

**Summer Place
Blackthorn Road
Launton**

18/01259/F

Applicant: Mr Jerry Connors

Proposal: Use of land for the stationing of caravans for residential purposes

Ward: Launton And Otmoor

Councillors: Cllr Tim Hallchurch
Cllr Simon Holland
Cllr David Hughes

Reason for Referral: Called in by Ward Member – Councillor Hughes

Expiry Date: 24 September 2018 **Committee Date:** 18 July 2019

Recommendation: Approve

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

Proposal

Planning permission is sought for the change of use of the site so as to extend the existing gypsy and traveller caravan site at Summer Place further to the north east and provide 4 additional pitches. Each pitch would contain a mobile home, amenity room and touring caravan.

Consultations

The following statutory consultee has raised objections to the application:

- Launton Parish Council

1 Letter of objection has been received.

Planning Policy

The site lies adjacent to the Launton Brook which is classified as a 'main river'. The site itself is not within Flood Zone 2 and 3, but it is bordered by these higher probability flooding zones on the south and east boundaries. The site has some ecological potential as legally protected species have been recorded within the vicinity of the site. The site is also within the Ray Conservation Target Area.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

Conclusion

The key issues arising from the amended application details are:

- Principle of the Development;
- Gypsy and Traveller Pitch Provision and 5 Year Supply Position;
- Visual Impact and Effect on Landscape Character;
- Residential Amenity;
- Access and Highways Safety;
- Flooding Risk, Drainage and Pollution; and

- Ecological Impact.

The report looks into the key planning issues in detail, and officers conclude that the proposal is acceptable subject to conditions. The scheme meets the requirements of relevant CDC policies.

RECOMMENDATION - GRANT PERMISSION SUBJECT TO CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located within the open countryside, some 150 metres to the south east of the village of Launton. The site is located on the north east side of Blackthorn Road and in between the site and this highway is an existing traveller site with permission for 4 pitches. The site comprises an area of grass land which is in agricultural use. The site is accessed off Blackthorn Road and this access also serves the current traveller site.
- 1.2. The site is not within a conservation area and there are not any listed buildings within close proximity to the site. The site itself is not within a Flood Zone 2 and 3, but it is bordered by these higher probability flooding zones on the south and east boundaries. The site has some ecological potential as legally protected species have been recorded within the vicinity of the site including the Kestrel, Eurasian Badger and Common Frog and the site is within 20 metres of a 'main river', which runs adjacent to the north west boundary of the site. The site is also within the Ray Conservation Target Area.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. Planning permission is sought for the change of use of the land from agriculture to the stationing of caravans for residential purposes. This is to extend the existing gypsy and traveller caravan site further to the north east. The site is proposed to accommodate four pitches, with each pitch containing a mobile home, amenity room and touring caravan. A package treatment plant is proposed to deal with the foul waste from the pitches. No alterations are proposed to the current access off Blackthorn Road. Loose bound permeable hard standing is proposed on the site.

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>
13/00279/F	Change of Use of land to a private gypsy and traveller caravan site comprising of 2 No pitches; 1 No dayroom and associated hardstanding; retention of stables and	Application Approved

septic tank

- 3.2. This application related to land to the west of the site and it was adjacent to the highway boundary. Consent was granted for each pitch to include 1 No. mobile home, 1 No. touring caravan and a dayroom. A number of conditions were attached to this consent, including a number of pre-commencement conditions (5, 8, 10 and 11) and these were discharged on 14th February 2014 (ref: 13/00172/DISC).

16/00034/F Place two further static mobile homes on Withdrawn
the site. Enlarge the two day rooms to
accommodate the increase in use

16/01719/F Addition of two further static mobile homes Withdrawn
and enlarge the two day rooms and relocate
one, to accommodate the increased use -
Resubmission of 16/00034/F

- 3.3. Officers raised concerns with these applications due to the lack of justification for the proposal and the inaccuracies within the plans therefore these applications were withdrawn.

