

Item No. 6

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| APPLICATION NUMBER | CB/13/00985/FULL |
| LOCATION | Paradise Farm, The Causeway, Clophill, Bedford, MK45 4BA |
| PROPOSAL | Change of use for the stationing of one residential static caravan and two touring caravans, and parking for two associated vehicles. |
| PARISH | Clophill |
| WARD | Amphill |
| WARD COUNCILLORS | Cllrs Duckett, Blair & Smith |
| CASE OFFICER | Vicki Davies |
| DATE REGISTERED | 19 March 2013 |
| EXPIRY DATE | 14 May 2013 |
| APPLICANT | Mr Gumble |
| AGENT | Bucks Floating Support |
| REASON FOR COMMITTEE TO DETERMINE | Call-in by Cllr Ducket due to public interest |
| RECOMMENDED DECISION | Full Application - Granted |

Reasons for Granting

In light of the level of identified need for pitches as set out in the draft Gypsy and Traveller Local Plan it is considered that the proposed development would not detrimentally impact upon the character and appearance of the immediate area or wider streetscene to such an extent to justify refusing planning permission. There would not be any adverse impact on the amenities of neighbouring residents nor would the proposal result in any highway, parking or other issues. The proposed development is in conformity with Policy HO12 of the Mid Bedfordshire Local Plan Review, Policy GT5 of the emerging Gypsy and Traveller Local Plan, Policies CS14, DM3 and DM4 of the Core Strategy and Development Management Policies (North) 2009, Policies 1, 33 and 43 of the emerging Development Strategy for Central Bedfordshire and the National Planning Policy Framework and Planning Policy for Traveller Sites.

Site Location:

The site is located on the east side of The Causeway on the edge of the village of Clophill. The Causeway runs from the High Street south to the A507 which runs east-west. The Causeway is a narrow, unclassified road, which has a speed limit of 30mph between the High Street and the vicinity of the application site and national speed limit to the A507.

The site is outside of the settlement envelope of Clophill but lies immediately adjacent to it. The site is roughly rectangular in shape and covers an area of approximately 930sqm. The site is accessed via a shared privately owned driveway which continues past the application site to the land to the rear known as Paradise

Farm.

There are residential dwellings to the north of the application site which are within the village envelope. The River Flit runs along the northern boundary of the site between the site and the residential properties. The application site is 4m from the side boundary fence of the closest dwelling and 20m from the dwelling itself. To the south and west (on the opposite side of The Causeway) of the site is agricultural land some of which is used to keep horses.

The site and the surrounding land is generally flat with the river being the main landscape feature. There are a variety of trees along the river corridor.

The site is shown on the LDF proposals map as being within a floodplain and a County Wildlife Site. The floodplain covers a large area stretching along the river corridor to the south of Clophill. The CWS covers a similar area to the floodplain shown on the proposals map along the river corridor.

The Application:

This application is for change of use for the stationing of one residential static caravan and two touring caravans, and parking for two associated vehicles.

The proposal originally included a portaloo, however this has subsequently been removed from the proposal.

All three of the proposed caravans would be used for residential accommodation on the site, with the touring caravans also used for travelling.

The application shows the existing site, which is subject to an enforcement notice, being a garden area, with the land to the west between the existing site and The Causeway being used for living accommodation. The plan shows a static caravan and two touring caravans. The garden area would measure approximately 23m by 15m. The part of the site which would be used for living accommodation would measure approximately 39m by 15m.

RELEVANT POLICIES:

National Planning Policy

National Planning Policy Framework

Planning Policy for Traveller Sites

Mid Bedfordshire Local Plan Review December 2005

HO12 - Gypsies

Core Strategy and Development Management Policies - North 2009

CS14 - High Quality Development

DM3 - High Quality Development

DM4 - Development within and beyond Settlement Envelopes

**Development Strategy for Central Bedfordshire: Pre Submission Version
January 2013**

Policies:

- 1 - Presumption in Favour of Sustainable Development
- 33 - Gypsy and Traveller and Travelling Showpeople Provision
- 43 - High Quality Development

Having regard to the National Planning Policy Framework, significant weight is given to the policies contained within the emerging Development Strategy for Central Bedfordshire, which is consistent with the NPPF. The draft Development Strategy is due to be submitted to the Secretary of State in May 2013.

Draft Gypsy and Traveller Plan

GT5 - Assessing planning applications for Gypsy and Traveller sites

Planning History - relevant

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| MB/95/01588 | Demolition of part of existing store and erection of single storey building for washing and WC facility. Granted 23/2/96 |
| CB/10/01349/FULL | Change of use to a gypsy site with 1 static caravan, 1 touring caravan, parking for 2 vehicles and 1 portaloo (serviced) Refused 7/4/11 and dismissed on Appeal 10/6/11 |
| CB/11/00202/FULL | Change of use to a Gypsy site, with one static caravan, one touring caravan, parking for two vehicles and one portaloo (Retrospective). Refused 4/7/11 |
| CB/11/03034/FULL | Change of use to a Gypsy site, with one static caravan, one portaloo and parking for one car (retrospective). Refused 24/10/11. |

**Representations:
(Parish & Neighbours)**

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| Clophill Parish Council | <p>The Parish Council sent in a lengthy objection accompanied by photographs, a full copy of the objection is appended to this report.</p> <p>Strongly object to the proposal for the reasons set out below:</p> <ul style="list-style-type: none">- the appeals considered an almost exactly similar application refused by CBC, after hearing the evidence the appeals were dismissed by the Inspector;- Plot 1 is a continuation of plot 2 to the west until it reaches The Causeway, it is exactly similar to Plot 2 only even more obtrusive and upsetting; thus all the reasons for the earlier dismissals plus some additional objections apply to this site;- the land is agricultural and this categorization must not |
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now be changed;

