

# OS Parcel 3431 Adjoining and North East of Blackthorn Road, Launton

13/00279/F

**Ward:** Launton

**District Councillor:** Cllr David Hughes

**Case Officer:** Rebecca Horley

**Recommendation:** Approval

**Applicant:** Mr & Mrs Gerry & Kathleen Connors c/o agent

**Application Description:** Change of use of land to a private gypsy and traveller caravan site comprising 2 No. pitches, 1 No. dayroom and associated hardstanding, retention of existing stable and septic tank.

**Committee Referral:** Public interest

## 1. Site Description and Proposed Development

- 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 further 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.

- 1.5 Members will recall that there have been two previous and recent applications for the same development at the same site. Application 12/00287/F was refused, following committee resolution in May 2012, on grounds of flood risk as recommended by the Environment Agency. This issue was resolved but a further identical application 12/01293/F was refused following committee resolution in December 2012 on grounds of highway safety. This decision was contrary to recommendation. The current application seeks to demonstrate that all matters of flooding and highway safety have now been resolved.

## **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 21 March 2013. A press notice was also published on the same date. The final date for comment on this application was 11 April 2013.
- 2.2 At the time of writing 17 letters have been received objecting to the application. The comments below reflect those comments and the comments made on the previous applications. 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 too 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 consistency 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 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 and no waste/recycling collections and postal deliveries adding to this being an unsafe environment.
- 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
- The decision should not be made until the outcome of the Council's study regarding need for gypsy and traveller sites.
- the dayrooms are more like permanent bungalows
- The Council should delay the decision on this application until the 'Needs Assessment' has been carried out.
- Approving this site would lead to more green field sites on the outside of the village being lost to yet more development
- Should the site become over occupied then eviction court costs would be prohibitively expensive for the Council.
- This proposal will change the character of the village.
- The data collected on the traffic is unrepresentative because the weather was cold so people were driving slower and the sensors should have been put in front of the site, not on the bend. Passing drivers ignore the speed limit.
- Increased fuel costs are forcing drives to take short cuts through the village leading to an increase in traffic

One letter of support was received on the previous application 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 are awaited but it can be noted that the PC objected to the previous proposal on the following grounds:

1. Road Safety – before the previous application on the site was considered, the Parish Council corresponded with the OCC Highway Authority. In particular, it raised concerns over the risk posed by slow moving, large vehicles turning into the site from the east, and the hazard they posed to traffic leaving Launton Village, which is accelerating out of the restricted speed limit area.

As stated previously, a traffic survey conducted by the Parish Council over a full week in November 2011, demonstrated that 32% of vehicles leaving the village on Blackthorn Road were exceeding the 30mph limit before they leave the restricted speed zone, and the maximum speed recorded within the restricted area was 59mph.

The Highways Senior Engineer – Transport who replied to these concerns stated ‘With regard to your concern of vehicles approaching at 50mph, stopping distance is 53metres (Highway Code) and without any trimming or cutting back of vegetation visibility lines of nearly 80m were available at the time of inspection.’

Whilst the entrance may be visible from 80metres, the distance at which the driver of an approaching vehicle would see a vehicle on the other side of the road, turning into the site would be significantly less with correspondingly reduced time to react accordingly.

In November 2011 the Parish Council recorded a maximum movement rate of 197 vehicles per hour leaving the village and passing the site entrance. The Parish Council would point out, as it has to the Highways engineer, that 53metres is the stopping distance in fair weather conditions. The Highway Code recommends allowing 2 times that distance in wet weather and ten times the distance in icy conditions. (paras 202 & 205). Blackthorn Road at the site location is shaded by high hedges and trees on both sides, is slow to dry and prone to frosty conditions until late in the mornings of winter days.

At the committee hearing of the previous application Cllr D Hughes called for a site visit to inspect the access to the site and the Parish Council would endorse such a visit preferably between 08.00 and 09.00 on a wet weekday morning.

2. Need – At the Planning Committee hearing of the previous application (12/00287/F) Cherwell DC’s officer pointed out that the Council did not, at that time, have a current assessment of need and that work was needed to rectify this shortcoming. The Parish Council believes, in light of the uncertainty regarding need, that the current application should not be approved until the planning authority has adequate data to judge the requirement, especially in light of the issues stated above concerning road safety.
3. Flood Risk – a resident of Launton has pointed out to the Parish Council the fact that whilst mobile homes will have a floor level 750mm above ground no such provision has been made for the day rooms.

