

**UTT/12/5809/FUL – (GREAT CANFIELD)**

*(Referred to Committee by Cllr Jones Reason: To ensure that the decision is taken in public due to the concerns raised by the local community)*

**PROPOSAL: Use of land by local traveller family for the stationing of two static caravans and two trailer caravans (2 pitches) including the construction of hardstanding and provision of associated landscaping**

**LOCATION: Land North Of Bullocks Lane, Takeley**

**APPLICANT: Mr B Humphreys**

**AGENT: Mr Stephen Hayhurst**

**GRID REFERENCE: 557294/220399**

**EXPIRY DATE: 28 February 2013**

**CASE OFFICER: Miss S Wellard**

**1.0 NOTATION**

1.1 Outside Development Limits

**2.0 DESCRIPTION OF SITE**

2.1 This application relates to an area of paddock land located to the northern side of Bullocks Lane in Hope End Green. The site is situated to the eastern side of the entrance road to the former nursery site. It has an area of 0.18 hectares and is currently grassed. It has an existing vegetation screen to the front and eastern boundary. Three Trees Bungalow is located to the rear of the land and to the western side boundary currently has a rail fence. Buildings of a barn appearance are located directly to the west of the site. There are residential dwellings in the immediate vicinity of the site.

**3.0 PROPOSAL**

3.1 This application proposes the use of the land by a local traveller family for the stationing of two static caravans and two trailer caravans (2 pitches). The static caravans would each be 5m in width and 15m in depth. The application involves the construction of a new vehicular access into the field from the existing track, with a gravelled hardstanding area within the site including the provision of four parking spaces. Soakaways would be provided within the site as well as a private sewage treatment plant. Garden areas would be provided around the hardstanding area and new vegetation planted along the site boundaries.

3.2 When the application was originally submitted it came to light that the red site area was incorrect as it did not include access to the highway. The red site area was therefore amended to include vehicular access and the owners of this land served notice upon.

## **4.0 APPLICANTS CASE**

- 4.1 Planning Statement by Stephen Hayhurst (Summary): Details the site and the proposals. The site would be occupied by the applicant's two daughters and their respective families who fall within the definition of gypsies and travellers. Refers to National and Local policy context.
- 4.2 Arboricultural Impact Assessment by Open Spaces Landscape and Arboricultural Consultants Ltd, dated November 2012
- 4.3 Preliminary Ecological Appraisal by Open Spaces Landscape and Arboricultural Consultants Ltd, dated November 2012

## **5.0 RELEVANT SITE HISTORY**

- 5.1 UTT/0092/97/OP Erection of bungalow, garage and new access. Refused 13.07.1997. It was considered that the proposal would detract from the appearance of the countryside by virtue of its detrimental effect on the open rural character of the area. It was also considered that the space contributed to the open character of the area and that the site does not constitute a small gap, and that the erection of a dwelling would be damaging to the character of the area as it would consolidate existing sporadic development, setting a precedent within Hope End Green. The application was dismissed at appeal.
- 5.2 UTT/1854/08/FUL Erection of 2 No. replacement dwellings. Refused 16.02.2009. This application was refused for 5 reasons. It was considered that the proposal would fail to respect the scale and character of the neighbouring properties in the vicinity, appearing visually intrusive and dominant to the street scene. Other reasons for refusal include the scale of replacement dwelling that carries an agricultural occupancy condition, impact on neighbouring residential property to the west of the site, inadequate information with regards to protected species, and inadequate information with regards to compliance with Lifetime Homes Standards.

## **6.0 POLICIES**

### **6.1 National Policies**

- National Planning Policy Framework (March 2012)
- Planning Policy for Traveller Sites (March 2012)
- Planning Policy for Traveller Sites - Good Practice Guide

### **6.2 Uttlesford District Local Plan 2005**

- Policy S7 – The Countryside
- Policy GEN1 - Access
- Policy GEN2 – Design
- Policy GEN4 – Good Neighbourliness
- Policy GEN7 – Nature Conservation
- Policy GEN8 – Vehicle parking Standards

### **6.3 Uttlesford Draft Local Plan 2012**

- Policy HO10 Sites for gypsies, travellers and Travelling Showpeople. This policy was revised following the consultation of Development Policies in January 2012.

#### 6.4 Other

- Great Canfield Village Design Statement (March 2010)

#### 7.0 PARISH/TOWN COUNCIL COMMENTS

- 7.1 Great Canfield Parish Councils comments are extensive and have therefore been added as Appendix 1 to the end of this report. The conclusion of the Parish Council's report is outlined below;

Any planning application should be treated equally irrespective of an individual's status or personal situation.

