

BOROUGH OF KETTERING

Committee	Full Planning Committee - 11/04/2018	Item No: 5.2
Report Originator	Peter Chaplin Development Manager	Application No: KET/2017/0980
Wards Affected	Slade	
Location	The Old Willows, 10 Northampton Road, Broughton	
Proposal	Full Application: (1) To accommodate 2 no. static caravans, 2 no. touring caravans, parking for four cars with play area, and associated hardstanding on an existing gypsy site. (2) Application amended by revised layout and whole site is within the application and to include in the description of development 6 other pitches for gypsy/travellers (the 6 previously consented pitches) shown on layout	
Applicant	Mr P Rooney	

1. PURPOSE OF REPORT

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

2. RECOMMENDATION

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be APPROVED subject to the following Condition(s):-

1. The development hereby permitted shall be begun before the expiration of 6 months from the date of this planning permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and to prevent an accumulation of unimplemented planning permissions.

2. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the Planning Policy for Travellers Sites (August 2015).

REASON: To ensure that the use is implemented as an exception to the general presumption against development in the open countryside and in recognition of national and local policies including the PPTS, Policies 1, 8 and 31 of the North Northamptonshire Joint Core Strategy, and saved local plan policy 7.

3. The two proposed pitches at the southern end of the site (identified as (1) in the description of development) shall only be for occupation by the two related family households identified as the applicant and his dependents, and a household from his immediate family i.e. Josie Rooney and her dependants.

REASON: In recognition of the proximity of the two pitches to each other and in the interest residential amenity and in recognition of Policies 8 and 31 of the North Northamptonshire Joint Core Strategy.

4. The development shall not be carried out other than in accordance with the amended block plan dated 13 March 2018.

REASON: To ensure that the approved layout is undertaken and is not an over development, in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy

5. Within 8 weeks of the date of this consent, the following shall have been undertaken in accordance with details that shall have been first submitted to and approved in writing by the Local Planning Authority: the permanent demarcation on site of the pitch boundaries (identified as A-B; C-D; E-F; G-H; I-J; K-L, on a copy of the block plan); the on site preparation of the ground for receiving new soil and the laying and maintenance of turf on site on the areas indicated green on the block plan.

REASON: To ensure that the approved layout is clear on site and the amenity areas are made available in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy

6. Except for 1 No. touring caravan identified for each of the two pitches identified under (1) in the description of development, no more than one caravan, static or mobile home shall be stationed at any time on a single pitch and no buildings or other structures shall be erected on a pitch unless a detailed pitch layout plan and design details showing the positioning, layout, scale and appearance of all proposed caravans, mobile homes, buildings or other structures proposed to be sited with each pitch have been first submitted to and approved in writing by the Local Planning Authority. Pitches shall not be developed other than in accordance with approved pitch layout plan(s)

REASON: To ensure the layout meets a satisfactory standard in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy

7. There shall be no external illumination on the site at any time other than in accordance with a detailed scheme which shall first have been submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of the amenity and Policy 8 of the North Northamptonshire Joint Core Strategy.

8. The site shall not be used for any trade, industrial or business activity, including vehicle hire and there shall be no storage of commercial waste or materials

REASON: In the interest of residential amenity and in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy

9. Proposals for storage and disposal of domestic waste and re cycling shall be submitted to and approved by the Local Planning Authority within 8 weeks of the date of this permission. Thereafter, development shall not proceed other than in accordance with the approved details.

REASON: In the interest of residential amenity and in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy

10. Other than within the extent of the pitches delineated hereby approved, no caravan or structure shall be kept or positioned on the remainder of the site at any time.

REASON: To ensure the site does not become overdeveloped and in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy

11. Any proposed change or addition to the of disposal of foul sewage or other services shall be first submitted to and approved by the Local Planning Authority

REASON: In the interest of residential amenity and in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy

Officers Report for KET/2017/0980

There are objections received relating to this proposal. In the opinion of the Head of Development Services this is a matter for the decision of the Committee.

3.0 Information

Relevant Planning History

KET/2016/0847: Refused on grounds of overdevelopment, 24/07/17. This was a proposal for accommodation of 10 static caravans for gypsies and travellers, to be positioned at the western side of the site. Alongside each static caravan would be space for a vehicle to be parked. This would have been an additional 4 pitches on top of the extant permission for 6 pitches and a play area that had earlier been granted, see below, ref: KET/2014/0659.

