

PLANNING COMMITTEE – THURSDAY 15 DECEMBER 2022

PART I - DELEGATED

9. **22/1573/FUL – Change of use of land to provide for 4no. additional pitches for residential purposes together with the formation of hardstanding and driveway at LITTLE LIZ, OLD HOUSE LANE, KINGS LANGLEY, WD4 8RS**

Parish: Abbots Langley Parish Council
Expiry of Statutory Period: 12.10.2022

Ward: Gade Valley
Case Officer: Scott Volker

Recommendation: That Planning Permission be granted.

Reason for consideration by the Committee: Called-in by three Members of the Planning Committee due to Green Belt location and whether any very special circumstances apply.

1 Relevant Planning History

- 1.1 94/133/8 - Erection of stable block. Refused for the following reasons:

R1: The proposed stables would be situated in a prominent position and would represent a sporadic and isolated development harmful to the rural character and appearance of this locality which is situated within the Metropolitan Green Belt and is designated as a Landscape Conservation Area. Accordingly the proposal is contrary to Policies 50, the new Policy inserted after Policy 53 and Policy 73A of the Three Rivers District Plan Review 1991.

R2: The proposed stables would be situated on an insufficient area of land to support the proposed number of animals without adverse consequences for the condition of the land. This would result in harm to the character and appearance of this attractive rural area which is within the Metropolitan Green Belt and is designated as a Landscape Conservation Area. Accordingly the proposal is contrary to Policy 73A of the Three Rivers District Plan Review 1991.

R3: The proposal would result in the removal of a substantial number of saplings which would otherwise grow into a substantial woodland area providing an attractive feature in the landscape, and a buffer on the eastern edge of the M25 motorway.

- 1.2 This application was subsequently dismissed at appeal: T/APP/P1940/A/94/243003/P7. Whilst the appeal was dismissed, the Inspector stated that the building would not be visually intrusive, and that a condition limiting the number of horses to three would likely overcome the issue of over-grazing.

- 1.3 97/0938 - Erection of single storey stable block. Approved.

- 1.4 99/0068 - Erection of hay barn. Approved and implemented.

- 1.5 02/01634/FUL - Retrospective application: Retention of agricultural barn. Refused for the following reason:

R1: The proposed barn, by reason of its increased size would result in a Green Belt. No justification has been given why a building of this size is reasonably required in this Green Belt location and this is therefore contrary to Policy GB1 of the Three Rivers Local Plan 1996- 2011.

- 1.6 02/00649/OUT - Outline application: Erection of a detached dwelling. Refused July 2002 for the following reasons:

R1: The site is within the Metropolitan Green Belt where it is the policy of the local planning authority as set out in the approved Hertfordshire County Structure Plan Review 1991-2011

(Policy 5) and the Three Rivers Local Plan 1996-2011 (Policy GB1), not to allow development unless it is essential for the purposes of agriculture or other uses appropriate to the rural area. No such need has been proved. As such the proposal is contrary to GB1 of the Three Rivers Local Plan 1996-2011.

R2: The level of annual dwelling completions in Three Rivers is such that without intervention, the allocated number of dwellings for the District is likely to be significantly exceeded. Policy H3 of the adopted Local Plan provides the appropriate mechanism to restrain further release of housing sites and is considered relevant in this case. The proposal is considered to be contrary to Policy H3 (iii) of the adopted Local Plan.

R3: The existing visibility splays, due to the intensification of the use of the access, are inadequate by current standards as detailed in 'Roads in Hertfordshire'. The inadequacy of the visibility splays would be to the detriment of the safety and free flow of traffic on the highway and to the detriment and safety of all other road users. This is contrary to Policy T7 of the Three Rivers Local Plan 1996-2011.

1.7 10/1570/FUL - Erection of a stable block. Refused for the following reason:

R1: The proposed stable block by reason of its siting, scale, design and the spread of urbanising development across the site; would result in an overly prominent form of development that fails to protect the countryside from encroachment and would be to the detriment of the openness of the Metropolitan Green Belt. As such, the proposal represents inappropriate development in the Metropolitan Green Belt, and no very special circumstances have been demonstrated to outweigh the harm to the Metropolitan Green Belt. This is contrary to Policy GB1 of the Three Rivers Local Plan 1996-2011.

1.8 11/0725/FUL - Use of land for the stationing of caravans for residential purposes for 2 no. gypsy pitches together with the formation of additional hard standing and utility/ dayroom ancillary to that use. Refused for the following reason:

R1: The change of use of the land to create two gypsy pitches constitutes inappropriate development in the Metropolitan Green Belt. No very special circumstances have been demonstrated to overcome the presumption against inappropriate development in the Metropolitan Green Belt. Furthermore the siting of caravans on this site, with associated urbanising development, fails to preserve the openness and rural character of the Metropolitan Green Belt and character and amenities of the locality, to the detriment of the visual amenities of the area. This is contrary to PPG2, Policy GB1 of the Three Rivers Local Plan 1996-2011 and Policies CP1, CP5, CP11 and CP12 of the Core Strategy Submission Version / Proposed Changes (February and July 2011).

1.9 Temporary planning permission permitting the use of the site for four caravans of which no more than two should be static caravans up until July 2015 was subsequently allowed on appeal: APP/P1940/A/11/2160486/NWF and APP/P1940/C/11/2164949 (relating to Enforcement Case 10/0439/COMP). In considering the resultant appeal, the Inspector determined that the personal circumstances of the appellant, in conjunction with the general level of unmet need in Three Rivers, outweighed the harm caused to the openness of the Green Belt and therefore resolved to grant temporary permission for a period of three years from the date of the decision (decision dated 9 July 2012). Costs were also awarded against the Council for its failure to adequately assess the level of Gypsy/Traveller site provision in Three Rivers, the merits of granting a temporary permission and the human rights of the applicant.

1.10 13/2256/FUL - Use of land for the stationing of caravans for residential purposes for 3 no. gypsy pitches together with the formation of additional hardstanding and utility/dayrooms ancillary to that use. Permitted and implemented.

- 1.11 16/0958/FUL - Removal of Conditions 1 (Personal) and 3 (Temporary Period) of planning permission 13/2256/FUL (Use of land for the stationing of caravans for residential purposes for 3 no. gypsy pitches together with the formation of additional hardstanding and utility/dayrooms ancillary to that use] to allow use as a permanent site for 3 no. gypsy pitches - Temporary planning permission granted for a further 18 months (expiring 1 January 2018).
- 1.11.1 This decision was appealed by the applicant under APP/P1940/W/16/3164710 and was subsequently granted for permanent planning permission by The Planning Inspector. During the course of appeal, following a change in policy (the Council resolved that the Gypsy Traveller and Travelling Showpeople Local Development Document LDD, which was never adopted but initially anticipated for adoption in 2013, was to now progress through the preparation of the new Local Plan), the Local Planning Authority (LPA) proposed a three year occupancy and to allow the site to be occupied by the applicant's sister.
- 1.11.2 In reaching her decision, the Inspector cited that the unmet need, failure of policy, lack of alternative sites, personal circumstances of applicant and wider family outweighed the inappropriateness of the development in the Green Belt, the additional harm from loss of openness, failure to safeguard the countryside from encroachment and the limited harm to the character of the rural area.
- 1.11.3 Planning permission was therefore granted by the Inspector on 23 June 2017 for permanent planning permission and personal only to the applicant and close family and their resident dependants' (3 gypsy pitches).
- 1.12 18/0821/FUL - Use of land for the stationing of caravans for residential purposes for 6 no. gypsy pitches together (6 static caravans and five touring caravans) with the formation of additional hard standing, 3 ancillary utility/dayroom blocks and stable block – Permitted July 2018 and implemented.