17/00031/F Addition of two further static mobile homes APPROVED
and enlarge the two day rooms and relocate
one, to accommodate the increased use -
Resubmission of 16/00034/F

- 3.4. The site related to land between the site subject of this current application before Members and the site of the approved application referred to above (13/00279/F). Planning permission was granted for 2no additional traveller pitches, each comprising 1no mobile home, 1no touring caravan and 1no day room. A number of conditions were attached to this consent, including:

- Condition 5 of the previous consent at the site stated: *“Within 6 months of the date of this permission, and prior to the occupation of the additional pitches hereby approved, a detailed scheme for the surface water and foul sewage drainage of the development incorporating sustainable drainage systems where practicable shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and within 12 months of the date of this permission, and prior to the occupation of the additional pitches hereby approved, the approved drainage scheme shall be carried out and maintained as such thereafter.”* This condition has not been complied with as no such information has been submitted. Thus, Planning Enforcement has been made aware.
- Condition 7, which stated that: *“The 8 metre landscape buffer adjacent to Launton Brook, as shown on Drawing Number 1311-PL-01f received from the applicant's agent by e-mail on 23rd May 2017, shall be kept free of development at all times and no development or storage of goods, vehicles or materials shall take place at any time whatsoever”.* However, having visited the site, officers hold the view that it is likely that this plan has not been complied with. Fencing appears to have been installed within the buffer zone. Planning Enforcement has been notified.

- 3.5. This application was first considered at the November Planning Committee. It was deferred “to allow the applicant time to address issues related to vision splays at

access and foul drainage and compliance with previous conditions imposed on the site". The reason this was important was that the Planning Committee needed to have confidence that the applicant would comply with conditions that may be imposed on any permission given *if* the Committee decided to approve the current application.

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. The final date for comments was 05.09.2018, although comments received after this date and before finalising this report have also been taken into account.

5.2. One letter of objection has been received. The comments raised by this third party are summarised as follows:

- Water is taken from other land and there is no mains water supply;
- The existing traveller site is not in compliance with the permissions at the site;
- There is not proper treatment of foul sewage;
- The access is unsafe.

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. LAUNTON PARISH COUNCIL: **Objects** to the application on the following grounds:

- The site bears little resemblance to the plans submitted;
- Overdevelopment of the site and limited justification for this;
- Access is unsafe;
- No meaningful means of disposal of sewage and effluent;
- No legal provision for water.

STATUTORY CONSULTEES

6.3. ENVIRONMENT AGENCY: A buffer of 8 metres from the watercourse (Launton Brook) is required.

6.4. OCC DRAINAGE: **No objections** subject to a drainage scheme

6.5. OCC HIGHWAYS: **No objections** subject to conditions

6.6. THAMES WATER: **No comments received.**

NON-STATUTORY CONSULTEES

- 6.7. CDC ECOLOGY: **No comments received.**
- 6.8. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to Electric Vehicle charging infrastructure on site.
- 6.9. CDC LICENSING: **No objections**, but a caravan site license will be required.
- 6.10. CDC WASTE & RECYCLING: **No comments received.**

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
- SLE4: Improved Transport and Connections
- 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
- ESD11: Conservation Target Areas
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Planning Policy for Traveller Sites (August 2015) (PPTS). This document sets out the Government’s planning policy specifically for traveller sites and should be read in conjunction with the NPPF
- Designing Gypsy & Traveller Sites (2008) (although this document was withdrawn by the Government on 1st September 2015, 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 should be 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)
- CDC Annual Monitoring Report 2018 (AMR) (December 2018)
- Cherwell, West Oxfordshire and South Northamptonshire Gypsy and Traveller Needs Assessment (2012/2013) (GTAA)
- Cherwell, Oxford City, South Oxfordshire and Vale of White Horse Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (2017) (GTAA 2017)
- European Convention on Human Rights (ECHR) Articles 8 and Article 14 of Protocol 1
- Housing Act (2004)
- The Equality Act (2010)
- Cherwell District Council Statement of Community Involvement (July 2016)

8. APPRAISAL

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

- Principle of the Development;
- Gypsy and Traveller Pitch Provision and 5 Year Supply Position
- Visual Impact and Effect on Landscape Character;
- Residential Amenity;
- Access and Highways Safety;
- Flooding Risk, Drainage and Pollution;
- Ecological Impact;
- Other Matters.

