

WELWYN HATFIELD BOROUGH COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE – 8 DECEMBER 2016  
REPORT OF THE DIRECTOR (GOVERNANCE)

6/2016/0913/FULL

LAND ADJACENT TO GREAT NORTH ROAD, STANBOROUGH, WELWYN GARDEN CITY, AL8 7TE

CHANGE OF USE OF LAND TO A MIXED USE SITE WITH THE RETENTION OF THE EXISTING CONSENTED WORM FARM, AND THE ADDITION OF TWO CARAVANS FOR RESIDENTIAL PURPOSES FOR ONE GYPSY AND TRAVELLER FAMILY

APPLICANT: Mrs E Murphy

(Hatfield Villages)

**1 Site Description**

- 1.1 The application site is an open elongated area of land, which is formed of two separate sections which are attached through a narrow strip of land which lies to the east of Stanborough House, a detached building used as a care home.
- 1.2 The area surrounding the application site, whilst featuring some residential properties is open in nature. The site is undeveloped, although a vehicular access from Great North Road has been formed into the site with an area of hardstanding within the site, near to the entrance and fencing erected along the boundaries of the site. The site directly adjoins the A1 (M) motorway to the east, with residential properties to the west and north. It is located to the south east of Welwyn Garden City town centre.

**2 The Proposal**

- 2.1 This application seeks planning permission for the change of use of the land to a mixed use site with the retention of the existing consented worm farm, and the addition of two caravans for residential purposes for one Gypsy and Traveller family.
- 2.2 The proposed change of use of the land to the worm farm would include two poly tunnels which would be sited in the parcel of land to the east of Stanborough House. It would also include a hardstanding and storage area which would be located on the southern portion of the site.
- 2.3 One static caravan and one touring caravan are proposed for one Gypsy and Traveller family. The static caravan would be sited alongside the southern boundary with Stanborough House, on the southern portion of the application site, where the applicant would live and assist with the running of the worm farm when not travelling. The touring caravan would be for family use when travelling.
- 2.4 A utility block is also proposed adjacent to the static caravan. That building would also be used for the storage of worms in association with the worm farm

operation. Acoustic fencing is proposed which would wrap around the static caravan and utility block. In addition fencing along the boundaries of the site is proposed which would be 2m within the site and 1.8m along the frontage if the site together with entrance gates from Great North Road which would be at a height of 1m.

- 2.5 Access to the site would be via the existing access off the Great North Road. A roadway/hardstanding is proposed around the site which gives access to both proposed caravans and the worm farm. This would be formed of compacted gravel. Additionally two parking spaces would be adjacent to the utility block.

### **3 Reason for Committee Consideration**

- 3.1 This application is presented to the Development Management Committee because Councillor Bell has called the application in on the grounds of;

*'I do not believe this is an appropriate location for a travellers' site. It is opposite an old peoples' home, and I fear that more than 2 caravans would in fact, end up being located there.*

*Furthermore, travellers have recently occupied the site illegally, and have now moved to an adjacent unauthorised site. The original worm farm application was rejected by WHBC, but eventually granted on appeal. The appeal decision, however, was for a worm farm only.*

*I therefore believe that this application should be rejected'.*

- 3.2 Hatfield Town Council has objected to the proposed development.

### **4 Relevant Planning History**

- 4.1 N6/2012/0650/MA – Change of use of land to a worm farm, including erection of a single storey timber building, two poly tunnels, car parking, hard standings, green waste storage pits. Water and rainwater harvesting and recycling tanks, and height restrictor over existing entrance/access. Refused 02 January 2013. Appeal allowed 02 January 2014.
- 4.2 N6/2009/0298/MA – Erection of a single storey timber building, two poly tunnels, car parking, hard standings, storage pit, water recycling and harvesting tanks for proposed worm farm and height restrictive over existing access. Refused 14 May 2009.

### **5 Planning Policy**

- 5.1 National Planning Policy Framework
- 5.2 Planning Policy for Traveller Sites (Department of Communities and Local Government)
- 5.3 Welwyn Hatfield District Plan 2005
- 5.4 Welwyn Hatfield Gypsy and Traveller and Travelling Showpeople Accommodation Needs Assessment 2016
- 5.5 Draft Local Plan Proposed Submission August 2016

- 5.6 Supplementary Design Guidance, February 2005
- 5.7 Supplementary Planning Guidance, Parking Standards, January 2004
- 5.8 Interim Policy for Car Parking Standards and Garage Sizes, August 2014

## **6 Site Designation**

- 6.1 The site lies within Green Belt and Middle Lea Valley West Landscape Character Area as designated in the Welwyn Hatfield District Plan 2005.

## **7 Representations Received**

- 7.1 The application was advertised by site notice and neighbour notification letters. 65 representations have been received of which 24 are objections from 4 The Hollies, 1, 8, 8b, 9, 57a, 65, Elm Cottage, Fiveways, Stanborough Care Home, Stanborough House, Sunnyside and Fountain View Great North Road, 4 New Road, 1, 2 and Lodgeside Stanborough Cottages, 4 Upper Shot, 134 Parkway, 3 Lytton Gardens as well as Hertfordshire Campaigning to Protect Rural England, Planning Direct on behalf of Welwyn Garden City Residents and Councillor Lynne Sparks. Their comments may be summarised as:

- Concerns there is a health risk for residents in the home adjacent and the children residing in the road and for families living in the area as there is no connected water supply or means for disposal of sewage;
- Concerns with more traffic than the permitted worm farm;
- Parking of commercial vehicles and non-commercial vehicles thus detracting from the open field;
- Urbanising impact by the laying of hardstanding. Acoustic fencing and domestic paraphernalia;
- Sewerage drainage is a concern in the road and [plans to connect to the drains will make matters worse;
- The openness of the Green Belt will be affected;
- Views onto the site are visible from junction 4 of the A1 (M), neighbouring properties and the Nursing Home;
- The gates at the front of the site are left open for a long time providing no screening of the mobile home;
- The development is not in keeping with the neighbouring properties;
- The proposal does not contribute to the requirements of Policy RA10;
- The high court injunction on the land cannot be ignored;
- The land should not be used for residential purposes as it is Green Belt;
- Concerns with highway safety at the roundabout;
- Concerns that the residents will be subject to noise above the recommended levels;
- Concerns that the proximity of the A1(M) will cause road pollution to the residents;
- Concerns that the development would hinder the conservation of protected species;
- Trading on the site;
- The black fencing and gates are not appropriate;
- Concerns that approval will create a precedent;
- The site is used as a dumping ground for commercial waste by Stately Homes;

- Change the nature of the Green Belt;
- Removal of previous vegetation on site, which has impacted local ecology;
- Concerns with the effect to the care home;
- Will the site be eligible for business rates as it is occupied by a Limited Company?;
- The family have somewhere to live as they had a site in Bedfordshire;
- A worm farm would not benefit the area; and
- Concerns that residents on this plot would not pay the usual Council Tax to help benefit the area and to keep it clean and tidy;

7.2 A number of other comments were submitted however these were of a prejudicial nature and are not re-produced in this report due to the Council's Public Sector Equalities Duties which require the Council to have due regard to key objectives, which include eliminating discrimination and fostering good relations.

7.3 Hertfordshire Campaigning to Protect Rural England outline that the worm farm had no need for residential accommodation and there is no justification for change of use of the land to mixed use on those grounds. The application is, in effect, for two caravan pitches on Green Belt land. They outline that the proposal is inappropriate development in the Green Belt and there is no case for very special circumstances sufficient to outweigh the harm to openness and other harm to the Green Belt has not been demonstrated.

7.4 Planning Direct outlines that;

- Planning policy with regard to Traveller Site was changed making it more difficult for sites such as this one to be used as a Traveller Site. Policy outlines that Traveller Sites within the Green Belt area inappropriate development. That policy outlines that other considerations, such as the needs of the children, do not constitute very special circumstances.
- Welwyn Hatfield Borough Council are unable to demonstrate a 5 year supply of Traveller sites, however this has no bearing on the application.
- The applicants are not Gypsies or Travellers and offer no evidence that they travel or lead a nomadic life;
- The application should be seen in light of former applications and enforcement action;
- The former application for a 'worm farm' has not been utilised. There is no worm farm and no application has been made to the Environment Agency in order to operate a worm farm;
- As there is no worm farm there is no need for any accommodation associated with tis;
- This will also not be a mixed use site as there is no worm farm;
- The applicant claims they will provide planting yet they have stripped the site of all planting;
- The site has been cleared and flattened sufficient for 25 caravans;
- The site is being used for the applicant's driveway business;
- The applicants have used main electricity illegally and have connected themselves to the main sewer;
- The change of use of the land for residential caravans must be assessed as a freestanding element;
- The caravans, utility block and fencing would reduce openness; and
- The applicant is trading illegally from the site.

- 7.5 Councillor Lynne Sparks outlines that she agrees with Councillor Bell's comments and believes the application should be rejected for the reasons he has set out.
- 7.6 One letter of support has been received from 24 Longcroft Lane, Welwyn Garden City which can be summarised as;
- Their children are settled in local school after a year without schooling;
  - The family intend to be good neighbours in the road; and
  - The site is suitable for habitation if utilities are installed.
- 7.7 36 letters of support have been received from various addresses which can be summarised as;
- I would like to express my support for the planning application;
  - There is a shortage of gypsy traveller sites and this type of private provision is a good way forward and much needed; and
  - Request that the Council look favourably on this planning application.

## **8 Consultations Received**

- 8.1 The following have responded advising that they have no objections to the proposal:
- **Hertfordshire County Council Transport Programmes and Strategy (HCCTPS)**
  - **Hertfordshire Ecology**
  - **Welwyn Hatfield Borough Council Environmental Health Department (EH)**
  - **Welwyn Hatfield Borough Council Landscaping and Ecology Department**
  - **Environment Agency (EA)**
  - **Highways England**
- 8.2 No response has been received from the following consultees. Comments were due by 29 July 2016.
- **Hertfordshire and Middlesex Wildlife Trust (HMWT)**
  - **Thames Water**
  - **Hertfordshire Building Control**
  - **Welwyn Hatfield Borough Council Client Services**
  - **Hertfordshire County Council Rights of Way**
  - **Hertfordshire County Council (Gypsy and Traveller Section)**
  - **HCC Adult Care Services**
- 8.3 **Hertfordshire Constabulary** objects to the development. *'I have serious concerns that should permission be given for one static and one touring caravan, this level of occupation will not be maintained. On the day I visited the area, there were more touring caravans already present. I am always concerned when a permissive application is submitted after the event and not before, in accordance with the rules. Under the present circumstances I cannot support this application'*.

