

DEVELOPMENT MANAGEMENT COMMITTEE – 10th JANUARY 2024

Application Number	3/21/2509/FUL
Proposal	Change of use of the land for 2 Gypsy and Traveller residential pitches, accommodating the siting of 2 mobile homes, 4 touring caravans and 2 dayroom/amenity buildings, alongside the formation of an access road, areas of hardstanding, provision for foul water drainage and widened site entrance onto Cherry Green Lane.
Location	Land At Cherry Green Lane, Westmill, Hertfordshire, SG9 9LF
Parish	Westmill
Ward	The Mundens

Date of Registration of Application	29 th November 2021
Target Determination Date	13 th July 2022
Case Officer	Amit Patel

RECOMMENDATION

That planning permission is **GRANTED**, subject to the conditions set out at the end of this report.

1.0 Summary of Proposal and Main Issues

1.1 The application seeks to change of use of the land for 2 Gypsy and Traveller residential pitches, accommodating the siting of 2 mobile homes, 4 touring caravans and 2 dayroom/amenity buildings, alongside the formation of an access road, areas of hardstanding, provision for foul water drainage and widened site entrance onto Cherry Green Lane.

1.2 The main issues for consideration are:

- Principle of development;

- Gypsy and Traveller Accommodation;
- Gypsy and Traveller Housing Need;
- Other matters including Equalities Considerations

1.3 The application has been amended following previous comments from the Highway Authority. The access is now proposed to be at the north-eastern corner of the site.

1.4 The applicants have submitted additional documents with regards to the application. The documentation submitted are:

- Tree Survey
- Preliminary Ecological Appraisal
- Landscape and Visual Assessment
- Proposed Site Plan
- Tree Constraint Plan
- Visibility Splay
- Swept Path Analysis

1.5 Following further comments from the highway authority and the issue around visibility splays the applicants have submitted amended details to address this issue as well as landscape.

1.6 The site access has now moved towards the central part of the site and updated landscaping proposal is submitted.

2.0 Site Description

2.1 The application site lies within the Rural Area Beyond the Green Belt and an Area of Archaeological Significance No 325. The site historically has been in agricultural use.

2.2 The application site lies in open countryside, amongst other agricultural fields, with residential development scattered around the locality. Hedgerows lie to the north, west and east of the site, whilst agricultural land. The boundary of Westmill Village is approximately 130m to the east of the site. Westmill is defined as a

Group 2 village within the East Herts District Plan Policies Map designation.

- 2.3 The nearest dwellings adjoin the land to the west. There are no other constraints on the site.
- 2.4 There are a group of agriculture buildings to the rear of the site. It is also noted that there is a current application for this site, under planning reference 3/22/1027/ARPN.
- 2.5 Following a visit to the site it is noted that there are already 2 mobile homes on site and provision for foul water drainage has been installed and therefore this application is retrospective for these elements. The proposed 2 dayroom/amenity buildings, alongside the formation of an access road, areas of hardstanding, and widened site entrance onto Cherry Green Lane are still to be implemented.
- 2.6 As part of the ongoing assessment officers visited the site with the agent and the applicants. As part of the discussion, it was agreed that additional information was required in respect to:
- Drainage
 - Lighting
 - Boundary Treatments, landscaping and arboriculture
 - Detailed Design of Access.
 - Programme of Archaeological Works.

3.0 Planning History

LPA Reference	Description of Development	Decision
3/21/0265/AGPN	Proposed access road	Prior Approval Not Required – 2 nd March 2021
3/18/0918/FUL	Retrospective planning application for the retention of a field shelter structure.	Refused – 17 th July 2018

3.1 Planning History for the adjacent site to the south, known as Gaylors Farm:

Application Number	Proposal	Decision	Date
3/22/1915/ARPN	Change of use and conversion to use class C3 to provide 2 smaller dwellinghouses and 1 larger dwellinghouse.	Prior Approval Required/ Granted subject to conditions	27 th October 2022
3/22/1914/ARPN	Change of use of a building and land within its curtilage from agriculture to use class C3 for 1 dwelling house	Prior Approval Required/ Granted subject to conditions	26 th October 2022
3/22/1027/ARPN	Change of use of agricultural barn to C3 (residential), to create 3 dwellings.	Prior Approval Required and Refused	11 th July 2022
3/21/0265/AGPN	Proposed access road	Prior Approval not Required	2 nd March 2022

4.0 Main Policy Issues

4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the Planning Policy for Traveller Sites, and the adopted East Herts District Plan 2018 (DP).

Main Issue	DP policy	NPPF/PPTS
Principle of development	DPS2 GBR2 HOU1	Section 5

	HOU9 HOU10	
Gypsy and Traveller Accommodation	HOU1 HOU9 HOU10 DPS2 DES2 DES3 DES4 TRA1 TRA2 TRA3 EQ1 WAT1 WAT5 WAT6	Section 5, Section 8, Section 9, Section 12 Section 15, Planning Policy for Traveller Sites
Gypsy and Traveller Housing Need	HOU1 HOU9 HOU10	Section 5, Planning Policy for Traveller Sites
Other matters	HA1 HA3 HA7 NE3	Section 16 Section 15

4.2 Equality Act 2010

Section 149 of the Equality Act (2010) confirms that a Public Sector Equality Duty (PSED) came into force in April 2011 and requires the Council to consider the equality impacts on all protected groups when exercising its functions. In the case of planning, equalities considerations are factored into the planning process at various stages. The first stage relates to the adoption of planning policies (national, strategic and local) and any relevant supplementary guidance. The policies and guidance referenced in the committee report and this updated report have all been subject to an equalities impact assessment (EqIA) therefore, the planning policy framework is considered to meet the first stage in the process. Officers have

duly considered the equalities impacts on protected groups in the context of the development proposals, subject to this planning application which is set out in Section 8 of this report.

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

5.0 Summary of Consultee Responses

- 5.1 HCC Highway Authority recommends that permission should not be restricted subject to conditions and informatives.
- 5.2 The Highways Officer originally raised concerns about the delivery of the visibility splays and the applicants have amended the access to be located more centrally within the site. The amended information has addressed the Highway Authority's concerns.
- 5.3 Following on from the submission of the revised access proposals, the Highways officer considers that the visibility splays can be delivered, and that Cherry Green Lane would not be impacted to have a highway safety concern. Their full comments are on file.
- 5.4 The Highway Officer has discussed the acceptability of the access in terms of the immediate approach route, it is noted that Cherry Green Lane is slightly tight at its eastern end, but quickly widens out to a general carriageway width of around 3.2m. There are four informal passing places on approach to the site from the east, each of them between 4.1 metres to 4.7 metres wide. This enables two cars to comfortably pass by one another, and even a car plus a van. Forward visibility is good, and drivers can quite easily work out if they need to hold back to let another vehicle pass by at one of the passing places. The wider approach route to Cherry Green Lane is a little narrow in places, but again fairly typical of a rural settlement like this. There are quite regular informal passing places, and the existing houses around here all need servicing (e.g. refuse collection, white goods deliveries, grocery deliveries, etc) – so occasional larger vehicle movements are not uncommon.

