Location:	**Land to The West Of St Albans Road Codicote Hertfordshire**
Applicant:	**Mr J Connors**
Proposal:	**Change of Use of land to use as a residential caravan site for 8 gypsy families including retention of hardstanding and existing lights.**
Ref. No:	18/00794/FP
Officer:	**Tom Rea**

Date of expiry of statutory period : 04.06.2018

Reason for Delay

Awaiting the progress of the North Hertfordshire Emerging Local Plan 2011 – 2031.

Reason for Referral to Committee

This application was originally called in to Committee by former Councillor J. Gray in the wider public interest

1.0 Relevant History

1.1 On 20th September 2011 NHDC issued an enforcement notice in respect of a material change of use of land at Pulmer Water relating to a mixed use as a residential mobile home and caravan site and the storage of vehicles, machinery and equipment including associated works such as hardsurfacing, enclosures, containers, external lighting and other services.

1.2 An appeal against the enforcement notice was submitted. On 8th March 2012 an appeal decision was issued granting a temporary planning permission for 5 years. The five-year temporary permission expired on 8 March 2017. This appeal decision is attached as **appendix 1**.

1.3 Members will note that the Inspector allowed the appeal on the basis that at the time the Council could not demonstrate sufficient sites to meet the needs of Gypsy and travellers or demonstrate a five-year supply of such sites. In granting a temporary permission it was anticipated that the Council would resolve this matter through its plan making powers and allocate the necessary sites. It is also worth noting a condition of the appeal decision (condition 2) required that the occupies of the pitches must meet the then definition of gypsy and travellers in order to contribute to meeting the housing needs of this community. The appeal allowed for six pitches (a pitch consists of one static caravan and one touring caravan per pitch).

2.0 Policies

2.1 **North Hertfordshire District Local Plan No.2 with Alterations (Saved Policies 2007)**

Policy 2 - Green Belt
Policy 34 - Residential Caravans and Mobile Homes
Policy 55 - Car Parking Standards
Policy 57 - Residential Guidelines and Standards

2.2 **National Planning Policy Framework (2019)**

Generally relevant throughout although the following section is particularly relevant:

- Section 5 'Delivering a sufficient supply of homes'
- Section 13 'Protecting green belt land'

2.3 **North Hertfordshire District Local Plan 2011-2031 Proposed submission (September 2016) incorporating the Main Modifications (November 2018)**

Policy SP5 :Countryside and Green Belt
Policy SP6: Sustainable transport
Policy SP8: Housing
Policy HS7 'Gypsies, Travellers and Travelling Showpeople'
Policy D3 'Protecting Living Conditions'
Policy NE9 'Contaminated Land'

ELP Background paper:
North Hertfordshire District Council Gypsy and Traveller Accommodation Assessment Update Final Report January 2018

NHDC Emerging Local Plan 2011 – 2031 Examination in Public :

Matter 25: New land proposed for allocation – Gypsy and Traveller site at Danesbury Park Road

2.4 **Department for Communities and Local Government (DCLG) - Planning Policy for Traveller Sites August 2015**

Relevant throughout and in particular Policy E: Traveller sites in the Green belt

2.5 **Codicote Neighbourhood Plan**

The Codicote Neighbourhood Plan are was designated on 24th June 2014. Consultation is currently being carried out by the Codicote Neighbourhood Forum. At present the Plan has no statutory weight.

3.0 Representations

The following representations have been received:

3.1 **Codicote Parish Council:**

OBJECTION:-
I) The recent ORS report, which was heavily relied upon at the recent Local Plan hearing into Gypsy and Traveller accommodation requirements in the area, identifies a need based upon substantive interviews with the Connors family; this

current application far exceeds that identified need.
ii) This application should not be considered until the Inspector appointed to review the Local Plan has delivered his findings and, if necessary, any required amendments made and subject to a six week consultation period.
iii) NHDC should carry out an investigation into the usage of the entire site before further planning consents are granted, to determine if there is an 'unmet' need; a large proportion of Pulmer Water which has previously been granted residential status is a thriving business catering for migrant workers, the family should have priority use of these pitches.
iv) The development is not appropriate within the Green Belt.
v) The proposed lighting is not appropriate within the Green Belt and is intrusive to neighbouring properties.
vi) The conditions of the now expired temporary permission for this site were not enforced, and the family for whom that permission was granted moved away several years ago.
vii) NHDC should look again at requirements across the area, especially in respect to the undetermined application for the Pottersheath site.

