

BOROUGH OF KETTERING

Committee	Full Planning Committee - 07/11/2019	Item No: 5.2
Report Originator	Theresa Nicholl Development Team Leader	Application No: KET/2019/0445
Wards Affected	Welland	
Location	Bowd Field (plot 2), Desborough Road, Stoke Albany	
Proposal	Full Application: Change of use of land for the siting of 2 static caravans for residential use, to include installation of septic tank, hard standing for vehicular parking and bin storage, erection of post and rail fencing and soft landscaping	
Applicant	Mr T Holland	

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 REFUSED for the following reason(s):-

1. The proposed site lies in open countryside away from the nearest settlements. It lies in an elevated and exposed position within the Geddington Chase Character Area and is strongly representative of the local landscape character. The positioning of residential caravans on this land and the associated development and paraphernalia represents an incongruous feature within the local landscape and open countryside and does not recognise or respect the intrinsic character and beauty of the countryside. The proposed landscaping is also incongruous within the naturalistic setting and other landscaping would not overcome the stark appearance of the development. Furthermore, the development harms the experience of users of Public Footpaths HA2 and HA6 who are regarded as being of high sensitivity to change. The application is therefore contrary to policies 2 and 31 of the North Northamptonshire Joint Core Strategy, saved policy 7 of the Local Plan for Kettering Borough, paragraphs 25 and 26 of the Planning Policy for Traveller Sites and paragraph 170 of the NPPF.

2. The site area of the application is extensive and substantially in excess of what is required to accommodate the proposal. This extensive area is likely to become cluttered with paraphernalia associated with residential occupation. It is likely that there will also be pressure for extended residential occupation of this or the wider site. This will further exacerbate the adverse impact upon the landscape, the intrinsic character and beauty of the open countryside and the area in general. As such the application is contrary to policies 2 and 31 of the North Northamptonshire Joint Core Strategy, saved policy 7 of the Local Plan for Kettering Borough, paragraphs 25 and 26 of the Planning Policy for Traveller Sites and paragraph 170 of the NPPF.

3. The site is in an unsustainable location being over two miles from the centre of Desborough and being only linked to Desborough by an unlit road with no footway. It is unsuitable for pedestrians and is car dependent. The development is therefore contrary to policies 1 and 31(a) of the North Northamptonshire Joint Core Strategy.

Officers Report for KET/2019/0445

3. Information

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Relevant Planning History

KE/2001/0090 – Keeping of horses, stable building and improvements to vehicular access – withdrawn 30/04/2001

KE/01/0769 – Mixed use equestrian/agricultural – dismissed on appeal 11/10/2002

KE/01/0892 – General purpose agricultural building – refused 20/12/2001

KE/02/0030 – Agricultural building – refused 12/03/2002

KE/04/1284 – 3m wide access, 2 x 25x 50 metre hardstanding and 12 x 3 metre storage container – refused 01/02/2005

Enforcement

EN/01/0430 – change of use of agricultural land to a mixed use for agriculture and the keeping of horses, together with the erection of a building and the siting of sheds. An appeal against this enforcement notice was dismissed. This enforcement notice is still in force.

EN/03/0001 – Change of use of the land from agriculture to a use for motocross, incorporating the use of the land for riding motor cycles, together with the erection of bunds and fencing and the creation of excavations and the laying of rubble hardcore, all carried out as part of the change of use. This enforcement notice is still in force.

These notices are in force across an extensive area of land including the site which is subject of the current planning application.

A Temporary Stop Notice (TSN) relating to the land which includes the application site was served on 12 March 2019. This identified alleged breaches of planning control for laying of hardstanding, trenches, laying of pipes and apparatus and siting of residential caravans. The TSN was in force till 09 April 2019. There has been no evidence of compliance with the TSN.

Court proceedings remain on going following an Interim Injunction issued by the High Court on 5 April 2019

Site Visit

Officer's site inspection was carried out on 29 August 2019

Site Description

The site comprises a rectangular parcel of land with an access off the northern side of Desborough Road, Stoke Albany. The site area measures approximately 2091 square metres (note: this is less than shown on the initial plans because the agent had included an additional 10-metre-wide strip of land

to the west of the site which has subsequently been removed from the site boundary). The pitch area measures 70 metres by 25 metres and the remainder of the site area is made up of the access to the site leading from the entrance off Desborough Road.