- the site is outside the village envelope and should be dismissed on these grounds alone;
- sewerage pipes run under the site and by-laws prevent building within 7m of such pipes, therefore the site cannot accommodate the proposed static caravan, the same conditions should apply to the water supply;
- the first site of the village when approaching along The Causeway is of a Gypsy site, the Planning Inspector wrote four paragraphs regarding the effect on the character and appearance of the area and found that the development would be materially harmful to the character and appearance of the area;
- the mobile home which is even more obvious as it has to be raised, caravans, trucks and domestic cars present a most unsuitable appearance and this reason alone is sufficient for the application to be refused;
- although many are parked on the access track the vehicles are an integral and inseparable element of the Gypsy presence, the vehicles far exceed the number applied for an include commercial vehicles for the businesses operated from the site;
- the site is in a high risk area but because of the illegal dumping over the years has been raised;
- the Parish Council has concerns that the illegally dumped, scattered and covered material may be contaminated;
- the IDB has recently cleared the stream which has reduced the flood risk but only for the time being;
- the application ignores the rights of the settled community, moving the static caravan onto plot 1 would severely and adversely impact on the neighbouring settled community;
- because of the illegal landraising and need to lift the mobile home off the ground to obviate flooding, the already large and obtrusive building will look into the south facing windows of 17 The Causeway immediately across the stream;
- the Parish Council is most concerned over future growth of this site into a mini "Dale Farm" unless action is taken now to refuse this application and require removal from the site;
- the application must be refused and the Enforcement Notice must be enforced;
- the application stresses the need for the family to be resident in Clophill especially for the education of the children, the applicant's children do not attend the school in the village but are driven to other schools;
- there are no medical or dental practices in Clophill;
- a suitable, legal site elsewhere in Central Bedfordshire would allow attendance at the same schools as are

currently being attended and receive the same medical and dental care.

Conclusion

Given that the Planning Inspectorate has previously dismissed an appeal for change of use of land and the establishment of a gipsy(sic) site on the immediately adjacent plot and for the additional reasons details in this paper, Clophill Parish Council OBJECTS most strongly to this application. Central Bedfordshire Council is requested to REFUSE it.

Neighbours

18 letters of objection have been received in response to the application, the concerns are set out below:

- the land is agricultural and not designated for residential use
- enforcement action should be taken against the use of the land
- the site is close to the river and is prone to flooding
- damaging effect on wildlife
- outside of the village Settlement Envelope, it will set a precedent for other sites of development in the village
- none of the grounds for the appeal dismissal have been overcome
- this application should not have been allowed to be submitted
- damaging effect on bio diversity in the area and further down the river
- none of the children on the site are in local schools
- the Kingfisher family appear to have gone
- increase in noise
- much work was undertaken on the site prior to its occupation
- the site has always been agricultural and not used for parking and storage.
- there is a business operating from the site
- trees on and close to the site may fall due to the roots being exposed as a result of flooding
- change of use from what?
- the application is a delaying tactic due to the enforcement notice compliance required at end of May
- impact on the County Wildlife Site
- the family have no need to stay in Clophill, there is no doctors, dentist and only one shop
- if permission is granted the site will grow into a "mini Dale Farm"
- fires take place on the site
- people claim to have experienced intimidation
- CBC has met its Gypsy and Traveller pitch requirements through the emerging Plan

- the proposal would detract from the rural setting, it would be out of character and create an unsightly edge to the village
- the Council hasn't controlled existing buildings
- the site would be too close to existing dwellings
- the family should move to the proposed site in Barton which is away from houses
- questions over the suitability of the foul sewer
- the site was raised by hard core before the travellers came to the site
- shrubs, trees and wildflowers have been removed by the applicant

1 letter from an adjacent landowner was received making the following comments:

- neither in favour nor against the application
- if the application is granted then the Council will have moved the building line closer to my land, it shows acceptance that the flood risk is not as serious as local residents claim and that with correct management and "appropriate" housing design, the area could be made suitable for sustainable development
- if the application is refused then peace will resume in the village and hopefully someone will tidy up the area, including Paradise Farm, and return it to something other than a rubbish tip.

Ultimately the council needs to make a decision and stick to it. If it favours Mr Gumble, then my view is:

- The permission should be permanent,
- The Gumble's should be classed as settled and therefore they should give up their Romany status (This should be a condition of the planning) and the Gumble's will no longer be able to utilise the support of either BFS or the Romany community. The ground will be subject to council tax etc.
- The development should be suitable, in keeping, sustainable and permanent. It should utilise the latest technology and theories to make development in these challenging conditions a success, not just for Mr Gumble and his family, but the rest of the community. The council should work with Mr Gumble and the family to ensure this happens. In keeping does not mean simply hiding caravans and mobile homes behind newly planted trees and putting up fences.
- Garden/boundaries and ownership of this area should be defined/visible, to ensure that further future development (Which I believe is inevitable) can be considered in a clear and concise manner.

If the council rejects the application then:

- The council need to project a clear message to Mr

- Gumble that the area will not be developed.
- Enforcement need to ensure that the Gumble's find other suitable areas, as dictated by the council (Not by themselves)
 - The continued minor amendments, reapplication and appeal scenario is stopped.
 - Should the family remain in residence, ignoring the decision, systems should be in place to ensure this is a criminal offence and continuation to live there will result in appropriate sentencing.