## **9 Town / Parish Council Representations**

9.1 Hatfield Town Council has objected to the proposal and states that '*in view of the previous appeal decision, this Council does not consider that any special grounds exist to change the use of this land*'

## **10 Analysis**

10.1 The main planning issues to be considered are:

- 1. Whether the applicant can demonstrate Gypsy and Traveller Status**
- 2. Whether the proposal is inappropriate development in the Green Belt**
  - i) Proposed residential use for one Gypsy and Traveller Family**
  - ii) Proposed use of the site as a worm farm**
- 3. Very Special Circumstances**
  - i) Openness and Purposes of Including Land in the Green Belt**
  - ii) Visual Amenity**
  - iii) Other Considerations**
    - a) The existing level of local provision and need for sites**
    - b) The availability (or lack) of alternative accommodation for the applicant**
    - c) Other personal circumstances of the applicant and the best interests of the children;**
    - d) Gypsy Status of the applicant**
    - e) Human Rights**
  - iv) Any Other Considerations**
    - a) Appeal decision for the worm farm**
    - b) Sustainable Location;**
    - c) That applications should be determined for sites from any travellers and not just those with local connections**
  - v) Balancing Exercise**
- 4. Assessment of Policy H13 (Gypsy Sites) of the Welwyn Hatfield District Plan**
- 5. Other Considerations**
  - i) Parking**
  - ii) Wildlife**
  - iii) Commercial Use**
  - iv) Representations**
  - v) Landscape Plan**
  - vi) Equality**
  - vii) Conditions**

### **1. Whether the applicant can demonstrate Gypsy and Traveller Status**

10.2 It is necessary as part of this application for the proposed residents of the application site to demonstrate their gypsy and traveller status in order for the development to be determined with regard to the National Planning Policy for Traveller Sites (PPTS). Considerations should be given to a number of issues amongst other relevant matters;

- Whether they previously led a nomadic habit of life
- The reasons for ceasing their nomadic habit of life
- Whether there is an intention of leading a nomadic habit of life in the future, and if so, how soon and in what circumstances.

- 10.3 The Planning Policy for Traveller sites (PPTS) defines, for the propose of this planning policy ‘gypsies and travellers’ means;

*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 show people or circus people travelling together as such.*

- 10.4 The application relates to the applicant, her husband and her six children. Information has been submitted of the family’s background as Irish travellers and their travelling lifestyle together with information of gypsy sites they have inhabited over the last few years.
- 10.5 The information submitted details that the applicant, her husband and family have never ceased to travel and have no plans to cease travelling in the future. The supporting information outlines that the family are well known to be involved in the construction and maintenance of driveways and regularly travel with their work activities. The family (Cousins and uncles etc) are also based in and around the South East and East of England and they work collaboratively when jobs require. The statement outlines that sometimes women in the family will have stalls at fairs or markets and it outlines a summary of the Horse Fairs, Fairs and Events that the applicant attends, or have attended in recent years where some of the fairs last for a number of days. The applicants also travel to attend cultural events, and family events throughout the year to different sites and to various locations across the UK.
- 10.6 No definition or guidance is provided in the PPTS of what is meant by...’ceased to travel temporarily...’ or what a reasonable interpretation of ‘a nomadic habit of life...’ would be. Nevertheless, the travelling for work and to horse fairs takes place for about 2-3 months of the year, for the other months the normal pattern is to occupy a settled base, which would be the application site. The supporting information demonstrates that the applicant, her spouse and the children have been brought up with a travelling lifestyle and are Irish Travellers. It also sets out that they intend to travel in the future for work and cultural reasons.
- 10.7 For those reasons given above which set out their background and continuing lifestyle, it is considered that the applicant and the six children of the applicant – are gypsies by definition and that her spouse also comes within that definition, in line with the PPTS.

## **2. Whether the proposal is inappropriate development in the Green Belt**

### *Proposed residential use for one Gypsy and Traveller Family*

- 10.8 The application site is located within Green Belt whereby the national policy of significance to this case is found in the National Planning Policy Framework (The Framework) and the National Planning Policy for Traveller Sites (PPTS). Section 9 (Protecting Green Belt land) of the Framework provides guidance on development in the Green Belt. In addition, Policy H13 (Gypsy Sites) of the District Plan outlines that planning permission will be granted for small scale gypsy sites where the following criteria are met: one of which includes that the proposed site is not within the Green Belt, unless special circumstances exist which might exceptionally make such development acceptable.

- 10.9 Further to this, the Draft Local Plan Proposed Submission August 2016 may be given some weight due to relevant policies in the emerging plan. The more advanced the preparation, the greater the weight that may be given. In this instance, Policy SADM 34, development within the Green Belt, is applicable. That policy echoes the Framework. Furthermore, Policy SP 7; Type and Mix of Housing, outlines that '*Sites have been allocated to facilitate the delivery of additional 61 pitches over the plan period to meet the accommodation needs of Gypsies and Travellers. Delivery will be phased over the plan period and pitch delivery in the later part of the plan period will be brought forward where the need continues to be demonstrated as evidenced by future reviews of accommodation needs assessments*'
- 10.10 Table 6 of the Draft Local Plan Proposed Submission outlines Gypsy and Traveller Sites and pitch provision to 2032. This demonstrates the number of pitches that will be provided is 61 and their locations.
- 10.11 The proposed residential use for one Gypsy traveller family is a material change use of land and is inappropriate development and does not fall within any of the exceptions listed in paragraphs 89 and 90 of the Framework. Additionally Policy H13 of the District Plan outlines that the development is inappropriate as it is Green Belt and Policy E: Traveller sites in Green Belt, of the PPTS outlines that Traveller sites (temporary or permanent) in the Green Belt are inappropriate development.
- 10.12 Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

*Proposed use of the site as a Worm Farm*

- 10.13 The proposed development is a mixed use proposal and also includes a worm farm with associated poly tunnels and use of the utility block for the propagation of worms. Application reference N6/2012/0650/MA, which was allowed at appeal, was for a worm farm on the application site. That application involved the propagation of worms within a timber building, following which worms would be taken to the proposed polytunnel structures. The definition of agriculture in Section 336 (1) of the Town and Country Planning Act 1990, states that; '*agriculture includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land)*'. The Inspector felt that given the intention of the work are to be produced as bait, and so could be used as food to satisfy the definition in s336(1). Accordingly he concluded that the proposed use would represent an agricultural activity and was therefore appropriate development in the Green Belt.
- 10.14 Given that the proposed worm farm would operate in a similar manner to the previously approved worm farm, where the propagation of worms would take place in the utility block and then taken to the two poly tunnels once the right size is achieved where they would then be left to grow in compost for several weeks. Once grown to the right size they would be bagged up and distributed to fishing outlets, clubs and anglers across the Home Counties for bait. Whilst there would be the sale of the compost which is produced from the worm farm, this is ancillary to the main worm farm. Accordingly, it is concluded that this would also be an agricultural activity and therefore the principle of the worm farm is



appropriate development in the Green Belt, consistent with the Framework and Local Plan policy.

- 10.15 The permission of the worm farm from 2012 has commenced by the creation of the vehicular access into the site and hardstanding at the site.
- 10.16 Paragraph 89 of the Framework states that the construction of new buildings in the Green Belt are not inappropriate development if they are for agriculture and forestry. The proposed worm farm would be an agricultural use and therefore the buildings proposed in this application that would be associated with this activity are appropriate development.

### **3. Very Special Circumstances**

- 10.17 Green Belt policy outlines that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 87 of The Framework outlines that 'as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special Circumstances. Paragraph 88 of the Framework outlines that *'when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'*.
- 10.18 Additionally Policy H13: Gypsy Sites of the adopted District Plan outlines in criteria i) that 'unless special circumstances exist which might exceptionally make such development acceptable'. The use of the term 'exceptionally' does not relate to the Framework or to the PPTS, which refers to 'very special circumstances'. To determine the application on the basis of 'exceptional' would not be in accordance with the Framework and would go beyond what is reasonably required by national planning policy. It is therefore proposed to appraise this proposal on the basis of whether there are very special circumstances.
- 10.19 It is therefore necessary to consider whether the development causes any other harm and whether there are any other considerations relevant to the overall balance when making a decision in the Green Belt.
- i) Openness and Purposes of Including Land in Green Belt*
- 10.20 The Framework outlines at paragraph 79 that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- 10.21 The site is an elongated area of land, directly adjoining the A1(M) motorway to the east, with residential properties to the west and north. As referred to above, the openness of the Green Belt and their permanence are the essential characteristics of Green Belt.
- 10.22 The site is predominately an undeveloped field for the most part, albeit it has planning permission for a worm farm. Hardstanding and the access in association with that permitted worm farm has partly been laid. Nevertheless, the proposed stationing of caravans and associated paraphernalia would

materially impact on the openness of the Green Belt. It would place development on the site that would spread built form onto the site that is currently open and predominately free from development. The matter of impact on openness however goes beyond what can be seen or is visible. It is more a concern over the physical presence of new development on an area of undeveloped and open land. Accordingly by virtue of the development's physical and visual presence, it conflicts with paragraph 79 of the Framework to keep Green Belt land permanently open and causes substantial harm to the Green Belt.

10.23 Paragraph 80 of The Framework outlines that the Green Belt serves five purposes:

- To check the unrestricted sprawl of large built up areas;
- To prevent neighbouring towns merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic towns; and
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

10.24 The site is considered to be an urban fringe location which is adjacent to the community and existing residential properties along Great North Road. It is separated from the settlement of Welwyn Garden City and Hatfield by the A1 (M). Conflict with the first criteria would require the proposal to create sprawl of this part of Great North Road, or for it extend into Welwyn Garden City or Hatfield. It is considered that the development would make no material difference in terms of sprawl or the possible coalescence of these settlements. It is therefore considered that there is no conflict with the first two purposes.

10.25 The caravans and associated paraphernalia would introduce built development onto the site that urbanises and spreads the amount of built form onto land which is currently undeveloped. It would form an addition to the site which would be to the detriment of the open and spacious character and appearance of the application site and surrounding Green Belt. Accordingly, the proposed development does not assist in the safeguarding of the countryside from encroachment, one of its five purposes. This also adds substantial harm.

