

**Item 3C**                      **15/00562/FUL**

**Case Officer**              **Peter Willacy**

**Ward**                         **Heath Charnock And Rivington**

**Proposal**                    **Change of use to a residential Gypsy and Traveller site involving the siting of two mobile homes, five touring caravans (one of which is for storage only when not travelling), and retention of the utility block and access for a temporary four year period**

**Location**                    **2 Heath Paddock ,Hut Lane, Heath Charnock**

**Applicant**                    **Mr Michael Linfoot**

**Consultation expiry:**      **24th July 2015**

**Decision due by:**         **7 August 2015 (time extension agreed until 14th September)**

#### **Recommendation**

**Permit temporary conditional planning approval for a period of 2 years 6 months.**

#### **Executive Summary**

**Temporary permission was granted in 2013 for two years for the use of the site for a Gypsy and Traveller site and associated development and this application seeks a renewal of the permission for a further temporary period for four years together with two additional caravans for accommodation of other family members and relaxation of planning condition relating to control of business activity on site.**

#### **Proposed Development**

1. This application relates to part of a triangular shaped area of land of approximately 1,372 square metres located on the eastern side of the M61 between the motorway and Hut Lane and lying to the south of residential properties at Olde Stoneheath Court and Red Row. The site is situated between the settlement areas of Adlington and Chorley.
2. The application is for Change of use to a residential Gypsy and Traveller site involving the siting of two mobile homes, five touring caravans (one of which is for storage only when not travelling), and retention of the utility block and access for a temporary four year period.
3. This application seeks a renewal of the 2 year temporary permission granted in 2013 for a further temporary period of 4 years.
4. The scale of the development now proposed differs from the development previously granted temporary planning permission in 2013. The application now relates to the same site area and development approved in 2013 with the addition of two touring caravans to accommodate other family members. The applicant is also seeking a relaxation of the condition which restricts the carrying out of business uses on the site.

## Representations

<p><b>Parish Council</b>          Heath Charnock Parish Council objects to this on the grounds that the occupation of the land has been unlawful since 2009; there should be no further development and the land should be restored to its original state</p>	
<p><b>In total 157 representations have been received which are summarised below</b></p>	
<p><b>Objection</b>          Total No. received: 58</p> <ul style="list-style-type: none"> <li>• Inappropriate development in the Green Belt.</li> <li>• The land is Green Belt and there should be no building work permitted at all.</li> <li>• The development is not in keeping with the local area.</li> <li>• Planning rules are there for all interests and must apply to all whether or not it suits their lifestyle.</li> <li>• Trees and services have been chopped down without permission.</li> <li>• It's not Government policy to allow caravan sites on green belt fields.</li> <li>• They run businesses from the site.</li> <li>• They are anti-social.</li> <li>• They call themselves travellers but do not travel.</li> <li>• Travellers should not be in the Green Belt.</li> <li>• Development is unlawful.</li> <li>• Visually detrimental.</li> <li>• Manipulation of the planning process.</li> <li>• Planning laws there to protect Green Belt for benefit of everyone.</li> <li>• Development has caused serious harm to the Green Belt.</li> <li>• 4 years unacceptable already been turned down at 2 Public Inquiries.</li> <li>• No justification for further 4 year temporary period.</li> <li>• Council need to get Cowling site up and running quickly.</li> <li>• The appearance of the site was adversely affected by the tipping of materials by the applicant which has to be removed.</li> <li>• There will be additional traffic generated as a result of the development.</li> <li>• Only a temporary period of 12 months should be allowed.</li> <li>• No increase in scale should be allowed as this would increase the harm to the Green Belt.</li> <li>• Site is in an unsustainable location.</li> <li>• Any expansion of commercial activity will seriously impact on the lives of the local settled community.</li> <li>• The applicant should buy or rent business premises.</li> </ul>	<p><b>Support</b>          Total No. received: 99</p> <ul style="list-style-type: none"> <li>• Consider site unobtrusive and out of the way and not detrimental to the area.</li> <li>• Chorley Council has been told that they have to provide for Gypsy sites.</li> <li>• Refusal would waste tax payers money while approval would save money</li> <li>• Family contribute to the community in a positive way.</li> <li>• Site was untidy previously and has been tidied up.</li> <li>• Education of children has improved since occupying the site.</li> <li>• If application refused will force them to park up illegally on road side.</li> <li>• The site meets planning criteria apart from being within the Green Belt.</li> <li>• The council has not provided a Gypsy and Traveller site as required by the Planning policy for Traveller sites.</li> <li>• Committee should visit the site to understand location and local impact.</li> <li>• To deny the application would be a breach of human rights.</li> <li>• The Council are ignoring their duties to provide accommodation and this site will not cost taxpayers a penny.</li> <li>• All they want is a secure environment to bring up the children and be able to educate them as we all do.</li> <li>• They are valued members of the community and put more into it than those who are objecting.</li> <li>• Nimbyism.</li> <li>• Have an aversion to bricks and mortar.</li> <li>• Small development limited impact on the Green Belt.</li> <li>• Support on Human Rights grounds.</li> <li>• Extra caravans in line with GTAA and can stay together as extended family.</li> <li>• Should be made permanent.</li> <li>• No alternative site available.</li> <li>• Give Council time to provide alternative site.</li> <li>• There is no cost to the Council as they own the land.</li> <li>• Allow them to continue culture and lifestyle.</li> </ul>