2 Other Gypsy & Traveller Sites in Three Rivers:

Land Rear of 59 Toms Lane Land Rear of 59 Toms Lane, Kings Langley (otherwise known as Little Lily)

Planning permission was granted by the Planning Committee for permanent and personal permission for 4 gypsy pitches.

- 2.1 17/2695/RSP: Retrospective: Retention of the existing residential caravan site, with four Gypsy pitches/plots, consisting of four static caravans and four touring caravans, shared utility/dayroom and associated hardstanding and parking. This permission has been implemented.

The Oaklands (Land between Bedmond Road and M25), Bedmond

- 2.2 09/0831/FUL: Removal of condition 2 of planning permission 02/00482/FUL to remove personal restriction and variation of condition 3 to increase the number of caravans from 18 to 24 (12 gypsy pitches). Permission granted 21.08.2009.

Fir Trees, Dawes Lane, Sarratt

- 2.3 14/1570/FUL: Variation of Condition 2 (restriction on number caravans) of planning permission 04/0404/FUL to allow for an additional two caravans, one of which to be a static caravan. Permission granted on 23.01.2015. This permission has been partially implemented with Officers noting that at the time of writing this report only one static caravan existed on the land although a touring caravan subject to the permission is stationed on the land.

Land Adjacent 321B Uxbridge Road, Rickmansworth:

- 2.4 13/0522/RSP: Part retrospective: Change of use of land to a residential caravan site for one gypsy family. The site to contain one static caravan, one touring caravan and parking for two vehicles with associated hardstanding and portaloo. Permanent and personal permission granted; not implemented. This planning permission has now expired.

Summary

- 2.5 There are currently 23 (potentially 24) existing permanent pitches will full planning permission in the District as set out in table form below:

Current level of gypsy pitches in TRDC	Number of pitches granted	Number of pitches implemented	Status	Expiry date
The Oaklands, Bedmond	12	12	Permanent	n/a
Fir Trees, Sarratt	2	1 (2)	Permanent	n/a
Rear of 59 Toms Lane, Kings Langley	4	4	Permanent	n/a
Langleybury Lane, Langleybury	6	6	Permanent	n/a
Land Adjacent 321B Uxbridge Road, Rickmansworth	1	0	Permanent	Expired
Total:	25	23 (24)		

3 Relevant Enforcement History

- 3.1 20/0051/COMP – Unauthorised Removal of TPO Woodland – Based on the limited evidence available to the Council it was agreed that a re-planting scheme should take place. In excess of 200 trees (not saplings) were re-planted. Whilst it is accepted that the trees will take some time to grow to maturity including the natural re-growth of the understudy, the measures undertaken were considered acceptable, although further on-going maintenance is required. The re-planted trees are automatically protected due to the existence of the woodland preservation order. An extent Injunction also exists on the land following the tree removal which prevents the following from occurring (unless planning permission is granted):

- a) causing or permitting any tree to be felled on land at Langleybury Lane, Langleybury, Herts ('the Land')
- b) causing or permitting any hardstanding to be laid on the Land or any drains or other services to be laid under the surface of the Land
- c) causing or permitting the Land to be used for the stationing of caravans or other portable structures;
- d) occupying or causing or permitting the occupation of any caravan or other portable structure stationed on the Land in breach of c. above;
- e) causing or permitting any other development which requires an express grant of planning permission to take place on the Land;
- f) causing or permitting any materials required for the purposes (i) creating hardsurfacing or (ii) carrying out development which requires an express grant of planning permission to be brought onto or kept on the Land.

4 Description of Application Site

- 4.1 The application site forms part of an open parcel of land located immediately to the north and east of the existing and well-established traveller site known as Little Liz including the existing vehicular access point via Old House Lane. The application site is positioned close to the junction with Old House Lane and Langleybury Lane.
- 4.2 Little Liz contains 6 pitches enclosed by close boarded fencing, a stable block and an associated paddock, adjacent to Old House Lane with the wider site (enclosed in blue) forming part of a woodland tree preservation order (T235), part of which was removed and re-planted. To the west of the application site and beyond the tree line buffer is the M25 motorway.

- 4.3 In terms of policy designations the application site is situated within the Metropolitan Green Belt and comprises land within the woodland tree preservation order.

5 Description of Proposed Development

- 5.1 Planning permission is sought for the change of use of the land to accommodate 4 additional gypsy pitches to accommodate members of the applicant's extended family. This application if granted would take the total number of pitches on this site to 10.
- 5.2 Within each proposed pitch there would be two caravans of which no more than one would be a static caravan/mobile home. The layout of the new pitches has been arranged to read as an extension of the existing caravan site. The pitches would be enclosed by post and rail fencing and complimented by hedge planting. No amenity day rooms are proposed.
- 5.3 A new internal access road is proposed and would serve the new pitches. The road would extend eastwards from the existing entrance and would meander to the proposed area subject of the 4 new pitches. Tree planting and other soft landscaping are proposed along the edge of the new pitches (to the north) and between the new internal road and existing traveller site. A total of 51 trees are proposed along with hedge planting.
- 5.4 For clarity, a single Gypsy or Traveller pitch can include two stationed caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, although only one of these can be a residential mobile home. This latter Act and the Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006 defines a residential mobile home as being no larger than 20 metres in depth, 6.8 metres in width and 3.05 metres internal height.
- 5.5 Amended plans were received during the course of the application process to remove the access point within the north eastern corner of the wider site from Langleybury Lane.

6 Consultation

6.1 Statutory Consultation

- 6.1.1 Abbots Langley Parish Council: No objection.

Following a presentation by the applicant, members appreciate the need for more plots within the site and acknowledge that the proposed development will not expand the site further into the green belt. As such, Members support the application.

- 6.1.2 Sarratt Parish Council: No objection, concerns raised regarding tree removal.

The site for this application is just outside of the Sarratt Parish boundary, however it is of interest to Sarratt Parish residents. We agree with Abbots Langley Parish council's no objection position on this application to enable a limited expansion traveller pitches on this site. However we have significant concerns on the management of the extended site. A significant area of the overall plot has been cleared of trees, allegedly without appropriate permission, resulting in major biodiversity loss as well as removal of natural screening of the site. We are of the view that these actions need to be addressed, rectified and confidence gained that the site biodiversity is protected before any further development permission allowed.

- 6.1.3 Gypsy and Traveller Services at HCC: - For data protection reasons they were unable to supply any information that will breach GDPR laws; however, they confirmed the following:

"We have a huge shortfall of pitches versus number wanted".

- 6.1.4 Hertfordshire County Council – Highway Authority: No objection.

Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

HCC as Highway Authority recommends inclusion of the following Advisory Note (AN) / highway informative to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980:

AN1) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN2) Obstruction of highway: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN3) Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

Comments/Analysis

Description of Proposal

Change of use of land to provide for 4no. additional pitches for residential purposes together with the formation of hardstanding and driveway

Site and Surroundings

Old House Lane is an unclassified local access road subject to a 60mph speed limit which is highway maintainable at public expense. The site is located to the northwest of the centre of Watford close to the M25 motorway, between junctions 19 and 20. The outskirts of Abbots Langley are approximately 1.5km from the site and access to the A41 is approximately 1.3km from the site. There is not a footway fronting the access to the site, the nearest footway to the site is along Langleybury Lane and there is also a right of way footpath, Abbots Langley 047, to the west of the site. Both the closest bus stop, on Watford Road, and train station, Kings Langley, exceed the recommended walking distance, which means that the location of the site would not be considered sustainable. However, due to the extension of the site being a total of 4 residential pitches, this would not be considered a significant enough of an increase of vehicular trips on the highway network to cause severe highway safety concerns.