10.26 Whilst appreciated that Welwyn Garden City is not a historic town, the application site is separated from Welwyn Garden City by the A1 (M) where there would be no harm to its character. Additionally, whilst the proposal does not assist in urban regeneration as the site is within Green Belt, this adds little weight.

10.27 Whilst not necessary to assess the impact to the openness and the purposes of the Green Belt as a result of the structures associated with the worm farm as they are found to be 'appropriate' development, the comments of the Inspector from the previous worm farm application concluded that;

*'the location of the poly tunnels at the bottom of the slope to the site would mean little visual impression in the wider landscape, and no harmful impact in the outlook from nearby properties, There would be no material effect on the*

*openness of the Green Belt due to the siting and scale of these polytunnels and access road' and*

*'It is therefore concluded that the proposed development would not be materially harmful to the openness of the Green Belt, and would cause no harm to the character and appearance of the area'.*

10.28 Therefore, it is found that in addition to the harm caused to the Green Belt by reason of inappropriateness of the proposed residential use, there is additional harm to the openness and the purposes of including land in the Green Belt. Having regard to paragraphs 87 and 88 of the Framework, it is accepted that substantial weight should be given to this harm, and that the development should not be permitted except in very special circumstances. This harm needs to be assessed against whether there are any other considerations relevant to the overall balance to outweigh that harm identified.

*ii) Visual Amenity*

10.29 The Framework advises in Paragraph 81 the importance of retaining and enhancing the landscapes, visual amenity and biodiversity of Green Belts. In addition, Chapter 7 of the NPPF emphasises the importance of good design in context and, in particular, paragraph 64 states permission should be refused for development of poor design that fails to improve the character and quality of an area and the way it functions. Furthermore, as the site is located within the Middle Lea Valley West Landscape Character Area, Policy RA10 (Landscape Regions and Character Areas) is applicable which outlines that proposals for development in the rural area will be expected to contribute, as appropriate, to the conservation, maintenance and enhancement of the local landscape character of the area. Policy D2 (Character and Context) outlines that the Council will require all new development to respect and relate to the character and context of the area in which it is proposed.

10.30 Policy H13 (Gypsy Sites) of the District Plan outlines that planning permission will be granted for small scale gypsy sites where all of the following criteria listed in that policy are met, which amongst other things includes; - that the site will not visually encroach into the open countryside. This policy, as outlined in appeal decisions, is unrealistic as any new gypsy site in this Borough is likely to be in the Green Belt countryside where some effect on visual amenity and the character of the area would occur.

10.31 Nonetheless, the application site is within a semi-rural location on the outskirts of Welwyn Garden City and Hatfield. It is a well enclosed piece of land which is flanked to the east by the A1 (M) motorway and residential properties to the north and west. Development is limited to the south of the application site. This is considered to be an urban fringe location and not open countryside. In this context the site has limited visual impact and it is only possible to get fleeting glimpses when passing along the A1 (M) or driving to the end of Great North Road. Therefore, the residential development would cause limited impact to the visual amenities of the Green Belt and would not be in conflict with Policy RA10 which seeks to contribute, as appropriate, to the conservation, maintenance and enhancement of the local landscape character of the area.

10.32 The proposed fencing around the boundaries of the site, would be at a height of 2m, with fencing at a height of 1.8m along the frontage of the site. The proposed

entrance gates would be 1m in height. The fencing to the rear of the site, alongside the A1 (M) and to the north of the site, has limited visual impact. The proposed fencing and gates along the frontage of the site are visible from Great North Road and would create a sense of enclosure and have some impact to the visual amenities of the Green Belt. However there are a number of existing driveways to properties with a variety of fencing, walls and entrance gates along this road and therefore, they are not considered to be unduly out of keeping with the character of the immediate area or impact detrimentally on the visual amenities of the Green Belt.

10.33 Therefore, in conclusion, it is found that the additional harm, to the character and visual amenities of the Green Belt is limited.

*iii) Other Considerations*

10.34 Policy H13 (Gypsy Sites) deals specifically with gypsy sites setting down a presumption in favour of granting planning permission where the sites are small scale and the 9 listed criteria in this policy are met. In this instance, the proposed site is for one Gypsy Traveller family and therefore can be considered to be a small scale site. The first of the criteria in the policy is that such development will not be permitted in the Green Belt unless very special circumstances exist. This test is consistent with paragraph 87 of the Framework.

10.35 Policy E: Traveller sites in Green Belt of the PPTA outlines also that inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances.

10.36 It is accepted in case law that there is no prescribed list of what might constitute very special circumstances. It may be that a single aspect of a proposal may itself be a very special circumstance sufficient to justify development or it may be that a number of circumstances may cumulatively amount to very special circumstances. As Lord Justice Pill said in *South Bucks District Council v Secretary of State for Transport, Local Government and the Regions* [2003] EWCA Civ 687, [2003] All ER (D) 250 (May): *"It is of the essence of very special circumstances that the applicant establishing them is in a very special category"*.

10.37 The challenge for the decision maker is assessing each of the circumstances identified and arriving at a balanced decision.

10.38 A case of very special circumstances has been advanced by the applicant to justify the development. This comprises;

- The absence of up to date policies in the Development Plan to facilitate sufficient future pitch provision adds important further weight; and
- The lack of a five year supply of land for Gypsy site provision; (Referred to below as *b*) *The existing level of local provision and need for sites*)
- The lack of available sites in the area and the undersupply of sites in the Borough which carries significant weight; (Referred to below as '*a*') *The availability (or lack) of alternative accommodation for the applicant*)
- The need of the family to be able to access regular health care. The applicant's family have healthcare needs and they need to maintain a stable place to live to access consistent healthcare; and

- The children's need of a stable place to live to access education. The children from the site are in school and they wish to stay in school, and refusing planning permission would interfere with their education as they do not have any alternative accommodation in the area (or elsewhere); (Referred to below as *c) Other personal circumstances of the applicant and the best interests of the children*)
- There has never been a challenge to the Gypsy status of the family, and there is no reason that that will change, as the family have only ever lived on Gypsy sites or roadside, and they often travel and maintain a Gypsy lifestyle; and (Referred to below as *d) Gypsy Status*)
- The Human Rights of the applicants add weight to the application. (Referred to below as *e) Human Rights*)

10.39 An assessment of the above considerations identified by the applicant together with any other considerations that are relevant are assessed below and weight attributed to them to identify whether on their own or when considered cumulatively amount to the very special circumstances necessary to outweigh the harm identified to the Green Belt.

*a) The existing level of local provision and need for sites*

10.40 PPTS outlines the Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community. Paragraph 4 sets out a series of objectives which are intended to help to achieve this aim. The thrust of the advice is that local planning authorities should assess need and make timely provision for it. This is intended, amongst other things, to increase the provision of lawful sites, reduce the number of unauthorised encampments making enforcement action more effective, reduce tensions between the settled and traveller communities and provide travellers with better access to education, health, welfare and employment infrastructure. Other objectives refer to the need to protect the Green Belt from inappropriate development and safeguard the local environment.

10.41 The Borough Council's assessment of the accommodation needs of the Welwyn Hatfield Gypsy and Traveller and Travelling Showpeople (GTTS) identifies how many residential and transit pitches are needed within the borough.

10.42 There are currently four authorised Gypsy and Traveller sites within Welwyn Hatfield which includes, Holwell, Hertford Road, Cole Green; Barbaraville, Hertford Road, Mill Green; Four Oaks, Great North Road, Oaklands & Mardley Heath; and Two Caravans, Foxes Lane, Welham Green. In addition, there is one temporary site at Thunderbridge Yard, Bulls Lane, Welham Green granted planning permission on appeal for two pitches, which expired in July 2016. Three of the authorised sites are private sites in the Borough and Holwell is the only public site. That site provides 39 pitches with a maximum of 78 caravans (two caravans per pitch).

10.43 There are currently three planning applications under consideration within the Borough relating to the provision of pitches for Gypsy Travellers. These are at Thunderbridge Yard, Bulls Lane, Hatfield to make the temporary permission permanent, Two Caravans, Foxes Lane, Hatfield for; '*no more than 14 pitches comprised of between 9 and 11 static pitches and between 1 and 5 transit*

*itches together with associated touring caravans, utility blocks, play area, parking and alterations to existing layout'*; and Four Oaks, Great North Road, Welwyn for variation of conditions which restricted the permission only whilst children are in full time education and that the caravans are used for residential purposes.

- 10.44 Both the Foxes Lane and Four Oaks sites are proposed for allocation in the Draft Local Plan Proposed Submission 2016. Thunderbridge Yard is not considered suitable for allocation in the Local Plan because this site was granted a temporary permission on appeal on the grounds that it was not suitable for a permanent permission due to its location within Flood Zone 3 where highly vulnerable uses should not be permitted, eg caravans.
- 10.45 With regard to the levels of unauthorised development, there were 43 unauthorised caravans on Census Day July 2016 and 19 on Census Day in January 2016, although this does include travelling show people. In January 2016, monitoring indicates that there have been 19 separate occasions of unofficial/illegal encampments in the borough. Most, but not all of these sites are thought to be attributed to a small number of families moving from one location to another. The Council's Gypsy and Traveller and Travelling Showpeople (GTTS) Accommodation Needs Assessment outlines that there is a need arising from evidence around unauthorised developments. However, the assessment concludes that there is no additional need arising from illegal encampment. The reason for no allowance for illegal encampments is because there was no evidence that such households would meet the planning definition or need a settled base in the borough from which to travel and that the illegal encampment activity has been balanced against an increase in unauthorised development for which an allowance had been made in the needs assessment. Further an allowance was also made in the needs assessment for those on the waiting list for a pitch but currently have nowhere to stay and are typically living on the road side. That report however was undertaken prior to May 2016 when the applicant took illegal encampment on a site adjoining the application site.
- 10.46 Hertfordshire County Council manages the 'public' sites in the county. They manage 11 public Gypsy and Traveller sites across Hertfordshire. Holwell on the A414 is the only publicly managed site in the borough. The GTTS Accommodation Needs Assessment 2016 outlines that at the time of reporting that report, there were 152 applicants on the country wide waiting and transfer list. A welfare check was carried out by Hertfordshire County Council on the 29 April 2016. It outlines that the applicant, her husband and their six children, have been added to the waiting list accommodation on one of the County's 11 gypsy and traveller sites.
- 10.47 The observed demand for pitches, as seen in the context of levels of illegal encampments and unauthorised development and the waiting list for a pitch on a public site, indicates that there is a shortage of authorised pitches, which is unlikely to be met within the traditional housing stock (bricks and mortar). Making provision for additional authorised pitches in the borough would enable Gypsy and Traveller households to have a settled base from which residents can travel, gain access to health services and ensure that children can attend school on a regular basis. It would also help reduce the likelihood of illegal encampments and unauthorised developments, create certainty for communities and where necessary, make enforcement action effective.