The site is situated in open countryside, approximately just over a mile to the south of the edge of the village of Stoke Albany to the north and a similar distance from the edge of Desborough to the South. The B669 Desborough Road runs north/south and joins Desborough to Stoke Albany and beyond. It comprises a single carriageway road with no footpaths or lighting. The speed limit is 60mph.

In terms of national landscape character area, the site is located on the transitional boundary between the Northamptonshire Vales Character Area and the Rockingham Forest Character Area. The site occupies an elevated position on the ridgeline between the valleys of the Harpers Brook to the south and the River Welland to the north. In terms of local landscape character, the site is within the Geddington Chase Character Area associated with the Wooded Clay Plateau type although it shares a relationship with the Stoke Albany and Ashley Character Area with the undulating hills and valleys landscape type to the north.

The site is situated within a larger pastoral field setting and is adjacent to the application for a traveller site submitted under reference KET/2019/0245. To the west of the site is a large woodland block "Brampton Wood." The section of wood nearest to the site is owned and managed by the Woodland Trust. To the northeast of the site, on the other side of the Desborough Road are other blocks of woodland, "Bowd Lane Wood" and "Walter Wood." To the east of the site and Desborough Road is the old Desborough airfield which was in use during World War 2. This is a large plateau of land which has since been returned to agricultural use.

There are several public footpaths in the vicinity of the site, the nearest being HA/006 which runs in a north/south direction just to the west of the site. There are also numerous tracks and trails through the nearby woods and fields which are undesignated.

The nearest dwellings to the site at Bowd Lodge Farm are some 300 metres to the south and east of the site off Desborough Road. Further to the south-east, approximately a mile away is the Pastures mobile home park which is a long-established permanent traveller site. Further south there are more sporadic farm buildings and a small industrial estate with a handful of frontage residential properties located in a roughly triangular parcel of land to the east of Desborough Road. "Fox Pallets" business is located to the south of the site and accessed via the track and vehicular access. This building was permitted as an agricultural barn under KE/04/1284. The same access and track now serves the development subject of this application.

Beyond the northern boundary of the site is other agricultural land believed to be in the ownership of Mr Fox, but upon which one of the unauthorised

caravans that had been on the application site of KET/2019/0245 had been moved to, as of 03 October 2019.

By way of update: Upon the site of plot 2 as of 30/10/19 there were 4 caravans, several vehicles, small structures, an area of hardstanding and new metal gates. A laurel hedge had been planted along the boundary to plot 2.

Proposed Development

This is a retrospective application for full planning permission to change the use of the land from agricultural use to the siting of 2 static caravans for residential use, amenity block and the installation of a septic underground tank, hardstanding, post and rail fencing and landscaping. The application form states that the "plot" measures half an acre exactly, however, the plans were amended to remove a 10-metre-wide strip of land which was outside the area owned by the applicant and outside the site area. The caravans measure 12.2 metres long x 3.65 metres wide.

The site has been enclosed by a wooden post and rail fence and some close boarded fencing too. The submitted pitch plan shows that it is intended to plant laurel shrubs along the east and west boundaries of the site and as stated above this has now been planted.

The site access comprises a concrete apron for the first few metres off the Desborough Road to a 5-bar gate. The access then becomes a hardcore track before turning west along the filed towards the site.

Any Constraints Affecting the Site

Open Countryside

High Pressure gas pipeline running approximately north/south to the west of the site

4. Consultation and Customer Impact

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Stoke Albany Parish Council

Objects on the grounds that;

1. These are unsustainable developments with no utilities such as water and sewage in place
2. It is open countryside and outside the parish building boundary
3. There are two travellers' sites already close by – The Pastures and The Laurels

Highway Authority

No objections subject to conditions

Crime Prevention Design Advisor

No objections to the principle of what is proposed as the application is for a small named family but subject to permission being specific to the named individuals and only they shall reside on the site. The permission should

lapse if the named individuals and children leave the site. This is to mitigate community tensions.

Cadent

Commented that there is a high-pressure gas pipeline running through the same field as the application. Cadent hold a legal deed of easement on this pipeline and any proposed development in the vicinity of the HP gas pipeline Cadent will need to be consulted and liaised with before any such work commences.

KBC Environmental Protection

No comments to make

Neighbours

Four letters of support have been received, two from persons living at Bowd Field and two from persons living elsewhere. The comments in support are that;

1. It should be approved so the travellers have a home
2. They are not causing any harm and the children love it there
3. I have known the family for four years, they are no trouble and keep everything tidy

One letter has been received which just states no objection.