After hearing representations from members of the public, the Parish Council also consider that all of the objections made to the previous application on the site, (application no.12/00287/F), remain equally valid to this application and are recorded below:

- **The application is in a location that is beyond the built up limits of the village settlement.** It proposes the construction of two permanent structures (day rooms) and in addition, two constructions annotated on the plans as mobile homes. The planning documents do not define the nature of the mobile homes but the plans have a space 12.2m x 6.1m allocated to each of them, so it is assumed they are permanent structures, in addition to the day rooms.
- **An application to build a private residence on the village boundary was rejected for the same reason in January last year,** the refusal notice

stating that it was beyond the built up limits of the settlement and it would detract from the open, spacious and rural character of the area.

- **The PC believes that entrance and egress from the site would represent a significant road safety hazard.** The entrance to the site is at a bend in the road and is invisible to vehicles leaving the village (Picture references are available to view online). A recent traffic survey conducted by the Parish Council over a full week in November 2011, demonstrated that 32% of vehicles leaving the village on Blackthorn Road were exceeding the 30mph speed limit before they leave the restricted speed zone, and the maximum speed recorded was 59mph.
- **The application is contrary to the Dept. of Communities and Local Government's Planning Policy for Traveller Sites (March 2012), Policy H, Para 23** which states that Local Planning Authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.
- **Significant parts of the field are in the flood plain**
- **There is no history of usage of the site for anything other than agricultural or equine purposes.** Most of the site is pasture, as is the field beyond, and whilst there is a corrugated iron structure on the site, the stable which had been erected was destroyed by fire some time ago, and there was no recollection of horses having been kept there in recent times (see Pics).
- **There is a potential issue concerning the safe disposal of waste water in the immediate vicinity of an open water course** The nature of the tank described in the application as a septic tank was called into question (see Pic), with a member of the public stating his belief that it was, in fact, part of a flood alleviation scheme in use when there was a pumping station on adjacent land.
- **There is no perceived shortage of sites or pitches in the vicinity.**

### **Cherwell District Council Consultees**

#### **3.2 Head of Strategic Planning and the Economy (Planning Policy):**

As the Planning Policy team has prioritised work towards the production of the local plan, no specific comments will be made on this application but it can be noted that comments were received previously, as follows.

The Government's 'Planning Policy for Traveller Sites' should be considered in the determination of this application. Appropriate regard should also be given to proposed policy BSC6 of the Proposed Submission Local Plan (August 2012) which, although carrying limited weight, does suggest a criteria based approach for the identification of traveller sites.

At the present time the district has a total of 70 authorised pitches including the 8 approved on appeal (10/00839/F) near Islip, the 3 pitches off Woodstock Road, Yarnton that were granted permission on 16 February 2012 for a temporary period of 3 years (11/01356/F), and the extra 16 pitches permitted (11/01863/F) at Milton Road, Bloxham on 24 February 2012 (20 pitches were already accounted for in the supply figures). The current total of 70 pitches is 22 more than the baseline position of 48 pitches recorded in 2006 and takes into account the loss of 10 pitches at Bicester Trailer Park, Chesterton. On the understanding that there have been no other changes in circumstances from a Development Management perspective, current authorised supply comprises:

Station Caravan Park, Banbury - 10 pitches  
Smiths Caravan Park, Bloxham - 36 pitches  
Bicester Trailer Park, Chesterton - 8 pitches  
Corner Meadow, Mollington - 4 pitches  
Foxfield Farm, Ardley - 1 pitch (personal permission)  
Land adjoining A34, nr. Islip - 8 pitches  
Woodstock Road, Yarnton - 3 pitches (temporary and personal permission)

Another application (12/01368/F refers) at Mollington for 5 pitches was refused planning permission on 1 March 2013.

A needs assessment has recently been undertaken to assess future needs in the district and this is a material consideration.

The Council does not presently have any allocated sites and I am not aware whether any existing pitches are likely to be available for occupation.