Access and Parking

The application does not propose to alter the vehicular access into the site from Old House Lane. The existing access is wide enough for two vehicles to pass each other. The proposed increase of 4 pitches, from the existing total of 6 pitches, would be considered an intensification of use of the access, however this would not be considered a significant intensification and the access appears to be in good condition. The proposed increase in pitches at the site does not impact upon the visibility splay from the existing access, ensuring that the maximum visibility is available. There have not been any collisions fronting the access within the last 5 years, however it is noted there has been one collision of slight severity at the junction of Old House Lane and Langleybury Lane.

Ultimately the LPA will have to be satisfied with the parking provision, but HCC would like to comment that the Application Form states that there are to be 4 additional parking spaces for cars and 4 additional spaces for light goods vehicles. These proposed parking spaces are located within the proposed 4 pitches. Secure and covered cycle parking should be available somewhere within the site to ensure that options for active and sustainable travel are available.

Refuse and Waste Collection

Manual for Streets Paragraph 6.8.9 states that waste collection vehicles must be able to get within 25m of the refuse collection location and waste should not have to be carried more than 30m from a dwelling to the collection point.

Emergency Vehicle Access

In accordance with Manual for Streets Paragraph 6.7, the entirety of a dwelling must be within 45m from the edge of the highway so an emergency vehicle can gain access. Otherwise, the minimum width required for an emergency vehicle to enter through an access is 3.1m. The access into the site is wider than this, meaning that an emergency vehicle can enter the site when required.

Nevertheless, due to the distance from the highway, the Herts Fire and Rescue have been requested to comment on this application separately to ensure an emergency vehicle can operate within the site.

Conclusion

HCC as Highway Authority has considered the application and are satisfied that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway and therefore, has no objections on highway grounds to this application, subject to comments from Herts Fire and Rescue.

6.1.5 National Highways: No objection, subject to conditions.

Referring to the consultation on a planning application dated 26/08/22 referenced above, in the vicinity of the M25 that forms part of the Strategic Road Network, notice is hereby given that National Highways' formal recommendation is that we recommend that conditions should be attached to any planning permission that may be granted (see Annex A – National Highways recommended Planning Conditions & reasons).

Highways Act 1980 Section 175B is not relevant to this application.

This represents National Highways' formal recommendation and is copied to the Department for Transport as per the terms of our Licence.

Should the Local Planning Authority not propose to determine the application in accordance with this recommendation they are required to consult the Secretary of State for Transport, as set out in the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018, via transportplanning@dft.gov.uk and may not determine the application until the consultation process is complete.

Annex A National Highway's assessment of the proposed development

National Highways was appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

Statement on Reasons

National Highways has undertaken a review of the Design and Access Statement prepared on behalf of the Applicant, accompanying a full planning application submission.

National Highways interests relate to the operation and safety of the SRN, and in proximity to the proposed site, this includes the M25. We are interested as to whether there would be any adverse safety implications on the SRN as a result of this development.

Little Liz Caravan Park was established in 2012, and permitted for 2 pitches. The site has been made permanent (16/0958/FUL) and has been expanded to accommodate a total of 6 pitches (18/0821/FUL).

The site is located on land adjacent to the M25, with a circa 2.3km route to M25 J20.

The application seeks the change of use of land adjoining the northern boundary of the existing caravan site, to accommodate 4 additional gypsy pitches. The proposed development would involve the construction of a new driveway and the laying of hardstanding. Access to the site extension would be from Old House Lane, via a new driveway from the existing entrance gateway into Little Liz.

The scale of development is small with the level of anticipated traffic associated with the development proposal not expected to have a material effect on the safety or operation of our network.

Given the distance between the site and our network, we would expect drainage, sewage and waste to be appropriately managed, and not impact upon our network or our land adjacent to the site. Conditions are listed below to reflect this request.

National Highways recommends that Three Rivers District Council includes the following conditions, should planning permission be granted for the development proposal (App Ref: 22/1573/FUL).

Recommendation

Condition 1

To ensure the proposed development will not be detrimental to the highway drainage system, the mains water supply necessary for the additional residential pitches shall be taken from the existing on-site mains water supply. Additionally, the sewage connection with the existing and proposed site amenities shall be dealt with through the existing system, such as a package treatment plant.

Reason: To ensure that the M25 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

Condition 2

Site refuse resultant from the additional residential pitches shall be appropriately stored and collected, and dealt with through existing waste management systems, so as not to impact upon our network or our land adjacent to the site.

Reason: To ensure that the M25 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

6.1.6 TRDC Landscape Officer: Objection

The site is in Metropolitan Green Belt and is within an area of woodland protected by Tree Preservation Order (TPO325 W1). The site, at the junction of House Lane and Langleybury Lane, borders the M25 motorway to the west. The site comprises of a collection of buildings arranged across an area of hard standing, with aerial photos showing that to the north and east of the buildings are areas of open ground. Council records indicate that woodland, that was protected by the TPO, was removed illegally from the areas of now open ground in around 2020. However, following investigation, the Council agreed some replanting of the area with the owner.

This current application seeks to extend the area of hard standing into the previously cleared open ground for residential use. Whilst the submitted site layout plan proposes some screening planting for the development, the proposed road layout includes a potential spur to the north, which would allow for future development, further into the area of previously protected woodland.

This current proposal would lead to a permanent loss of part of the area of previously protected woodland, and if approved could lead to future applications to further develop the previously wooded area. The development would also result in the loss of openness of the Green Belt and Refusal is recommended to prevent the permanent loss of protected woodland, degrading of screening of the M25 motorway, and loss of openness in this Green Belt location.

The proposal is contrary to Core Policy CP11, and Development Management Policy DM6 of the Three Rivers Local Plan 2014.

If the application is approved, please apply the following conditions;

Condition:

Notwithstanding the proposed planting details shown on drawing number TRDC 002 (Site Layout Plan) a detailed landscaping scheme shall be prepared and submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

The landscaping scheme shall include: long term design objectives; details of hard surfaces; details of: how soft landscape areas will be prepared for planting; tree and shrub species to be used; proposed number of plants; their size at time of planting; and how they will be protected until fully established.

The scheme shall be designed to adequately screen the development, in particular, from the east and north of the extended traveller site, with the planting at least 10 metres in depth along the boundaries of the development.

A landscape maintenance plan shall also be produced, which includes details of all maintenance schedules for all landscape areas, and maintenance that will be undertaken to ensure the planting successfully establishes.

The landscaping scheme and landscape maintenance plan shall be carried out as approved.

Reason: This condition is required to ensure the completed scheme includes mitigation to reduce the impact on the character and appearance of the area and the Green Belt. It is

required to be a pre commencement condition to enable the LPA to assess in full the trees to be removed and the replacement landscaping requirement before any works take place, and to ensure trees to be retained are protected before any works commence in the interests of the visual amenity of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

Condition:

No operations (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) whatsoever shall commence on site in connection with the development hereby approved until the branch structure and trunks of all trees shown to be retained and all other trees not indicated as to be removed and their root systems have been protected from any damage during site works, in accordance with a scheme designed in accordance with BS5837:2012, to be submitted to and approved in writing by the Local Planning Authority.

The protective measures, including fencing, shall be undertaken in full accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained as approved until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

Reason: This condition is a pre commencement condition to ensure that no development takes place until appropriate measures are taken to prevent damage being caused to trees during construction and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

Officer comment: It should be noted that a High Court Injunction remains in place which places restrictions on future development across the site.

6.1.7 TRDC Local Plans Section: Comments received.

The application seeks permission for the change of use of existing greenfield land to provide four additional pitches, as an extension to the permanently permissioned Gypsy and Traveller Site. The application proposes two caravans per pitch, of which no more than one caravan would be a static caravan, a new driveway and hardstanding ground surface.

