

Application No: 10/00839/F	Ward: Kirtlington	Date Valid: 28.06.2010
Applicant:	Mr David Goddard C/o Romani Gypsy Advisory Group S/W, Mrs Sally Woodbury, Altona Park, Hillfarrance, Taunton, Somerset,TA4 1AN.	
Site Address:	OS Parcel 2678 Adj A34 By Hampton Gay And Poyle	

Proposal: Change of use of land for British Romani gypsy families; 8 mobile homes; 8 touring caravans for nomadic use only and 8 utility day rooms.

1. Site Description and Proposal

- 1.1 The application site is a relatively isolated location on the eastern side of the A34. In terms of proximity to the nearest settlement, it is approximately 1.5km east of Hampton Poyle, 1.5km west of Islip and 1.5km north of Kidlington. There is one farm within about 500 metres, Field Barn, on the west side of the A34.
- 1.2 The site is of a linear shape with a north-east to south-west axis. It is approximately 1.72 hectares in size and about 300 metres long and 60 metres at its widest point. It is bounded to the west by the elevated A34 and its slip road, and to the east by a track that originally ran to Heathfield before construction of the A34. Beyond that are open fields. At its northern tip is a small brook that runs into the Cherwell. At its southern end is a gated access to the minor road linking the A34 junction to Islip.
- 1.3 At present the site is undeveloped, open, grassed with bramble that seems to be cut twice a year. There is hedging that forms a strong screen around the boundary of most of the site interspersed with odd trees. The Heathfield track also has some trees and vegetation alongside it.
- 1.4 The proposed development is to provide a site for an extended gypsy family. It will consist of 8 pitches. Each pitch is enclosed and will have a mobile home (61m x 12.2m), a day room (6m x 5m), 2 parking spaces, septic tank and space for a touring caravan (7.65 x 2.44m). Each pitch is served by a new access way that runs inside the western boundary. There will be grassed paddocks to the north and south, and a children's play area to the north. The homes are single storey, of a prefabricated construction and contain 2 bedrooms. The day rooms are also single storey and contain wash room and kitchen facilities.

2. Application Publicity

2.1 The application has been advertised by way of a site notice, press notice and neighbour's letters. The last date for comments was 15th July 2010. A number of public, statutory and internal comments have been made which are set out below.

2.2 61 letters have been received, with one exception all object. (Copies of all correspondence can be seen on the Council's web site) In summary, the main planning concerns raised are:

- Green belt-inappropriate development (37)
- Effectively a commercial development (in green belt) (3)
- No special circumstances/justification (3)
- In flood plain/increases risk of flooding (15)
- Flooding of the site (2)
- Risk of pollution/contamination of site/health of occupiers (3)
- Risk of pollution/contamination from site (10)
- Will act as a dam to floodwater
- Risk of pollution to River Cherwell.
- Effect on health of occupiers (4)
- More appropriate site should be found
- Tantamount to a housing development
- Applicants should buy house (2)
- Dangerous access/junction/road (10)
- Danger to road users (3)
- Increase in traffic (4)
- Poor public transport
- Adverse effect on ecology of adjacent area (Partletts Piece), a safe environment for wildlife and wild flowers. (2)
- Adverse effect on natural environment, visually, ecologically
- Proposal should not over-ride established planning principles
- Support provision of gypsy accommodation: elsewhere/on brownfield land/nearer other similar sites/nearer services (5)
- Adequate provision in area
- Lack of consultation (2)
- The application should be supported as an exception to green belt policy. Positive steps are required to preserve the gypsy way of life. Gypsies are a traditional part of rural life. Their culture is being lost. There is a national shortage of sites. The land of limited use.

3. Consultations

3.1 Hampton Gay and Poyle Parish Council object to possible congestion on the A34, waste removal and water ingress in to cess-pits

3.2 Kidlington Parish Council object: contrary to PPG2, no need in this location and inappropriate access

3.3 Islip Parish Council objects to planning application 10/00839/F. The following is a summary of an extensive submission:

1. The site is in the Green Belt
2. The land is not in public ownership, so that the level of care, services, and management is not subject to direct democratic accountability.
3. The site is bounded on its long northern boundary by the sliproad off the A34; this carries a large volume of traffic travelling at high speed, some of which turns into the B4027 past the entrance to the proposed site. In addition to this, traffic crosses the slip road at high speed in order to avoid traffic flowing along the slip road. Therefore traffic turning off or crossing the slip road would present a serious traffic hazard, particularly to slow-moving vehicles entering or leaving the proposed site and to children.
4. The site floods frequently because surface water runs off the agricultural land to the south when the land is wet and there is moderate or heavy rain; the clay substratum does not allow the topsoil to drain rapidly. In 1998 and 2007, the River Cherwell and its subsidiary streams and ditches overflowed their banks and caused extensive flooding at the level of the site in, e.g., Islip, where in 1998 the Cherwell flowed up the valley of the River Ray. The confluence of tributary streams and ditches and of the Cherwell itself close to the proposed site present a strong risk of river flooding in addition to flash-flooding.
5. There are no known mains services – water, gas, electricity, sewage.
6. There is no proposal to install mains sewage; the susceptibility of the site to flooding will compromise sewage treatment and present a health hazard to the occupants of the site and to the general public.
7. The nearest bus-stop is one mile either way at Gosford or at Islip along busy roads; the road towards Islip has no pavement.