- 5.5 There is not an obvious accident history along these roads which would otherwise cause concern. Essentially, this development is just two gypsy and traveller plots, which will generate very minimal traffic increase overall.
- 5.6 As such, Highways concluded that if the Highway Authority do not wish to restrict the grant of permission, it is recommended that the consent includes the conditions recommended.
- 5.7 HCC Historic Environment Unit consider that the proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest.
- 5.8 The development site is in an Area of Archaeological Significance identified in the Local Plan. No archaeological remains or finds are recorded from within the site, but it is located in an area known to contain archaeological remains dating from the prehistoric period through to the post-medieval period, including the site of a possible Roman villa, known from cropmarks visible on aerial photography [Historic Environment Record no 16684]. The village of Westmill [2658] is in the close vicinity. This is recorded in Domesday Book, though it is not known whether there was any nucleated settlement in the 11th century. However, the parish church [HER 4262], close to Westmill Bury [HER 15955], the manorial centre, has late Saxon origins.
- 5.9 The applicants have produced a Written Scheme of Investigation (WSI) in conjunction with the HCC Archaeology Team and HCC have confirmed that the details within the WSI are acceptable and the development shall be implemented in accordance with the WSI. A planning condition will be imposed requiring compliance with the WSI.
- 5.10 EHDC Landscape Advisor recommend that the additional information submitted is acceptable.
- 5.11 The applicants have provided additional drawings and a schedule for planting. The Landscape Officer advises that the provision of the

additional hedging to the front boundary and landscaping around the site would be acceptable. The additional hedging to the front will help with the screening of the development and planting around the perimeter would further screen the development. The landscape officers comments are as follows:

- The revised location for the access now results in fairly minimal loss of trees/hedgerow along the site frontage assuming the sight lines shown in red satisfy highways requirements.
- The caravans being moved further back from the road i.e. to remain approximately in their existing location, is an improvement in terms of the site planning and layout for the proposed development.
- The proposed new native hedge planting around the perimeter of the site (including suggested species mix) is acceptable and would provide the biodiversity net gain as well as helping to enclose the site.
- The proposed shingle driveway is acceptable in terms of appearance and permeability.
- Fruit tree planting along the access road is acceptable – medium sized species recommended.
- Details of the proposed replanting along the western part of the road frontage (the existing access) are acceptable.
- Gapping up details for the rest of the trees/hedgerow along the site frontage are acceptable.

5.12 In summary, it is considered that the additional information submitted is acceptable and subject to the proposal being implemented in accordance with the submitted details, subject to condition, and therefore the proposal would be acceptable in landscape terms.

5.13 Herts Ecology have been consulted but at the time of writing the report no comments have been received. If comments are received, they will be verbally relayed to Committee.

- 5.14 EHDC Environmental Health Advisor has looked through the additional information and has confirmed that this now addresses the concerns previously raised.
- 5.15 Environmental Health have stated that the sewage provisions are already installed. The agent has now confirmed the treatment of this and capacity and therefore have no objection to this.
- 5.16 Concerns were raised as to electrical safety and LPG storage and provision, the welfare of the site in relation to potable water supply and now consider that this is a site licence matter and would not be within the realms of planning policies but separate environmental legislation.
- 5.17 The Planning Policy Team advise that the Council has an adopted District Plan that includes a Gypsies and Travellers and Travelling Showpeople policy (HOU9), which is founded on a robust evidence base that demonstrates how the identified accommodation needs would be met by the Council both within the plan-period and beyond. However, the evidence base supporting that policy has recently been superseded by the East Herts Council Gypsy and Traveller Accommodation Needs Assessment (GTANA), May 2022, which has increased the numbers of pitches required in the first five years from 9 to 31. This increase in identified need means that the Council cannot currently demonstrate a supply of pitches for Gypsies and Travellers to meet its five-year requirements. It should be noted that the needs of the applicants were taken into account in the May 2022 GTANA and therefore would contribute towards meeting those needs if permission were to be granted.
- 5.18 Beyond setting out specific site allocations, the District Plan provides a criteria-based approach to assess other applications coming forward outside of the Plan's allocated site, such as this application. The policy aims to direct sites toward sustainable locations, which protect local amenity and environment, and the criteria-based approach is applied in accordance with paragraph 24(d) of Planning Policy for Travellers Sites (PPTS). Furthermore, in line with paragraph 24(a) of PPTS, additional to the criteria-based

approach, the existing level of local provision and need for sites or further pitches will still be a relevant consideration that should be taken into account in the planning balance.

- 5.19 Notwithstanding the Lisa Smith judgement, the applicants would need to meet the PPTS Annex 1 Gypsy definition which states *that Gypsies and Travellers are defined as "Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such"* in order for Policy HOU9 to apply. If the travellers do not meet the definition, then Policy HOU10 is applicable. HOU10 applies to "Gypsies and Travellers who no longer lead nomadic lifestyles", to protect their cultural choice to live in mobile accommodation. Therefore, this policy is directed to meeting the accommodation needs of travellers who have ceased to travel (and by implication this means that they must have previously travelled), so is not intended for any potential occupier/s outside of such a cultural grouping. Therefore, as long as the applicants can demonstrate that they are indeed Gypsies or Travellers, then either Policy HOU9 or HOU10 would apply.
- 5.20 However, it should be noted that, since the Policy Team response was made, Annex 1 of PPTS was updated on 19th December 2023 and the definition of "gypsies and travellers" was revised to add 'or permanently' to the text, so that it now reads *"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such"*
- 5.21 In terms of criterion (a) of Part II of Policy HOU9, which discusses sustainability in locational terms, it should be noted that, in respect of meeting accessibility to existing local services requirements, Westmill is one of a number of settlements to the north of the district which are covered by the HertsLynx on-demand bus service,

which was launched in September 2021

<https://www.intalink.org.uk/hertslynx>. There are four stops for this service within Westmill and 28 stops in Buntingford, the nearest large settlement with a range of facilities. In considering accessibility in terms of journeys to support everyday living, it should therefore be ascertained whether the locations of the stops within Westmill could enable use of the HertsLynx to provide a viable and suitable alternative to trips by private vehicles.

5.22 Environmental Services (Waste) commented that whilst there is no reference to waste and recycling provision, general guidance is provided regarding pull distances, collection point, storage areas. Their full comments are available online.

5.23 Environmental Health (Air and Contamination): have not raised any objection or requested any conditions.

6.0 Town/Parish Council Representations

6.1 Westmill Parish Council. Additional comments are added within these from members of the public. These are all incorporated into the representation from the Parish Council. Those grounds will be summarised below:

6.2 Planning Process

- The whole planning process is deceiving as there have been no reports regarding ecology or Archaeology.
- Planning form is inaccurate at multiple places;

6.3 Principle and Planning Policy

- Site outside Group 2 Village and therefore presumption against development to protect landscaping.
- Not infilling.
- Site not specifically identified in District Plan for traveller provision.
- Community Services are limited.

6.4 Character and appearance

- The application site is situated on Rural Lane Beyond the Green Belt
- Impact upon the Conservation area and Village setting.
- Potential to increase number on site and lead to more traffic, noise and disturbance and dogs and animals.
- Visual amenity is impacted due to the paraphernalia on site.

6.5 Highways and Sustainability

- Unsuitable highway access
- No proper footpaths, street lighting

6.6 Environmental concerns

- No biodiversity report has been submitted.

6.7 Archaeology

- The site lies within a designated AAS. Works have taken place in regard to deep structures below ground;

6.8 Housing need

- The site is not an identified site for Gypsies, Travellers and Travelling Showpeople within the pitch allocations that are detailed in the District Plan, Policy HOU9. The District Plan had, prior to the 2022 GTANA, identified sufficient allocation of pitches for Gypsy and Travellers and plots for Travelling Showpeople in the district to the end of the Plan period, 2033. However, following the 2022 GTANA, which updated the evidence base for the overall needs in the district, an immediate accommodation need for the occupiers of the site was identified and, therefore, it is incumbent on East Herts to ensure that their needs can be met within the district in a timely manner.