Consultations/Publicity responses

Clophill Conservation Group

- The proposed development is outside the village envelope;
- The development is visually intrusive and alien to the character of Clophill and approach to its significant Conservation Area;
- A grant of permission would be contrary to previous decisions, notably the appeal decisions of the Inspectors dated 29 May 2012 and 10 June 2011 for the adjacent site by the same applicant;
- If permitted it will make it difficult to prevent similar developments in the future and thereby progressively erode the natural and heritage amenities of the village.

Internal Drainage Board

The IDB repeated their previous comments but highlighted the final paragraph and recommendations.

My understanding of the reasons for the submission of a retrospective planning application are:

- The previous application on this site which showed the caravan situated nearer the eastern site boundary was refused and the appeal dismissed.
- The Planning Inspector dismissed the applicant's appeal on flood risk grounds whilst noting that the flood maps had changed since the application was originally determined. He considered the site to be partly within Flood Zone 2 (medium probability of flooding) which is unacceptable for 'Highly Vulnerable' development as described in PPS25.
- A new (retrospective) application has now been made with the caravan positioned towards the western boundary of the site which shows the caravan to be in Flood Zone 1 on the edge of Flood Zones 2.

Since this highly vulnerable development is still situated within a site which is partially within Flood Zone 2, with Flood Zone 3 (according to the current flood map) just contained within the south bank of the watercourse and

the access road partially within Flood Zones 2 and 3, the Planning Authority may wish to consider refusing the application on flood risk grounds. Alternatively, the wider benefits of allowing the development to remain may outweigh the flood risk of allowing a highly vulnerable development in this location, subject to conditions.

(The 'Exception Test' referred to by the Inspector which sets the standard for assessing the compatibility of the proposals with flood risk is described in PPS25 page 27, D9).

Although a Design and Access Statement has been submitted with the application and considers flood risk, a Flood Risk assessment has not been submitted which is sufficiently robust to show the development to be safe from potential flood. The braided nature of the watercourses in the vicinity of the site would be difficult to computer model to show that such a small scale site is not at flood risk; hence I would not expect to see this included in an FRA. An overview of the flood maps is therefore probably the best indication of likely flooding in this location and the most reliable data available to the applicant. It is accepted that the applicant has endeavoured to make the best use of the land available on the site by positioning the caravan in the least vulnerable flood risk location, but other issues such as access and egress during an extreme flood event have not been considered, nor registration for flood warning.

The Board acts as an Operating Authority for Land Drainage matters. Acting in this capacity the site occupants have co-operated with the IDB in making the site accessible for watercourse maintenance operations after the serving of the requisite notice. The location of the WC, however, shown on the submitted plan is within the Board's Bylaw width; hence if it remains in that position it is likely to require removal if/when more extensive watercourse maintenance work such as de-silting of the watercourse is carried out. It would be preferable, therefore, if the WC were re-sited in excess of 7m from top of bank. The WC does not have the consent of the Internal Drainage Board to be located in the position shown on the plan and hence the IDB can require its removal.

To be clear, the Bylaw width is for access and the spread and levelling of arisings from the watercourse (silt, vegetation etc) which the Internal Drainage Board are entitled to place on the land without compensation to the landowner. The 2m strip shown adjacent to the watercourse on the submitted plan is insufficient for the spread and levelling of arisings thereon when de-silting

operations, etc. take place.

If the Planning Authority are minded to grant planning permission it is recommended that:

- the WC be moved in excess of 7m from top of bank of the watercourse in order that the location does not adversely affect watercourse maintenance operations in the future.
- The caravan is raised 600mm above the level of the top of bank of the watercourse (600mm above Flood Zone 3) and secured so that it cannot float off in an extreme flood event exceeding the 1% probability with the possibility of danger to the occupants or blockage to the downstream watercourse.
- The occupants register with the EA for Flood Warning and have an evacuation plan in place to minimise the danger from flood.
- The fences on the east and west boundaries are demountable.

All in the interest of ensuring that maintenance of the watercourse can be carried out unimpeded by the Internal Drainage Board and that flood risk to the occupants of the caravan and to the local environment is minimised.

Environment Agency

Flood Risk

This area falls within the jurisdiction of the Bedford and River Ivel Internal Drainage Board (IDB). Therefore, the IDB should therefore be consulted with this proposal and the submitted Flood Risk Assessment (FRA). We will seek to support the IDB in their conclusions.

Other comments

The applicant's attention is drawn to DETR Circular 03/99 which requires an applicant to demonstrate that a connection to the public foul sewer is not available. In the eventuality of a connection to the public foul water sewer not being available, the suitability of any non-mains sewerage systems, particularly those incorporating septic tanks, must be effectively demonstrated by the applicant to the satisfaction of the Local Planning Authority.

Highways Development Control

Although access to this site is achieved via the junction of The Causeway and High Street which is substandard in terms of the level of visibility available or via the junction of The Causeway with the A507 which is not subject to a speed restriction other than the National Limit; no highway objections have previously been raised to the creation of a gypsy site at this location.

Given that previous applications have been dealt with at Inquiry, I do not consider that it would be appropriate to raise an objection on highway grounds to this latest proposal.

It is stated on the application form that no changes are proposed to the existing means of access to the highway and the application site layout plan shows that access into the site will be achieved via a gated access onto the private access road serving Paradise Farm.

However it is noted that the access to Paradise Farm within the limits of the public highway is in a poor state of repair. This will need to be reconstructed and/or resurfaced to an appropriate standard, if it is to properly serve as a means of access to the residential use. I have therefore recommended the imposition of a planning condition to secure this.

Furthermore it is noted that there are gates in the fencing to the front of the site which open onto the "apron" at the access to Paradise Farm. These could be used to provide a separate means of access to the site. Given that these gates are not the intended means of access to the site, I have recommended a condition to secure their removal and close this section of the access.