The Parish Council challenge a number of assertions in the applicant's design and access statement including that the lane has been used by gypsies in the past, the Council's requirement for social housing being relevant to this application and the applicant's address is not specified. It also points out that not all the plots will be occupied by the applicant family.

Concern is expressed at potential business use and the lack of services to the site.

The Parish Council understands that the land is subject to river and flash flooding. In the absence of mains sewerage, the Parish Council assumes that a septic tank solution would be proposed. Such a system must be inappropriate within an area subject to flood risk. The possibility of sewerage entering the water course system due to flooding is unacceptable, and would be a real risk to residents of the site, to Islip, and to surrounding areas. As already mentioned the River Cherwell floods upstream of the River Ray in extreme flood conditions.

The Parish Council feel the allocation of sites should be subject to the normal planning process

The Parish Council would like the result of application 07/02707/F to be taken into account. Permission was given 12th August 2008 by CDC for 21 existing gypsy and traveller mobile home sites at Bicester Trailer Park, Oxford Road, Chesterton,

to be used by non-gypsies in addition to gypsies. The main factor in the decision was evidence that there was insufficient local demand from gypsies and travellers. As this decision was both recent and related to a site within a very few miles of Islip, the Parish Council believes that the argument that there are sufficient sites locally should be remembered in the present case.

The Parish Council understands that if permission were to be given for a private site in Cherwell, then the number of private pitches would contribute to CDC's target under the South-East plan. The Parish Council is therefore very keen indeed that proper process be observed, i.e. that Cherwell District Council, if it is obliged to provide pitches, should propose specific sites - so that these can be debated by council tax payers, and so that CDC takes proper democratic responsibility for the specification of sites.

The Local Development Framework includes policy H8:

Applications for planning permission for sites not allocated in Delivery Development Plan will be expected to demonstrate that any site proposed is required to meet an identified need in Cherwell and that the above sequential approach and criteria have been applied. The proposal does not appear to the Parish Council to satisfy the criteria set out in the draft LDF as specified above. "Exceptional circumstances" are not defined. The Parish Council does not understand *exceptional circumstances* to mean the normal requirements of access to healthcare and education, which have presumably been available to the applicant and his family to date.

The Parish Council would be pleased to receive CDC's assurance that it will continue to maintain the Green Belt, and that CDC therefore understands that "New gypsy and traveller sites in the Green Belt are normally inappropriate development, as defined in Planning Policy Guidance 2: 'Green Belts' (PPG2)." The circular makes clear that an "exceptional limited alteration to the defined Green Belt boundary" (i.e. an exception site) would be proper only where "no other suitable sites outside the Green Belt exist." Alternatives should be explored before Green Belt locations are considered.

The Parish Council expects CDC to comply with its own policies (*reference is made to the Non Statutory Cherwell Local Plan 2011*), with those of the *Oxfordshire Structure Plan 2011* referred to in DCLP, and with Department of the Environment's revised *Planning Policy Guidance: Green Belts (PPG2)* published in January 1995 also referred to in DCLP.

3.4 Traveller Projects Officer, Oxon County Council supports the application: well suited to the purpose, excellent location, good access/egress, no close neighbours

3.5 Minerals Officer, Oxon County Council: No objection

Developer Funding Officer, Oxfordshire County Council: In the County's view, this proposal should not be permitted unless developer contributions are guaranteed through a S106 deed so shortfalls do not increase and supporting service infrastructure may be provided. This is in line with Policy CC7 of The South East Plan. (A sum of £5,1048).

3.6 The Highway Agency offers no objection

3.7 Highways, Oxfordshire County Council:

The proposal would provide 8 plots for travellers on an area described as 'wasteland' by the submitted application form. I consider each plot would accommodate a family and would exhibit transport characteristics similar to a 2/3 bedroom dwelling. Currently the site is vacant and benefits from a vehicular access, which I assume provided for a previous agricultural use. The site is adjacent to the A34 but is remote from any settlements, associated services and amenities.

In general, the site would not be considered appropriate for habitable accommodation, given its isolated location and future residents' reliance upon private car, contrary to PPG13 and PPS3. However, due consideration must be given to Circular 1/06 and specifically paragraph 66, *'projected vehicle movements for gypsy and traveller sites should be assessed on an individual basis for each site. Proposals should not be rejected if they would only give rise to modest additional daily vehicle movements and/or the impact on minor roads would not be significant.'* It is my opinion that the number and distribution of trips, resulting from the proposal, would not have any significant impact upon the local highway network and, therefore sustainability, in terms of transport, is not ground for refusal.

A detailed plan of the access to the highway has not been included within the submission. The existing field access would need upgrading to ensure appropriate visibility and geometry are provided. The existing access is approximately 30m, centre line to centre line, from the adjacent crossroads. Whilst greater separation would be desirable the proximity of the access to the junction is acceptable. Accident data at the junction have been interrogated and do not raise any significant concern; in the last five years all accidents have been of slight severity and due to driver error, 4 of 5 accidents resulting from eastbound traffic failing to give way. Appropriate visibility can be provided at the access subject to some cutting back of the vegetation in the highway verge. A condition is recommended to ensure appropriate geometry and space are available at the access to allow for simple manoeuvring to and from the site.

The proposed internal layout of the site allows appropriate provision for parking and turning. All surfaces should be drained appropriately and incorporate SUDS.