## **Consultees**

<b>Consultee</b>	<b>Summary of Comments received</b>
Lancashire Constabulary Designing Out Crime Officer	No objection
Environmental Health	No objection
LCC Highways	No objection
Environment Agency	No objection
Highways Agency	No objection subject to conditions
Waste and Contaminated	No objection to development

## **Representations From Planning Consultant on Behalf of Neighbouring Residents**

5. One letter has been received from a planning consultant acting on behalf of the families living in Olde Stoneheath Court and other nearby dwellings and has the following comments.
6. There is a long planning history to the use of this site, including its unlawful occupation along with the adjoining land, and subsequent service of enforcement notices, appeals and submission of planning applications. The site is currently lawfully occupied under planning permission reference 13/00385/COU which gave consent on 19 July 2013 for:  
  
‘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’
7. Condition 3 of the consent limited the period of the permission to two years, and this period ends on 19th July 2015.
8. It had been anticipated that before that consent expired a site would be allocated in accordance with the requirements of the emerging local plan and that it would have been implemented in order to provide planned alternative accommodation for the residents at Heath Paddock. The considerable delays experienced in bringing forward the allocation and implementation of this site has meant that the consent is about to expire without an alternative site being available. An application for a further limited period had been anticipated.
9. The planning application now submitted is for:  
  
Change of use to a residential Gypsy and Traveller site involving the siting of two mobile homes, five touring caravans (one of which is for storage only when not travelling), and retention of the utility block and access for a temporary four year period.
10. It is also made clear in the application documents that the existing conditions preventing commercial activity on the site are not acceptable and proposes changes to accommodate the storage of commercial materials for up to 50 days a year.
11. From the planning history it is known that the site is accepted as inappropriate development in the Green Belt. In this regard, the Framework states:  
  
*§87 As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*  
  
*§88. 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, is clearly outweighed by other considerations.*
12. It has previously been determined that the permanent occupation of the site would cause unacceptable harm to the Green Belt that was not outweighed by very special circumstances. The occupation under the terms of the extant consent for a limited period in circumstances where alternative accommodation is coming forward through the local plan process has been accepted.

13. The current application seeks to intensify the use of the site by increasing the number of touring caravans by two and increasing the number of cars and vans that can be parked. It is also intended, as discussed above, to introduce commercial storage for a limited period each year.
14. As the use is inappropriate development in the Green Belt it needs to be shown that there are very special circumstances that clearly outweigh the harm to the Green Belt and any other harm. The proposed intensification is significant, doubling the number of touring vans that can be occupied on the site, increasing on-site parking and creating an area for commercial storage. The intensification of the use as proposed would change the planning balance against the development, but there has been no attempt in the supporting documents to establish the very special circumstances that would justify the development as proposed. Reference is made to family members living away from the site but that does not inform the decision-maker on very special circumstances that would outweigh the considerable weight attached to preventing development that would harm the Green Belt.
15. It is therefore to be concluded that in the absence of VSCs that clearly outweigh the harm to the Green Belt and any other harm, the application should be refused as being in conflict with Green Belt policy.
16. Should the elements of intensification be withdrawn and the application proceed as solely a re-application for the existing development, the absence of the alternative site being ready for occupation is a valid reason for allowing a further limited period consent. However, the conditions restricting commercial use and storage should be retained, especially as the proposed condition limiting it to use on 50 days a year is not enforceable because there will always be uncertainty over when the facility is in use.
17. With regard to the proposal to limit the consent to 4 years, it is suggested by the applicant that a condition would be accepted that the use ceases within that 4 years once the replacement site is available for occupation. That condition is not considered to be enforceable because there is no clear point at which a breach could be determined. It assumes that there is going to be agreement on terms and conditions on the applicant and his family moving onto the site and that may well be in the hands of a third party in the form of the site manager. Such a condition would fail the tests of a lawful condition for this reason.
18. The applicant's reason for a 4 year limited period is in anticipation of continued delay in the delivery of the Cowling Farm site. Whilst this is also of concern to my clients, anticipation of delay over such a period would mean that the inappropriate development in the Green Belt could continue for much longer than necessary if the site is made available beforehand. Given the acknowledged poor relations between the settled and travelling communities, there are other good reasons to keep the period for which consent is granted to a reasonable minimum.
19. The reason put forward by the applicant is the cost of a further planning application. That is not a material planning consideration. However in circumstances where intensification of the use is not intended the cost need only be small probably no more than the application fee of only £385.
20. In conclusion, my assessment of the planning application is that it is for a significant intensification of the existing use, which is inappropriate development in the Green Belt. No very special circumstances have been shown that could support such intensification and given the very strong weight against inappropriate development in the Green Belt the application must be refused.
21. As it is possible for the elements of intensification to be withdrawn from the application, the absence of having delivered the Cowling Farm site to date is justification of a further limited period consent for the existing development. However, a practical minimum period is all that should be allowed and this is considered to be no more than 18 months given the progress made towards allocation and delivery of the site. Reliance on the suggested planning conditions that are not considered to be enforceable should be avoided.