- 10.48 Paragraph 27 of the PPTS outlines that if a local planning authority cannot demonstrate an up to date 5 year supply of deliverable sites this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of **temporary** planning permission. There are exceptions, one of which includes where the proposal is on land designated as Green Belts.
- 10.49 Welwyn Hatfield Borough Council recognises the need for new gypsy/traveller pitches. In 2016, the Council carried out a review of the accommodation needs of Gypsies and Travellers and Traveller Showpeople. It identifies a need for 37 pitches between 2016-2021 with an estimated need for a further 24 pitches by the end of the plan period at 2032. It therefore shows there is a need for 61 pitches between 2016 and 2032.
- 10.50 The supply of sites to meet need has been addressed within the Draft Local Plan Proposed Submission (August 2016) which was consulted from 28 August to 24 October 2016. Its likely programme in the Local Development Scheme 2016 shows that the Local Plan will be submitted for examination in summer 2017 and adoption in autumn/winter 2017.
- 10.51 The Draft Local Plan Proposed Submission sets out a mixed strategy for the delivery of additional pitches including the extension of existing gypsy/traveller sites and the allocation of new gypsy/traveller sites as part of the strategic development sites, to meet full need over the plan period. Once the Local Plan is adopted these sites would meet all the needs identified in the Needs Assessment.
- 10.52 Given the stage of the Draft Local Plan Proposed Submission which has undergone consultation, some weight can be attributed to it.
- 10.53 The Draft Local Plan indicates that three private sites are capable of delivery within the first five years of the plan being adopted. In addition, a number of the Strategic Development Sites will have a long delivery period and subject to master planning and phasing, some additional pitches may be capable of delivery within the first five years following plan adoption (by 2022). Therefore, the Council have an emerging up to date 5 year supply and have shown the availability of land for Gypsy Travellers for the next 5 years. The two applications pending consideration at Foxes Lane and Four Oaks, which are mentioned above, form part of the allocated sites within the Draft Local Plan Proposed Submissions and together would provide 18 pitches. Additionally there is a further small one pitch site at Welham Green. The shortfall in the need for additional pitches is planned as part of the overall delivery of the Strategic Development sites across the Borough. Accordingly no weight is attributed to this.
- 10.54 In any event, as outlined at paragraph 27 of the PPTS, even if found that the Council did not have a 5 year land supply, as the site is in Green Belt no weight can be attributed to this.
- a) The availability (or lack) of alternative accommodation for the applicants*
- 10.55 The applicant previously moved onto the application site on the 29 April 2016, where enforcement investigations observed that a motor home and towed caravan had been moved onto the site. An injunction was served on the

applicant to be removed from the site. The family are therefore currently living on waste ground adjacent to the application site on an unofficial encampment, off the Great North Road.

- 10.56 The family were previously residing at a site in Gypsy Lane, adjacent to Toddbury Farm, Leighton Buzzard, Bedfordshire. The family did not own the land and they did not hold a lawful licence. The family left that site because of personal safety issues, which have been outlined within the supporting information submitted with the application. Since leaving that site, the family have stayed at various places, doubled up on other people's sites, on the site of other family members, or by the side of the road. The applicant purchased the site, which had been for sale for a period of time, as it was within the applicant's financial budget and within a location that the applicant has links to. They now live by the side of the road along Great North Road.
- 10.57 As outlined above, a welfare check was carried out by Hertfordshire County Council on the 29 April 2016 which outlines that the applicant, her husband and their six children, have been added to the waiting list accommodation on one of the County's 11 gypsy and traveller sites. The GTTS Accommodation Needs Assessment 2016 outlines that at the time of reporting that report, there were 152 applicants on the country wide waiting and transfer list. There is therefore a high demand for places across the County.
- 10.58 No evidence has been submitted to demonstrate that the applicant has conducted a search for alternative sites outside the borough of Welwyn Hatfield. Additionally detailed information as to why this site has been chosen by the applicant has not been advanced with the application. However, it has previously been acknowledged that sites outside of the Green Belt would be difficult to find within the Borough, which has been considered within previous appeal decisions, namely an appeal for Foxes Lane in this Borough. The Inspector considered that; -
- 10.59 *Much of the Borough is within the Green Belt and I agree with the assessment that it would be unlikely that a suitable site would be available at financially achievable terms outside the Green Belt. Although it would be wrong to prejudge the forthcoming development plan documents it seems unlikely that any sites would be identified outside the Green Belt. The Council has not suggested any such alternatives which are available. I am satisfied that there is a demonstrable lack of alternative locations available to the Appellant. This lack of alternative sites carries significant weight'.*
- 10.60 The applicant purchased the site in 2016 due to personal safety issues from a site that they were residing at in Leighton Buzzard. This site, presumably is to be able to provide a base from which to travel. From the information submitted, it is reasonable to come to the conclusion that the applicant does not have alternative accommodation available to them. To refuse the application is likely to result in the applicant and her family having no certainty of suitable alternative accommodation, other than unauthorised sites and the family are likely to be forced to remain on the road, with no prospect of finding a permanent base from which to travel. Much of the borough is within the Green Belt, and it would be unlikely that a suitable site would be available at a financially achievable terms outside the Green Belt. Additionally, the sites identified in the Draft Local Plan Proposed Submissions (August 2016), albeit the two sites under consideration as mentioned above, are yet to come forward. The circumstances of the applicant



and her family, with a lack of anywhere to go, indicates that there is a personal need for the use of the site for the stationing of one static caravan and one touring caravan as otherwise all the children and intended occupants would be forced to live on the roadside or at unauthorised encampments. Accordingly this need is not in dispute and attracts significant weight.

*c) Other personal circumstances of the applicant*

- 10.61 Details of the medical problems of the applicant have been submitted along with the educational needs of the children. Considerations of health and education have been considered many times at appeal, and paragraph 16 of the PPTA makes clear that, 'Subject to the best interest of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances'.
- 10.62 Evidence has been submitted which supports the health claim that the applicant has health problems including a letter from a local GP. Whilst the health requirements of the applicant is a material consideration, they would appear to be not so out of the ordinary so as to present any special or pressing needs at the present time. It is acknowledged that a permanent base would provide access to a GP, but this is not a reason why this specific site is more appropriate than any other.
- 10.63 In addition to the above, there is also a need to take account of the best interests of the children affected by the application proposals as a primary consideration. The UN Convention: Article 3 (1) of the Convention: states '*in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration*'. The additional information outlines that the applicant's children need to have a settled base from where they will be able to access education.
- 10.64 There are six children, two of which are past school age. The applicant outlines that two of the children attend Stanborough School and two attend Our Lady's Catholic Primary School. They have attended these schools since Spring 2016. This site would provide living space for the family, and therefore the possibility for the children to participate in and continue with their education at the above schools on a regular basis. However, the information provided does not indicate that this is a very special need or that they need to settle on this particular site in order to gain access to appropriate education or indeed the above schools.
- 10.65 Therefore notwithstanding the acknowledged general health problems and low educational attainment within the wider Gypsy community, the needs of the family in these respects appear to be quite commonplace. It is acknowledged that the family need a place to live, and that they have a need to access both health care and educational facilities. Appeal decisions have considered the weight that should be attached to educational and health needs. The majority of appeal decisions acknowledged the often, low educational attainment and poor health of gypsies and travellers. However the amount of weight that has been given does vary.
- 10.66 On the whole, it would appear that where a family is already on a site, has (relatively) significant health problems and have particular educational difficulties, and those particular residents are already being schooled or provided healthcare

within a local practice/hospital, considerable weight is often attached to this as a very special circumstance. However on the other hand the appeal decision letter for Reigate and Banstead (APP/L3625/A/09/2115070) March 2010 outlines that *'some weight should be attached to such matters but there are no specific personal circumstances in this case to warrant giving them significant weight'*.

10.67 Therefore notwithstanding the acknowledged general health problems and low educational attainment within the wider Gypsy community, the needs of the family in these respects appear to be quite commonplace and the children have only been in the stated schools since Spring 2016. Therefore it is considered that they cannot be afforded more than minimal weight to those needs, which could be met from other locations.

*d) Gypsy Status*

10.68 The Gypsy Status of the applicant is outlined above in Part 1 (paragraph 10.2). It was concluded that the applicant are gypsies by definition and that her spouse also comes within the definition in line with the PPTS. However, this provides no weight to the determination of this application.

*e) Human Rights*

10.69 The applicant has raised Human Rights as part of this application. They are a material consideration. This Act came into effect in October 2000 when provisions of the European Convention on Human Rights were incorporated into UK Law. The Act makes it unlawful for a public authority to act in breach of Convention rights unless it could not have acted differently under primary legislation. Any interference with a Convention Right must be proportionate to the objective in question and must not be arbitrary, unfair or oppressive. Some rights are qualified rights, not absolute. It is unlawful for a public authority to act incompatibly with the Convention rights. However, a public authority will not have acted unlawfully under the Act if as the result of a provision of primary legislation (such as another Act of Parliament) it could not have acted differently. The following is a brief summary;

10.70 Article 8 relates to 'Private life and family'. This includes the right to enjoy living in your home without public authorities intruding or preventing you from entering it or living in it. The Article confers the right to the peaceful enjoyment on one's home. The right may be restricted, provided such interference as a proper legal basis, is necessary in a democratic society and is proportionate.

10.71 Protocol 1, Article 1: Protection of property. The right to the peaceful enjoyment of your possessions without interference. A public authority will not breach this right unless a law says that it can interfere with, deprive, or restrict the use of a person's possessions and it is necessary for it to do so in the public interest. The Article requires public authorities to strike a fair balance between the general interest and the rights of individual property owners.

