

## **APPLICATION REPORT – 24/00557/FUL**

**Validation Date: 1 July 2024**

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

**Type of Application: Full Planning**

**Proposal: Use of the land as a residential Gypsy and Traveller site with the siting of up to seven caravans, of which no more than three can be mobile homes, and the retention of the utility block and site entrance.**

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

**Case Officer: Mr Iain Crossland**

**Applicant: Mr Michael Linfoot**

**Agent: Mr Michael Hargreaves MH Planning**

**Consultation expiry: 1 August 2024**

**Decision due by: 18 October 2024 (Extension of time agreed)**

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### **RECOMMENDATION**

1. It is recommended that planning permission is granted subject to conditions.

### **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 use of the land as a residential Gypsy and Traveller site with the siting of up to seven caravans, of which no more than three can be mobile homes, and the retention of the utility block and site entrance.

### **APPLICANT'S CASE**

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

7. Apart from being for permanent permission, the proposals are the same as approved for the temporary permission, 21/0072/FUL except for one difference. The difference is that, rather than being for the siting of two mobile homes and five touring caravans, the current application is for up to seven caravans, of which no more than three can be mobile homes. This wording means the site would accommodate the same number of caravans, but with the additional flexibility for three of them to be mobile homes.
8. The assessment of need for 10 pitches in Chorley in the 2015 and 2022 GTAA's is based on assumptions about the needs of the Linfoot / Bird family. Table 6.1 of the 2022 Assessment lists an existing need for accommodation for 4 households and an assumption of a need for accommodation for 6 emerging households.
9. Our understanding is that the 4 existing households who were identified as in need were Mr and Mrs Linfoot and their sons, John Bird and his family, Mr and Mrs Bird senior, and a nephew who was living with his grandparents. The need for accommodation for 6 emerging households was based on the ages of the teenage children and an assumption they would form new households at a relatively young age.
10. The reality is more nuanced. The nephew has left the site and is living elsewhere. One of John Bird's daughters has married and is living with her husband's family in another part of the country. The Linfoots are applying for the third mobile home on the basis of an expectation their eldest son will marry. As Gypsy people do, the family have used the accommodation flexibly to respond to changing needs and avoid family members being made homeless. They intend to carry on doing this, but depending on what happens, there may come a point where the site would not be adequate for all of the family's needs.
11. Each time Mr Linfoot applied for planning permission on Hut Lane, the Council granted a temporary permission decision based on assumptions about how quickly Cowling Farm could be developed, assumptions which always looked optimistic.
12. The Council and Homes England commissioned a significant amount of technical work. We are not party to 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 the Traveller site is likely to be very expensive. From Homes England's perspective the scheme would represent poor value for money. There was consultation on a masterplan in Autumn 2018. This was due to be followed by a planning application, but this has never happened. Given the development constraints and lack of progress it should now be accepted that Cowling Farm is not viable and will not happen.
13. The Linfoot / Bird family are in need of accommodation. The failure to develop Cowling Farm means if the current planning application is refused, that permission in March 2025 at the end of the existing planning, they will be homeless with no suitable alternatives available to them. Together with the lack of a 5 year supply of deliverable sites, these factors should carry substantial weight in favour of granting permanent permission.
14. The Linfoots have had five separate permissions. A further temporary permission would be a sixth. Government policy states that it will rarely be justifiable to grant a second temporary permission. Further permissions should normally be granted permanently or refused if there is clear justification for doing so. A temporary permission may be appropriate where a trial run is needed to assess the effect of the development (which is not the case here) or where it is expected the circumstances will change at the end of the period. The rationale for the temporary permissions was that with the development of Cowling Farm circumstances will change and the Linfoots could relocate to the new site. This position is no longer tenable. There is no evidence Cowling Farm site will ever be developed, which adds significant weight to granting permanent permission.
15. Adequate appropriate residential accommodation is central to the social objective of sustainable development, NPPF para 8b). Accommodation stress and shortage is endemic among Gypsy people and lies behind much of the other deprivation from which many Gypsy

people suffer. Local authorities very often underestimate need for accommodation and fail to make allocations. The shortage of accommodation forces people to provide their own homes, as the Linfoots have done. The fact that they have had to repeatedly apply for permission, but only been granted temporary permission because of relocation to Cowling Farm has been financially costly for the family but also extremely stressful, always having hanging over them uncertainty about how long they will be able to stay in their home.