- 3.3 Head of Public Protection and Development Management (Anti Social Behaviour):** No objection. The comments made on the original application are noted as follows: 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.

- 3.4 Head of Safer Communities, Urban & Rural Services (Ecology):** No objection. The comments made on the previous application remain relevant and are as follows: 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 no 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.

## **Oxfordshire County Council Consultees**

- 3.5 **Highways:** Comments are awaited but there was no objection to the previous application 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.
- 3.6 **Drainage:** No objection was raised to the previous application. 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.
- 3.7 **Traveller Site Officer:** Comments were received on the original application, as follows: 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.

## **Other Consultees**

- 3.8 **Environment Agency:** Comments awaited but no objection was received on the previous application. An acceptable Flood Risk Assessment has now been received and subject to conditions which would ensure the protection against flood risk and the conservation and enhancement of the local environment.
- 3.9 **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.

## **4. Relevant National and Local Policy and Guidance**

### **4.1 Development Plan Policy**

#### Adopted Cherwell Local Plan (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

## 4.2 Other Material Policy and Guidance

National Planning Policy Framework

### 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)'.

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)

Human Rights Act 1998

Housing Act 2004

The Equality Act 2010

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

### Cherwell Local Plan - Proposed Submission Draft (August 2012) and changes (March 2013)

The consultation to the draft Local Plan is now concluded. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

BSC1: District Wide Housing Distribution

BSC2: The Effective and Efficient Use of Land

BSC3: Affordable Housing

BSC6: Travelling Communities

ESD1: Mitigating and Adapting to Climate Change

ESD6: Sustainable Flood Risk Management

ESD7: Sustainable Drainage Systems (SuDS)

ESD8: Water Resources

ESD10: Protection and Enhancement of Biodiversity & the Natural Environment

ESD13: Local Landscape Protection & Enhancement

ESD16: The Character of the Built Environment

Policy Villages 1: Village Categorisation

Policy Villages 2: Distributing Growth Across the Rural Areas

Cherwell, West Oxfordshire and South Northamptonshire Gypsy and Traveller Housing Needs Assessment 2012/13. Executive report. January 2013



## 5. Appraisal

- 5.1 Although similar applications have fairly recently been presented to Committee and determined with the only reasons for refusal being the flood risk and, latterly highway safety, it is worth rehearsing the issues that were under consideration last time in order to fully understand all the key issues which are as follows and to ensure that they are properly up to date:
- Policy Context
  - Housing Need
  - Suitability of the site
  - Landscape Impact
  - Access and highway safety
  - Flooding

### Policy Context

- 5.2 The policy position remains unchanged, save for the revocation of the South East Plan. 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 The following definition of Gypsies and Travellers is adopted:
- '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 or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.'*
- 5.6 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.

- 5.7 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.
- 5.8 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; sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
  - b) promoting opportunities for health lifestyles, such as ensuring adequate landscaping and play areas for children;
  - c) 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.
- 5.9 At a more local level of policy guidance, Policy BSC6 of the Proposed Submission Local Plan, has been changed slightly as indicated in the proposed changes document (March 2013). It is now clear that **Cherwell will provide for 15 additional pitches to meet the needs of Gypsies and Travellers from 2012 to 2027**. It will also provide an additional 24 plots for Travelling Showpeople from 2012 to 2031.
- 5.10 To meet these requirements the policy 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 (as Launton is). 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.

## Housing Need

- 5.11 The housing need situation remains unchanged. A District-wide needs assessment has very recently been undertaken for the Council to assess the needs of the district for gypsy and traveller sites into 2031. This evidence, dated January 2013, informs the emerging local plan and the report reveals that the population of gypsies and travellers in our district is around 851 residents

and that at present there are 70 pitches across the district with 4 reported unauthorised encampments.

- 5.12 Of those sites surveyed it is apparent that facilities vary from site to site but are generally inadequate to meet the needs and requirements of residents. Also most have a lack of space. The Communities and Local Government (CLG) guidance states that sites should provide, as a minimum, access to a separate toilet, bath/shower room, and a kitchen and dining area.
- 5.13 There is a total demand over the next 5 years for 5 pitches in Cherwell and assuming there is no significant change in demand for pitches or pitch availability analysis would suggest a total 15 year requirement of 15 pitches. This is not dissimilar to the position in our neighbouring districts. The executive summary of the Housing Needs Assessment 2012/13, advises that we should continue to work collaboratively with our neighbouring districts to meet the identified needs but it is clear that at this time, there remains a need for at least 5 new pitches in the short term.

