

BOROUGH OF KETTERING

Committee	Full Planning Committee - 25/02/2020	Item No: 4.1
Report Originator	James Wilson Interim Head Of Development Services	Application No: KET/2019/0711
Wards Affected	Slade	
Location	Cransley Road (land north east of), Loddington	
Proposal	Full Application: Change of use from agricultural land to 8 pitch residential caravan site with 2 no. caravans per pitch, including 8 no. utility buildings, hardstanding and access	
Applicant	Mr J Delaney	

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 site is not closely linked to an existing settlement with an adequate range of services and facilities. It is considered that the site is unsustainably located and fails to accord with Policy 31 (a) of the North Northamptonshire Joint Core Strategy.
2. Insufficient information has been submitted to assess the ecological impacts of the development including, but not limited to, the impact on the Cransley Reservoir Local Wildlife Site. The development is therefore contrary to Policy 4 of the North Northamptonshire Joint Core Strategy and Section 15 of the National Planning Policy Framework.
3. Insufficient information has been submitted to assess the risk to highway safety of the proposed access. The application has not demonstrated it has safe access which is required by Policy 31 (e) and Policy 8 (b) of the North Northamptonshire Joint Core Strategy.

Officers Report for KET/2019/0711

This application is reported for Committee decision because there are unresolved, material objections to the proposal and the proposal is a contentious application which, in the opinion of the Head of Development Services, is a matter for the decision of the Committee.

3 Information

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Relevant Site History

Enforcement

ENFO/2019/00160:

The Local Planning Authority (LPA) was made aware of activities taking place on site on 11th October with officers in attendance within 2 hours. The LPA's response was therefore immediate and sought to use the powers available in a prompt manner with a Temporary Stop Notice. Works continued over that weekend with caravans being brought onto the site. A Stop Notice and an Enforcement Notice were then served which is now the subject of an appeal. A planning application dated Friday 11th October was marked as received by the LPA on Monday 14th October.

The following planning history is relevant to the site:

KET/1983/0097 Erection of stable and hay store and use of land for grazing of horses, including field jumps – approved 03/03/83.

KET/1985/042 Erection of stable and hay store and use of land for grazing of horses, including field jumps – approved 12/07/85.

KET/1989/0844 Renewal of Temporary Permission for Stable and Tack Room – approved 29/09/89.

KET/1991/0620 Renewal of Temporary Permission: Retention of Stable Block and Tack Room – approved 09/10/91.

Site Visit

Site inspections have been carried out on a number of occasions between October 2019 and February 2020.

Site Description

The site, which is 1.09 hectares, is set with open countryside to the south east of Loddington village. Trees and hedgerow are located on the east and west boundaries, wet woodland to the south and a post and rail fence to the north which separates the application site from the wider land parcel.

The site lies 350m from the edge of Loddington and 740m as the crow flies, or 930m by road from the centre of the village with its limited facilities comprising, public house, primary school and village hall. The site itself is accessed off Cransley Road, a rural road with a 60 mph speed limit which links Loddington, with Great Cransley and

beyond to Broughton. The 350m stretch of Cransley Road between the site entrance and the edge of Loddington village is unlit with no designated footpath. There is a public right of way, the bridleway GR10, which runs adjacent to the site following the northern boundary of the site and linking up to the road junction where the property known as The Three Chimneys is located. The site is positioned adjacent to the Cransley Reservoir which is a local wildlife site (LWS) and Loddington Verge, another LWS.

Proposed Development

This is a retrospective application for full planning permission for change of use from agricultural land to 8 pitch residential caravan site, with 2 no. caravans per pitch, including 8 no. utility buildings, hardstanding and access.

Each pitch is proposed to have two caravans, with no more than one static/mobile home sited on each. Each utility building (150 square metres) would include a bathroom and laundry facilities. The proposed layout is for a central access road running down the site with 4 pitches on each side as shown on the proposed site plan.

It is proposed to widen the access to 6 metres and provide a sealed bound surface for the first 10m from the access point into the site to prevent loose material going onto the highway.

Any Constraints Affecting the Site

Open countryside/outside village boundary
Adjacent to Local Wildlife Site

4 Consultation and Customer Impact

Summaries of responses received are below.

Local Highway Authority (LHA)

Third Response

The LHA objects to the application. The latest supplied information does not satisfactorily address the LHA's prior concerns. Hence, the reasons for objection stated in our prior response (revision b – sent to the LPA on 06/02/2020) are still maintained. We can see no reason why the ATC survey cannot be undertaken in accordance with our requirements.

Second Response

The LHA objects for the following reasons;

- The applicant has failed to demonstrate that the access to the site would be safe and fit for purpose
- The LHA firmly believe the requests for an ATC speed survey is essential in accurately identifying true vehicle speeds on Cransley Road and subsequently, the necessary vehicle visibility splays required at the site access. These splays are critical in ensuring highway safety.
- The LHA does not permit more than 5 dwellings to be served off of a shared private drive.

First Response

The LHA cannot support the application and require further information to fully assess the proposals. The LHA do not accept speed surveys undertaken using radar guns as the act of a surveyor at the side of the road can influence the results of the survey. Given the uneven topography of Cransley Road either side of the site access, the LHA requires visibility splays in both the horizontal and vertical planes to be illustrated on clear and scaled detailed drawings.

Environment Agency**Second Response**

No comments.

First Response

Foul Water drainage – the proposed development will only be acceptable if the following planning condition is imposed on any planning permission granted:

Condition

The development hereby permitted shall not be commenced until such time as a scheme to dispose of foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To reduce the risk of pollution to the water environment.

We note the applicant is proposing the use of a package treatment plant (PTP) for the disposal of foul water from the development. It is our view that the PTP is not suitable in this instance as the development is:

- Within suitable distance to connect to a mains foul sewer
- Within 20 metres of a water course
- In close proximity to Cransley Reservoir
- A shared residential area, so we have concerns regarding ongoing maintenance of a package treatment plant.

In addition to this, the Anglian river basin management plan requires the restoration and enhancement of water bodies to prevent deterioration and promote recovery of water bodies. Without this condition, the development could cause deterioration of a quality element to a lower status class, prevent the recovery of and/or cause deterioration of a water body because it could result in the release of harmful polluting matter into a water course.

Environmental Protection

No objection and request conditions regarding unexpected contamination, caravan site licence and refuse.