10.72 None of these confer a right to a home but the right to enjoy one's home peacefully. Further, an interference must be weighed against the wider public interest. If the development is considered harmful to the Green Belt and the very special circumstances advanced do not outweigh that harm, then permission should be refused. Therefore, refusal, if necessary would be proportionate, and would not lead to a violation of their human rights under the above Articles.

10.73 In certain limited cases, Article 2: Right to Life, may also apply. This Article imposes a duty on the 'state' (in this case the planning authority) to take positive steps to protect life where it is being threatened. For example, where there is an environmental hazard that poses a very high risk to the life of the people living nearby the Council may have a duty to provide information about that hazard to enable the people to take steps to protect themselves and their family.

10.74 If refusal of this application is considered necessary and proportionate, it is considered that this would not result in violation of the human rights of the applicant or her children. This decision has been agreed with an appeal reference APP/E2001/A/11/2149969, Land at Backcarr Lane, Nafferton, East Riding of Yorkshire.

10.75 Under the UN Article 3, and the primary needs of the children, it is concluded that the occupants do not need to live on the application site for the children to be able to attend the schools they have done since Spring 2016. However, the refusal of this application, would, in all likelihood, leave the applicant and her family without any certainty of suitable alternative accommodation being readily available. This would represent a significant interference with their home and family alike which is considered to carry substantial weight.

v) Any Other Considerations

a) *Worm Farm Appeal*

10.76 The proposed caravans and associated development is found to materially harm the openness and the purposes of including land in the Green Belt. However the application site has an extant planning permission for a worm farm, which included the erection of a building, polytunnels and hardstanding together with a compost storage facility. That permission has been implemented and is a material consideration that holds significant weight in the determination of this application.

10.77 The proposed static mobile home and utility room would be sited in the location of the approved building associated with the worm farm. That approved building had a height of approximately 18.8m wide, 6.5m deep and 4.6m tall. The proposed static mobile building would be approximately 10.5m wide, 3.4m deep and 3.8m tall. The proposed utility building adjacent to this would be approximately 5m wide, 6m deep and 4.2m tall. They would be sited adjacent to each other and subsequently together they would be no larger than that building which has planning permission.

10.78 Whilst that building associated with the worm form has not been constructed, that is an extant permission on the site and could be built at any time. Whilst officers appreciate that it was considered to be 'appropriate development in the Green Belt' as it was associated with the agricultural use of the land, the impact to the openness of the Green Belt was considered by the Inspector who stated;

*'The southern portion of the appeal site would accommodate the proposed single storey building, compost storage facility and vehicular access/parking. The building is shown as a low profile building, whilst the compost storage facility is similarly of low visual impact, being partly screened by slight remodelling of the land form. This part of the appeal site is also heavily dominated by the*

*motorway, which in this locality is no longer raised but is clearly visible from the site.*

*The location of the proposed building is located adjoining the existing mature screening on the edge of the site closest to existing built form in the area. This would minimise the spread of development. The unassuming design, limited scale and sensitive siting of the proposed building, would in this part of the appeal site be suitable for character of the site, and not materially reduce the openness of the Green Belt'.*

- 10.79 The proposed static mobile home and utility building would be no larger than the approved building in this location. It would also be a low profile building with a similar impact. Accordingly, those above comments made by the Inspector are a material consideration that hold significant weight. Therefore given that the proposed mobile home and ancillary block do not impact any more on the openness or the purposes of including land in the Green Belt than the approved building, this weighs in favour of the scheme and those views of the Inspector are relevant in that *'they would not materially reduce the openness of the Green Belt'*.
- 10.80 The proposal includes a touring caravan that would be sited away from the static caravan and further away from the existing built development along Great North Road. This would spread, to some degree, the amount of development onto land which is open and undeveloped. Although, the site is enclosed and flanked by garden land to the north and west and the A1 (M) to the east where the touring caravan would be viewed in association with the static mobile home and is small scale in nature and similar in scale to outbuildings in gardens of properties in the vicinity, nevertheless there would be some harm to the openness and the purposes of including land in the Green Belt as a result.
- 10.81 The proposed acoustic fencing around the mobile home would be at a height of 2m and would have some impact to the openness of the Green Belt by virtue of its physical presence. Additionally this forms a barrier within the site, which extends and spreads the amount of built form further into the site. However, planning permission is not required for the acoustic fencing given it does not exceed 2m in height.
- 10.82 With regard to the proposed fencing around the boundaries of the site, the approved plans for the worm farm, showed this to be a post and wire fence to be retained at a height of 1.4m, which would be inconspicuous to the area. The fence proposed along the frontage of the site is at a height of 1.8m and painted black together with gates at the entrance into the site at a height of 1m. Fencing within the site is at 2m. Given the height of the gates planning permission is not required for these.
- 10.83 Whilst the proposed fence is inappropriate development in the Green Belt, which harms the openness and the purposes of including land in the Green Belt, it is considered that the location of the fence along the boundary with the A1 (M) is not objectionable given that this is not an open countryside site, but enclosed and flanked by garden land to the north and the A1 (M) to the east, which helps to urbanise and dominate the site. Additionally landscaping could be planted along this boundary, which would help to mitigate its appearance, which can be conditioned in the event of an approval.

- 10.84 With regard to the fence along the frontage of the site with Great North Road, at a height of 1.8m, is at a contrast to what was previously a vegetated and inconspicuous site blending into its semi rural setting. By virtue of its physical presence it does impact on the openness and the purposes of including land in the Green Belt. However, whilst the proposed fencing along the frontage of the site is visible from Great North Road, it is set back from the highway retaining a grass verge to the front which contains vegetation. Additionally there are a number of existing driveways to properties with a variety of fencing, walls and entrance gates along Great North Road. Therefore, they are not considered to cause any further impact to the openness or the purposes of the Green Belt than those fences that are already along Great North Road. Additionally the fence will not be unduly out of keeping with the character of the immediate area or impact detrimentally on the visual amenities of the Green Belt. It is therefore considered that the visual amenity of this part of the Green Belt is not materially impacted on as a result of the proposed development.
- 10.85 The creation of the surfaced driveway was required to access the extant permission of the worm farm which is an agricultural use of the land. There is no other means of vehicular access to service and maintain the land. The proposed hardstanding is a similar size to that previously allowed and given that the Inspector considered that this would be acceptable, this weighs in favour of the proposal. Accordingly the proposed access and hardstanding are a similar size and location to that previously allowed and would have no further impact to the Green Belt.
- 10.86 Accordingly, the Inspector's appeal decision for the worm farm is a material consideration that holds significant weight. That decision outlined that there would be no harm to the openness or the purposes of including land in the Green Belt as a result of the buildings and structures associated with the worm farm. This weighs considerably in favour of the proposal. Although, with regard to the proposed touring caravan, this is found to cause harm to the openness and purposes of the Green Belt where substantial weight is given to this.

*b) Sustainable Location*

- 10.87 Whilst the PPTS outlines in paragraph 25 that Local Planning Authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan, the site, as a result of its location, is not an open countryside site, but considered to be an urban fringe location, close to services and facilities in Welwyn Garden City and Hatfield. The site is adjacent to the community and residential properties along Great North Road to the north and west and the A1(M) to the north, where the noise from the traffic using this road are factors which already influence the character and appearance of the area and its general amenity. . Whilst separate from the settlements of Welwyn Garden City by the A1 (M), it is close to the services and facilities and would enable the applicant to integrate themselves with the existing community. Additionally, the development would be in a semi-rural location but would not conflict with paragraph 25 of the PPTS as the site would respect the scale of, and would not dominate the nearest settled community, and would avoid placing undue pressure on the local infrastructure. Furthermore, as outlined previously, given the constraints of the Borough, which is covered by Green Belt, expect for the built up areas, it would be difficult to find land within urban areas for Gypsies and Travellers to settle on. Again, this provides limited weight for the proposal.

*c) That applications should be determined for sites from any travellers and not just those with local connections.*

10.88 The applicant originally resided in Leighton Buzzard until purchasing the applicant site. They sought to move to this area, as they have local connections to this area. This provides no weight to the proposal.

*vi) Balancing exercise*

10.89 Taking account of the various factors considered that the use of the site for a gypsy site and associated development outlined in the report requires a balance between the matters which support the application and those which indicate permission should be refused.

10.90 Against the proposal:

- Harmful by inappropriateness, which carries substantial weight;
- Harm to openness, which carries substantial weight;
- Harm to Green Belt purposes, which carries substantial weight;

10.91 However, set against this cumulative harm, in favour of the proposal;

- No harm to the visual amenity of the Green Belt;
- The existing level of local provision and need for sites which carries no weight;
- The availability (or lack) of alternative accommodation for the applicant which attracts substantial weight;
- The personal circumstances of the applicant along with the best interest of the children, which carries minimal weight;
- The Gypsy Status of the applicant which carries no weight;
- Human rights which carries substantial weight;
- The extant appeal decision of the worm farm which is a material considerations where
- The Inspector concludes that the proposed development would not be materially harmful to the openness of the Green Belt, and would cause no harm to the character and appearance of the buildings which carries substantial weight;
- The extent of Green Belt in the borough, which carries limited weight;
- The location of the site in that it is not an inherently unsustainable location which carries limited weight; and
- That applications should be determined for sites from any travellers and not just those with local connections which provides no weight to the application.

10.92 Overall it is considered that there would be harm to the Green belt by virtue of the proposal being inappropriate together with its impact to the openness and the purposes of the Green Belt. The applicant has submitted a case of very special circumstances to seek to outweigh the harm to the Green Belt. Part of the case seeks to demonstrate that there is no 5 year land supply. However, the Council have addressed the shortfall in the need for additional pitches as part of the overall delivery of the Strategic Development sites across the Borough. In any event, as outlined in paragraph 27 of the PPTS, a lack of a five year supply of deliverable sites is not a significant material consideration when the site is in

Green Belt and this therefore can hold no weight. Additionally the applicant has submitted a number of personal circumstances, which have each been fully discussed. Of these, a number are not considered to have merit to warrant the grant of planning permission contrary to Green Belt policy. A number are considered to individually have limited weight, although the case advanced relating to 'need' and the 'lack of alternative sites' and the human rights have substantial weight. The authority of *Wychavon v SSCLG v Butler* (2008) EWCA Civ 692 makes it clear that the loss of a home for a gypsy family with nowhere else to reside was capable in law of being regarded as a very special circumstance which had to be weighed against Green Belt protection. Given there is a need for Gypsy and Traveller sites, the consequence of refusing this application would be the likelihood of a roadside existence or unlawful occupation of other land.