KET/2014/0695 - Change of Use (from 3 pitch traveller site and former highway land) to Permanent Gypsy and Traveller Site for 6 no. Pitches and Play Area – APPROVED – 03.07.15

KET/2011/0363 - Change of use of land to residential gypsy traveller site of 3 no. pitches, comprising 1 no. mobile home, 1 no. associated touring caravan, 2 no. static caravans, together with the retention of a day room, toilet building, associated hard standing, external lighting and septic tank Klargestor - APPROVED 20.06.12

KE/93/0217 - [Plots 1- 9a and application site] Change Of Use: Proposed Residential Caravan Site For Seven Families (Refused: 25.03.93; APPEAL ALLOWED 11.07.94.

Site Description

Officer's site examination was carried out on 22 January 2018

The Old Willows is part of an area of established gypsy and travellers pitches situated on remnants of the old A43, approximately 600 metres south of the village of Broughton. To the immediate north the established gypsy and traveller pitches total 13 in number and appear to be in the control of owners who occupy the sites.

Beyond the east side of the Old Willows is land which is open countryside. The other side of the western boundary behind a raised area of bank is the A43. Beyond the south side of the site after the site tapers is the alignment of the A43 and countryside either side of that road.

The Old Willows site measures approximately 14m width at its narrowest point at the southern end, 23m width near to the site entrance along the northern side; and is approx. 124m long at mid- point (an area 0.2ha). The dimensions have been verified by officers during the site visit.

The site is largely covered in crushed stone or the original former A43 road surface, with an strip of approx. 5 m wide acting as a roadway through the site. At the time of a site visit by Officers in January 2018 the site contained a total of 10 large static caravans, (10m x 3.5m) seven of which were in an alignment at the western side of the line of track through the site, and three in a row alongside the eastern edge of the site. At the date of the site visit there was also a mobile caravan used ancillary to the statics.

The spacing of the caravans which included one for the site warden did not conform to an approved planning layout for pitches. However, the intention behind the negotiated scheme is for a layout that can be set out in an approved form

A container of what appears to have within it tyres and other materials is sited near the eastern edge. As this is unauthorised, the applicant has been asked to remove it. Voluntary removal in a timely manner or subsequent enforcement action can ensure this issue is addressed...

A 1.8m timber fence runs along the west, east and southern boundaries. The north facing boundary (adjacent to the other caravan pitches in separate ownership or control) is a brick wall and gated entrance.

A small (approx. 1.5m sq) flat roof brick outbuilding is located close to the eastern side of the site near to the entrance

Proposed Development

As amended the proposal is as follows:

(1) The initial proposal to accommodate 2 No. static caravans and 2 No. touring caravans, parking for 4 cars and play area (on land at the southern end of the Old Willows site) and ;

(2) The whole of the Old Willows site is now within the application proposal with the description of development having been amended to include 6 No. other pitches, (restricted to gypsies and travellers the 6 previously consented pitches). The layout includes the access track and the area at the eastern side which is now shown to be free of caravans and a further strip for a green amenity area at that side of the site.

The above taken together represents a proposal for a total of 8 No. pitches across the site. The layout shows pitch sizes (of at least 15m in width and depth, pitch areas of at least 225m sq which is commensurate with the sizes for the previously consented (but not yet implemented) 2015 approval for 6 pitches. The amended plan has included these so that if this latest application were to be approved, there would be one consent to cover the whole site including the previously consented pitches as well as the 2 pitches that would be created by that part of the proposal described in (1) above. This addresses issues that arise from the 2015 consented proposals, explained later in this report under planning considerations (principle of development).

The negotiation with the applicant's agent that has resulted in the amended proposal is a layout that can be shown to overcome planning objections to overdevelopment that arose from the 2016 application for 4 additional pitches added to the consented 6 pitches.

The total area for the two additional pitches (with two statics) measures approximately 450m sq.

In recognition of the proximity to each other of the proposed two pitches for the southern end of the site and to satisfy specific needs, the applicant and his dependent household have been identified as to occupy one of the statics, and an adult daughter of the applicant and her dependent(s) forming a separate household are to occupy the other static. Being family pitches no subdivision of the two proposed pitches at this part of the site is considered necessary. It has previously been accepted that applicant and the household from his family identified are gipsies or travellers who would satisfy the definition of being travellers as stated in the Planning Policy for Traveller Sites (PPTS) 2015 see explanation later in this report.

Thus the proposals represent a quantum of development for pitches that is a midway between what had been approved in 2015 and a dense proposal that was earlier found to be unacceptable to the LPA for the reasons stated in the decision notice to KET/2016/0847.

In other explanation, the agent has stated:

Regarding the proposed two pitches at the south end of the site:

"The ability to manoeuvre the two tourers isn't an issue because firstly they won't be moved very often (only when required to go travelling) and secondly, because the they can be manoeuvred over the play areas if need be"

Foul drainage on site

“This is catered for by two septic tanks one either side of the entrance. The tanks are emptied on a regular basis (every few weeks as required by a registered contractor (Alpha Tanker services who are based in Kettering.”