Lead Local Flood Authority (LLFA)

No comment

Anglian Water

Third Response

We can confirm that the assets near to the site is in fact a water main on Cransley Road and is not a foul/surface water sewer. Section 1 is reflective of this water main, and Section 3 comments on available capacity within our sewerage system which is located on Harrington Road.

AW have no asset pipes crossing the boundary of this site.

The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network, they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

Second Response

There are assets owned by AW or those subject to an adoption agreement close to the development boundary. The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network, they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection. The preferred method of surface water disposal would be to a sustainable drainage system (SUDS) with connection to sewer seen as the last option.

First Response

The applicant has indicated on their application form that their method of foul and surface water drainage is not to an Anglian Water sewer. Therefore, this is outside our jurisdiction for comment.

The Wildlife Trust

Second Response

We still have serious concerns and continue to object to the proposal. Although the proposal includes a series of recommendations which seek to mitigate for the impact that the proposed development would have on biodiversity, none of these have been taken forward into the Site Layout Plan and other documents.

Of particular concern is the impact that the proposal would have on both Cransley Reservoir LWS and Loddington Verge LWS. Surface water drainage and the installation of amenities (water and sewage pipes) are key aspects of the protection of both sites. The updated Ecological Appraisal makes a clear recommendation that the proposal includes a clear scheme for drainage and sewage. This does not seem to have been provided.

The site layout does not include any measures to achieve the net gain in biodiversity as stated in paragraphs 170 and 174 of the NPPF.

The presence of protected species is a material consideration within the planning proposal. Further survey work for reptiles and bats would be useful as their presence or likely absence from the site has not been established.

First Response

The submitted ecological survey fails to consult the Northamptonshire Biodiversity Records Centre and therefore did not include the Cransley Reservoir and Loddington verge Local Wildlife Sites. The proposal needs to include both LWSs and where necessary recommend suitable mitigation. As this is not included, we would like to register our objection. During the last survey the section of Cransley Reservoir LWS which is immediately adjacent to the proposed development, was highlighted as being as one of the most species rich.

NCC Ecological Advisor

Second Response

Having reviewed the updated information, I remain concerned about this application.

There is still no information about how surface water is to be attenuated and pollutants kept out of Cransley Reservoir LWS. The site layout plan still does not include SUDS. It is also not clear whether in fact foul water will be disposed of via mains sewer. Due to the wildlife sites proximity and aquatic habitats it needs to be established that the site is not at risk.

Two trees were identified as having low and moderate bat roost potential; these are still not indicated on the site layout plan. Neither a tree survey nor amended plans have been submitted to the authority so it is not currently possible to determine impacts on roosting bats.

First Response

Concerns that the Northamptonshire Biodiversity Records Centre was not consulted for site and species records with no reference to Cransley Reservoir or Loddington Verge LWS. At this stage I would not be confident that the application complies with either Policy 4 of the JCS or paragraph 175 of the NPPF.

Northamptonshire Badger Group

We note that there is no specific reference to badgers in the Ecological Survey although many other protected species are commented upon. Our extensive records show that there have been 22 RTA's reported in the area between 1992 and 2017, 8 of which were reported on Cransley Road.

The area being agricultural land with hedgerows and trees there is every likelihood that badger setts would be present and even though there is a mention in the report that no other protected species appear to be present we would like a specific badger activity survey to be carried out with reference to the Protection of Badger Act 1992 and also Schedule 6 of the Wildlife and Countryside Act 1981 (as amended).

Natural England

Second Response

No comment on the application and has directed the authority to standing advice which can be used to assess impacts on protected species.

First Response

No comment on the application and has directed the authority to standing advice which can be used to assess impacts on protected species.

Northamptonshire Police Crime Prevention Advisor

The application is for a small named family group and we therefore have no objections to the principle of what is proposed.

Great Cransley Parish Council**Second Response**

Cransley Parish Council did not meet after the 7-day renotification was sent. The parish council was sent the reply from Loddington Parish Council and they wish to support the very reasonable reply sent by Loddington Parish Council.

First Response

The application fails to comply with the following planning policies and guidance NPPF para 79, JCS policies 1, 3, 4, 5, 11 13 and 31. Policies 7, 10 11 and RA5 and paragraph 12.4 of the emerging Site Specific Proposals Part 2 Local Plan.

Loddington Parish Council**Second Response**

The Parish Council has been invited to comment upon the email from the applicant's agent dated 18 December 2019. The Council is not clear why the email has only recently been publicised, although it is noted that the email promises a further submission containing information from the applicant's ecologist. It is assumed that the further information referred to has not materialised, and that Officers have decided to wait no longer and consult third parties on the scant information provided on 18th December.

In short, the 18th December email is of no assistance to the Planning Authority and does not alter the Parish Council's objections to this proposed development.

Highway Safety

We attach correspondence from the experienced highway consultant, Stirling Maynard Transportation. SMT have reviewed the 18th December email and their comments are self-explanatory. It is curious that the applicant's unnamed highway engineer has not submitted an assessment of the highway safety of the access in response to the concerns that have been raised, and there has been plenty of time available for the ATC count requested by the Highway Authority to be undertaken.

Instead, the Planning Authority and Highway Authority are being invited to reach conclusions based upon an apparent conversation. This is clearly not a substantive or in any way persuasive approach by the applicant in relation to this very important matter of public safety.

The Parish Council considers that the applicant has not demonstrated that this development has a suitable means of access. There is an objection from the Highway

Authority. It is plain that the Planning Authority should refuse the planning application on highway safety grounds.

Stirling Maynard Response to Loddington Parish Council

I refer to the above application and the recent email from the agent for the application which contains comment on the Highway Authority's Consultee Response regarding speed surveys and visibility splays. I would comment as follows:

- i) I do not agree the request for the ATC survey is excessive. For an access to be safe the required visibility splays should be provided whether it is a small or large site. This is to do with geometry not the number of vehicles using the access. As you know for residential developments the visibility splay standards are the same for 8 units as for 800 units.
- ii) If the splays are being based on actual vehicle speeds rather than speed limits (if it was based on the speed limit here the requirement would be more onerous) the speeds must be measured correctly. This normally requires at least a full weeks data so the counter needs to be put down and taken up either side of this. You could argue that therefore the survey could be nine days but the difference in effort and cost between the two weeks would be minimal.
- iii) Based on both i) and ii) above the request from the County Council is reasonable.
- iv) The (anonymous) highway consultant is incorrect. The calculation of the visibility splay is based on a driver's reaction time and the deceleration of the vehicle. DMRB uses a long accepted formula to calculate this and application of the formula does not equate to 79 metres.
- v) There is no explanation as to how an alternative calculation for 79 metres has actually been made.

