. A press notice was also published on 15 March. The final date for comment on this application was, therefore, 17 April 2012.

- 2.2 30 letters/emails of representation received all of which raise objections to the scheme. Full details are available electronically via the Council's website.

The material planning considerations raised as objections are as follows:

- The application amounts to a permanent residential use
- The entrance to the field is very close to a sharp bend which is hazardous
- The proposal would lead to further development on the outskirts of the village
- The site is prone to flooding and surface water will back into the village.
- The development would be outside the village boundary
- Previous cases seeking to extend the village boundary in this direction have been consistently refused even at appeal.
- The vision splay at the access is unlikely to meet highway department regs and this would be detrimental to the safety and convenience of other highway users including horse riders along the main road.
- The road is very busy and vehicles turning into the site will not be seen. Particularly hazardous for towed caravans.
- The land should be kept for agricultural purposes.
- There is an existing site adjacent to the A41 about 5 miles away so there is no need for this development. There are also sites at Bicester, Ambrosden, Arncott, Wendlebury, Blagrove and Bloxham.
- The site is not designated for a gypsy site in the local plan
- The site has no history of travellers
- There are no pavements or street lights near the site
- There is nothing to suggest that there would be any integrated co-existence between the site and the local community
- Government guidelines state that approval for gypsy sites should be avoided where the site is inappropriate for ordinary residential dwellings except in exceptional circumstances but there are none.
- The site would not be safe for children and animals
- Because of the tight entrance, turning left into the site would require movement onto the opposite side of the road which is dangerous.
- The document by Oxfordshire Consultants for Social Inclusion 2006 shows from 2001 census that there is no caravan or other mobile or temp accommodation in the village suggesting that the village has no facilities in place for such dwelling.
- The site is ecologically sensitive with GCNs, kestrel, red kites, wild orchids and rare flowers.
- The corrugated iron shed cannot be described as a stable
- The septic tank may well be a pumped watercourse.
- The Yew Tree Farm development has already put enough pressure on the village in terms of increased households
- Loss of open countryside and green space.
- This is not a brown field site
- Refuse lorries would have to park on the main road by the entrance and this would be very unsafe by the bend

One letter of support for the application has been received from Bisham Village in Marlow, Bucks. This is a character reference for the applicants from a priest who

has known them for 15 years. He has confirmed the family's links to Oxfordshire.

3. Consultations

3.1 **Launton Parish Council:** Comments awaited

3.2 **Environment Agency:** Objection.

The Flood Risk Assessment (FRA) fails to use a robust approach to identify a 1 in 100 year flood level with an allowance for climate change (the design flood level).

It is accepted that the levels generated from the J flow hydraulic modelling (obtained from the EA) may be inappropriate for site specific use. However, there are concerns over the robustness of the approach employed in the FRA to obtain a design flood level, using topographic levels and the outline of the flood map.

We are particularly concerned that levels along the road in the topographic survey are consistently over 300mm higher than the design flood level of 63.85m Ordnance Datum (AOD) estimated in the FRA. This means that even where the EA flood map shows flood flows over the road, in reality flows would not over top the road until upstream levels have reached the crest height of the road (~64.2m AOD). Actual flood levels upstream of the road are therefore likely to be higher than the estimated 63.85m AOD, with a consequential impact on the flood hazard across the development site.

Additional work should be carried out to establish a more robust design flood level for the site, taking the above comments into account. As a first step, the topographic survey could be extended including additional levels to the South along Blackthorn Road. This will give typical ground levels on the edge and in the floodplain, and also define the road crest height along the southern flow route delineated in the EA flood map. If a suitable precautionary design flood level cannot be agreed using the topographic approach then a hydraulic assessment may be necessary.

If a robust, precautionary flood level is defined for the site and the standards set out in our previous response are met, we will be in a position to remove our objection to this planning application.

It is acknowledged that the applicant is prepared to accept a pre-commencement condition concerning an 8 metre buffer zone. We are therefore able to withdraw our objection with regard to the buffer zone.

3.3 **Thames Water:** With regard to waste matters, approval should be sought from TW where the erection of a building or an extension would come within 3m of a public sewer. This is usually refused for new build but may be allowed for extensions. The applicant is advised to contact TW for more information. With regard to water infrastructure, TW has no objection.