1. Based on previous applications, this application should fail. Uttlesford District Council Planning has always been adamant that this piece of land remain as agricultural land and should not be developed so as to retain the rural nature of this particular area.
2. There is currently no need for any further gypsy or traveller sites in Uttlesford. This is shown in the figures from Gypsy Caravan Count together with the Fordham Research.
3. Although there is a requirement to provide a certain number of sites over the next 5 years (currently the figure is 24 although this may well be revised), this small area of Uttlesford (Takeley and Great Canfield) appears to be supplying the major share of these sites. To continue to develop sites in this area is in contravention of the 2009 government response, that sites should be distributed evenly through districts.
4. The siting of a further 2 permanent sites on top of the 3 pitches in existence in Hope End is overdevelopment of this type of settlement in a very small rural hamlet.
5. The site would not be suitable for hardstanding of the nature required for static caravans. It is an agricultural plot in a very rural area and this is inappropriate development of this rural setting.
6. The access lane is very narrow and unmade up and prone to flooding. It is unsuitable for the increase in traffic that this application would involve.
7. The links that the applicants have with this area are not current and it is not clear from the application when they last lived in the area. The two families are currently accommodated elsewhere near to their immediate families. This move would locate them away from their immediate families.
8. Until the full process of locating appropriate sites has been concluded by Uttlesford District Council, granting planning permission on an "ad hoc" basis could open floodgates for many more such applications on previously unspoilt rural plots of land in unsuitable locations.
9. This is not a sustainable location; it is not located on the outskirts of a settlement with shops / schooling / health / links with transport as recommended but instead is situated in a rural hamlet with no pavements or street lighting or easy access to a main road.
10. There is no personal need by the applicant or his family for the site
11. The applicant's family is currently housed with other family members.
12. The application is not compatible with either the Local Plan the National Plan or the Village Design Statement.

## **8.0 CONSULTATIONS**

### **Natural England**

- 8.1 Initial comments from Natural England dated (4 December 2012) - Refer to their adopted national standing advice which is a material consideration in the determination of any application. Using the flowchart they have concluded that as the survey report highlights that there are suitable features on the application site for GCN, and that a detailed newt survey has not been carried out at the right time of the year using sufficient survey techniques and effort, that further survey effort is required (in accordance with GCN mitigation guidelines) and additional information should be requested from the applicant. If this is not provided, the application should be refused.

Upon gaining further advice from Essex County Council Ecologist (as below), Natural England revised comments were received dated 10 January 2013. This guidance states that from the information provided with the application, it does not appear to fall within the scope of the consultations that Natural England would routinely comment on. It is for the local authority to determine whether or not this application is consistent with national or local policies on biodiversity. LPAs should seek the views of their own ecologists. If the LPA is aware of, or representations from other parties highlight the possible presence of a protected species on the site, the authority should request survey information before determining the application.

### **ECC Ecology**

- 8.2 The PEA advises that the area of trees and hedgerow to the south of the site are the only features to have the potential significance for protected species and Section 41/ BAP species. I understand that these areas are to be retained and that, although included within the PEA, they are not within the red line of the proposed application.

The Natural England Standing Advice flow chart (referred to in the NE letter, dated 4<sup>th</sup> December 2012) asks in Box IV "Does the survey report highlight that there are suitable features on the application site for newts (e.g. ponds, hibernation sites, foraging habitat, commuting corridors following a Habitat Suitability Index (HSI) Survey?". The area of woodland is covered within the PEA, although no Habitat Suitability Index was undertaken for great crested newts. However, I understand it is not located within the red line of the application area.

Given the advice within the PEA and given that this is a small area of habitat situated outside the red line which is not directly affected by the proposed development; I would suggest that no further surveys are required.

In accordance with the PEA recommendations, I recommend that:

- The hedgerow should be improved (gapped up) as proposed
- Bat friendly lighting should be used.

### **ECC Highways**

- 8.3 No objections to the proposal as it is not contrary to the relevant transportation policies contained within the Highway Authorities Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and Uttlesford Local Plan Policy GEN1.

## **Thames Water**

- 8.4 Thames Water would advise that with regard to sewerage infrastructure we would not have any objection. With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. It is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of ground water. With regard to water supply, this comes within the area covered by the Veolia Water Company.

## **Environment Agency**

- 8.5 No objections but do offer advice and guidance relevant to the proposal. A private means of foul effluent is only acceptable when foul mains drainage is unavailable. Our records show that the main sewer network is a reasonable distance from the main sewer network so the use of non-mains drainage would appear to be appropriate in this instance. The proposal site is situated within Flood Zone 1, classed as low probability risk.

## **Essex County Council Minerals and Waste Planning**

- 8.6 The Minerals Planning Authority object to the application, as the development would be contrary to Policy S8 of the Replacement Minerals Local Plan Pre-Submission document, unless the local planning authority can demonstrate that the proposed development would not conflict with the preferred site allocation. The local planning authority should be aware that mineral extraction can give rise to impact on residential amenity, particularly as a result of noise and dust and the proposed development boundary is approximately 200m from the preferred site A23. It is noted that the development is for static and trailer caravans, structures of this nature tend to provide less noise attenuation than a permanent structure.