## **Applicants Case**

### **Location and Context**

22. The application site is part of a small cluster of development within 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.

23. In addition to the application site the group of properties consists of the terrace of cottages at 1-4 Red Row, Hut Lane, the farm buildings of Hallsworth Fold Farm, and the development of Olde Stoneheath Court, which was built on the site of the former Heath Charnock Isolation Hospital under the provision which allowed the redevelopment of existing developed sites with the green belt. The group is dominated by the M61 motorway immediately to its west and by the foothills of the West Pennine hills to the east. The cluster is served by the Hut Lane access road bridge, which was built in 1969/70 as part of the construction of the M61.
24. The application site has an area of some 1,372 square metres. It forms the south-western part (equivalent to some 54%) of the larger triangular site of 2,527 square metres of Heath Paddock. The whole triangular site is screened by fencing and tree planting on all three sides.
25. The triangular site has been profoundly affected by construction of the M61. The site is within the green belt, but the construction of the Hut Lane access bridge, which looks down into the site has had the effect of separating it from the agricultural land to the east, and the site reads as part of the cluster of development containing Red Row Cottages and Olde Stoneheath Court. Prior to the construction of the M61 it was in arable use. In 1969 and 1970 it was used as a contractor's yard with site offices, huts and residential caravans during the construction of the M61. Following completion of the motorway it was cleared of materials, but left covered by hard core.

### **Planning History**

26. The planning history will be familiar to the Council. In June 2009 Mr Linfoot, his partner Mr Boswell, and their families moved caravans onto the site, and applied for planning permission for a change of use to residential purposes with the siting of 16 caravans. The Council refused permission in August 2009, and issued enforcement notices. Following a public inquiry the appeals against refusal of permission and enforcement notices were dismissed in May 2010.
27. Mrs Linfoot's sister, Anne Marie Boswell and her family left the site around May 2011, because of an offer of a pitch elsewhere, and to help reduce the number of caravans on the site. However, their wish has always been to live as part of the extended family in or near to Chorley.
28. In June 2011 Mr Linfoot and Mr Boswell submitted a second planning application for a reduced quantum of development (two mobile homes, four touring caravans, a double utility block, and the storage of two touring caravans), then appealed against non-determination. Following a public inquiry in February March 2012 the appeal was dismissed in May 2012.
29. Mr Linfoot challenged the Inspector's decision under S.228 of the Town and Country Planning Act. The Boswells left the site in August 2013 because they did not want the financial risk of losing the legal challenge.
30. The Treasury Solicitor conceded that the Inspector's decision was not sound, but not the local planning authority, and there was a High Court hearing in November 2012. In his judgement, Judge Sycamore quashed the decision because the Inspector had failed to give adequate reasons for rejecting a temporary permission.
31. The Council pursued an injunction to exclude the families from the site. At a pre trial review in February 2013 Mr Linfoot agreed, if the forthcoming redetermination of the quashed appeal was unsuccessful, that he would vacate the site within 3 months of such a decision.
32. In April 2013 Mr Linfoot submitted a further application for change of use of 2 Heath Paddock. The scale of development was further reduced to two static caravans, three touring caravans (one for storage on the site) and retention of the utility block. The application was for a temporary period. Reflecting Government guidance the period applied for was long enough so that it should avoid the need for a second temporary permission, and was for four years.
33. In April 2013 provision for Gypsies and Travellers was considered at the Chorley Local Plan examination. Following the session on Gypsies and Travellers the Inspector indicated that the plan was not based on robust evidence and risked failing the soundness test. The outcome was that the examination was suspended while the Council commissioned an updated Gypsy and Traveller Accommodation Needs Assessment (GTAA).