Objections have been received from three separate addresses/persons who make the following comments (in summary);

1. It will not be in keeping with the area. The appearance of the site is unsightly with a variety of vehicles and vans littering the site. The site is in open countryside outside of any settlement and is a prominent site lying close to Stoke Albany Road.
2. There will be a loss of natural wildlife that is now in the area
3. Noise disturbance
4. There are already 3 approved traveller sites within this location around my property from every angle. There are already sites closer to the edge of Desborough in a more sustainable location.
5. Already subject to noise disruption from the Pastures site with dogs barking all night long
6. Activity of hare coursing on the nearby airfield through the night
7. Concerns for nearby villages and schools
8. Extra traffic on the road
9. Concern for commonly known conflict between travellers on existing sites
10. Planning permission was refused previously to build a house on this land hence the owner sold it to travellers.

11. Work on this development has already been undertaken without planning permission.
12. The provision of this unauthorised site has not been supported by any evidence of need for the provision of additional pitches i.e. there is no supporting information to suggest that any existing sites or alternative locations have been considered.

5. Planning Policy

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Planning Policy for Traveller Sites

Applications should be determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the NPPF and this Planning Policy for Traveller Sites published in August 2015.

Local Planning Authorities (LPAs) 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 specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- e) That they should determine applications for sites from any travellers and not just those with local connections

However, subject to consideration of the best interests of the 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.

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. They should 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.

When considering applications, LPAs should attach weight to the following matters:

- a) Effective use of previously developed, untidy or derelict land
- b) Sites being well planned or soft landscaped in such a way to positively enhance the environment and increase its openness
- c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children

- d) Not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community

If an LPA cannot demonstrate an up to date 5-year supply of deliverable sites, this should be a significant material consideration in any subsequent decision when considering applications for the grant of temporary planning permission. There is no presumption that a temporary grant of permission should be granted permanently.

National Planning Policy Framework

8. Promoting healthy and safe communities

Decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, are safe and accessible and enable and support healthy lifestyles.

9. Promoting sustainable transport

It should be ensured that appropriate opportunities to promote sustainable transport modes can be or have been taken up, given the type of development and its location; safe and suitable access to the site can be achieved for all users; any significant impacts on the transport network or on highway safety can be cost effectively mitigated to an acceptable degree. Development should only be refused or prevented on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

12. Achieving well-designed places

Planning decisions should ensure that developments: function well and add to the quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history including landscape setting, establish or maintain a strong sense of place; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and create places that are safe, inclusive and accessible which promote health and well-being and where crime and disorder and the fear of crime do not undermine the quality of life or community cohesion and resilience.

15. Conserving and enhancing the natural environment

Planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Development Plan Policies

North Northamptonshire Joint Core Strategy

Policy 1 – Sustainable Development
Policy 2 – Historic Environment
Policy 3 – Landscape Character
Policy 8 – North Northamptonshire Place Shaping Principles
Policy 31 – Gypsies and Travellers and Travelling Show people

- a) *The site is closely linked to an existing settlement with an adequate range of services and facilities*
- b) *The site, or the cumulative impact of the site, in combination with existing or planned sites, will not have an unacceptable impact on local infrastructure*
- c) *The site provides a suitable level of residential amenity for the proposed residents*
- d) *The site is served (or can be served) by an adequate water supply and appropriate means of sewage disposal*
- e) *There is satisfactory access and adequate space for operational needs including the parking, turning and servicing of vehicles*
- f) *The health and well-being of occupants is not put at risk including through unsafe access to the site, poor air quality and unacceptable noise or unacceptable flood risk and contaminated land*
- g) *The size and number of pitches does not dominate the nearest settled community*
- h) *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.*

Saved Policies in the Local Plan for Kettering Borough

7. Protection of the open countryside
RA5. Housing in the open countryside

Emerging Policies (Local Development Framework)

Part 2 Local Plan – adoption too far away to be given weight

6. **Financial/Resource Implications**

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Further enforcement costs

7. **Planning Considerations**

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The key issues for consideration in this application are:-

1. The principle of the development
2. Five-year supply of sites
3. JCS Policy 31 criteria
4. Other material considerations: - Policy H in the PPTS, NPPF
5. Human Rights/the best interests of the child (set out in confidential part to this report)
6. Conclusion/planning balance

1. **The Principle of the Development**

Policy 31 of the North Northamptonshire Joint Core Strategy (JCS) refers specifically to sites for gypsies and travellers (and travelling show people). Saved Policy 7 of the Local Plan for Kettering refers to development in the open countryside. Policy 31 sets out a list of criteria, all of which should be satisfied in the consideration of a planning application. This is further discussed below under point 3.