## **9.0 REPRESENTATIONS**

- 9.1 Advertised in newspaper, site notice displayed and the occupiers of 27 neighbouring properties notified via letter – Period expired 31 January 2013. 1 letter of support received. 63 letters of objection received, summarised as follows;
- Site notice in wrong place and not all neighbours notified via letter.
  - Absence of appropriate Great Crested Newt survey
  - Bullocks Lane is a single track not designed for any additional traffic. Unsafe for families to use
  - No street lighting – unsafe for children
  - How would the land safely be accessed?
  - Damage to roadside verges
  - Where will visitors park?
  - Will a business be run from the site?
  - The area is prone to flooding and hardstanding will exacerbate this
  - Inadequate drainage and services to support the proposal
  - Plot too small to accommodate 2 families
  - Lack of space for children to play
  - Other proposals at the site for new housing have been refused. The reasons for refusal still stand UTT/0092/97/OP and UTT/1854/08/FUL

- Proposal would be an eyesore that would spoil the natural rural environment
- The proposal does not protect or enhance the natural environment
- Introduction of alien features and paraphernalia in the countryside
- Urbanising impact
- Caravans at this site will dominate the community. They should be far from other residents or in housing estates
- The size of the site does not relate to the surrounding population sizes or density
- The site is in an isolated rural location outside any development limits
- Why do travellers have more rights than the existing settled local community?
- Why are all the travellers sites being located in Takeley/Canfield?
- To agree a planning application just to fill a quota is wrong
- To grant this application would be premature in light of ongoing work to update traveller policy
- There are no untolerated sites in Uttlesford
- The inhabitants have no direct links with the local area
- Insufficient evidence to demonstrate gypsy status
- This is not a sustainable location. It is remote from local services and necessitates travel by private car
- No public transport facilities to Hope End and no pavements or street lighting
- Additional pressure on local infrastructure and services
- Fear of crime
- The application is questioned in terms of long term gain to get housing development on the site.
- Noise and disturbance to adjacent neighbours
- Incongruous in relation to surrounding dwellings
- Set precedence for further such development, i.e. nursery site
- Is a greenfield site not a brownfield site as the agent suggests
- Is an agricultural area used for grazing
- The proposal is in contravention to the Great Canfield Village Design Statement
- There is no reason why all 4 caravans will not be occupied by large numbers of people
- Such sites should be no less than 1 mile apart and should not be grouped within a small area of the district. The Canfield Drive Travellers site is less than ½ mile from the site.
- PPFT states that the LPA has a duty to be fair, reflect the interests of the settled community and reduce tensions between settled and traveller communities.
- Impact on value of local properties
- Can emergency vehicles access the site?

2 letters have been raised in response to the Officers Committee Report that was written for the Planning Committee on 13 February 2013. These are summarised as follows;

- It is not considered that the gypsy status of the applicants has been sufficiently demonstrated.
- A GCN survey should be submitted prior to determination.
- The social and environmental issues of sustainable development have not been fully taken into account.
- Access to emergency services is a material planning consideration.
- Reference to S106 Legal Agreement made for local facilities and services.
- Evidence of contamination has been found at the site. Suitable mitigation measures should be controlled via condition.
- Proposer weight to the representations from local residents has not been given

## **10.0 APPRAISAL**

The issues to consider in the determination of the application are:

- The principle of use of the land as a private traveller site (ULP Policy S7, National Planning Policy Framework and Planning Policy for Traveller Sites)
- The impact of the proposal on residential amenity (ULP Policies GEN2 and GEN4)
- Highway issues (ULP Policies GEN1, GEN2 and GEN8)
- Ecological Issues (ULP Policy GEN7)

**The principle of use of the land as a private traveller site (ULP Policy S7, National Planning Policy Framework and Planning Policy for Traveller Sites)**

