

## **APPLICATION REPORT – 21/00072/FUL**

**Validation Date: 18 March 2021**

**Ward: Chorley South East And Heath Charnock**

**Type of Application: Full Planning**

**Proposal: Change of use of the land to a residential Gypsy and Traveller site involving the siting of two mobile homes and five touring caravans and retention of the utility block and access**

**Location: 2 Heath Paddock Hut Lane Heath Charnock Chorley PR6 9FP**

**Case Officer: Mr Iain Crossland**

**Applicant: Mr Michael Linfoot**

**Agent: Mr Michael Hargreaves, Michael Hargreaves Planning**

**Consultation expiry: 21 April 2021**

**Decision due by: 23 December 2021 (Extension of time agreed)**

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### **RECOMMENDATION**

1. It is recommended that planning permission is granted subject to conditions for a temporary period until 31 March 2025 (i.e. 3 years and 3 months).

### **SITE DESCRIPTION**

2. The application site is located in the Green Belt some 5 kilometres from Chorley town centre, and some 2 kilometres from the centre of the village of Adlington, which merges into the adjoining village of Heath Charnock.
3. The site comprises approximately 1,372 square metres of land located on the eastern side of the M61 between the motorway and Hut Lane and lies to the south of residential properties at Olde Stoneheath Court and Red Row. It is situated between the settlement areas of Adlington and Chorley and forms the south western portion of a larger triangular site of 2,527 square metres known as Heath Paddock, which is screened by fencing and tree planting on all three sides.
4. The character of the area is rural, with clusters of housing. The M61 motorway and associated motorway structures are also a defining feature of this area.

### **DESCRIPTION OF PROPOSED DEVELOPMENT**

5. This application seeks planning permission for the permanent change of use of the land to a residential Gypsy and Traveller site involving the siting of two mobile homes and five touring caravans and retention of the utility block and access.

### **APPLICANT'S CASE**

6. The applicant's agent has submitted the following comments in support of the application.

7. In granting the sequence of temporary permissions the Council has accepted that the needs of the Linfoot / Bird family, and the lack of alternative options available to them represented very special circumstances for temporary permissions, but not so far for a permanent permission, because of their potential ability to relocate to Cowling Farm.
8. Over five and a half years after the Local Plan was adopted, we are no nearer the proposed new Traveller site being developed. Each time the Linfoots applied for planning permission on Hut Lane, the Council assumed what proved to be an unrealistically optimistic timetable for how quickly the Cowling Farm site could be developed.
9. In March 2017 the Council sold part of Cowling Farm to Homes England, with Homes England responsible for developing the southern part of the site for housing, and the Council responsible for developing the northern part for employment, the Travellers site and potentially housing.
10. The Council and Homes England have commissioned a significant amount of technical work on Cowling Farm. We are not party to all that work, nor to its financial implications. However, our understanding is that the road access has added to the construction costs, and combined with the costs of drainage, utilities and ground levelling it has meant that development of both the employment uses and Traveller site within the Council's section of Cowling Farm are unviable.
11. There was public consultation on a masterplan for Cowling Farm in Autumn 2018. We understood this would be followed by planning applications on the Council's and Homes England's sections, but this has not happened.
12. The Linfoots have had three temporary permissions, four if you count 18/00024/FUL and 18/00905/FUL as separate permissions. A further temporary permission would be a fourth (or a fifth). Government policy states that it will rarely be justifiable to grant a second temporary permission. The rationale for the sequence of temporary permissions, that with the development of the new site at Cowling Farm circumstances will change at the end of the period allowing the Linfoots to relocate is no longer tenable. There is no evidence the Cowling Farm site will ever be developed.
13. This means there is unmet need for Gypsy and Traveller residential accommodation in Chorley, and no means of accommodating that need, apart from on Hut Lane. Without Hut Lane the Council does not have the five-year supply of deliverable sites for Gypsies and Travellers required by para 10a) PPfTS.
14. Apart from that it is in the Green Belt, the site at Hut Lane is highly suitable to provide the required deliverable site. It is available, and already developed as a good quality Traveller site. While it is in the Green Belt, it is not in the open countryside, PPfTS para 25, but with Olde Stoneheath Court and the cottages, farm and related development on Hut Lane, forms a cluster of development adjacent to the M61. It is well screened by trees and fencing so that views into the site are limited, and the impact on the loss of openness limited. The fact it was covered by hardcore from when used for motorway construction means it is previously developed land. There is no other alternative suitable site available. Together, these factors provide the very special circumstances for granting permanent planning permission.

## **REPRESENTATIONS**

15. Representations in support of the application have been received from the occupiers of 62no. addresses. These include the following comments:
  - The impact on the Green Belt is outweighed by the benefits.
  - Harm to the Green Belt is limited.
  - The site is not open or prominent
  - The Council has failed to deliver an alternative site.
  - The alternative site at Cowling is not viable to deliver.
  - There are no alternative sites in Chorley.
  - The site is well maintained and of positive appearance.