34. In July 2013 balancing harm to the green belt, personal circumstances, the lack of a robust needs assessment and a supply of deliverable sites, and in the expectation the circumstances would change at the end of the period the Council granted a temporary permission, but for two, not four years.
35. The approved scheme involved repositioning the fence between 1 and 2 Hut Paddock so all of the utility block was in Mr Linfoot's landholding. This was implemented once the ownerships of the two parcels were separated.
36. In July 2013 Chorley, Preston and South Ribble Councils commissioned a needs assessment, which was published in January 2014. It suggested a need for 5 permanent residential pitches in Chorley. The Chorley pitch requirement reflected the forecast needs over time of the family on the Hut Lane site.
37. We made the case that the 2013 GTAA underestimated the level of need in Chorley. Her findings indicate that the Inspector shared our concerns.
38. In 2014 the Council consulted on alternative locations for a Gypsy and Traveller site with at least five pitches. Following consultation the Council determined that the site should be within the Cowling Farm development.
39. In her May 2015 Supplementary Report the Inspector indicated that on the basis of modifications relating to the Cowling Farm allocation, and commitments to undertake further work on the needs assessment and bring forward a joint Gypsy, Traveller and Travelling Showpeople plan with Preston and South Ribble councils, that the Local Plan was legally compliant. We understand the Council will adopt the plan on July 21. This history means that there is a very clear relationship between Hut Lane and bringing forward the Cowling Farm site.

### **The Current Proposals**

40. The application is for a temporary period of four years. Government guidance is 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.<sup>1</sup> A second temporary permission is needed in this case because the anticipated change in planning circumstances, the finalisation of the plan, allocation of a suitable site, and bringing it forward for development was always going to take significantly more than two years. In practice it has taken two years to complete the local plan. .
41. Having to apply repeatedly for relatively short temporary permissions is costly for applicants, but also highly stressful, particularly when it relates to someone's home and there is no suitable alternative accommodation. Gypsies and Travellers being put disproportionately in such a position is at risk of being contrary to the Public Sector Equality Duty and Article 14 of the European convention.
42. The period for the new permission needs to be long enough so the applicants won't have to apply for a third temporary permission. It needs to allow adequate time to develop, appraise, consult on and adopt the Cowling Farm masterplan, including the approach to tenure, and for the Gypsy and Traveller site to be developed. It needs to be of sufficient length so that at its end the Bird / Linfoot family can move direct to Cowling Farm. There is a significant amount of work to be done with substantial risks of conflict and delay. Hence we are applying for a four-year period. We don't believe anything shorter would be realistic or reasonable.
43. We understand the Cowling Farm site might be available earlier. To ensure the harm to the green belt is kept to as short a period as possible we would support an appropriately worded condition which required the family to vacate Hut Lane in the event the Cowling Farm site was developed and they could move on to it before the end of the four years.
44. The application is essentially for the same development as that approved in July 2013 with three amendments.
45. It has always been our position that the January 2014 Central Lancashire Gypsy and Traveller Accommodation Needs assessment underestimated needs for accommodation in Chorley, including by not taking account of the needs of Mrs Linfoot's brother and sister and their respective families, see my letter to Peter McAnespie of April 2014, which is attached.

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<sup>1</sup> Planning Practice Guidance, Use of Planning Conditions paragraph 014

46. Mrs Linfoot's brother John Bird, his wife and their three children aged 14, 12 and 10 do not have a secure base. Because of the lack of accommodation in Chorley they are renting space in a private garden in Lancaster, but do not have security. Mrs Linfoot's sister, Anne Marie Boswell and her husband and their younger son are currently renting a Council pitch in Blackpool, but at times Anne Marie needs support from the family and to be able to stay on the Hut Lane site. Her elder son, Clonus already uses the site as a base. Mrs Bird's elder sister, Mrs Linfoot's aunt is in poor health, and she may need to stay on the site for lengths of time in the future. We are therefore applying to site two additional touring caravans sited as shown on the proposed site plan, which would be available to be used by members of the Bird / Linfoot family.
47. As a consequence of the increased accommodation we are applying to increase the number of vehicles that can be parked on the site from 2 to 3 cars and from 3 to 4 vans.
48. Condition 8 to the current planning permission debar any commercial activities, including the storage of materials, plant and equipment. The problem is that some local residents complain about Mr Linfoot on any pretext at a scale of activity which could be regarded as incidental to the enjoyment of the residential use. Residents have complained at the storage of Christmas trees in the weeks before Christmas, and of a small number of sheds. This constrains the family's ability to make a living, and adds unnecessarily to the Council enforcement team's workload. The family have never carried out retail activity from the site, and have no intention of doing so.
49. Paragraphs 11h) and 16 of Planning policy for traveller sites recognise that Travellers often need to use their home to support employment activities. To allow the family to carry on an appropriate level of occasional business activity the proposed site plan shows an area of some 4 by 2 metres adjacent to the M61 boundary which we are proposing could be used for storage of materials and equipment for up to 50 days a year. This would allow Christmas trees to be stored for 28 days from 20 November to 18 December, and other materials or equipment for a further 22 days a year.
50. We are not proposing any additional changes to the landscaping and boundary treatment, although we would be willing to discuss any suggestions the Council might have.