Saved Policy 7 provides protection for the open countryside and does not set out a blanket ban on all such development if it is provided for elsewhere in the plan. Policy RA5 (which is also saved) states that planning permission will not normally be granted for residential development in the open countryside. However, exceptions may include gypsy sites. RA5 refers to Policy 119 which is not saved and no longer valid.

Therefore, in terms of the development plan, the principle of allowing new sites for gypsy and traveller site development is permissible subject to each development meeting the criteria set out in JCS Policy 31.

However, paragraph 25 of the PPTS states that LPAs should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. The site is in the open countryside and is considered to be away from settlements. The site is not allocated and it is clear that the term “very strictly limit” means that considerable weight should be given to limiting such development which is away from existing settlements or outside areas allocated in the development plan.

A further “in principle” issue is whether the applicants meet the definition of a gypsy or traveller as set out in Annex 1: Glossary of the Planning Policy for Traveller Sites. This is set out as;

“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 dependents’ 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”

The two related family groups of the application site have been identified and it is considered that the applicant meets the definition of a gypsy or traveller. Before moving onto the site between 4-6 April 2019 they were believed to have occupied an approved site for travellers near Braybrooke.

In summary, the applicant meets the definition of a gypsy/traveller set out in the PPTS. Policy 31 of the JCS would only permit this development in the open countryside if it meets all the criteria of that policy. Paragraph 25 of the PPTS states that such development should be very strictly limited. So, in assessing both these approaches (Development Plan and PPTS policy) it is considered that the acceptability or otherwise of development will come down to whether the proposals conform with policy and the weight of all the material considerations taken together in the planning balance.

2. Five Year Supply of Sites

Paragraph 27 of the PPTS states;

“If a local planning authority cannot demonstrate an up-to-date 5-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of a temporary planning permission”

This has been held not to be the same as the presumption in favour of sustainable development as set out in the NPPF (Swale Borough Council and Secretary of State for HCLG) and Mr S Maughan and Others 2018 EWHC 3402 Admin). This judgement sets out that two features of paragraph 27 are of particular relevance, namely;

- The existence of a shortfall (in supply) is in itself a *“significant material consideration.”* This excludes a characterisation of the shortfall, so although there is still a balance to be struck it is not the same as the tilted balance to be applied through paragraph 14 of the NPPF. The balance mechanism under the PPTS remains the same throughout and paragraph 27 gives indication to the weight of the factor in the balance (i.e. significant).
- The second feature of paragraph 27 is that it is expressed to go to a decision on temporary planning permission. The footnote to paragraph 27 provides *“there is no presumption that a temporary grant of permission should be granted permanently.”* The intention is that the response to a shortfall in the required five-year supply of deliverable sites may, in an appropriate case, be the granting of planning permission for a temporary period during which, the LPA will make efforts to address

the shortfall and meet its obligations under paragraph 10 (of the PPTS) to ensure a five-year supply of deliverable sites.

In 2018 the Council granted consents for three applications for travellers' pitches:

- for 2 extra pitches at The Paddock, Braybrooke under reference KET/2018/0022; (decision date 23 February 2018)
- for 8 pitches at a site known as Old Willows, Broughton, under reference KET/2017/0980 (decision date 13 April 2018)
- 5 travellers statics at land off Braybrooke Road, Desborough under reference KET/2018/0022 (Decision date 6 July 2018)

The current and future need for gypsy and traveller accommodation is set out in the North Northamptonshire Gypsy and Traveller Accommodation Assessment (March 2019). It is calculated (taking this report into account) that the requirement for pitches plus any shortfall for the period 1 April 2019 to 31 March 2024 is 15.8 pitches.

Three traveller sites have been granted planning permission but have not been completed, namely;

Application number	Site Address	Number of pitches	Decision d
KET/2018/0531	Woodside, Stoke Albany Road (land adj), Desborough	2	20/12/2018
KET/2014/0532	Woodside, Stoke Albany Road, Desborough	6	23/01/2015
KET/2009/0155	Stoke Albany Road (land at), Desborough	10	01/07/2009

Site under reference KET/2014/0532: There is evidence of works having started at the site in the form of concrete pad for the proposed dwelling and drainage work. It remains possible therefore that proposals could contribute to supply of sites.