3.4 **OCC Highways:** No objection, subject to condition relating to access details for approval. Appropriate provision would be made for parking and manoeuvring within the site. With regard to transport the location is in accordance with relevant circular 01/2006. The submitted documents provide limited detail of the access and specifically the visibility available. Therefore, a detailed plan of access demonstrating appropriate visibility splays should be submitted prior to any

development.

- 3.5 **OCC Drainage:** No objection. Roof water will need to go to soakaway or other Suds feature. All surface water must be dealt with within the boundary of the site and not allowed to leave the site. The site entrance will need to have a surface water retention built in so that surface water cannot leave the site and enter the highway.
- 3.6 **OCC Traveller Site Officer:** In respect of need, there are several private sites within Cherwell at Rossiter's and at Bloxham but we do not know if there are any spaces on these sites. From the information provided in the application we are unable to state if the applicants have been on the roadside in Oxfordshire as we have no record of the name but that does not mean that they have not been on the roadside in Oxfordshire. If we were to have the family name and where they come from it may assist us in knowing if they have another location at which they could or have been living.
- 3.7 **Head of Strategic Planning and the Economy (Planning Policy):** At 2 Feb 2012 the district had a total of 51 pitches including the 8 approved on appeal near Islip (10/00839/F). A further 3 pitches were granted temporary consent for 3 years in Yarnton (11/01356/F) increasing the existing provision to 54 pitches which is 6 more than the district had in 2006. Information on existing sites is included in the 2011 Annual Monitoring Report.

The recent resolution to approve the Bloxham application (11/01863/F) increases the number of authorised pitches by 16 to 70 (20 pitches are already accounted for in the supply figures). A needs assessment is currently being undertaken to assess the needs of the district into 2031.

The policy team is not aware of any existing pitches that are likely to be available for occupation but this is considered unlikely at the current time.

- 3.8 **Head of Public Protection and Development Management (Anti Social Behaviour):** No objection. Having carried out a site inspection on 30 April 2012, looking specifically at the question as to whether this site is suitable for residential occupation bearing in mind the proximity of Thames Water installations nearby, it can be confirmed that the closest Thames installation to the site is a Storm Water Pumping Station. This is a facility whereby storm water is pumped from one location to another. Storm water has no odour and therefore the material passing through the site would have no adverse effect on the residents of the proposed caravan site. There is a second Thames Water Installation between the storm water pumping station and the village. This is a Foul Water Pumping Station. This facility receives sewage by gravity and, using pumps, moves the material through a rising main to another location for treatment. Providing the pumps and control equipment are operating correctly no odour should arise from this activity.

It should be noted that there are already existing dwellings located closer to these facilities and we have no history of complaints of odour originating from either site.

- 3.9 **Head of Safer Communities, Urban & Rural Services (Ecology):** No objection. There is no need for any ecological surveys to be carried out. Despite records of great crested newts (GCN) within 500m of the site, the habitat is not particularly suitable for them and there are no ponds nearby (they wouldn't use the stream).

Research has shown that most GCN are found within 100m of their breeding ponds. There is little potential for other protected species on the site as it consists of hardstanding and thin overgrown grassland. The wooden fencing around the site prevents any impacts on the adjacent stream resulting from the proposals.

4. Policy Considerations

National Planning Policy Framework (NPPF)

Core planning principles and the delivery of sustainable development with particular regard to the following sections:

- 4: Promoting sustainable transport
- 6: Delivering a wide choice of high quality homes
- 8: Promoting healthy communities
- 10: Meeting the challenge of climate change, flooding and coastal change
- 11: Conserving and enhancing the natural environment

Planning Policy for Traveller Sites

This document sets out the Government's planning policy specifically for traveller sites and should be read in conjunction with the NPPF.