### **Conditions**

51. The applicants would be content with appropriately worded conditions:
  - Defining the plans which the development should be carried out in accordance with (on the lines of Condition 2 to the July 2013 permission);
  - Limiting occupation of the site to those named in Condition 5 to the July 2013 permission together with other members of the Bird / Linfoot extended family;
  - Limiting the caravans on the site to seven of which no more than two would be mobile homes;
  - Limiting commercial activities, except for storage of materials and equipment in the area identified on the proposed site plan, which could be used for up to 50 days a year; and
  - Limiting the size of commercial vehicles, which can be stationed or stored on the site to 3.5 tonnes.

### **Assessment**

#### **Planning History**

52. 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 was granted planning permission.

53. 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 12 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.
54. A retrospective planning application was submitted to the Council for consideration in respect of the development seeking 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.
55. 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
56. 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.
57. 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 finally 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.
58. 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.
59. 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.
60. Following the Inspector's notice of decision a legal challenge was lodged by the applicant against the Inspectors 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 Inspectors 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.

61. 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.
62. On the 26 April 2013 a planning application was submitted for the continued temporary use of the site relating to a reduced area site. Temporary planning permission was granted for a period of 2 years which expired in July of this year.
63. A further planning application the subject of this report to renew the permission was submitted in June 2015.

## **PLANNING POLICY FRAMEWORK**

64. **National Planning Policy Framework** - National policy advises that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances.
65. **Planning policy for Traveller sites 2012** -The Planning Policy for Traveller Sites paragraph 10 states that: 'Criteria should be set to guide land supply allocations where there is identified need. Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless came forward'.
66. **Development Plan**  
The Development Plan comprises the Central Lancashire Core Strategy and Chorley Local Plan 2012-2026.
67. **Central Lancashire Core Strategy 2012** - The Core Strategy does not identify any targets for new provision of pitches for Gypsies, Travellers and Travelling Showpeople as no need was identified at that time. Rather, through Policy 8: Gypsy and Traveller and Travelling Showpeople Accommodation it provides a criteria based policy through which new provision can be made should a need be identified.
68. **Chorley Local Plan 2012-2026**-The Council adopted the Chorley Local Plan 2012-2026 on 21 July 2015, and the period for challenge expires on 1 September 2015. Policy HS11: Gypsy and Traveller and Travelling Showpeople states that- Within the mixed use allocation HS1.5/EP1.6 Cowling Farm, provision will be made for a minimum of 5 permanent Gypsy and Traveller pitches on 0.4ha of land.

## **Main Issues**

69. The main issue for consideration in respect of this planning application is whether harm arising from inappropriate development in the green belt, and any other harm caused, is clearly outweighed by other considerations to the extent that very special circumstances exist to justify temporary planning permission being granted.
70. **Green Belt** - The use of the land for the siting of residential caravans is not listed in any of the categories of appropriate development in the Green Belt. Such development according to the National Planning Policy Framework and Planning policy for Traveller sites is inappropriate development in the Green Belt.
71. Only appropriate uses of land, which do not harm the character, appearance, and openness of the green belt will therefore be permitted in such areas. The caravans because of their form and appearance together with other works carried out to the land are a prominent feature in this rural area and affect the openness of the green belt.
72. Such a situation would have a significant and harmful effect on the areas of Green Belt within the Borough by facilitating a gradual erosion of the attractive open rural areas that characterise Chorley and are an integral feature of the Boroughs rural attractiveness
73. **Changes in Policy** – Since temporary planning permission was granted in 2013 there has been significant changes to policy .The Chorley Local Plan includes Policy HS11 Gypsy and Traveller and

Traveller Showpeople which seeks to-“Within the mixed use allocation HS1.5/EP1.6 Cowling Farm, provision will be made for a minimum of 5 permanent Gypsy and Traveller pitches on 0.4ha of land”.