- 10.93 In addition to the above, other considerations relating to the difficulty in finding any site within the borough outside of the Green Belt due to land constraints and the worm farm appeal decision which provide limited weight and substantial weight respectively, cumulatively provides the necessary very special circumstances to consider granting planning permission.
- 10.94 However, given the stage of the Draft Local Plan Proposed Submission together with two pending applications which could bring about some unmet need, there is a very high expectation that new sites are likely to become available over the next few years. Accordingly it is considered that there is a justification for a temporary permission for a period of three years, given that the planning circumstances will change at the end of the period of the temporary permission. The applicant, within the supporting statement, has indicated that they would be happy with a temporary planning permission.
- 10.95 Additionally, it would be reasonable to make the permission personal to the applicant and her family since the justification for granting the temporary planning permission comes to a significant extent from factors relating to their general need for a site, and the suitability of this site to meet their needs.

#### **4. Assessment of Policy H13**

- 10.96 The current adopted District Plan Policy is H13: Gypsy Sites until the replacement Local Plan is adopted. This policy outlines that planning permission will be granted for small scale gypsy sites where all of the following criteria can be met;
- i. The proposed site is not within the Green Belt, unless special circumstances exist which might exceptionally make such development acceptable;
  - ii. The site has good, safe and convenient access to the road network;
  - iii. The site is conveniently located for schools and other community facilities;
  - iv. The site will not visually encroach into the open countryside;
  - v. The use would not detract from convenient, safe and enjoyable use of a public right of way.
  - vi. The site should either have substantial natural screening or be landscaped and screened with new planting;
  - vii. the requirements of the appropriate design policies and guidance can be met;

- viii. Hardstanding can be provided and the site is capable of being provided with basic facilities including electricity, water supplies, sewage disposal and waste collections,
  - ix. The site will be situated so that it neither affects the visual amenity or character of the area or nearby residents, nor is it effected by any environmental hazards which may affect the residents' 'health or welfare'
- 10.97 As identified above, the proposed development is in the Green Belt and constitutes inappropriate development, in accordance with criteria i) the very special circumstances forwarded by the applicant are considered above. Additionally criteria iv) has been considered above.
- 10.98 Access to the proposed development would be from Great North Road which currently serves the residential properties and commercial uses along this section. The applicant outlines that there would not be a need for regular large vehicles visiting the site. In line with the previous approval for the worm farm, it is considered necessary that a height restrictive bar should be provided at the site to restrict access of larger vehicles, which could be conditioned in the event of an approval. The increase in traffic arising from the proposal is not considered to lead to an appreciable reduction in living conditions for existing residents. Additionally sufficient parking and turning would be provided on the site with no objections raised from Hertfordshire County Council Transport Programmes and Strategy. Additionally the proposal would not be located or impact on a public right of way, consistent with criteria ii) and v).
- 10.99 The site is located on the outskirts of Welwyn Garden City and Hatfield and is close to existing housing. Those towns provide everyday services and facilities, such as schools, medical centres and shops. The nearest bus stop is approximately 230m away from the site. Therefore, on balance, the site is not an inherently unsustainable location or form of development, complying with criteria iii) of Policy H13.
- 10.100 With regard to criteria iv), vi), vii) and ix) Policies D1 and D2 of the District Plan are also relevant and require a high standard of design and that development respects and relates to the character and appearance of the area. Additionally Policy D8 is applicable which requires landscaping. In addition, the Framework in Chapter 7 emphasises the importance of good design in context. Whilst the CLG Good Practice Guide 'Designing Gypsy and Traveller Sites' was withdrawn on 1 September 2015, it still provides some useful and appropriate guidance for Gypsy and Traveller Sites.
- 10.101 As referred to above, the proposals include fencing around the boundaries of the site together with gates to the vehicular entrance into the site, which has already been erected. The fencing is at a height of 1.8m and the proposed gates would be 1m in height, although currently they are higher. Whilst the fencing impacts on the openness and the purposes of including land in the Green Belt, as outlined above, the fencing to the rear, alongside the A1 (M) has limited visual impact. The proposed fencing and gates along the frontage of the site are visible from Great North Road and would provide a sense of enclosure, however there are a number of existing driveways to properties with a variety of fencing, walls and entrance gates along Great North Road and therefore, they are not considered to be unduly out of keeping with the character of the immediate area or impact detrimentally on the visual amenities of the Green Belt. It is therefore considered that the visual amenity of this part of the Green Belt is not materially



impacted on as a result of the proposal. However, it would be beneficial if soft landscaping was planted along the boundaries of the site to reflect and aid the development integrating with the surrounding area, which could be conditioned in the event of an approval.

- 10.102 With regard to the remainder of the development no objections are raised with regard to its appearance and impact to the character of the area as it would be set back from Great North Road and would not have a discernible presence on the character and appearance of the area.
- 10.103 The size and surfacing of the hardstanding has previously been approved with the worm farm application, and therefore this does not compromise the design and appearance of the site any further. The size of the utility block would be of a sufficient size to provide all features recommended.
- 10.104 A hardstanding of a very similar size and location has previously been approved with the worm farm application, together with facilities including electricity, water supplies, sewage disposal and waste collection. Whilst, Welwyn Hatfield Borough Council's Client Services have not commented it is considered that refuse would be able to be provided on the boundary of the site, which could be provided in a safe location off the highway. Accordingly no objections are raised with regard to criteria viii)
- 10.105 It is understood that the site would be connected to foul sewerage via the existing drainage system. With regard to electricity and water given that the site has permission for a worm farm it would seem reasonable that these are able to be supplied to the site. Accordingly, no objections are therefore raised with regard to viii).
- 10.106 With regard to criteria ix), an assessment of the visual amenity of the area has been made in the discussion above. With regard to the effect of the development on nearby residents, it is considered that given the siting and overall size of the proposed development, it would not unduly impinge on the residential amenity that they currently enjoy. The level of activity on the site would similarly not give rise to a level of disturbance harmful to living conditions, given that the site directly adjoins the busy and noisy A1 (M).
- 10.107 Whilst objections have been reived on the basis of house values being affected and difficulties selling homes, these are not planning considerations and therefore cannot be considered as part of this proposal. Overall it is considered that the development would not have a detrimental impact on nearby residents.
- 10.108 The following paragraphs consider noise and vibration, contamination and air quality on the residents' health or welfare. These are all matters that are referred to within Policy H13, to ensure that environmental conditions would not present a significant health impact to future occupants of the site.
- 10.109 The site is located adjacent to the A1(M) and is subject to traffic noise throughout the day and night. The section of the A1(M) adjoining the site, is a very busy stretch of motorway which is often congested. Noise from road traffic is typically excessive and creates high noise levels. Policy R19 of the District Plan requires that proposals will be refused if the development is likely to be affected by unreasonable noise or vibration from other land uses. Policy D1 requires a high standard of design in new development.

- 10.110 The noise assessment conducted highlights the anticipated internal sound levels within habitable areas of the proposed static caravan and anticipated sound levels to outdoor amenity areas. It indicates that day time and night time noise levels would be over those that should reasonably be expected. However, a 2m high acoustic barrier at the site and the proposed utility block will reduce the sound levels to be experienced at the proposed static caravan and the immediate surrounding outdoor amenity areas which would be immediately to the rear of the caravan. It is evident that the acoustic screening would ensure that the immediate external amenity area would comply with the upper guideline from the World Health Organisation (WHO) guideline of 55dB for the day time period.
- 10.111 With regard to internal levels for a standard double glazed static caravan internal values when windows are open at the proposed development would be 40dB in the day time and 33dB at night time. The noise levels in the WHO guidelines are shown to be 35dB in the day time and 30dB at night time. Although the report outlines that where development is considered necessary or desirable, the internal target levels may be relaxed by up to 5dB. These values are considered reasonable in accordance with the British Standard. Alternatively the report outlines that internal sound levels can be adequately met by closing standard double glazed windows. Adequate purge ventilation can be provided by opening a window or roof vent that does not face out to the main road network. Adequate ventilation can also be provided with the implementation of mechanical ventilation to wet rooms and the provision of trickle vents to the glazing units.
- 10.112 Therefore through noise mitigation measures, including the erection of the acoustic fence and the proposal conducted as laid out and with mechanical ventilation, an appropriate level of residential amenity can be achieved at the site that complies with relevant guidance BS 8233:2014. Subject to complying with the noise assessment and the provision of mechanical ventilation within the caravan, which can be conditioned, no objections have been raised from the Council's Environmental Health department with regard to the resulting noise levels at the site. Accordingly, complying with criteria (ix) of Policy H13 and Policies R19 and D1 of the District Plan.
- 10.113 An Air Quality assessment has also been submitted as a result of the close proximity of the site to the motorway. This outlines that the proposed development has the potential to expose future residents to elevated pollution levels. The results of the assessment indicated that predicted pollutant concentrations were below the relevant requirements at all locations across the site. Accordingly exposure of residents to poor air quality is considered unlikely as a result of the proposals, consist with Policies D1, R18 and (ix) of Policy H13 of the District Plan.
- 10.114 Whilst Environmental Health do not object to the development, they request, in the event of an approval, a condition associated with any unexpected land contamination. Accordingly no objections would be raised with regard to Policy R2 as well as H13 in this regard.
- 10.115 It is therefore considered that whilst there are environmental hazards, namely the A1 (M), which will affect the residents, through mitigation, the applicant's health and welfare, would not be detrimentally affected by residing on this site, complying with criteria ix) of Policy H13.

## **5. Other Considerations**

## i) Parking

10.116 The proposed development is for one Gypsy Family who would also run a worm farm business from the site. The proposed static mobile home would provide three bedrooms. The Council's parking standards which are set out within the Council's SPG on Parking outlines that a three bedroom dwelling requires 2.25 parking spaces.

10.117 Additionally, the worm farm would have a few vehicles visiting the site. However, as outlined by the applicant, these would not be excessive. Overall however, given the extent of hardstanding proposed, it is considered that sufficient parking is available on the site. Additionally no objections have been raised from Hertfordshire County Council Transport Programmes and Strategy.