Further guidance also continues to be provided with the document 'Designing Gypsy & Traveller Sites (Good Practice Guide)'

South East Plan 2009

Cross Cutting – Policies

- CC1: Sustainable Development
- CC4: Sustainable Design and Construction
- CC6: Sustainable Communities & Character of the Environment
- CC7: Infrastructure and Implementation

Housing – Policies

- H1: Regional Housing Provision 2006 - 2026
- H2: Managing the Delivery of the Regional Housing Provision
- H3: Affordable Housing
- H4: Type and Size of New Housing
- H5: Housing Design and Density

Transport – Policies

- T1: Manage and Invest
- T4: Parking

Natural Resource Management – Policies

- NRM1: Sustainable Water Resources & Groundwater Quality
- NRM2: Water Quality
- NRM4: Sustainable Flood Risk Management
- NRM5: Conservation and Improvement of Biodiversity
- NRM11: Development Design for Energy Efficiency and Renewable Energy

Countryside and Landscape Management – Policies

- C4: Landscape and Countryside Management
- C5: Managing the Rural-Urban Fringe

Management of the Built Environment – Policies

BE1: Management for an Urban Renaissance

BE4: The Role of Small Rural Towns

Social and Community Infrastructure – Policy

S1: Supporting Healthy Communities

Central Oxfordshire – Policies

CO1: Core Strategy

CO3: Scale and Distribution of Housing

**Adopted Cherwell
Local Plan 1996
Saved Policies**

H6: Housing needs within or adjacent to rural settlements

H13: Housing within Category I Settlements

H18: New Dwellings in the Countryside

C2: Protected Species

C7: Landscape conservation

C8: Sporadic development in the open countryside

C28: Design, layout etc standards

C30: Design control

**Non-Statutory
Cherwell Local Plan
2011**

Housing policies H1a, H4, H15, H19 and H26

Transport & Development policies TR1, TR5 and TR11

Conserving & Enhancing the Environment policies EN1, EN13, EN14, EN15, EN16, EN30 and EN34.

Urban Design & The Built Environment policies D1 and D6

**Cherwell Local
Development
Framework (LDF)
Draft Core Strategy
2010**

The draft document went through the first round of public consultation in the Spring of 2010. The second draft is due out for public consultation. The current plan indicates the strategy that the Council is putting forward and contains a series of key objectives and a number of policies highlighting a focus of growth in and around Bicester with limited growth in the rural areas towards larger and more sustainable villages thereby protecting open countryside areas. Policies seek to mitigate and adapt to climate change and ensure sustainable construction methods including SuDs.

SD1: Mitigating and Adapting to Climate Change

SD6: Sustainable Drainage Systems

SD8: Protection and Enhancement of Biodiversity & the Natural Environment

SD11: Local Landscape Protection & Enhancement

SD13: The Built Environment

H1: Housing Distribution

H2: Ensuring Sustainable Housing Delivery

H3: Efficient and Sustainable Use of Land

H4: Affordable Housing Target

H5: Affordable Housing Requirements

H8: Travelling Communities

RA1: Village Categorisation

RA2: Distribution of Housing in the Rural Areas

NOTE

THIS DOCUMENT MAY BE REPLACED WITH CHERWELL LOCAL PLAN 2012 FROM END OF MAY, BUT FOR PURPOSES OF MAY COMMITTEE THIS IS STILL RELEVANT

The Annual Monitoring Report 2011

Assessment needs to 2018 have been completed and the number of pitches are noted (updated by the Planning Policy comment above)

Other relevant documentation

Executive Committee Report, Housing Land Supply Position Statement, 06 February 2012

Human Rights Act 1998

Housing Act 2004

The Equality Act 2010

Circular 11/1995: The Use of Conditions in Planning Permission

5. Appraisal

5.1 The key issues for consideration in this application are:

- Policy Context
- Housing Need
- Suitability of the site
- Landscape Impact
- Access and highway safety
- Flooding

5.2 Policy Context

The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would include promoting sustainable transport, delivery of a wide choice of high quality homes, the promotion of healthy communities, meeting the challenge of flooding and the conservation and enhancement of the natural environment.

5.3 Paragraph 14 of the NPPF states that where the development plan is absent, silent or relevant policies are out of date, in order to reflect the thrust of the guidance for a *presumption in favour of sustainable development*, planning permission should be granted unless harm can be identified.