Other provision

“mains electricity has been provided for the site and the site has a mains water supply”

Surface water would be disposed of via natural percolation”

There is screening around the site and new screening can be provided if needed to improve screening, the applicant is happy to do further planting as required.”

Any Constraints Affecting the Site

A Road (Adjacent)

Outside settlement framework (Open Countryside)

4.0 Consultation and Customer Impact

Broughton Parish Council

In their initial response received 27 January 2018, Broughton Parish Council objected to this application,

“The approved application KET/2014/0695 related to the entire area including the application site (marked in red on the proposed layout plan). There are and always have been more caravans on the overall site than the 2015 approval allowed and application with red line around a part of the site could not remedy the unauthorised development. The two areas (red lined and blue lined) are intrinsically linked and should be regarded as one site.

There has been no material change in planning considerations relating to the site that would alter the previously assessed necessity to limit the number of pitches to 6.”

(the 2014 application) “pre-commencement conditions cannot now be discharged as required.”

They recommended a full application relating to the entire site, seeking one overarching permission for whatever development is desired to be achieved across both areas.

The Parish Council also ask for clarification about

- the water and sewage disposal, how fresh water will be supplied to the proposed caravans, if the touring caravans are to be occupied ask what arrangements are to be put in place for provision of fresh water and sewage

disposal as there are no separate amenity facilities available?

- The statement states that the two static caravans will be "social rented housing". (Officer response: The agent confirmed that reference to that on the application form had not been intended)
- sections 4 and 8 of the application statement indicate that the applicant and his immediate family will reside in the proposed caravans. Should a personal condition be imposed if approved?
- If the applicant is not the intended occupier could the officer clarify how the eligibility of the residents occupying the site will be established?
- Size of static caravan?
- KBC's position in regard to the 5 year supply of Gypsy & Traveller sites
- In the absence of up to date policy for the provision of Gypsy & Traveller sites and the decision to exclude this element from the Local Plan 2, can officers please provide their assurances on the expected timeline for the implementation of policy and provision of any additional pitches that may be deemed necessary?
- The lack of policy direction and planned provision leaves officers relying on applications to come through as their strategic response to resolving the issue of supply. This may lead to approvals being forced through on the basis of the presumption to permit in the absence of adequate provision which would otherwise be deemed unacceptable.

In regard to the re consultation on the amended plans/proposals, in responses received on 28 March 2018, the Parish Council:

- "Maintain the objection: The amended plans now consulted upon do not overcome the negative land-use planning considerations that have been described at length previously and also seem to indicate the application continues to be mal-administered."
- "Notwithstanding the red-line for the application now extends around the previously developed area, it remains the case that the application description expressly contemplates development only comprising **to accommodate 2 no. static caravans, 2 no. touring caravans, parking for four cars with play area, and associated hard standing on an existing gypsy site**. That is the most development that can be permitted by the LPA and, to the extent that any of the existing development within the red-line area is unconsented, this application description does not encompass it."

- “The application is not even framed as a retrospective application so the LPA has no lawful vires in any event to permit development already existing in response, if outside control currently. For reasons already explained, the intensification of development in this location by adding two further residential pitches is simply unacceptable”
- “Acquisition of immunity can and should be arrested by the service of an enforcement notice whilst sufficient time remains.”
- “Notwithstanding the LPA has already determined residential caravan based development of this site at the intensity apparently now proposed is inappropriate and unacceptable for the reasons previously rehearsed when KET/2014/0695 was determined and that remain just as valid, if the applicant is determined to pursue this course, then the correct mechanism is by the means of making a combined Section 73A and full application for the entire site.”
- “The current application cannot lawfully regularise existing breaches, cannot lawfully provide the applicant with what he desires, nor lawfully enable the LPA to regain proper control of the development however; it should accordingly be refused.”
- Reiterate other points raised in the first response

(Officer response: Answers to the above and other queries have been given to the Parish Council through a local member, or directly in regard to their latter comments, or are answered through this report).

Northamptonshire Highways

In response to both the initial proposal and revised proposals, no objections raised subject to conditions to include one parking space (2.5mx 5m) per mobile home; vehicular accesses over 45m from the highway boundary (to allow for access. Turning for emergency vehicles; bin and recycling stores, measures to stop mud and other loose material migrating onto the highway, all operational vehicles arriving at or leaving the site to be appropriately sealed; turning within site

Northamptonshire Police

In response to both the initial and revised proposals, the comments made are as follows:

Caravan/ mobile homes should be sited to adhere to the guidance contained within the Designing Gypsy and Traveller sites Good Practice Guide; (para 4.47) to ensure fire safety it is essential that every trailer, caravan or park home must not be less

than 6 metres from any other trailer, caravan or park home that is occupied separately to reduce the potential for fire spread. The site is laid out to comply with the access for emergency vehicles section of the above guidance.

