

<b>Applicant:</b>	Clifford Smith And Robert Butcher		
<b>Proposal:</b>	Change of use of land to use as a residential caravan site for 8 gypsy families, each with two caravans and an amenity building; alterations to existing access, construction of driveway, laying of hard standing, installation of package sewage treatment plant and erection acoustic bund and fence to eastern boundary.		
<b>Ward:</b>	Fringford And Heyfords		
<b>Councillors:</b>	Cllr Ian Corkin Cllr James Macnamara Cllr Barry Wood		
<b>Reason for Referral:</b>	The application is classified as a major development and has previously been presented to planning committee		
<b>Expiry Date:</b>	24 October 2017	<b>Committee Date:</b>	15 <sup>th</sup> March 2018
<b>Recommendation:</b>	Refusal		

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1 The application site is situated outside the built limits of any settlement. It is located to the north of the A4095 (Kirtlington Road). A field access exists in the south west corner of the site. The M40 lies immediately to the east of the site and is situated within a cutting along the length of the eastern boundary. To the north and west of the site is open countryside. The site is roughly triangular in shape and is 2.7 hectare site in size. It is currently laid to grass and includes a small animal shelter to the west of the access. The site is located approximately 1.1 KM to the north west of Chesterton as the crow flies (1.3km from access to closest edge of Chesterton by road).
- 1.2 The site is not within a Conservation Area however a Grade II listed barn exists approximately 350 metres to the west of the site. Public Footpath 161/11/10 is shown to run along the western boundary of the site, but it is noted by the OCC Public Rights of Way Officer, and is apparent on site, that the path runs outside of the application site. The site has some ecological potential as protected species have been recorded within 250 metres of the site, including the Common Kestrel, Small Heath Butterfly and Brown Hare.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. Planning consent is sought to change the use of the site to a traveller/gypsy site accommodating 8 pitches. An upgraded vehicle access would be positioned in the same location as the existing access and a meandering access road would extend into the site in a northerly direction with 8 pitches accessed from this.

2.2. Each pitch would accommodate:

- a timber clad amenity room accommodating a kitchen, bathroom and small sitting area
- a mobile home
- an area of hard standing to accommodate a touring caravan and parking.

2.3. The areas of land between the pitches would be landscaped with native understorey planting, areas of lawn and wildflower planting.

2.4. It is also proposed to erect a 2 metre high bund with 3 metre high close boarded fence along the eastern boundary with the M40. This would extend partially along the southern and northern boundaries inside the existing fence line of the site. It is proposed to plant the earth bund with native understorey planting and trees.

### 3. RELEVANT PLANNING HISTORY

3.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
16/01780/F	Change of use of land to use as a residential caravan site for 8 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.	Application Refused

This application was recommended for approval by officers on a temporary basis. This was based on a different layout and did not include the bund or fencing. However the Committee considered that the proposed noise environment and harm to the rural character and appearance of the site would be unacceptable and outweigh the benefits of the scheme. It was therefore 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. As such, the development would give rise to "Significant Adverse Effects" on the health and wellbeing of residents of the new development 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 and Noise Planning Practice Guidance.
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. 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.

16/00075/SO	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.	Screening Opinion not requesting EIA
17/00068/SO	Change of use of land to use as a residential caravan site for 8 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.	Screening Opinion not requesting EIA

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

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

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

- 5.1. This application has been publicised by way of a site notice displayed near the site, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. People who made representations on the earlier application were also notified. The application was further re-advertised when the applicant clarified the plans to show an earth bund and acoustic fence as part of the proposal. The final date for comments was 01.03.2018, although comments received after this date and before finalising this report have also been taken into account.
- 5.2. Approximately 30 letters have been received. The comments 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 harm the character of the area;
- Would be visible from Public Footpaths and Kirtlington Road;
- Impact on character and appearance of area
- The bund and fence will further add to the urbanisation of the countryside.
- This is a green field site.
- The site is much larger than the previous refusal.
- Further pitches would be placed on the site in the future.
- Loss of enjoyment for users of the Public Footpath to west of the site;
- No assessment on heritage
- 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;
- No play area for children
- Would cause harm to protected species;
- 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 water, electricity, gas or sewage facilities serving the site;
- The water supply to the site is private and agricultural
- Insufficient information on landscaping and sewage treatment works
- Chesterton has already had significant levels of development

- Will not be managed properly and will go beyond what consent allows for;
- Travellers would not successfully integrate with the local community;
- Fear of crime and anti-social behaviour;
- Devaluation of property prices.
- Application contains insufficient information.

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 AND NEIGHBOURHOOD FORUMS

6.2. CHESTERTON PARISH COUNCIL: **Object on the following grounds:**

- Residential development on a green field site.
- Precedent for future change of use.
- Concerns regarding reasons for closure of Newlands site.
- Chesterton does not have the services to be a category A village. This was agreed in a recent appeal that the village was not sufficiently sustainable.
- Water supply is 1000m away.
- Additional traffic on the A4095 is discouraged.
- Other traveler's sites have closed in the locality and is now occupied by Park Homes.
- The school would not have sufficient capacity for accommodate the volume of new entrants.
- Health and welling being of the residents is not appropriate due to proximity to M40.
- Visual impact of the development.
- Strong local opposition to the development.

6.3. MIDDLETON STONEY PARISH: **Object.** The parish was not consulted upon the original application 16/01780/F. Notwithstanding the changes the revised application is not sufficiently different to overcome the objections raised within the original Officer's recommendations. It is considered that the proposed development adjacent to M40 would be adversely affected by noise and would provide an unacceptable living environment for the proposed residents. Furthermore the overall scale of the proposal would have an urbanizing effect on the open countryside and would result in detrimental harm to the rural character and appearance of the area.