Principle of the Development

8.2. Policy PSD1 of the Cherwell Local Plan (2011-2031) Part 1 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise. The Council's development plan consists of the Policies in the Cherwell Local Plan (2011-2031) Part 1 and the Saved policies of the Cherwell Local Plan (1996).

8.3. Policy ESD1 of the Cherwell Local Plan (2011-2031) Part 1 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 (2011-2031) Part 1 builds on this to meet the identified need for new traveller pitches in the District and in order to provide and maintain a five year supply of deliverable traveller sites. This states that allocations will be made in Local Plan Part 2 and planning permissions will be granted for suitable traveller sites. Policy BSC6 also goes on to state that locations outside the AONB and Green Belt will be considered and: *"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.”*

8.4. Under Policy Villages 1 of the Cherwell Local Plan, Launton is identified as a Category A village. Category A villages are considered the most sustainable settlements in the District’s rural areas. The site is approximately 200 metres by road from Launton. Therefore the proposal meets the first criteria relating to the sequential test for the location of sites. It is worth noting that the site is also approximately 1.6km from the town of Bicester by road.

8.5. 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 against the criteria below:

“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.”*

8.6. To begin with, it is worth noting that the land to the south west of the site has permission as a traveller site. Furthermore, the site is within 3km of a shop (within Launton), primary school (within Launton), public houses (within Launton), as well as within 3km of the town of Bicester which contains GP and health services, schools, shops, recreational facilities, a library and many other service. There is also a regular bus service between Launton and Bicester.

8.7. In relation to the national planning policy context for the provision of traveller sites, this is contained within the 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.

8.8. 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.

- 8.9. 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. Whilst the site is located outside of any settlement, it would be located adjacent to an existing traveller site and would only be approximately 200 metres away from the Category A village of Launton and approximately 1.6km from Bicester. Given this, it is not considered that the proposal can be said to be 'away from the nearest existing settlements' and so would not conflict with national policy in that respect
- 8.10. Policy H then notes that 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.
- 8.11. Given the location of the site, the number of pitches proposed even when viewed together with the existing traveller site, and the size of Launton, it is not considered that the proposal would dominate the nearest settled community. The site is a greenfield site which is not previously developed. The other matters are discussed further below.
- 8.12. Overall, it is considered that the location of the site is within a relatively sustainable location for a new gypsy and traveller site in general sustainability terms. This weighs in favour of the application.

Gypsy and Traveller Pitch Provision and 5 Year Supply Position

- 8.13. The Local Planning Authority is required to make an assessment of the needs for gypsy and traveller sites within the district and 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 considering applications for the grant of temporary planning permission.
- 8.14. Policy BSC6 of the Local Plan states that the Council will provide 19 (net) additional pitches to meet the needs of Gypsy and Travellers from 2012 to 2031. Like the 2017 AMR reported to Planning Committee in November 2018, the most recent Annual Monitoring Report (AMR) 2018 (December 2018) displays two different assessments of the Council's five year supply position for gypsies and travellers as discussed below.
- 8.15. The first assessment is based on figures within the Development Plan. This outlines that at 31st March 2018 the total number of authorised pitches in Cherwell for Gypsies and Travellers was 52 (down from 57 in March 2017) and the requirement within the period 2017-2031 is for 37 pitches (as there has been a net loss of pitches since the figures in the local plan were formulated) (up from 31 in March 2017). It states that the District currently has a 0.0 year land supply for gypsies and travellers for the period 2018-2023 (29 pitch shortfall) and a 0.0 year land supply for the period of 2019-2024 (30 pitch shortfall). (At March 2017 that land supply was 1.1 years (2017-22) and 0.9 years (2018-23), the shortfall having increased by 11 pitches.

Thus, based on the requirements of the Local Plan Part 1, the Council cannot demonstrate a 5 year supply of sites and has a significant shortfall, and its supply decreased between 31.03.2017 and 31.03.2018.