5.0 Planning Policy

Planning Policy for traveller sites (August 2015)

Applications should be assessed in accordance with the Development Plan unless material considerations indicate otherwise;

Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the NPPF and the PPTS;

LPAs should consider : the existing level of local provision and need for sites; the availability (or lack) of alternative accommodation for the applicants; other personal circumstances of the applicant; 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; that they should determine applications for sites from any travellers and not just those with local connections;

LPAs should: very strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan; ensure that sites in rural areas respect the scale of and do not dominate the nearest settled community and avoid placing undue pressure on the local infrastructure;

LPAs should attach weight to effective use of previously developed (brownfield), untidy or derelict land, sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness; promote opportunities for healthy lifestyle such as ensuring adequate landscaping and play areas for children; not enclose a site with so much hard landscaping, high walls or fences that the impression may be given that the site occupants are deliberately isolated from the rest of the community.

If a LPA cannot demonstrate an up to date 5 year supply of deliverable (Gypsy and traveller) sites this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission;

LPAs should consider how they could overcome planning objections to particular proposals.

National Planning Policy Framework

Policy 7. Requiring Good Design

Policy 8. Promoting Healthy Communities

Policy 11. Conserving and Enhancing the Natural Environment

Development Plan Policies

North Northamptonshire Joint Core Strategy

Policy 1: Presumption in Favour of Sustainable Development

Policy 8: Place Shaping Principles

Policy 31: Gypsy and Travellers and Travelling Show People

Local Plan for Kettering Borough

Policy 7: Protection of the Open Countryside

Policy RA5: Housing in the Open Countryside

Saved Policy 7 of the Local Plan states that planning permission for development in the open countryside will not be granted except for where otherwise provided for in that plan. Saved Local Plan Policy RA5 states that planning permission for residential development will not normally be granted and lists exceptions to this, one of which is gypsy sites (criteria vi); however the related Policy 119 has not been saved.

Emerging policy

Kettering Borough Council will shortly be commissioning a Gypsy and Traveller Accommodation Assessment (GTAA) to identify pitch need in the Borough. The Gypsy and Traveller Site Allocation Local Plan will allocate sites to meet need for Gypsy and Traveller accommodation identified through the GTAA. The draft timetable for preparing this document includes consultation on the Draft Plan during October to December 2018, Pre-submission consultation in April to May 2019, Submission to the Secretary of State in July 2019 and Adoption April 2020.

Broughton Neighbourhood Plan:

A neighbourhood plan (NP) is being prepared for the Parish of Broughton. The neighbourhood plan was submitted to the Council on 29th September 2017. The Regulation 16 consultation took place from 18th October 2017 to 29th November 2017. An independent examiner has now been appointed for the Neighbourhood Plan, and that examination commenced on 5 March 2018

The neighbourhood plan in the context sites for housing being considered show the thoughts of the Neighbourhood Plan Group in preparing and submitting the document.

Table C on page 47 of the proposed Neighbourhood Plan identifies the gypsy and traveller site at Old Northampton Road for no further development.

The table states '*existing site with increased number of plots since 2011 has become considerably constrained and densely developed and is no longer sustainable for future development. Site sits in open countryside and without locally evidenced need for intensification*'.

Depending on the outcome of the examination, a referendum could be held.

6.0 Financial/Resource Implications

None

7.0 Planning Considerations

The key issues for consideration in this application are:-

1. Principle of development
2. Gypsy/traveller status
3. Personal circumstances and Human Rights
4. Need and supply of sites
5. Sustainability of location
6. Highway safety
7. Design: size of pitches, character, residential amenity and landscape provision
8. Flood risk, surface water drainage safety, air quality and contamination of land considerations
9. Other impacts and considerations
10. Conclusions.

1. Principle of development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

The national policy position comprises the National Planning Policy Framework 2012 (NPPF) and Planning Policy for Traveller Sites 2015 (PPTS). In the policy section above the key policies and considerations arising from these are identified.

Account is taken in the assessment of the proposals of PPTS Policy H (Determining planning applications for traveller sites) in Paragraph 24, that:

“Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- 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 specified 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; and
- e) That they should determine applications from sites from any travellers and not just those with local connections.”

The principle of the site for accommodation by gypsy and traveller families has been accepted by the earlier consents in 2011 and 2015 and is also identified as part of the provision for sites as shown in one of the tables below.

Saved Local Plan for Kettering Borough policy

The implications of saved policy 7 from the Kettering Borough Local Plan have also been considered.