74. A revised GTAA for Central Lancashire was published in June 2015. It identified a need for 10 permanent pitches for Travellers in Chorley Borough, (an additional 5 to the 5 being progressed through the Chorley Local Plan 2012-26) a further 22 in Preston, 1 in South Ribble and a Central Lancashire wide need for 4 transit pitches to 2026.
75. The figure of 10 pitches for Chorley is made up of 8 pitches to meet the projected need of the Travellers currently residing at Hut Lane and a related brother and sister together with their respective families which forms the additional two caravans as part of this application. The additional 2 pitches identified within the GTAA would accommodate the hidden needs of those Travellers in bricks and mortar wishing to re-locate to a pitch. The GTAA provides an up to date assessment of the Gypsy, Traveller and Travelling Showpeople’s housing needs in the Central Lancashire area to 2026. Its findings form part of the evidence base behind the Central Lancashire Gypsy, Traveller and Travelling Showpeople Local Plan. However, members have challenged the GTAA findings and wish to further scrutinise the methodology and figures.
76. **Cowling Farm Masterplan**
77. The timetable for delivery of Cowling Farm is set out below, however, given the delay in the adoption of the Chorley Local Plan (originally anticipated to be adopted April/May) the timetable has slipped three months. Therefore at this time given this delay, work is anticipated to start on site Spring/Summer 2016, however, despite a commitment to the Traveller site being delivered as part of the first phase of the development, an actual end date cannot yet be confirmed.

#### Project appreciation, vision and objectives setting – weeks 1-2 – June 2015

- Define the project, assess the initial scope based on a thorough assessment of the site and its needs.
- Establish a vision statement and core project objectives and prepare a brief to establish the design principles and guide the process.
- Test objectives against vision statement
- Key objective to deliver this mixed use site through a phased masterplan:
- Employment – deliver 3.5 ha of employment land.
- Use classes B1, B2, B8, Access, Location, Layout, Scale and massing, Landscaping etc.
- Housing - deliver 6 ha of housing
- 147 dwellings, Access, Location, Density, Design and Layout, Scale and Massing, Provision of open space and landscaping, number of Affordable housing units etc.
- Traveller Site – 0.4 ha, a minimum of 5 pitches
- Optimum location, Access, Design and Layout

#### Outcome – weeks 1-2 - June 2015

- Assess whether direct to detailed planning application or combination of both – i.e. detailed application for traveller site and outline for employment and housing in order to progress Traveller Site as a first phase of the site development.

#### Project Management – weeks 2-3 - June 2015

- Set up project management and decision making structure
- Appoint project lead and set up steering group – Key stakeholders already engaged include: LCC Highways - Rachel Crompton, Travelling community - Mr Hargreaves/ Linfoot family, Homes and Communities Agency – Mr Jackson, United Utilities –David Sherratt, Cowling Action Group (residents), Moorland Gate Business Park, Lancashire Police – Rachel Hines, Ward Councillors – Cllr Julia Berry, Cllr Terry Brown, Cllr Hasina Khan.
- Agree how to involve members and the wider community in context of Statement of Community Involvement
- Agree project plan and identify potential risks and how these can be managed

#### Compile the evidence base and commission further work – weeks 2-6 – June/July 2015

- Agree the range of issues to cover
- Review evidence base and any additional evidence required
- Identify and engage with all stakeholders

- Evaluate the evidence base

Prepare Draft Masterplan – issues and options – weeks 4-10 – June/July 2015

- Understand key issues – impact on design and layout etc.
- Engagement – collaborative design process.
- Present and test scenarios

Finalise a preferred option – weeks 10-12 - July

- Refine scenarios in light of stakeholder engagement and prepare preferred option.
- Report to Council/Executive Cabinet and agree consultation.

Consult on Preferred Option – weeks 12-16- August

- 4 week public consultation on draft masterplan
- Revise masterplan in light of consultation
- Adopt masterplan

Prepare application – weeks 10-17– August

- Agree the scope of material for a planning application
- Establish the parameters in principles of development
- Supporting documents – planning statement, environmental statement, Transport Assessment, Design and Access Statement, Social Infrastructure
- Section 106 Heads of Terms

Submit application for decision - 12 weeks – weeks 18 - 30 – Sept/Oct/Nov 2015

- Decision making, planning committee, report and decision.