16. In favour of granting permanent permission, the unmet need for accommodation, the complete absence of alternative accommodation, that the Council does not have a five-year supply of deliverable sites for Gypsies and Travellers, the stress on, and costs for, the applicants from having to make repeated planning applications, and the implications for way indirect discrimination and the public sector equality duty. Apart from that it is the Green Belt, the site at Hut Lane is highly suitable. It is available, and already developed as a good quality Traveller site at zero cost to the public purse, which of itself should carry weight. While it is in the Green Belt, it is not in the open countryside, but with Olde Stoneheath Court and the cottages, farm and related development forms a cluster of development adjacent to the M61. It is well screened by trees and fencing so that views into the site are minimal, 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. Together, these factors substantially outweigh the harm consequent on the development and provide the very special circumstances for granting permanent planning permission.

## **REPRESENTATIONS**

17. Representations in support of the application have been received from 88no. individuals. These include the following comments:
- The site has now been occupied for 15 years and there is no alternative provision.
  - The allocated traveller site at Cowling Farm is not deliverable and has not progressed.
  - There is no reason to spend public money on the delivery of an alternative site at Cowling Farm.
  - There site is well screened and has a limited impact on the openness of the Green Belt.
  - No risk of urban sprawl, the site is within a cluster of development.
  - Other residential development have been granted in the Green Belt.
  - The site is well managed.
  - The family should not be discriminated against and the traveller way of life should be supported.
  - The process and uncertainty is causing the applicant's stress.
  - The family are settled and part of the community.
18. Representations have been received from 45no. individuals citing the following grounds of objection:
- Inappropriate development in the Green Belt.
  - No very special circumstances to outweigh Green Belt harm.
  - The children are no longer in school and are no longer a consideration in the determination of the application.
  - There is no longer an identified need for the family at this site, as two members have left and the application seeks not to restrict the site to family members only.
  - Harmful to the purposes of including land within the Green Belt.
  - Unsustainable location.
  - There are other alternative sites that are not in the Green Belt.
  - There is an application for an alternative site that is not in the Green Belt.
  - Detrimental impact on the appearance and character of the countryside.
  - Granting permission would set a precedent for such developments.
  - The occupiers do not meet the definition of travellers.
  - Lighting causes light pollution.
  - Noise and pollution from the motorway concerns for residents.
  - The site was once wooded and should be returned to its previous state.
  - Commercial activity is carried out contrary to the terms of the temporary permission.
  - The site is too small to meet the applicant's requirements.

- The family have not integrated with the community.
19. An objection has been received from Paul Sedgwick (dated 29 July 2024) 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 site currently has a limited period planning consent for:*

*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*

*Condition 3 of that consent states*

*“3. The permission shall expire on the 31 March 2025, following which the use shall cease and the land restored in accordance with the requirements specified in condition 4 of this permission”.*

*The planning application validated on 01/07/2024 is for:*

*Use of the land as a residential Gypsy and Traveller site with the siting of up to seven caravans, of which no more than three can be mobile homes, and the retention of the utility block and site entrance.*

*The supporting statement submitted as part of the application makes it clear that:*

- *the applicant seeks permanent permission for the traveller’s site,*
- *the children (whose best interests formed much of the past case of very special circumstances justifying the grant of the limited period permission) are no longer children,*
- *two people formerly in need of accommodation have left the site and live elsewhere,*
- *the additional mobile home does not meet an existing need but is sought on the expectation that the applicant’s eldest son will marry in due course and come to live on the site with his wife, as is traveller custom,*
- *The restriction of occupancy of the site to named individuals is opposed, confirming that the Linfoot/Bird family no longer argue that they have a specific need for this Green Belt site, and that it could be marketed generally for traveller accommodation.*

*It is relevant in determining this application that there is currently an application on another site in Chorley, off Town Lane, Whittle-le-Woods, for change of use of 0.40ha of land to form a 7-pitch traveller family caravan site. This site is not in the Green Belt, and if it is approved it would meet the council’s current local plan requirement for permanent traveller site provision.*