The submitted plans and documents do not include any lighting; any lighting that may be provided must ensure the adjacent highway is shielded from any direct light source.

In summary, the Local Highway Authority does not wish to object, in principle, to the granting of planning permission subject to conditions.

3.8 Environment Agency:

We have examined the Flood Risk Assessment (FRA) ref: 9069/1 produced by Prior Associates, dated August 2010. We are satisfied with the principles and are able to remove our objection to the proposed development. The proposed development will only be acceptable if the measures are implemented and secured by way of a planning condition on any planning permission.

3.9 Thames Water: no objection on water or sewerage infrastructure grounds

3.10 The Council's Anti-Social Behaviour Officer has no observations

3.11 The Council's Landscape Service's Manager:

The site layout is acceptable to me and does not impact too much on the existing trees on the hedged NE boundary. It is essential to ensure that there is no root damage caused to these trees during the site works, as these trees provide amenity, and some screening to the site. I would like to see protective chestnut paling fencing erected to the extent of the canopies prior to works commencing or alternatively the NE fence to the plots and play area is to be installed first to protect the root areas.

The linear space between the tree/hedge and the and the fence is to be defined a grass land which may be subject to horse grazing, an so I think it is appropriate to install a low paddock fence between the existing boundary hedge for the purpose of keeping the horses/ponies from grazing trees and hedge. Certain species, fruit and seeds are poisonous to horses such as ragwort and acorns but I am sure the applicant is already aware of this.

The paddock areas to the north and south must be reinforced with paddock fencing to ensure that the existing NE and NW boundary hedges are protected from grazing horses/ponies. The northern area is missing from the plan and it will be necessary to see this area on a scaled drawing.

The hedge on the NW boundary adjacent the A34 would normally be allowed to attain a sufficient height to screen the tops of the caravans and mobile homes from the A34, however this hedge will be outside the control of the applicant because its ownership and maintenance responsibility rests with OCC Highways. In order to provide further screening of the site for drivers on the A34, and any potentially hazardous glare from the site, I recommend Hawthorn and Field Maple hedging with small trees to the frontages of each of the plots.

Each section of hedge will be between the entrance and the corner of the plot and planted inside the fence to for protection from grazing and vehicles. The hedge plants to be planted at 450 mm apart in staggered rows 450 mm apart (details to be shown on a landscape proposal drawing). A small tree is to be planted within each of the rows at various distances from the gate post to reduce uniformity (also to be shown on the landscape proposal drawing). The trees are to be allowed to attain their full height whereas the hedge to be sided up and maintained to a minimum height of 3 metres. I recommend Field Maple tree (*Acer campestre*) supplied as 10-12 cm standards.

All existing trees and hedges to be retained and indicated as such on the landscape proposal drawing. The NE boundary hedge is to be maintained to a minimum height of 3 metres and sided up when necessary. This is to maintain an effective screen from adjacent land to the NE.

3.12 The Council's Ecology Officer recommends:

- Removal of any vegetation outside of the bird breeding season, March-August, or under the supervision of an Ecological watching brief following a check for nesting birds
- Landscaping and any new planting should comprise native species of local provenance and opportunities to enhance retained and existing habitats detailed in line with PPS9
- Trees and hedgerows to be retained should be adequately protected during development works in line with BS 5837:2005 (trees in relation to construction).
- Continued protection and safeguarding of the boundary features (in particular the south eastern boundary) is required post construction by a buffer zone of semi natural habitat. This area could be managed for wildlife in line with PPS9 which promotes protection and enhancement of biodiversity.

3.13 The Oxford Green Belt Network (OGBN)

It would appear to us that the new application is similar, if not identical, to the earlier one, but that the present application involves some further discussion about the flood risk. We are not experts in flood risk but would point out that the site in question is very close to the River Cherwell which has been the cause of flooding in the Kidlington/Gosford area in recent years. In these days of climatic uncertainty there might also be a hazard to low lying ground in the form of sudden downpours as well as from river flow. We wonder what might happen to the proposed septic tanks in circumstances where there is very heavy rainfall and floodwater running from the adjoining land.

As we said in response to the previous application, the site is in open Green Belt countryside, not in or on the edge of any existing settlement and, as such, must be deemed inappropriate development according to paragraph 3.4 in PPG.2 on Green Belts which deals with limited extensions and infilling. So far as gypsy sites in particular are concerned, you will be familiar with the paragraph on such sites in Annex E of PPG.2 which states that "Gypsy sites are not regarded as being among those uses of land which are normally appropriate in Green Belts. Green Belt land should not therefore be allocated for gypsy sites in development plans."

We have noted what is said about travelling communities in the emerging Cherwell Core Strategy and note that Policy H8 states that the Council will consider locations **outside** (our emphasis) the Green Belt. By inference therefore the Council is not prepared to consider locations, like the one in the present application, which is within the Oxford Green Belt. Even if it were outside the Green Belt, this particular location would not satisfy the criteria relating to the suitability of sites for travellers as set out in the Council's policy. The site is adjacent to a very busy A.34 and to the Kidlington slip road where vehicles exit at high speed. It seems to us to be a highly unsuitable location for anyone to be expected to live on account of the problems of noise, pollution from vehicles, and the danger from traffic especially to children and to stray animals.