Begin work on site – Jan 2016

78. At the Council meeting on 21st July 2015, it was recommended that further work be undertaken by officers to ascertain when the government's revised guidance on Travellers is likely to be issued and to further explore the issue of 'local circumstances' that may apply in Central Lancashire authorities which could impact on this figure. This will then be reported to a future Council meeting. Officers will report on this work and any implications this may have for the figure of need identified in the GTAA. A revised timetable for the progression of the Central Lancashire Gypsy and Traveller and Travelling Show people Local Plan will also then be set.
79. **Comments on applicants case**
80. The applicant argues that a four year period is required as having to reapply is costly and highly stressful, particularly when it relates to someone's home and there is no suitable alternative accommodation. In terms of the cost, the relative cost of reapplying for permission would, not be onerous or be unviable, however the stress of not having somewhere to live is a material planning consideration to be weighed together with other material planning considerations. The timescale for the delivery of the Cowling site and the Councils's commitment to provide a site should reassure the applicant and give certainty that this could be delivered within a shorter timescale. The applicant has offered to move from the Hut Lane site to Cowling Farm once the site there is ready, and suggests that a condition could be imposed to that effect. The alternative to a condition would be a legal agreement that would secure the relocation of the caravans at the earliest opportunity and restoration of the site. In considering whether a condition or legal agreement would be appropriate, legal advice has been sought. However, the advice from the Council legal section is that such a condition or legal agreement would be open ended and unenforceable if a permission is granted for a temporary period but subject to condition or s.106 obliging the applicants to move once the Cowling Brow site is ready, and result in a nonsensical situation when it came to enforcement as the temporary permission would override any condition or agreement.
81. Based on the Council's timescale for delivery of Cowling Farm it had been expected that the process would be completed and enable work to commence on site early next year, however given the delay in adoption of the Chorley Local Plan, the timetable has slipped and it is expected that this will occur Spring/Summer 2016. This does not factor in potential delays from any additional investigation and ecology surveys as part of the master plan process, and taking this into account, together with the estimated time for construction by the Council's Property Services section this may take a further period of 12 months. Based on this assessment therefore it is considered that a period of 2½ years

may be required and therefore a 4 year temporary period would not be justified as this would prolong the harm caused to the Green Belt. The applicant has confirmed that he is prepared to move to Cowling Farm once a site is ready and therefore the period of 2 ½ years may be reduced further and relocation possible earlier once a site becomes ready. The delivery of the Cowling Farm site is within the control of the Council and an extension of this period of time to eg a 4 year timescale would not be appropriate.

### **Relaxation of Commercial Restriction on Site**

82. 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.”

The applicant seeks a relaxation of the condition on the basis that this debar storage even for activities which he considers to be ones that could be carried without planning permission and at certain times of the year.

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 temporary storage at certain times of the year would be inconsistent, it would either need to be accepted for the whole period of occupation or not at all in that if it is not acceptable to interfere with the openness of the greenbelt and amenities in the spring, summer or autumn then it is equally unacceptable in the winter. Allowing commercial uses goes beyond that and with the increase in occupants at the site has the potential for increased commercial activity which may give rise to further harm. 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.

### **Visual Impact of the Site**

83. Prior to the current development, the site was open in nature and had been covered with trees/undergrowth.
84. 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.
85. 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.

### **Effect on Residential Amenity**

86. 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. The proposal is now to add two further caravans to the current site to accommodate additional family members identified by the GTAA. The additional caravans are shown to be sited next to two of the existing touring caravan pitches and whilst these may be viewed from No 3 it is not considered to be a reason to resist the development. The scale and siting does not dominate the outlook from No 3 and is therefore considered acceptable. In terms of additional traffic movements there will be an additional two vehicles parked at the site. The Lancashire Highways have no objection to the proposal. The increase in traffic movements is not considered to be of a scale to cause any significant loss of amenity to occupiers of neighbouring property.

87. **Human Rights** - The application engages Article 1, Protocol 1 and Article 8 of the Human Rights Act 1998. A refusal of permission would give rise to an interference with the applicant's and occupants rights under Article 1 of the first Protocol and Article 8 of the European Convention on Human Rights. Without certainty of alternative and suitable accommodation, the occupants could be required to vacate their homes and the site, which would interfere with their homes, their private and family lives. The grant of a two year temporary permission would be justified as a proportionate interference and reasonable in the circumstances.
88. **Equalities & Race Relations** The Council has duties under the Equality Act 2010 which prohibits direct and indirect discrimination because of a relevant 'protected characteristic' - age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity (except for indirect discrimination), race, religion, belief, sex, and sexual orientation. For example, it would be unlawful to treat a person less favourably, in relation to planning matters, because that person is a gypsy, or if the Council applies a provision, criterion or practice (PCP) which puts that person and other members of the same group at a particular disadvantage when compared to others not in the group, and the PCP has no legitimate aim and is disproportionate. It is considered that the Council's equality duty is satisfied in the consideration of the planning application.

## OVERALL CONCLUSION

89. Planning policy for Travellers sites states that new Gypsy and Traveller sites in the Green Belt are inappropriate development. This has to be weighed against the requirement for local authorities to identify need and provide a 5 year supply of sites.
90. The previous temporary permission approved in 2013 was considered appropriate as very special circumstances were demonstrated. This application seeks to increase the scale of development by increasing the number of caravans on the site by two to accommodate other family members who have been identified as part of the assessment of need in the GTAA carried out earlier this year. That 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. The addition of two further caravans is not considered to be of a scale to cause any adverse impact on the area or result in the loss of amenity to neighbouring residents.
91. 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
92. In conclusion the circumstances which now exist namely the requirements of 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 permission to enable the Council to deliver a permanent site. The period of consent is material to the harm to the Green Belt and 2 ½ years is considered the minimum period that is reasonable to deliver a site and remove the harm from the Green Belt. However as stated the applicant has stated that he will move as soon as the Cowing Farm site becomes available.