*National planning policy is set out in PPTS (Planning Policy for Travellers Sites) published in August 2015. Policy E, at §16, states:*

*“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.”*

*Given the changing circumstances noted above, and in particular that the test of ‘best interests of a child’ no longer applies, any personal circumstances and unmet need of the Linfoot/Bird families does not establish the very special circumstances needed to clearly outweigh harm to the Green Belt.*

*Despite the attempt in the supporting statement to degrade the weight to be attached to the Green Belt in this location, the fact is that the site is within the Green Belt and the development does cause harm to the openness of the Green Belt. This is not mitigated by any arguments that the site is well-screened, is brownfield land, or is otherwise degraded by the presence of the M61 motorway and Olde Stoneheath Court. Contrary to the assertions made in the supporting statement, the site is clearly visible from the public highway and to neighbours, it is in the open countryside, aerial photography from 2000 shows the site and adjacent land to have been greenfield (see annexed views), any screen planting is not permanent and does nothing to mitigate the harm to Green Belt policy that would be caused by inappropriate development.*

*It can be noted that the applicant agrees with the government's planning practice guidance on temporary consents, which 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."*

*The LPA has agreed hitherto that changing circumstances have provided adequate rationale for granting more than one temporary permission. However, as discussed above, the circumstances presented by the applicant has changed over time to an extent that there can be no rationale to grant a further consent, temporary or permanent, for a development that offends Green Belt policy without the very special circumstances that could be compliant with Policy E of PPTS.*

*It is therefore requested that the application be refused for not demonstrating the VSC's necessary for development to be permitted in the Green Belt, and that, in due course, the extant temporary consent to 31/03/2025 is not renewed.*

## **CONSULTATIONS**

20. **United Utilities:** provided standard advice and has no further comment on this application.

21. **Heath Charnock Parish Council:** considered this application at its meeting on 8 August 2024. The planning history of the site, Chorley Council's proposal to establish a Gypsy and Travellers site at Cowling Brow and this specific application were all discussed.

The Cowling Farm site is allocated as a mixed use development under policy HS1.5/EP1.6 of the Chorley Local Plan 2012 - 2026. This sets out that provision will be made for a minimum of 5 permanent Gypsy and Traveller pitches on 0.4ha of land. The proposed draft Central Lancashire Local Plan has been subject to initial public consultation. Once formally approved, it will provide the ongoing strategic planning guidance from 2026 onwards. It states that up to 10 pitches are required in Chorley to comply with the UK Government's Planning Policy for Traveller Sites. The Parish Council assumes the focus for this provision will continue to be at the proposed Cowling Farm site despite the delay to its proposed development.

22. The Parish Council proposed that a further temporary extension of the previous consent 21/00072/FUL which is due to expire on 31 March 2025 should be approved to allow the applicant and family to continue to live at Hut Lane under exactly the same terms and conditions until the Cowling Farm site is ready for occupation. As requested, this would retain authorisation for a maximum of seven units of which up to three could be mobile homes to meet the present needs of this family.

## **PLANNING CONSIDERATIONS**

### **Planning history**

23. 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.

24. 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.
25. 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.
26. 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
27. 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.
28. 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.
29. 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.
30. 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.

31. 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.
32. 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.
33. 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.
34. 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.
35. 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.
36. 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.
37. The Gypsy and Traveller site was again not progressed within this time period and, therefore, a further application (ref. 21/00072/FUL) was submitted seeking a permanent consent for the use of the land. This was submitted in January 2021, and in December 2021 the application was approved subject to a temporary period of 3 years and 3 months, in the absence of an alternative site and in consideration of a timeline for the delivery of the Gypsy and Traveller site at Cowling Farm that had been devised by the Council's Director of Commercial Services, responsible for Development and Business, and presented to the Local Planning Authority. This set out that a planning application would be submitted in early 2022 with negotiations with Homes England concluded early in 2022. It was anticipated that work would start on site in mid 2023 with the site completed in the middle of 2024 and operational early in 2025.
38. No planning application for the Gypsy and Traveller site at Cowling Farm has been submitted and the site remains undelivered. 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 21/00072/FUL is due to expire on 31 March 2025, and is seeking permanent consent.