The site is located in open countryside where national and development plan policy strictly controls development. However, the site is comprised of a recognised and contained Gypsy and Traveller site with an extant permission for 6 pitches and within the immediate vicinity are further pitches.

For these reasons the proposal is not regarded as contrary to the saved local plan policy.

The statement in the Neighbourhood Plan about no further development/expansion has been considered as well as the context of the Neighbourhood Plan.

No extension to the boundary of the Old Willows site is proposed and the issue examined elsewhere in this assessment is whether the site can accommodate the layout as shown on the amended plan for this application.

Issues arising from the 2015 consent (ref: KET/2014/0695) that have been considered in the proposals as amended

The permission ref KET/2014/0695 that grants a permanent consent for 3 No. additional pitches (making 6 in total) for gypsies and travellers with an associated play area if not implemented would expire after 2nd July 2018. The fact that this

permission exists is a material consideration to the current proposals.

If the proposal for the two extra family pitches (for the benefit of the applicant and an adult member of their family) were to proceed, it would mean that the play area that accompanied the earlier (unimplemented consent) could not be laid out in accordance with that permission.

Thus the amended proposals for the whole site if approved would allow the implementation of a different layout without having to rely upon the earlier consent.

The amended application thus also addresses the fundamental point raised by the Parish Council about the need for one set of proposals covering the whole site.

However, it is important to recognise that the current arrangement of caravans on site has not been authorised.

Because the development on site is not an implementation of the 2015 consented plan, it would still be possible for the applicant to seek discharge of the relevant conditions from the 2015 consent and if implemented before 3 July 2018 that would then remain a live permission.

Conclusion on the principle of the proposed use:

Taking account of the above, the principle of the land being suitable as a site for gypsy and travellers is accepted.

There are other issues raised through the PPTS as well as through consideration of all material aspects. Attention now turns to the other considerations:

2. Gypsy and traveller status

The 2015 PPTS outlined a fundamental change in the definition of gypsies and travellers, i.e. :

“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 show people or circus people travelling together as such.”

As noted above, the definition refers to those with a nomadic way of life (and who have not permanently given up travelling).

Consequently, the picture that is presented is that those who are to occupy the site have a nomadic lifestyle.

It is not doubted that the applicant fulfils the PPTS definition of a gypsy and traveller. The agent adds. "The applicant (and proposed residents) are members of the Gypsy Traveller community and have gypsy status for planning purposes."

Under the current application, the additional two pitches proposed (above the 6 consented pitches) would be for the applicant to move to the site which is in his ownership or control.

At the time of the last application (in 2017) the applicant had been living at another site in Northamptonshire (Justin Park near Market Harborough) and the current application is a proposal to satisfy his need to be on his own land, along with a household from his immediate family.

The 6 consented pitches are subject to condition on the 2015 permission that they are to be occupied by those who fulfil the PPTS definition of gipsy or travellers, but are otherwise not name specific.

At the date of writing this report, officers had recently received information that it appeared that one of the mobile homes on the Old Willows site was being advertised for rent without reference to occupiers needing to fulfil the definition of being travellers. The advertising agent was contacted and did not indicate any restriction to occupation. This matter was brought to the attention of the applicant's planning agent for an explanation. In response, the agent states: "This listing was not done by us" (agent or applicant) "it may have been someone else from the site". The advert (on line) has since been removed.

It is important to note:

- (1) The current proposals (as amended) are a composite plan for the whole site which if approved as recommended should include a condition relating to occupation by those who fulfilled the PPTS definition of gipsy or travellers.
- (2) The issue of a need for traveller's pitches on suitable sites should be separated from possible enforcement action relating to occupation by those who are not travellers, as before the Council is a proposal for a layout for a total of 8 gypsy and travellers pitches which is to be considered on its planning merits.
- (3) The current disposition of caravans (or their occupation on site) is not an implementation of the 2015 consent and any use not in accordance with a planning approval is subject to investigation and potential enforcement action

- (4) If there is material evidence of actual occupation on site by persons who do not satisfy the definition of gipsy and travellers, this will result in an investigation and potential enforcement proceedings. The site layout for (a) park home(s) on this site if open to non-travellers would result in a loss of provision of traveller pitches. The site is also not designed to cater for the residential needs of the wider community. For both these reasons the proposal is being considered strictly on the basis of being for gypsies or travellers.

Therefore, to make this proposal suitable in planning terms it is concluded that the imposition of conditions is required identifying the head of the households for the two proposed (family related) additional pitches and that occupiers for the other (previously consented) 6 pitches should satisfy the PPTS definition for gypsies or travellers.