Policy H of the 'planning policy for traveller sites' (PPTS) (August 2015) sets out that Local Planning Authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) The existing level of local provision and need for sites*
- b) The availability (or lack) of alternative accommodation for the applicants*
- c) Other personal circumstances of the applicant*
- d) That the locally 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.*

The Three Rivers Gypsy and Traveller Accommodation Assessment (February 2017) concluded that over the period 2016-2031, there is a need for two additional pitches for

gypsy and traveller households which meet the planning definition. The GTTA breaks down the need for Gypsy and Traveller households by five-year periods and identifies the need for the two additional pitches between 2016-21 and zero between 2021-26. The GTTA also identifies a need for up to a further 8 pitches for households who may meet the planning definition, over the period 2016-2031. The need for 0-8 pitches accounted for households residing on the application site at the time of the GTTA survey. These households did not participate in the GTTA survey and were subsequently classified as 'unknown households that may meet the planning definition', for the purposes of the GTTA. Since the GTTA was published, planning permission for additional pitches have been granted and the need for households that may meet the planning definition was considered met with no further need for additional pitches. However, in 2017 an appeal was granted for 6 pitches at a gypsy and traveller site in Langleybury (18/0821/FUL). This site (Land between Langleybury Lane and Old House Lane, Langleybury) is also known to be the proposed application site. In the appeal, the Planning Inspector questioned the GTTA methodology and evidence due to lack of evidence supporting the figure of 0-8 'unknown households that may meet the planning definition' and concluded there is an identified need of gypsy and traveller sites meeting the definition. The appeal report applied paragraph 27 of the PPTS which states the lack of an up-to-date 5 year supply of deliverable sites should not be a significant material consideration as the site falls in the Green Belt. However, given that the Council cannot demonstrate a 5 year supply this would weigh in favour of the application.

Policy CP11 states that there will be a presumption against inappropriate development that would not preserve the openness of the Green Belt, or which would conflict with the purpose of including land within it. Policy DM2 considers that construction of new buildings in the Green Belt is inappropriate, with certain exceptions listed in paragraph 149 of the National Planning Policy Framework (NPPF). The proposed development is located within the green belt and does not comply with policy CP11 and DM2.

Policy E of PPTS (August 2015) similarly states that Gypsy and Traveller sites are considered inappropriate development within the Green Belt and should not be approved, except in very special circumstances. Policy E of PPTS also sets out that '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'. According to the NPPF, very special circumstances will not exist unless the potential harm to the Green Belt by reasons of inappropriateness, and any other harm, is clearly outweighed by other considerations (paragraphs 87-88). The application supporting documents state there are minors (under 18s) and care-users and care-providers who do not have lawful pitches of their own. On this basis, the application supporting statement provides very special personal circumstances to support the application.

- 6.1.8 Affinity Water: No response received at time of writing. Any comments received will be provided as a verbal update at committee.
- 6.1.9 National Grid: No response received at time of writing. Any comments received will be provided as a verbal update at committee.
- 6.1.10 Thames Water: No response received at time of writing. Any comments received will be provided as a verbal update at committee.
- 6.1.11 Environmental Health: No response received at time of writing. Any comments received will be provided as a verbal update at committee.

6.2 **Public/Neighbour Consultation**

6.2.1 Number consulted: 72

6.2.2 No of responses received: 2 objections, 0 letters of support

6.2.3 Site Notice: Posted 14.09.2022 Expired 06.10.2022

6.2.4 Summary of Responses:

- Inappropriate development within the Green Belt
- Existing site is an eyesore
- Better locations for residential development
- Concerns of safety and security
- No local need for additional pitches
- Intentional Unauthorised Development facilitated the proposal
- The woodland was key consideration in approval of previous applications. Loss of woodland results in existing site and any extension being more visible.
- Significant increase in hardstanding
- Possibility of further extension in future
- Fail to maintain openness of Green Belt
- Material physical encroachment into the Green Belt

6.2.5 An objection letter was also received on behalf of Chandlers Cross Residents Association which in summary states:

- Loss of woodland facilitates the development and thus was undertaken intentionally
- Conflict with Policy DM7 as fails to make a positive impact to the landscape
- Understand that the need for pitches during the plan period have already been met
- Inappropriate development in the Green Belt, harms openness and would encroach into countryside
- Harmful to wooded character
- Material considerations relied on by applicant do not justify overriding Green Belt harm

6.2.6 The above objections will be considered within the following analysis section.

7 Reason for Delay

7.1 Committee Cycle.

8 Relevant Planning Policy, Guidance and Legislation

8.1 Legislation

8.1.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise as set out within S38(6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

8.1.2 The Localism Act received Royal Assent on 15 November 2011. The Growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

8.1.3 The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

8.2 Policy / Guidance

8.2.1 National Planning Policy Framework and National Planning Practice Guidance

8.2.2 In July 2021 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. The 2021 NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication

of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

8.2.3 The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits unless there is a clear reason for refusing the development (harm to a protected area). Relevant chapters include: Chapter 2; Chapter 4; Chapter 5; Chapter 9; Chapter 11; Chapter 15 & Chapter 16.

8.2.4 Planning Policy for Traveller Sites (PPTS) (August 2015) produced by Department for Communities and Local Government.

8.2.5 Three Rivers Gypsy and Traveller Accommodation Assessment (February 2017).

8.2.6 Online National Planning Practice Guidance

8.3 The Three Rivers Local Development Plan.

8.3.1 The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

8.3.2 The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP3, CP1, CP2, CP3, CP4, CP5, CP6, CP8, CP9, CP10, CP11 and CP12.

8.3.3 The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM2, DM6, DM7, DM8, DM9, DM10 and DM13 and Appendix and 5.

8.4 Other

8.4.1 Human Rights Act 1998

8.4.2 Equalities Act 2010 / Public Sector Equality Duty (PSED)

8.4.3 Housing Act 2004

8.4.4 Children Act 2004

9 Planning Analysis

9.1 Overview

9.1.1 The Little Liz traveller site was established in 2012 as a temporary site for the family of the applicant. Following an unauthorised encampment and service of an enforcement notice the applicant received temporary planning permission when appealing against the enforcement notice. The site originally had planning permission for 2 pitches on a temporary basis. The site has since expanded and was made permanent in 2016 (16/0958/FUL) and later increased to a total of 6 pitches in 2018 (18/0821/FUL). The latter planning permission, granted in July 2018, limits occupancy of the existing caravan site to a number of the applicant's family including their resident dependents. Within the existing site there are extensive areas of hardstanding and landscaping along with static homes, touring caravans, small timber sheds and a pitched roofed timber barn located within the south western corner.

- 9.1.2 It should also be noted that close boarded fencing was erected parallel with Langleybury Lane in circa 2019. The view was taken based on the circumstances on the ground at the time that given the fencing was set back from Langleybury Lane and due to intervening ditch, verge and vegetation (hedging and trees) that the fencing was not 'adjacent' to the highway and could lawfully be erected up to 2 metres in height under deemed planning permission from the General Permitted Development Order.
- 9.1.3 This application proposes an extension to the north of the existing traveller site to provide a further 4 pitches bringing the total number to 10.
- 9.1.4 Further information was requested from the applicant on the future occupants including date of birth and their current location. The applicant confirmed the following as being the proposed occupants:
1. Helen Joyce and Simon McDonough
 2. John Cash and Margaret Cash
 3. Naomi Joyce and Patrick McDonough, together with daughter, Helen (under 1)
 4. Myles Cash and Margaret O'Brien.
- 9.1.5 The date of births of the occupants were provided but are not included in this report. Two households are already living on Little Liz in touring caravans while the others are living on Ver Meadows (a public gypsy traveller site in St Albans District).
- 9.2 Impact on the Metropolitan Green Belt
- 9.2.1 The application site located within the Metropolitan Green Belt. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. Green Belts can shape patterns of urban development at sub-regional and regional scale, and help to ensure that development occurs in locations allocated in development plans.
- 9.2.2 As with previous Green Belt policy, the NPPF identifies the five purposes of including land in Green Belts as:
- to check the unrestricted sprawl of large built-up areas;
 - to prevent neighbouring towns from merging into one another;
 - to assist in safeguarding the countryside from encroachment;
 - to preserve the setting and special character of historic towns; and
 - to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 9.2.3 Policy CP11 of the Core Strategy sets out that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt, or which would conflict with the purposes of including land within it. Whilst Policy CP11 was adopted prior to the NPPF in 2012, it is considered to reflect the guidance within the NPPF 2012 and the most updated version (2021) and therefore can be afforded weight. Policy DM2 of the Development Management Policies document is also relevant however it is silent in respect of material change of uses and engineering operations.
- 9.2.4 Paragraph 147 of the NPPF sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. At paragraph 16 of Planning Policy for Traveller Sites (PPTS) it confirms that traveller sites are inappropriate development within the Green Belt. The proposed extension of the existing traveller site would therefore constitute inappropriate development and would result in harm to the Green Belt by reason of its inappropriateness, by definition. The NPPF further