- The family are active members of the wider community.
  - The applicants are being unfairly treated.
16. Representations have been received from the occupiers of 20no. addresses citing the following grounds of objection.
- The site is located in the Green Belt and the development remains inappropriate development in the Green Belt.
  - There are no very special circumstances.
  - The site is over capacity and does not meet the needs of the family.
  - The site has a poor impact on the appearance and character of the area.
  - The location is not a sustainable one and not suitable for residential occupation.
  - Impact on the amenity of residential occupiers through business uses.
  - The family have not integrated into the community, as tensions remain.
  - Children are no longer in school and are no longer a consideration in the determination of the application.
17. An objection has been received from Paul Sedgwick (dated 20 April 2021) on behalf of a group of local residents, in relation to the application as originally submitted, and is set out as follows:

*I represent the group of residents living in the vicinity of the planning application site on land off Hut Lane. My clients again object most strongly to the current application proposals to intensify this inappropriate use and make the site permanent. There are very strong town planning considerations in support of their concerns, which I set out below.*

*The Hut Lane site is in the Green Belt and therefore there is a strong presumption against development that is inappropriate in the Green Belt. It is recognised in the government's Planning Policy for Traveller Sites that traveller sites are inappropriate development, whether they are permanent or temporary. The site and adjoining land was initially occupied unlawfully as a traveller's site by 16 caravans in 2009. The subsequent planning history is outlined in the applicant's supporting statement and this shows a clear pattern of pressure at each renewal to increase development on, and the permanence of, the site.*

*The current application again seeks to make the site permanent and to further intensify its use by siting an additional touring caravan and to allow commercial use on the site, which has been resisted by the council from the outset.*

*It is recognised that there is an unmet need for traveller accommodation in Chorley, and in July 2015 the council undertook to meet this need within a 5-year period by allocating a site at Cowling Farm. Regrettably, the Council and the HCA have failed to progress this site and therefore the applicants are again faced with the expiry of the temporary consent without being able to occupy the allocated site.*

*The application site is in the Green Belt and its use is recognised as being for inappropriate development. National policy set out in Planning for Travellers Sites (PPTS) notes at §27 that a lack of 5-year supply of sites is not to be considered a significant material consideration in determining applications for sites in the Green Belt. Outside of the Green Belt the lack of sites would have significant weight in determining applications for temporary permission, but even here, footnote 9 of PPTS makes it clear that there is no presumption that a temporary consent would be made permanent.*

*The applicant is right to draw the council's attention to Planning Practice Guidance which, at 014 Reference ID: 21a-014-20140306 states:*

*It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently.*

*It is therefore for the council to consider whether despite the serial delays to date, there is still a realistic intention to provide the site at Cowling Farm. My clients have been assured that that intention exists but also note the current reality of missed milestones does little to give confidence that a planning application for that development is imminent. They also note that the applicant, who is more involved in the proposed development, considers it to be unviable. If there is sufficient certainty that the Cowling Farm site will come forward in the next year or so, it may justify the grant of a further one-year limited period consent. If the Council is not confident of that, then it should not grant a further limited period consent and in which case it must consider the application solely for permanent permission.*

*It is relevant that the site only gained consent as this was for a limited period and its impermanence therefore mitigated the harm to the Green Belt. If temporary use is no longer the case, other material considerations are relevant. The starting point is that as this form development is inappropriate in the Green Belt, very special circumstances that overcome the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.*

*Policy E of Planning Policy for Travellers Sites 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."*

*The applicant's supporting statement deals with very special circumstances (VSCs) at Section 6. It does not rely on the best interest of any child but deals primarily with need of the applicant and his family even though unmet need and personal circumstances are unlikely to be the necessary VSCs. Reference to various site-specific considerations such as the proximity of the M61 motorway and nearby dwellings are not material considerations for development proposals in the Green Belt. On the evidence provided in that section, VSCs have not been demonstrated and the application should be refused.*

*Other considerations support the refusal of the application. The site is not adequate to meet the requirements of the applicant and his family. There has been incremental increases in intensification of the use of the site and the applicant seeks yet more intensification, including another touring van and commercial use. Should a permanent consent be granted, the LPA will face continuing pressure for intensification of the use of the site and potentially its expansion, which will be hard to resist as additions to a permanent site.*

*From the above assessment of the planning position, if the LPA is confident that it is advancing the delivery of the site allocated at Cowling Farm and has the resources to implement it, then that could justify a further limited period consent. If the delivery of the alternative site is now improbable, a limited period consent is not justified and the application for a permanent consent should be refused for the reasons that no VSCs capable of outweighing harm to the Green Belt or any other harm have been demonstrated.*

18. A further representation was received from Paul Sedgwick (dated 28 June 2021) on behalf of a group of local residents, in relation to the status of the applicants as Gypsy Travellers:

*You are probably aware of the recent High Court judgement that the definition of travellers does not include those who have given up their nomadic lifestyles. The judgement is Smith v The Secretary of State for Housing, Communities and Local Government & Anr. Case Number: CO/41/2019*

*I do not see any evidence in the documents relating to the above application that those individuals living on the Hut Lane site continue to travel. As the case for their occupancy of the site depends on them being travellers, evidence that they are all still travelling is essential to determining the current planning application. A history of the individuals travelling, covering not just the last 18 months but for 2019, which was before the pandemic, would give a fair period for them to provide evidence of travelling, including where they went and how long they stayed at each location.*

## CONSULTATIONS

19. Heath Charnock Parish Council: On 6 May 2021 Heath Charnock Parish Council considered the additional information it had received from the applicant and reviewed the previous comments made at the 8 April meeting. Chorley Council is required under the approved Local Development Plan to make statutory provision in the District for five permanent and three mobile Gypsy and Traveller pitches at its chosen site at Cowling Brow. As far as the Parish Council is aware Chorley Council continues to progress this initiative. In the interim the Parish Council asks that Chorley Council as the Local Planning Authority considers a further temporary extension of the previous consent 18/00905/FUL, which is due to expire in July 2021 until the Cowling Brow site is ready for occupation. There should be no increase in the intensity of the use of the Hut Lane site from an additional touring caravan and no business activity should take place at or from this site.