6.9 Residential amenity

- Loss of landscaping would have impact upon neighbouring occupiers through noise disturbance and visual amenity;
- Animal noise to neighbours;
- The proposal would cause a loss of privacy to neighbouring properties
- Light pollution from the site

6.10 Other matters

- There is no readily available electricity or water supply and waste, for the site
- Natural drainage and flooding

6.11 Second Round of Consultation

- Original Comments still stand

Character and appearance

- Impact on landscape character;
- Conflict with policy for Rural Area Beyond Green Belt GBR2(a);
- Urbanisation of a rural area
- Landscaping and Ecology
- Hedgerow and trees are to be removed which will impact ecology
- The Field Survey Report is inaccurate as this was a field and change of use has already had an impact upon ecology
- Tree survey relates to a different site

Highways and Sustainability

- Narrow entrance to the site
- Traffic Survey inadequate
- Impact upon the highway
- Visibility splay inadequate

- Swept Path Analysis would still impact highways
- No details of vehicles turning right into the site which would not be possible due to the narrow access
- Lack of public transport
- Residential Amenity
- New access will create loss of privacy and outlook through engineering operations
- Noise and disturbance

Other Matters:

- Utility supply issues
- Dogs causing environmental and anti-social behaviour
- Water run off

6.12 Third round of consultation on the amended access.

- The amended visibility splay is still a concern
- Ecology appraisal is flawed
- Banks along the road are already being damaged by vehicles

7.0 Summary of Other Representations

7.1 In the first round of consultation 17 responses have been received objecting to the proposal. It is noted that former District Cllr Jones commented as a County Councillor, which has been incorporated into the comments below:

7.2 Incorrect Information

- The planning application states the works have not started, but this is incorrect;
- Development has already began and families are already living on the site;

7.3 Character and appearance

- The density of the proposal is out of character with the surrounding area and disproportionate to the size of the site;
- Set a precedent for additional housing;
- Harm the visual amenities of the surrounding landscape;
- Doesn't relate well to the Conservation Area

7.4 Highways

- The entrance is totally unsuitable for the site and increase in highway traffic.

7.5 Principle

- Does not meet the EHDP policies;
- Site is not a sustainable location;
- Hard to integrate into the local community;
- Breach of planning law as the use has already began;
- Not developable or deliverable land:

7.6 Amenity

- On site business activities have the potential to affect nearby residents through noise disturbance and loss of privacy;
- The site is an archaeological and green site and residency could harm the site along with the loss of the archaeological/green belt site.

7.7 Flooding

- Historical flash flooding area.

7.8 Local infrastructure/sustainability

- No services, such as water, sewerage and drainage and waste disposal
- No onsite facilities for play and on site
- There are no local shops in the area nor public transport therefore transport by car would be required

- The extra strain on water, gas and sewers in the local area.

7.9 Ecology

- Impact on ecology
- Will have an impact on wildlife.
- The application does not include an Ecological impact assessment.

7.10 Other matters

- A worry of future breaching in planning conditions by the increase of caravans, occupants and the expansion of the site over time and as a result the involvement of enforcement.
- Devaluing of properties as a result to the other site therefore causing further devaluing.
- Giving permission would set a precedent.

7.11 Former Cllr Huggins made the following comments:

- Site is in an unsustainable location;
- No suitable access
- Out of character with the nearby setting of the village;
- Not been integrated into the wider area
- Impact on residential amenity
- Impact on visual amenity
- Health hazards

7.12 Second round of consultation, 11 comments were received, these raised the following issues:

Principle

- Unsustainable location due to lack of services and facilities
Highway
- Access is inappropriate
- Highway safety
- Traffic Survey Data is dubious

Landscaping and Ecology

- Removal of trees and hedging will impact visual amenity
- Harm to ecology

Character and appearance

- Out of keeping

Other

- Set a precedent
- Water run off issues
- Postcode is wrong

7.13 The third round of consultation, on the amended site access and landscaping raised the following issues:

- Increase in number of pitches
- Electrical supply
- Impact on wildlife
- Increase in traffic
- Character and context impacted of the small village setting

8.0 Consideration of Issues

Principle of development

8.1 The site is within the Rural Area of Green Belt, therefore policy GBR2 is applicable, which seeks to maintain the Rural Area Beyond the Green Belt as a valued countryside resource. Policy GBR2 allows for certain types of developments. Part (g) of policy GBR2 allows for the:

“accommodation for Gypsies and Travellers and Travelling Showpeople in accordance with Policy HOU9 (Gypsies and Travellers and Travelling Showpeople) or Non-Nomadic Gypsies and Travellers and Travelling Showpeople in accordance with Policy HOU10 (New

Park Home Sites for Non-Nomadic Gypsies and Travellers and Travelling Showpeople)”.

- 8.2 The application is for the change of use of the land for 2 Gypsy and Traveller residential pitches, accommodating the siting of 2 mobile homes, 4 touring caravans and 2 dayroom/amenity buildings, alongside the formation of an access road, areas of hardstanding, provision for foul water drainage and widened site entrance onto Cherry Green Lane.
- 8.3 As previously noted, the site lies in the Rural Area Beyond the Green Belt, whereby in order to maintain the Rural Area as a valued countryside resource, specific types of development may be permitted. The pre-amble to Policy GBR2 sets out the context of this policy, however, whereby the Rural Area is a considerable and significant resource, which Policy GBR2 seeks to maintain by concentrating development within existing settlements.
- 8.4 Regard should also be had to ‘Planning Policy for Traveller Sites’ (PPTS), which should be read in conjunction with the NPPF.
- 8.5 PPTS provides a definition of gypsies and travellers at Annex 1 (revised December 2023) as follows: “Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such”.
- 8.6 The applicants have provided verification that the occupiers meet the definition of Gypsies and Travellers as set out in of the Planning Policy for Travellers Sites (PPTS).
- 8.7 With reference to Para 11 of PPTS, the District Plan provides a criteria-based approach to assess both allocated and non-allocated sites, whereby HOU9 refers to sites for Gypsies and Travellers and Travelling Showpeople, and HOU10 refers to sites for Non-Nomadic

Gypsies and Travellers and Travelling Showpeople. The criteria based approach is therefore applied in accordance with paragraph 24(d) of Planning Policy for Travellers Sites (PPTS); however, in recognising that this criterion is not to be taken in isolation, but rather that the paragraph is to be read as a whole, proposals must, notably, also be considered in line with paragraph 24(a) of PPTS. Consequently, regardless of whether the criteria-based approach is met on its own, the issue of whether there is need for further pitches in the district is also still a relevant consideration that should be taken into account in the planning balance.

- 8.8 Notwithstanding this, the criteria of HOU9 and HOU10 will be assessed below in the 'Gypsy and Traveller Accommodation' section.
- 8.9 For an application to be deemed acceptable in planning terms, all criteria should be satisfied along with the other policy requirements and national policy, in particular the NPPF and PPTS.

Sustainable Location

- 8.10 Whilst there are a number of relevant policies within the District Plan, as aforementioned, regard must also be had to Policies DPS2 and TRA1, in relation to the sustainability of the application site. This matter will also be touched again on later with regard to the criteria of Policies HOU9 and HOU10.
- 8.11 Policy DPS2 states that the strategy of the District Plan is to deliver sustainable development in accordance with a hierarchy. The hierarchy seeks to direct development towards sustainable brownfield sites, the towns of the district, and includes limited development within villages.
- 8.12 Criterion (a) states that sites should be sustainably located, in terms of accessibility to existing local services. Furthermore, as previously addressed, Policy DPS2 sets out the Council's strategy for delivering sustainable development; whereby development should be provided in accordance with a hierarchy, which directs developments towards sustainable locations in the district, including

sustainable brownfield sites, within the urban area of the districts towns, and limited development within villages.