### **Principle of development**

39. 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 142 to 156. 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.
40. Paragraph 154 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 154, of which none are directly relevant to this case. Paragraph 155 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.
41. The exception set out at paragraph 155.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”).*
42. As such the proposal has the potential to engage with paragraph 155 of the Framework subject to preserving openness. The siting of up to seven caravans, of which no more than three would be mobile homes, and the retention of the utility block 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.
43. Paragraph 152 states that *“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”*
44. Paragraph 153 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.”*
45. 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.
46. 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.
47. 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.

48. 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.*"
49. 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).*"
50. 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, avoidance of contaminated and unsuitable land, and where there would be no unacceptable impact on the immediate surrounding areas and the wider landscape.
51. Although the site is not in an especially sustainable location, it is within a short driving distance of GP's and other health care provision, education facilities and shops at Adlington and Chorley. There is no immediate public transport available and private vehicle would be the main mode of transport for the occupiers, however, the use of the site would not require or result in long distance travelling. The site benefits from good vehicular access and manoeuvring area, is not contaminated or otherwise unsuitable and is well contained by landscape and other physical features such that there would be no unacceptable impact on the immediate surrounding areas and the wider landscape. Despite the limited sustainability credentials the site is considered to be in general accordance with policy 8 of the Core Strategy.
52. 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.
53. 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.
54. 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.
55. 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.
56. 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.

57. 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 153 of the Framework. There would also be an impact on openness through the siting of the caravans, mobile homes and utility block.
58. As the proposal is considered to be inappropriate development the tests of paragraph 153 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.
59. 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.
60. Paragraph 143 of the Framework sets out the five purposes of the Green Belt. An assessment of the application site in relation to the five purposes is set out below:
61. 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.
62. 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.
63. 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.
64. 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.
65. 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.
66. Based on the above it is considered that the proposed development would be harmful to purpose three of the five purposes of including land in the Green Belt, as the development does result in encroachment to which substantial weight should be attached.
67. The proposed development would result in inappropriate development in the Green Belt, which is harmful by definition, whilst there would be harm to openness and to one of the purposes of including land within the Green Belt. Taken together substantial weight must be attached to these harms.

### **Landscape and visual impact**

68. Prior to the current development, the site was open in nature and had been covered with trees/undergrowth. Peripheral trees and shrubs were present, however, gaps in vegetation were wider and more apparent.
69. 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 had a discordant effect on the character and appearance of the area, however, it is noted that this effect has reduced to some extent over time as peripheral vegetation has been added to and has become more well established.
70. Existing vegetation outside of the application site serves to filter views of the development during the summer months from most vantage points, and further planting has been added to the site boundaries, although the gated site entrance and stone pillars are very clearly visible from the lane to the north west. 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 contributes to the visual dimension of the impact on the openness of the Green Belt. In landscape character terms, however, the development has now been in situ for well over 10 years and has become softened by the peripheral landscaping and vegetation.

### **Impact on neighbour amenity**

71. 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, whilst further additional caravans were considered acceptable during the assessment of the previous planning applications, such that the site accommodated two mobile homes and five touring caravans and retention of the utility block. The proposal is now for the siting of up to seven caravans, of which no more than three can be mobile homes, and the retention of the utility block. This would provide the same number of caravans, however, a mobile home would replace a touring caravan. The additional mobile home is identified as being positioned to the north east of the site.
72. Despite this it would be positioned at least 20m from the rear garden to no.3 Olde Stoneheath Court and approximately 40m from the dwellinghouse. Whilst it may be possible to view the site and mobile homes from this property it would be fairly well concealed by boundary fencing with intervening vegetation and the scale of the development is such that it 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**

73. 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. The family are established in the area and require stability. Similarly Mr Walter Bird and Mrs Sylvia Bird have been settled at the site since 2009, with Mrs Linfoot's brother John Bird, his wife Mrs Jaqueline Bird and their three children having become settled since arriving on the Hut Lane site in December 2018. This occurred due to a lack of alternative accommodation, and their obvious family ties at the Hut Lane site.
74. The July 2019 Gypsy and Traveller and Travelling Showperson Accommodation Assessment (GTAA) identified a need for 5 Transit Traveller pitches and 10 permanent pitches in Chorley, whilst an assessment of need for 10 pitches in Chorley in the 2015 and 2022 GTAA's is based on assumptions about the needs of the Linfoot / Bird family. Table 6.1

of the 2022 Assessment lists an existing need for accommodation for 4 households and an assumption of a need for accommodation for 6 emerging households.