20. United Utilities: Have no objection.

## PLANNING CONSIDERATIONS

### Planning history

21. During the 1990s, the land was used to store timber and wood shavings without planning permission and enforcement action was taken. An appeal against the enforcement notice was dismissed and the land was cleared of stored timber and sawdust. The land then regenerated naturally with trees and undergrowth covering the site until 2008 when the trees and undergrowth were removed. In 2008, an application was submitted to erect a stable on the land together with an exercise area for horses. The application accorded with both Green Belt policy and the Council's supplementary planning guidance on development involving horses and planning permission was granted.

22. In June 2009, the Council received reports that caravans had been moved onto the land and were being occupied for residential purposes. On investigation it was found that 12no. caravans were being occupied for residential use on the land and that other vehicles and a catering trailer were parked on the land. The land itself had been covered with hardcore materials to form an area of hardstanding and a utility block had been erected, together with gate pillars, lighting and a new vehicular access formed. As the site lies within the Green Belt it was considered expedient to issue a Temporary Stop Notice to prevent any further development taking place.

23. A planning application was submitted retrospectively to the Council for consideration in respect of the development and sought temporary permission for a period of 3-4 years, and this was considered by Development Control Committee on the 18 August 2009 when members resolved to refuse the application and authorised the issue of enforcement notices in respect of the unauthorised development on the land.

24. Following the issue of enforcement notices, the notices were appealed together with the refusal of planning permission. The appeals were heard at a Public Inquiry in March 2010; the appeals were dismissed on 13 May 2010, and the enforcement notices upheld with variations

25. Following the Inspector's notice of decision, legal challenges seeking leave to appeal the Inspector's decision were lodged with the High Court under Sections 288 and 289 of the Town and Country Planning Act 1990 and a hearing was held on the 23 September 2010 in the High Court at Leeds when leave to appeal the decision under Section 289 was refused. The right of appeal was on a point of law and could not, therefore, reconsider the arguments put before the Planning Inspector. However, the challenge under Section 288 was not heard at the same hearing and was subsequently withdrawn on 1 November 2010. As a result of the withdrawal of the challenge under Section 288 the compliance periods allowed with the Enforcement Notices began to run.

26. The first period for compliance expired on the 24 June 2011 when the caravans and other vehicles should have been removed from the land. The second compliance period expired

on the 21 September 2011 when other restoration works requiring the removal of hardstanding and other operational development were required to be carried out. Following the expiry of the first period of compliance with the enforcement notice on 24 June 2011 the steps required to comply with the notice were not taken and legal proceedings were commenced. The case was heard at Lancaster Crown Court on the 12 November 2012 for mitigation and sentencing following guilty pleas. The court fined Mr Linfoot £400 and gave a 12 months conditional discharge to Mr Boswell the joint owners of the land.

27. On the 3 June 2011 the Council received a further planning application for the land in respect of:- "Change of use of land for the siting of 4 static caravans and 2 touring caravans for residential use, the storage of 2 touring caravans when not in use for working away, retention of double utility block, provision of double stable block, retention of reduced area of hard surface for exercising horses, retention of hard standing for 3 vehicles plus horse box trailer to north of site and provision of new hardstanding for 3 vehicles plus horse box trailer together with retention of existing access at north west corner of site". This represented a decrease in the number of caravans that were on the site when the unauthorised development originally took place.
28. The planning application was due to be determined by the 23 August 2011. Changes made to the planning application during its consideration required further consultation on the planning application, which meant that the planning application was unable to be determined until after 23 August 2011. That application was appealed as the Council had not determined the application within the required period. A report on the planning application was made to the Development Control Committee meeting on the 6 September 2011 with a minded to refuse recommendation which was agreed to by committee. In other words, Council Members confirmed that, had the Council been in a position to determine the planning application, it would have refused it. The appeal was dealt with by Public Inquiry on the 7, 8 and 9 February and 23, 30 March 2012. On the 22 May 2012 the appeal was dismissed.
29. Following the Inspector's notice of decision a legal challenge was lodged by the applicant against the Inspector's decision with the High Court under Section 288 of the TCP Act 1990 and a hearing was held on the 7 November 2012 in the High Court at Manchester. The decision of the Judge was to quash the Inspector's decision and remit the case back to the Planning Inspectorate for rehearing. The challenge was successful on the very narrow ground of temporary permission and adequate reasoning. A date for a new Public Inquiry was set for the 24, 25, 26 and 27 September and 1 October 2013.
30. On 4 February 2013 the Council obtained an injunction against members of the Bird, Boswell and Linfoot families. As part of that process Mr and Mrs Boswell gave an undertaking, conditional on planning consent not being granted for the siting of caravans on the land, not to take up residence on the site. Mr Linfoot agreed, if the redetermination of the appeal was unsuccessful, that he would vacate the site within 3 months of such a decision.
31. On the 26 April 2013 a planning application was submitted for the continued temporary use of the site relating to a reduced site area. Temporary planning permission was granted for a period of 2 years which expired in July 2015.
32. A further planning application seeking a further temporary permission was submitted in June 2015. This was approved subject to a temporary period of 2.5 years, in consideration of an allocated Gypsy and Traveller site and its anticipated delivery timescale.
33. The Gypsy and Traveller site was not progressed within this time period and, therefore, a further application (ref. 18/00024/FUL) was submitted seeking a permanent consent for the use of the land. This was submitted in January 2018, and in July 2018 the application was approved subject to a temporary period of 3 years, in consideration of a master planning exercise and project plan for the delivery of the Cowling Farm Gypsy and Traveller site, which detailed timescales for delivery.
34. In September 2018 an application (ref. 18/00905/FUL) was submitted that sought to add the ability to accommodate a further two touring caravans at the site in response to a change in