- 8.13 As set out above, the application site lies just outside of the village of Westmill, which in itself is a Group 2 Village (whereby Policy VILL2 would normally apply). Group 2 Villages are deemed to be smaller villages in the District Plan Settlement hierarchy.
- 8.14 The site is approximately 100m from the village boundary. There is a village tea shop (approx. 440m), nursery (approx. 475m), public house (approx. 520m) and St Mary Church (approx. 1100m). It is noted that there are no dedicated pavements to access the village centre from the site, however, there are other residential properties that would also be in the same position. It is considered that the site would be in a relatively accessible location to the village centre and within walkable distances from the site. A nursery is located within the village centre which would further add to the accessibility of the site. Although it is noted that the Tea Shop and Pub would provide some food and social activities as will the church, the need for access to other every day services would have to be undertaken further afield. It is noted that there is a school bus service for children to access schools further away.
- 8.15 The closest nearest large town (Buntingford) is located to the north approximately 1.5 miles away. There is an on-demand bus service that will allow the residents of the site to access the larger town. The HertsLynx service allows residents to access other services by use of this service, especially the larger towns, where most services, such as shopping, medical and other amenities without the reliance on private motor vehicles and therefore due to this it is considered that the site would be in a sustainable location.
- 8.16 It should be noted that the appeal reference APP/J1915/W/19/3234671, in respect of a Gypsy and Traveller site which was allowed elsewhere in East Herts, gives some guidance to how sustainability for these sites could be determined. The Inspector (for that appeal) stated in paragraph 16 of the decision that *"In the context of a rural setting, the appeal site is not "away from*

an existing settlement”, being close to Westland Green and with Hadham Ford only being some 1km away. Nor is it isolated in that it is quite close the grouping of properties that form Westland Green. Furthermore, it is not remote from services. Other gypsy and traveller sites that form part of the Council’s identified existing supply are similarly situated in the rural area beyond the Green Belt in countryside locations. Such distances are not unusual in this context.”

- 8.17 In addition to the above, further appeal decisions are relevant in terms of sustainable location and Gypsy and Traveller sites. In the appeal reference APP/J1915/W/21/3279181 at Land Opposite Mill View and appeal references APP/J1915/C/17/3174667; APP/J1915/C/17/3174668; APP/J1915/W/17/3177630 at Wheelwrights Farm, both the Inspectors concluded that the sites were in sustainable locations. In the Land Opposite Mill View, the Inspector noted *“There is some 600 metres to the main built environment of the village. There are limited services in the village with no school, shop or doctors. The nearest school is 1.5 kilometres from the site and the nearest shops are in Buntingford 3 kilometres away. The nearest bus stop is within the village itself some 750 metres away, but the service is limited.”* In addition, *“There is no pedestrian footpath in either direction on either side of the road from the appeal site access. It would be necessary to either walk in the road or cross over and climb a small bank to find a safe walking refuge. Walking with a buggy/young children or children on their own in an area where speeds of traffic could be up to 60 mph would be dangerous and would dissuade walking into Hare Street.”* They went on to conclude that *“Travel distances to services are moderate and no different for those in the traveller community to those in the settled community. Nonetheless, there is a qualified tension with the terms of LP Policies HOU9 and TRA1, along with paragraph 105 of the Framework. That notwithstanding, for the reasons set out above, I ascribe only limited weight to that policy conflict.”*
- 8.18 With regards to the appeal at Wheelwrights the Inspector noted that *“Whilst it is accepted that the appellant would be reliant on a private car to access services in Dane End, some 2.6km distant, given the wider consideration of sustainability in the Framework and the specific*

considerations of gypsy and traveller sites in PPTS, the appeal site is not in an unsustainable location and is not, therefore, in conflict with LP Policy HOU9 II(a)." As described earlier, the site could be considered a sustainable location as it would be closer to the settlement of Westmill than the ones in appeal decision.

- 8.19 Taking into account the Inspector's view in this respect, the site in question is similarly located in regard to an existing settlement and services as well as public transport and therefore it is the officers view that the site is acceptable and suitably located.
- 8.20 Furthermore, Policy TRA1 sets out that in order to promote sustainable transport in the district, development proposals will be located in places which enable sustainable journeys to be made to key services and facilities to help aid carbon emission reduction.
- 8.21 The proposed development is considered to be in accordance with Policies GBR2, DPS2 and TRA1 and criteria (a) of HOU9, as the application site lies within easy reach of an existing settlement and sustainable journeys would be achievable through the use of on demand bus services.

Accommodation Need

- 8.22 In March 2012 the Government issued the National Planning Policy Framework and the associated 'Planning Policy for Traveller sites' document, which sets the overarching policy context for the provision of traveller accommodation. The most recent 2023 update of this document states that this policy must be taken into account in the preparation of development plans and is a material consideration in planning decisions.
- 8.23 Local Authorities have a legal responsibility (under the Housing Act 1985, Section 8) to assess the accommodation needs of Gypsies and Travellers. PPTS guides local authorities in respect of undertaking the assessment of the accommodation needs of travellers and in considering the need for sites. It further advises in respect of seeking to address identified needs and providing suitable locations

where they can be met, alongside guidance for the consideration of applications where there is no such identified need.

- 8.24 Paragraph 77 of the NPPF requires local authorities to identify a supply of sites to meet the 5 year land supply, with footnote 41 stating that “for the avoidance of doubt, a five year supply of deliverable sites for travellers – as defined in Annex 1 to Planning Policy for Traveller Sites – should be assessed separately in that document”. The Council cannot currently meet its requirement with regard to accommodation for Gypsies and Travellers, and the current proposal would therefore contribute towards meeting this need.
- 8.25 In terms of the mechanism that East Herts Council has in place to meet the identified accommodation needs of Gypsies and Travellers, Policy HOU9 makes provision in the District Plan through site specific allocations.
- 8.26 This policy was underpinned by evidence in the form of the East Herts Gypsies and Travellers and Travelling Showpeople Accommodation Needs Assessment Update, published in May 2016 (produced by Opinion Research Services (ORS)), in light of the changes in definition detailed in the revised ‘Planning policy for traveller sites’, August 2015.
- 8.27 Since the adoption of the East Herts District Plan (2018), an updated East Herts Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessment, May 2022 (GTANA), has been completed (also by ORS) and the findings include accommodation needs emanating from the application site, which the Council’s Policy Team has confirmed.
- 8.28 The May 2022 GTANA identified that, overall, a total of 31 permanent pitches for Gypsies and Travellers should be provided in the district for the period up to 2027. Due to the retrospective nature of the development, the applicants of the scheme under consideration were already residents in East Herts at the time that the survey work for the May 2022 GTANA was undertaken and,

therefore, their specific needs were taken into account in the final report. The Accommodation Needs Assessment identified that the 2 pitches arising from the application site are related to an immediate need and would therefore go towards the meeting the overall identified need in the district.