## STATUTORY CONSULTEES

- 6.4. OCC HIGHWAYS: **Object.** The site is not in a sustainable location and occupants would be totally dependent on cars. The location has very poor transport links with limited access to services and public transport. The road is relatively straight and its visibility would be achievable. The minimum width of the access should be 4.8 metres and the applicant will need to enter into a section 278. Any access gates will have to be set back at least 12 metres from the carriageway. Request further details regarding parking and cycle provision and vehicle tracking.
- 6.5. Chesterton public footpath 11 is shown on the definitive map to run along the western boundary within the site. However the provided and walk footpath is outside on the site on the other side of the field boundary. The footpath was diverted via an order in 1987 (associated with building the M40) and the alignment of the path is on the ground is consistent with the position in the order therefore suggesting that the path was laid out on the ground suggesting the Definitive Map may be incorrect. With regards to the proposed sewerage treatment plant OCC raises no objection but requires an inspection chamber to be built.
- 6.6. If the Council are minded to approve the application there should be planning conditions on details of the access, internal road, parking and manoeuvring, waste facilities, no obstruction or amendment to the public footpath and full surface water drainage details.
- 6.7. *OCC HIGHWAYS COMMENTS ON AMENDMENTS:* Continue to raise the above issues however they also request full details of the visibility splays to be shown on the plans.
- 6.8. HIGHWAYS ENGLAND: **No objection** subject to a condition requiring a Road Restraints Risk Assessment Process.
- 6.9. ENVIRONMENT AGENCY: **No detailed comments.** New development should be connected to the public mains where possible. Proliferation of individual treatment plants can cause deterioration in local water quality. This would be contrary to the principles of the EU Water Framework Directive.

## NON-STATUTORY CONSULTEES

- 6.10. CDC ENVIRONMENTAL PROTECTION: **Object.** Nothing has changed since the earlier application and remains of the opinion that the noise climate at the site even after mitigation is not suitable for such a development.
- 6.11. Internal Noise Levels – The report gives internal noise levels in the caravans if they are of a certain standard of 32-33dB daytime and 31-32dB nighttime. Whilst the daytime value does come under those in BS8233:2014 the night time value is still 2-3dB above the value of 30dB which is the aim. BS8233:2014 does state that these levels can be relaxed by 5dB if the development is considered necessary or desirable.
- 6.12. External Noise Levels – This is where I still have the most concern. The noise levels given show that the level would be 8dB above the upper guideline level of 55dB given in BS8233:2014, even if this was relaxed by a further 5dB if the site was to be considered desirable or necessary then it would still be 3dB above this.
- 6.13. Pro-PG Planning and Noise which was also quoted in the report indicates that that noise levels of this kind at night-time are high risk and medium risk in the daytime. These levels are those given after the mitigation of the bund and still in my mind

give a significant adverse impact on the health and quality of life as laid down in the NPPF and NPSE

6.14. I therefore still believe that this site is inappropriate for this type of use and therefore my objection still stands.

6.15. *Further comments:* Set out below the actual wording of BS 8233:2014 relating to external noise.

#### 7.7.3.2 Design criteria for external noise

“For traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50 dB LAeq,T, with an upper guideline value of 55 dB LAeq,T which would be acceptable in noisier environments. However, it is also recognized that these guideline values are not achievable in all circumstances where development might be desirable. In higher noise areas, such as city centres or urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors, such as the convenience of living in these locations or making efficient use of land resources to ensure development needs can be met, might be warranted. In such a situation, development should be designed to achieve the lowest practicable levels in these external amenity spaces, but should not be prohibited.”

6.16. The Noise Consultants report quotes:

*“Within external amenity areas, the guidance reflects BS 8233, as follows: These guideline values (i.e. a level of between 50 – 55 dB LAeq) may not be achievable in all circumstances where development might be desirable. In such a situation, development should be designed to achieve the lowest practicable noise levels in these external amenity spaces but should not be prohibited.”*

6.17. Note that the guidance in para 7.7.3.2 refers to “In higher noise areas, such as city centres or urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors, such as the convenience of living in these locations or making efficient use of land resources to ensure development needs can be met, might be warranted.”

6.18. The purpose of this statement is to ensure that sites in urban locations are not unduly sterilised from development (because of high noise levels) when balanced against the constraints of lack of suitable development sites and the convenience of living in urban areas with proximity to schools, shopping and other amenities. The consultants have edited the guidance to suit their case. The proposed site is not in an urban area; where is the convenience of living in such an isolated location and is this the most efficient use of land resources? Would this site be desirable for other forms of residential development, for example, affordable housing, a care home, family homes?

6.19. As regards the predicted site noise levels, the consultants predict: “The calculations indicate that with the provision of the boundary mitigation, daytime noise levels at the positions of the proposed mobile homes would be reduced to a freefield level of 63 dB LAeq,T, thus providing up to a 10 dB(A) reduction in noise levels compared to the current noise environment within the site.

6.20. 63 dB(A) compared to the BS upper guideline value of 55 dB(A) is 8 dB(A) above. To put that in perspective a 10 dB(A) increase in noise level is equivalent to

a subjective perceived doubling of loudness. This site would be nearly twice as loud as a site at the upper guideline value.