advises that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

- 9.2.5 In addition to inappropriateness, it is also important to address whether additional harm would arise through the development's impact on openness and also whether any conflict would exist with any of the five purposes of including land in Green Belts.
- 9.2.6 Openness in the context of the Green Belt can be taken to mean the absence of development or a manifestation of a use of land with openness of having both spatial and visual aspects. In considering the planning appeal in 2017 for 3 pitches the Inspector accepted that the individual components of the proposal – the mobile homes, touring caravans and day rooms would reduce openness of the Green Belt on a localised basis.
- 9.2.7 However, importantly, one of the key attributes when considering previous applications at the site was the fact that the impact on openness was significantly mitigated due to the fact that the site was heavily screened by a protected woodland which bordered the existing traveller site to the north and east. This former dense screen which limited visibility of the existing site was a material consideration taken into account by the Planning Inspector in considering the 2017 appeal and by the planning officer in assessing the 2018 application. It is acknowledged that the unauthorised clearance of the protected woodland in 2020 has increased visibility of the existing traveller site from Langleybury Lane and certain views from Old House Lane. Whilst the majority of trees immediately adjacent to the eastern boundary with Langleybury Lane were not removed and replacement planting has occurred throughout the application site and wider land, it is clear that Officers can no longer heavily rely on a mature vegetated screen with the re-planted trees and proposed trees likely to take a significant time to mature to provide an effective mitigating visual screen. Nevertheless, it is accepted that there is an impact on openness; however, its impact would still be localised as the extension of the traveller site would be against the backdrop of the existing traveller site and only extends partially to the north with the remainder of the wider site free of built form development. In addition to harm from its inappropriateness and harm from a reduction in openness, the extension of the traveller site further north into the protected woodland would conflict with one of the purposes of the Green Belt as it would fail to safeguard the countryside from encroachment.
- 9.2.8 In respect of the new internal road connecting the new 4 pitches to the existing access, efforts were made from Officers to remove this element from the proposal with Officers suggesting that access was instead provided through the established traveller site. However, the applicant did not agree and wishes to proceed on the basis of the proposed plans. Local planning policies CP11 and DM2 as mentioned above are silent on engineering operations; however, paragraph 150 of the NPPF states that such operations may be appropriate in the Green Belt subject to preserving openness and not conflicting with the purposes of the Green Belt. Whilst the new road will have an impact as it will facilitate activity within eastern part of the site therefore spreading development beyond the confines of the existing traveller site, it would only facilitate access to the 4 pitches. Planning conditions could be attached to any grant of permission to ensure that no vehicles or structures can be parked/stored on the road or adjacent land within the application site outside the bounds of the 4 pitches and that no external lighted erected. Further details regarding the type of surface may also be secured by condition, with a preference for an appropriate surface such as gravel rather than tarmac or block paving. With such controls in place and when considering its positioning and limited visibility from outside the site it is considered that the road would preserve the openness of the Green Belt. In relation to the purposes of the Green Belt and having regard to the proposed road's locational context, sited between an established traveller site and Langleybury Lane, it is not considered to prejudice the aims of the Green Belt and thus would not encroach into the countryside or conflict with any other purposes of the Green Belt. As such, the laying of the internal road, subject to conditions would be appropriate development.

9.2.9 As part of this planning application the applicant proposes to plant 51 new trees along the northern and eastern boundary of the site to provide screening of the extended site. Discussions were held with the applicant to further enhance the area by providing more trees to the east however no additional planting has been put forward. Whilst the addition of new trees will assist in reducing the visual impact of the development, the proposal would still be inappropriate by definition, harm openness and conflict with one of the purposes of the Green Belt. The harm to the Green Belt is afforded substantial weight which weighs against the development.

9.2.10 Whether any material considerations of sufficient weight to constitute very special circumstances exist to outweigh the harm by reason of inappropriateness, harm to openness, conflict with one of the purposes and any other harm as identified further within this report is set out at paragraph 9.10 below.

9.3 Impact on Landscape character and Street Scene

9.3.1 Policy CP12 of the Core Strategy states that the Council will expect all development proposals to have regard to the local context and conserve or enhance the character, amenities and quality of an area.

9.3.2 Policy DM7 of the Development Management Policies LDD states that the Council will require proposals to make a positive contribution to the surrounding landscape and that proposals which would unacceptably harm the character of the landscape in terms of siting, scale, design or external appearance will be refused.

9.3.3 As previously mentioned above the existing traveller site and application site are currently more readily visible as a result of the unauthorised woodland clearance works. It has previously been determined that the introduction of mobile homes, touring caravans and other associated paraphernalia does not conserve or enhance the character of the area.

9.3.4 When considering the siting of the new 4 pitches the visual impact on the area is limited from Old House Lane due to the relatively extensive vegetated tree cover on the boundary. Whilst recognising that the tree cover would thin in winter months, the new caravans / static caravans would be read against the existing site. However, it is accepted that views will be possible towards the application site when approaching the junction between Old House Lane and Langleybury Lane and also from public vantage points on Langleybury Lane.

9.3.5 Whilst new trees would be planted, in their current proposed position they would do little to mitigate the visual impact from Langleybury Lane. New planting will be essential and a condition would be recommended requiring a soft landscaping scheme to be agreed whereby new trees are concentrated to the east of the new traveller pitches and to the north eastern corner.

9.3.6 In terms of the wider landscape impact from the extension of the traveller site, the majority of views would be at a localised level as discussed above. Any wider landscaping impact from the new pitches would be limited due to their height, scale and locational context.

9.3.7 The new internal access road to the new 4 pitches would largely be obscured from view given the existing boundary treatments and with new tree planting is not considered to harm the character of the area nor would it have any wider landscaping implications.

9.3.8 In summary the proposed extension of the site to provide 4 new pitches would further detract from the character of the area. Any new planting would assist in mitigating the overall impact however, there will still be a resultant adverse impact which weighs against the development.

9.4 Wildlife and Biodiversity

- 9.4.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 9.4.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.
- 9.4.3 The application has been submitted with a Biodiversity Checklist. The checklist concludes that no biodiversity survey or assessment is required in this instance, and the Local Planning Authority is not aware of any protected species on this site.
- 9.4.4 A significant number of new trees will be provided which is considered acceptable, and a condition can be recommended requiring the submission of a soft landscaping scheme.