In conclusion therefore the applicant should carry out the appropriate speed survey and produce a drawing showing what visibility splays are actually available. Otherwise it is not clear whether safe access can be provided.

Foul Drainage

In the Parish Council's opinion, the task at hand is to demonstrate that a positive means of foul drainage is (i) available and (ii) deliverable. Anglian Water will advise whether there is sufficient capacity to make the nearest point of connection available to serve the development. If it is available, the applicant then needs to show that the connection can be delivered. The nearest point of connection to a mains sewer is close to the junction of Cransley Road and Harrington Road, some distance away from the site and significantly elevated. It has not been demonstrated that a connection to that sewer is deliverable. The Environment Agency has made clear that this option must be properly investigated and discounted before any other option can be considered (see the EA's letter dated 27 November 2019).

The Planning Authority is not in a position to conclude that an appropriate foul drainage method has been demonstrated for this development.

Ecology

Since no further information has been submitted by the applicant to the Planning Authority, the concerns expressed by the County Ecologist, the Wildlife Trust and by The Landscape Partnership on behalf of the Parish Council have simply not been addressed.

Again, and this is a recurring theme, the Planning Authority does not have the necessary information to enable it to reach a conclusion on the ecological impacts of this development.

The Parish Council wishes to reiterate its continuing stance that it fully supports the action of the Planning Authority in issuing enforcement and stop notices in relation to this site and will support the Borough Council in continuing to oppose the development. It is noted that in its statement to the Planning Inspectorate in response to the appeal against the enforcement notice, the Planning Authority indicates an intention to determine the planning application this month. The Parish Council welcomes that intention, particularly as it seems to be the case that the applicant is making little effort to persuade the Planning Authority and the wider community of the merits of this development.

In conclusion Loddington Parish Council would like to reiterate its recommendation for refusal based on the information set out in this and previous correspondence.

First Response

A theme that runs through Government planning policy for traveller sites is that the travelling community and the settled community should not be isolated from one another, and that efforts should be made to reduce tensions between settled and traveller communities in plan-making and planning decisions. Unfortunately, the manner in which this site has come about does nothing to contribute to these objectives. The site was created over the course of a weekend without any planning permission, with a sudden impact upon the area and upon the settled community.

The Enforcement Notice provides your Council's reasons why it considers the unauthorised development is not acceptable. These are that the development conflicts with Policy 31 of the North Northamptonshire Joint Core Strategy in two respects: landscape impact and the unsustainable location of the site. As a matter of pure logic, the Parish Council expects that you will recommend to Planning Committee that the application is refused on those grounds, and that the Committee will refuse planning permission consistent with the formal opinion of your Council as already set out in the Enforcement Notice. There is nothing within the application to justify any reconsideration of your Council's position. Indeed, in the Parish Council's opinion there are other material harms from this development that give rise to additional reasons for refusal. Those material harms are explained in this letter. In the event that your Council resolves to refuse planning permission on grounds additional to those set out in the Enforcement Notice, it is assumed that your Council will formally add those grounds to its case in response to the Enforcement Appeal. The Parish Council unanimously objects to the development proposed in the application. In summary, its grounds for objection are: -

1. The unsustainable location of the site;
2. The impact of the development upon the landscape and character and appearance of the countryside;
3. Highway safety;
4. Ecological impact; and
5. Foul and surface water drainage.

Planning Policy

The Parish Council is aware that the starting point for the consideration of the planning application is the development plan, which comprises the North Northamptonshire Joint Core Strategy (JCS) and saved policies of the Kettering Borough Local Plan. The keynote part of the development plan is Policy 31, which addresses traveller sites. That does not mean that the rest of the development plan is immaterial however, far from it for example, policies on landscape impact, ecology, highway safety are all material and the development plan should be assessed as a whole. Whilst Policy 31 has been the focus of the reasons for issuing the enforcement notice, there is now time for reflection as to whether conflict should be identified with other development plan policies: for example, JCS Policies 3 (landscape character), 4 (biodiversity) and 5 (water environment).

Other material considerations to be taken into account include the National Planning Policy Framework (NPPF). The Parish Council considers that there is conflict with the NPPF, and that conflict is a negative factor in the planning balance to be applied to this application.

A further material consideration is the Government publication "Planning Policy for Traveller Sites" August 2015. The Parish Council notes that the applicant's covering letter for the application seeks support for the development from this publication, and also seeks to discredit the North Northamptonshire Gypsy and Traveller Accommodation Assessment published in March this year. The Parish Council does not find the applicant's comments in the least persuasive, but in any event the application of these policy documents in a Kettering Borough context has very recently been applied in consideration of a substantially smaller site at Stoke Albany (KET/2019/0245 and KET/2019/0445). The Parish Council relies upon your Council to adhere to the approach taken to Government policy in the assessment of those applications, most notably in relation to the relevance of 5-year supply in the context of permanent sites. The site at Cransley Road is clearly intended to be permanent.

Material Impacts

Unsustainable Location

The Parish Council strongly supports this objection, which is identified in the Enforcement Notice. The site is located in open countryside. There are no services or facilities adjoining the site or nearby. Loddington has limited facilities, comprising a public house, primary school, church and village hall (there was a small shop in the village, but it closed some time ago). There is no footway on Cransley Road, and it is clearly not a sensible route for walking between the site and the limited facilities in the village. The bridleway provides an alternative route north from the site to Harrington Road, which then doglegs back towards the village. It is considered highly unlikely that occupiers at the site would walk this route with children to access the primary school for example. There are no buses serving Loddington. The reality is that occupiers of the site would travel by car to access services and facilities. It is noted that the applicant relies upon an appeal decision in relation to a site at Slapton, Buckinghamshire and makes points about how this decision applied the Government publication "Planning Policy for Traveller Sites" August 2015. However, the appeal decision is dated September 2013. The relevance of that appeal decision is not clear. It is noted that Northamptonshire County Council as Local Highway Authority has also objected to the development on the grounds of it being in an unsustainable location.