The Council has been in discussion with the owner of the two larger sites (in the table above) to get these sites delivered. Whether these sites could be classed as deliverable at the present time is not certain, however, if they were a five-year supply of 5.7 years exists.

Paragraph 7c) of the PPTS states that in assembling the evidence base to support their planning approach, LPAs should *“use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions.”*

Whether there is a five-year supply of deliverable gypsy and traveller sites/pitches is a significant material consideration when considering the grant

of a temporary planning permission. The applicant has not applied for a temporary permission although it would be open for the LPA to consider whether a grant of a temporary permission (i.e. time limited by condition) might be appropriate. This is discussed further below.

Notwithstanding the above and given the uncertainty of delivery of certain sites with planning permission a cautious approach should be adopted, the Council cannot presently evidence that it has a five-year gypsy and traveller site/pitches.

3. JCS Policy 31 Criteria

Policy 31 states that applications for gypsy and traveller sites should satisfy all of the criteria listed in this policy.

a) The site is closely linked to an existing settlement with an adequate range of services and facilities.

The site lies approximately a mile from the edge of Desborough and over two miles from the centre of Desborough where there are a range of services. The nearest other settlements are villages, the closest of which is Stoke Albany to the north which has very limited facilities. The Desborough Road/Stoke Albany Road is unlit and does not contain footways until it enters the built-up area of Desborough. The site cannot be said to be closely linked to an existing settlement both in terms of distance and ease of travel without the need to use a vehicle for every trip.

b) The site, or the cumulative impact of the site, in combination with existing or planned sites, will not have an unacceptable impact on local infrastructure

The site lies in close proximity to several existing and consented Gypsy and Traveller sites. The Council has two longstanding Gypsy and Traveller sites within a 700m radius of the site off Stoke Albany Road. These are the Pastures (15 pitches) and the Laurels (7 pitches). In addition to this a further site at Woodcroft (approximately 750m to the south of these sites) was granted consent in 2014. In between the Pastures and Woodcroft pitches are two further consented sites, one for 10 pitches and the other for five pitches and a bungalow which have yet to be implemented. Therefore, in total up to 40 pitches could be occupied within a kilometre radius of the site. A further 7 pitches are also located 2.75kms away to the west of Desborough at Spinney Close and the Gateway.

The NPPF and PPTS 2015 provides some guidance in respect of cumulative impact. The Government's aim is to reduce tension between the settled and travelling communities and in order to achieve this PPTS 2015 requires that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of development does not dominate the nearest settled community. In this instance, the Council's Planning Policy team has considered the implications of cumulative impact of this concentration of sites in one area

and have come to the conclusion that it is likely to be a significant factor in any consideration in an allocation of further sites through the Gypsy and Traveller Site allocation Policy in this area.

In terms of the site itself and in combination with that proposed under KET/2019/0245 it would provide an additional 5 number of caravans with associated private vehicles across 3 traveller pitches over the site. There is no overriding evidence to conclude that an additional 3 traveller pitches would have an unacceptable impact on local roads though the amount of vehicles that have travelled onto or off the land over recent months has included lorries and other large vehicles. However, the Local Highways Authority has not stated any issues in relation to the capacity of the Desborough Road to take the additional traffic associated with these proposals.

c) The site provides a suitable level of residential amenity for the proposed residents

The site is not adversely impacted by other development as the surrounding land is only permitted to be used for agricultural purposes. There is sufficient space for recreation and the usual domestic requirements such as clothes drying to the front of the caravans, shown as green space between the caravans on the submitted Pitch Plan.

d) The site is served (or can be served) by an adequate water supply and appropriate means of sewage disposal

The agent has advised that a water supply is feasible because there is a mains connection close to the site entrance which presently serves Mr Fox's land which is adjacent. Western Power has advised that an electricity supply is feasible.

e) There is satisfactory access and adequate space for operational needs including the parking, turning and servicing of vehicles

The LHA has raised no objections but has made comments about the site access with regards to dimensions, hard surfacing and visibility splays. The access is 4.5 metres wide for the first 10 metres and the first 5 metres is hard bound. The application provides no information about visibility splays. However, the hedge at the highway boundary has grown over recent months. Nevertheless, the LHA has not recommended refusal for reasons of highway safety.

f) The health and well-being of occupants is not put at risk including through unsafe access to the site, poor air quality and unacceptable noise or unacceptable flood risk and contaminated land

The site is not located in an area of poor air quality or in an area where there would be a high level of noise. The site is located in Flood Zone 1 which is an area at lowest risk of flooding and as the Council's Environmental