- 8.16. However, since the Cherwell Local Plan Part 1 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.”*
- 8.17. In light of this and in order to provide an evidence base for the preparation of the Local Plan Part 2, the Council 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. The 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. Unknown households are households that may meet the new definition of gypsy and traveller. However, interviews during the research were either refused or not possible. It was therefore not possible to establish whether they met the new planning definition. It is noted that the authors of the assessment state that if their national average is applied to the unknown households then the need stemming from the unknown households may be as low as 2 additional pitches.
- 8.18. The AMR therefore includes a second assessment of the Council’s 5 year land supply based on the known need within the GTAA 2017. However, the second assessment within the AMR 2017 states that the requirement for pitches within the period 2017-2032 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 closure of the Newlands Caravan Site. Based on this second assessment, it is stated that the District currently has a 0.0 year land supply for gypsies and travellers for the period 2017-2022 (11 pitch shortfall) and a 0.0 year land supply for the period of 2018-2023 (12 pitch shortfall, the shortfall having increased by 11 pitches).
- 8.19. Some doubt may be reasonably cast 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.
- 8.20. Thus there are weaknesses in both sets of figures with the development plan figures being based on an old definition and the methodology and figures in the new GTAA 2017 having not been subject to independent scrutiny or examination.
- 8.21. However, while there is a fundamental conflict between the two calculations, the outcome at this time is the same – that because of a lack of permissions for gypsy

traveller sites in recent times there is a 0.0 year supply irrespective of the methodology used.

- 8.22. The Council 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 significant 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 set out in Policy BSC6, are considered to carry significant weight in the determination of the application and the provision of new pitches is a significant benefit.
- 8.23. The application site is proposed to be used as a settled base for members of the travelling community, which would have benefits relating to healthcare and education. 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.
- 8.24. 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 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 within the Cherwell District. Thus, 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

- 8.25. The NPPF recognising the intrinsic character and beauty of the open countryside. ESD13 of the Cherwell Local (2011-2031) 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 or be inconsistent with local character.
- 8.26. Policy ESD15 of the Cherwell Local Plan (2011-2031) 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."*
- 8.27. 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.
- 8.28. The application site comprises part of an agricultural field, with the Launton Brook running along the north-west boundary of the site and the existing traveller site to the south west. The site is relatively flat and relatively well screened from Blackthorn Road by a mature hedge along the highway boundary. Surrounding hedging also contributes in screening the site from this road. The site is mostly visible from Blackthorn Road through to the access into the site, but the proposal would be viewed amongst the existing traveller site which is adjacent to the highway boundary. Partial views would be achievable from the Public Right of Way (272/2/10) to the north east of the site in the winter months, although the site would

be relatively well screened from this footpath by an intervening hedgerow and this Public Right of Way is approximately 300 metres away from site.

- 8.29. The proposed hardstanding to the site would undoubtedly further urbanise the locality and the addition of static caravans, cars, dayrooms and domestic paraphernalia would only add to this harm. The proposed development would therefore cause harm to the rural character and appearance of the landscape. That said, the proposal would not result in any wider landscape impacts and the harm would be localised.
- 8.30. Further details of the means of enclosure proposed are required and this can be required by condition of any permission given. Officers are concerned with the use of close board fencing as displayed on the block plan and are not convinced that this would be appropriate within this sensitive rural locality. As the site extends further east into the countryside than the previous consents for the traveller site and introduces additional pitches, any permission given would need to be subject of a condition to restrict permitted development rights for the erection of any new fences, walls and means of enclosure along the boundaries of the site in order to protect the character of the area.

Residential Amenity

- 8.31. The NPPF requires new development provide a high standard of amenity for existing and future occupants.
- 8.32. Saved Policy ENV1 of the Cherwell Local Plan 1996 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.
- 8.33. Policy ESD15 of the Cherwell Local Plan (2011-2031) 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.”*
- 8.34. The site is not within close proximity to any residential properties. Therefore it is considered that other residential properties would not be directly affected by the proposal.
- 8.35. In relation to their scale, the proposed pitches would not be very private from each other, and the relationship would appear to be more compact to the approved situation at the existing traveller site between the pitches. However, officers consider that the site is of a sufficient size for four pitches so as to avoid the overcrowding of this site, and achieve a satisfactory living environment for future occupiers.
- 8.36. In relation to noise, the Council’s Environmental Protection Officer has raised no objections to the proposal. However, on the matter of odour, the site is located within close proximity to a sewage works and the Environmental Protection Officer has noted that it is advisable to consult Thames Water. Whilst Thames Water has been consulted, no comments have been received from this consultee. Furthermore, there is an existing traveller site adjacent to the site and the Environmental Protection Officer has noted that there does not appear to be any complaints regarding this sewage works. It is therefore considered that the proposed occupiers would not be adversely affected by noise or odour.