Landscape and Countryside

The development has had a significant impact upon the character and appearance of the countryside. An innocuous parcel of set aside land has been transformed through the opening up of the access, significant earthworks, laying of hardstanding, stationing of caravans and portable toilets, lighting and the activity and comings and goings associated with the site. The site is in a sensitive location at the edge of the reservoir, in a landscape that is valued and enjoyed by local residents. The Parish Council also wishes to emphasise that the ability of local people to use and enjoy the bridleway connecting Harrington Road and Cransley Road has been affected by the development. Visually, the development has had a major Impact on the ability to enjoy this route, but the Parish Council is also aware that some local people have ceased using the route as they are nervous about encountering the site.

Highway Safety

The Parish Council notes that the County Council has objected to the development on highway grounds. Put simply, the applicant has failed to demonstrate that a safe means of access has been, or can be, provided to serve the development. The Parish Council strongly supports the County Council in this regard. The highways impact of the development over the initial few days of the unauthorised occupation was intense, with extensive areas of mud on the road and real and present danger to all road users. However, the site access must also be safe for the long term, and there is no evidence of this whatsoever. The application includes a speed survey and comments upon it within a covering letter, but the speed survey is flawed, the wrong visibility standards have been applied and no access drawing is included to demonstrate that the appropriate splays can be delivered on land that is either within the public highway or in the applicant's control. Your Council is simply not in a position to do anything other than impose a highway safety reason for refusal. The Parish Council has utilised the services of Stirling Maynard Transportation to review the development, and it has advised as follows: -

"The recorded 85th percentile vehicle speeds are up to 42 miles per hour. Correcting this for wet weather speeds gives a maximum 85th percentile speed of 39.5 miles per hour (wet weather speeds are used for visibility splay purposes). The Agent's letter states that this level of speed requires a visibility splay of 2.4 x 60 metres but does not state on what basis this is calculated. It is assumed it is a loose interpretation of Manual for Streets which would require a splay of 2.4 x 59 metres for a speed of 37 miles per hour.

It is our view that Manual for Streets is not the correct standard for this location. It is a rural road not an urban street and the speed is in excess of the normal range of Manual for Streets. On this basis the Design Manual for Roads and Bridges is the normal standard applied for visibility splays and at 40 miles per hour this would dictate a splay of 2.4 x 120 metres.

The Agent's letter says visibility splays "more than 100 metres" are available. This is not 120 metres, so the standard is not met. In addition, this is just a statement. There are no plans showing what visibility splays can be achieved and a proper access plan showing these should be provided. On the basis of the above the application does not demonstrate that safe access can be provided. "

Ecological Impact

The impact of the development on ecological interests has been an area of concern raised by a number of parishioners, and the Parish Council has therefore instructed The Landscape Partnership (TLP) to advise it on this issue. The headline conclusion of TLP is as follows: -

"There is abundant planning policy and case law that states that the LPA must have all the information it needs to make a planning decision, prior to making that decision. The ecology report does not contain sufficient information, and the assessment based on the inadequate information cannot therefore be adequate and so cannot be relied upon by the LPA. Planning permission cannot therefore be given. The LPA should refuse the permission on the grounds of inadequate ecologies information, or at the very least delay a decision until all the matters described below have been properly addressed."

Perhaps most striking is the failure of the applicant's ecology report to even recognise the existence of a County Wildlife Site immediately adjoining the development. With such an omission, what credence can the applicant's ecology report be given? Like the highway safety issue, your Council is simply not in a position to decide positively in relation to ecology matters arising from this development. The default position is refusal of planning permission on ecology grounds.

Foul and Surface Water Drainage

The planning application form indicates that foul drainage would be addressed by a package treatment plant. No details of the proposed foul drainage system are provided, and it is considered that this is not a matter that should be addressed by condition. The site currently relies upon portable toilets. The location of the site adjoining the reservoir as a County Wildlife Site and topography emphasises the importance of securing properly designed and constructed foul drainage infrastructure. This should be detailed now, before your Council determines the application. If the applicant is unwilling to provide a detailed design pre determination, then lack of information relating to foul drainage infrastructure should form a reason for refusal. Similarly, there is scant information as regards surface water. The application form ticks the sustainable drainage box, but what does this actually mean in practice? Surface water run-off across newly laid tarmacadam has potential to affect the reservoir's water quality in particular, and this needs to be addressed in detail now.

Assessment Against Core Strategy Policy 31

In light of the above, the Parish Council considers that there is clear conflict with Policy 31. We set out below the policy criteria, and the Parish Council's position on each: -

Criterion:

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

Comment:

The site is clearly in conflict.

Criterion:

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.

Comment:

This is a matter that the Borough Council is best placed to judge.

Criterion:

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

Comment:

This is a matter that the Borough Council is best placed to judge, although the Parish Council would expect that assessment of residential amenity to be as rigorous as it would be for permanent dwellings.

Criterion:

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

Comment:

The application does not demonstrate that this criterion is complied with, and it is not a matter that should be addressed by condition.

Criterion:

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

Comment:

The proposal is in conflict with this criterion.

Criterion:

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.

Comment:

There is conflict in relation to safety of access, and matters of air quality, flood risk and contamination have not been assessed by the application.

Criterion:

The size of the site and number of pitches does not dominate the nearest settled Community.

Comment:

The development has clearly had a significant impact on the settled community, albeit numerically it is accepted that the number of pitches proposed does not outnumber the number of dwellings in Loddington.

Criterion:

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.

Comment:

There is conflict with this criterion.

Thorpe Malsor Parish Council

Strongly object to the application. We consider the development to be incompatible with this tranquil, rural area; it erodes a 'natural' place to the detriment of its character, appearance and ecology. Inappropriate development in this location is supported by saved policies 7 and 10 of the Local Plan (1995) and Policy 3 and 4 of the adopted North Northamptonshire Joint Core Strategy. The cumulative effect of activity associated with a residential caravan site – from humans, their domestic pets and vehicle movement – is incompatible with this sensitive area and its ecology. We believe the site access arrangements are unsafe for all road users, and for users of the public bridleway that joins Cransley Road north of the site entrance.

Arthingworth Parish Council

Object for the following reasons:

The greenfield, agricultural land should not have this change of use in a significant landscape area.