- 10.1 The East of England Plan (2006) was revoked on 3 January 2013 and therefore is not a consideration in the determination of this application.
- 10.2 National guidance 'Planning Policy for Traveller Sites' (PPTS) came into force on 27 March 2012 as a supplementary document to the National Planning Policy Framework (NPPF).
- 10.3 Policy H of the PPTS refers to determining planning applications for traveller sites and Paragraph 22 sets out five issues that local planning authorities should consider when considering planning applications for traveller sites. These are:
- a) the existing level of local provision and need for sites;
  - b) the availability (or lack) of alternative accommodation for the applicants;
  - c) other personal circumstances of the applicant;
  - d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites; and
  - e) that they should determine applications for sites from any travellers and not just those with local connections.
- 10.4 Paragraph 23 states that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid an undue pressure on the local infrastructure.
- 10.5 With regard to criteria a) of Paragraph 22 above, the current situation within the District is that there is 1 socially rented gypsy and traveller site owned by Essex County Council providing 17 pitches (which can accommodate 34 caravans); 18 private permanent sites with planning permission providing accommodation for 49 caravans, and 1 site with temporary permission which can accommodate 8 caravans. There is 1 unauthorised tolerated site for 2 caravans and 1 un-tolerated site where 2 caravans occasionally park up for periods of time.
- 10.6 It is the Council's responsibility to set a target for the provision of sites for gypsies; travellers and travelling show people based on a robust evidence of local need. The Essex Gypsy and Traveller Accommodation Assessment (GTAA) (Fordham Research 2009) states that in Uttlesford 24 additional permanent pitches and 7 short stay pitches and 2 additional plots for travelling show people will be required between 2008 and 2021. However this research is now becoming out of date and the Council is working with other Essex authorities to commission a new needs assessment. However, the shortfall of provision in the district is still accepted.
- 10.7 Since April 2008 planning permission has been granted for temporary consent for 8 caravans on a site in Takeley and permanent consent for 3 pitches at Great Canfield, 5 pitches in Little Hallingbury, 1 pitch in Great Dunmow and 5 caravans (3 pitches) in

High Easter. 12 permanent pitches have been approved and 8 temporary caravans meaning that an additional 12 permanent pitches are still required in the district. Even if the 8 temporary caravans are taken into account, there would still be a need for 7 more permanent pitches in the district.

- 10.8 The Council does not have an adopted Core Strategy Policy or site allocations for Gypsy and traveller sites. It cannot therefore be demonstrated that the district has sufficient gypsy and traveller sites to meet the need in the assessment. The Council is currently preparing a Gypsy and Traveller Site Allocations DPD which will need to identify a 5 year supply of specific deliverable sites. Using the requirement of the current assessment this requires 24 pitches to be delivered over the 13 year period 2008-2021 which equates to 2 pitches per year (figure has been rounded). A five year supply would therefore be 10 pitches.
- 10.9 A call for sites for Gypsies and Travellers took place from the 1 October to 12 November 2012 – 10 sites came forward, including the site which is the subject of this planning application. Consultation on a draft plan is expected to take place in October 2013. The aim is to have an adopted plan early in 2015. This application needs to be determined in accordance with relevant policies at this current time and therefore this latest work cannot be considered at this time.
- 10.10 In light of the information above, there remains an outstanding need for 12 additional permanent pitches within the District in order to meet the required 24. There is a clear lack of up to date policy and assessment of these matters within the district. The proposal accords with the requirements set out within Policy H of the PPTS and the proposed 2 pitches would contribute to the necessary supply within the district.
- 10.11 In relation to Criteria b), as detailed above, there is a need for an additional 12 permanent pitches within the District. As such, it is recognised that there is an established lack of alternative accommodation for the applicant's daughters and subsequent families. These families wish to pursue a travelling way of life whilst having a settled base close to family from which to do so. There is a lack of alternative accommodation within the District which would allow them to pursue this traditional way of life. This application indicates in itself that there is a need for such accommodation within the district.
- 10.12 The personal circumstances of the proposed inhabitants of the pitches are outlined in the supporting Planning Statement. The applicant and his daughters have local connections and went to school in Takeley as children. The local connection of the families to the area is recognised under Criteria c) of Policy H.
- 10.13 Criteria d) is not relevant to this application. Criteria e) states that local planning authorities should determine applications for sites from any travellers and not just those with local connections. Whilst planning officers are satisfied that the proposed inhabitants do have local connections, a number of objections have been with regards to whether proposed occupiers need to be sited in this district. This is not a relevant issue as per Criteria e) as sites should be determined from any travellers.
- 10.14 Paragraph 216 of the NPPF states that decision-takers may also give weight to relevant policies in emerging plans. The existing Uttlesford Local Plan (2005) is silent on the issue of gypsies and travellers, and therefore some weight must be afforded to Policy HO10, which is generally consistent with the NPPF. It has not however been through full pre-submission consultation and therefore its weight is limited. The preamble to Policy HO10 states that sites for gypsies, Travellers and Travelling Show People should be provided in sustainable locations, which are not at risk of flooding



and have access to health, education, utility services and other community facilities. Sites should be connected to the sewer network where reasonably possible. Policy HO10 states that sites will be allocated in accordance with the following criteria;

- a) sites should be located, designed and landscaped to minimise any impact on the natural, built and historic environment;
- b) sites should have safe pedestrian access, and safe vehicular access to and from the public highway and allow for parking, turning and servicing of vehicles on site;
- c) sites should not be located within areas at risk of flooding;
- d) sites should be capable of being provided with drainage, water supply and other necessary utility services;
- e) sites should be of appropriate size to provide a planned number of caravans together with amenity blocks, play areas, access roads and structural landscaping

10.15 These issues will be considered in the report below.

10.16 Policy S7 of the Uttlesford Local Plan (2005) refers to the protection of the countryside. The proposed site is outside of any development limits as allocated in the development plan, is a Greenfield site and has been used as a paddock. There have been previous applications made at this site for residential development which have been refused by reason of the impact that the proposals would have on the rural character of the area.