circumstances. In the event it was considered that one additional touring caravan could be supported on the basis of very special circumstances owing to the circumstances of the family group to which the application related and their identified need within the Central Lancashire Gypsy & Traveller Accommodation Assessment (GTAA). In January 2019 a temporary permission was granted for a time period reflecting that which had been previously approved under planning permission 18/00024/FUL.

35. The allocated Gypsy and Traveller site has not yet been delivered and the current application has been submitted in the absence of an alternative Gypsy and Traveller site in the area, and on the basis that the temporary permission granted under application reference 18/00905/FUL expired on 18 July 2021.

#### **Principle of development**

36. The site is located in the Green Belt. The National Planning Policy Framework (the Framework) sets out the importance attached to Green Belts at paragraphs 137 to 151. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
37. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt will be considered inappropriate. There are seven exceptions to inappropriate development listed at paragraph 149, of which none are directly relevant to this case. Paragraph 150 states that six other forms of development are also not inappropriate in the Green Belt provided that they preserve openness and do not conflict with the purposes of including land within Green Belt.
38. The exception set out at paragraph 150.e) allows for:  
*“material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds”.*
39. As such the proposal has the potential to engage with paragraph 150 of the Framework subject to preserving openness. The siting of two mobile homes and five caravans results in a spatial and visual impact on openness in this location, where the land was previously free from development. Given that the land was previously open and free from development the change of use of the land to that of permanently sited caravans does not preserve openness and, therefore, the proposed development does not fall within this or any other exception to inappropriate development in the Green Belt.
40. Paragraph 147 states that *“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”*
41. Paragraph 148 goes on to state that *“When considering any planning application, 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 potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”*
42. The Government first published ‘Planning Policy for Traveller Sites’ (PPTS) alongside the Framework in 2012. These documents replaced all previous national planning policy in respect of Gypsies and Travellers and Travelling Showpeople. The PPTS was then revised in August 2015.
43. The PPTS is a material consideration in determining planning applications and its overarching aim is to ensure fair and equal treatment for Travellers. It encourages local planning authorities to make their own assessment of need for the purposes of planning, and plan for sites over a reasonable timescale. It aims to promote more private Traveller site provision while recognising that there will always be those Travellers who cannot provide their own sites. It states that plan making and decision taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective.

44. It is within this national policy context that local planning authorities have to plan future provision for Gypsies and Travellers and Travelling Showpeople across their respective areas. The policy emphasises the role of evidence and how it should be used to plan positively and manage development and stresses the need for timely, effective and on-going community engagement (both with Travellers and the settled community). It also requires the use of a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions.
45. Policy E (Traveller sites in the Green Belt) of the PPTS states that “Traveller sites (temporary or permanent) in the Green Belt are inappropriate development.”
46. PPTS paragraph 27 states that: “If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).”
47. The Central Lancashire Core Strategy does not identify any targets for new provision of pitches for Gypsies and Travellers and Travelling Showpeople as no need was identified at that time. Rather, under Policy 8: Gypsy and Traveller and Travelling Showpeople Accommodation, it provides a mechanism through which new provision can be made should a need be identified. This advocates sustainable locations with suitable highway access and space within the site for parking, turning of vehicles and storage of equipment.
48. The Chorley Local Plan 2012-26 was adopted on 21 July 2015. Of particular relevance is Policy HS11 relating to provision for Gypsies and Travellers, allocating a site for a minimum of 5 permanent pitches on 0.4ha of land within the mixed use allocation HS1.5/EP1.6 Cowling Farm.
49. This allocation resulted from an updated Gypsy & Traveller Accommodation Assessment (GTAA). This assessed accommodation needs throughout Lancashire, including Chorley and was commissioned in July 2013. It found a need for 5 permanent pitches in Chorley and a transit need of 15 pitches across Central Lancashire (If provided individually Chorley’s specific need is 3 transit pitches). No need for a Travelling Showpersons site was found.
50. In June 2015 the final Central Lancashire (GTAA) was published which assessed the accommodation need of Gypsies and Travellers and Travelling Showpeople for each Central Lancashire authority and identified the need for new provision.
51. In July 2019 a Gypsy and Traveller and Travelling Showperson Accommodation Assessment assessed the accommodation need of Gypsies and Travellers and Travelling Showpeople as part of the evidence base for the emerging Central Lancashire Local Plan and also identified the need for new provision and is the most recent evidence available. This identifies a need for:
  - 5 Transit Traveller pitches across Central Lancashire, and
  - A number of Permanent Pitches, 10 of which are required in Chorley.
52. Of this number, the 2019 assessment identified a five-year authorised pitch shortfall between 2019/20 – 2023/23 of 9 pitches (comprising 5 current households living on the application site and 4 emerging households currently on the application site and planning to live on the site). A longer term need of 1 additional pitch is identified in the study in the period 2024/25 – 2035/36, bringing the overall total to 10 over this period to 2036.
53. The siting of caravans and mobile homes does not fall within any of the exceptions to inappropriate development as set out in the Framework. Furthermore the PPTS states that “*Traveller sites (temporary or permanent) in the Green Belt are inappropriate development*”. The proposed development, therefore, constitutes inappropriate development in the Green Belt. Substantial weight should be attached to the harm by reason of inappropriateness as