9.5 Highways, Parking and Access

- 9.5.1 A new internal road is proposed to serve the 4 new pitches. The road would branch off from the existing site and no new access point would be created from Old House Lane or Langleybury Lane. The existing access point from Old House Lane would remain unchanged, is in good condition and provides acceptable visibility.
- 9.5.2 The Highway Officer was consulted on the application and raised no objection stating that the existing access is sufficient for two vehicles to pass each; vehicles can enter and exit in forward gear and whilst the increase in pitches would be considered an intensification of use of the access it would not be considered significant.
- 9.5.3 With regards to parking provision, there are no specific parking standards for traveller sites, however, the submitted layout of the extended site shows that adequate space would exist for on-site parking.
- 9.5.4 Highways England were consulted on the application and raised no objection to the proposed development subject to conditions in relation to water supply, drainage and refuse management.
- 9.5.5 A condition in respect of drainage and the disposal of water are attached to the recommendation.

9.6 Trees and Landscaping

- 9.6.1 Policy DM6 of the Development Management Policies LDD advises that development proposals should demonstrate that existing trees, hedgerows and woodlands will be safeguarded and managed during and after development in accordance with the relevant British Standards.
- 9.6.2 The application site and wider land within the ownership of the applicant is covered by a Tree Preservation Order (TPO 235). The proposal would encroach into an area of protected woodland which prior to its extensive clearance was wooded in character making any historic extension into the site unachievable. The future encroachment into this area has attracted an objection from the Landscape Officer.
- 9.6.3 The previous re-planting of the woodland has been agreed with the Council and has been undertaken on site, although further on-maintenance is required. Based on the current plans the new traveller pitches will require a row of previously planted trees to be re-positioned. Beyond these trees there would be no built form other than low level picket fencing.

- 9.6.4 Consequently, whilst acknowledging that there will inevitably be an encroachment into the wider site afforded protection from the TPO, on the basis that woodland re-planting has been agreed previously and that a substantial new planting scheme covering 10m in depth along the boundaries of the site would be secured by planning condition (if the event of an approval), it is considered that the ability to secure future planting on a significant scale would ensure that the scheme was, on balance, acceptable from a landscaping perspective.
- 9.6.5 Whilst it is recognised that there will be future concerns regarding incremental encroachment, the trees secured by the planning condition will be subject to a management plan and will become protected from the woodland order. Further an extant Injunction exists on the land which prevents the addition of further caravans and associated works without planning permission.
- 9.7 Impact on neighbouring amenity
- 9.7.1 Due to the relative isolated location of the application it is not considered that a development would harm nearby neighbouring properties.
- 9.8 Intentional unauthorised development
- 9.8.1 A Written Ministerial Statement in December 2015 confirmed that intentional unauthorised development is a material consideration, especially where harm is caused where the development of land has been undertaken in advance of obtaining planning permission.
- 9.8.2 In 2020 large numbers of protected trees were removed quickly over a weekend. Since the removal the Council has attempted to ascertain who and why the trees were removed. During discussions with the applicant / owner of the land (who has always maintained he had no involvement in removing the trees) over 200 trees were re-planted. The mitigation which will take a long time to mature was considered acceptable and thus the matter was closed, noting that the trees are afforded the protection status given their siting within TPO235. Nevertheless, on-going maintenance is required.
- 9.8.3 Officers cannot without any certainly conclude whether the 2020 tree removal was a prerequisite to this application. Clearly, the tree removal has enabled and placed the owner in a better position to seek an extension to his existing site; however within the intervening period mitigation has taken place and an injunction sought to control development within the wider site. In addition, this application is proposed and no encampment of the site has occurred since the tree removal. As a result, Officers are unable to give weight to the argument of intentional unauthorised development.
- 9.9 Other Material Considerations
- 9.9.1 When considering planning applications for traveller sites the PPTS makes it clear that local planning authorities should consider a number of issues amongst other relevant matters. These include:
- The existing level of local provision and need for sites
 - The availability (or lack) of alternative accommodation for the applicants
 - Other personal circumstances of the applicant
 - That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
 - That they should determine applications for site from any travellers and not those with local connections

The general need for and supply of Gypsy sites in Three Rivers

- 9.9.2 The PPTS allows local authorities to make their own assessment of need for provision for Gypsies, Travellers and Travelling Showpeople within their relevant district. The assessments should be updated annually and identify a supply of specific deliverable sites to provide 5 years' worth of sites against their locally set targets and identify locations for growth, for years 6 to 10, and where possible, for years 11 to 15.
- 9.9.3 Within the 2017 planning appeal (Ref: APP/P1940/W/16/3164710) it was agreed that the Council does not have a five-year land supply which would be progressed through the new Local Plan. This would deal with the matter in terms of site allocations. It was commented by the planning officer at the time of assessing the 2018 application (18/0821/FUL) that *"the process was at an early stage and was unlikely to be adopted until late 2020."* The new Local Plan has not yet been adopted and has been delayed until summer / autumn 2025.
- 9.9.4 The current level of traveller sites in across the Three Rivers district is provided at paragraph 2.5 of this report and confirms that there are 23 (potentially 24) pitches across four permanent sites; The Oaklands in Bedmond (unrestricted up to 12 pitches); Rear of 59 Toms Lane in Kings Langley (known as Little Lilly) personal restriction up to 4 pitches); Fir Trees (unrestricted to persons who meet the gypsy definition up to 2 pitches) and the existing site at Little Liz (personal up to 6 pitches).
- 9.9.5 In February 2017, the Council's Gypsy and Traveller Accommodation Assessment (GTAA) identified that there are currently no public sites in the district. The assessment also calculated that a need for up to 2 pitches for persons meeting the definition of a gypsy or traveller and up to a further 8 pitches for households who may meet the definition, in the following five years. The GTAA also identified a need for up to a further 8 pitches for households who may meet the planning definition. The consideration of whether those looking to move onto the site meet the definition is explained later in this report at paragraph 9.4.14.
- 9.9.6 Notwithstanding the above, the Planning Inspector in the 2017 appeal questioned the GTAA methodology and the evidence gained given the exceptionally low response rates and that no households were identified in bricks and mortar accommodation even though the census in 2011 identified 22 households that identify as a gypsy or Irish traveller living in a house or flat in the district. Whilst it is acknowledged that not all of those will meet the revised definition, the Planning Inspector stated that the figure of 0-8 unknown households lacked robustness. Since this appeal decision, the Council has granted 4 permanent pitches at Little Lilly, Toms Lane (17/2695/RSP) although there was no net gain as previously the site comprised 4 temporary pitches and 3 permanent pitches (18/0821/FUL). As a result, since the 2017 GTAA there has been a net gain of just 3 pitches across the District. When considering that the Inspector in 2017 was unconvinced from the evidence provided within the GTAA and the fact that only 3 pitches have been provided since its publication, the true actual level of need is uncertain but it is considered that an unmet need exists, especially on the basis that no assessment has been done since 2017.
- 9.9.7 A recent Court of Appeal decision has confirmed that the definition for Gypsies and Travellers within the PPTS excludes disabled and elderly gypsies and travellers and is therefore unlawful. As a result, this would lend weight to the fact that a much higher level of unmet need across the District actually exists.
- 9.9.8 Consequently, there is an identified need within the District. When applying the PPTS (paragraph 27) the lack of an up to date 5-year supply of deliverable sites should not be a significant material consideration as the site falls in the Green Belt. Notwithstanding this, given that the Council cannot demonstrate a 5-year supply and the level of unmet need this would weigh in favour of the development.

Failure of Policy

9.9.9 During the assessment of the 2018 planning application (18/0821/FUL) it was identified that there was a failure of planning policy. The Council had resolved that the Gypsy, Traveller and Travelling Showpeople Local Development Document (GTTS LDD) which was being progressed during the 2016 application (16/0958/FUL) was to be progressed through the preparation of the new local plan which at that time was expected to be adopted in 2020. However, the Council's new local plan is yet to be adopted and is still at consultation stage and its planned adoption is now scheduled for summer / autumn 2025. Thus, there continues to be a failure of policy, which is a further consideration which carries weight in favour of the development.