## ii) Wildlife

10.118 The physical works that are proposed as part of the development would not impact upon biodiversity (and wildlife sites) and is therefore acceptable. No objections has been received from Herts Biological Records Centre, although they do suggest a condition with regard to the landscaping of the site and an informative.

## iii) Commercial Use

10.119 Policy F: Mixed planning use traveller sites, of the PPTS outlines that local planning authorities should consider, wherever possible, including traveller sites suitable for mixed residential and business uses, having regard to the safety and amenity of the occupants and neighbouring residents. The proposal also enables a mixed use of the site enabling the applicant to be able to live and work from the same location.

## iii) Representations

10.120 The majority of neighbour representations have been addressed within the report. However, there are still a number that have not been discussed as part of the report, which are discussed below.

10.121 The site has an injunction which restricts the applicant from residing on the land. Notwithstanding this, the application must be assessed based on its own individual planning merits.

10.122 The proposed development is for one Gypsy and Traveller family only. If permission is given and the number of caravans increase on site from that allowed or the number of people, then a separate application would need to be submitted to the local planning authority and would be assessed accordingly.

10.123 Concern has been with regard to the effect of the development to the care home in terms of health and safety. In this instance, it is not apparent that there would be any undue health and safety that would be a material planning consideration to justify the refusal of the application.

10.124 Concerns has been raised that the applicant is trading on site. From a site visit it is not apparent that a business is being run from the site. If the site was to have a business being undertaken, in addition to the worm farm which is included with this application, which would involve a material change in the use of the

land, then planning permission would be required and an assessment would then be made in that regard.

10.125 With regard to the applicant not paying Council Tax, this is a matter that is not within the remit of the local planning authority.

vi) Landscape Plan

10.126 A Landscape Plan has been submitted which was taken from the previous worm farm application and shows that development. There are differences to the proposed scheme and location of buildings and therefore it is appropriate that this plan is excluded from any approved drawings and a condition required for a further landscaping plan reflecting the approved development.

v) Equality

10.127 The Equality Act 2010, which came into effect on 1 October 2010 includes a new public sector Equality Duty, replacing the separate public sector equality duties relating to race, disability, and sex and also covering age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment. Art 11, section 149 provides the following Public sector equality duty on authorities:

*"1) - A public authority must, in the exercise of its function, 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."*

10.128 Welwyn Hatfield Equality and Diversity Policy 2009 and Welwyn Hatfield Equalities Scheme 2008-2011, although both written prior to the above Act coming into effect require the Council to properly consider its duty in relation to this area of legislation. It is therefore necessary for the authority, in consideration of this application, as with consideration of any other application, to ensure that the above requirements have been met.

10.129 The location of the site is adjacent to the community and residential properties along Great North Road. Whilst it is separated from the settlement of Welwyn Garden City by the A1 (M), it is however relatively close to services and facilities which would enable the applicant to integrate themselves with the existing community. It would be difficult, as previously discussed, to find land within urban area for travellers and gypsy's to settle on. The location of this site, which is right on the edge of a built up area would, subject to all other considerations being complied with, be appropriate for a temporary planning permission.

10.130 The refusal of the application would be likely to lead to a return to travelling and a resort to unauthorised encampment because of an immediate

shortage of authorised site. This would reduce equality of opportunity and the opportunity to foster good relations.

#### v) Conditions

10.131 The National Planning Policy Guidance governs the use of conditions in planning and the power to impose conditions when granting planning permission is very wide. If used properly, conditions can enhance the quality of development and enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. The objectives of planning, however, are best served when that power is exercised in such a way that conditions are clearly seen to be fair, reasonable and practicable. Conditions should only be imposed where they are both necessary and reasonable, as well as enforceable, precise and relevant both to planning and to the development to be permitted. In considering whether a particular condition is necessary, both officers and members should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification.

## 11 Conclusion

11.1 The proposal is for a mixed use development for residential use for one gypsy traveller family and worm farm within the Green Belt. The development is inappropriate development where additional harm is caused to the openness and the purposes of the Green Belt. The applicant has submitted a case for very special circumstances to support their application, which together with other considerations are considered to outweigh the identified harm to the Green Belt by reason of inappropriateness and the other identified harm to the openness and the purposes of the Green Belt to enable a temporary permission to be given. This will allow sites allocated in the Proposed Local Plan Submission to come forward.

11.2 All other policy constraints have been addressed and as necessary, conditions are suggested to ensure that appropriate measures are undertaken prior to the occupation of the site. It is therefore considered that the proposal complies with national and local plan policies, together with the Human Rights Act 1998 and The Equalities Act 2010.

## 12 Recommendation

12.1 It is recommended that a temporary planning permission be approved for the Gypsy and Traveller Site and a permanent permission given for the worm farm, subject to the following conditions:

1. The development/works shall not be started and completed other than in accordance with the approved plans and details:

Site Location Plan 2016 & BP-01-07 & UB-01 received 11 May 2016 & WPF-02 received 23 May 2016 & BFSGC-SS-P-04 received 16 June 2016 & Location Plan II & 903/02 received 27 June 2016 received 23 September 2016 & Gates-02 received 7 October 2016 & Noise Impact Assessment Technical Report 24907 R1 by Sound Solution Consultants dated 6 June 2016 and received 10 June 2016

2. The occupation of the site for a Gypsy and Traveller family hereby permitted shall be carried on only by Elizabeth Murphy and her resident dependents and partner and shall be for a limited period, being the period of three years, i.e expiring on 9 December 2019.

REASON: To enable the Local Planning Authority to fully and properly assess its provision of allocated Gypsy and Traveller Sites and pitch numbers in the borough. The fact that temporary permission has been granted on this basis should not be regarded as setting a precedent for the determination of any future applications for full permission for use of the land as a caravan site.

3. There shall be no more than one pitch on the site and on the pitch hereby approved no more than the one static caravan and one touring caravan, as defined in the Caravan Sites and Control of Development Act 1960- and the Caravan Sites Act 1968, as amended, shall be stationed at any time, of which only one caravan shall be a static caravan or mobile home.

REASON: In the interests of the impact of the Green Belt and character of the area in accordance with the National Planning Policy Framework and Policies H13 and D2 of the Welwyn Hatfield District Plan 2005 and to ensure the proper planning of the area.

4. In addition to the static caravan permitted under condition 3, one touring caravan is also permitted on the site in connection with the static caravan. Should the static caravan be removed from the land then the touring caravan associated with it shall also be removed.

REASON: In the interests of the impact of the Green Belt and character of the area in accordance with the National Planning Policy Framework and Policies H13 and D2 of the Welwyn Hatfield District Plan 2005 and to ensure the proper planning of the area.

## **PRE DEVELOPMENT**

5. Notwithstanding the submitted landscaping plan, no development shall take place until full details on a suitably scaled plan of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority.

- a) original levels and proposed finished levels [earthworks to be carried out]
- b) hard surfacing, other hard landscape features and materials
- c) boundary treatments
- d) existing trees, hedges or other soft features to be retained and a method statement showing tree protection measures to be implemented for the duration of the construction
- e) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing
- f) details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife
- g) management and maintenance details

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 D1, D2 and D8 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

6. Details of any external lighting proposed, which should be the minimum necessary, in connection with the development hereby approved, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall not be carried out other than in accordance with the approved details.

REASON: In the interests of the impact of the Green Belt and character of the area in accordance with the National Planning Policy Framework and Policies D1, D2 and R20 of the Welwyn Hatfield District Plan 2005 and to ensure the proper planning of the area.

7. Within two months from the date of this permission, the entrance gates from Great North Road to the front of the site shall be altered to those that are shown on Drawing No. Gates-02 received 7 October 2016.

REASON: In the interest of the visual amenity of the Green Belt and character of the area in accordance with the national Planning Policy Framework and Policies D1 and D2 of the Welwyn Hatfield District Plan 2005.

8. No development shall commence until a Contaminated Land Statement which includes conditions A to D below, has been submitted to the Local Planning Authority and written approval given. 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 9 has been complied with in relation to that contamination.

- (a) Site Characterisation of the site prior to levelling
- (b) A detailed description of the material brought onto the site since levelling has taken place (this should include the sources of the material and the types of material (i.e. brick, concrete etc).
- (c) Inventory of any hazardous materials which may have been brought onto the site and a remediation scheme for dealing with this material which will bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property.

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. 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 must be prepared, which is subject to the approval in writing of the Local Planning Authority.

- (d) Confirmation that approval (and/or exemption) has been sort from the Environment Agency for the transfer and deposit of waste material onto the site for hardcore standing.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and others offsite in accordance with Policies R2 and R7 of the Welwyn Hatfield District Plan 2005.

9. During excavation works the developer shall take account of any changes in ground conditions such as colour variations, any odour or liquid/solid substances encountered. If significant visual or olfactory evidence of contamination is discovered during development it shall be fully assessed and an appropriate remediation scheme shall be submitted to the Local Planning Authority for written approval. Before any part of the development hereby permitted is occupied the developer shall provide written confirmation that all works were completed in accordance with the revised remediation scheme.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and others offsite in accordance with Policies R2 and R7 of the Welwyn Hatfield District Plan 2005.

10. The static caravan and touring caravan hereby permitted shall not be sited other than in accordance with Drawing No. BP-01-07. Any material change to the position of the caravans, or their replacement by another caravan in a different location shall only take place following the written agreement by the Local Planning Authority.

REASON: In In the interests of the impact of the Green Belt and character of the area in accordance with the National Planning Policy Framework and Policies H13 and D2 of the Welwyn Hatfield District Plan 2005 and to ensure the proper planning of the area.

### **PRE OCCUPATION**

11. The static caravan hereby permitted shall not be occupied until a 2 metre high acoustic barrier, in accordance with that detailed in the Noise Impact Assessment Technical Report 24907 R1, has been fully erected in the approved location and acoustically treated mechanical ventilation installed in the static caravan. The fencing and mechanical ventilation, shall be retained and maintained whilst the caravan is sited and being resided in at the application site.



REASON: To enable the occupants a reasonable level of residential amenity in accordance with the National Planning Policy Framework and Policies D1 and R19 of the Welwyn Hatfield District Plan 2005.

12. Before the first occupation/use of the approved development the associated car parking shall be laid out and made available for use. Subsequently the car parking shall be retained in the approved form.