Although the application site plan does not show any parking spaces, there is sufficient room within the site for at least half a dozen vehicles to enter, park, turn and leave in forward gear.

Private Sector Housing

No response received.

Minerals and Waste

The following classes of surface development are considered to be of a nature unlikely to lead to the long term sterilisation of minerals:

- Extensions of existing buildings within their curtilage;
- Infilling development except for proposals within 250 metres of an existing permission for mineral extraction/waste disposal;
- Minor development (such as walls, gates, accesses);
- Individual residential caravans for a period of less than 5 years;
- Amendments to previously approved developments;
- Applications for Listed Building Consent;
- Reserved matters;
- Changes of use (except where further built development is proposed).

As this is a Change of Use, without further built development, I have no comments to make.

Public Protection No response received.

Contaminated Land No comment.
Officer

Determining Issues

The main considerations of the application are;

1. Policy Background including Gypsy and Traveller Pitch Provision
2. Planning History of the Site
3. Flood Risk
4. Impact on the visual amenities of area
5. Impact on amenities of neighbours
6. Highways and parking
7. Assessment against emerging policy GT5
8. Other Matters
9. Conclusions

Considerations

1. Policy Background including Gypsy and Traveller Pitch Provision

Policy Background

The site lies outside of any built up area within the open countryside where there is a general presumption against the granting of planning permission for new development. The new "Planning Policy for Traveller Sites" guidance sets out that Local Authorities should strictly limit new Traveller site development in open countryside that is away from existing settlements.

"Planning Policy for Traveller Sites" is specifically designed to provide guidance on determining Gypsy applications and to ensure fair and equal treatment for Travellers, in a way that facilitates that traditional and nomadic way of life for Travellers while respecting the interests of the settled community. The document also defines Gypsies and Travellers, the definition remains the same as that in the replaced Circular 1/2006.

The new policy document requires that Local Planning Authorities carry out a full assessment of the need of Gypsies and Travellers in their area in liaison with neighbouring authorities to determine the need for sites. Sites should be specific deliverable sites sufficient to provide 5 years worth of sites against the authorities locally set targets.

Paragraph 25 of the Planning Policy for Traveller Sites sets out that if a local authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary consent. This

paragraph is subject to paragraph 28 which sets out the implementation arrangements. Paragraph 28 states that the policy set out in paragraph 25 only applies to applications for temporary permission for Traveller sites made 12 months after the policy comes into force. The Planning Policy for Traveller Sites came into force on 23 March 2012 and paragraph 25 should be taken into account.

The draft Gypsy and Traveller Local Plan will be accompanied by a trajectory demonstrating that the Council has a 5 year land supply and when it is expected pitches will be delivered.

Gypsy and Traveller Pitch Provision

A Central Bedfordshire-wide Gypsy and Traveller Plan is being prepared to deliver the pitch requirement for the northern and southern parts of Central Bedfordshire to 2031. A final draft document will be produced in May-June 2013 for submission to the Secretary of State in October 2013. It is anticipated that the examination hearings will be in January 2014, with the Inspector's report being received in April 2014 and the adoption of the plan in June 2014.

In preparation of the Gypsy and Traveller Local Plan the Council had a Gypsy, Traveller and Showperson Accommodation Assessment Update undertaken. This Assessment highlights that there are a small number of unauthorised pitches, temporary consents and people on waiting lists for the Council-run sites which are considered to represent the backlog of need within the area. The Council site at Timberlands is being refurbished and will provide 6 pitches once reopened, these count as supply. The need between 2013 and 2018 is calculated as 38 Gypsy and Traveller pitches for the backlog of need plus 33 pitches as a result of family formation calculated at 2.5% minus the 6 pitches at Timberlands. The total need is therefore 65 Gypsy and Traveller pitches for the period 2013-2018.

The need for Gypsy and Traveller pitches to 2031 is set out in the GTAA update as:

Number of pitches in Central Bedfordshire in 2006 - 118

Pitch need from 2013 to 2018 (to meet backlog) - 38

Minus pitches coming back into use at Timberlands - 6

Growth between 2013-2018 (2.5%) - 33

Growth between 2019-2023 (2.5%) - 31

Growth between 2024-2028 (2.5%) - 36

Growth between 2029-2031 (2.5%) - 25

Total need to 2031 - 157 pitches

Following the Sustainable Communities Overview and Scrutiny Committee on 28th February 2013 and Executive on 18th March 2013, the Council resolved at its meeting on 18th April 2013 that the draft Pre-Submission Gypsy and Traveller Local Plan be approved for the purposes of publication and submission to the Secretary of State.

The draft Plan sets out the need for pitches to 2031 as follows:-

157 pitches for Gypsies and Travellers.

The draft Plan also allocates the following sites:

- (i) Site 16 (Land West of A6, South of Faldo Road and West of Barton-le-Clay)
- (ii) Site 55 (Land South East of Park Corner Farm and South of Dunton Lane)
- (iii) Site 58 (Land East of Potton Road and South of Ram Farm)
- (iv) Site 76 (Land South of Fairfield and West of Stotfold Rd)
- (v) Site 78 (Land East of M1, Tingrith)
- (vi) Site 92 (Land East of Watling Street and South of Dunstable)
- (vii) Site 116 (1 Old Acres, Barton Road, Pulloxhill)

The figures in the updated accommodation assessment were accepted by the Overview and Scrutiny Committee, Executive and subsequently Full Council. With the Council's acceptance of the updated need figures and the known backlog it must also be accepted therefore that there is a general need for sites. Since mid-March 2013 permanent planning permission has been granted for 12 pitches, therefore the backlog of need has reduced to 26 pitches.