set out at paragraph 148 of the Framework. There would also be an impact on openness through the siting of the caravans, mobile homes and utility block.

54. As the proposal is considered to be inappropriate development the tests of paragraph 148 of the Framework are engaged. This sets out 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.
55. The harm to the Green Belt comprises:
- Harm to the Green Belt by reason of inappropriateness to which substantial weight is attached;
  - Harm to openness to which substantial weight is attached.
  - The harm to the purposes of the Green Belt are set out at paragraph 138 of the Framework, which identifies the five purposes of the Green Belt. An assessment of the application site in relation to the five purposes is set out below:
56. Purpose 1: Check the unrestricted sprawl of large built up areas. The site is located between a housing development at Olde Stoneheath Court, Hut Lane and the M61 motorway, which form clear boundaries to the site. The site is not adjoined to any large built-up area and as such does not fulfil this purpose. The site occupies an enclosed pocket of land and is enclosed by robust and defensible boundaries. Accordingly, the proposed development would not have any material adverse impact on this purpose.
57. Purpose 2: Prevent neighbouring towns merging into one another. Development of the site would not lead to the coalescence of neighbouring villages. The site is located between the nearby settlements of Chorley and Adlington, which are currently separated by existing open countryside. The proposed development would not, therefore, advance the urban form any closer to any of these settlements nor lead to their coalescence.
58. Purpose 3: Assist in safeguarding the countryside from encroachment. The previous development has resulted in the laying of hard surfacing to previously open land for the siting of the caravans and a utility block. This has extended the urban form already presented by the residential development at Olde Stoneheath Court, and introduced built form, moveable structures and domestic paraphernalia further into the open countryside. The proposed development would, therefore, result in encroachment of the countryside.
59. Purpose 4: Preserve the setting and special character of historic towns. This does not apply as the site is not located near a historical town.
60. Purpose 5: Assist in urban regeneration, by encouraging the recycling of derelict and other urban land. The proposed development would have no clear impact on urban regeneration objectives, particularly so given that the allocated Gypsy and Traveller site is not located in an urban area.
61. Based on the above it is considered that the proposed development would be harmful to purpose three of the five purposes of the Green Belt, as the development does result in encroachment to which substantial weight should be attached.

### **Visual impact**

62. Prior to the current development, the site was open in nature and had been covered with trees/undergrowth.
63. The development subject of this application is urban in appearance with views of gated access points, stone pillars and caravans and vehicles on the site when seen from public viewpoints, from Hut Lane to the west and, in particular from the motorway bridge at a higher level. This has a discordant effect on the character and appearance of the area.
64. Existing vegetation outside of the application site serves to screen the development during the summer months from some vantage points and further planting has been added to the site boundaries although the nature of views into the site particularly from the motorway

bridge reduce the effectiveness of any planting. During winter months, when there is no leaf cover, the impact of the development is more obvious within the locality and more damaging visually to the rural landscape. This fact was acknowledged by the Inspector during the consideration of the last appeal in 2012 and is one of the reasons why the development is not acceptable on a permanent basis. It is, therefore, considered that the development results in moderate harm to the appearance of the site and character of the area.

#### **Impact on neighbour amenity**

65. At the Public Inquiry in 2012 the Inspector considered that the effect on the outlook of no. 3 Olde Stoneheath Court (the nearest property to the site) was acceptable as a result of the scale of the original site development having been reduced to its current size, whilst a further additional caravan was considered acceptable during the assessment of the previous planning application. The proposal is now to add another caravan to the current site to give flexibility for the family's changing needs. The additional caravan is shown to be sited between the two mobile homes. This would be positioned some distance from the nearest dwellings at Olde Stoneheath Court and whilst it may be viewed from properties it would be fairly well concealed and would not result in any neighbour amenity impact. Any resultant increase in traffic movements is not considered to be of a scale that would cause any significant loss of amenity to occupiers of nearby neighbouring properties. It is, therefore, considered that no harm would arise through the impact on neighbour amenity.

#### **The case for Very Special Circumstances**

66. The applicant's case for very special circumstances centres around the desire of the applicant and his wider family to live in Chorley, and that since their initial occupation of the site in 2009 the family has become settled within the community. In particular the three children attended local schools and Mr and Mrs Linfoot both work in the area, and are active in the community. Mrs Linfoot is a school governor. The family are established in the area and require stability.