We were surprised to see the site in question described as waste land and the reference in the Application to the absence of trees on or adjacent to the site. It is our understanding that nearby land has some real ecological and wildlife interest. It is admitted in the Design and Access Statement that the site is in the Green Belt,

but the comment is made that the site is "not a flowing meadow but a small piece of waste land." With specific reference to this comment, we would draw attention to the statement in paragraph 1.7 of PPG.2 that "the quality of the landscape is not relevant to the inclusion of land within a Green Belt or to its continued protection. The purposes of including land in Green Belts are of paramount importance to their continued protection, and should take precedence over the land use objectives."

Unless we have missed it, we have not observed any claim in the application that very special circumstances exist to overcome the presumption against inappropriate development. But we have read what is said about access to health care and education. It is our view that such concerns can be better addressed at a more suitable, non-Green Belt and non-rural location, and that they do not amount to special circumstances in this case.

We trust that the District Council will observe its own, and national guidelines on Green Belts, and refuse this application

3.14	<u>Oxford Preservation Trust</u> : proposal undermines the open and green character of the area, contrary to PPG2.
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4. Relevant Planning Policies

- 4.1 Planning Policy Statement 1 (PPS1): Delivering sustainable development
Planning Policy Guidance 2 (PPG2): Green Belts
Planning Policy Guidance 13 (PPG13): Transport
Planning Policy Guidance 25 (PPG25): Development and Flood Risk

Circular 1/2006-Planning for Gypsy and Traveller Caravan Sites

4.2 **Adopted Cherwell Local Plan November 1996 (ACLP 1996)**

Policy GB1: Development in the Green Belt
Policies C7, C8: Landscape Conservation
Policy C28: Layout, design and external appearance of new development
Policy C14: Trees and Landscaping
Policy TR5: Parking

NB the policy for Caravan Sites for Gypsies (H24) has not been saved

4.3 **Non-Statutory Cherwell Local Plan 2011 (NSCLP 2011)**

Policy GB1: Development in the Green Belt
Policy H26 Caravan Sites for Gypsies
Policy EN1: Conserve/Enhance the Environment
Policy TR11: Parking
Policies EN34, EN35: Landscape Character
Policy EN36: Landscape Enhancement

4.4 **Draft Core Strategy 2010**

At the present time little weight can be given to this document. Policy H8 sets out the draft policy for Travelling Communities and Green Belts under policy SD12

4.5 **Planning Obligations Interim Planning Guidance-2007**

- 4.6 A report was produced by the Heads of Planning and Housing to Executive on 3rd August 2009 on pitches and plots for Gypsies and Travellers. It was agreed to support the South East Plan in terms of numbers and distribution of plots. This includes a provision amongst the 67 Local Authorities of 1064 pitches for gypsies/travellers (15.9 average) of which Cherwell should provide 15; and for travelling showpeople 302 (average 11) of which Cherwell should provide 11. The South East Plan has, of course, subsequently been revoked.

5. Appraisal

- 5.1 This application raises a multiplicity of planning issues and with a complex policy background complicated by the revocation of the South East Plan and regular Government statements on the subject of gypsies and travellers. While the trend in unauthorized encampments and trespass by travelers is going down the trend in unauthorized developments has been going up as a small minority of travelers bypass the planning system and develop sites without planning permission. This is not the case here where the applicant has sought to comply with the requirements of the Council and in particular the Environment Agency (see flood risk below). A previous application (ref 10/00036/F) having been submitted and withdrawn when the Flood Risk assessment failed to meet the terms and condition set out in PPS25, particularly after the Environment Agency remodelled the flood plain in this area whilst that application was current.

It is considered the main issues for consideration in this case are:

- The principle of Development, including need
- Green Belt
- Visual Amenity
- Flood Risk
- Access, Parking and Highway Safety
- Other Material considerations
 - Environment for Occupiers and access to services
 - Impact on residential amenity
 - Trees, vegetation and landscape
 - Business Use
 - Ecology
 - S106 requirements

5.2 **The Principle of Development**

- 5.2.1 The most relevant planning document in consideration of the use proposed at this site is still Circular 1/06 on Planning for Gypsy and Traveller Sites albeit that the Government has announced changes are likely to be proposed as top down traveller site provision has failed to deliver enough permanent pitches. The Housing Act 2004 and circular 1/2006 require Local Planning Authorities to assess and make new accommodation provision for Gypsies and Travellers.

5.2.2 The main intentions of the circular include (amongst other things):

- to increase significantly the number of gypsy and traveller sites in appropriate locations with planning permission in order to address under-provision over the next 3-5 years;
- to underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- to identify and make provision for the resultant land and accommodation requirements.

Para' 21 of the circular makes clear that the production of Gypsy and Traveller Accommodation Assessments (GTAA's) will inform the preparation of Development Plan Documents.

5.2.3 A Gypsy and Traveller Accommodation Needs Assessment (GTAA) was produced in 2006 by consultants (Tribal) for all authorities in the Thames Valley area. Cherwell's need was identified as being 11 additional permanent pitches (2006-2011) although, there is a mistake in the calculations and the need identified is actually for 12 pitches.