Highway Safety

- 8.37. Policy SLE4 of the Cherwell Local Plan 2015 states that development is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported. Paragraph 108 of the NPPF states that in assessing planning applications it should be ensured that safe and suitable access can be achieved for all users and that development will be refused there is an unacceptable impact on highway safety.
- 8.38. Whilst it is acknowledged that third parties have raised concerns with the established access to the site off Blackthorn Road, the Local Highway Authority (LHA) has raised no objections to the proposal. The LHA comments that the access is suitable for a touring caravan to access/egress from the site. The LHA therefore concludes that, subject to conditions including full specification details of the parking and manoeuvring areas, the proposals would not adversely affect the local highway network from a traffic and safety point of view. Officers see no reason to disagree with this assessment.
- 8.39. It is noted that one of the reasons Planning Committee deferred the application at its November meeting related to the lack of provision of vision splays at the site access. Since that time officers have repeatedly invited the applicant to address this issue. It is very unfortunate that the applicant has not taken up that invitation, and that no progress has been made. Officers confirm that the vision splays required by Condition 9 of 13/00279/F have not been provided. That condition required:

That the proposed vision splays shall be formed, laid out and constructed in accordance with submitted plan, Visibility Diagram Drawing Number: Figure 1 Drawn By: JPH prior to the first occupation of the site and that the land and vegetation within the splays shall not be raised or allowed to grow above a maximum height of 0.6m above carriageway level.

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.

- 8.40. Nevertheless, officers would recommend that the best way to deal with the breach of Condition 9 is through enforcement action and, if it becomes necessary, that the same method is used with regard to conditions imposed on any permission given for this current application.

Flooding Risk, Drainage and Pollution

- 8.41. Whilst the site is surrounded by land within Flood Zones 2 and 3 on its north east and south east boundaries (higher risk flood zones), the site itself is identified as being within Flood Zone 1, which is land that has a less than 1 in 1,000 annual probability of river flooding (low risk of flooding). Policy ESD6 of the Cherwell Local Plan (2011-2031) Part 1 and the Framework state that a Flood Risk Assessment (FRA) is required for proposals of 1 hectare or more in in Flood Zone 1. The site is below this threshold therefore an FRA is not required and one has not been submitted.
- 8.42. Nonetheless the Environment Agency (EA) has been consulted but, as the site is within Flood Zone 1, the EA has not raised any objections in relation to flooding risk.
- 8.43. Policy ESD7 of the Cherwell Local Plan (2011-2031) 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.

- 8.44. Regarding foul waste, it is currently proposed to install a sewage treatment plant for the proposed pitches. The proposed treatment plant can serve up to 3 houses or up to 12 bedrooms. It is also proposed to clear the sludge from the tank approximately every 6 to 7 months. On the matter of discharging the water, limited information has been provided of how this is to be regulated. Whilst the EA would prefer connection to the mains where possible for foul drainage, it has raised no objections to this. The EA reaffirms that it does not comment on the matter of foul drainage at the planning application stage and that this is dealt with through the Environmental Permit process.
- 8.45. The application contains very limited information in relation to drainage. The application proposes to use permeable surfacing for the site and OCC Drainage comments that this could potentially allow surface water to be managed by draining to and infiltrating to the ground below, depending on adequate infiltration potential and conditions of the underlying geology. OCC Drainage states that a more formalised drainage system would be required to ensure satisfactory drainage of the site for the residents and ensure adequate control of flood risk if infiltration rate potential is inadequate at the site.
- 8.46. Thus, in the absence of objections from the relevant statutory bodies, it is considered that the proposal could be made acceptable in drainage terms, but that a drainage scheme is required, which can be conditioned.
- 8.47. It is noted that one of the reasons Planning Committee deferred the application at its November meeting related to foul drainage. Since that time officers have repeatedly invited the applicant to address this issue. It is very unfortunate that the applicant has not taken up that invitation, and that no progress has been made. Officers confirm that details of a foul sewage strategy have still not been submitted in respect of Condition 5 of planning permission ref/ 17/00031/F for the existing site. Given this lack of condition compliance, your officers have advised those acting for the applicant that it is reasonable for a decision maker to have little confidence, that it was any more likely the matter would be addressed in relation to the current application.
- 8.48. That said, officers would recommend that the best way to deal with the breach of Condition 5 is through enforcement action and, if it becomes necessary, that the same method is used with regard to conditions imposed on any permission given for this current application.