67. Mrs Linfoot's brother John Bird, his wife Mrs Jaqueline Bird and their three children did not have a secure base previously, and eventually the pitch that they were occupying was made unavailable to them resulting in them having to vacate the site. Their previous pitch was in the garden of a dwellinghouse owned by a gypsy family, who required the space for their own family members. The Bird family lived roadside in the interim, before arriving on the Hut Lane site in December 2018 due to a lack of alternative accommodation. The Council's Planning Policy section confirmed that the Bird family had not been identified as being in need in the Lancaster area (where they were living previously) and that no provision was made available for them there. The Council's housing section were also unable to identify any other available accommodation that would be suitable for the Bird family within Chorley or elsewhere locally.

68. Given that the Bird family had been identified as having a need in Chorley, the delay in bringing Cowling Farm forward, the lack of alternative accommodation and loss of access to their previous temporary pitch it was considered that these factors carried significant weight in support of the siting of an additional caravan. The other authorised occupiers of the site are Mr Walter Bird and Mrs Sylvia Bird and grandson Clonus John Boswell.

69. Further to this the July 2019 Gypsy and Traveller and Travelling Showperson Accommodation Assessment identified a need for 5 Transit Traveller pitches and 10 permanent pitches in Chorley. The previous temporary planning permission (ref.18/00905/FUL) allowed 6 caravans to occupy the site, of which no more than 2 could be a mobile home. This provision is effectively equal to three pitches, which would enable three households to occupy the site, as is currently the case. It is the applicant's contention that the provision of an additional touring caravan would provide the flexibility to meet the family's changing needs.

70. Policy HS11 of the Chorley Local Plan 2012 - 2026 relating to provision for Gypsies and Travellers, allocates a site for a minimum of 5 permanent pitches on 0.4ha of land within the mixed use allocation HS1.5/EP1.6 Cowling Farm. This site has not yet been progressed

and, therefore, no alternative provision for the Linfoot family exists in Chorley at present. The applicant contends that the cost of delivering the Cowling Farm traveller site is not viable and, therefore, the site will not be developed. As such they consider that the rationale for the sequence of temporary permissions, that with the development of the new site at Cowling Farm circumstances will change at the end of the period allowing the Linfoots to relocate is no longer tenable. This results in an unmet need for Gypsy and Traveller residential accommodation in Chorley, and no means of accommodating that need, apart from on the application site at Hut Lane. Without Hut Lane the Council does not have the five-year supply of deliverable sites for Gypsies and Travellers required by para 10a) PPfTS.

71. The applicant contends that the application site is highly suitable to provide the required deliverable site. It is available, and already developed as a good quality Traveller site. While it is in the Green Belt, it is not in the open countryside, PPfTS para 25, but with Olde Stoneheath Court and the cottages, farm and related development on Hut Lane, forms a cluster of development adjacent to the M61. It is well screened by trees and fencing so that views into the site are limited, and the impact on the loss of openness limited. The applicant also considers that the site is previously developed land. There is no other alternative suitable site available.

### **Green Belt balancing exercise**

72. It has been established that there is definitional harm to the Green Belt as the proposal is inappropriate development in the Green Belt and also that there is further harm due to the impact on openness, which essentially means free from development, which the site will not be.
73. It is considered that there would be further harm to the purposes of including land within the Green Belt through encroachment resulting in substantial harm. There would also be a visual impact, which would result in moderate harm.
74. At the time of the 2013 temporary permission (13/00385/COU) it was considered that very special circumstances were satisfactorily demonstrated. The 2015 application (15/00562/FUL) sought to increase the scale of development by increasing the number of caravans on the site by two (to accommodate other family members who had been identified as part of the assessment of need in the 2015 GTAA). However, in the event the application was subsequently amended to reduce the proposed number of caravans back to the level approved under reference 13/00385/COU i.e. two mobile homes and three touring caravans. It was considered that on the basis of a temporary period and this level of accommodation very special circumstances had been demonstrated as an exception to inappropriate development in the Green Belt.
75. The first 2018 application (ref. 18/00024/FUL) sought to make permanent the consent granted in 2015. The development of a Gypsy and Traveller site in the Green Belt remained inappropriate development and could not, therefore, be supported without the harm being clearly outweighed by very special circumstances. Ultimately it was considered that the needs of the Linfoot family as a settled Gypsy and Traveller group within the Borough, the identified need for Gypsy and Traveller pitches in Chorley as set out in the revised GTAA, and the lack of an alternative Gypsy and Traveller site in the Borough provided very special circumstances to an extent that would support a temporary permission. A temporary consent was, therefore, granted on the basis of a timescale provided by the Council setting out milestones for the delivery of the Cowling Farm Traveller site.
76. The second 2018 application (ref. 18/00905/FUL) sought to increase the scale of development by increasing the number of caravans on the site by one (to accommodate other family members who had been identified as part of the assessment of need in the 2015 GTAA). Again it was considered that this need could be met for a temporary period on the site, which would be a very special circumstance as an exception to inappropriate development in the Green Belt, given the lack of alternative available accommodation for that specific household at that point in time.