3.2 **Local residents and representation from former Cllr:-**

Former Cllr: Ms J Gray Abbotshay Farm Tanyward Lane Codicote (Objects)

Comment submitted date: Tue 09 Oct 2018
I have read the PC's objections to this planning application and wholly adopt them.

I would add:

o The Gypsy & Traveller ("G&T") need asserted by the ORS reports was clearly considered to be spurious by all, including the Inspector and Ms Ormsby, at the Local Plan hearing regarding Matter 12 on 1st March. Other considerations apart, it was apparent (i) that any increased need that may be asserted was most likely caused by the displacement of G&T provision caused by the alternative utilisation (rent paying tenants / migrant workers) of the land rather than for its intended G&T purpose and (ii) that the sole witness upon whose interview evidence reliance was placed does not himself fall within the 2015 definition of G&T and the evidence he would have to have given regarding the future intentions (necessary for the definition to apply) was by its very nature hearsay as it is incapable of being within his own personal knowledge.

o I was reassured after the hearing by the Executive Member for Planning that very careful further consideration would be given to the evidence and that the increased need, if indeed there is one, will be revaluated very carefully, with one possible outcome (in my view the proper one) being for moving on any non G&T individuals whose presence on land designated for G&T use is causing pressure for G&T accommodation to be provided additionally elsewhere.

o In addition to the Green Belt concerns stated by the PC and the issues regarding the temporary permission conditions, there is also the concern, as I mentioned at the hearing, of the very considerable dominance, contrary to policy, of the G&T / migrant worker community on the Pulmer Water community.

In light of all that has been said at the hearing and now by the PC and myself, I trust that this matter will not be determined until after the Local Plan has been finalised and that even then it will go to committee. Please confirm that this is indeed the case.

Two Hollies St Albans Road

Following a hearing on 01 March at Letchworth to consider Gypsy and Traveller needs in the area an independent report submitted by ORS relied upon evidence provided by the applicant Mr Connors. This is a conflict of interest, therefore not independent and should not be relied upon as evidence.

The ORS report in general was flawed. They included migrant workers in the statistics and based assessment needs on unsubstantiated evidence provided by Mr Connors in respect of several interviewees who were absent.
Following the hearing, the portfolio holder for planning, Councillor David Levett, assured Councillor Jane Gray, that NHDC would give close reconsideration to the points made.
Mr Levett recognised that NHDC's representation had been weak and that the true situation would very likely not give rise to any greater needs at all.

North Herts District Council have not adhered to the Planning Policy for Traveller sites.

Under the Planning Policy for Traveller sites (August 2015) the application is in opposition to the following:

Policy C: Sites in rural areas and the countryside
"14. When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community."
- The nearest settled community consists of only three settled homes, Mimram Cottage, Mimram View and Two Hollies. These are the original dwellings that formed the settlement known as Pulmore Water prior to the existence of any Traveller site. This application sits alongside a much larger traveller site together with a mobile home park owned by the applicant.
- When considering the effect of 'domination' this application should not be examined on its own but should be weighed by the effect of total site development at this location. The site at Pulmore Water is the only authorised Traveller site in NHDC and is vastly disproportionate to the existing nearest settled community.
- The inclusion of lamp posts is an inappropriate means of lighting in Green Belt, dominates the landscape at night and intrusive to the neighbourhood generally.
- NHDC are not compliant with point 14 of the Planning Policy for Traveller sites.

Policy E: Traveller sites in Green Belt
"16. Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. 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."
- This application relies on the original temporary permission granted under 'unmet needs'. The temporary use has expired, and the original unmet needs no longer exist as the families moved from this site many years ago. No enforcement of the lapse of use has been made.
- Development of this nature is not appropriate in the Green Belt.
"17. Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional, limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within

the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan making process and not in response to a planning application. If land is removed from the Green Belt in this way, it should be specifically allocated in the development plan as a traveller site only."
- NHDC passed the temporary planning application in response to a planning application, not through the plan making process.
- The ORS report concluded that several pitches at Pulmore Water were being occupied by migrant workers. Migrant workers do not fall under the definition of 'Traveller' and therefore, under point 17 above, should not be permitted to reside on a site that has planning permission for traveller and gypsy use.
- If migrant worker numbers are removed from the statistics this will impact the assessment needs, reducing them which in turn would invalidate the need for this application.
- NHDC are not compliant with point 17 of the Planning Policy for Traveller sites.