5.4 The provision of sites for the travelling community is very much embroiled within the housing policy context. The most recent government guidance, which was issued in March 2012, is "Planning Policy for Traveller Sites" and this document should be read in conjunction with the NPPF. 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 of travellers while respecting the interests of the settled

community. The guidance aims to increase the number of traveller sites in appropriate locations to address under provision and maintain an appropriate level of supply.

- 5.5 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.
- 5.6 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.
- 5.7 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 health lifestyles, such as ensuring adequate landscaping and play areas for children;
 - d) not enclosing a sites 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.
- 5.8 At a more local level of policy guidance, policy H8 of the draft core strategy, indicates that locations outside of the Green Belt will be considered in identifying suitable sites by applying a sequential approach. The sites should be within 3km road distance of the built up limits of ...a Type A village (Launton). Various assessment criteria are also laid out including access to health services, schools, highway network. Other criteria relate to the general suitability of the site in terms of flooding, potential for nuisance or harm to historic or natural environment, general living environment, whether the site is an efficient and effective use of the land and its deliverability in terms of utilities.
- 5.9 **Housing Need**
A District-wide needs assessment is currently being undertaken for the Council to assess the needs of the district for gypsy and traveller sites into 2031. In the meantime, based on the latest information obtained by previous similar and recent cases (10/00839/F in Hampton Gay & Poyle, 11/01863/F in Bloxham and 11/01356/F in Yarnton) it is only possible to reveal that the District has increased the provision available to 70 (3 of those are temporary). This does not necessarily mean that the needs are met or that they will be met in the future. Nor does it clarify whether or not any of the pitches are available now or in the future.
- 5.10 Other data can be obtained from the Gypsy and Traveller Accommodation Needs

Assessment (GTAA) by consultants for all authorities in the Thames Valley area but this was produced in 2006 and only calculated need to 2011. The Council's position to date is, therefore, that we have no reliable needs based information. The applicant's agent is justifying the level of need based on the Hampton Gay & Poyle case which pre-dates our current position. The Council's data includes this figure and has made further provision since.

- 5.11 So, whilst the level of need that may be identified by the new Needs Survey cannot be predicted, it is likely that household growth and 'concealed need' (for example, overcrowding) will create a requirement for new pitches. Further, the advice at national level is that LPAs should be increasing the number of traveller sites in appropriate locations with planning permission to address under provision and maintain an appropriate level of supply. Further, the policy team is not aware of any existing pitches that are likely to be available for occupation.
- 5.12 Under the current guidance, as the Council cannot demonstrate an up-to-date five year supply of deliverable sites; if the site is otherwise acceptable, consideration should be given to a temporary planning permission. (paras 25 and 28 of Planning Policy for Traveller Sites). Policy on the use of temporary permissions is set out in Circular 11/1995: *The Use of Conditions in Planning Permission* which states that there is no presumption that a temporary planning permission should become permanent.
- 5.13 **Suitability of the site**
The site is outside the built up area of the village and raises a number of issues largely defined by the requirements of Policy H8 of the Draft Core Strategy and Policy H of the Government's guidance on planning policy for traveller sites.
- 5.14 The need for the site and how it came to be identified as a potential gypsy and traveller site may be driven by the personal circumstances of the applicant. In seeking to obtain further information the applicant's agent has advised the Council that this would only be a relevant consideration where there is a breach of development plan policy and other material considerations come into play. As the development plan is silent or absent with out of date policies then government guidance would indicate that the application should be looked on positively. We are further advised that the applicants do have local connections and that they are homeless without access to a lawful, suitable, affordable or available pitch on which to reside.
- 5.15 Considering first the site's location, it is very close to this Category 1 village and well within the advised 3km distance from the built-up limits. It therefore has good access to the amenities offered by the village including health services, a primary school, bus services and a shop. There is also scope to provide essential services like mains water, electricity and sanitation (septic tank). The distance from the village is considered to be close enough to allow social inclusion and at the same time respect for privacy thereby promoting the governments desire to see an integrated co-existence between the site and the local community. The proximity to the pumping station does not represent a nuisance for new residents and the site is otherwise suitable for living accommodation. Other site constraints regarding flooding and impact on the natural environment are addressed under separate headings.
- 5.16 The site has a useable area for 2 pitches despite the requirement to retain an 8m

buffer from the brook to avoid flooding. At the present time only one of the touring caravan spaces is affected by this and there is sufficient space for it to be relocated. The layout would otherwise comply with the Good Practice Guide relating to the design of gypsy and traveller sites. Being just 2 pitches, this application can be one which represents a very small scale site which are known to work well for single extended families. It is considered that at this scale, the development will not dominate the nearest settled community and will avoid placing undue pressure on the local infrastructure.