3. Personal circumstances and Human Rights

The agent has stated that (in regard to the additional 2 pitches) a named consent for the applicant (and a household from his immediate family) would be acceptable. It is added that "it is important that his family has a stable culturally appropriate place to live for the family to thrive and maintain good health. The Human Rights Act is engaged in this situation and any decision needs to be considered with a view to Article 8 (of that Act) particularly."

From discussions with the applicant and his agent before or during the negotiation that led to the latest application, Officers believe that the applicant is seeking to move to the site, along with immediate family. When he is in situ the existing arrangement which involves a warden being on site would change if the applicant takes on that role as it has been indicated could be expected.

Specific children are not identified, though it is accepted that the applicant and a household from his immediate family have dependent children. The applicant's family circumstances is a material consideration though paragraph 16 of the Planning Policy for Travellers (2015) makes it clear that subject to the best interests of (a) child personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances".

However, in this case the consideration of human rights is not in conflict with the assessment of the planning merits of the submitted layout which are commented upon further below.

4. Need and supply of sites

Paragraph 4 of the PPTS (2015) requires local planning authorities to make their own assessment of need for the purposes of planning and to ensure that local

authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites. Paragraph 4 (h) highlights the aim to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply.

The North Northamptonshire Gypsy and Traveller Accommodation Assessment Update 2011 (GTAA) identified a need for 3 residential pitches in the period 2012 – 2017 (assuming 7 pitches are delivered at The Laurels) and 10 further residential pitches between 2017 – 2022.

The Table below provides the number of additional pitches which have been granted planning permission since the GTAA (2011). More recently 2 extra pitches have been granted planning permission at Black Paddocks, Braybrooke.

Table: Additional Permanent Pitches Granted since the GTAA (2011)	
Northampton Road, Broughton – KET/2011/0363	2
Springfields, Harborough Road, Desborough – KET/2013/0376 (previous temporary consent)	1
Woodcroft, Stoke Albany Road, Desborough – KET/2014/0028	1
1 no. dwelling to replace mobile home and 5 no. pitches, Woodside (North East of), Stoke Albany Road, Desborough (KET/2008/0423)	5
Old Willows, Northampton Road, Broughton – KET/2014/0695	3
Plot 1, Northampton Road, Broughton – KET/2015/0613	3
The Paddocks, Braybrooke – KET/2015/0065 (Allowed on appeal) (Previous temporary consent)	3
2 Additional pitches granted planning permission under ref: KET/2018/0022 Dated 23/02/18	2
Total	20
<i>The 7 pitches at The Laurels, Stoke Albany Road, Desborough (KET/2013/0263) were counted as supply in the 2011 GTAA so are not included above.</i>	

From the last testing of need for traveller sites through the appeals at Greenfields in 2017, one of the Inspectors (Appeal decision dated 13/02/17) concluded that there was an ‘unmet need and an absence of a five year supply for gypsies and travellers to which (he) attach(ed) significant weight.’ Another Inspector (regarding the 9 appeals decision dated 22/03/17) concluded “I am not satisfied that there is an up to date five year supply of deliverable sites and attached moderate weight to this”.

The two Inspectors decision granted temporary planning permission for 8 pitches, which meets the identified need at that time.

Since then and earlier this year 2 additional pitches have been granted planning permission at Black Paddocks. Whilst this keeps pace with the rate of delivery as anticipated in the 2011 GTAA, taking account of unmet need which led to temporary consent for 8 allowed appeals at Greenfields, on current evidence officers conclude that there is a shortage of supply of gypsy and travellers pitches relative to need.

The latest proposal for the Old Willows site, if approved, would add a further 2 pitches to the supply.

5. Sustainability of location

Criterion a) of JCS Policy 31 states that sites should be closely linked to an existing settlement with an adequate range of services and facilities;

As described earlier, the settlement of Broughton is less than 1km from the site which has a primary school, shops, post office facilities, public house and hot food takeaways. The village of Mawsley has doctors, dentist, café, nursery and a primary school which is 3.2km from the site. The town of Kettering is approximately 3.5km away and has a range of services and facilities commensurate with that of a large town.

The conclusion is that this is a sustainable location for the proposals.

6. Highway Safety

Criterion e) of JCS Policy 31 states that there should be satisfactory access and adequate space for operational needs including the parking, turning and servicing of vehicles;

Taking account of the highway authority responses it is possible to demonstrate through the presented layout that parking within each pitch is possible. The access from the highway though some distance is wide enough for emergency vehicles. No large commercial vehicles are expected to attend the site, as the applicant's agent has confirmed that there is no proposal for commercial activity.

7. Design: size of pitches, character, residential amenity and landscape provision

It is useful to repeat some of the advice that was included in the earlier application ref KET/2016/0847 regarding pitch size standards or layout considerations.