The backlog of pitches will be incorporated into the total number of pitches to be delivered over the next 5 year trajectory. The draft Plan allocates a number of sites however it also relies on windfall applications to deliver the required level of pitch provision. The level of windfall applications expected has been calculated based on previous levels of permissions. Pitches delivered through applications on existing sites or new unallocated sites would contribute to the number of windfall pitches required. Applications such as this therefore potentially make a necessary and significant contribution to the delivery of the required number of Gypsy and Traveller pitches and maintaining the required 5 year land supply trajectory.

2. Planning History of the Site

The application site covers an area of land which has been subject to previous planning applications and subsequent appeals. The land which has been subject to refusal of planning permission is proposed to only be used as garden land.

The previous refusals of planning permission were due to the location of the site mainly within Flood Risk Zone 2 which indicates a medium probability of flooding. In determining the most recent appeal, APP/P0240/C/11/216387, against the refusal of planning permission, CB/11/03043/FULL, the Inspector identified the main issues as:

- the effect on the occupiers of the site with regard to the risk of flooding;
- the effect on the character and appearance of the area;
- the need for and provision of sites for Gypsies and Travellers in the area and the availability of alternative sites;
- the appellant's need for a settled site and personal circumstances; and
- the overall balance with regard to a permanent permission and permission for a temporary period.

These issues will be considered below with reference to the current application site.

Following refusal on planning permission CB/11/03034/FULL on 24th October 2011 an enforcement notice was served requiring the use of the land as a caravan site to cease and the removal of all caravans, trailers and other residential paraphernalia from the land. The notice was appealed and the Inspector dismissed the appeal but extended the time for compliance to one year. The enforcement notice will therefore come into effect on 29th May 2013.

3. Flood Risk

The application site lies mainly within Flood Zone 1 with small areas within Flood Zone 2. The site layout plan submitted shows the static caravan, touring caravans and parking area located on the western part of the site with the eastern part being laid to garden.

The Flood Risk Assessment which accompanies the application includes a copy of the Environment Agency Flood Risk map. The FRA also considers the height of the land within the site and its vulnerability to flooding. The map shows that the western part of the application site on which the living accommodation would be proposed is located within Flood Zone 1 which has a low probability of flooding. Part of the eastern part of the site which would be used as a garden is however within Flood Zone 2 which has a medium probability of flooding.

The Technical Guidance to the National Planning Policy Framework provides guidance on flood risk and which types of development should be considered acceptable within the Flood Zones. The Guidance sets out the four Flood Zones as:

- Zone 1 - low probability
- Zone 2 - medium probability
- Zone 3a - high probability
- Zone 3b - functional floodplain

Caravans, mobile homes and park homes intended for permanent residential use are classified by the Guidance as highly vulnerable development.

Table 3 of the Guidance shows flood risk vulnerability and flood zone compatibility. The table shows that highly vulnerable development is appropriate in Flood Zone 1. The Guidance does also require that all proposals for caravans, mobile homes and park homes intended for permanent residential use are subject to the sequential and exception tests.

In determining the recent appeal the Inspector set out that although part of the site is Flood Zone 1 it is necessary to assess the proposal against the factors which apply in Flood Zone 2. It is considered that even though only a small part of the site which would be developed is within Flood Zone 2, the whole of the eastern part is within Flood Zone 2 and the proposal should be judged against the guidance for Flood Zone 2. It is not considered that this approach should be taken in determining this application as the land proposed for siting of the living accommodation would be in Flood Zone 1, the lowest level of risk, and garden land within Flood Zone 2 is acceptable.

The sequential test seeks to steer new development to land within Flood Zone 1. As the majority of the site is in Flood Zone 1 it is considered that the proposal passes the sequential test. The exception test requires that it is demonstrated that within the site, the most vulnerable development is located within areas of lowest flood risk and that development is appropriately flood resilient and resistant, including safe access and escape routes. The planning application demonstrates that the most vulnerable parts of the development, i.e. living accommodation, would be located in Flood Zone 1, the lowest level of risk. The caravans would be securely tethered and the underside would be above the flood level so that there would not be any risk of inundation or instability. In addition the flood risk map shows that the occupants of the site would be able to leave the site via the access to The Causeway during a flood event.

The IDB repeated their previous comments that the development is highly vulnerable within a site partly in Flood Zone 2 and in close proximity to Flood Zone 3 and the Authority should consider refusing the application. It is not considered that this is entirely accurate as whilst the site is near to Flood Zone 3 the main part of the site to be used for living accommodation is within Flood Zone 1. The IDB nevertheless recommend conditions and measures to minimise risk from flooding, including caravans being raised 600mm above the level of the top of the bank, securing the caravans, registration with the Environment Agency's Flood Warning service and having an evacuation plan.

The IDB also require that the fences adjacent to the watercourse are demountable to ensure access can be gained for maintenance purposes and highlight that a 7m wide strip adjacent to the watercourse should be left clear.

Due to the location of the most vulnerable part of the development, the living accommodation, being sited within Flood Zone 1 and the implementation of appropriate measures to ensure flood resilience and resistance it is considered that the proposal passes the sequential and exception tests. The proposal is therefore considered to be in compliance with the NPPF, Technical Guidance to the NPPF and relevant Local Plan policies.

4. Impact on the visual amenities of the area.

The site lies at the edge of the built up area of the village just beyond the edge of the ribbon of housing development on both sides of The Causeway to the immediate north of the site. The land is generally open and attractive and partial views of the static caravan and the touring caravans would be seen from the road above the 2m high close boarded fence which encloses the site. There is a mature conifer hedgerow along the north boundary of the site and further tree, hedge and shrub planting has been undertaken along the southern boundary adjacent to the road.