Protection Officer has raised no concerns, there are no issues with contaminated land.

g)The size and number of pitches does not dominate the nearest settled community

There are several small pockets of existing development in the area, accessed off the B669 but the application site is separated from these; The extant site for The Pastures Mobile home park which contains 16 pitches. The smallest approved site at Woodcroft contains 1 pitch. An objection has been received from a nearby resident on the grounds that they are surrounded by traveller sites. The nearest town of Desborough is identified. It can be said that there is a proliferation of sites in the locality, but the policy refers to the size and number of pitches dominating the nearest settled community. It is unlikely that the threshold of "domination" has been reached, though the size of land at the application site or adjacent land have the potential to expand were approval to be granted.

The local police officer for Desborough has confirmed that the police does not have problems with the Pastures traveller site. It was advised that there seem to be tensions between the separate travelling communities. However, at present there is not evidence of any possible criminal behaviour or anti-social behaviour that has been reported to the police that could be attributed to the local travellers who reside in the area. Similarly, the Police Designing out Crime officer has not objected to the proposal as long as the site is occupied by the named family, in the interest of community cohesion.

h)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 application was not submitted with information to demonstrate that the application had considered the Landscape Character Assessment of the area. The LPA commissioned an independent review of the landscape matters associated with this application (and the application submitted for the traveller site on the adjacent land). The report was written by a suitably qualified landscape professional. This sets out the baseline landscape character both national and local for the area. It also explains the public viewpoints associated with public footpaths HA6 and HA2 which run near to the site and Stoke Wood which is located to the east. The report concludes that the development will have an incongruous appearance in this rural landscape comprising stark white structures brought onto the land with associated items for residential purposes and which will be visible from some distance. The proposed landscaping is acknowledged but there is no detail and proposed laurel shrubs will appear equally incongruous. The proposal does not recognise the intrinsic character and beauty of the open countryside and has harmful impacts upon the character and appearance of the local landscape as well as the setting of the Grade 1 listed church at

Brampton Ash. It will harm the experience of users of Public Footpaths HA2 and HA6 who are regarded as being of high sensitivity to change. The harm is likely to be compounded by the scheme submitted under KET/2019/0445 and the cumulative effect of the two schemes will result in greater harm to the character of the landscape and raises concerns regarding the potential development of the remainder of the field.

Paragraph 26 of the PPTS sets out four criteria to which LPAs should attach weight. Two of these relate to landscape and are as follows;

- Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
- Not enclosing a site with so much hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

The site is not proposed to be enclosed in too much hard landscaping. It has been enclosed with post and rail fencing and more recently metal gates and some close boarded fence panels. The proposed soft landscaping is for lines of laurel planting near to the site boundaries which is inappropriate in terms of species (laurel being a non-native and generally a garden shrub species). Alternative landscaping could be subject of a condition, but it is considered that no amount of landscaping is going to overcome the harmful visual and character impacts of the development upon the landscape setting. Too much landscaping or type of landscaping used for a screening effect (such as conifer hedging) would remove the openness of the site and appear incongruous in itself.

It is considered that Brampton Ash Church is too distant for its setting to be adversely affected by the level of development proposed but if the number of caravans were to increase the impact upon setting is likely to become wider and affect more distant buildings and views.

Therefore, it is considered that the proposal does not accord with paragraph 170 of the NPPF, paragraphs 25 and 26 of the PPTS, policies 3 and 31 of the JCS and saved policy 7 of the Local Plan for Kettering Borough.

4. Material Considerations

Material considerations to weigh in the balance with the development plan policy include the NPPF, PPTS the personal circumstances of the applicant and his family including the rights of any child and the nature of the intentional unauthorised development. Due to the confidential personal nature of information whilst this has been considered, confidential data cannot be recorded in a public document. However, an anonymised summary of conclusions that indicate this having been assessed is provided below.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require that applications for

planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

The proposal is contrary to policies 3 and 31 of the JCS and saved policy 7 of the Local Plan for Kettering Borough for the reasons set out above.

The PPTS (paragraph 24) sets out that LPAs must consider the following issues amongst other relevant matters when considering applications for traveller sites;

- a) The existing level and 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 locally specific criteria used to guide the allocations of sites in plans or which from the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward
- e) That they should determine applications for sites from any travellers and not just those with local connections

Matters to which LPAs should attach weight when considering applications are (paragraph 26);

- a) Effective use of previously developed (brownfield), untidy or derelict land
- b) Sites being well planned and soft landscaped so as to positively enhance the environment and increase its openness (discussed above)
- c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
- d) Not enclosing a site with so much hard landscaping etc ..(discussed above)

However, LPAs should very strictly limit new traveller site development in open countryside away from existing settlements (paragraph 25).