75. It is understood that the 4 existing households who were identified as being in need were Mr and Mrs Linfoot and their sons, John Bird and his family, Mr and Mrs Bird senior, and a nephew who was living with his grandparents. The need for accommodation for 6 emerging households was based on the ages of the teenage children and an assumption they would form new households at a relatively young age, thus totalling a need for 10 pitches.
76. Circumstances have altered since this time with the nephew having left the site and one of John Birds daughters having also left following her marriage. Although this reduces the level of accommodation required at the site, it is clear that there remains a need for pitches at the site that is not currently being met, and at present would appear to amount to 3 existing households and 5 emerging households.
77. The previous temporary planning permission (ref. 21/00072/FUL) allowed for two mobile homes and five touring caravans. This provision is effectively equal to three pitches, which would enable three households to occupy the site, however, this is something of an imbalance considering that a pitch constitutes one mobile home with one touring caravan.
78. It is the applicant's contention that the provision of an additional mobile home in place of a touring caravan would provide the flexibility to meet the family's changing needs. The family intend to continue to manage the site and level of accommodation flexibly to respond to changing needs and avoid family members being made homeless. In this sense and given that the site is occupied by a single family unit there is an insinuation that the site would not be required to achieve the standard level of accommodation prescribed in the PPTS.
79. 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. Nor has there been any progress in delivering the site since the previous temporary application was approved. As such they consider that the rationale for the sequence of temporary permissions, i.e. that the development of the new site at Cowling Farm would enable the Linfoots to relocate, is no longer tenable. As such there remains 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 any supply of deliverable sites for Gypsies and Travellers required by para 10a) PPfTS.
80. The applicant contends that the application site is highly suitable to provide the required deliverable site at this present time. 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. There is no other alternative suitable site available.

### **Green Belt balancing exercise**

81. 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 also harm due to the impact on openness, which essentially means free from development, which the site will not be.
82. It is considered that there would be other harm to the purposes of including land within the Green Belt through encroachment. Together these harms must be accorded substantial weight.

83. At the time of the 2013 temporary permission (13/00385/COU) it was considered that very special circumstances were satisfactorily demonstrated on the basis that a temporary consent could be justified due to the accommodation needs of the family. 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.
84. The first 2018 application (ref. 18/00024/FUL) sought to make permanent the consent granted in 2015, given that no alternative accommodation had been forthcoming. 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 to allow time for alternative accommodation to be made available in the Borough. 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.
85. 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.
86. A further application in 2021 (21/00072/FUL) sought to make permanent the consent granted in 2018, given that once again no alternative accommodation had been forthcoming. It was considered that the development of a Gypsy and Traveller site in the Green Belt remained inappropriate development and could not be supported without the harm being clearly outweighed by very special circumstances. However, it was acknowledged that the Linfoot family had received more temporary consents than would otherwise be considered justifiable. Nonetheless, the Council continued to remain of the view that the allocated Gypsy and Traveller site at Cowling Farm would be delivered, and had been delayed due to the intervening global pandemic, which has resulted in unprecedented circumstances for Council's in delivering services, and for the development industry.
87. The Council's Director of Commercial Services, responsible for Development and Business confirmed the Council's commitment to delivering the Cowling Farm site and submitted a timeline for the delivery of the site. This demonstrated that although there had been delays to the delivery of the Cowling Farm Gypsy and Traveller site there was a renewed impetus to progress this. The evidence submitted by the Director of Commercial Services set 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 was set out that a planning application would be submitted in the New Year (2022) with negotiations with Homes England concluded early in 2022. It was anticipated that work would start on site in mid 2023 with the site completed in the middle of 2024 and operational early in 2025.
88. 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 to allow time for the Cowling Farm site to be made available. A temporary consent was, therefore, granted on the basis of a timescale provided by the Council setting a programme for the delivery of the Cowling Farm Traveller site.