At April 2006, Cherwell had 48 pitches, however, since then there has been a net loss. Planning permission (07/02707/F) has been granted for non-Gypsy use of part of the Bicester Trailer Park site (resulting in a loss of about 10 pitches), permission has been granted for 2 pitches at Mollington (08/00604/F & 09/00622/F) and personal permission (09/01064/F) has been granted for a pitch at Ardley adjacent to the M40 Therefore, at the present time, the district has 40 or 41 pitches (41 with Ardley) and has seen a net loss of 8 or 7 pitches since 2006. Therefore the net loss of pitches since 2006 increases the requirement to 20 or 19 pitches (2006-2011).

5.2.4 The circular had intended that the GTAA's would also inform the vision of Regional Spatial Strategies which would identify pitch numbers for each individual local planning authority in the light of GTAA's and a strategic view of needs across the region. To assist this process, an Oxfordshire partnership (including this Council) agreed advice for submission to the former Regional Assembly on the number of Gypsy and Traveller pitches required to 2016 and how distribution might be made strategically having regard to the results of the GTAA. The partnership's advice was that the level of need was lower than that suggested by the GTAA and that the need for Cherwell (based on the distribution of existing sites) was for 11 pitches from 2006 to 2016. The net loss of pitches since 2006 increases this to 19 or 18 pitches. An alternative, shared distribution approach (rather than being based on the location of existing sites) was also submitted by the Oxfordshire. This suggested 8 pitches for Cherwell for the same period. The net loss since 2006 increases this to 16 or 15 pitches.

5.2.5 In February 2010, a regional Examination in Public (EiP) into accommodation provision for the Travelling Communities took place (South East Plan single issue review). The South East England Partnership Board's (SEEPB) recommendations to the former Secretary of State included that Cherwell should provide an additional 15 pitches (on top of the 2006 baseline position) for Gypsies and Travellers from 2006 to 2016 (the net loss in pitches since 2006 increases this to 23 or 22 pitches). SEEPB also recommended that where Local Development Plan Documents look beyond 2016, onward requirements could be calculated on the basis of 3% compound growth. These figures were a matter of debate at the Examination.

5.2.6 However, on 6 July 2010 the Secretary of State for Communities and Local Government announced the revocation of Regional Strategies with immediate effect and provided guidance for Local Planning Authorities. In respect of the travelling communities, the guidance states:

“Local councils are best placed to assess the needs of travellers. The abolition of Regional Strategies means that local authorities will be responsible for determining the right level of site provision, reflecting local need and historic demand, and for bringing forward land in DPDs. They should continue to do this in line with current policy. Gypsy and Traveller Accommodation Assessments (GTAAAs) have been undertaken by all local authorities and if local authorities decide to review the levels of provision these assessments will form a good starting point. However, local authorities are not bound by them. We will review relevant regulations and guidance on this matter in due course.”

5.2.7 At the time of writing, it is not known whether a new GTAA will be prepared or when new regulations and guidance will be produced. However, the net loss of 8 or 7 pitches since 2006 in itself suggests, more or less, a need for the 8 pitches proposed in the current application. The Oxfordshire partnership's conclusion that there is a need for 11 or 8 pitches (2006 – 2016) in Cherwell in addition to the 2006 baseline position is the lowest of the estimates produced to date and suggests, at the present time, that there will still be unmet need even if the current application were to be approved.

5.3 Green Belt

5.3.1 ODPM circular 01/2006 clarifies that new gypsy and traveller sites in the Green Belt are normally inappropriate development, as defined in Planning Policy Guidance 2: 'Green Belts' (PPG2) and that national Green Belt policy applies equally to applications for planning permission from gypsies and travellers and the settled population.

The circular states that criteria-based policies for the location of gypsy and traveller sites should not depart from national planning policy as set out in PPG2. Such a policy has been included in the draft Core Strategy (February 2010) but at the present time the draft strategy carries very little weight. Most of the district lies outside the Green Belt and the draft Core Strategy envisages

that it should be possible to identify a sufficient number of sites beyond the Green Belt boundary. In accordance with PPG2 there needs to be very special circumstances to justify the grant of permission.

- 5.3.2 The applicant have stressed that the special need in this case comes from the personal circumstances of the applicant's family there being elderly relatives and young children needing regular and specialist hospital treatment at the John Radcliffe hospital. Certainly paragraph 58 of circular 01/2006 makes clear that the personal circumstances of the applicant can be material. This and the need for additional permanent pitches explained above would potentially contribute to demonstrating very special circumstances.
- 5.3.3 However, if Committee are concerned by the application's permanent nature, it has the ability to use personal conditions restricting the occupation of the site to the applicant and requiring that when the land ceases to be occupied by the applicant that all the buildings and other structures on site are removed and the land restored to its existing condition. This sort of condition is sometimes considered contrary to Circular advice on use of conditions but in the examples used They are not considered unreasonable because firstly, most of the structures on site are prefabricated, and secondly the conditions set out at the end of this report are examples taken from advice produced by the Planning Inspectorate for use by its own Inspectors.
- 5.3.4 Paragraph 49 of circular 1/2006 makes clear that alternatives should be explored before Green Belt locations are considered. At this time it is believed there is no capacity on existing sites and nor would there be 8 pitches available elsewhere in Cherwell. A lack of capacity is another possible factor in demonstrating very special circumstances to permit this development.

5.4 **Visual Amenity**

- 5.4.1 "The visual amenities of the Green belt should not be injured by proposals for development within or conspicuous from the Green Belt."