The applicants have stated that the proposed static caravan would have a pitched roof and could have roof tiles of whatever colour the Authority prefers. Also the external walls of the caravan could be a specific colour. The application does not contain any details of the external appearance of the caravan however there is a static caravan of similar style currently on the site. The static caravan would be sited facing The Causeway and would be in line with the existing

dwellings on the street thus continuing the building line. It is considered that a static caravan with a pitched roof would appear more acceptable in the streetscene, particularly as it would be orientated in the same way as the existing dwellings.

The Inspector's decision on the recent appeal on this site is a material consideration in determining this application.

The conifers which have been planted are not typical of the river meadows and do not contribute to the assimilation of the development into the landscape. The timber fencing, vehicles and caravans are out of character with the flood plain meadow land and form part of a belt of intrusive development adjacent to the watercourse. It is not disputed that additional planting has been undertaken however it is not considered that the additional planting has overcome the adverse visual impact of the development. In addition the Inspector stated that landscaping could mitigate the harm to an extent but the development would still detract from the landscape character of the riverside meadows. The Inspector concluded in the appeal decision that the development detracts from the rural setting of, and forms an unsightly edge to, the village.

The landscaping has matured since the appeal decision and additional planting has been undertaken. The timber fencing is out of character with the floodplain meadow land however it is permitted development and the refusal of planning permission would not result in its removal. The vehicles are not considered to have such a significant adverse impact on the visual amenities of the area to justify refusal of planning permission. The parked vehicles are seen within the context of The Causeway which is a residential street with parking on and off-street. The caravans at the time of the appeal site visit were different to those proposed now. The proposed static caravan which would be located in line with the dwellings on The Causeway, continuing the established building line, would have the appearance of a small dwelling rather than a caravan and could be finished to the Planning Authority's satisfaction. In addition the site is seen against the animal sanctuary known as Paradise Farm which is a collection of buildings in various states of disrepair which is considered to have a far more significant adverse visual impact than a single pitch Gypsy and Traveller site.

5. Impact on amenities of neighbours

The nearest house to the site is 17 The Causeway and this lies about 20 metres to the north west. There is a tall mature conifer hedgerow along the boundary of the application site close to the boundary of 17 The Causeway. This hedge and the tall fence around the site mean that there is very little visual impact of the development at the site on the outlook of the nearest neighbours or the visual amenities of the area generally. This application would move the caravans closer to The Causeway and would therefore not be visible from the neighbouring dwellings. There are no first floor side facing windows on 17 The Causeway and there do not appear to be any ground floor windows on the side elevation. If there are side facing ground floor windows which are not visible from the road or the application site, views into and from these windows would be prevented by existing boundary treatment and planting.

The appeal decision confirms this view with the Inspector concluding that the

impact on views from dwellings is not significant in terms of public interest. There is a reasonable separation between the existing dwellings and proposed caravans which would not be materially different to that commonly found between permanent dwellings.

6. Highways and Parking

Access to the site is via the shared private driveway off The Causeway which serves Paradise Farm.

The Highways Development Control Officer comments that although access to this site is achieved via the junction of The Causeway and High Street which is substandard in terms of the level of visibility available or via the junction of The Causeway with the A507 which is not subject to a speed restriction other than the National Limit; no highway objections have previously been raised to the creation of a gypsy site at this location.

It is stated on the application form that no changes are proposed to the existing means of access to the highway and the application site layout plan shows that access into the site will be achieved via a gated access onto the private access road serving Paradise Farm.

However it is noted that the access to Paradise Farm within the limits of the public highway is in a poor state of repair. This will need to be reconstructed and/or resurfaced to an appropriate standard, if it is to properly serve as a means of access to the residential use.

Furthermore it is noted that there are gates in the fencing to the front of the site which open onto the "apron" at the access to Paradise Farm. These could be used to provide a separate means of access to the site. Given that these gates are not the intended means of access to the site they should be removed and this section of the access closed.

Although the application site plan does not show any parking spaces, there is sufficient room within the site for at least half a dozen vehicles to enter, park, turn and leave in forward gear.

The Officer therefore recommends conditions requiring the reconstruction and resurfacing of the existing access for a distance of 10m into the site and the closure of the alternative access to the plot of land.

7. Assessment against emerging policy GT5

The emerging Gypsy and Traveller Local Plan approved by Full Council on 18th April 2013 for public consultation prior to submission to the Secretary of State and therefore due to its compliance with the NPPF carries weight. The Plan contains policy GT5 which is a criteria-based policy for assessing planning applications. Each part of the policy is addressed in turn below.

- Justification of local need for the scale and nature of development proposed. The issue of need has been dealt with above however in brief the Council's GTAA highlights a backlog of 38 pitches which has subsequently reduced to 26 following recent grants of planning permission. The draft Plan relies on windfall

sites to provide pitches in addition to those allocated within the Plan and therefore applications such as this are vital in meeting the level of identified need.

- The scale of the site and number of pitches would not dominate the nearest settled community and would not place undue pressure on infrastructure.

The site is located on the edge of the village of Clophill. The Parish of Clophill according to the 2011 census has a population of 1,740 people, in 720 dwellings. The application is for a single pitch site which would accommodate a family of eight people which in comparison to the size of the parish is considered appropriate and would not dominate the nearest settled community. The site is already occupied therefore granting planning permission would not place any additional pressure on infrastructure.

- The site would not be located in an area of high risk of flooding, including functional floodplain. A flood risk assessment will be required in areas of flood risk.