- 6.21. CDC ECOLOGY: Originally requested further information on badger and grassland species. It appears that badgers are active on site but there is as yet no evidence of a sett. The recommendations in the additional report are appropriate to condition in this regard – note that this includes access underneath any proposed fencing *must* be maintained – will this be compatible with the current design of the fence? A 30cm height under fence is recommended for free movement (DEFRA). If badger routes are well established though they could consider putting in tunnels at specific places through fence but would have to review the appropriateness of this with their ecologist.
- 6.22. The site is of moderate ecological value having both grassland and scrub and the surveying ecologist recommends that boundary vegetation on site should remain untouched to retain its value. The proposed planting is generally appropriate to strengthen boundary vegetation although included is a high bund made of materials found on site. There is no information on how the site will be managed ongoing Will animals be kept on site – horses for example? This is relevant to management of the vegetation and particularly to the Northern end of the site. How will the wildflower margins be managed? And the scrub at the Northern end? Despite the relatively small size of the site a LEMP or similar should be submitted to cover these points which could be dealt with by condition.
- 6.23. The initial ecological appraisal stated the suitability of the Northern part of the site to support reptiles. Whilst the areas of hard standing proposed do not extend as far as this the Northern part of the site will be accessible to residents and particularly the presence of domestic pets such as dogs may be an issue. It would seem reasonable to assume therefore that should reptiles be present there would be impacts on their habitat and likely individuals from both people and pets. A reptile survey is required with mitigation measures to be put in place unless it can be shown that this northern area will not be impacted at all (e.g. inaccessible). Reptiles are protected from killing and injury. This could be dealt with by condition.
- 6.24. As bats are likely to use the vegetation for foraging and commuting a sensitive lighting scheme needs to be devised and submitted for approval, showing the levels of expected light spill onto existing and proposed vegetation. There is also a requirement to make accommodation for swallows on site in order to avoid the loss of nesting opportunities which will occur through the removal of the horse shelter.
- 6.25. Should approval be granted recommends conditions regarding badger mitigation, nesting birds and mitigation, reptile survey and mitigation, use of native species and light proposals.
- 6.26. CDC LANDSCAPE: **Comment.** The landscaping design is generally acceptable however would recommend more diversity of plant species that are locally distinctive. There is potential harm from the right of public right of way. This stretch of the boundary should be planted as a hedgerow. Amended hard landscaping details are required to be more appropriate to the area. Tree planting needs to be clarified. It is essential that landscaping is established successfully for visual mitigation. To this end a landscape maintenance scheme is required.
- 6.27. The site is of moderate ecological value having both grassland and scrub and the surveying ecologist recommends that boundary vegetation on site should remain untouched to retain its value. The proposed planting is generally appropriate to strengthen boundary vegetation although included is a high bund made of materials found on site. It has been clarified that this will be sourced on site. There is no



information how the site will be managed. Will animals be kept on site – horses for example? This is relevant to management of the vegetation and particularly to the Northern end of the site. How will the wildflower margins be managed? And the scrub at the Northern end? Despite the relatively small size of the site a LEMP or similar should be submitted to cover these could be secured by condition.

- 6.28. The initial ecological appraisal stated the suitability of the Northern part of the site to support reptiles. Whilst the areas of hard standing proposed do not extend as far as this the Northern part of the site will be accessible to residents and particularly the presence of domestic pets such as dogs may be an issue. It would seem reasonable to assume therefore that should reptiles be present there would be impacts on their habitat and likely individuals from both people and pets. Reptiles are protected from killing and injury.
- 6.29. CDC ARBORICULTURE: **Comments.** The scheme does not seem to impinge upon the trees that grow around the site, yet considers tree survey that demonstrates the exclusion of the construction scheme from the immediate Root protection areas of the trees needs to be provided pre-determination. Further detail on the location of the proposed tree planting needs to be clarified within a landscaping plan, again to be approved pre-determination. Considers that providing the tree survey and method statement showing the root protection areas demonstrates a lack of conflict between the tree root systems and the proposed build, no Arboricultural and construction conflict exists that ought to prove an obstacle to the scheme proceeding.
- 6.30. CDC WASTE AND RECYLING: **Comment.** Details of waste collection will need to be provided.
- 6.31. CDC LEISURE: **Comment.** Request contributions to sports facilities and community halls.
- 6.32. OCC EDUCATION: **No objection.** Due to the scale and nature of the proposed development, no contributions are sought towards education infrastructure.

## **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

#### 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, it remains a useful starting point for considering the design and layout of proposed travellers sites)
- 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
- CDC Annual Monitoring Report 2017 (AMR) (December 2017)
- Cherwell, West Oxfordshire and South Northamptonshire Gypsy and Traveller Needs Assessment (2012/2013) (GTAA 2012/2013)
- Cherwell, Oxford City, South Oxfordshire and Vale of White Horse Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (2017) (GTAA 2017)
- 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)
- The UK Air Quality Strategy (UKAQS)
- Cherwell District Council Statement of Community Involvement (July 2016)

## 8. APPRAISAL

### 8.1. The key issues for consideration in this case are:

- Principle of development
- Need for pitches
- Visual Impact and Effect on Landscape Character;
- Residential Amenity;
- Ecological Impact;
- Highway Safety;
- Flooding Risk and Drainage;
- Other Matters

#### Principle of development

- 8.2. Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption in favour 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. Planning law requires planning applications to be determined in accordance with the development plan unless material considerations indicated otherwise. The Council's development plan consists of the Policies in the Cherwell Local Plan Part 1 (July 2015) and the Saved policies of the Cherwell Local Plan (1996).
- 8.4. The most relevant policies to the principle of development are policy ESD1 which states that to mitigate the impact of development on climate change growth will be delivered in the most sustainable locations (as defined in the local plan) and reducing the need to travel. Policy BSC 6 of the Cherwell Local Plan Part 1 states that to meet the identified need for new travellers pitches in the District during the plan period, 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 through planning permissions that will be granted for suitable traveller sites. Policy BSC6 also goes on to state that: *"In identifying suitable sites with reasonable accessibility to services and facilities the following sequential approach will be applied:*
- *Within 3km road distance of the built-up limits of Banbury, Bicester or a Category A village.*
  - *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:*

- *Access to GP and other health services;*
  - *Access to schools*
  - *Avoiding areas at risk of flooding;*
  - *Access to the highway network;*
  - *The potential for noise and other disturbance;*
  - *The potential for harm to the historic and natural environment;*
  - *The ability to provide a satisfactory living environment;*
  - *The need to make efficient and effective use of land;*
  - *Deliverability, including whether utilities can be provided;*
  - *The existing level of local provision;*
  - *The availability of alternatives to applicants.*
- 8.5. The application site is located approximately 1.1KM road distance from the Chesterton which is a Category A Settlement under Policy Villages A and therefore meets the first criteria relating to the sequential test for the location of sites. However this does not mean the proposal is *de facto* acceptable in principle as Policy BSC6 also requires the assessment of the suitability of sites with reasonable accessibility to services and facilities by considering the additional criteria as set out above. Whilst Chesterton is a Category A settlement, which are amongst the most sustainable villages in the district, these range considerably in terms of their size and level of facilities/services. Chesterton has a primary school, nursery, public house, a village hall and playing fields. It does not have a shop or any GP or health services which some other category A settlements have. Therefore the extent of

services and facilities is relatively limited. The fact Chesterton has a primary school weights in favour of the proposal. The closest secondary schools are located in Bicester.