#### **Suitability of the site**

- 5.14 The site is outside the built up area of the village and raises a number of issues largely defined by the requirements of Policy BSC6 of the Proposed Submission Local Plan and Policy H of the Government's guidance on planning policy for traveller sites.
- 5.15 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 current 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.
- 5.16 Considering first the site's location, it is close to this Category 1 village and 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.
- 5.17 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.

### **Landscape Impact**

- 5.18 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.
- 5.19 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.
- 5.20 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.

### **Flooding**

- 5.21 Whilst not within a flood zone, the site is noted as being adjacent to flood zones 2 and 3 and close to an unnamed stream. The applicants latest Flood Risk Assessment was scrutinised by the Environment Agency (EA) who were satisfied that the site is acceptable for the use proposed subject to conditions which will ensure the protection against flood risk and the conservation and enhancement of the local environment. We await confirmation from the EA that this is still the case.

### **Access and highway safety**

- 5.22 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. At the time of writing and in consultation with the County Council, as highway authority, there was no objection to the previous 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 originally submitted documents provided limited detail of the access and specifically the visibility available and Members remained unconvinced that the access was

safe or that the applicants could demonstrate appropriate visibility splays, hence their resolution to refuse the application.

5.23 This application is now supported by an Access Report which notes that the 'approved' use of the site at the moment is for stables which anticipated that horse boxes and trailers may be used to transport animals to and from the site and that it would also be expected that manure would be routinely transported from the site. Such a use attracts slow moving large vehicles turning into the site from the east in much the same way as a caravan.

5.24 A speed survey has now been undertaken to the north of the site access for a 7 day period. It has revealed that the southbound 85<sup>th</sup> percentile speed, upon which visibility requirements are based, was 34.5 mph. The report suggests that the recommended visibility splays are achievable within the highway boundary and the reason for refusing the previous planning application can be overcome. Planning conditions can be imposed to deliver and protect the required visibility splays in all directions to and from the site access.

5.25 At the time of writing this report Oxfordshire County Council, as Highway Authority, was still considering the evidence but on balance it is considered that a recommendation to approve remains appropriate.

### **Engagement**

5.26 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

### **Conclusion**

5.27 The issues that remained unresolved from the last time that Planning Committee considered a similar application related to the need for gypsy and traveller sites and highway safety matters as all other issues were considered acceptable. A need for more gypsy sites remains apparent and 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 and examined the highway safety aspects in more detail it has been demonstrated that the site is generally acceptable and ought to be approved, subject to conditions.

## **6. Recommendation**

**Approval**, subject to:

- i) comments from the Highway Authority;
- ii) comments from the Environment Agency; and
- iii) the following conditions:

1. The development to which this permission relates shall be begun not later than

the expiration of three years beginning with the date of this permission.

Reason – To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. That this permission shall enure for the benefit of Mr and Mrs Gerry and Kathleen Connors and their immediate family only and of no other persons whatsoever, and shall not enure for the benefit of the land. In any event the site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of '*Planning policy for traveller sites*'. Upon the applicant ceasing to occupy the land, it shall revert to its former use.

Reason – In view of the special circumstances and needs of the applicant which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent in accordance with Government guidance and Policy H18 of the adopted Cherwell Local Plan.

3. Except where otherwise stipulated by conditions attached to this permission the development shall be carried out strictly in accordance with the following plans and documents: Planning application form, and drawing nos. 1129/02 and 03 and the red line site location plan received with the application.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

4. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) produced by Bureau Veritas ref 5118028 issue 2, dated 01 February 2012, and the following mitigation measures detailed within the FRA:
  1. Finished floor levels of the static mobile homes are set no lower than 700mm above existing ground level.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme (referred to in condition 5), or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason - To protect the development and its occupants from the risk of flooding and in order to comply with Government guidance contained within the National Planning Policy Framework.