- 8.29 The GTANA identifies that 43 additional pitches (which includes the need for two pitches for the applicants of the Cherry Green Lane site) are required to be provided in the district by 2037 (with 31 of those by 2027). These include pitches beyond those which could be accommodated through the current allocations in the District Plan. As such, there are not enough pitches to come forward at the sites identified within Policy HOU9 to meet all the identified needs.
- 8.30 The Council has recently granted permission for 7 (net 5) of the pitches identified in the GTANA at The Stables, Bayford (which is 4 above the 1 pitch detailed in Policy HOU9 to be provided at the site during the period 2022 -2027), which reduces the need in the first five years from 31 to 26. However, the Council is currently unable to provide a 5-year supply, and there is still significant remaining unmet need. Grant of permission for the current application would reduce the five year need total by a further 2 pitches, leaving 24 to be found in that timescale¹. If permission were to be refused, the Council would need to identify an alternative suitable site elsewhere in the district to enable the identified need for these 2 pitches to be met.
- 8.31 In conclusion, the Council cannot currently meet its requirement with regards to accommodation for Gypsies and Travellers. The proposed retrospective approval for 2 additional pitches would contribute towards meeting the evidenced need within the District. As such, officers consider that significant weight is afforded to the provision of Gypsy and Traveller accommodation given the shortfall of sites and the contribution it would have towards the overall supply of sites. A condition is recommended that the site is

¹ The Council has also resolved to grant outline permissions for a total of 15 pitches in the Gilston Area, subject to S.106, which is currently being progressed but, at time of writing, not yet finalised.

occupied in a fashion which meets this need (i.e., by Gypsies and Travellers in perpetuity).

- 8.32 Due to the identified need and confirmation of the status of the occupiers, and the Council position of not being able to demonstrate a five-year land supply in respect of Gypsy and Traveller pitches the principle of development would be consistent with the guidance set out in the PPTS (2023) alongside the adopted policy HOU9 in the District Plan.

Character and Context

- 8.33 Policies DES2 to DES4 set out that schemes should respond to the character of the area. DES2 sets out that proposals must conserve, enhance, or strengthen the character and distinctive features of the district's landscape, taking in to account the District's Landscape Character Assessment and with appropriate mitigation. DES3 takes a similar approach and focusses on protecting existing features. DES4 contains a number of criteria relating to good design. HOU9 Criterion (d) states that the proposal should be well related to the size and location of the site and should respect the scale of the nearest settled community.
- 8.34 The site is located in a landscaped setting which forms part of the countryside. Cherry Green Lane is generally bounded by a hedge on its southern side and most site boundaries are formed by hedges. There are small areas of woodland nearby with scattered dwellings and agricultural buildings. Westmill has a tighter pattern of plots with some soft landscaping. The land rises from the East to the West.
- 8.35 The proposal includes a landscaping scheme and assessment which includes classifications of existing trees and hedges on the site and the proposed site plan proposes landscaping. The proposal would result in a loss of part of the hedgerow at the front of the site for the access and visibility splays. The scheme therefore proposes replacement landscaping in the form of additional planting to the front hedge, a new hedgerow located in the site at the front edge of

the hardstanding, which would wrap around the proposal to the east and west, with the existing hedge to the rear retained. Post and rail fences are proposed to subdivide the two plots.

- 8.36 The Landscape Officer has commented on the additional information submitted. The applicants have submitted a revised layout plan and landscaping details. The additional plans, show that the front boundary will be bolstered with new hedging and would help in screening the development from the public highway. There will also be additional planting along the boundaries to further screen the development and the Landscape Officer has commented that subject to the implementation of this the proposal is acceptable. It is however noted that the site is not part of a “valued landscape” which paragraph 170 of the NPPF requires to be protected and enhanced.
- 8.37 The proposal would have some adverse impact on the landscape and the character of the area without any further mitigation. However, this would be moderate and would be limited in the area which would be affected. Most people in the vicinity of the site would experience it from Cherry Green Lane and from this location the landscape character is formed mainly of open views to the north and the hedge to the south. In broad terms, the landscape character would not be affected. Through conditions, the exact location of the access and the area of trees and hedgerow to be removed can be controlled, with replacement planting in the location of the existing access and elsewhere in the hedgerow to replace lost soft landscaping and ensure that the hedgerow feature running along Cherry Green Lane, which is an important element of the character of the area, is maintained. This will not only retain an important element of the character of the area but ensure that views of the site would be limited. The additional planting along the frontage and on the boundaries would mitigate the impact of development from wider views minimising the impact on landscape character of the area. Therefore, the landscape impacts are a neutral factor within the overall planning balance.

- 8.38 Turning to the impact of the scheme itself, the additional 2 x pitches and associated facilities are located in close proximity to other existing built form – the house to the side and the agricultural building. In all views of the site, the development is seen in the context of other built form and is not visible in long views or from a distance. No public rights of way run in close proximity to the site.
- 8.39 An appropriately worded condition can ensure that the landscaping scheme is implemented which would reduce the impact of the scheme on the landscaping and character of the area and enhance some elements, such as the hedge to Cherry Green Lane.
- 8.40 Regarding biodiversity, paragraph 174 of the NPPF requires net gains in biodiversity, as does policy NE3, where it is feasible and proportionate to do so.
- 8.41 The scheme would result in the loss of some biodiversity (primarily through lost areas of hedgerow, but also through the loss of some grassland) but there would be opportunities for enhancement in through the proposed landscaping. Comments have not been received from the County Ecology team. The applicants have provided a Biodiversity Net Gain Matrix and this considers that the additional planting will benefit the site in terms of biodiversity. Taking a proportionate approach to what is a scheme for the development of two pitches and given that there is scope for enhancement on site, it is recommended that conditions relating to soft landscaping and implementation will achieve the outcomes with the submitted Biodiversity Net Gain.

Design and appearance

- 8.42 Policy DES4 of the East Herts District Plan requires developments to be appropriate in terms of scale, height, massing, siting and other elements, and proposals must be of a high standard of design and reflect and promote local distinctiveness.
- 8.43 Significant elements of the design of the scheme have already been assessed in the landscaping section, above. Turning to the other

elements of the design of the scheme, the overall layout is considered to be appropriate. The site would be divided into two plots by a low fence, with the existing plot boundaries retained by the more visually dominating soft landscaping. The hardstanding would be set well back from the front so the area most visible from the public realm would be retained as soft landscaping.

- 8.44 Beyond the hardstanding, the permanent fixed elements of the proposal are the dayrooms; one is proposed to each pitch. They would be 5m x 3m x 2.5m brick built pitched roofed buildings with a dayroom and a bathroom. Each is located on the areas of hardstanding, towards the front of the site. The proposed materials would be brick, with timber above and artificial slate roofs.
- 8.45 The buildings are considered to be appropriately located, in relatively well screened locations and are of a small size. The materials would be similar to those generally found in a rural area and they would not be overbearing or dominant. Whilst their design is relatively basic and does not respond to a specific characteristic of the wider site or area, they are examples of the types of design which could be found as outbuildings on farms and as such, they are considered to be acceptable.
- 8.46 The use would necessitate the siting of caravans and motorhomes. The proposed site plan shows room for a motorhome and two touring caravans in each pitch, as well as two parking spaces. The application argues that these are temporary buildings which would not require consent, and this is generally accepted to be the case with such sites. Whether a proposal constitutes a temporary structure not requiring permission or a building requiring permission is a matter of fact and degree (i.e. the individual circumstances of the case) and this is a matter which could continue to be reviewed should concerns be raised that there are, in fact buildings requiring planning permission on the site. For the purposes of this application, given the information submitted, it is accepted that the intention is for motorhomes and touring caravans to be sited on the site in a way which does not require planning permission, and so the exact details of these are not for

consideration. The use would however require the siting of at least some of these facilities and so a grant of planning permission would necessitate some of these facilities with associated impact in terms of design and character. Given the size of the site and the proposed landscaping, the impact on the character of the surrounding area is considered to be acceptable. To ensure that the proposal does not cause visual harm, a condition is recommended to limit the number of caravans and mobile homes on each pitch to 2 and 1 respectively.