5.17 Landscape Impact

With the site being outside the built up limits of the village it is, by definition, within the countryside but its particular characteristics would suggest that it is of not of high quality either in terms of its use for agricultural purposes or as an area of notable attractive features. It is already part laid to tarmac and with sporadic areas of scrub and thin overgrown grassland. The existing fencing also prevents views into the wider landscape from the public domain of the roadside.

5.18 Whilst unremarkable countryside, existing policy would suggest that open countryside areas ought to be protected for their own sake and this is why development outside of villages is restricted to special cases such as agricultural or housing need. However, the NPPF in paragraph 109, advises that the planning system should be protecting and enhancing *valued* landscapes. In some ways the site could be described as having been previously developed and so the effective use of such land should be encouraged because the site is not of high environmental value.

5.19 With some hardstanding already in place and a fence for security the established characteristics of the site are unlikely to have to be changed to any significant degree. The retention of the timber post gate which allows views across the site and beyond should be retained to ensure that the impression is not given that the site and its occupants are deliberately isolated from the rest of the community.

5.20 Flooding

Whilst not noted on our records as being within a flood zone, the site is noted as being adjacent to flood zones 2 and 3 and close to an unnamed stream. Often anomalies in flood zoning data appear and the mapping does not always correctly reflect the risk. The applicants Flood Risk Assessment (FRA) acknowledges that the site is surrounded by flood risk and has addressed the issues according. However, the Environment Agency (EA) has drawn the conclusion that it is not acceptable and the application should be refused because it fails to use a robust approach to identify a 1 in 100 year flood level within an allowance for climate change (the design flood level).

5.21 The EA's position is that because of the particular characteristics of the site and it being surrounded by potential flood risk, they are not confident that the site is not actually within a flood zone 3. The FRA provided confirms their fears and the risk amounts to a potential for about half a metre deep of flooding across the site. Caravans, mobile homes and park homes intended for permanent residential use are identified as 'Highly Vulnerable' uses. These factors have lead to the EA stating that the risk of flooding is too great to recommend approval. Further enquiries have confirmed also that the recommendation remains the same even for a temporary period to allow further study on the issue to be undertaken.

5.22 Access and highway safety

There is one established access point to the site from Blackthorn Road. This entrance is close to a bend in the road and there are no speed limitations at this point. In consultation with the County, as highway authority, there is no objection to the proposal subject to a condition relating to access details for approval. Appropriate provision would be made for parking and manoeuvring within the site. With regard to transport the location is in accordance with relevant circular 01/2006. The submitted documents provide limited detail of the access and specifically the visibility available. Therefore, a detailed plan of access demonstrating appropriate visibility splays should be submitted prior to any development.

5.23 Conclusion

A need for more gypsy sites cannot be confirmed at this time and with the absence of this information and given that we have no adopted policy addressing the issue (only guidance at local and central level) the application ought to be considered favourably and subject to interests of acknowledged importance, which in this case amount to the general suitability of the site, flooding, highway safety and landscape impact. Having considered the issues arising, it is apparent that the flooding issue remains outstanding and the EA are recommending refusal, even for a temporary period, to allow for further study. At present the EA is not confident that the site is not a Zone 3 and together with the uses being defined as 'highly vulnerable' the risk is great.

6. Recommendation

Refusal, on the following grounds:

The site is at risk of flooding, potentially in Zone 3, representing the greatest risk. Insufficient information has been provided within the Flood Risk Assessment to give confidence that the proposed use, which is highly vulnerable, would be safe and not be at risk of flooding, even in the short term. The application is, therefore, contrary to Government guidance contained within the National Planning Policy Framework Section 10: Meeting the challenge of climate change, flooding and coastal change (paragraphs 99-104) and Policy NRM4 of the South East Plan 2009.

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