- 8.6. The bus service serving Chesterton is also extremely limited with only 1 morning service to Bicester which would therefore be unlikely to be of great use to residents.
- 8.7. In relation to the closest NHS GP facility there are a number of these in Bicester with the closest being approximately 4.8km (road distance) from the application site. There are also a wider range of other services and facilities at Bicester including shops.
- 8.8. Given the nature of the roads around the application site(national speed limit roads with no footpaths) it is likely that access to most services would therefore be by private car as there would be little other attractive alternative apart from potentially cycling to the primary school. Overall officers therefore considered that whilst the primary school is within a reasonable distance of the site, the location of the site is not the most sustainable and the assessment of the proposal against the first 2 criteria of Policy BSC6 weighs against the sustainability of the site and accessibility to services and facilities is limited with residents likely to have a relatively high reliance on the private car.
- 8.9. In relation to the national planning policy context for the provision of sites for the travelling community is found in the guidance issued in August 2015 'Planning Policy for Traveller Sites' (PPTS) and 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 that they have whilst at the same time respecting the amenity and appearance of the settled community.
- 8.10. Policy H of the Government PPTS states that LPAs should consider the following matters when considering proposals for gypsies and travellers:
  - (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 the open countryside that is away from existing settlements or outside areas allocated in the development plan. Furthermore it states in rural areas sites should respect the scale of, and not dominate, the nearest settled community. 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. The application site is located away from any settlement, not having any strong relationship with the form of any village and clearly separated by open fields. Therefore the national planning policy seeks to strictly limit new traveller sites and is it is not considered that the sequential approach outlined in Policy BSC6 means the site is acceptable. Given the location of the site, the number of pitches proposed and the size of Chesterton it is not considered that the proposal would dominate the nearest settled community. The site is greenfield site which is not previously developed.
- 8.13. Overall in terms of the location of the site it is not ideal from a geographical sustainability perspective for a culmination of the factors discuss above. This issue weighs against the proposal however this needs to be considered in the planning balance and weighed against the benefits of the scheme.

#### Need for pitches

- 8.14. The Local Planning Authority is required to make an assessment of the needs for gypsy and traveller sites within the district and to identify and update annually a 5 year supply of specific deliverable sites. Paragraph 27 of the PPTS states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when consideration applications for the grant of temporary planning permission.
- 8.15. Policy BSC6 of the Local Plan 2015 states that the council will provide 19 (net) additional pitches to meet the needs of Gypsy and Travellers from 2012 to 2031. The most recent Annual Monitoring Report (AMR) 2017 (December 2017) displays two different assessments of the Council's five year supply position for gypsies and travellers.
- 8.16. The first assessment is based on figures within the development plan. This outlines that at 31<sup>st</sup> March 2017 the total number of authorised pitches in Cherwell for Gypsies and Travellers was 57 and the requirement for pitches within the period 2017-2031 is a need for 31 pitches (as a number of pitches had been lost). It states that the District currently has a 1.1 year land supply for gypsies and travellers for the period 2017-2022 (18 pitch shortfall) and a 0.9 year land supply for the period of 2018-2023 (19 pitch shortfall).
- 8.17. The 5 year land supply figures take into account the loss of the pitches at Smiths, Bloxham in 2016/17 and the 11 new pitches that have been approved at Corner Cottage and The Stable Block in Mollington (ref: 16/01740/F and 16/01760/F). Thus, based on this first assessment within the AMR 2017 and requirement of the Local Plan Part 1, the Council cannot demonstrate a 5 year supply of sites based on the adopted Local Plan figures and have a significant shortfall.
- 8.18. However since the 2015 Local Plan was adopted the Planning Policy for Traveller Sites (August 2015) has been published. This included a change to the definition of "gypsies and travellers" for planning related purposes so that it now excludes those who have permanently ceased from travelling. 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 dependant' education 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."*

8.19. In light of this and in order to provide an evidence base for the preparation of Local Plan Part 2, the Council has recently commissioned a new Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA 2017) with a number of neighbouring authorities which was published in June 2017. This takes into account the new definition of gypsies and travellers unlike the Local Plan figure which is based on the old definition.

8.20. The new GTAA 2017 identified a significantly lower need for pitches. It concludes there is a need for 7 additional pitches that meet the new planning definition over the next 15 years (2017-2031/2). It also identified a need for up to 20 additional pitches for unknown households in the district over the same period however the authors of the assessment note that if their national average is taken then the need stemming from the unknown households may be as low as 2 additional pitches. Unknown households are household that may meet the new definition of gypsy and traveller however interviews during the research where either refused or not possible. It was therefore not possible to establish whether they met the new planning definition.

8.21. Therefore the second assessment of the Councils 5 year land supply in the AMR uses the known need within the GTAA 2017 to calculate five year requirement. However, the second assessment within the AMR 2017 states that the requirement for pitches within the period 2017-2022 and 2018-2033 is a need for 15 pitches, rather than 7 identified. This is because the second assessment within the AMR includes the potential need for 8 pitches arising from the Newlands Caravan Site. However, even when including the pitches at the Newlands Caravan Site, the second assessment states that the District currently has a 5.0 year land supply for gypsies and travellers for the period 2017-2022 and a 4.0 year land supply for the period of 2018-2023 (1 pitch shortfall). If the potential need for 8 pitches arising from Newlands Caravan Site were not included in the overall assessment, the Council would be able to demonstrate a healthier supply for gypsies and travellers within 2017-2022.