In this case the site is well screened to the west by the elevated carriageway and embankment of the A34. Furthermore, the site has wrap around screening by virtue of the existing trees and hedging. This can be supplemented by further planting. The scale of the development and the structures proposed is of a low key design and by the use of appropriate facing materials can be made to be even less obtrusive.

5.5 **Flood Risk**

- 5.5.1 A previous application reference 10/00036/F was withdrawn following an objection from the Environment Agency as, despite an assessment being done to comply with their requirements; the Environment Agency remodelled the floodplain whilst the application was processed. The site was largely outside the flood zone and even now is only partially in it and zone 2, where there is between 1 in 100 and 1 in 1000 year risk of flooding, as opposed to the higher probability of flooding zone 3 where the chance of flooding is greater than 1 in 100 years.

- 5.5.2 That application was therefore withdrawn, the current application submitted with a new assessment to comply with the Environment Agency's advice but again they objected. A further assessment was done and the Environment Agency has finally accepted it this version.
- 5.5.3 In the latest FRA, Section 4.6 indicates that the 1 in 100 year flood level with an allowance for climate change of 61.86 m AOD (the design flood level) which is being applied to this site may be overestimated, yet in the absence of further modelling it is the most appropriate level to apply. This level is accepted as the most appropriate for the site and the minimum floor level of 62.16 m AOD for both the mobile homes and the dayrooms detailed in Section 5.1.
- 5.5.4 The applicant has agreed, and the Environment Agency accepted, the approach of raising the ground beneath the mobile homes, dayrooms and caravans, whilst leaving the garden and parking areas at existing levels.
- 5.5.5 It is also accepted that the volume for volume approach to the provision of flood storage compensation detailed in Section 5.3 of the FRA (as opposed to level for level) on the grounds that the floodplain is wide and open in this area, and the site is on the very edge of the floodplain.
- 5.5.6 In the FRA, the main vehicular access route could be flooded to a depth of 600mm during the design flood event although a dry route of pedestrian access has been provided. Depths such as this along the main access route would make emergency vehicle access difficult during a flood event. The applicant should liaise with the LPA to agree the scope of an emergency response and evacuation plan.

5.6 **Access, Parking and Highway Safety**

- 5.6.1 Access to the site exists to the Islip road and notwithstanding the concerns of local residents is considered by the Highway Authority to be acceptable. The Highway Agency has raised no objection to the proposed development. The accident records have been checked for the junction with the A34 and it is not considered to be of "significant concern". This is subject to the advice that visibility at the site entrance should be improved and, if the application is approved, a condition is recommended to be imposed to achieve this. The likely traffic generation is unlikely to be significant and the local highway network has the capacity to cope with both the number and type of vehicles the development would generate.
- 5.6.2 Once off the public highway there is a short drive to the main part of the site along a former roadway with enough width for vehicles to pass. When on to the main part of the site there is provision for vehicles to enter and leave the site and each individual plot in forward gear.
- 5.6.3 Parking is provided at the level of two spaces per unit which is considered appropriate and reflective of the size and type of units proposed

5.7 **Other Material considerations: Environment for Occupiers and access to services**

- 5.7.1 Circular 01/2006 states that issues of sustainability are important and that authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services.

The nearest services and facilities are likely to be those at Islip and Kidlington which are relatively nearby (within 2 km) and within the travelling distance envisaged by policy H8 as proposed in the draft Core Strategy. Cycling to Islip could also be a reasonable option. Islip has a railway station, primary school, playgroup, shop, pubs, recreation and community facilities and a medical practice. The site is therefore in an acceptable location for a gypsy and traveller site in terms of access to services and facilities and travelling distances.

There is some concern about permitting a residential use immediately adjacent to a duelled section of the A34(T) next to a busy slip road in terms of securing an acceptable living environment particularly as the occupiers of the site will include people in poor health and children. Paragraph 5 of circular 01/2006 states, "*Research has consistently confirmed the link between the lack of good quality sites for gypsies and travellers and poor health and education...*". However in the recent appeal decision at Ardley, adjacent to the M40 (06/01542/F) a personal permission was granted and the likely living environment was not cited by the Inspector in allowing the appeal. Certainly, in discussions with the applicant, the environment was not considered unacceptable notwithstanding a fair degree of traffic noise evident on site. Screen fencing is proposed on that boundary to reduce it although this will probably have limited effect due the road's elevated level.

5.7.2 **Impact on residential amenity**

In terms of any direct impact on the residents of Islip, Hampton Poyle or Kidlington from noise, light, privacy, etc, the separation distance is significant, 1.5km, and therefore the proposed development would not adversely effect amenity.

5.7.3 **Trees, vegetation and landscape**

The site is already well screened by the hedges and trees around the boundary. Furthermore, there are additional trees and hedging to the east that line the track and adjacent fields giving a double layered screening effect. The proposed physical development, the new access drive, buildings and hard-standings, are well away from vegetation and will not adversely impact upon them. Nevertheless, it is recommended that if permission is granted conditions are imposed to protect existing vegetation and to supplement what is already there by further indigenous planting.

5.7.4 **Business Use**

In comments received from the public there is concern the site could be used for commercial activity. It is Officer's understanding that is not the intention of the applicant in this case but a condition can be imposed preventing business use on the site. Monitoring can take place if the development commences.