Sustainability and Climate Change

- 8.47 Policies in the Climate Change section of the East Herts District Plan require that proposals make contributions to ensuring that overheating and cooling needs can be minimised and the use of embodied carbon and power from non-renewable sources minimised.
- 8.48 Gypsies and Travellers, where they are nomadic, generally move around for at least part of the year. The intention is that the residents of this site would tour and this lifestyle precludes the use of public transport options for the majority of most trips of this nature. Some residential accommodation (the motorhomes) would generally be retained on the site and whilst occupiers are resident at the site, there are some options for sustainable travel and use of local services, as discussed in the “sustainable location of the site” section above.
- 8.49 The forms of homes proposed do not themselves include measures to include renewable energy technologies and in this instance conditions are not recommended to secure the provision of renewable technologies; as the caravans and mobile homes are temporary and so would move from site to site, such technologies could be inappropriate on future sites.
- 8.50 Therefore, whilst the proposal does not include renewable energy technologies and measures to reduce carbon dioxide emissions, given the nature of the use, that there would be some access to public transport options and local services from the site and the

biodiversity and ecology improvements which can be secured by condition, which do themselves form a type of climate change mitigation, the proposal is considered to be acceptable in this regard.

Residential Amenity

- 8.51 Criterion (c) of Policy HOU9 of the East Herts District Plan 2018 sets out that schemes should make adequate provision for on-site facilities for storage, play, residential amenity and on-site utility services. This criterion reflects Paragraph 26 of Planning Policy for Traveller Sites, whereby part c) stated that Local Planning Authorities should attach weight to promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children. Furthermore, Policy DES4 relates to design of development, whereby all development should make provision for the storage of bins and ancillary household equipment. In addition criterion (f) of HOU9 and DES4 seeks to ensure that proposals provide satisfactory residential amenity for those occupying the site, and those within the vicinity of the site.
- 8.52 The scheme, being for only two residential units, does not include formal playspace, and this would not normally be required. It does show large outdoor areas associated with each pitch in which there is room for amenity space and some recreation, as well as storage of bikes and bins.
- 8.53 It is proposed that each pitch is to include the provision of utility services, with dayrooms including a shower, toilet and sink.
- 8.54 Environmental Health have reviewed the additional information. Their original main concern was whether or not suitable provision for waste through a septic tank was appropriate. Council Officers visited the site and noted that this has already been installed. The applicants have provided details of 3800 litre tank has been installed and the Environmental Health has since confirmed that this is acceptable.

- 8.55 Other details requested, such as potable water supplies, resident numbers, hardstanding provision, chemical toilets, electrical installations and lpg by the Environmental Health team are not considered to be necessary or relevant. The proposed site plan shows details of hardstanding proposed. The storage of flammable materials and the other requested information is controlled by other legislation and the provision of electricity to the site is not a material planning consideration. The Environmental Health Team have commented that some aspects of the information are covered by site licences and legislation not linked to planning requirements. Therefore, they have removed their objection to these matters. Subject to the retention of the septic tank it is considered that the proposal is acceptable, in terms of the provision of on-site facilities (as required by way of Policy H09 (c).
- 8.56 The dayrooms are considered to provide an element of residential amenity and are connected to services including heating. Whilst no standards exist for internal floor area provisions, motorhomes, supported by the dayrooms are considered to provide sufficient space and therefore provide adequate amenity for the occupiers of the site.
- 8.57 The site is considered to have sufficient privacy, light and outlook. Some intervisibility between the two pitches would occur, being separated only by a post and rail fence, but this is considered acceptable subject to conditions to secure the detailed design.
- 8.58 The nearest dwelling is to the west, Lighthouse. The separation distances between the accommodation on the site and the main dwelling to the west would be approximately 13m from building to building. To the south are agricultural barns which would be approximately 4m away. To the east is open field and beyond that is the edge of the village which is over 120m away. It is noted that concerns are raised regarding business activity on site, but such activity or land use is not part of the application and there were no signs of business activity at the time of site visit. Such activity requiring planning permission is not normally associated with Gypsy and Traveller sites. It is considered that due to the separation

distances and boundary treatments, the development has no significant unneighbourly impact upon the adjoining neighbours through loss of light, overlooking or loss of privacy. Therefore, the proposal is considered to be acceptable in this regard.

- 8.59 Some concerns have been raised regarding loss of amenity due to noise generation. The proposed use is a residential use and so is not inherently noisy. Whilst there may be some greater use of the outdoor areas due to the nature of the use, and the sound insulation of mobile homes can be limited, given the separation distances it is considered unlikely to give rise to unacceptable harm to amenity of occupiers within the nearest existing properties. However, a condition is recommended to restrict the outdoors playing of amplified music or voice.
- 8.60 In terms of any light pollution, the applicants have provided additional details of lighting, which is proposed. The Environmental Health Team have confirmed that the proposed lighting does not give rise to any significant light pollution as the proposed lighting would not be so bright and therefore considered to be acceptable.
- 8.61 It is therefore considered that the proposal would not result in harm to the amenities of surrounding residents or the occupiers of the site, and as such the proposal accords with criteria (c) and (f) of HO9 and DES4 (c) of the East Herts District Plan.

Highways and parking

- 8.62 Policies TRA2 and TRA3 of the East Herts District Plan relate to safe and suitable highway access and parking, as well as the Vehicle Parking SPD. Criterion (b) of HOU9 also addresses these issues.
- 8.63 The scheme has been amended a number of times with regards to its access, with a new access now being proposed broadly towards the centre of the boundary to Cherry Green Lane.
- 8.64 Considering first the access, it is noted that there is an existing access to the site. Whilst the proposal would result in different use

of the access, there is an access which could be used without any permission being required. However, the proposal is considered to give rise to an increase in trip generation, and the existing access is located immediately adjacent to a statutory undertaker utility box which significantly impacts on visibility. As such, a new access is proposed in a safer location from a highways safety perspective.

- 8.65 The Highway Authority have had extensive dialogue with the applicant with regards to Cherry Green Lane, which has a 60mph speed limit. However, the applicants have submitted information relating to traffic speed data, which demonstrates that the 85th percentile speed (the speed used to derive visibility splays based on the stopping distances of vehicles travelling at this speed) is significantly lower than this and as such, reduced visibility splays are appropriate. The Highway Authority have accepted that argument and amended plans have been submitted showing how these visibility splays can be achieved within the site and the public highway. As such, conditions are recommended to secure these details.
- 8.66 The Highway Authority note in their comments that whilst the eastern end of Cherry Green Lane is quite tight, the Lane is typical of a rural road and there are adequate passing spaces. The increased traffic generation is therefore not considered to give rise to a highway safety concern.
- 8.67 The submitted details show sufficient parking on the site (two parking spaces per pitch) and there is ample room for turning within the site. As such, subject to conditions recommended by the Highway Authority, the proposal is considered acceptable in this regard.

Other matters

Flooding and Contamination

- 8.68 The site is located in Flood Zone 1, which is at low risk of flooding. As such, the proposed uses are acceptable. The scheme would

result in the introduction of hardstanding. Whilst the dayrooms are shown as draining to a soakaway, no details are provided for the hardstanding drainage. Given the size of the site and the topography, it is considered that drainage could be suitably provided on site and a condition is recommended.

- 8.69 The Environmental Health Team have commented that they have no objection to the proposal and do not request any conditions.