Alternative Sites

9.9.10 Policy CP11 of the Core Strategy states that the identified need for traveller sites will be met by allocations in a Gypsy and Traveller Site Allocations DPD. The Council has failed to bring forward any allocations for gypsy sites. Furthermore, even though the Council has not undertaken a Gypsy and Traveller Accommodation Assessment (GTAA) since 2017 and does not have an up-to-date understanding of gypsy accommodation needs, the Preferred Options Local Plan (June 2021) still does not propose to make any land allocations for gypsy sites.

9.9.11 The existing pitches with planning permission in the district are private sites and there are substantial waiting lists for pitches on public sites within the Hertfordshire. During the application process Officers engaged with the Gypsy and Traveller Service at Hertfordshire County Council who confirmed that there is a *"huge shortage of pitches versus number wanted"* across the county and there is no availability on the existing sites. The situation has worsened since the 2018 application.

9.9.12 Policy CP5 of the Core Strategy endorses support for gypsy provision but advises against development which harms the openness of the Green Belt. Due to the make-up of the District, with a substantial percentage covered by the Green Belt designation, the majority of future proposals for gypsy traveller provision is likely to be within the Green Belt and thus will conflict with Policy CP5.

9.9.13 The lack of alternative sites and the fact that the alternatives sites within the District are likely to be in the Green Belt are further considerations in favour of the application.

Needs of the appellant and their personal circumstances

9.9.14 As part of the application the LPA need to consider whether the future occupants of the four new pitches meet the revised definition within Annex 1 of the PPTS which is set out below:

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

9.9.15 As highlighted above, the Courts have found that this definition discriminates against those with health needs or old age who have ceased to travel permanently.

9.9.16 The PPTS also states under Policy E that:

*“Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. **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.**”*

9.9.17 It was confirmed within the Planning Inspectors decision in respect of the 2017 appeal that the applicant and his family who reside in the existing site fell within the definition as set out in the PPTS. In terms of this current application the supporting Design & Access Statement

details the relationship/connection between the applicant and the intended occupants. Officers are satisfied that those who will take up residency within the 4 pitches are gypsy travellers. One of the residents is disabled and relies on the support of her extended family. Another resident has a one year old and another is expecting her first child. As a result, there are clear personal circumstances of some of the occupiers who would benefit from a settled residence and be surrounded by close family. These factors would weigh significantly in favour of the application, especially when considering Article 8 of the Human Rights Act which protects the right of an individual to, amongst other things, a private and family life and home.

- 9.9.18 In light of the above, the personal circumstances highlighted above cannot outweigh the harm to the Green Belt and any other harm to establish very special circumstances, nonetheless, they are a material consideration which weighs in favour of the application.

Sustainability and Suitability of Site

- 9.9.19 The NPPF makes it clear that the purpose of the planning system is to contribute to the achievement of sustainable development and at the heart of the NPPF is a presumption in favour of sustainable development. Paragraph 8 of the NPPF states that there are three overarching objectives to sustainable development – economic, social and environmental; which are interdependent and need to be pursued in mutually supportive ways - essentially there must be a balance between the three.
- 9.9.20 Core Strategy Policy CP1 also seeks to promote sustainable development and as part of this requires applications for new residential development to be accompanied by an Energy and Sustainability Statement' demonstrating the extent to which sustainability principles have been incorporated into the design, construction and future use of proposals.
- 9.9.21 Due to the nature of the development it is not realistic to expect sustainable features incorporated into the proposal.
- 9.9.22 In the 2012 planning appeal the Planning Inspector confirmed that whilst the site is not particularly conveniently located in terms of access to health services and at odds with the criteria c) of Policy CP5 of the Core Strategy, which requires sites to be in or near existing settlements with access by foot and or public transport to local services, including shops, schools and healthcare, it was considered that the site met the overall thrust of guidance on sustainable development in the NPPF and PPTS and therefore was considered an acceptable location. Whilst objections have been lodged against its location, it is clear that the primary aim for the new pitches is to provide a settled base close to extended family. Based on previous decisions, the extension of the site in this location is considered acceptable.

Engagement with Humans Rights Act

- 9.9.23 When considering an application for planning permission for gypsy pitches, the Council needs to consider whether Article 8(1) of the European Convention on Human Rights (ECHR) is engaged. Article 8(1) provides that everyone has the right to respect for his private and family life, his home and his correspondence. Case law has established that Article 8(1) of the ECHR is engaged in applications for planning permission for residential Gypsy caravan pitches irrespective of whether the applicants are occupying the site as their home at the time the application is made.
- 9.9.24 Article 8(2) of the ECHR allows interference by a public authority with the right to respect for private and family life where the interference accords with the law and is necessary in a democratic society for the wider public interest, in terms of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of rights and freedoms of others.

- 9.9.25 Case law has also established that the greater the interference with ECHR rights, the greater will be the need to justify that interference by reference to necessity and proportionality. The concept of proportionality can be equated to the balancing exercise which should be undertaken by all decision makers and in the case of applications for Gypsy sites, any action must be evenly balanced and fully considered in order to avoid the criticism that it is disproportionate relative to the harm caused. These cases suggest that legally it will not be sufficient for local authorities to rely on a breach of Development Plan policies in refusing planning permission. Rather there must be clear evidence of demonstrable harm which outweighs the consequences of the Council's decision for Gypsies. There is thus a need for the Council to weigh demonstrable harm against the consequences of a refusal for the applicant, including health, education, other social issues and the availability of alternative sites. It has however been found that the fact that no alternative site has been identified does not necessarily mean that it is disproportionate to refuse planning permission.
- 9.10 Are there any 'very special circumstances'?:
- 9.10.1 Having regard to all matters raised above it is necessary to ascertain whether the identified harm within the planning assessment is clearly outweighed by material considerations in favour which individually or collectively constitute very special circumstances.
- 9.10.2 As highlighted above, the proposal constitutes inappropriate development, by definition, within the Green Belt, results in localised harm to the openness of the Green Belt and conflicts with one of the purposes of Green Belts, encroachment into the countryside. Further harm, albeit not significant due to future mitigation from future tree planting, was also identified to the character and appearance of the immediate area. No other harm was found during the assessment. The NPPF makes it clear that substantial weight should be given to any harm to the Green Belt.
- 9.10.3 During the planning assessment it has been found that various material considerations weigh in favour of the development. These include an identified unmet need for travellers within the District, the lack of a 5-year-supply of deliverable sites, the current lack of alternative sites within the District, the fact that other sites are also likely to fall within the Green Belt within more harmful locations and failure of policy
- 9.10.4 At the 2017 appeal, the Inspector gave the above material considerations substantial weight in favour of the proposal. As it is now 4 years on since this appeal and there has been no change, apart from a potential greater unmet and future need for traveller pitches, substantial weight is given to the above considerations.
- 9.11 In addition, the personal circumstances of the occupants including the best interests of the child (and future child) and the individual with disabled needs should attract moderate weight in favour of the development.
- 9.12 It is considered that the above material considerations in favour of the development would collectively constitute very special circumstances to outweigh the identified harm. However, it is important to consider whether such considerations should justify a temporary or permanent grant of planning permission.
- 9.13 Consideration of temporary or permanent planning permission:
- 9.13.1 Within the PPTS it states that 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. Nevertheless, it is important to note the Inspector's comments in the 2017 planning appeal which are material to this application:

“At the time of the previous appeal (July 2012) the Inspector concluded that the factors weighing in favour of the proposal were not so great as to warrant the granting of permanent permission. However, some 5 years on from that decision there is still an unmet need for gypsy sites which, given that the Local Plan process is at an early stage, is unlikely to be resolved soon. The previously identified failure of policy has been perpetuated and therefore now carries greater weight in support of the proposal.”