Policy 31 of the North Northamptonshire Joint Core Strategy sets out criteria to be applied to applications for Gypsy and Traveller accommodation. Criteria (c) of JCS.

Policy 31 requires that 'the site provides a suitable level of residential amenity for the proposed residents'.

There are no nationally set size standards for pitches however the 'Designing Gypsy and Traveller Sites – A Good Practice Guide' (former DCLG), May 2008 provided guidance on the size and design of gypsy and traveller pitches. This document has now been revoked, however the specifications included in the document remain a useful reference when considering whether an application provides a suitable level of residential amenity.

Paragraphs 7.12 and 7.13 of this guidance states that:

'As a general guide, it is possible to specify that an average family pitch must be capable of accommodating an amenity building, a large trailer and touring caravan, (or two trailers, drying space for clothes, a lockable shed (for bicycles, wheelchair storage etc.), parking space for two vehicles and a small garden area.

Smaller pitches must be able to accommodate at least an amenity building, a large trailer, drying space for clothes and parking for at least one vehicle.'

The guidance states that where size permits inclusion of a garden or play space within each pitch is recommended.

The guidance also states that it is essential for an amenity building to be provided within each pitch, if an amenity building is provided across two pitches this should be through two separate and entirely self-contained semi-detached units. As a minimum an amenity building should include hot and cold water supply, electricity supply, a separate toilet and hand wash basin, a bath/ shower room, a kitchen and dining area.

Although there is no set size standards for pitches, some local authorities have used the (former DCLG) 2008 guidance requirements in determining the appropriate size of pitches, and assessing character, residential amenity and landscaping to be expected.

Examples of standards applied elsewhere:

Whilst the following examples are not standards formally adopted by this Authority they provide a useful illustration:

The Derbyshire and East Staffordshire GTAA 2014 determined that a pitch of approximately 325 sq metres would take into account all minimum separation requirements between caravans and pitch boundaries as stipulated in guidance and safety regulations for caravan development. A pitch size of at least 500 square

metres would accommodate the following on-site facilities: Hard standing for 1 touring/ mobile caravan and 1 static caravan, 2 car parking spaces, 1 amenity block, hard standing for storage shed and drying, garden/ amenity area.

The Nuneaton and Bedworth gypsies, travellers and travelling showpeople site allocations – preferred options (2015) uses the DCLG Good Practice Guidance and experience of existing sites to indicate a pitch size of 500-550 sq metres for permanent pitches and 300-350 sq metres for transit pitches.

The Bath and North East Somerset – Gypsies and Travellers – Site Allocations – Site Assessment Report – Preferred Options uses the figure of 500m² per pitch as a guide to ensure final pitch design can accommodate all of the matters set out in the DCLG guidance.

The Mansfield DC Gypsy and Traveller Accommodation Needs Assessment 2017 determined that a pitch of approximately 325 sq metres would take into account all minimum separation requirements between caravans and pitch boundaries as stipulated in guidance and safety regulations for caravan development. A pitch size of at least 500 sq metres would accommodate the following on-site facilities: Hard standing for 1 touring/ mobile caravan and 1 static caravan, 2 car parking spaces, 1 amenity block, hard standing for storage shed and drying, garden/ amenity area.

The Pembrokeshire County Council - Background Paper LDD – Gypsy and Sites identified the typical pitch areas required to comply with the good practice as 291 square meters for a single caravan, 583.2 sq metres for two caravans and 874.8 square metres for three caravans.

The standards applied at Kettering Borough Council gypsy and traveller site

By way of example within Kettering Borough, the Council's gypsy and traveller site at The Laurels, Stoke Albany Road, Desborough – Pitches are 20m deep and width ranges from 12.5m to 17.9m, each pitch has sufficient space for the siting of a static caravan, an amenity building containing a utility room and shower room, storage shed, gas bottle storage and parking space for a van and a car.(sizes between 250sq m and 350 sq m)

Residential amenity and soft landscaping

Criterion c) of JCS Policy 31 also requires sites to provide a suitable level of residential amenity for the proposed residents;

The revised proposals now includes a layout which allows for pitches of at least 225sq m and upto 252 sq m. This is at least the size approved under the 2015 permission.

The two proposed pitches for the applicant and a household from his immediate family is measured as 550sq m.

Some grassed areas are shown on the plan (for play) or incidental landscape and these would be subject to conditions to have the ground prepared, turfed and maintained.

Important to residential amenity will be the quality of the layout through:

- Removal of all caravans except within each pitch to be approved;
- Removal from the site of the container and its contents (which the applicant has agreed to do);
- Any continued presence of a site warden would be to a caravan within one of the approved pitches,
- Clear and permanent demarcation on the ground along the sub divisions between each pitch shown on the layout, in accordance with details to be approved. This would need to be undertaken within a specific time after any permission that may be granted;
- Ensuring adequate drainage from and services provided to the site;
- Ensuring bin storage and collection arrangements are satisfactory.