Policy H: Determining planning applications for traveller sites
"22. Planning law requires that applications for planning permission must be determined in accordance with the development plan"
- Legally this application cannot be considered until the outcome of the Inspector's report on the Local Plan has been formalised and any further consultation period exercised.
"26. When considering applications, local planning authorities should attach weight to the following matters:
a) effective use of previously developed (brownfield), untidy or derelict land
b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community"
- The site does not enhance the environment
- The site does not increase the openness
- There is no landscaping or play area on this site.
- The site is completely hard landscaped and cypresses trees have been planted and high fencing erected to completely screen the site.
- NHDC are not compliant with point 22 of the Planning Policy for Traveller sites

Summary
Local authorities are responsible for identifying land for Gypsy and Traveller communities to live on and it is in this failing that Travellers seek to purchase and develop their own private sites. However, even Traveller websites advise that Travellers do not seek to purchase land in Green Belt.

Once privately purchased, planning rules should apply, without discrimination, to all landowners equally.

NHDC should be accountable to uphold their legal obligation to provide Traveller accommodation. They should be pro-active in identifying and providing future traveller sites to develop and manage under NHDC supervision. This would help to enable Travellers, alleviate tension in communities, offer protection to the Green Belt and probably cost effective given resourcing needs of the current situation.

Proposed private development in North Herts could be contingent upon

contribution to the provision and development of sites to accommodate Traveller needs.

4.0 Planning Considerations

4.1 Site & Surroundings

4.1.1 The site is located at the western edge of the Pulmer Water caravan park off St. Albans Road, Codicote. The site area is approximately 0.35 hectares. To the north of the site is a former quarry and to the south east residential property. The site is within the Green Belt.

4.2 Proposal

4.2.1 This planning application seeks planning permission for the use of the land as a residential caravan site for 8 gypsy and traveller families each with one caravan or static home.

4.2.2 In support of the application the applicant's agent has made the following points within a Planning Statement :-

- It is accepted that the development is inappropriate development in the Green Belt but that there are material considerations that outweigh the harm to the Green Belt
- The Council does not have a five year supply of sites
- The development is consistent with national policy or can be made so with appropriate planning conditions and obligations
- There are material considerations in favour of the development – need for gypsy and traveller sites, lack of suitable sites, failure of policy, lack of five year supply. These outweigh harm and therefore permanent planning permission should be granted

4.2.3 The application is supported by the following documents:

1. Covering Planning Statement

4.3 Key issues

4.3.1 The key issues in the consideration of this application are considered as follows:

- Planning Policy
- The impact of the development on the green belt
- The impact of the development on the character and appearance of the area
- Living conditions
- Highway issues
- Sustainability
- The Planning Balance

4.3.2 **Planning Policy**

4.3.3 Planning Policy

The Government's Planning Policy for Travellers sites (PPTS) (August 2015) is a key national planning policy document applicable in this case. In addition

paragraphs 143 - 145 of the NPPF are relevant in that they set the test and general criteria for considering development within the Green Belt. Paragraph 60 of the NPPF also advises that the size, type and tenure of housing needed for different groups (including travellers) should be assessed and reflected in planning policies.

4.3.4 Paragraph 16 of the PPTS states that :
'Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. 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'

4.3.5 Paragraph 144 of the NPPF states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The North Hertfordshire District Council Local Plan (Saved Policies) contains two particularly relevant policies – Policy 2 'Green Belt' which reflects general thrust of paragraphs 143 – 144 of the NPPF in terms of very special circumstances being required to justify inappropriate development and Policy 34 Residential Caravans and Mobile Homes. Policy 34 states that the Council may, in special circumstances, permit the use of land for mobile homes or caravans on a temporary basis if:

(i) There is a proven need; and
(ii) There will be little or no likelihood of a replacement application to renew the permission for a temporary period; and
(iii) Particular attention has been paid to its siting, appearance, setting and landscaping

4.3.6 Since the submission of this application the Council has undertaken a significant amount of work in relation to making appropriate provision to meet the needs of Gypsies, Travellers and Travelling Showpeople in North Hertfordshire and to ensure that the Council's strategy complies with Planning Policy for Traveller Sites (PPTS 2015) advice that local planning authorities should *use 'a robust evidence base to establish accommodation needs to inform the preparation of local plans'.* As such the Council commissioned a new Gypsy and Traveller Accommodation Assessment (GTAA) the final report being published in January 2018. .