- There are already several similar sites in the area
- There are no amenities easily available
- The access to the site is inadequate
- The increase in vehicles numbers would cause problems on the narrow rural road which has limited passing places.

Broughton Parish Council

Grounds for objection:

Principle of the development.

The application is for a Residential Caravan Site and although the applicant is of Gypsy heritage it is clear from a public statement made to the local press that the occupants of the site intend to live a settled life. This would suggest that the housing needs of the applicant and those seeking to live on the site should be addressed under the Authority's Housing policy in accordance with the recent GTAA report.

Additionally it would not be reasonably possible for the Authority to be confident that all future occupants of the dwellings would be of Gypsy heritage so any concessions to the planning regulations pertaining exclusively to Gypsies should not apply.

The Authority has sufficient capacity in the 5 year housing land supply to accommodate 8 dwellings without the need for this site.

The site is in open countryside and the Authority is obliged to "strictly limit" development in open countryside.

The actions of the applicant are a clear case of Intentional Unauthorised Development which is a Material Consideration which must be weighed against the application. Whilst accepting that the applicant has purchased the plot of agricultural land, ownership of land does not give the automatic right to develop it. Activities of this nature should not be rewarded with success which only serves to encourage other attempts to gain planning permission by the back door.

Suitability for residential dwellings

The site plan shows no indication of how surface water or waste water/sewage will be dealt with. This is particularly important when the site is in such close proximity to a water course and sensitive wildlife area.

There is no indication in the application of where or how the dwellings will be supplied with a mains water supply.

There is no indication in the application of how or whether the dwellings will be supplied with electricity or whether the site will have any external lighting. Potential light pollution is an important factor in this location as referred to in the Ecological Survey. Wildlife disturbance from noise pollution from generators would be a factor in this location.

There is no plan for the storage or disposal of household waste. There appears to be no space for bins to be placed on the kerbside for collection or any safe place for a refuse truck to park in order to empty bins.

Highway Concerns

We believe the site entrance to be potentially hazardous. Cransley Road is comparatively narrow, has limited visibility and a 60mph speed limit. Any obstruction to the road caused by vehicles entering or exiting the site will constitute a hazard to other road users. The traffic survey underestimates the volume of traffic as it did not take into account the peak periods of the day.

Environmental Damage

We believe the Ecological survey to be of limited significance as it was conducted at the end of September which is not optimal for a number of species although we must accept that any species that may have been present are now gone. The factors that remain are the prevention of pollution of the adjacent water course and any further habitat destruction or disturbance in the surrounding area.

Lamport and Hanging Houghton Parish Council

We are absolutely sure that Kettering Borough Council Planning Department would not tolerate this blatant flouting of local planning laws by a resident of any village within their jurisdiction. We trust that you will uphold accepted planning laws and refuse planning permission for the site.

Rothwell Town Council

Strongly object to this application and the impact on the residents of Rothwell. Poor access to the site, lack of sewage facilities, possible effects on local primary schools and most importantly, the precedent being set that developments of this kind are acceptable before planning permissions is applied for.

Third Party Objections

122 third party objections to the application highlighting the following matters:

- Highway safety – the site is on a blind bend and on a narrow road with an incline.
- The application does not provide safe access given the steep gradient of Cransley Road.

- There is no plan showing access details or visibility splays.
- The ecology report is very basic and does not recognise the close proximity to a water course, Cransley Reservoir (LWS) and Loddington Verge (LWS).
- It is not clear how foul water will be dealt with.
- Landscape impacts. The large scale site can be seen from the other side of the valley and is a significant detriment to the rural character of the area; it has a major detrimental visual effect on countryside scenic views and that of local residents.
- The intentional unauthorised development. The flagrant breach of planning laws should not be rewarded by a temporary or permanent planning permission; it is unlikely planning conditions would be adhered to given the previous disregard for planning control.
- The size of the site is too overbearing compared to the size of Loddington; planning guidance states when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.
- The loss of existing views from neighbouring properties would adversely affect the residential amenity of neighbouring owners.
- Object to development in the open countryside.
- Impact on surrounding villages.
- Out of character with the local neighbourhood.
- Impact on adjacent bridleway.
- Location of the site in relation to Cransley Reservoir.
- Potential further development.
- The speed survey report is flawed.
- Lack of services in Loddington.
- The site does not conform to the “best fit” for a traveller site due to its location and lack of available services.
- The light from the site causing light pollution.
- There is no regular useable public transport making the site unsustainable (as required by the North Northamptonshire Core Strategy) and would increase numbers using private transport and pollution of the countryside.
- There is no main sewer nearby.
- Extra pressure of local services including the school.
- Traveller planning policy - the site is in an unsustainable location.
- The design, appearance and materials of the caravans and utility buildings make no effort to complement the surroundings.
- The connection to the village is by an unlit road with no footpath.
- The site has no safe walking route to schools, shops, doctors etc due to its location on a steep, unlit narrow road.
- The area of the Reservoir closest to the traveller site is an important marshland wetland habitat.
- There is no lighting, no sewage or proposal for waste.
- The site has been built to accommodate more than eight plots and is being operated as a commercial venture for caravan pitches.
- The change of use to a traveller site has not been prepared in accordance or with the involvement of the Community.

5 Planning Policy

National Planning Policy

Planning Policy for Traveller Sites (PPTS)

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 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.

Ministerial Statement 2015

This ministerial statement announced Intentional unauthorised development is a material consideration that would be weighed in the determination of planning applications and appeals. Applies to all new planning applications and appeals received since 31 August 2015.

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 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 – draft plan out to consultation at this time.

6 Financial/Resource Implications

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As there is a current appeal ongoing regarding the enforcement notice it is considered likely that the applicant would submit an appeal against any refusal of planning permission.

7 Climate Change Implications

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Addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin both plan-making and decision-taking. The National Planning Policy Framework emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development. National planning policy and guidance is clear that effective spatial planning is an important part of a successful response to climate change as it can influence the emission of greenhouse gases. In doing so, local planning authorities should ensure that protecting the local environment is properly considered alongside the broader issues of protecting the global environment. The adopted Development Plan for Kettering Borough is consistent with and supports these national policy aims and objectives.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The development plan comprising the North Northamptonshire Joint Core Strategy, Local Plan and Kettering Town Centre Action Plan makes clear the importance of climate change and seeks to create more sustainable places that are naturally resilient to future climate change. This will be further amplified by the emerging Site-Specific Part 2 Local Plan once adopted which is being prepared within this context. Policies contained within the Part 2 Local Plan will help contribute towards a reduction in greenhouse gas emissions and will secure

that the development and use of land contributes to the mitigation of, and adaption to, climate change.