Ecological Impact

- 8.49. Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: *"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."*
- 8.50. Paragraph 170 of the NPPF states that: *"The planning system should contribute to and enhance the natural and local environment by...minimising impacts on and providing net gains for biodiversity."*

- 8.51. Policy ESD10 of the Cherwell Local Plan Part 1 reflects the requirements of the Framework to ensure protection and enhancement of biodiversity. The Authority also has a legal duty set out in the Natural Environment and Rural Communities Act 2006 (NERC 2006) which states that: *“Every public authority must in exercising its functions, must have regard... to the purpose of conserving (including restoring / enhancing) biodiversity.”*
- 8.52. The Council’s Ecologist has not raised comments within the consultation period. That said, the Environment Agency has requested an 8 metre buffer along the Launton Brook. An amended block plan was submitted displaying an 8 metre buffer, but this shows fence within the buffer therefore a condition will be attached requesting an amended buffer area without any development within it. Whilst it is acknowledged that such a buffer for the existing traveller site has not been implemented despite this being conditioned, this does not relate to this current application before members and the Planning Enforcement team has been made aware of this matter.
- 8.53. The site comprises agricultural grassland and the proposal would not result in the removal trees or hedging. Thus, subject to a condition relating to the buffer zone, it is considered that the proposal would not cause demonstrable harm to any protected species nor would it adversely affect the aims of the Conservation Target Area.

Other Matters

- 8.54. It is acknowledged that no method for dealing with foul waste has been supplied for the existing traveller site despite planning permission 17/00031/F conditioning such information. Furthermore, concerns have been raised that this previous permission has not been complied with as the number of pitches can exceed the approved number. However, this does not directly relate to the current application and Planning Enforcement has been made aware of these issues.
- 8.55. Third parties have noted that currently, water is taken from neighbouring land without the land owner’s consent. However, the applicant’s agent has stated that the water is taken by mains with an approved water meter. A water bill from Thames Water for the site has also been provided to Officers.
- 8.56. The Environmental Protection Officer has requested environmental charging infrastructure is installed on the site. Given the nature of the proposal, this is not considered necessary to make the development acceptable or reasonable to request.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. Paragraph 12 of the NPPF states that: *“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.”* Furthermore, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that: *“If regard is to be had to the development plan for the purpose*

of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

- 9.3. The proposal seeks permission for the change of use of existing agricultural land to a residential traveller caravan site comprising 4no pitches, adjacent to an existing traveller site. For the reasons set out in this report the proposal can be considered under Policy BSC6 of the Cherwell Local Plan (2011-2031) Part 1.
- 9.4. 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.
- 9.5. Criteria (a) and (b) consider access to GP and health services as well as access to schools. Launton, which is approximately 200 metres away from the site, has a primary school and Bicester, which is approximately 1.6km away and accessible by a regular bus from Launton, has a number of schools, GP and health services and a number of other services and facilities. This weighs in favour of the proposal when assessed against the sustainability and suitability criteria.
- 9.6. Criterion (c) seeks to avoid areas at risk of flooding. Whilst Flood Zones 2 and 3 (higher risk flood zones) lie adjacent to part of the boundary of the site, the site itself is within Flood Zone 1, which is land which has a less than 1 in 1,000 annual probability of river flooding (low risk of flooding). The Environment Agency has therefore not objected to the proposal on the ground of flooding risk. Whilst limited information has been provided in relation to drainage, OCC considers that this matter can be sufficiently managed by means of a condition and Officers see no reason to disagree with this. The proposal is therefore considered acceptable in this regard.
- 9.7. 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.
- 9.8. Criterion (e) considers the potential for noise and disturbance. The site is considered acceptable in regard to the impact on neighbouring uses, as well as the impact upon the amenities of the proposed occupiers of the site.
- 9.9. Criterion (f) seeks to ensure harm to the historic and natural environment is limited. The proposal would not cause harm to any heritage assets given its siting. Furthermore, subject to the ecological buffer of 8 metres being implemented and maintained, it is considered that the proposal would not cause demonstrable harm to protected species. However, there would be some harm to the rural character and appearance of the site and locality in the immediate vicinity of the site given that the development is proposed on a greenfield site. That said, this site would be adjacent to an existing traveller site and would be read in this context from where visible. Thus, whilst weighing against the development, the weight given is relatively limited.
- 9.10. Criterion (g) seeks to ensure that proposals provide for a satisfactory living environment. In the case of the noise and odour environment of the site, this is considered adequate. It is also considered that there would be adequate space provided on the site for the future occupiers so as to provide an ideal standard of amenity.
- 9.11. 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 greenfield site.