77. In respect of the current application, the supporting documentation seeks consent to make permanent the consent granted in 2018 and to increase the number of caravans by one to allow for greater flexibility for the family's changing needs. No explanation of these changing needs is provided.
78. The 2015 GTAA identified the need for additional pitches in Chorley up to 2026. More than three years have passed since the previous application was assessed and the need in the GTAA identified. This identified need has been further supported by the Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2019, which identifies a need for 5 Transit Traveller pitches across Central Lancashire, and a number of Permanent Pitches, 10 of which are required in Chorley.
79. It is, therefore, accepted that the needs of the wider Linfoot family to have access to pitches in Chorley has become more pressing. Given that most GTAA households generally consist of a mobile home and touring caravan it is considered that the site already provides a suitable level of accommodation in relation to the families that occupy the site.
80. The Linfoot's, and other site occupants, desire to live on the site, their community ties and need to form a stable basis on which to support their family do not constitute the very special circumstances required to overcome the definitional harm to the Green Belt and additional harm caused through encroachment and visual impact, which must be accorded substantial weight in line with the Framework, in consideration of a permanent Gypsy and Traveller site.
81. However, the circumstances under which the temporary permissions granted in 2013, 2015 and 2018 remain. Specifically, the allocated Gypsy and Traveller site at Cowling has not progressed as had been anticipated through the master planning work and timeline of milestones provided by the Council. However, the Linfoot family, and other occupants, have no alternative provision within the borough, yet continue to have a need to support their family and have stability as settled members of the Chorley community. These circumstances have in the past resulted in the issuing of temporary planning permission on the basis of very special circumstances.
82. Regarding any further temporary consent, current National Planning Policy Guidance (NPPG) states that: *"It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently."* Paragraph: 014 Reference ID: 21a-014-20140306 - Revision date: 06 03 2014. Four temporary permissions have now been granted at this site, two of which had the same expiry date (18/00024/FUL and 18/00905/FUL). The applicant is applying for permanent planning permission for the change of use of the land to a residential Gypsy and Traveller site involving the siting of two mobile homes and five touring caravans and retention of the utility block and access. However, within the Green Belt, the principle of a permanent residential development (of any kind) that does not meet the exception tests is considered inappropriate development.
83. In considering the current provision in relation to the identified need for Gypsy and Traveller accommodation within the Borough there is a commitment to delivering a site at Cowling Farm set out within the most up to date local plan under policy HS11 of the Chorley Local Plan 2012-2026. Since the 2018 temporary consent was issued there has been an intervening global pandemic, which has resulted in unprecedented circumstances for Council's in delivering services, and for the development industry. Council resources have been stretched over this particular period, and there has also been market uncertainty where major development schemes are concerned. It is noted that the allocated Gypsy and Traveller site would form part of a larger development. The unprecedented circumstances of the previous two years have contributed to the lack of progress in delivering the Gypsy and Traveller site at Cowling Farm. However, the Council's Director of Commercial Services, responsible for Development and Business has confirmed the Council's commitment to delivering the Cowling Farm site and has submitted a timeline for the delivery of the site.

84. This demonstrates that although there have been delays to the delivery of the Cowling Farm Gypsy and Traveller site there remains a renewed impetus to progress this. The evidence submitted by the Director of Commercial Services sets out that the site has been designed to deliver the current need identified in relation to the applicants, currently living at Hut Lane, with the development platform providing an opportunity to increase the number of pitches in the future. It is intended that a planning application will be submitted in the New Year (2022) with negotiations with Homes England concluded early in 2022. It is anticipated that work would start on site in mid 2023 with the site completed in the middle of 2024 and operational early in 2025.
85. This sets out a clear plan and renewed impetus of the Council towards the delivery of the Cowling Farm Gypsy and Traveller site following a period of disruption, which falls to be a material consideration in the assessment of the application and provides a rational evidential foundation in the consideration of the changing circumstances under which a further temporary consent may be issued. Based on the evidence provided by the Council's Director of Commercial Services the site would be available in approximately 3 years time, which sets out a basis on which a temporary time limit for planning permission may be devised.
86. In the absence of an alternative site, it must be concluded that there continues to be very special circumstances to support a temporary permission, for the development, until such time that the alternative Gypsy and Traveller site at Cowling Farm is made available
87. As such it is considered that the needs of the Linfoot family, as a settled Gypsy and Traveller group within the Borough, the identified need for Gypsy and Traveller pitches in Chorley as set out in the revised GTAA, and the lack of an alternative Gypsy and Traveller site in the Borough provide very special circumstances to support a temporary permission, until such time that the alternative site at Cowling Farm is made available that, on balance, outweigh the harm to the Green Belt and any other harm. The proposal, therefore, complies with paragraphs 147 and 148 of the Framework, on the basis of a temporary consent, with a time limit linked to the delivery of the Gypsy and Traveller site allocated within the Chorley Local Plan 2012 - 2026.
88. It is concluded that, on balance, there are very special circumstances for the retention of the existing development for a temporary period, which outweigh the substantial harm (by reason of inappropriateness) and the harm to openness, together with the other harm (particularised above).

#### **Relaxation of commercial restriction on site**

89. The previous temporary permission was subject to the following condition:
90. "No commercial activities shall take place on the land including the storage of materials, plant or equipment. Reason: In order to protect the amenities of the area and the residential occupiers of dwellings in the vicinity."
91. The applicant also effectively seeks a relaxation of the condition to allow for the storage of materials on a specified area of the site, as the applicant considers that this condition currently prohibits storage even for activities, which may be considered to be ones that could be carried without planning permission and at certain times of the year.
92. The condition seeks to strike a balance between the reasonable day to day activities of the applicant to park his work vehicle and travel to and from work and to protect the amenities of the Green Belt and occupiers of residential properties in the vicinity. To permit storage use through the allocation of a specified area would be inconsistent, as it would interfere with the openness of the Green Belt and amenity of nearby residents. Allowing commercial uses has the potential for increased commercial activity, which may give rise to further harm. It is also considered realistic that the applicant could rent a commercial storage facility on an appropriate site in the Borough within a commutable distance of the Hut Lane site. The

current condition is reasonable, clear and enforceable and it is, therefore, considered that such a condition should be re-imposed should planning permission be granted.