8 Planning Considerations

The key issues for consideration in this application are: -

1. Principle of Development
2. JCS Policy 31 criteria
3. Five year supply of sites
4. Ecology
5. Other material considerations including PPTS Policy H and NPPF
6. Personal circumstances, Human Rights and Best interests of the child
7. Planning Balance and Conclusions

1. Principle of Development

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.

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.

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 and Traveller sites. RA5 refers to Policy 119 in relation to Gypsy sites but is it not a saved policy and no longer valid.

The principle of allowing new sites for gypsy and traveller site development is acceptable subject to each development meeting the criteria set out in JCS Policy 31. Section 2 below sets out the officer's assessment of the proposed site against this criteria.

The PPTS is a material planning consideration. Paragraph 25 of the PPTS states that Local Planning Authority's 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 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”

In this case there is no evidence before officers to suggest that the applicant or site occupants do not meet the above definition.

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. 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 350m from the edge of Loddington and 740m as the crow flies, or 930m by road from the centre of the village with its limited facilities comprising, public house, primary school and village hall. The 350m stretch of Cransley Road between the site access and edge of the village is unlit with no designated footpath. There is a public right of way, the bridleway GR10, which runs adjacent to the site following the northern boundary of the site and linking up to the road junction where the property known as The Three Chimneys is located.

The village of Broughton is 2.9km by road from the site which includes primary school, convenience retail, hot food takeaway, village hall and public house.

The market town of Rothwell is 3.4km by road from the site with a wider range of facilities including GP surgery.

Given the distance to the nearest settlements, and the limited services in the surrounding area, it is considered that there would be a reliance on private vehicles to access the services of Broughton and Rothwell, with the town centre of Kettering, the closest large town, located 5.2km by road from the site.

Having regard to the distances to the nearest settlements and the facilities or services they accommodate, the site cannot be said to be closely linked to an existing settlement with an adequate range of services and facilities, it is considered that the site is unsustainably located, and fails to accord with criteria (a) of policy 31.

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

With regard to infrastructure the key elements considered here are highway capacity (a different consideration to safety of the access), education, health, drainage (foul and surface water) and water supply.

Safety of the access will be discussed under criterion (e and f). With regard to capacity of the highways network, the Local Highway Authority have raised no issues and it is considered that the local roads are capable of taking the additional flows without the need for any junction or highway improvement.

From information provided by NCC Education it is evident that should school places be needed by the site occupant's families there is capacity in the primary schools at Loddington, Broughton and Rothwell. There is also capacity at Rothwell for secondary school places. The applicant is aware of how to apply for such places. No information has been provided about any education requirements. Children of school age have been witnessed by Officers on site and therefore it is considered prudent to consider the capacity of educational facilities.

The nearest GP practices are within Rothwell, Kettering and Mawsley (distances to nearest GPs are approximately by road Rothwell 4.2km, Weavers/Eskdaill surgery (Kettering) 5.2km and Mawsley 6.9km). It is considered unlikely that the development would place undue pressure on health services; the site occupants are likely to be able to access health services should they be needed.

Drainage and water supply are discussed below under criterion (d). There is no evidence that the development would have any impact on sewerage infrastructure. There is mains water infrastructure in proximity to the site and there is no reason to believe this development cannot connect into this, subject to the necessary consent/approval of Anglian Water.

It is considered reasonable to assume that electricity will be available should the applicant get the necessary approvals/connection from Western Power.

There is not considered to be a cumulative impact when considering other existing or planned sites.

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

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 Council's Laurels Site 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. The application proposes 8 pitches the smallest measuring 395 square metres and the largest 470 square metres. This is therefore in accordance with this general guidance.

The site is not adversely impacted by other development as the surrounding land is only permitted to be used for agricultural purposes. There is considered to be sufficient space within each pitch to facilitate a good standard of amenity for the

occupiers. A utility building is proposed to serve each pitch and can be accommodated within the pitch confines. There is no reason to believe that a good standard of amenity cannot be achieved.

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

There is a mains water supply close to the site which runs along Cransley Road and a hydrant located within Cransley Road adjacent to the southern corner of the site. The development is therefore considered to be capable of being served by potable water.

With regard to foul drainage, the revised proposal is to connect to the public foul drainage network. Anglian Water have commented that there is available capacity within the sewerage system to deal with any foul drainage flows from the development and that the applicant will need to serve notice on Anglian Water to connect into the foul network. It is at that point Anglian Water will advise regarding the most suitable point of connection.

Importantly, Anglian Water have confirmed that there is no foul sewer within Cransley Road (only a water main) and there are no Anglian Water assets/pipes crossing the boundary of the site. From the information the LPA have, the nearest foul water sewer is located within Loddington, close to the junction of Harrington Road and Cransley Road, some 410 m from the site entrance and 12 metres higher than the site entrance.

Given the local topography it is conceivable that any connection into the existing foul water drainage network would require a mechanical pumped solution within the site and due to distances involved to existing foul drainage may be prohibitively expensive. Any uncertainty about the feasibility of foul water drainage solutions for the site may have implications for local ecology and the concerns expressed by the Environment Agency and others regarding on site drainage solutions and the original proposal for a package treatment plant (PTP) given the proximity to Cransley Reservoir, nearby water course and concerns regarding ongoing maintenance.

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

Cransley Road is winding and undulating; the road falls from north to south and bends close to the site corners (adjacent to the highway). The road has a 60 mph speed limit. The rural road has no footpaths, is unlit and there are no bus stops in the vicinity of the site.

The Local Highways Authority (LHA) has objected to the application. This is on the grounds that the information submitted does not address concerns the LHA have regarding the safety of the access. In the LHA's view the applicant has failed to demonstrate that the access would be safe and fit for purpose.

The LHA have requested that a speed survey is completed using Automatic Traffic Counters (ATC) rather than using radar guns (a methodology which has been used in this case to support the applicant's case regarding access and visibility requirements).

Additional information has been submitted by the agent to justify the methodology employed and why ATC speed survey is not necessary. The agent has indicated that the ATC speed survey will not be carried out.