Flooding has been considered in detail above. The application is accompanied by a Flood Risk Assessment.

- Satisfactory and safe vehicular access.

The Highways Development Control Officer has no objection to the application but does request two conditions on any planning permission granted.

- Site design demonstrates that the pitches are of sufficient size.

Whilst there is no defined size for a Gypsy and Traveller pitch the submitted plans show that the pitches would be of sufficient size to accommodate up to three caravans (one static and two tourers), parking and turning space, a large garden and associated buildings/storage.

- Landscaping

The visual impact of the proposal is considered in detail above. Specifically with regard to planting, the northern and southern boundaries of the site are already well landscaped, however it is considered that additional landscaping would be beneficial. Along the boundary fencing with the highway the applicant has planted shrubs and hedging which will over time soften the appearance of the fencing.

- Sensitive boundary treatment

The southern, eastern and western boundaries of the site are demarcated by 2m high close boarded fencing which has been stained green in colour. The northern boundary of the site adjacent to the watercourse is shown as being wooden post and rail fencing. The existing site is fenced on all sides with wooden close boarded fencing. The existing fencing adjacent to the watercourse is demountable to enable the IDB to gain access.

- The amenity of nearby occupiers would not be unduly harmed by the development

The closest dwelling to the application site would be the property at 17 The Causeway. At present some views of the existing site are possible from the first floor rear windows of the dwelling. Relocating the living accommodation to the

land to the front of the site would mean that no views to or from 17 The Causeway would be possible. Due to the location of the site, the nature of the proposal and the orientation of the adjacent dwelling it is not considered that there would be any adverse impact on the amenities of neighbouring residents by reason of overlooking, overbearing or loss of privacy or light. This issue is also considered above.

- Pollution from light and noise sources should be minimised

No details of external lighting on the site have been provided however it is considered that this can be adequately controlled by condition. The proposal would not lead to any specific noise sources. It is acknowledged that there may be a little more noise from a Gypsy and Traveller site compared to a bricks and mortar dwelling due to the level of outdoor living, nevertheless it is not considered that a normal level of noise would be unacceptable.

- Adequate schools, shops, healthcare and other community facilities are within a reasonable travelling distance.

Four of the children on the site are in education, one is home tutored with the others attending schools outside of Clophill. Shops and other community facilities within Clophill are limited and there is no healthcare provision. The policy requires adequate facilities be within a reasonable travelling distance not necessarily within the village. It is considered that the location of the site would enable the occupiers to access the necessary facilities without having to travel long distances.

- Suitable arrangements can be made for drainage, sanitation and access to utilities.

The existing site is connected to the mains sewer and it is proposed that this arrangement continues if planning permission were granted. Details of surface water drainage would need to be secured by condition as there do not appear to be any formal arrangements in place or proposed.

Overall the proposal complies with the emerging Gypsy and Traveller Plan policy GT5.

8. Other Issues

There are no trees on the site which are affected by the proposals. Local residents have advised that trees have already been removed from the site.

This council's ecologist has advised that the site lies in the Flit Valley County Wildlife Site. Policy CS18 of the Core Strategy and Development Management Policy Document states that development that would fragment or prejudice the biodiversity network will not be permitted. The application does not make any mention of any suggested mitigation to provide beneficial habitat management but that there should be a minimum of 8 metres of any development to the river to protect riparian habitat. The introduction of a shingled area and caravan resulted in the loss of grassland habitat and thus the areas value to wildlife. It must, however, be noted that the placing of the 2m fencing around the site and the clearance of existing vegetation were not works which required the specific grant of planning permission, so the protection of such areas is very tenuous.

Some objectors make comments which appear to relate to the existing long-term use of Paradise Farm, this application is not related to the use of Paradise Farm.

Regard has been had to the Human Rights implications of the application. Details of the personal circumstances of the intended occupiers were outlined above in the context of the claim for very special circumstances.

It is recognised that the refusal of consent would require some individuals who are already resident at the site. This would lead to an interference with their rights to a home and private family life. The refusal of consent would also lead to an interference with their property rights. Such interference must be balanced against the public interest in pursuing the legitimate aims of Article 8 of the European Convention on Human Rights, which include the protection of the environment. In the present case, the analysis above suggests that the likely impact of the development upon the Green Belt, or upon the character and appearance of the countryside, is limited and that the refusal of permission would place a disproportionate burden upon members of the applicant's family and would result in a violation of their rights under the Convention.

Consideration should be given to whether a temporary consent would be appropriate. Planning Policy for Traveller Sites sets out that temporary consent should be considered where there is no five year supply of sites, which comes into effect on 23 March 2013. The Council on 18th April resolved that the draft Gypsy and Traveller Local Plan be approved for the purposes of publication and submission, the Plan identifies the need for 157 pitches to be provided within the Plan period and seven sites in order to meet the level of identified need. The draft Plan will be accompanied by a trajectory demonstrating that the Council has a 5 year land supply and when it is expected pitches will be delivered.

Notwithstanding the above if Member's are minded to refuse this application consideration should be given to a temporary consent. If temporary consent were to be granted the time given to the applicant's could investigate alternative options.

9. Conclusion

The application site is mainly within Flood Zone 1 and partly within Flood Zone 2. Highly vulnerable development, including caravans for permanent occupation, outside Flood Zone 1 are only acceptable when the sequential and exception tests in the Technical Guidance to the NPPF are met. The sequential test seeks to steer new development to land within Flood Zone 1. As the majority of the site is in Flood Zone 1 it is considered that the proposal passes the sequential test. The exception test requires that it is demonstrated that within the site, the most vulnerable development is located within areas of lowest flood risk and that development is appropriately flood resilient and resistant, including safe access and escape routes. The planning application demonstrates that the most vulnerable parts of the development, i.e. living accommodation, would be located in Flood Zone 1, the lowest level of risk and appropriate actions could be taken to secure the caravans etc.