## Planning Policies

93. 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.

## Planning History

Reference	Description	Decision	Date
08/00984/FUL	Erection of stables to include exercise area, midden and hardstanding	PERFPP	13 November 2008
09/00437/COU	Retrospective application for the use of land for stationing of two mobile homes and up to 14	REFFPP	19 August 2009

	touring caravans for residential occupation for temporary period of 3 - 4 years with associated development (hard standing, utility building, septic tank, 6 small toilet buildings, second access off Hut Lane, brick pillars and gates)		
11/00351/DIS	Application to discharge condition 6 attached to planning approval 08/00984/FUL	WDN	27 April 2011
11/00484/COU	Change of use of land for the siting of 2 No static caravans and 4 No touring caravans for residential use, the storage of 2 No 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 No vehicles plus horse box trailer to north of site and provision of new hard standing for 3 No vehicles plus horse box trailer together with retention of existing access at North West corner of site	PDE	
11/00501/DIS	Erection of stables to include exercise area, midden and hardstanding	WDN	14 June 2011
13/00385/COU	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	PERTCA	9 July 2013
13/01061/FUL	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.	PRETCA	14 January 2014

## Suggested Conditions

No.	Condition												
1.	<p>The Development shall only be carried out in accordance with the approved plans, except as may otherwise be specifically required by any other condition of this permission.</p> <p>Reason: To define the permission and in the interests of the proper development of the site.</p>												
2.	<p>The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <table border="1"> <thead> <tr> <th>Title</th> <th>Drawing Reference</th> <th>Received date</th> </tr> </thead> <tbody> <tr> <td>Location Plan</td> <td></td> <td>9 June 2015</td> </tr> <tr> <td>Site Layout</td> <td></td> <td>9 June 2015</td> </tr> <tr> <td>Utility Block Plan</td> <td></td> <td>9 June 2015</td> </tr> </tbody> </table> <p>Reason: For the avoidance of doubt and in the interests of proper planning</p>	Title	Drawing Reference	Received date	Location Plan		9 June 2015	Site Layout		9 June 2015	Utility Block Plan		9 June 2015
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Location Plan		9 June 2015											
Site Layout		9 June 2015											
Utility Block Plan		9 June 2015											
3.	<p>The permission shall expire on the 8 March 2018, following which the use shall cease and the land restored in accordance with the requirements specified in condition 4 of this permission.</p> <p>Reason: To reserve to the Local Planning Authority control over the long-term use of the land, as the use is inappropriate development in the Green Belt and not acceptable on a permanent basis.</p>												
4.	<p>Within 3 months of the expiry of this permission the following works shall be carried out:-</p> <ol style="list-style-type: none"> <li>Excavate the hardstanding laid on the site and remove all the hardcore material laid to form the hardstanding from the land.</li> <li>Demolish the utility block and its concrete base and remove the materials resulting from the demolition from the land.</li> <li>Excavate the septic tank and remove the tank from the land.</li> <li>Demolish the electricity supply housing box and remove the materials resulting from the demolition from the land.</li> <li>Demolish the entrance pillars and gates from the vehicular access in the north west corner of the application site and remove the materials resulting from the demolition from the land.</li> </ol> <p>Reason: To give the Local Authority control over the long term use of the land as the operations are inappropriate development in the Green Belt and not acceptable on a permanent basis.</p>												
5.	<p>The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants:</p> <p>Mr Michael Linfoot and wife Mrs Patty Linfoot and dependent children.  Mr Walter Bird and Mrs Sylvia Bird and grandson Clonus John Boswell. (Born 1994)  Mr and Mrs John Bird and dependent children.  Mrs Anne Marie Boswell and husband Mr Clonus Boswell and dependent children.</p> <p>Reason: Weight has been given to the personal circumstances of the applicant as a very special circumstance in granting permission for inappropriate development in the Green Belt</p>												
6.	<p>No more than 7 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 ( of which no more than 2 shall be a mobile home) shall be stationed on the site at any time.</p> <p>Reason: For the avoidance of doubt and in the interests of proper planning.</p>												
7.	<p>No commercial activities shall take place on the land including the storage of materials, plant or equipment.</p> <p>Reason: In order to protect the amenities of the area and the residential occupiers of dwellings in the vicinity.</p>												
8.	<p>No commercial vehicles in excess of 3.5 tonnes shall be stationed, parked or stored on the site</p> <p>Reason: In order to protect the amenities of the area and the residential occupiers of dwellings in the vicinity.</p>												