The LHA consider that a speed survey using ATC is essential to accurately identify true vehicle speeds on Cransley Road and subsequently the necessary vehicle visibility splays required at the access. These splays are critical to ensure highway safety. ***In light of the LHA objection and concerns about the risk to highway safety, it is considered that that the development does not demonstrate compliance with this criterion of Policy 31 and is in conflict with this.***

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

As identified above the application does not demonstrate that a safe access can be achieved. It is considered that at this time there is a risk to the safety and therefore well-being of those accessing or egressing the site and wider highway users.

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. There will inevitably be noise from the adjacent rural road however this is unlikely to be so severe or harmful to refuse the scheme on this basis. The site is located in Flood Zone 1 which is an area at lowest risk of flooding and no evidence of contamination. No consultee responses indicate that there are any environmental factors which would put at risk the well-being of the site occupants. The sole risk to safety and well-being is the highway and access issue.

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

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, an LPA should ensure that the scale of development does not dominate the nearest settled community.

In this case given the site's location and its relative position to other Gypsy and Traveller accommodation and settled communities, there is not considered to be a dominating impact.

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 submitted with information to demonstrate that the application had considered the landscape impact of the development.

The LPA commissioned an independent review, by a suitably qualified landscape professional, of the landscape matters associated with this application. ***This is***

attached as Appendix A. This sets out the baseline landscape character both national and local for the area. It also explains the public viewpoints associated with public footpaths and other receptors including the recreational water sports users of Cransley reservoir. Although the development will have an incongruous appearance in the rural valley, it is noted that the visual envelope of the site is relatively restricted. Whilst there are a number of public rights of way within the vicinity of the site, views are only clearly available from Bridleway GR10 which follows the northern boundary of the field where the site is located. Views from the reservoir are likely to be minimal. A more formalised access onto the highway will mean that the site will be viewed by users of this public highway. However, this is not considered to be of high sensitivity. There will be views from GR10 particularly in the winter months that will detract from the current rural outlook from the route, although well-designed planting would screen the development in time.

The development will have some harm to the character and appearance of the local landscape because of its incongruous appearance and loss of grassland. However, the site is located within the most sheltered part of the field which takes advantage of natural topography and vegetation screening to minimise its landscape influence.

The report concludes that although the development does not entirely accord with Development Plan policy or National Planning Policy, this divergence is not significant enough to conclude that the development is unacceptable in landscape and visual terms. It is considered that a suitably worded planning condition could secure an appropriate planting scheme and also secure re-planting should any landscaping fail within the first five years after planting.

3. 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 case of 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 had been granted planning permission at the base date for the land supply assessment period (31.03.2019) but have not been completed, namely;

Application number	Site Address	Number of pitches	Decision date
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.

In the current monitoring year, a further permission has been granted for a single pitch at land adjacent Unit 3, Woodside, Stoke Albany Road, Desborough (KET/2019/0562). This has not yet been included within the supply but will count under next year's monitoring figures.

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.

4. Ecology

The NPPF states that the planning system should minimise impacts on biodiversity and provide net gains in biodiversity. Paragraph 99 of Circular 06/05 states that: it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. Likewise, section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that: every public authority must in exercising its functions, have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity. JCS policy 4 sets out that existing biodiversity assets will be protected and ecological networks enhanced. The approach is supported by the NPPF.

The application is accompanied by a Preliminary Ecological Appraisal which has been revised during the course of the application to reference three Local Wildlife Sites (LWS) within 2km of the application site; Cransley Reservoir, Loddington Verge and Cransley Wood.

The appraisal which included a walkover survey of the site and accessible adjacent areas indicates that the site comprised semi-improved grassland bounded on three sides by mature hedgerows.

The report concludes that the site provides moderate potential suitability for foraging/commuting bats with two trees providing low and moderate bat roost potential. No Badger setts were found with some evidence of well-defined but poorly used tracks moving through and along the western boundary of the site.

No records of reptiles have been recorded with Cransley Reservoir the only water body within 500m of the site offering poor suitability for Great Crested Newts.

The appraisal recommends all boundary hedgerows and trees to be retained, care should be taken not to damage the western verge of the adjacent section of Cransley Road, as large a buffer as possible retained between the construction footprint and the southern site boundary and steps taken to minimise unauthorised pedestrian access to the adjacent LWS to the south (e.g. through the use of additional fencing). Biodiversity enhancements in the form of native planting and the provision of bird or bat nest boxes at elevation within the mature trees are proposed to maximise the biodiversity value of the site.

Northamptonshire Badger Group, Natural England, NCC Ecological Advisor and the Wildlife Trust have assessed the information submitted, with Natural England directing officers to standing advice regarding protected species.

Northamptonshire Badger Group note that 8 road traffic accidents involving badgers have been recorded on Cransley Road since 1992 and consider that a specific badger survey should be carried out with reference to the Protection of Badgers Act 1992 and also Schedule 6 of the Wildlife and Countryside Act 1981 (as amended).

NCC Ecological Advisor raises concerns about the application and specifically the lack of information about how surface water is to be attenuated and pollutants kept out of the Cransley Reservoir LWS. The advisor also highlights that two trees were identified as having low to moderate bat roosting potential; these are still not indicated on the site layout plan so their fate is unknown.

The applicants Ecological Appraisal recommends that:

- i. *the scheme incorporates sufficient drainage/sewerage as to prevent any contamination of the adjacent LWS (including the stream corridor therein) to the south (i.e. the adjacent LWS).*

The Environment Agency considered that the original foul water drainage solution of an on-site Package Treatment Plant (PTP) was not suitable in this instance due to the proximity to Cransley Reservoir, the site being within 20 metres of a water course and concerns regarding ongoing maintenance. They conclude that the installation of private sewerage treatment facilities is not normally considered environmentally acceptable because of the greater risk of failures leading to pollution of the water environment. Anglian Water in their response have confirmed that the nearest foul water sewer is located in Loddington at the junction of Harrington Road and Loddington Road some 410 metres and 12 metres higher than the access point to the site.

Given the local topography it is conceivable that any connection into the existing foul water drainage network would require a mechanical pumped solution within the site and due to distances involved to existing foul drainage may be prohibitively expensive. Any uncertainty about the feasibility of foul water drainage solutions for the site may have implications for local ecology and the concerns expressed by the Environment Agency and others regarding on site drainage solutions and the original proposal for a package treatment plant (PTP).