- 9.13.2 Since the 2017 planning appeal the Local Plan has been further delayed from its predicted adoption date in 2020 and is still progressing however it is not due for formal adoption until mid-to-late 2025. When considering whether to issue a temporary planning permission for a period of time (i.e. 3 years), it is clear that the new Local Plan may still not be adopted for some time including the fact that there is a current unmet and future need within the District.
- 9.13.3 As such, having regard to the previous comments made by the Inspector, the failure of policy should also have significantly greater weight in support of granting permanent planning permission.
- 9.13.4 Notwithstanding the above, the personal circumstances of some of the residents are material in the planning balance and therefore any grant of planning permission would be subject to restricting occupancy of the extended site to those named persons. This is considered both reasonable and necessary.

9.14 Planning balance:

- 9.14.1 To conclude it is considered that there are material planning considerations of sufficient weight to constitute very special circumstance to outweigh the inappropriateness of the development, harm to openness, conflict with one of the purposes of the Green Belt and harm to the character of the area. When further dissecting the material considerations it is considered that they are sufficient to enable the grant of permanent planning permission.

9.15 Conditions:

- 9.15.1 To mitigate the impact of the development a number of conditions are considered reasonable and meet the tests set out at paragraph 56 of the NPPF (2021). These include the imposition of a personal permission (due to the personal circumstances of some of the future occupiers which forms part of the planning balance), details regarding foul drainage, submission of a detailed and comprehensive soft landscaping scheme within specific areas, details of the hard surfacing across the site and controls on placement of vehicles and storage, commercial activity and external lighting to safeguard the character of the area.

10 Recommendation

- 10.1 That PLANNING PERMISSION BE GRANTED subject to the following conditions:

C1 The change of use of land to provide for 4 additional pitches for residential purposes hereby permitted shall be carried on only by: Helen Joyce, Simon McDonough, John Cash, Margaret Cash, Naomi Joyce, Patrick McDonough, Myles Cash and Margaret O'Brien and their resident dependants.

Reason: In granting this permission the Local Planning Authority has had regard to the special circumstances of the case which constitute very special circumstances to accord with Policies CP1, CP2, CP3, CP4, CP5, CP6, CP8, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policy DM2 of the Development Management Policies LDD (adopted July 2013).

C2 The development hereby permitted shall be carried out in accordance with the following approved plans: TRDC 001 (Location Plan) & TRDC 002 (Site Layout Plan).

Reason: For the avoidance of doubt, in the proper interests of planning, the protection of the openness and rural character of the Metropolitan Green Belt and the character and appearance of the area in accordance with Policies CP1, CP5, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2, DM6, DM7, DM8, DM9, DM10 and DM13 and Appendix and 5 of the Development Management Policies LDD (adopted July 2013).

- C3 When the premises cease to be occupied by those named in condition 1 above, the use hereby permitted shall cease and all caravans, buildings and structures, materials and equipment brought onto the land, or works undertaken to it in connection with the use shall be removed and the land restored in accordance with as scheme that has first been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the openness of the Metropolitan Green Belt and the character and appearance of the area in accordance with Policies CP1, CP5 and CP11 of the Core Strategy (adopted October 2011) and Policies DM2 and DM7 of the Development Management Policies LDD (adopted July 2013).

- C4 No development or other operation shall commence on site whatsoever until detailed foul water drainage plans has been submitted to and approved by the Local Planning Authority. The development shall proceed in strict accordance with the agreed details.

Reason: This condition is a pre-commencement condition to ensure that the amenities of future occupiers are met and to meet the requirements of Policies CP1, CP8 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

- C5 Notwithstanding the proposed planting details shown on drawing number TRDC 002 (Site Layout Plan) a detailed landscaping scheme shall be prepared and submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

The landscaping scheme shall include: long term design objectives; details of hard surfaces; details of: how soft landscape areas will be prepared for planting; tree and shrub species to be used; any existing trees which are required to be re-positioned, proposed number of plants; their size at time of planting; and how they will be protected until fully established.

The scheme shall be designed to adequately screen the development, in particular, from the east and north of the extended traveller site, with the planting at least 10 metres in depth along the boundaries of the development.

A landscape maintenance plan shall also be produced, which includes details of all maintenance schedules for all landscape areas, and maintenance that will be undertaken to ensure the planting successfully establishes.

The landscaping scheme and landscape maintenance plan shall be carried out as approved.

Reason: This condition is required to ensure the completed scheme includes mitigation to reduce the impact on the character and appearance of the area and the Green Belt. It is required to be a pre commencement condition to enable the LPA to assess in full the trees to be removed and the replacement landscaping requirement before any works take place, and to ensure trees to be retained are protected before any works commence in the interests of the visual amenity of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C6 No operations (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) whatsoever shall commence on site in connection with the development hereby approved until the branch structure and trunks of all trees shown to be retained and all other trees not indicated as to be removed and their root systems have been protected from any damage during site works, in accordance with a scheme designed in accordance with BS5837:2012, to be submitted to and approved in writing by the Local Planning Authority.

The protective measures, including fencing, shall be undertaken in full accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained as approved until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

Reason: This condition is a pre commencement condition to ensure that no development takes place until appropriate measures are taken to prevent damage being caused to trees during construction and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

- C7 Prior to commencement of the development hereby permitted details of the type of hard surfacing material to be used and the disposal of surface water from the internal road and parking area as shown on drawing number TRDC 002 (Site Layout Plan) shall be submitted to and approved in writing by the Local Planning Authority. The works to all hard surfacing areas shall be carried out in accordance with the approved details prior to occupation of the development and maintained thereafter.

Reason: To protect the openness of the Metropolitan Green Belt and the character and appearance of the area in accordance with Policies CP1, CP5 and CP11 of the Core Strategy (adopted October 2011) and Policy DM2 of the Development Management Policies LDD (adopted July 2013).

- C8 No more than 8 caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended, (of which no more than 6 shall be a static caravan) shall be stationed on the extended traveller site at any time.

Reason: To protect the openness of the Metropolitan Green Belt and the character and appearance of the area in accordance with Policies CP5 and CP11 of the Core Strategy (adopted October 2011) and Policy DM2 of the Development Management Policies LDD (adopted July 2013).

- C9 No vehicle over 3.5 tonnes shall be stationed, parked or stored on the application site (as enclosed in red on drawing number TRDC 001 (Location Plan)).

Reason: To protect the openness of the Metropolitan Green Belt and the character and appearance of the area in accordance with Policies CP1, CP5, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policy DM2 of the Development Management Policies LDD (adopted July 2013).

- C10 No commercial activities shall take place on the application site (as enclosed in red on drawing number TRDC 001 (Location Plan)) including external storage of any kind).

Reason: To protect the openness of the Metropolitan Green Belt and the character and appearance of the area in accordance with Policies CP1, CP5, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policy DM2 of the Development Management Policies LDD (adopted July 2013).

- C11 No vehicles, structures or paraphernalia associated with the use hereby permitted including the use by those within the established traveller site, shall be erected/stored on land falling outside the positioning of the post and rail fencing as marked on drawing number TRDC 002 (Site Layout Plan).

Reason: To protect the openness of the Metropolitan Green Belt and the character and appearance of the area in accordance with Policies CP1, CP5, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policy DM2 of the Development Management Policies LDD (adopted July 2013).

- C12 No external lighting shall be installed on or adjacent to the internal road or affixed to any buildings/structures on the application site unless the Local Planning Authority has first approved in writing details of the position, height, design and intensity. The lighting shall be installed in accordance with the approved details before the use commences and be retained thereafter.

Reason: To protect the openness of the Metropolitan Green Belt and the character and appearance of the area in accordance with Policies CP1, CP5, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2 and DM9 of the Development Management Policies LDD (adopted July 2013).

10.2 **Informatives:**

- 11 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public

footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority suggested modifications to the development during the course of the application and the applicant submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.
- 14 Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.
- 15 Obstruction of highway: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.
- 16 Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.