However, the agricultural land is not of high quality (grade 4) and the proposal would not result in a significant loss of agricultural land.

- 9.12. Criterion (i) considers the likely deliverability of the proposal, including whether utilities can be provided on the site. In this case, a water bill from Thames Water has been provided to demonstrate that the site has mains water supply. Whilst a treatment plant is proposed to deal with foul waste, there are no objections from OCC Drainage and the Environment Agency in relation to this arrangement. Furthermore, an Environmental Permit is likely to be required for the operation of this treatment plant.
- 9.13. 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, whether one relies upon the AMR methodology or that set out in the GTAA 2017 there is 0.0 years supply and therefore a very significant shortfall in pitches across the district, the shortfall being either 30 pitches under the AMR 2018 or 12 pitches under the GTAA 2017.
- 9.14. In this context, the benefits of the proposal in providing additional pitches to meet a general unmet need therefore carry significant weight in favour of granting permission.
- 9.15. Criterion (k) considers the availability of alternative sites for the applicant. In this case no alternative sites are allocated in the Local Plan and little progress has been made in this regard. Whilst it is noted by the applicant's agent that the pitches would serve the extended family of the current occupants of the existing pitches at Summer Place, it is not specified that there is need to do so (i.e. limited personal circumstances have been put forward). However, there is an identified need for pitches which this application goes some way towards addressing and weight must be attached to this.
- 9.16. In conclusion, the site is accessible, and services and facilities are located nearby and could be accessed by means of walking, cycling or public transport. Whilst the proposal would lead to harm to the rural character and appearance of the countryside, this is considered to be localised and relatively limited. The external noise and odour environment is considered acceptable. The proposal is not considered to dominate the nearest settled community and Officers consider that there is a very significant unmet need for gypsy and traveller pitches in Cherwell which should carry substantial weight in support of the application. The lack of alternative provision is also a matter that weighs heavily in support of the proposal and there is limited progress in respect of addressing the need through new allocations.
- 9.17. Overall when assessing the development as a whole, the benefits of the scheme, particularly in meeting a significant unmet need, are considered to convincingly outweigh the relatively limited harm resulting from the scheme. It is therefore considered that the proposal is in compliance with Policy BSC6 of the Cherwell Local Plan (2011-2031) Part 1 and it is recommended that planning permission be granted subject to conditions.
- 9.18. Further it is recommended that lack of compliance with conditions of previous permissions is a matter appropriately handled by way of enforcement action and that it would not be appropriate to refuse the current application on the grounds of lack of compliance with conditions of previous permissions.

10. RECOMMENDATION

Delegate to the Assistant Director of Planning Policy and Development to grant planning permission, subject to the conditions detailed below (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning Policy and Development).

Time Limit

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.

Approved Plans

2. 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:

- Application form submitted with the application;
- Cover letter dated 12th July 2018 by GreePlanningStudio submitted with the application;
- Drawing Numbers 17_912_001 Revision A and 17_912_005 Revision A submitted with the application;
- Drawing Number 17_912_003 Revision D received from the applicant's agent by e-mail on 24th September 2018;
- Kingspace Klargest specification received from the applicant's agent by e-mail on 24th September 2018 and e-mails received from the applicant's agent 18th September 2018, 24th September 2018 and 28th September 2018 specifying which treatment plant is to be used

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.