5.7.5 Ecology

The site has been walked by the Council's ecology officer and whilst it may have limited on site ecological value, it is possible it could act as part of a wildlife corridor as there is a pond and watercourse nearby. It is recommended that an informative be attached to any permission advising if any protected species is found during development, works must stop immediately and an ecological consultant or the Council's ecologist contacted for further advice before works can proceed.

In addition, there is an opportunity on site for a scheme of bio-diversity enhancement that can be achieved through the use of conditions.

5.7.6 S106 requirements

The County Council have requested contributions are sought towards education, libraries, museums, etc but in this case the development is below the threshold set in the Council's Planning Obligations Interim Planning Guidance so is not being pursued in this case.

5.8 Conclusion

5.8.1 Taking the wide range of issues applicable in this case, the argument is a finely balanced one.

5.8.2 This report has referred mainly to the government guidelines for this type of development in green belt locations. The most relevant and applicable local policy on caravan sites is H26 from the NSCLP 2011. This asks if:

- There is a demonstrable need that cannot be met on existing or appropriate alternative sites?
- Does it cause environmental harm?
- Does it cause harm to residential amenity?
- Can the site be serviced?
- Is it accessible to services and schools?

All these questions can be answered positively.

5.8.3 Turning to Green Belt, the proposal may be considered to be inappropriate development. However there are considered to be special circumstances: the need for additional permanent pitches, the likely unavailability of pitches on existing sites in Cherwell and the personal circumstances of the proposed occupiers should also be considered.

5.8.4 There is one requirement arising from its location in the green belt and that is, if Committee accept the Officer's requirement, the application has to be referred to the Communities and Local Government Secretary as a departure from the development plan.

6. Recommendation

Approval, subject to:

- (i) Departure Procedures
- (ii) The following conditions

- 1) That the development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
Reason – To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2) This permission does not authorise the use of the land as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006
Reason -This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent and in accordance with policy C28 of the adopted Cherwell Local Plan, and to comply with Government advice contained in ODPM Circular 01/2006
- 3) The occupation of the site hereby permitted shall be carried on only by Mr David Goddard and his resident dependants and for no other persons whatsoever, and shall not enure for the benefit of the land. When the land ceases to be occupied by David Goddard the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use, including the mobile homes, day rooms, hard standings and internal access road, shall be removed. Within 3 months of that time the land shall be restored to its condition before the use commenced.
Reason -This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent and in accordance with policy C28 of the adopted Cherwell Local Plan, and to comply with Government advice contained in ODPM Circular 01/2006
- 4) Mobile homes and touring caravans shall only be positioned in the approved locations as shown on drawing 0970/02, unless otherwise agreed in writing by the local planning authority. There shall be no more than 8 pitches on the site and on each of the 8 pitches hereby approved no more than two caravans shall be stationed at any time, of which only one caravan shall be a residential mobile home.
Reason -This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent and in accordance with policy C28 of the adopted Cherwell Local Plan, and to comply with Government advice contained in ODPM Circular 01/2006
- 5) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Prior Associates, dated August 2010, ref: 9069, and the following mitigation measures detailed within the FRA:
 - a) Finished floor levels of both mobile homes and day rooms shall be set no lower than 61.86 mAOD as detailed in Section 5.1.2 and 5.1.3 of the FRA.

- b) On each plot, ground levels will be lifted beneath the fixed structures and caravan but will remain at existing levels for the garden and parking spaces, as detailed in Section 5.2.2 of the FRA.
- c) The access track will be lifted above 61.9 m AOD for the length of the eight plots, in accordance with Section 5.6.2 of the FRA.
- d) Flood storage compensation shall be provided as detailed in Section 5.3.3 of the FRA.
- e) An emergency pedestrian access gate shall be provided to the A34, as detailed in Section 5.6.1 of the FRA.
- f) There shall be no impermeable surfacing as part of the development (except for roofs of the mobile homes and fixed structures), in accordance with Section 5.7.3 of the FRA.

Reason-To reduce the impact of flooding on the proposed development and future occupants, whilst minimising the impact of the development on the floodplain, to ensure safe access and egress from and to the site, to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to comply with Government advice contained in PPG25: Development and Flood Risk

- 6) Prior to commencement of development, a plan at a scale of not less than 1:100 of the proposed vehicular access to Islip Road shall be submitted to and approved in writing by Local Planning Authority. Prior to occupation the approved access shall be constructed in accordance with the approved details and no other means of vehicular access shall be formed or used between the land and the highway.
Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government advice in PPG13: Transport.
- 7) Prior to development, appropriate vision splays shall be provided in accordance with a plan to be submitted to and approved in writing by the Local Planning Authority; and subsequently the splays shall be retained unobstructed above 0.6m.
Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government advice in PPG13: Transport.
- 8) That, before any of the dwellings are first occupied, the proposed internal access route, turning, parking and manoeuvring areas shall be constructed, laid out in accordance with the submitted plan 0970/02, surfaced and sustainably drained in accordance with specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. This permission shall specifically exclude the use of tarmac as specified for the internal access road on drawing 0970/02.
Reason - To ensure a satisfactory standard of construction and layout for the development and to comply with Government advice in PPG13: Transport.

9) That the external walls and roof(s) of the mobile homes and dayrooms shall be constructed in accordance with a schedule of materials and finishes which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works hereby approved.