10.17 Most significantly, application UTT/0092/97/OP proposed the erection of bungalow, garage and new access on the site. This application was refused as it was considered that the proposal would detract from the appearance of the countryside by virtue of its detrimental effect on the open rural character of the area. It was also considered that the space contributed to the open character of the area and that the site does not constitute a small gap, and that the erection of a dwelling would be damaging to the character of the area as it would consolidate existing sporadic development, setting a precedent within Hope End Green. The application was dismissed at appeal.

10.18 In accordance with the previous site history whereby the council and planning inspector considered the site to be unacceptable for residential development, it is accepted that the proposal for such development will have a harmful impact on the rural character of the area. That said, the need for additional pitches within the District is a significant material consideration when determining this application. Much of Uttlesford District is rural in nature and therefore the ability to locate sites within existing large settlements is likely to be extremely limited. The site is located at Hope End Green within a small hamlet amongst other dwellings. It is not an isolated countryside site. The scale of the development (2 pitches) would respect the scale of and would not dominate this settled community. The site is screened by existing mature vegetation and is surrounded by built development. Whilst viewable from the site frontage and the dwellings that surround the plot, the site is not highly visible within the wider street scene. Additional landscaping would be sought via planning condition to enhance the appearance of the site. Whilst it is acknowledged that the mobile homes would have a detrimental impact on the character on the surrounding countryside, it is not considered that this harm would outweigh the requirement for additional gypsy and traveller pitches.

10.19 Development should be situated in sustainable locations. This is not an isolated site. It is located in the centre of an existing hamlet, surrounded by existing residential dwellings. It is located at approximately 1 mile from the villages of Takeley and Priors Green where there are local services. Whilst there are not pavements or street lighting in this rural location, this situation does not differ from a site close by that was

granted planning permission at appeal for the erection of a new dwelling (UTT/1044/06/OP). Meadows Lodge on Canfield Road is situated some 400m from the application site. It is 400m closer to the villages mentioned above which is not a significant distance and in terms of sustainability it is considered that the same issues apply. The inspector in this appeal noted that the B1256 is a route for public bus services and that Takeley has a reasonable range of services and employment areas. It was not considered that the fact that the site was outside the settlement boundary to be a decisive flaw in sustainability terms, citing that the site lies within comfortable walking distance of the centres of Takeley and Priors Green and even closer to the bus route, as well as in comfortable cycling distance of Stansted Airport. Therefore the occupiers would have a realistic choice of walking, cycling or using public bus facilities. It is considered that the proposed site can be termed as close to a settlement and in the context of Uttlesford as a whole, is in a relatively sustainable location.

- 10.20 The PPTS also indicates in Paragraph 24 that weight should be attached to b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness; c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children; and d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. The site has existing mature vegetation on its southern and eastern boundaries and additional landscaping is proposed. The western boundary would comprise a post and rail fence. There is adequate space for children to play within the site. A grassed area of approximately 375sqm is indicated within the site which is well above the amount of private amenity space recommended within the Essex Design Guide for new dwellings. The application would generally accord with the requirements of Paragraph 24.
- 10.21 Representations received from the local community have queried the status of the suggested occupants, contending that they are not gypsies and/or already have accommodation elsewhere. Referring to Case Law, *Massey and others V Secretary of State* (2008) is relevant. It concluded that 'it has established that having a nomadic way of life is a key determinant in establishing planning purposes whether applicants fall within the definition of gypsies and travellers. The definition of "gypsies and travellers" as specified in the PPTS for planning purposes is:
- "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".*
- Any approval would be subject to the residents of the site meeting this definition. The supporting Planning Statement outlines the personal circumstances of the intended occupiers and given this information, it is not considered that their status can be questioned. The application is not specifically requested for a personal permission and therefore the residents may change over time. A condition would be attached to any permission to ensure that the site is only occupied by gypsies or travellers as defined by Annex 1, paragraph 1 of "Planning Policy for Travellers Sites" produced by the Department for Communities and Local Government (March 2012).
- 10.22 Objection letters have sited that the proposal is a contravention to the Great Canfield Village Design Statement. This document generally accords with the requirements of the adopted Local Plan in which protection of the rural setting of the hamlet of Hope End is key and that development should not erode green space. It has already been accepted that the proposal would have a harmful impact on the character of the area.

Whilst this document is taken into account as part of the application, as is the Local Plan, it is considered in this instance that National guidance with regards to the requirement for gypsy and travellers sites outweighs these other local documents.