Previous proposals were considered to result in an adverse impact on the character and appearance of the area. This application locates the proposed

static caravan on the established building line and whilst it is accepted that the fencing would still detract from the landscape character of riverside meadows it is permitted development and would not be removed by refusing this application. The landscaping on the site has matured and additional planting has been undertaken. It could be argued that any caravans in open countryside have an adverse impact on the character of the area, however in light of the proposed new location of the static caravan and the level of identified need within the emerging Gypsy and Traveller Local Plan it is considered that on balance the visual impact of the development would not be so adverse as to justify refusing planning permission.

The proposal would comply with the requirements of policy GT5 of the emerging Gypsy and Traveller Plan and would not result in any adverse impact on the amenities of residents or highway safety.

Recommendation

That Planning Permission be approved.

RECOMMENDED CONDITIONS / REASONS

- 1 The development hereby approved shall be commenced within three years of the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 which is designed to ensure that a planning permission does not continue in existence indefinitely if the development to which it relates is not carried out.
- 2 No caravan located on the Site shall be occupied for residential purposes by persons other than Gypsies and Travellers, as defined in annexe 1 of Planning Policy for Traveller Sites 2012.

Reason: To ensure that the occupation of the residential caravans on the site is restricted to Gypsies and Travellers.
- 3 No more than 3 caravans, of which no more than 1 of which shall be mobile homes, shall be located on the Site and occupied for residential purposes.

Reason: In recognition of the location of the site in the countryside and having regard to the provisions of the National Planning Policy Framework.
- 4 No commercial activity shall take place on the Site, including the storage of materials.

Reason: In order to ensure that the development has no unacceptable adverse effect upon general or residential amenity.
(CS Policy DM3 & DSCB policy 43).
- 5 The use hereby permitted shall cease and all caravans, structures,

equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (vi) below:

- (i) within 3 months of the date of this decision a scheme for the means of surface water drainage of the site shall be submitted to and approved by the Local Planning Authority, the approved scheme shall be implemented with 3 months of the date of approval;
- (ii) within 3 months of the date of this decision the proposed vehicular access shall be constructed and surfaced in accordance with details to be approved in writing by the Local Planning Authority for a distance of 10m into the site, measured from the highway boundary, arrangements shall be made for surface water drainage from the site to be intercepted and disposed of separately so that it does not discharge into the highway.
- (iii) within 3 months of the date of this decision a scheme for the storage and collection of waste from the site shall be submitted to and approved in writing by the Local Planning Authority, the approved scheme shall be implemented within 3 months of the date of approval;
- (iv) within 3 months of the date of this decision a scheme for external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority, the approved scheme shall be implemented within 3 months of the date of approval;
- (v) within 3 months of the new access being brought into use, any existing access within the frontage of the land to be developed, not incorporated in the access hereby approved shall be closed in accordance with a scheme submitted to and approved by the Local Planning Authority, the scheme shall include the details of the closure of the access, boundary treatment and landscaping.
- (vi) within 3 months of the date of this decision a landscaping scheme, clearly identifying ground preparation works, details of all tree, hedge and shrub planting and where appropriate earth mounding including details of species, plant sizes and proposed numbers and densities, together with the means of their protection shall be submitted to and approved by the Local Planning Authority, the approved scheme shall be implemented during the first full planting season following the completion of the development. The trees, shrubs and grass shall subsequently be maintained for a period of five years from the date of planting and any which die or are destroyed during this period shall be replaced during the next planting season and maintained until satisfactorily established.

Reason: To ensure an appropriate standard of development.
(CS policy DM3 and DSCB policy 43).

- 6 All caravans shall be raised 600mm above the level of the top of the bank of the watercourse and secured so that it cannot float off in an extreme flood event.

Reason: To avoid danger to the occupants and possible blockage of the watercourse.

(Emerging G&T Local Plan GT5)

- 7 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers SLO1, 2013, Draft I & LOC-04.

Reason: For the avoidance of doubt.

Notes to Applicant

1. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.
2. The applicant is advised that no works associated with the construction of the vehicular access should be carried out within the confines of the public highway without prior consent, in writing, of the Central Bedfordshire Council. Upon receipt of this Notice of Planning Approval, the applicant is advised to write to Central Bedfordshire Council's Highway Help Desk, Technology House, 239 Ampthill Road, Bedford MK42 9BD quoting the Planning Application number and supplying a copy of the Decision Notice and a copy of the approved plan. This will enable the necessary consent and procedures under Section 184 of the Highways Act to be implemented. The applicant is also advised that if any of the works associated with the construction of the vehicular access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) then the applicant will be required to bear the cost of such removal or alteration.
3. The applicant is advised that the requirements of the New Roads and Street Works Act 1991 will apply to any works undertaken within the limits of the existing public highway. Further details can be obtained from the Traffic Management Group Highways and Transport Division, Central Bedfordshire Council, Technology House, 239 Ampthill Road, Bedford, MK42 9BD.
4. The applicant is reminded that any works within 7m of the bank top also require consent from the Internal Drainage Board and that any fencing along the watercourse needs to be demountable to allow the IDB access for maintenance purposes.
5. It is recommended that the applicant registers with the Environment Agency for Flood Warnings and puts in place an evacuation plan to minimise the

danger from flooding.

Statement required by the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 - Article 31

The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

DECISION

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