Historic Environment

- 8.70 The Historic Environment Unit note that the application site is within an Area of Archaeological Significance. No archaeological remains or finds are recorded from within the site, but it is located in an area known to contain archaeological remains dating from the prehistoric period through to the post-medieval period, including the site of a possible Roman villa, known from cropmarks visible on aerial photography [Historic Environment Record no 16684]. The village of Westmill [2658] is in the close vicinity. This is recorded in Domesday Book, though it is not known whether there was any nucleated settlement in the 11th century. However, the parish church [HER 4262], close to Westmill Bury [HER 15955], the manorial centre, has late Saxon origins.
- 8.71 During the course of the application, officers requested a Written Scheme of Investigation (WSI). The applicants and the HCC's Historic Environment Team have worked together to ensure that the WSI includes satisfactory measures to ensure that any/all archaeological interests are protected. It is noted that some works have taken place, but it has been agreed (with HCC Historic Environment Team) that the WSI should be followed in strict accordance with the approved measures set out therein and a suitably worded condition is recommended in order to ensure the preservation of any archaeological remains. Therefore, subject to condition, the proposal is capable of being carried out whilst protecting archaeological remains in accordance with policies HA1 and HA3 of the East Herts District Plan (2018) and the NPPF.

Ecology

- 8.72 Herts Ecology have not commented on the application. However, it is noted that additional planting and landscaping will take place. The applicants have provided a Biodiversity Net Gain Matric and as the site is not within a designated nature conservation site. A condition is recommended to ensure additional landscaping is delivered and it is considered that this would benefit ecology and therefore compliant with policy DES3 and NE2.

Waste Recycling

- 8.73 The Waste and Recycling Team have given general comments regarding waste and recycling. It is considered that there is room on site for vehicles to collect from the site and subject to conditions regarding waste and recycling storage to be provided on site in accordance with the proposed site plan, it is considered sufficient room is available on site.
- 8.74 Having regard to servicing arrangements, consideration should be had to refuse collections and the arrangements which may be required for emergency vehicles. Highways have advised that the proposal is acceptable in this regard in terms of distances and the layout of the site; it is noted that there appears to be sufficient space for the turning of large vehicles between the existing access.

9.0 Other Material Considerations

- 9.1 It is noted that there are comments received regarding the Gypsy and Traveller site are already occupying the site, in breach of planning. There is an injunction in place on the site due to the site being occupied as a Gypsy and Traveller site without planning permission. This intentional unauthorised development, as in this case, there is no opportunity to appropriate limit or mitigate the harm that has already taken place. The occupation of the site would be considered a material change in the use of the land, which requires planning permission. In that regard it is a material

consideration and needs to be weighed up in the regards to the planning balance.

9.2 The submitted supporting statement states that the "...interests of the child are of prime importance, and therefore the educational, health, and welfare needs of the child are required to be taken into account in the planning balance." In this instance it is noted that the site is occupied by families and children reside on the site. The children's welfare and health are also a consideration as defined in the PPTS (2015) paragraph 24.

- With reference to the occupation of the site, without proper planning permission, this was considered in the Wheelwrights appeal. The Inspector stated that *"In 2015 the Secretary of State issued a planning policy statement on Green Belt protection and intentional unauthorised development. This policy statement, which the Government has very recently confirmed still applies, makes intentional unauthorised development a material consideration to be weighed in the determination of planning applications and appeals."* The Inspector concluded that *"In the current appeals, although the residential use of the site amounts to intentional unauthorised development the weight to be attached to this in the determination of the appeal is limited."*

Public Sector Equality Duty

9.3 The Public Sector Equality Duty is also engaged by the application. The legislation provides that:

"(1) A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it."

- 9.4 The protected characteristic relevant to this case would be any existing and proposed occupiers' Gypsy and Traveller status. The 2010 Equality Act identifies Gypsies, Roma and Travellers are protected under the minority ethnic group. The development has the potential to address the need to accommodate members of the Gypsy and Travellers community within a permanent site which has positive impacts for individuals within this protected characteristic.
- 9.5 With regard to future occupier Gypsy/Traveller status, particular consideration should be given to provision 3b of the Public Sector Equality Duty which specifies that: .."having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular to the need to...take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it."
- 9.6 The need in question is for Gypsy and Traveller pitches for members of the Gypsy and Traveller community which has been established as being unmet in the District. The granting of planning permission for this development would therefore make a significant contribution to meeting the need for gypsy/traveller pitches in the District and would significantly contribute to parts (b) and (c) of the PSED by providing an increased number of pitches specifically for Gypsies and Travellers in a sustainable location and would result in an authorised and well laid out transit site which has the potential to integrate with the settled community and foster good community relations.

Human Rights Act

- 9.7 Human Rights Article 8 of the Human Rights Act 1998 stresses the need to account for the best interests of the children involved and

relates to the personal circumstances of the applicant being considered. An appeal allowed in Derbyshire in July 2021 for a temporary period outlined the Inspectors considerations under Article 8 and it was ascertained in that decision that there was little evidence of alternative accommodation being available for the family within close proximity of the appeal site where the appellant made their living; that a refusal of planning permission in that case would result in the family losing their home and this would have resulted in a serious interference with that family's right to respect for private and family life as required under Article 8.

- 9.8 In this case, the family are already residing on site and are not homeless. The availability or otherwise of approved sites closer to or within Westmil is unproven and the school age children presumably receive an education from their existing schools in East Herts. There is also no information about any attempts to obtain alternative accommodation through the Local Housing officer.
- 9.9 Furthermore, considering the Article 14 requirements of the Human Rights Act, the Council does not consider the circumstances here to be any different to those family tensions frequently experienced in the settled community and would not in either case consider them sufficient to override the Local Planning process if applied equally and fairly in all circumstances.

10.0 Planning Balance and Conclusion

- 10.1 It is considered that the current occupiers fall within the definition of Gypsy and Traveller community, with regard to Planning Policy for Traveller Sites (PPTS). It is considered that the Council cannot currently demonstrate a five-year housing land supply in respect of Gypsy and Traveller pitch provision, for which there is a significant weight attached to this.
- 10.2 It is considered that the proposed development would comply with the criteria set out in the District Plan policies HOU9 and HOU10, which form the core basis for considering the suitability of sites for Gypsy and Traveller development. In addition to this, officers have

also given due regards to the national guidance set out in paras 11 and 24 (d) of the PPTS which requires local planning authorities to consider the need for such Gypsy and Traveller sites within the District. That makes it clear that regardless of a criteria-based policy, that the existing level of local provision and need for sites remains an important material consideration. Accordingly, the fact that there is a current need for sites is a material consideration that must be included in the planning balance and as a relevant consideration that weighs in favour of the grant of planning permission as confirmed by paragraph 24 (a) of PPTS.

- 10.3 The intentional unauthorised development on the site is a material consideration. As noted above, there are families on site and the children's welfare is a consideration. The council need to balance the potential harm and the benefits of the site and occupiers. However, considering previous appeals and guidance in the NPPF, the lack of a 5-year supply of pitches, the unmet need and the circumstances of the occupiers, it is considered that the intentional unauthorised development should be given limited weight in the planning balance and the overall assessment within East Herts District Plan policies and NPPF.
- 10.4 With regard to aforementioned policies of the District Plan, the proposed site is considered to be sustainably located, lying just outside an existing settlement, and within a short walk to the village centre, where there is a Tea Shop, Nursery and beyond this is a Public House and church. It is noted that bus services are provided for school children and an on-demand bus service is available for Westmill, which connects to larger towns.
- 10.5 The site is located outside of a settlement boundary, and policy DPS2 seeks to direct development to the hierarchy set out in the policy to be sustainable. However, development outside of these areas is also envisaged in Policy GBR2, and various other policies deal with site specific requirements. HOU9 and TRA1 require the sustainability of the site to be assessed. Given the access to some local services, and provision of some sustainable transport and the distances involved not being considered to be great in a rural

context, the site is considered to be broadly sustainable. This is a neutral factor in the planning balance although it is noted that the site is sustainable.