An assessment of need was undertaken, and this is summarised below in Section 5.

A new Gypsy and Traveller Site Allocation Policy is proposed but is not at enough of an advanced stage to be a material consideration in the determination of this application.

The PPTS states the lack of a five-year supply is a significant material consideration in a decision when considering applications for the grant of temporary permission. It was stated that the applicant had already purchased the land before moving onto it and it is clear that this site is not intended to be a temporary base for the family. An email of 3 October 2019 from the planning agent states that ...*"Bowd Field finally gave them the chance to own their own land legally and apply for their own permission which is sought for final settling of the families to live peacefully on land they rightly own..."* There has been no suggestion that a temporary permission is sought.

It may well be the case that the applicant saw this land as a chance to own his own land, but no enquiries were made to the LPA about the suitability of the land for this purpose prior to it being purchased. Similarly, the Council was not approached by the applicant prior to purchasing this land to say that he and his family were homeless. This application was only submitted after the development had taken place. The applicant is aware of planning regulations as is clear from the family history associated with other sites within Kettering Borough.

Nevertheless, the Council could consider granting a temporary permission *if appropriate*. The harm already set out with regard to landscape/visual impacts is not outweighed by any possible lack of a five-year supply and the granting of a temporary permission will only serve to exacerbate the harm and likely make the restoration of the site to its former appearance a less likely and more distant reality.

It is a material consideration that should be weighed in the determination of planning applications and appeals. The written ministerial statement announcing this policy expressed concern that where the development of land has been undertaken in advance of obtaining planning permission there is no opportunity to appropriately limit or mitigate the harm that may have been caused. (Appeal decisions APP/H1705/C/18/3203089/87 & 90, Cufaude Lane, Bramley, Tadley, Hampshire, RG26 5DL dated 22/10/19)

It is considered that aside from the harm due to inappropriate development in the open countryside, the works that have taken place in advance of the planning application have prevented assessment of the proposal against relevant local plan policies aimed at protecting local character and the amenity of established residential areas. The circumstances of the initial development of the site has also undermined one of the aspirations of PPTS to promote peaceful and integrated co-existence between the site and the local community. As the actions clearly prevented the proper application of planning policies concerned with the quality of development, the nature and extent of the initial development, including the way it was carried out, would weigh against the proposals.

Refusal of the application will cause the applicant and his family distress and will mean that the family will need to find somewhere else to live at a time when the availability of other sites is in short supply or of questionable availability. However, as the PPTS states, subject to consideration of the best interests of the child, personal circumstances and unmet need are unlikely to outweigh harm so as to establish very special circumstances. Should this application be refused, it will be open to the LPA to take formal enforcement action. The personal circumstances and needs of the children would need to be taken into account when setting out the steps required to comply with the notice and particularly the time period set out for compliance.

There is very little weight that can be attached to this proposal as a result of considering paragraph 26 (a – d) of the PPTS; The site is a green field site and

is not making effective use of brownfield, untidy or derelict land. The proposal is not positively enhancing the environment and increasing its openness – it is considered that the proposal harms the intrinsic beauty of the open countryside and the landscape character of the area. It leads to the area appearing more cluttered.

The pitch area is approximately 1750 square metres. The pitch plan states that the area of site not covered by the pitches will be open meadow. The site area is substantially larger than that required to serve the 2 pitches/caravans applied for. There are no current nationally set standards for pitch sizes following the revocation of the 2008 Designing Gypsy and Traveller Sites – A Good Practice Guide. However, as an example, the pitch sizes at the Laurels Site nearby vary between 250 square metres to 350 square metres. Elsewhere, where Councils have adopted such guidance, a single pitch can vary from 300 to 500 square metres to take into account sufficient fire separation. Thus, a site area of 3445 square metres is considered to be significantly over generous and unwarranted to serve three caravans. The likelihood of this wider area becoming more cluttered (even if only with paraphernalia) is high. There are already sheds erected at the site. Although applications must be determined on their own merits the extensive size of the application site compared to the two pitches applied for is concerning, especially given the advice received about other uses coming forward should the application for the adjacent site be approved.