8.22. This therefore casts some doubt over the figures in the development plan as these figures were based on the previous definition of gypsies and travellers which included residents which had permanently ceased travelling. However whilst the figures in the new GTAA 2017 are a material consideration they need to be treated with caution as the methodology and results have not been subject to the rigour of public examination like the development plan figures and it is noted that there are a high number of unknown households (i.e. those who may meet the new definition). Furthermore in considering this matter the primacy of the development plan for decision making needs to be taken into account.

- 8.23. Overall there is a fundamental conflict between the two calculations. The calculation based on the development plan figures recognising a significant shortfall against the 5 year requirement whilst the calculation using the recent GTAA indicates that Council can demonstrate a 5 year supply of sites. There are weaknesses in both the sets of figures with the development plan figures being based on an old definition and the figures in the new GTAA 2017 having not been subject to independent scrutiny or examination.
- 8.24. Whilst Officers note that Councillors expressed some concerns regarding this matter in the planning application for the gypsy/travellers site in Piddington (which was presented to Planning Committee in February) officers remain of the opinion that the most robust position to base the assessment of the planning applications on at the current time is the figures contained within the development plan. They have been subject to the rigour of examination and form part of the statutory development plan which is the starting point for decision making. Whilst the new GTAA 2017 is a material consideration it is part of the evidence base for the Local Plan Part 2 and in officers view does not outweigh the development plan. A similar view was reached by a planning inspector in a recent planning appeal in the adjoining district of South Northants where similar conflict existed between the Local Plan figures and a new evidence base.
- 8.25. The Council has does not have any allocations for additional sites and there is a lack of alternative provision in the district with applications being assessed on a case by case basis. As outlined above there is considered to be a need for additional sites in the area to meet a general need. These matters, alongside the Council's inability to demonstrate a 5 year land supply on the figures in BSC6, are considered to carry significant weight in determining the application and the provision of new pitches is a significant benefit.
- 8.26. The application site is proposed to be used as a settled base for members of the travelling community. At the current time, despite a number of requests from officers, the applicant has not forwarded any personal circumstances and there are no named residents of the site. Therefore the application is currently considered on a general need basis. In order to ensure that the site was only occupied by households meeting the revised definition of gypsy/traveller a planning condition can be used in line with Government guidance. Officers are therefore satisfied that the application is for a site that would be used by gypsies/travellers.
- 8.27. The European Convention of 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)) as gypsies and travellers are identified as a specialist group. The statement submitted with the application identifies that the proposal is for a residential caravan site for gypsies and travellers and the proposed development therefore provides new accommodation for the gypsy and traveller community with the Cherwell District. Therefore the contribution the site makes to facilitating the gypsy way of life weighs in favour of the proposal.

#### Visual Impact and Effect on Landscape Character

- 8.28. One of the core planning principles in the NPPF is for planning decisions to take account of the different roles and characters of different areas and recognising the intrinsic character and beauty of the open countryside. 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.”*

8.29. 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.”*

8.30. 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 from sporadic development.

8.31. The proposed development includes the provision of 8 pitches and associated infrastructure. Each pitch would have space for mobile home and a touring caravan with an area of hard standing. A small day room would also be provided for each pitch. An access road would be provided across the site. In addition to the pitches, a 2 metre bund and 3 metre high close boarded fence is also proposed along much of the eastern boundary and partially along the northern and southern boundaries.

8.32. The application site itself occupies a relatively flat site and given the topography and vegetation in the wider area the visual impacts of the development will be relatively localised. The site currently positively contributes to the rural character and appearance of the locality and the intrinsic character and beauty of the open countryside through being an undeveloped agricultural field. However the presence of the M40 reduces the tranquillity and remoteness of the site albeit that the motorway is situated in a cutting.

8.33. The proposed development would clearly be visible from the public footpath to the west of the site and whilst there is some confusion as to the exact line of this footpath, the walked route runs outside of site to the west of the hedge. However views of the site would still be visible from this footpath particularly from the entrance to the site and from further to the west particularly in winter months when the vegetation is sparser. Furthermore views of the site would also be available from people travelling along the A4095 particularly from the bridge section over the M40 and through the access to the site. Additionally the bund and fence would be clearly visible from people travelling along the M40.

8.34. 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 and this would significantly erode the character and appearance of the site. The revised proposal has amended the layout of the site to provide a more landscaped setting which is supported by Policy H of the PPTS. Whilst the landscaping would provide a softer setting for the pitches it would still be prominent and incongruous and would therefore cause harm to the rural character and appearance of the



landscape. Furthermore it would extend across a much wider part of the site extending the visual impacts of the development.

- 8.35. The proposed 2 metre bund and 3 metre high fence to the eastern boundary of the site would also impact on the area. Views of the bund from the A4095 bridge over the motorway and from the M40 itself would largely appear as an extension of the existing cutting the motorway is located within from this aspect given its height. Subject to appropriate landscaping conditions it is not consider that this would not significantly impact on these views. However the proposed 3 metre high fencing given its height and likely appearance would appear as an alien prominent feature that would further contribute to the urbanisation of the site noted above.
- 8.36. Views of the bund and fence from the A4095 immediately to the south of the site would be filtered through the existing tree planting on the southern boundary and by the fact that the site lies between approximately 3-5 metres lower than the A4095 along the extent of the bund. Therefore views from this section of the road would by more apparent in the winter. However as outlined above views of the bund and fence would be very apparent from the access to the site, the A4095 immediately to the east of the site, the M40 and from the footpaths to the west of site. The height of the bund and fence would appear as incongruous feature on the site in this open countryside setting and would harm the rural character and appearance of the locality.
- 8.37. Whilst over time appropriate landscaping of the site would help soften the appearance of the bund and fence, this would take a number of years to have any benefit and would the height of the feature would still remain incongruous.
- 8.38. Overall the development will result in significant harm to the rural character and appearance of the area. Whilst this harm would be relatively localised it would nevertheless be significant where it occurs. This would conflict with Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, Saved Policy C8 of the Cherwell Local Plan 1996 and Government advice contained within the NPPF.