5. Notwithstanding the layout of the site shown in drawing no. 1129/02, prior to the commencement of the development a scheme for the provision and management of a buffer zone from the Launton Brook, shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The scheme shall include:

1. plans showing the extent and layout of the buffer zone and the layout of the site;

2. details of the planting scheme (for example, native species);
3. details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term;
4. details of any footpaths, fencing and lighting.

Reason – To protect the development and its occupants from the risk of flooding and in the interests of biodiversity and in order to comply with Government guidance contained within the National Planning Policy Framework.

6. No commercial activities shall take place on the land; including the storage of materials and no vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason – In order to safeguard the amenities of the area and in the interest of highway safety in accordance with Policy C28 of the adopted Cherwell Local Plan and the National Planning Policy Framework.

7. No more than 2 pitches (1 No. caravan, 1 No. mobile home and 1 No. day room per pitch) shall be accommodated at the site.

Reason – In order to achieve a satisfactory form of development to ensure that the site is not overdeveloped and to comply with Policy C28 of the adopted Cherwell Local Plan.

8. Prior to the development of the day rooms, samples of the materials to be used on the external surfaces of the day rooms hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason – To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan.

9. That before the development is first occupied, all the means of access between the land and the highway shall be formed, laid out, constructed and drained in such position(s) and with such vision splays as shall be submitted to and approved in writing by the Local Planning Authority.

Reason – In the interests of highway safety to ensure a satisfactory standard of construction for the development and to comply with the National Planning Policy Framework.

10. That full details of the septic tank including its siting and size shall be submitted to and approved in writing by the Local Planning Authority prior to it being installed. Thereafter the septic tank shall be installed in accordance with the details so approved.

Reason – To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan.

11. That full details of the mobile homes shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the site.

Thereafter the development shall be carried out in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan.

12. That except to allow for the means of access and vision splays required by condition 9, the existing hedgerow/trees on the west and south boundaries shall be retained and maintained at a height of not less than 3 metres.

Reason – In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy C28 of the adopted Cherwell Local Plan.

13. That the timber gate at the access shall be retained and no other gate or structure shall be put in its place at the site entrance without first agreeing details with the Local Planning Authority.

Reason – In order to achieve a satisfactory form of development which will allow for the proper surveillance and openness of the site, in the interests of the visual amenities of the area and to ensure the creation of a pleasant environment to comply with government guidance contained within the Government guidance '*Planning policy for Traveller sites*' and Policy C28 of the adopted Cherwell Local Plan.

Planning Note:

1. With regard to condition 9, alterations to the highway are subject to separate approval under Section 184 of the Highways Act. A licence may be obtained from the Local Highway Authority on 08453 10 11 11.
2. 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. Thames Water have been consulted in respect of this application and it should be noted that there are public sewers crossing or close to the development. In order to protect public sewers and to ensure that Thames Water can gain access to those sewers for future repair and maintenance, approval should be sought from Thames Water where the erection of a building or an extension to a building or underpinning work would be over the line of, or would come within 3 metres of a public sewer. Thames Water will usually refuse such approval in respect of construction of new buildings, but approval may be granted in some cases for extensions to existing buildings. The applicant is advised to contact Thames Water Developer Services on 0845 850 2777 to discuss the options available at this site.
4. Under UK and European law it is illegal to disturb or injure Great Crested Newts or their habitat. Should any Great Crested Newts come to light at any point during the initial proposed works or vegetation clearance all work should cease and Natural England should be contacted immediately for advice.



**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

The Council, as the local planning authority, has determined this application in accordance with the development plan, unless material considerations indicate otherwise. The development is considered to be acceptable on its planning merits as the level of harm caused to the open countryside is appropriately outweighed by the acknowledged need for gypsy and traveller sites in the District. The site is in a sustainable location and of a design, size and style that is appropriate that will not unduly impact on neighbouring properties or the community generally, cause harm to highway safety or give rise to increased flood risk. As such the proposal is in accordance with Government guidance contained within the National Planning Policy Framework and within the '*Planning policy for traveller sites*' and saved Policies H6, H13, H18, C7, C8, C28 and C30 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised including third party representations, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

**STATEMENT OF ENGAGEMENT**

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.