### **The impact of the proposal on residential amenity (ULP Policies GEN2 and GEN4)**

- 10.23 Policy GEN2 of the Uttlesford Local Plan states that development will not be permitted unless its design minimises the environmental impact on neighbouring properties by appropriate mitigation measures and that the proposed would not have any materially adverse impact on the reasonable occupation and enjoyment of a residential property as a result of loss of privacy, loss of daylight, overbearing impact on overshadowing. Policy GEN4 states that development will not be permitted if it would generate noise or vibrations or smell, dust, light, fumes, exposure to pollutants that would cause material disturbance or nuisance to occupiers of surrounding properties.
- 10.24 The caravans are proposed to be situated within a central location on the plot with garden area around the north, east and western side and access to the existing track to the west. There is existing mature vegetation along the eastern and southern boundaries of the plot which screen the proposal from the residential properties to the east and south. To the west is an existing access track to the ex-nursery site to the north and to Three Trees Bungalow. On the opposite side of this track is a dilapidated building which does not appear to be in habitable use although may be used in conjunction with adjacent residential property Shildoah. This barn building, screens the proposal from Shildoah.
- 10.25 Three Trees Bungalow to the north of this field is rather exposed to the site and has windows facing into the application land. Whilst this is the case, the site would be 20m from the nearest part of the bungalow, and the nearest caravan is indicated to be some 28m from the bungalow. It is also proposed to plant boundary landscaping along the northern boundary of the plot which, if approved, would be requested via planning condition. As such, given the distance and landscaping, it is not considered that the proposal would have any materially harmful impact on the amenities of Three Trees Bungalow by way of causing any material loss of privacy, light or by being overbearing.
- 10.26 Any issues relating to the disposal of waste would be dealt with under Environmental Health legislation. The applicant has shown the provision of soakaways and a private treatment unit within the site. Refuse bins would be located to the western boundary of the site and brought to the highway verge on collection days. The Environment Agency has commented that; *'a private means of foul effluent is only acceptable when foul mains drainage is unavailable. Our records show that the main sewer network is a reasonable distance from the main sewer network so the use of non-mains drainage would appear to be appropriate in this instance'*.
- 10.27 The effect of the proposal on house values in the area is not a material planning consideration.

### **Highway issues (ULP Policies GEN1, GEN2 and GEN8)**

- 10.28 The proposal would involve the movement of two static caravans onto the site which would not be regularly moved, and two significantly smaller touring vehicles. There are already vehicle movements on this track to Three Trees Bungalow and to the other buildings that are accessed from this track. The static caravans could be

manoeuvred onto the land prior to the new fencing and access being provided along the western elevation.

- 10.29 The addition of two additional families living at and manoeuvring vehicle from the site is unlikely to generate sufficient levels of vehicular movement to warrant refusal of this application. The access is wide and gates recessed into the plot. Adequate parking provision is available within the site for the occupiers and for any visitors. Occupiers could also turn and service vehicles within the site. Whilst it is noted that there are no pavements in this locality, there are grassed verges and the situation would be no worse than it is for existing residents of this hamlet. Essex County Council Highways Authority has been consulted on the proposal and has raised no highway objection. The proposal would accord with Policy GEN1 (Access) of the Local Plan.
- 10.30 It has been raised that fire/emergency services may not be able to access the site. This is not a planning issue.

### **Ecological Issues (ULP Policy GEN7)**

- 10.31 Policy GEN7 of the Local Plan states that development that would have a harmful effect on wildlife will not be permitted unless the need for the development outweighs the importance of the feature of nature conservation. Where the site includes protected species, measures to mitigate and/or compensate for the potential impacts of development must be secured.
- 10.32 In addition to biodiversity and protected species being a material planning consideration, there are statutory duties imposed on local planning authorities. Section 40(1) of the Natural Environment and Rural Communities Act 2006 states "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity." This includes local authorities carrying out their consideration of planning applications. Similar requirements are set out in Regulation 3(4) of the Conservation (Natural Habitats &c) Regulations 1994, Section 74 of the Countryside and Rights of Way Act 2000 and Regulation 9(5) of the Conservation of Habitats and Species Regulations 2010. Recent case law has established that local planning authorities have a requirement to consider whether the development proposals would be likely to offend Article 12(1), by say causing the disturbance of a species with which that Article is concerned, it must consider the likelihood of a licence being granted.
- 10.33 The tests for granting a licence are required to apply the 3 tests set out in Regulation 53 of the Habitats Regulations 2010. These tests are:
- The consented operation must be for "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment"; and
  - There must be "no satisfactory alternative"; and
  - The action authorised "will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range".
- 10.34 A Preliminary Ecological Survey by Open Spaces Landscape and Arboricultural Consultants Ltd, dated November 2012, has been submitted with the application. This survey involves desk-top studies (which included a search for ponds within 500m of the study area and protected species records) and field surveys being undertaken. This survey concluded that all potential protected species constraints

were associated with the small block of broadleaf trees and the intact species poor hedge in the south of the survey area. It is recommended that these areas be avoided. If avoided, no further protected species mitigation is considered necessary.