#### Residential Amenity

- 8.39. 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.
- 8.40. Paragraph 120 of the NPPF states that *“To prevent unacceptable risks from pollution.....decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account”*. Paragraph 123 goes onto state that planning decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life. The potential for noise disturbance is also noted as one of the assessment criteria of Policy BSC6.
- 8.41. 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 types of environmental pollution will not normally be permitted.
- 8.42. 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.”*

- 8.43. The site is located in excess of 200 metres from any neighbouring residential properties therefore it is considered that other residential properties would not be directly affected by the proposal in terms of loss of light, outlook, privacy or noise and disturbance.
- 8.44. With regard to the layout of the proposal, the proposed pitches would be spacious and officers are of the view that these pitches are all of a sufficient size and would allow for some privacy and amenity space for each pitch and would avoid the overcrowding of the site.
- 8.45. The main consideration in relation to residential amenity in this case is the noise environment for future occupiers of the site given the presence of the M40 to the east of the site. This formed one of the reasons for refusal on the earlier application and in order to attempt to address this matter the applicant have amended the scheme to include a 2 metre earth bund and 3 metre high fence to the eastern boundary with returns either end to act as noise mitigation.
- 8.46. A noise survey of the site was undertaken by the applicant to assess the existing noise environment. The main source of noise affecting the site is from the M40 to the east of the site. The traffic noise is high throughout the day and night with the north of the site being louder than the southern part of the site where the motorway is in a larger cutting.
- 8.47. The applicants noise report notes that without suitable mitigation the noise environment on the site would be unsuitable for residential accommodation. With the proposed mitigation (bund and fence) the noise modelling undertaken indicates that the site would be able to achieve acceptable internal noise level during the day so long as the mobile homes provided on the site were designed to meet the requirements of BS 3632:2015 which requires a higher levels of sound insulation to mobile homes. Noise levels in the mobile homes would be reduced to between 32-33 dB LAeq 16 hour daytime and 31-32dB LAeq 8 hour night time. The daytime internal noise environment would therefore comply with the relevant standards however the night time would be 2dB(A) above the recommended design aim for internal specified within BS8233. The British Standard does allow for some flexibility where development is necessary or desirable the standard can be relaxed by up to 5dB and still provided reasonable internal conditions. Therefore this is not ideal.
- 8.48. There are also concerns that any person occupying a touring caravan on the site would be likely to be subject to a significantly noisier environment than any occupants of the mobile home given that there noise insulation quality of a touring caravan are likely to be lower. The applicant assessment make no reference to this and this further adds to the concerns of the noise environment
- 8.49. Another and more significant concern that the Councils Environment Protection Officer has raised regarding the site is the external noise environment which would impact on the external amenity space serving the residents and subsequently their quality of life.
- 8.50. In referencing external noise levels BS 8233:2014 states:

*“For traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50 dB LAeq,T, with an upper guideline value of 55 dB LAeq,T which would be acceptable in noisier environments. However, it is also recognized that these guideline values are not achievable in all circumstances where development might be desirable. In higher noise areas, such as city centres or urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors,*

*such as the convenience of living in these locations or making efficient use of land resources to ensure development needs can be met, might be warranted. In such a situation, development should be designed to achieve the lowest practicable levels in these external amenity spaces, but should not be prohibited.”*

- 8.51. The noise modelling predicts the freefield level of 63dB Laeq,t would be achieved at the position of the proposed mobile homes. This noise levels would be 8dB above the upper guideline level of 55dB given in BS8233:2014 and even if this was relaxed by a further 5dB if the site was to be considered desirable or necessary then it would still be 3dB above this. The applicant seeks to argue that the guidance above indicates that development should not be prohibited on these grounds however officers consider this guidance is more relevant to urban areas to ensure centrally located urban sites are not unduly sterilised from development and it requires a balancing of the different factors relating to a scheme.
- 8.52. It is further noted that the latest ecological appraisal submitted for the site requires the fence to be open at the bottom to allow for appropriate badger mitigation measures. The ecologist has advised this is likely to include a 30cm gap to the bottom of the site. The submitted noise report again makes no reference to this and it is unclear how this may impact on the quality of the noise mitigation measures however the Councils Environmental Protection Officer has advised that it is highly likely to adversely impact on the effectiveness of the acoustic screen which may mean a worse noise environment than presented in the noise report. This casts further doubt over the findings of the report.
- 8.53. Overall the Councils Environment Protection Team consider that the proposal would give rise to significant adverse impacts on the health and quality of life of the proposed residents as laid down in the NPPF and Noise Policy Statement for England. Paragraph 123 of the NPPF advises that planning decision should avoid such impacts. This factor is considered to weigh heavily against the proposed development as ensuring a good standard of amenity is a core part of achieving sustainable development.

#### Highways

- 8.54. 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.”*
- 8.55. The Highway Authority has objected to the sustainability of the location and the fact that the future residents would be highly reliant on the private car to meet their day to day needs. The application site does not have any footways on the side of the road and it is unlikely that future residents would make trips to the nearest settlements on foot given the nature of the roads. Furthermore there are no bus stops within the locality of the site and the bus service in Chesterton is extremely limited. Therefore the Council agree that the occupiers of the site would be reliant on the private car and therefore there would be conflict with the Policy ESD1 and the NPPF in this respect. However this conflict has to be balanced against the provision of Policy BSC6 which is discussed elsewhere in this report.
- 8.56. In relation to the technical matters the Highway Authority have indicated that further details are required of the access to the site however full details of this could be secured by condition. They have previously indicated that they consider that adequate visibility from the access could be provided. They have also requested additional information on the parking serving the units however the plans clearly show sufficient parking to serve the pitches and the provision of this could be

secured by condition. The other matters the highway engineer has raised regarding details of the internal road, access gates, turning areas and drainage could be controlled through conditions.