89. In the event this programme has not progressed in any discernible way and given the time period that has elapsed since the Cowling Farm site was allocated and the first Council committed to delivering it, it would no longer seem a credible alternative.
90. This lack of progress has led to the submission of the current application, which seeks planning permission to make permanent the consent granted in 2021 and to alter the mix of caravans to three mobile homes and four touring caravans in order to allow for greater flexibility for the family's changing needs, as younger family members seek to start their own families and follow their own independent lives.
91. The 2015 GTAA identified the need for additional pitches in Chorley up to 2026. This identified need was further supported by the Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2019, which identified a need for 5 Transit Traveller pitches across Central Lancashire, and a number of Permanent Pitches, 10 of which were required in Chorley. The requirement for 10 permanent pitches remains in the 2022 GTAA.
92. It is, therefore, accepted that the needs of the wider Linfoot family to have access to pitches in Chorley has become increasingly more pressing. Given that most GTAA households generally consist of a mobile home and touring caravan it is considered that the proposed level and mix of accommodation would provide a suitable level of accommodation in relation to the families that occupy the site currently. As has been set out above family members mature and become independent. Some stay on site, whilst others leave. The extent to which this occurs cannot be known with any certainty, however, it is clear that the number and mix of caravans proposed is required on the site, and if managed flexibly would provide adequate accommodation for the family at this time.
93. 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 have been afforded weight in the past and have resulted in temporary consents having been granted, whilst the Council sought to provide alternative accommodation within the Borough. Although these factors were not considered to constitute the very special circumstances required to overcome the definitional harm to the Green Belt and additional harm caused through encroachment previously, in consideration of a permanent Gypsy and Traveller site, this was on the basis that a permanent site would be provided.
94. However, the circumstances under which the temporary permissions were granted in 2013, 2015, 2018 and 2021 remain, whilst the prospect of an alternative site is no nearer and no evidence has been presented that the allocated site at Cowling Farm will be delivered. Even if it were, masterplans and programmes have been provided previously but have not materialised. The Linfoot family, and other occupants, still 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, with them having become more embedded within the community through residing at the site for 15 years. These circumstances have in the past resulted in the issuing of temporary planning permissions on the basis of very special circumstances, however, whilst their attachment to the Borough has grown, the prospect of an alternative site has become more distant.
95. 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. Five 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 up to seven caravans, of which no more than three can be mobile homes and retention of the utility block and access. However, a further temporary consent cannot be justified.

96. In the absence of an alternative site, the continued presence of the Linfoot family at the application site, their 15 year occupancy as a settled Gypsy and Traveller group within the Borough, the need for Gypsy and Traveller sites within the Borough as identified by the 2019 and 2022 GTAA, and lack of any supply or any credible prospect of the allocated site at Cowling Farm being delivered it must be concluded that the particulars of this case when taken together carries significant weight in support of the application. It is considered that the significant weight attached to this case amounts to very special circumstances which, on balance, outweighs the harm to the Green Belt and any other harm. The proposal, therefore, complies with paragraphs 152 and 153 of the Framework.

#### **Commercial restriction on site**

97. The previous temporary permission was subject to the following condition:

*“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.”*

98. 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. It is, therefore, considered that the previous 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.**

99. 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.
100. 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.
101. 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.

102. 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**

103. Planning policy for Travellers sites states that new Gypsy and Traveller sites in the Green Belt are inappropriate development. The proposed 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.

104. 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 further temporary consents were granted in 2018 and 2021 on the basis that an alternative site at Cowling Farm would be delivered and that the family would then have alternative accommodation with the Borough. There remains no alternative provision for Gypsy and Travellers in the Borough, whilst the family have become settled and more embedded within the community.

105. In conclusion, it is considered that on balance, the particulars of this case amounts to sufficient very special circumstances, such that they overcome the harm to the Green Belt and other harm, and tip the balance in favour of granting planning permission.

## **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:** PERFPP      **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:** PERFPP      **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:** PERFPP      **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



**Ref:** 21/00072/FUL      **Decision:** PERFPP      **Decision Date:** 22 December 2021  
**Description:** 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

**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.