REASON: To provide adequate parking and highway safety for the proposed development in accordance with the National Planning Policy Framework and Policies D1 and M14 of the Welwyn Hatfield District Plan 2005.

13. Before first use of the worm farm, details of an entrance barrier into the site shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the approved details shall be implemented and retained thereafter.

REASON: To provide adequate highway safety for the proposed development in accordance with the National Planning Policy Framework and Policy D1 of the Welwyn Hatfield District Plan 2005.

## **POST DEVELOPMENT**

14. All agreed landscaping comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the first building, the completion of the development, or in agreed phases whichever is the sooner: and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards 8545: 2014.

REASON: To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development in accordance with Policies GBSP2, D2 and D8 of the Welwyn Hatfield District Plan 2005.

15. At the end of the three years, or when the land ceases to be occupied by those named in condition 2 above should this occur earlier, the Gypsy and Traveller use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of this use shall be removed within 28 days.

REASON: The permission has been granted on a temporary basis and the removal of the caravans, structures, equipment and materials are required in the interests of the visual amenity of the Green Belt and character of the area in accordance with the National Planning Policy Framework and Policy D2 of the Welwyn Hatfield District Plan 2005 and to ensure the proper planning of the area.

16. No additional buildings, sheds or utility blocks shall be erected on the site without the prior written approval of the local planning authority.

REASON: In the interest of the visual amenity of the Green Belt and character of the area in accordance with the national Planning Policy Framework and Policies D1 and D2 of the Welwyn Hatfield District Plan 2005.

17. No commercial activities shall take place on the application site, including the external storage of materials, other than for the worm farm hereby permitted.

REASON: In the interest of highway safety and the impact of the Green Belt and character of the area in accordance with the National Planning Policy Framework and Policies D1, D2 and M14 of the Welwyn Hatfield District Plan 2005 and to ensure the proper planning of the area.

18. All buildings, caravans, parking or domestic paraphernalia shall be located within the land outlined in red on the Location Plan II submitted with the application. No buildings, caravans, parking or domestic paraphernalia, other than the approved structures associated with the worm farm and their approved locations, shall be located within the remaining land which forms part of the application site.

REASON: To enable the Local Planning Authority to fully consider the effects of development in the interests of the visual amenity of the area in accordance with Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 and the appropriateness of development in the Green Belt in accordance with the National Planning Policy Framework and Policy H13 of the Welwyn Hatfield District Plan 2005.

19. The private amenity area associated with the caravan shall not take place other than to the north of the static caravan and utility block, as shown on Drawing No. BP-01-07.

REASON: To enable the occupants a reasonable level of residential amenity in accordance with the National Planning Policy Framework and Policies D1 and R19 of the Welwyn Hatfield District Plan 2005.

### **Summary of reasons for grant of permission**

The decision has also been made taking into account, where practicable and appropriate the requirements of paragraphs 186-187 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be inspected at these offices).

### **Informatives**

1. In order to protect breeding birds, their nests, eggs and young, major work activities should only be carried out during the period October to February. If this is not possible then a pre development (same day) search of the area should be made by a suitably experienced ecologist. If active nests are found, then clearance work must be delayed until the juvenile birds have left the nest and are fully independent or professional ecological advice taken on how best to proceed.
2. Where works are required within the public highway to facilitate the 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 (eg street name plates, bus stops, signs or shelters, statutory authority equipment etc) the applicant will be required to bear the costs of such removal or alteration. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website [www.hertsdirect.org/services/transtreets/highways](http://www.hertsdirect.org/services/transtreets/highways) or by telephoning 0300 1234047.

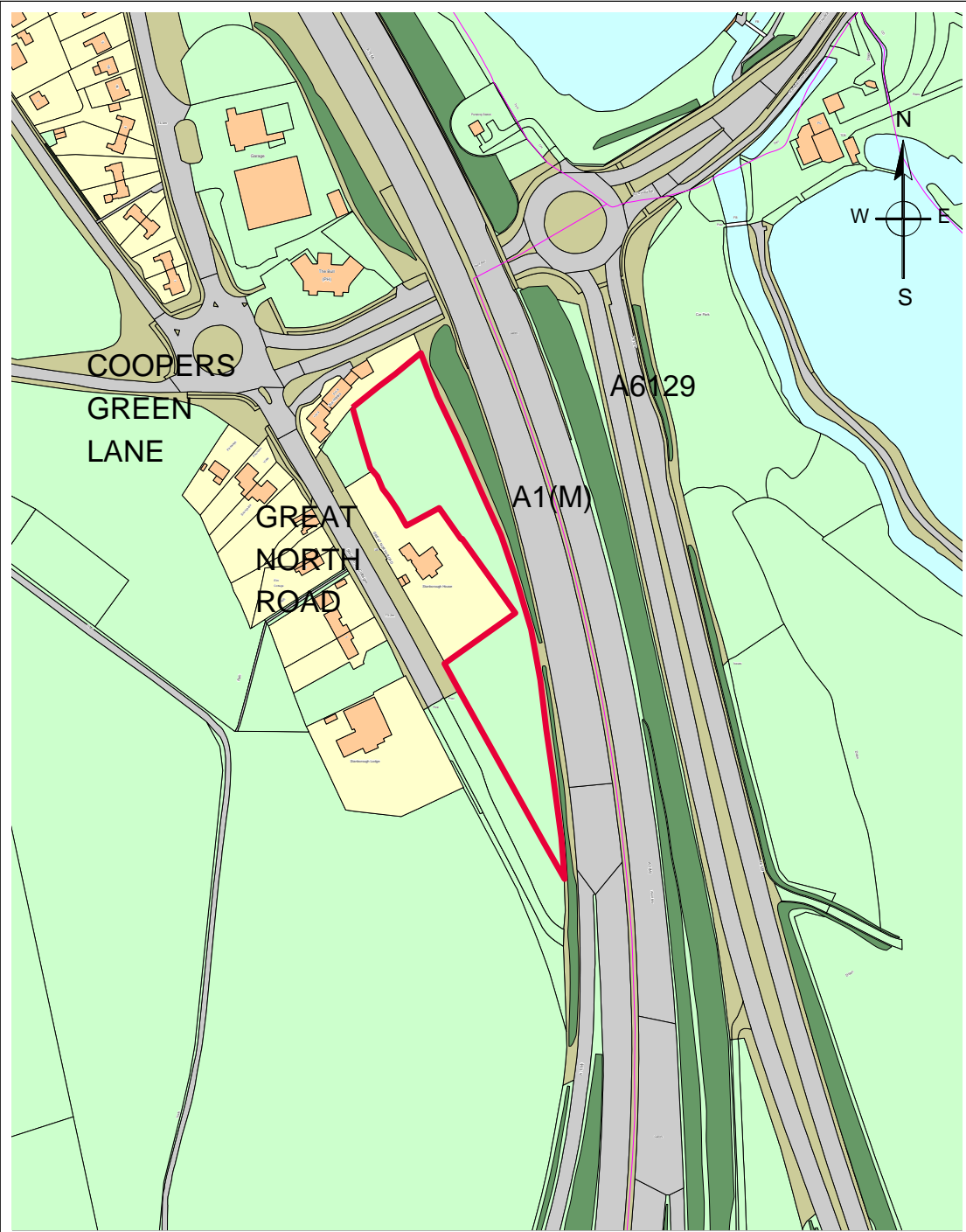
3. The site will require a caravan site licence. The site operator should contact the Council's Environmental Health and Licensing Service to apply for a licence.
4. The development will involve the numbering of properties and naming new streets. The applicant MUST contact Welwyn Hatfield Borough Council, Transportation (Lorraine Davis 01707 357546 before any name or number is proposed. This is a requirement of the Public Health Act 1875 and Public Health (Amendment) Act 1907.
5. Noise control
  1. All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Council, shall be carried out only between the hours of : 8.00am and 6.00pm on Mondays to Fridays 8.00am and 1.00pm Saturdays and at no time on Sundays and Bank Holidays
  2. The best practicable means, as defined in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times
  3. All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturer's instructions
  4. All compressors shall be sound reduced models, fitted with properly lined and sealed acoustic covers, which shall be kept closed whenever the machines are in use. All ancillary pneumatic percussive tools shall be fitted with mufflers or silencers of the type recommended by the manufactures.
  5. All machines in intermittent use shall be shut down during intervening periods between work, or throttled down to a minimum. Noise emitting equipment, which is required to operate continuously, shall be housed in suitable acoustic enclosures.
  6. Items of plant and equipment shall be maintained in good condition so that extraneous noise from mechanical vibration, squeaking or creaking is reduced to a minimum.
  7. All pile driving shall be carried out by a recognised noise reducing system.
  8. Where practical, rotary drills and bursters, actuated by hydraulic or electric power shall be used for excavating hard material
  9. In general, equipment for breaking concrete and the like, shall be hydraulically actuated.

10. BS 5228 Noise Control on Construction Sites? should be referred to for guidance in respect of all work carried out by the developer, their main contractor and any sub contractors.
  11. Any emergency deviation from these conditions shall be notified to the Council without delay
  13. Permissible noise levels are not specified at this stage.
6. Dust control
1. All efforts shall be made to reduce dust generation to a minimum .
  2. Stock piles of materials for use on the site or disposal that are likely to generate dust, shall be sited so as to minimise any nuisance to residents or neighbouring businesses. Materials for disposal shall be moved off site as quickly as possible.
  3. Water sprays shall be used, as and when necessary, to reduce dust from particularly "dusty" activities or stock piles.

*Sarah Smith*, (Strategy and Development)  
Date 18 November 2016

Background papers

Appendix 1  
Worm Farm Appeal Decision – APP/C1950/A/13/2196624



<div data-bbox="239 1601 446 1680" style="border: 1px solid black; width: 130px; height: 35px; margin-bottom: 5px;"></div> <div data-bbox="239 1691 446 1736" style="font-size: 8px;">             Council Offices, The Campus,              Welwyn Garden City, Herts. AL8 6AE           </div>	Title: <b>Land Adjacent to Great North Road, Stanborough, WGC</b>		Scale: DNS
	Project: <b>DMC Meeting</b>		Date: 2016
	Drawing Number: <b>6/2016/0913/FULL</b>		Drawn: <b>Andrew Windscheffel</b>
© Crown Copyright. All rights reserved Welwyn Hatfield Borough Council LA100019547 2016			