There is adequate space for children to play but any play equipment such as swings or slides would only add to the cluttered an urbanising appearance of a piece of land that had been open prior to the caravans being moved onto the land. The site is not enclosed with hard landscaping which is a positive, but it means that the caravans appear in stark contrast within the landscape. It is not considered that the visual harm caused by the development could be adequately overcome with landscaping.

The NPPF must also be taken into account as a material consideration. Paragraph 170 of the NPPF states that decisions should contribute to and enhance the natural and local environment by (amongst other things) *“recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.”*

5. Personal Circumstances and Human Rights

Public Sector Equality Duty

Under the Equality Act 2010 people who have “protected characteristics” are protected under the Act. This includes race. A gypsy or traveller who does not meet the definition of a traveller under the PPTS is still of protected status if an ethnic gypsy or traveller. Public Authorities in undertaking their functions have to have due regard to the need to;

- Eliminate unlawful discrimination
- Advance equality of opportunity between those people who share a protected characteristic and those who don't

- Foster or encourage good relations between those people who share a protected characteristic and those who don't

Human Rights Act 1998 (derived from EU Convention on Human Rights)

Article 8 – Right to respect for family and private life, home and correspondence. This is a qualified right and does not automatically override other legislation or considerations

Article 14 – that the rights and freedoms set out in the Convention are secured without discrimination

UN Convention on the Rights of the Child

Article 3 – best interests of the child. In all actions concerning children (including those taken by administrative authorities) the best interests of the child shall be a primary consideration

Summary:

- There is no dispute that the applicant meets the planning definition of Gypsies and travellers;
- Four adults and dependent children are identified as seeking consent to occupy 2 caravans. Submitted confidential data including statements on their needs has been considered. The occupation of the site of plot 2 (this site) occurred between 4-6 April 2019 when those on site moved from an authorised traveller site.
- Submitted confidential information on the needs of children as a primary consideration has been assessed

For reasons of personal and sensitive data, details of this assessment cannot be published in a public document. They do not outweigh the planning harm set out in this report.

6. Conclusion/Planning Balance

The starting point for consideration of this application is that it is contrary to development plan policies 2 and 31 of the Joint Core Strategy and saved policy 7 of the Local Plan due to its adverse impact on the visual appearance of the area, the landscape character and the intrinsic beauty of the open countryside.

Although, taking a cautious approach, the Council is unable to adequately evidence a five-year deliverable supply of traveller pitches to meet the assessed need; Under policy 27 of the PPTS this is expressed specifically to go to a decision on temporary planning permission. The application is not for a temporary planning permission and the submission shows that it is the family's intention to make this a permanent home. It is considered that the harm caused to the appearance of the area and the failure to comply with Development Plan policy is not outweighed by a lack of a five-year supply and the site is not appropriate to grant a temporary permission. The personal circumstances of the family have been taken into account and whilst inevitably there will be distress caused by a refusal of planning permission, this is not sufficient to outweigh the harm to the area caused by the development. The personal circumstances will be taken into account in any subsequent enforcement action.

Paragraph 25 of the PPTS states that authorities should very strictly limit new traveller site development in the open countryside and paragraph 170(b) of the NPPF recognises the intrinsic character and beauty of the countryside. The LPA accepts that this does not mean a blanket ban on all traveller sites in the open countryside and so commissioned an independent landscape professional to evaluate the proposal. This professional assessment concludes that the application should be refused. It is also considered likely that given the size of the site the appearance will become more cluttered as time passes and therefore the impact on the appearance of the area will be heightened. The way in which the proposals have been implemented through intentional unauthorised development with the submission of a retrospective planning application further weigh against the application.

The LHA has raised an objection on parking grounds but it is considered that this issue could be overcome with conditions.

Balancing the personal circumstances of the applicant and his family and the needs of the child and the lack of robust evidence for a 5 year supply of sites against the conflict with the development plan and the parts of the PPTS and NPPF that count against the proposal, the material considerations supporting the proposal do not outweigh the material objections against the proposal and the fact that the proposal is contrary to the adopted development plan. The application is therefore recommended for refusal for the reasons set out below.

Should this application be refused, the Council would take enforcement action through the serving of an enforcement notice. The personal circumstances and consideration of the rights of any children are considerations particularly with regard to the length of time the Council allows for compliance with the notice.

Background Papers

Title of Document:

Date:

Contact Officer:

Theresa Nicholl, Development Team Leader on 01536 534316

Previous Reports/Minutes

Ref:

Date:

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