- 10.6 It is considered that the proposed access to the site is acceptable subject to conditions. This constitutes a neutral factor in the balance.
- 10.7 It is also deemed that the proposed development would not result in harm to the visual amenity and character of the rural area and surrounding landscape, subject to the implementation of the mitigation measures proposed in terms of soft landscaping and hedgerows. This constitutes a neutral factor in the balance.
- 10.8 The provision of a septic tank and day room as well as sufficient space provides for a suitable amenity for the occupiers. Due to the nature and layout of the site it is also considered that the proposal would have an acceptable impact in terms of residential amenity to neighbouring occupiers. A suitable condition can be attached to the permission. These factors are afforded neutral weight given the absence of harm identified.
- 10.9 Having regard to the information received with the application, it is deemed that the proposal accords with the criteria set out in policies HOU9 and HOU10 for non-allocated sites, along with other relevant policies of the District Plan and PPTS. Given that the Council is satisfied that it cannot demonstrate a five year supply in respect of Gypsy and Traveller pitch provision, significant positive weight can be given to the provision of additional pitches.
- 10.10 This report demonstrates that the development would provide significant benefits (in terms of the provision of G&T accommodation and contribution towards the evidenced need at a time where the LPA cannot demonstrate a 5 year supply of pitches), neutral impacts (unauthorised development, transport, environment, landscape and design etc) and an absence of significant harm within the planning balance, in NPPF terms. In applying the tilted balance (para 11 of the NPPF), it is considered

that there are no adverse impacts which demonstrably outweigh the benefits of the proposals. It is therefore recommended that planning permission be approved.

RECOMMENDATION

That planning permission is **GRANTED** subject to conditions set out at the end of this report.

Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of s 91 of the Town and Country Planning Act 1990 as amended by s 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby approved shall be carried out in accordance with the approved plans listed at the end of this Decision Notice.

Reason: To ensure the development is carried out in accordance with the approved plans, drawings and specifications.

- 3 The site shall not be occupied by any persons other than Gypsies and Travellers as defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: In accordance with the 'very special circumstances' of the site in accordance with Policies HOU9 and HOU10 of the East Herts District Plan and guidance in the NPPF.

- 4 All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved designs, in accordance with policies DES3 and DES4 of the East Herts District Plan 2018.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure other than those shown on the approved plans shall be erected on the site unless details of their size, materials and location shall have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: in the interest of ensuring that the visual amenity is protected, in accordance with policy DES4 of the East Herts District Plan (2018) and guidance in the NPPF.

- 6 No external lighting, other than that shown on plan reference J004020-DD-03 rev.D, shall be provided without the prior written permission of the Local Planning Authority.

Reason: in the interest of ensuring that the visual amenity and ecology is protected, in accordance with policies DES4 and NE3 of the East Herts District Plan (2018) and guidance in the NPPF.

- 7 Within 3 months of this Decision Notice the development hereby permitted the vehicular access shall be completed and thereafter retained as shown on drawing number J004020-DD-03. Rev.D in accordance with details/specifications to be submitted to and approved in writing by the Local Planning Authority in consultation with the highway authority. Prior to use appropriate arrangements shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

Reason: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway in accordance with Policy TRA2 of the East Herts District Plan (2018).

- 8 Within 3 months of this Decision Notice the development hereby permitted the vehicular and pedestrian (and cyclist) access to, and egress from, the adjoining public highway shall be limited to the access(es) shown on drawing number J004020-DD-03 rev.D only. Any other access(es) or egresses shall be permanently closed, and the footway / kerb / highway verge shall be reinstated in accordance with a detailed scheme to be approved in writing by the Local Planning Authority in consultation with the highway authority.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety and amenity in accordance with Policy TRA2 of the East Herts District Plan (2018).

- 9 Within 3 months of this Decision Notice a visibility splay shall be provided in full accordance with the details indicated on the approved drawing number J004020-DD-03 rev.D. The splay shall thereafter be retained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

Reason: To ensure that the level of visibility for pedestrians, cyclists and vehicles is satisfactory in the interests of highway safety in accordance with Policy TRA2 of the East Herts District Plan (2018).

- 10 Within 3 months of this Decision Notice the development hereby permitted the proposed on-site car parking shall be implemented in accordance with the approved drawing number J004020-DD-03 rev.D and retained thereafter available for that specific use.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with Policy TRA3 of the East Herts District Plan (2018).

- 11 The development hereby permitted shall be implemented in accordance with the submitted written scheme of investigation, ref Written Scheme of Investigation – Land at Cherry Green Lane, Westmill, Hertfordshire SG9 9LF, doc ref. TL 36442 26991 submitted on 24th November 2023 and prepared by WS Heritage and retained as such.

Reason: To secure the protection of and proper provision for any archaeological remains in accordance with policy HA3 of the East Herts Local District Plan.

- 12 The Landscaping, boundary treatment planting and ground works shall be carried out in accordance with approved landscape and boundary treatment scheme in order to secure the Biodiversity Net Gains set out in the approved Biodiversity Net Gain Metric. The proposed development works shall be carried out and completed in full accordance with the approved details within 3 months of the decision notice and shall be permanently retained and maintained thereafter.

Reason: To ensure compliance with Policies DES3 and NE3 of the East Herts Local District Plan 2018.

- 13 No more than 2 mobile homes, 4 touring caravans shall be stationed on the site at any one time.

Reason: To ensure that the scale of development remains suitable for this site and in the interests of the rural character of the area in

accordance with the aims of Policies GBR2, HOU9 and HOU10 of the East Herts District Plan (2018).

- 14 A full soft landscaping plan showing the full details of soft landscaping as stated in the letter dated 29 June 2023 by WS Planning and Architecture, shall be submitted and agreed in writing by the local planning authority. The development shall then be implemented in accordance with the approved details and retained as such.

Reason: To ensure compliance with Policies DES3 and DES4 of the East Herts Local District Plan 2018.

Informatives:

1. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Fire Officer, Health and Safety Executive, Environment Agency (Water Interest) etc. Neither does this permission negate or override any private covenants which may affect the land.
2. East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan and any relevant material considerations. The balance of the considerations is that permission should be granted.
3. Where works are required within the public highway to facilitate a new or amended vehicular access, the Highway Authority require the construction of such works to be undertaken to their satisfaction and specification, and by a contractor who is authorised to work in the public highway. If any of the works associated with the construction of the access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory

authority equipment etc.) the applicant will be required to bear the cost of such removal or alteration.

4. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission, requirements and for the work to be carried out on the applicant's behalf. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/changes-to-your-road/dropped-kerbs/dropped-kerbs.aspx> or by telephoning 0300 1234047.
5. It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made-up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit mud or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

Plans

Plan Ref	Version	Received
J004020-DD-01		29th November 2021
J004020-DD-02		29th November 2021
J004020-DD-04 A		19th July 2023
2202064-02		14th November 2022
Tree Constraints Plan		28th July 2022
J004020-DD-03	Rev D	14th August 2023
Agent Letter dated 29 June 2023	J004020	19th July 2023

Biodiversity Metric	ISBN: 978-1-7393388-0-0	14 th Aug 2023
Proposed Gates	J004020-DD-06	14 th Aug 2023
Written Scheme of Investigation	TL 3644 26991	24th November 2023