- 10.35 The survey carried out is found to be acceptable with regards impact on designated/non-statutory designated sites and protected species.
- 10.36 Natural England have been consulted on the proposal and have stated that from the information provided with the application, it does not appear to fall within the scope of the consultations that Natural England would routinely comment on. It is for the local authority to determine whether or not this application is consistent with national or local policies on biodiversity. LPAs should seek the views of their own ecologists. If the LPA is aware of, or representations from other parties highlight the possible presence of a protected species on the site, the authority should request survey information before determining the application.
- 10.37 Essex County Council's Ecologist has been consulted on the application and the submitted survey. She has commented as follows;  
*'The PEA advises that the area of trees and hedgerow to the south of the site are the only features to have the potential significance for protected species and Section 41/ BAP species. I understand that these areas are to be retained and that, although included within the PEA, they are not within the red line of the proposed application.*

*The Natural England Standing Advice flow chart (referred to in the NE letter, dated 4<sup>th</sup> December 2012) asks in Box IV "Does the survey report highlight that there are suitable features on the application site for newts (e.g. ponds, hibernation sites, foraging habitat, commuting corridors following a Habitat Suitability Index (HSI) Survey?". The area of woodland is covered within the PEA, although no Habitat Suitability Index was undertaken for great crested newts. However, I understand it is not located within the red line of the application area.*

*Given the advice within the PEA and given that this is a small area of habitat situated outside the red line which is not directly affected by the proposed development; I would suggest that no further surveys are required.*

*In accordance with the PEA recommendations, I recommend that:*

- *The hedgerow should be improved (gapped up) as proposed -.*
- *Bat friendly lighting should be used'.*

After further conversations with Essex County Council's Ecologist is has also been suggested that a condition could be attached requiring that Great Crested Newt protective fencing is erected along the east and south sides of the site (so that the trees and ditch are outside of the development area) to guarantee that if the site were to provide any habitat for the species that they would be protected during any construction works. This is an extra protective measure.

- 10.38 In accordance with the above advice from qualified ecologists, it is considered that the proposal would not have any harmful impact on any protected species, subject to the imposition of conditions.

### **Flood risk and contaminated land**

- 10.39 Two large soakaways are proposed to be constructed to drain surface water into the soil. Foul sewage would be processed via a small private treatment unit which would be installed on the site.

- 10.40 The Environment Agency has confirmed that the site is located within Flood Zone 1, classed as low probability risk. According to the Environment Agency's Flood Risk Standing Advice development proposals classed as 'operational development less than 1 hectare/Flood Zone 1' fall outside of the Environment Agency's remit.
- 10.41 It has been stated by local residents that the site and access road is prone to localised flooding and photographic evidence of such has been submitted. Areas of hardstanding are proposed within the site as a base for the caravans and a sizable area is proposed to be laid with gravel. It can be conditioned that details of the hardsurfacing are submitted to and approved by the local planning authority to ensure the gravel area is of permeable construction and therefore it is unlikely that the proposal would cause any additional flooding in the area in comparison to the existing.
- 10.42 Details of the private treatment unit and soakaways would need to be agreed under Building Regulations and in agreement with Environment Agency standards and consent.
- 10.43 It has been suggested by the Hope End Conservation Committee that the land is contaminated. It has been suggested that in the 1970's the land was used as a dumping ground for waste from the nursery site and the land was then levelled and covered in topsoil. This would impact on the effectiveness of any proposed soakaways and septic tanks. The Council's Environmental Health team have stated that in light of the potential previous use of the land and in order to ensure the safety of the occupants of the land and those surrounding, it is recommended that a condition be attached to any permission with regards to contaminated land, mitigation and mediation.

### **Essex County Council Minerals & Waste Planning**

- 10.44 The site is located 230m from a preferred minerals extraction site at Crumps Farm. As such, the site partly falls within the Mineral Consultation Area as required by Policy S8 of the Replacement Minerals Local Plan Pre-Submission Draft (January 2013). The Minerals Planning Authority have raised an objection to the application, as the development would be contrary to Policy S8 of the Replacement Minerals Local Plan Pre-Submission document, unless the local planning authority can demonstrate that the proposed development would not conflict with the preferred site allocation. The Minerals Planning Authority have stated that the local planning authority should be aware that mineral extraction can give rise to impact on residential amenity, particularly as a result of noise and dust and the proposed development boundary is approximately 200m from the preferred site A23. It is noted that the development is for static and trailer caravans, structures of this nature tend to provide less noise attenuation than a permanent structure.
- 10.45 The Minerals Planning Authority have confirmed that his concern could be overcome by a suitably worded condition. The minerals planning authority, local planning authority and the agent are currently working together to form a suitably worded condition.