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

10) Any mobile home which is to be constructed/provided on land falling within Noise Exposure Category B (as defined by PPG24: Planning and Noise) shall be insulated against the source(s) of environmental noise such that noise levels do not exceed those specified in current World Health Organisation Guidance on noise levels for habitable rooms. Details of the insulation to be provided must be submitted to and approved in writing by the Local Planning Authority and installed in accordance with the approved scheme prior to the first occupation of the specified dwellings.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with advice in PPG24: Planning and Noise, Policies C30 and ENV1 of the adopted Cherwell Local Plan.

11) No works or development shall take place until a scheme for the protection of the retained trees (section 7, BS59837, the Tree Protection Plan) and boundary hedging has been agreed in writing with the Local Planning Authority. This scheme shall include:

- a) a plan that shows the position, crown spread and Root Protection Area (paragraph 5.2.2 of BS5837) of every retained tree on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on this plan.
- b) the details of each retained tree as required at paragraph 4.2.6 of BS5837 in a separate schedule.
- c) a schedule of tree works for all the retained trees in paragraphs (a) and (b) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS3998, 1989, Recommendations for tree work.
- d) written proof of the credentials of the arboricultural contractor authorised to carry out the scheduled tree works.
- e) the details and positions (shown on the plan at paragraph (a) above) of the Ground Protection Zones (section 9.3 of BS5837).
- f) the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers (section 9.2 of BS5837), identified separately where required for different phases of construction work (e.g. demolition, construction, hard landscaping). The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.
- g) the details and positions (shown on the plan at paragraph (a) above) of the Construction Exclusion Zones (section 9 of BS5837).
- h) the details and positions (shown on the plan at paragraph (a) above) of the underground service runs (section 11.7 of BS5837).
- i) the details of any changes in levels or the position of any

- proposed excavations within 5 metres of the Root Protection Area (para. 5.2.2 of BS5837) of any retained tree, including those on neighbouring or nearby ground.
- j) the details of any special engineering required to accommodate the protection of retained trees (section 10 of BS5837), (e.g. in connection with foundations, bridging, water features, surfacing)
 - k) the details of the working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the Root Protection Areas of retained trees.
 - l) the details of the working methods to be employed for the installation of drives and paths within the Root Protection Areas of retained trees in accordance with the principles of "No-Dig" construction.
 - m) the details of the working methods to be employed with regard to the access for and use of heavy, large, difficult to manoeuvre plant (including cranes and their loads, dredging machinery, concrete pumps, piling rigs, etc) on site.
 - n) the details of the working methods to be employed with regard to site logistics and storage, including an allowance for slopes, water courses and enclosures, with particular regard to ground compaction and phytotoxicity.
 - o) the details of the method to be employed for the stationing, use and removal of site cabins within any Root Protection Areas (para. 9.2.3 of BS5837).
 - p) the details of tree protection measures for the hard landscaping phase (sections 13 and 14 of BS5837).
 - q) the timing of the various phases of the works or development in the context of the tree protection measures.

Reason - To ensure the continued health of retained trees and in the interests of the visual amenity of the area, to ensure the integration of the development in to the existing landscape and to comply with Policy C28 of the adopted Cherwell Local Plan.

12) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (c) details of the reinforcement of the boundary hedging
- (d) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.

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 C28 of the adopted Cherwell Local Plan.

13) That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

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 C28 of the adopted Cherwell Local Plan.

14) Before the use commences screened provision for the storage of refuse (wheelie bins) and recycling facilities shall be made in accordance with details as submitted to and approved in writing by the Local Planning Authority. Thereafter the facilities shall be retained solely for their intended purpose and refuse and recycling items shall be placed and stored only in this storage area.

Reason: In the interests of the amenity of occupiers of the proposed accommodation and to comply with Policy ENV1 of the adopted Cherwell Local Plan.

15) Before the use commences, screened and covered provision for the storage of cycles shall be made in accordance with details as submitted to and approved in writing by the Local Planning Authority. Thereafter the facilities shall be retained solely for their intended purpose and cycles shall be placed and stored only in this storage area.

Reason: To protect the amenities which ought to be enjoyed by the occupiers of the proposed residential properties and to encourage the use of cycles in compliance with Government advice set out in PPG 13:Transport.

Informatives:

1 The applicant is advised that all works to which this permission relates must be carried out strictly in accordance with the plans, drawings and other relevant supporting material submitted as part of this application and hereby approved. The Planning Department must be immediately advised of any proposed variation from the approved documents and the prior approval of this Council obtained before any works are carried out on the site. This may require the submission of a further application. Failure to comply with this advice may render those responsible liable to enforcement proceedings which may involve alterations and/or demolition of any unauthorised building or structures and may also subsequently lead to prosecution.

2 Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a license may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 2501.

- 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.

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

The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as it takes full account of the special circumstances of the applicant without causing harm to the acknowledged interests of the green belt, highway safety and visual amenities of the area. As such the proposal is in accordance with Government advice contained within PPS1 Delivering Sustainable Development, PPG2: Green Belts PPG13 Transport, ODPM Circular 01/2006, Policy C28 of the adopted Cherwell Local Plan and H26 of the Non Statutory Cherwell Local Plan. Public comments have been received in response to consultation both for and against the planning application. Whilst the comments of all third parties are fully acknowledged Officers have concluded that the objections raised are not sufficient to warrant refusal of the planning application. Statutory undertakers raise no objection to the proposals subject to the imposition of appropriate conditions requiring the submission and approval of further detailing. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

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