### **Other matters relating to the status of the applicant as falling within the Gypsy and Traveller definition.**

93. The Lisa Smith case challenged the definition of Gypsies and Travellers for planning purposes in Annex 1 to the 2015 edition of Planning Policy for Traveller Sites. It tried to establish that the Planning Policy for Traveller Sites definition was unlawful because it discriminates against the elderly and disabled who cannot come within the definition because they have ceased travelling permanently on grounds of old age or ill health. The case was dismissed. The effect of the Court's decision for the current application is that the position remains unchanged.
94. To be a Gypsy and Traveller for planning purposes someone needs to follow a nomadic habit of life. Nomadic habit of life is not defined in Planning Policy for Traveller Sites, but has evolved over time through a series of case law decisions. Those decisions effectively amount to a need to travel for a proportion of the time for purposes, which must have an economic element. Other purposes like visiting fairs and family can contribute as long as there is an economic element.
95. In the early years of the use of the site for the siting of caravans, notably at the Public Inquiry against the refusal of application 11/00484/FUL (which was dismissed, but then quashed in the High Court) and at the examination into the Chorley Local Plan between 2013 and 2015 the applicant submitted evidence about the Gypsy and Traveller status of the Linfoot / Bird family. For instance, witness statements by Walter Bird and Patty Linfoot. This evidence established that the Linfoot / Bird family follows a nomadic habit of life. The two Central Lancashire Accommodation Needs Assessments of January 2014, and updated in June 2015 also confirmed the Gypsy status of the families.
96. On the basis that they have not ceased travelling, the change in definition introduced in the 2015 edition of Planning Policy for Traveller Sites (which was the basis of Lisa Smith's legal challenge) has not changed the situation, and it remains there is an intention to continue to travel in the future. The Lisa Smith case does not give a reason for it to take a different position.

### **OVERALL CONCLUSION**

97. Planning policy for Travellers sites states that new Gypsy and Traveller sites in the Green Belt are inappropriate development. The development is considered to be inappropriate development within the Green Belt and as such can only be considered acceptable if there are very special circumstances which clearly outweigh the substantial harm to the Green Belt (by reason of inappropriateness) and any other harm. This has to be weighed against the requirement for local authorities to identify need and provide a 5 year supply of sites.
98. The previous temporary permissions granted in 2013 and 2015 were issued on the basis that very special circumstances were demonstrated. Although the situation has altered since these very special circumstances were accepted there remains no alternative provision for Gypsy and Travellers in the Borough. As set out above it is considered that very special circumstances exist in relation to a temporary consent, reflecting the planned provision of an alternative site.
99. It is considered that the use of the site for commercial activity even for 50 days would be harmful to the amenity of the neighbouring residents and as such the relaxation of this condition is not considered to be acceptable.
100. In conclusion it is considered that on balance, sufficient very special circumstances exist, namely the requirements of National Planning Policy for Traveller sites and the Chorley Local Plan Policy HS11 to provide a permanent Gypsy and Traveller site, tip the balance in favour of granting a further temporary planning permission to enable the Council to deliver a

permanent site. The period of consent is material to the harm to the Green Belt and 3 years and 3 months is considered reasonable to deliver a site and remove the harm from the Green Belt. It is, therefore, recommended that planning permission be granted on a temporary basis subject to conditions.

#### **RELEVANT HISTORY OF THE SITE**

**Ref:** 13/00385/COU      **Decision:** PERTCA      **Decision Date:** 19 July 2013

**Description:** Change of use to a residential Gypsy and Traveller site involving the siting of 2 mobile homes, 3 touring caravans (1 of which is for storage only when not away travelling), and retention of a utility block, and access at the north west corner of the site for a temporary period of 4 years

**Ref:** 13/01061/FUL      **Decision:** PERTCA      **Decision Date:** 16 January 2014

**Description:** Variation of Condition 1 of planning permission 13/00385/COU to allow the replacement of wood chippings with limestone chippings to a depth of 6-8 cm.

**Ref:** 15/00562/FUL      **Decision:** PERFPF      **Decision Date:** 18 September 2015

**Description:** Change of use to a residential Gypsy and Traveller site involving the siting of two mobile homes and three touring caravans (one of which is for storage only when not away travelling) and retention of the utility block and access for a temporary period of two and half years.

**Ref:** 18/00024/FUL      **Decision:** PERFPF      **Decision Date:** 20 July 2018

**Description:** Change of use of the land to a residential Gypsy and Traveller site involving the siting of two mobile homes and three touring caravans (one of which is for storage only when not away travelling) and retention of the utility block and access

**Ref:** 18/00905/FUL      **Decision:** PERFPF      **Decision Date:** 6 February 2019

**Description:** Change of use of the land for a temporary period to a residential Gypsy and Traveller site involving the siting of two mobile homes and four touring caravans and retention of the utility block and access

**RELEVANT POLICIES:** In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/ guidance considerations are contained within the body of the report.

#### Suggested conditions

To follow