### **11.0 CONCLUSION**

The following is a summary of the main reasons for the recommendation:

- The additional 2 pitches would contribute to the need for gypsy and traveller sites within the district which is a significant material consideration.
- Whilst it is acknowledged that the proposal would have a detrimental impact on the rural character of the area, this is outweighed by the need for additional pitches within the site.
- The proposal would have no materially adverse impact on the amenities of neighbouring residential properties in accordance with Policies GEN2 and GEN4 of the Local Plan.
- The proposal would have no harmful impact on highway safety in accordance with Policies GEN1 and GEN8.
- Appropriate protected species surveys have been submitted in accordance with Policy GEN7 of the Local Plan.

## **RECOMMENDATION – CONDITIONAL APPROVAL**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004. STD5

2. The development hereby permitted shall be carried out in accordance with the approved plans as set out in the Schedule.

REASON: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment, in accordance with the Policies of the Uttlesford Local Plan (adopted 2005) as shown in the Schedule of Policies

3. The pitches on the site shall only be occupied by gypsies or travellers as defined by Annex 1, paragraph 1 of “Planning Policy for Travellers Sites” produced by the Department for Communities and Local Government (March 2012).

REASON: The development is acceptable in order to meet the District’s shortfall in provision for gypsy and traveller sites in accordance with “Planning Policy for Travellers Sites”.

4. The site shall only comprise two pitches.

REASON: In the interests of visual and residential amenity and to ensure that the use of the site remains compatible with the site and surroundings and to comply with policies S6 and GEN2 and to Uttlesford Local Plan 2005.

5. No business operation involving outside storage or storage of vehicles or machinery shall take place on any part of the application site.

REASON: In the interest of the appearance of the site and the amenity of surrounding residents in accordance with Policies S6 and GEN2 of the Uttlesford Local Plan (adopted 2005).

6. No vehicle over 3.5 tonnes shall be stationed, parked or stored at the site.

REASON: In the interest of the appearance of the site and the amenity of surrounding residents in accordance with Policies S6 and GEN2 of the Uttlesford Local Plan (adopted 2005).

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking or re-enacting that Order with or without modification) no development within Classes A to F of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 of the Order shall take place without the prior written permission of the local planning authority.

REASON: To avoid the proliferation of buildings, fencing and other means of enclosure at the site in the interests of protecting the visual amenities of this rural site in accordance with Policy S6 of the Uttlesford Local Plan (adopted 2005).

8. The development hereby permitted shall be implemented in accordance with the recommendations with the application in the Preliminary Ecological Appraisal, dated November 2012. The development shall accord with the recommendations of these reports in all respects and any variation thereto shall be agreed in writing by the local planning authority before such change is made.

REASON: In the interest of the protection of the wildlife value of the site in accordance with Policy GEN7 of the Uttlesford Local Plan (adopted 2005).

9. Prior to the erection of the development hereby approved full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include; soft landscaping boundary treatment; means of enclosure; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports). The works shall be carried out before any part of the development is occupied or in accordance with the programme agreed with the local planning authority.

REASON: The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted, in accordance with Policies GEN2, GEN8, GEN7, ENV3 and ENV8 of the Uttlesford Local Plan (adopted 2005).

10. There shall be no form of external lighting erected within the application site without the prior written consent of the local planning authority. Any lighting will be strictly in accordance with the approved details.

REASON: To ensure the development does not adversely affect the rural character of the area or the habitat of any protected species in accordance with Policies GEN7 and S7 of the Uttlesford Local Plan (adopted 2005).

11. During all development works, Great Crested Newt fencing shall be erected along the inside of the east and southern boundaries of the site in accordance with details that shall be submitted to and approved in writing with the local planning authority. The development shall accord with the submitted details unless as otherwise agreed in writing with the local planning authority.

REASON: To ensure the development does not adversely affect the habitat of any protected species in accordance with Policies GEN7 and S7 of the Uttlesford Local Plan (adopted 2005).



12. Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts 1 to 5 of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until condition 4 has been complied with in relation to that contamination.

#### 1. Site Characterisation

An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

#### 2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### 3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

#### 4. If previously unidentified contamination is found

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 14 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination development must be halted on that part of the site. An assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of condition 2. The measures in the approved remediation scheme must then be implemented in accordance with the approved

timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority in accordance with condition 3.

#### 5. Monitoring and Maintenance Scheme

No development shall take place until a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must both be submitted to and approved in writing by the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation scheme is complete, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be submitted to the Local Planning Authority.

REASON: Representations received indicate that the site may be contaminated as such a preliminary contaminated land survey is required in accordance with Uttlesford Local Plan ENV14.

#### Informatives

1. With regards to Condition 9 of this permission, details shall include details of the hardstanding which shall be of a permeable construction.
2. With regards to Condition 10, any external lighting must be bat friendly, in accordance with guidance obtained from qualified ecologists.
3. Details of the private treatment units and soakaways need to be agreed under Building Regulations and in agreement with Environment Agency standards and consent.