- 8.57. Chesterton public footpath 11 is shown on the definitive map to run along the western boundary within the site. However the provided and walk footpath is outside on the site on the other side of the field boundary. The footpath was diverted via an order in 1987 (associated with building the M40) and the alignment of the path is on the ground is consistent with the position in the order therefore suggesting that the Definitive Map may be incorrect. This matter is still being investigated by OCC and notwithstanding this matter it is considered that the issues relating to the protection of the footpath both during construction and operational stage could be dealt with by planning condition.

#### Flooding Risk and Drainage

- 8.58. 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 and the Flood Risk Assessment which accompanied the earlier scheme has been submitted alongside this application.
- 8.59. Policy ESD7 of the Cherwell Local Plan Part 1 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is all with the aim to manage and reduce flood risk in the Cherwell District.
- 8.60. The Environment Agency no longer provides comments on this type of application. The submitted Flood Risk Assessment states that the proposal would use SuDs to ensure that the rate of surface water run-off would not exceed the green field rate and that the hard standing would not be impermeable. OCC as the Local Lead Flood Authority have raised not objection to the application subject to full details of the surface water drainage for the site being secured through condition.
- 8.61. Concerns have been raised with the applicant regarding the use of the proposed sewerage treatment plant to treat sewerage including a lack of details regarding this and also the lack of details on the feasibility of connecting to mains drainage which should be the first option explored as outlined in the Planning Practice Guidance. OCC raises no objection to this but require an inspection chamber to be built. As with the previous application very limited details are provided of this respect. Whilst it is noted that the EA have noted this is not desirable in the absence of objections from the relevant statutory bodies and given this was considered an acceptable arrangement in the earlier application, this arrangement is considered to remain acceptable however full details of this would need to be secured through planning conditions.

#### Ecology

- 8.62. 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, contributing to the Government's aim to halt the overall decline in biodiversity.
- 8.63. Paragraph 118 of the NPPF seeks to “...*conserve and enhance biodiversity by applying, amongst others, the following principles:*

- *If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission should be refused*
- *Development proposals where the primary objective is to conserve or enhance biodiversity should be permitted*
- *Opportunities to incorporate biodiversity in and around developments should be encouraged”*

- 8.64. Policy ESD10 seeks to protect and enhance biodiversity and the natural environment, by achieving a net gain in biodiversity, through supporting developments which incorporate features to encourage biodiversity.
- 8.65. The site is an open agricultural field currently comprising rough grass land and scrub. The application is accompanied by an Ecological Appraisal which concludes the site is of moderate ecological value.
- 8.66. The Council’s Ecologist has reviewed the submission and initially requested further information in the potential impact of the development on badgers and further clarification was also sought regarding the grassland habitat which the applicant states is semi-improved.
- 8.67. Further work has been undertaken in relation as evidence of badgers using the site was found, and the ecologist raised concerns that the proposed bunding may impact on this. The applicant therefore undertook further survey work of the site including access to the adjacent motorway verge and revealed no clear evidence of badger setts. The Council’s Ecologist is now satisfied that the proposal would be acceptable in relation to its impact on badger subject to suitable mitigation includes access through the fence as discussed above.
- 8.68. The Council’s ecologist is now generally satisfied that other matters subject to appropriate conditions. The site is of moderate ecological value having both grassland and scrub and the surveying ecologist recommends that boundary vegetation on site should remain untouched to retain its value. The proposed planting is generally appropriate to strengthen boundary vegetation. However this is little information regarding how the site will be managed or used and the use of parts of the site for animals or domestic activities could harm the value of the site. Therefore the ecologist has recommended that a Landscape and Habitat Management Plan (LEMP) to cover these points which could be dealt with by condition.
- 8.69. The initial ecological appraisal stated the suitability of the Northern part of the site to support reptiles. Whilst the areas of hard standing proposed do not extend as far as this the Northern part of the site will be accessible to residents and particularly the presence of domestic pets such as dogs may be an issue. It would seem reasonable to assume therefore that should reptiles be present there would be impacts on their habitat and likely individuals from both people and pets. A reptile survey is required with mitigation measures to be put in place unless it can be shown that this northern area will not be impacted at all (e.g. inaccessible). This could be dealt with by condition.
- 8.70. The Council’s ecologist has also recommended conditions regarding the lighting of the site and bird nesting mitigation. Overall the Councils Ecologist considers that subject to conditions the ecological impacts of the development can be made acceptable through the use of planning conditions.

#### Heritage Impact

- 8.71. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard to the desirability of preserving a listed building or its setting should be taken. Paragraph 132 of the NPPF states that: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.”* Paragraph 134 of the NPPF states that: *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”*
- 8.72. In the earlier application a third party noted a Heritage Statement should have been submitted given the proximity of the site to a Grade II listed barn at Field Farm to the north west of the site. However, the site is approximately 350 metres from this heritage asset and an agricultural field separates these two entities. Furthermore, the site is visually separated from the listed building by existing buildings and landscaping. Overall, given this separation, officers consider that the proposed development on the site, including structures no more than single storey in scale, would not materially alter the way this barn is appreciated or experienced in a rural setting, and that a Heritage Statement is not necessary in this instance. Thus, it is considered that the proposal would not cause harm to the significance and setting of this Grade II listed barn.

#### Other matters

- 8.73. Concerns have been raised in relation to the primary school at Chesterton being near 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.
- 8.74. 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 however the applicant has stated that the site is already served by water and electricity. Full details of this could be secured through conditions.
- 8.75. 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.
- 8.76. 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.
- 8.77. Whilst a number of issues have been raised by third parties, the following are either not supported by an evidence or are private interests and are therefore not capable of carry any significant weight in determining the planning application:
- Fear and increase in crime to surrounding properties as a result of the proposal;

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

8.78. The Council's leisure officer has requested contributions towards sports provision and community hall provision. However there is no planning policy basis for this and it is considered that given the scale of the proposal it would not be reasonable or necessary to request this particularly as the Council does not pursue such contributions on site under 10 dwellings.