Surface Water Drainage

3. Notwithstanding the submitted details, no development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The development shall not be occupied or used unless and until the approved scheme has been implemented to the satisfaction of the local planning authority. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- SuDS (Permeable Paving, Porous Sub-base)
- Maintenance and management of SUDS features
- Infiltration in accordance with BRE365 (To include infiltration testing)
- Detailed drainage layout with pipe numbers
- Network drainage calculations

Reason: To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property, in the interests of road safety and to comply with Policy ESD6 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Parking

4. No development shall take place until full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas has been submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason: In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

Ecological Buffer

5. Notwithstanding the 8 metre ecological buffer adjacent to Launton Brook which includes a fence within it as displayed on Drawing Number 17_912_003 Revision D received from the applicant's agent by e-mail on 24th September 2018, no development shall take place until a plan displaying an 8 metre ecological buffer adjacent to Launton Brook has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the 8 metre buffer shall be kept free of development at all times and no development or storage of goods, vehicles or materials shall take place at any time whatsoever.

Reason: In the interests of ecology and to support the aims of the Conservation Target Area, and to comply with Policies ESD10 and ESD11 of the Cherwell Local Plan (2011-2031) Part 1, and Government guidance contained within the National Planning Policy Framework.

Means of Enclosure

6. Notwithstanding the means of enclosure as displayed within Drawing Number 17_912_003 Revision D received from the applicant's agent by e-mail on 24th September 2018, prior to the first occupation of the site full details of the means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure shall be erected in accordance with the approved details, prior to the first occupation of those dwellings, and shall be retained as such thereafter.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Number of Caravans

7. No more than 12 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than

8 shall be static caravans or mobiles homes), shall be stationed on the site at any one time and these shall be sited within the pitches as displayed on the drawing titled 'Site Layout Plan' at 1:500 Scale on A4 paper submitted with the application.

Reason: This consent is only granted in view of the very special circumstances, which are sufficient to justify overriding normal planning policy considerations which would normally lead to a refusal of planning consent and to limit the visual impact of development in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Access

8. Subject to the requirements of Condition 9 of planning permission 13/00279/F, the access and driveway to the site leading from Blackthorn Road shall be kept free of obstructions at all times and used only for the specified purpose.

Reason: In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

Commercial Vehicles and Activities

9. No more than one commercial vehicle per pitch shall be kept on the land. Each vehicle shall not exceed 3.5 tonnes in unloaded weight and shall not be stationed, parked or stored on the site except within the relevant pitch and shall not be used other than by occupiers of that pitch. No other commercial vehicles shall be kept on the land.

Reason: In order to safeguard the amenities of the area in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and the National Planning Policy Framework.

10. No commercial activities, including the storage of materials, shall take place on the land other than the storage of materials in vehicles authorised to be parked on the site.

Reason: In order to safeguard the amenities of the area in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and the National Planning Policy Framework.

Occupation restricted to Gypsies and Travellers

11. 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' August 2015:

"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."

Reason: To ensure the proposed development makes provision for gypsy and traveller pitches and in accordance with Policy BSC6 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework and Planning Policy for Travellers Sites.

Removal of Permitted Development Rights

12. Notwithstanding the provisions of Class A, Part 2, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no gates, fences, walls or other means of enclosure shall be erected on the site without the grant of further specific planning permission from the Local Planning Authority.

Reason: In order to safeguard the amenities of the area and in the interest of highway safety in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and the National Planning Policy Framework.

PLANNING NOTES

1. Under the Caravan Sites and Control of Development Act, 1960, the site owner will need to apply for a caravan site licence and in order for the licence to be granted the site owner must comply with the licence conditions. For further advice and guidance, please contact Public Protection at Cherwell District Council by email: public.protection@cherwell-dc.gov.uk or tel: 01295 227990.
2. 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.
3. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

CASE OFFICER: Stuart Howden / Nathanael TEL: 01295 221815 / 221886
Stock