4.3.7 The Councils strategy for assessing and making provision for gypsies and travellers was examined at the Emerging Local Plan Hearings held between February and March 2018 under a document '*Matter 12 – 'The housing strategy: provision for gypsies, travellers and travelling showpeople (Policies SP8 and HS7)'* The document set out the need for additional pitches over the Plan period to 2031 to meet the needs of the travelling community.

4.3.8 In November 2018 the Council published the Proposed Main Modifications to the Submission Local Plan 2011 – 2031 and this included a proposed revision to Policy HS7 Gypsies, Travellers and Travelling Showpeople to revise the number of pitches required to meet the District's Gypsy and Traveller pitch needs up to 2031. This included an increase in the number of pitches at Pulmer Water to 8 permanent pitches (the site subject of this planning application) (Policy CD4) and a new provision at Land at Woodside Place, Danesbury Park Road for 4 permanent gypsy and traveller pitches

(Policy CD6).

4.3.9 **Matter 25**

Attached as **appendix 2** is a paper submitted by the Council's Planning Policy team to the Inspector examining the Local Plan suggesting that following a further assessment of need and evidence of who lives on the current site the Council can no longer justify a needs case for 8 pitches on this for gypsy and traveller households and it is therefore proposed to modify the Local Plan to remove this allocation and maintain the sites current status as Green Belt.

4.3.10 Up until this very recent change of strategy the current planning application was placed on hold pending the then expected outcome of the Examination in Public (EiP) into the Local Plan, anticipating that the site would be allocated for gypsy and traveller accommodation and following this confirmation through the Local Plan process officers would more than likely have recommended a permanent planning permission to meet those identified needs through this planning application.

4.3.11 The sudden about turn in approach now requires an alternative strategy for this planning application and this is set out below.

4.3.12 Summary

4.3.13 There is no doubt that the application for the use of the site for gypsy and traveller accommodation including the associated structures constitutes inappropriate development in the Green Belt and that it is harmful to openness. It is also contrary to one of the five purposes of the Green Belt in that it leads to encroachment into the countryside.

4.3.14 **The impact of the development on the Green Belt**

4.3.15 The application site is in the Green Belt. Paragraph 133 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.

4.3.16 The provision onto the site of up to 8 caravans and associated hardsurfacing and ancillary structures would significantly change the open character of the site. Apart from harm by way of inappropriateness the development is contrary to one of the five purposes of Green Belts i.e. it would fail to assist in safeguarding the countryside from encroachment.

4.3.17 Summary

4.3.18 The development fails to comply with the fundamental characteristic of Green Belts which is their openness and their permanence.

4.3.19 **The impact on the character and appearance of the area**

I am satisfied as did the Inspector who examined the appeal in 2017 that there are no additional harms to the character and appearance of the area other than harm to Green Belt and openness.

4.3.20 Summary

4.3.21 *The development is* not inconsistent with the general density of the surrounding residential property. However, features of the site such as the high boundary fencing and gates are not consistent with the prevailing pattern and form of development and as such do detract from the character and appearance of the locality.

4.3.22 **Living conditions**

4.3.23 I consider that living conditions on site to be satisfactory and no unacceptable harms to surrounding properties are identified beyond impact on openness which clearly effects the enjoyment of surrounding countryside.

4.3.24 Summary

4.3.25 The living conditions of both the applicants living on the site and the surrounding residents are considered to be acceptable

4.3.26 **Highway issues**

4.3.27 In terms of parking provision the submitted site layout plan indicates a turning area within the site so that cars can leave in forward gear and there would be two parking spaces for each dwelling within the site. Refuse collection is via a kerbside collection and the required amount of refuse and waste recycling bins can easily be accommodated on the site.

4.3.28 Summary

4.3.29 The Highway Authority considers that the use would not have an unreasonable impact on the safety and operation of the adjoining highway. Given this advice it is concluded that there are no highway grounds on which to object to the development or use.

4.3.30 **Sustainability**

4.3.31 For the nature of the use I do not consider that an argument can be justified to refuse planning permission on the grounds of sustainability.

4.3.32 Summary

4.3.33 The economic, social and environmental objectives necessary to achieve sustainable development as required by paragraph 11 of the NPPF can be delivered as part of this development.