The Wildlife Trust is concerned about the lack of clarity around the drainage proposals, both surface water and foul drainage, and their interaction with ecology. It is considered by officers that the full extent of any impacts cannot be established without the clarity the Wildlife Trust seeks. The Trust also comments that further survey work of reptiles and bats would be useful as their presence or likely absence has not been established. There is also concern that recommendations made in the ecological appraisal have not been translated onto the proposed plans and therefore the likelihood of the proposed measures being completed is uncertain. Given development has started, it may be too late to incorporate some of the measures and compensation should be considered. The Wildlife Trust therefore objects to the application.

No information about surface water attenuation within the site and how pollutants would be kept out of Cransley Reservoir LWS has been produced. Together with the issues of foul water drainage and pollution, coupled with uncertainty regarding potential bat roosts, means that the proposals resultant impacts on biodiversity cannot be determined.

There is insufficient information available to allow a full assessment of the ecological impacts of the development to be completed. This uncertainty about impacts is a material consideration which weighs against the scheme.

5. Other material considerations including Policy H in the PPTS and the NPPF

Material considerations to weigh in the balance with Development Plan policy include the NPPF, PPTS, the personal circumstances of the applicant and the site occupants/families including the rights of any child and the nature of the intentional unauthorised development.

Having regard to the 'Porter Exercise' as set out in South Bucks DC vs Porter (2003), it is necessary to weigh the harm arising from breaches of planning control against any countervailing considerations such as need for sites and personal circumstances.

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 policy 31 of the JCS 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 or soft landscaped so as to positively enhance the environment and increase its openness
- (c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
- (d) Not enclosing 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

LPA's should very strictly limit new traveller site development in open countryside away from existing settlements or outside areas allocated in Development Plans (paragraph 25).

The need and availability of sites has been assessed within section 3 above. There are no alternative sites immediately available to the families on site although sites can arguably be delivered as outlined in the above assessment. A 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 is Government policy that intentional unauthorised development is a material consideration that would be weighed in the determination of planning applications and appeals. The ministerial statement announcing this policy stated that it applies to all new planning applications and appeals received since 31 August 2015.

The LPA is aware that the applicant has been professionally advised throughout his and others occupation of the site and considers that given the professional advice that will have undoubtedly been received that they will have been aware or made aware by his instructed agent of the LPA's policies that seek to restrict development in the open countryside. No enquiries were made to the LPA about the suitability of the land for this purpose prior to it being purchased. Had the applicant made enquiries with the LPA at the time of or subsequent to his purchase he would have been advised of the strong policy objection to development of the site. The LPA considers that it is not by coincidence that the planning application was dated Friday 11th October and marked as received by the LPA on Monday 14th October, with the unlawful development works taking place over the weekend of 11th, 12th and 13th October. It is clear that this site is not intended to be a temporary base.

Nevertheless, the Council could consider granting a temporary permission if appropriate. The harm already set out with regard to the site's location, sustainability, highway safety and ecology, is not outweighed by any lack of a five-year supply and the granting of a temporary permission will only serve to exacerbate the harm and make the restoration of the site to its former condition an unlikely prospect.

The intentional unauthorised development of the site is a material consideration that should be weighed in the determination of this planning application. 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.

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.

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.

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. There is adequate space for children to play but any play equipment such as swings or slides would only add to the cluttered and urbanising appearance of a piece of land that had been open prior to the caravans being moved onto the land.

The NPPF must also be considered as a material consideration. The opportunities for non-vehicular movements are considered to be limited in this case given the nature of routes and location of services which are most likely to be accessed. It must be recognised however that paragraph 103 of the NPPF states that opportunities to maximise sustainable transport solutions will vary between the urban and rural areas and this should be considered in decision-making. This would not outweigh the Development plan policy which requires new Gypsy and Traveller sites to be closely linked to an existing settlement with an adequate range of services and facilities which in not the case here.

Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by: (d) minimising impacts on and providing net gains for biodiversity and (e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Given the potential impacts on the Cransley Reservoir LWS in particular as described above, this weighs against the proposal.

6. Personal Circumstances, Human Rights and the Best Interests of the Child

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:

Personal circumstances are summarised here on the basis of information submitted with the application (albeit limited), any verbal updates from the applicant and information for any other sources.

- There is no dispute that the applicant and those on site meet the planning definition of Gypsies and Travellers.
- The submitted Planning Statement states that moving to the site will allow the families to put children in school and or arrange home tutoring and to register with doctors.
- There is no written information provided by the agent regarding those living on site. The applicant has verbally stated to officers visiting the site (13th February 2020) that there are 21 children on site, 4 of which are under 3 and 3 females on site who are pregnant.
- Prior to that at the end of January 2020, NCC Education were in contact with those on site, as the applicant had enquired about school places, and were advised that there were no school aged children on site at that time.
- The applicant has referred to some elderly persons with illness on site, but no further detail is before the LPA.

The personal circumstances set out are not considered to outweigh the planning harm set out in this report. Also, it is considered that any inference with human rights is proportionate.

7. Planning Balance and Conclusions

The starting point for consideration of this application is that it is contrary to Development Plan policy 31 of the Joint Core Strategy in terms of its location, access to services and sustainability, risk to highways safety and ecological harm.

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 applicant's intention to make this a permanent home. It is considered that the harm caused by the development as identified in this report and the failure to comply with Development Plan policy is not outweighed by a lack of a five-year supply and it is not appropriate to grant a temporary permission. The personal circumstances of the applicant and the site occupants on site have been considered on the basis on the information submitted and any verbally updates provided by the applicant. 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.

Paragraph 25 of the PPTS states that authorities should very strictly limit new traveller site development in the open countryside. The LPA accepts that this does not mean a blanket ban on all traveller sites in the open countryside.

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.

There are elements of the NPPF which are relevant to the proposal and which weigh for and against but do not amount to overriding factors which outweigh by themselves or cumulatively when considering other material planning considerations, the Development Plan.

Balancing the personal circumstances, the needs of the child, the lack of robust evidence for a 5 year supply of sites and any element of the NPPF which weigh in favour of the scheme, against the conflict with the Development Plan and the parts of the PPTS 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 in this report. Should this application be refused, given the enforcement notice which has been served, an appeal would need to be made by the applicant within 28 days of the refusal.