8.79. In the earlier application the issue of air quality was also considered due to the proximity of the site to the M40. This included modelling of the site and concluded that the air quality would be acceptable for residential accommodation. The findings of this are still considered to be relevant to the current application and the Environmental Protection Officer has not raised concerns in this regard.

## **9. PLANNING BALANCE AND CONCLUSION**

9.1. The proposal seeks permission for the change of use of existing agricultural land to a residential travellers caravan site comprising 8 pitches. The site is located approximately 1.1KM from the edge of the category A village of Chesterton and approximately 3KM from the edge of Bicester and benefits from suitable access to the local and wider highway network so can be considered under Policy BSC6 of the Local Plan. However it is noted that Chesterton is one of the Category A settlements which has fewer facilities for residents and has lost its more regular bus service in recent years since the adoption of the Local Plan.

9.2. In assessing the sustainability and suitability of the site the criteria set out within Local Plan Policy BSC6 is relevant in determining the most suitable locations for gypsy and traveller sites.

9.3. Criterion (a) considers access to GP and other health services, the nearest NHS GP surgery to the site would be in Bicester approximately 4.8km from the site. In order to access this service given, the infrequent nature of the bus service, they are likely to rely on the private car which weighs against the proposal.

9.4. Criterion (b) considers access to schools; the nearest primary school is located at Chesterton and given the nature of the roads, without footpaths or lighting, is likely to be travelled by the private car as opposed to alternative modes of transport. Given this it is considered by officers that the site has relatively poor access to education which would weigh against the proposal when assessed against the sustainability and suitability criteria.

9.5. Criterion (c) seeks to avoid areas at risk of flooding. The site is not identified on the Environment Agency's mapping as subject to flooding. A suitable drainage scheme could be controlled through condition. The proposal is considered acceptable in this regard.

9.6. Criterion (d) considers the suitability of the site in relation to access to the existing highway network; in this respect the proposal is considered to be appropriately located without undue harm caused to highway safety.

9.7. Criterion (e) considers the potential for noise and disturbance. The site is considered acceptable in regard to the impact on neighbouring uses. However the noise environment of the site and the impact on future residents is considered to result in

significant adverse impacts on the health and quality of life for future residents even with the proposed mitigation measures in place. This weighs heavily against the proposal.

- 9.8. Criterion (f) seeks to ensure harm to the historic and natural environment is limited.. The proposal would not adversely impact on any heritage assets or the ecology of the site. However there would be significant harm to the rural character and appearance of the site and locality in the immediate vicinity of the site. This harm weighs against the development.
- 9.9. Criterion (g) seeks to ensure that proposals provide for a satisfactory living environment. In this case due to the noise environment of the site this is not considered to be achieved. This weighs heavily against the proposal.
- 9.10. Criterion (h) seeks to ensure that efficient and effective use of land is made. In this case the current proposal would result in the development of a green field site. The agricultural land is rated moderate to good (grade 3) however, it is considered that the amount of agricultural land lost and the quality of the land would not be a significant loss.
- 9.11. Criterion (i) considers the likely deliverability of the proposal, including whether utilities can be provided on the site. The applicant's agent states that water and electricity already serves the site. It is not proposed to connect to mains drainage however this has not been justified. Nevertheless it is considered that a pre-commencement condition could be used to secure the foul drainage arrangements for the site.
- 9.12. Criterion (j) looks at the existing level of local provision for gypsy and travellers across the Cherwell District. Officers acknowledge that the issue of general need is unclear based on the new definition of traveller/gypsy. Whilst there is conflict in the figures outlined in the Annual Monitoring Report officers considered that the most robust position to take regarding this is to use the Development Plan figures which show there is a significant shortfall in pitches across the district (1.1 years supply – 18 pitch shortfall). The benefits of the proposal in providing additional pitches to meet a general unmet need therefore carry significant weight in favour of granting permission.
- 9.13. Criterion (k) considers the availability of alternative sites for the applicant. In this case no alternative sites are allocated in the Local Plan. The application is not supported by any information about individuals that are interested in occupying the site if it is approved however there is a significant identified need for pitches which this application goes some way towards addressing and significant weight is attached to this.
- 9.14. In conclusion, the site is located within 3KM of a Category A village, however, Chesterton is not one of the most sustainable Category A villages within the district and offers limited services for the future residents of the site. Furthermore it only has very limited public transport linkages to a wider range of services. A wide ranges of services are provided in Bicester however they are further away from the site and the only likely way of reaching them is in the private car. Furthermore the PPTS states that new sites in the countryside should be strictly limited
- 9.15. The site comprises 8 pitches and is not considered to dominate the nearest settled community and officers consider that there is a significant unmet need for gypsy and traveller pitches in Cherwell which should carry substantial weight in support of the application albeit this is somewhat tempered by the evidence in the GTAA. The



lack of alternative provision is also a matter that weighs heavily in support of the proposal.

- 9.16. However the proposal would lead to significant harm to the rural character and appearance of the countryside and would result in a poor quality of living environment for future occupants of the site given the noise environment of the site. In this case the cumulative impacts of the poor geographical sustainability of the site, the harm to the rural character and appearance of the site and the poor quality living environment for future residents in relation to noise is considered to significantly outweigh the benefits of the scheme. It is therefore recommended that planning permission be refused.

## **10. RECOMMENDATION**

That permission is refused, for the following reason(s):

1. The proposed development, by virtue of its poor access to services and facilities, reliance on the private car to access services and facilities, detrimental impact on the rural character and appearance of the area and poor living environment for future residents in relation to noise, is considered to represent an unsustainable form of development. The harm is not considered to be outweighed by the benefits of the scheme. The proposal is therefore considered to be contrary to Policies ESD1, BSC6, ESD13 and ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C8 Cherwell Local Plan 1996 and advice in the National Planning Policy Framework and Planning Policy for Travellers Sites (2015).

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