4.3.34 **The Planning Balance**

4.3.35 It is clear that the use of the land as a residential caravan site, together with associated structures is inappropriate development in the Green Belt and there would be a loss of openness and encroachment into the countryside. Significant weight must be attached to this harm. Consideration should therefore be given as to whether this harm is outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

4.3.36 As the recent revised ORS study and analysis by the Planning Policy team no longer

identifies any need for 8 gypsy and traveller pitches on this site and moreover were unable to substantiate with any evidence at the EiP hearings that the occupiers of the accommodation on this site meet the definition of gypsy and travellers there is no case for very special circumstances to justify the grant of a permanent permission in this instance.

4.3.37 However, due to the very unfortunate timing and delay in the Local Plan enabling an about turn in strategy in the interests of fairness for the people occupying the site and to enable a properly thought through enforcement strategy (should it be necessary) there are very special circumstances in my view to justify the grant of a temporary 18 month planning permission for 8 caravan pitches of accommodation for the current occupiers of the site.

4.3.38 **Enforcement action**

4.3.39 The LPA had suspended any enforcement action with respect to the unauthorised occupation of this site until the outcome of this planning application was known. However, due to the length of time it has taken to resolve this matter should the LPA decide to refuse planning permission or the Secretary of State decides to call-in the application it will be necessary to commence enforcement action prior to March 8th 2021 to prevent a lawful use of the site being established. Following the 8 March 2021 deadline the current use of the site for caravan pitches would become lawful (i.e. 4 years after the expiry of the 2017 temporary five year planning permission).

4.3.40 If Members were however minded to support the recommendation to grant a further 18 month planning permission for the current use this would enable the current occupiers to find suitable alternative accommodation and if necessary should the use still be in place post 31 October 2022 provide time for the Council's enforcement officers to carry out the necessary welfare checks, assist in providing information on alternative accommodation if necessary and if required at the end of this period prepare its case for formal enforcement action if necessary in accordance with the Council's Corporate Enforcement plan.

5.0 Alternative Options Considered

5.1 There are no realistic alternatives in my view. To refuse planning permission now just when the Council has changed its position on the status of the site would require immediate formal enforcement action, with all the necessary preparatory work including on site welfare assessments to consider the personal circumstances of each occupier, a task that is not feasible during the period this period of covid restrictions. The option of a further brief temporary permission allows the Local Plan to run its cause and provide officers and the applicant/occupiers to work constructively to achieve the permanent cessation of the use at the end of period in the now more likely outcome that this site remains as Green Belt designation in the new Local Plan rather than be allocated for gypsy and traveller accommodation.

6.0 Conclusion

6.1 Officers anticipating that this site would be allocated for gypsy and traveller accommodation through the Local Plan process. The very recent about turn in strategy means that it is imperative that this planning application is determined now in order to enable the Council to retain control over the use of the site. To refuse planning permission could perversely mean that the current use become authorised through the four year rule (i.e. after 8 March 2021) as to organise a correct enforcement notice in such short notice during current covid restrictions would be logistically very difficult for

officers to achieve with the risk that any enforcement notice is applied incorrectly and fails on a technicality.

6.2 Officers are also aware of other recent unauthorised activity in and around the site and these will be investigated separately but are outside the scope of this planning application and not to be determined by Members in this case.

6.3 On this basis I recommend that a temporary planning permission be granted for the retrospective change of use of land to use as a residential caravan site for 18 months to allow the occupiers of the site to find alternative accommodation. I consider that a temporary permission is proportionate and justified in the circumstances. As I am not recommending a condition restricting occupancy to gypsy and travellers this is not a permission for gypsy and travellers and in my view therefore does no need to be referred to the Secretary of State.

7.0 Recommendation

7.1 That temporary planning permission be **GRANTED** subject to the following condition:

1. The use of the land for up to 8 pitches (maximum 2 caravans per pitch) for caravans / mobile homes for residential purposes is hereby permitted for the period up until 31 October 2022. At the end of this period and by the expiry date of this permission the use shall cease, all caravans and associated facilities and infrastructure shall be removed form the site and the land reinstated to a satisfactory condition. For the avoidance of doubt the current hard standing on the site shall also be removed by the expiry date of this permission.

   Reason: The need for the site for gypsy and traveller accommodation has not been demonstrated and the use of land is inappropriate and therefore must cease within an 18 month period in the long term interest of preserving the openness of the Green Belt within which the site is located.

Proactive Statement

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Appendices:
Appendix 1: Appeal Decision relevant to the site from March 2017
Appendix 2: Matter 25 statemen from Planning Policy Team to Local Plan Inspector outlining change of approach