These matters can be secured through proposed conditions.

Consideration has been given what is stated in the PPTS about sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness; promote opportunities for healthy lifestyle such as ensuring adequate landscaping and play areas for children and not enclose a site with so much hard landscaping, high walls or fences that the impression may be given that the site occupants are deliberately isolated from the rest of the community.

The planning judgement that is applied on these issues recognises the changes that the applicant has been willing to make in an attempt to reaching agreement with the LPA, against the background of all material considerations.

Impact on local infrastructure:

Criterion b) of JCS Policy 31 states that a site, or the cumulative impact of a site, in combination with existing or planned sites, will not have an unacceptable impact on local infrastructure.

The impact of occupation by up to 8 households would require waste collection and other services as discussed above. e.g. bins stored at the highway. The minor impact on existing infrastructure has been considered and deemed acceptable through the controls to be exercised.

8. Flood risk, surface water drainage safety, air quality and contamination of land considerations

Criterion d) of JCS Policy 31 requires a site to be served (or capable of being served) by an adequate water supply and appropriate means of sewage disposal.

It is noted that the proposal includes the confirmation that “hard standing, water, electricity and septic tanks are already in situ”. Conditions to deal with aspects of these factors can be applied.

Criterion f) of JCS Policy 31 states that the health and well-being of occupants is not put at risk including through, poor air quality and unacceptable noise or unacceptable flood risk and contaminated land.

The agent confirms that “the Environment Agency flood maps have been consulted and there are no flooding issues relating to this site”. Officers can confirm that there is no known history of flooding.

The site is not subject to any adverse flood risk, has a safe access, there has been no reports of poor air quality and is not on contaminated land.

9. Other impacts and considerations:

Criterion f) of JCS Policy 31 also states that the health and well-being of occupants is not put at risk through unsafe access to the site. The safety of the access is considered in relation to the well-being of occupants but this is not regarded as an overriding concern in this case as in regard to the extra numbers of people arising from the proposal, the roadway from the site to the adopted highway is of reasonable width to allow people and vehicles to pass with care

Criterion g) of JCS Policy 31 states that the size of the site and number of pitches does not dominate the nearest settled community.

The PPTS also states that local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure. The population of Broughton was 2,208 at the 2011 Census. There are a number of facilities in the village including a primary school, convenience shop, public house, take-away, village hall and recreation ground. Other facilities such as a doctor’s surgery and dentist are available at Mawsley, located approximately 2 km west of the site. Another gypsy and traveller site abuts the application site to the north, this provides 13 pitches.

Given the size of the village and the range of facilities found there, it is not considered that the occupation by the applicant, his immediate dependants and a household from his immediate family would result in a scale of development that would dominate the nearest settled community, or that it would place undue pressure on the local infrastructure.

Criterion h) of JCS Policy 31 states that the proposed development does not have a significant adverse impact on the character of the landscape and takes account of the Landscape Character Assessment of the area. Appropriate landscaping and treatment to boundaries shall be provided to mitigate impact.

The site remains contained and screened by hedges and fences.

10. Conclusions

The proposal has been examined in regard to planning policy, national and local and all material considerations. The suitability of the location in relation to services and hence its sustainability is a factor that favours the proposal. In principle the site has been previously found to be suitable in planning terms for occupation by gypsy and travellers who fulfil the PPTS definition.

Following the testing of the 5 year supply of gypsy and traveller sites at appeals, indicating a shortfall, the proposal offers a layout which would add to supply. It has been negotiated with the intention that it is laid out with the pitch sizes shown and by addressing earlier concerns about over development, subject to conditions could bring about a resolution to unauthorised development.

The matters raised by the Parish Council have been considered and taken into account. The application as amended can be determined as proposals for the whole site. The Neighbourhood Plan has been taken into account.

Any evidence of continuing breaches would be investigated with the potential for enforcement action. However, the agent has confirmed that the applicant is willing to resolve all such matters.

Proposed conditions will attend to the issue of an early implementation including the marking out of pitch sizes if approved by the LPA.

The concern that one or more of the caravans on site may have been or are being offered to non- travellers is being investigated but if material evidence of occupation on that basis were established, the Council would pursue this with its enforcement powers. In the meantime, a decision based on the planning merits of this revised application is required.

Therefore, the application as amended is recommended for approval, subject to the conditions stated.

Background Papers

Title of Document:

Date:

Contact Officer:

Previous Reports/Minutes

Ref: KET/2016/0847

Date:24/07/17

Peter Chaplin, Development Manager on 01536 534316