

REFERENCE NO: CR/2021/0243/FUL

LOCATION: [LAND EAST OF RADFORD FARM \(AND WEST OF THE ACCESS ROAD TO THE THAMES SEWERAGE TREATMENT WORKS\), RADFORD ROAD, CRAWLEY, WEST SUSSEX](#)

WARD: Pound Hill North & Forge Wood

PROPOSAL: MATERIAL CHANGE OF USE OF LAND TO A GYPSY AND TRAVELLER SITE FOR 2 PITCHES EACH WITH 3 CARAVANS AND ASSOCIATED OPERATIONAL DEVELOPMENT (HARDSTANDING, ACCESS TRACK, SHARED PACKAGE TREATMENT PLANT, AMENITY BLOCKS, SHEDS, KENNEL /DOG RUN AND POST AND RAIL FENCING) - RETROSPECTIVE

TARGET DECISION DATE: 1 October 2021

CASE OFFICER: Mr M. Robinson

APPLICANTS' NAME: Messrs M & P Casey

AGENT'S NAME: Mrs Alison Heine

PLANS & DRAWINGS CONSIDERED:-

Drawing Number	Revision	Drawing Title
CBC 0003		Outbuildings for Pitch 1
CBC0004		Outbuildings for Pitch 2
CBC0001		Site Location Plan
CBC0002		Site Layout Plan

CONSULTEE NOTIFICATIONS & RESPONSES:-

- | | | |
|---|--|--|
| 1 | GAL Planning Department | No comment received |
| 2 | GAL Aerodrome Safeguarding | No objection subject to conditions to control landscaping and lighting. An additional comment highlights that the site is safeguarded for a potential additional runway and an informative is recommended if permission is to be granted. |
| 3 | Environment Agency | Objection: The development is a retrospective application for a highly vulnerable use partly within an area of medium flood risk. There is insufficient information of the sites " <i>old and new elevations and evidence that this will neither increase flood risk nor pose a danger to the type of development proposed for this application.</i> " |
| 4 | WSCC Highways | No objection. |
| 5 | National Air Traffic Services (NATS) | No objection. |
| 6 | Thames Water | No comment received. |
| 7 | CBC Drainage Officer | Objection: Whilst matters relating to the safety of future occupants could be dealt with by conditions, the applicant has not demonstrated that the increase in the land levels in flood zone 2 would not result in increased levels of flooding off-site. |
| 8 | CBC Housing Enabling & Development Manager | No comments received. |
| 9 | CBC Planning Arboricultural Officer | No objection. The Tree Preservation Order protecting the trees around the site has taken into account the existing development and as no other development is proposed that would be detrimental to the trees the development is considered acceptable |

10	CBC Environmental Health Officer	<p>Objection: <i>The supporting documentation from the application has considered the use of recent noise exposure contours and this is not consistent with local and national policy. The local policies should be interpreted with reference to the noise exposure contours in the 2003 Airport Masterplan and the future prediction of noise exposure which is considered by the Aviation Noise Policy Statement with the proposed second wide spaced Southern Runway. The wide spaced Southern runway remains an alternative option if the Heathrow third runway is not viable and land continues to be safeguarded for that purpose.</i></p> <p><i>On that basis against the predicted noise exposure contours the land falls within the Unacceptable Exposure range for dwellings of conventional construction (i.e., of substantial construction) by reference to the existing local policy. The application is for dwellings that are of considerably less substantial construction and as such would need to be exposed to much lower sound levels to protect the residents.</i></p> <p><i>Even looking at a base case scenario with no runway for Gatwick in 2028 the contours have expanded, and the site is well within the 57 daytime contour and close to the 60 contour. This is an unacceptable exposure level for dwellings of this nature. It is probable that the site will also experience LAmax levels that would result in unacceptable exposure levels (both externally and internally).</i></p> <p><i>The impacts of exposure are based on cognitive diminution, health and annoyance criteria. There will be little respite from the sound levels either outside or within the dwellings. Therefore, we recommend that the application is refused</i></p>
11	CBC Refuse & Recycling Team	No comments received
12	Southern Water Ltd	The site is outside the area that Southern Water covers for water supply.
13	CBC Energy Efficiency & Sustainability	No objection. No buildings are proposed requiring building regulation approval. The sustainability policies do not therefore apply
14	Archaeology Officer	<p>Comments –</p> <p><i>“The site therefore should be considered to have a high potential to contain Late Iron Age features..., likely to be of considerable regional significance, and also sensitive to changes in land use – ground disturbance at all levels and changes in water levels for example cause deterioration, truncation, or complete destruction of surviving remains. The Archaeological Impact Assessment also provided some information about the expected below ground impact associated with the proposals to date; this included some relatively small-scale groundworks associated with fencing and a package treatment plant, but also some more widespread but far shallower ground impacts from grass clearing, provision of hardstanding and access. Ideally these works will have been undertaken in association with an archaeological scheme of work in order to mitigate any potential impact. However, based on the information available, I consider that due to the fairly limited scale/depth of groundworks, that the likelihood of these works impacting on a Heritage Asset is relatively small. Turning to the future proposed change of use of the land, there remains the potential for regionally significant archaeological remains to be present and sensitive to any further ground impacts. Should the permission be granted, the Council should be satisfied that the possibility of future intrusive work and the effects of long-term attrition from occupation, vegetation planting, etc. can be minimised...”</i></p>
15	Ecology Officer	No comments received. An update will be provided to the Committee
16	WSCC Lead Local Flood Authority	Comments: Due to scale of this development, we have no comments with regards to surface water risk to submit for this application. WSCC

Lead Flood Authority is not the SuDS Approval Body (SAB) in this matter. As the site is partly in an EA Zone 2 Flood Risk area the Environment Agency may wish to comment.

Comments: There is an existing developable 10 pitch site allocation based on the Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessment from Jan 2021. There have been no other requests made for a Gypsy, Traveller and Traveling Showpeople Site through the Councils' Housing Register process. In addition to the allocated site, the same Local Plan Policy (adopted Policy H5/draft Policy H8), outlines the criteria upon which any other Gypsy, Traveller and Travelling Showpeople proposals will be assessed. This allows for private sites in appropriate locations to be considered positively. *"No representations have been made requesting an immediate site or promoting a site through any of the Local Plan Review consultations, carried out:*

- *July – September 2019 (Regulation 18 Early Engagement consultation)*
- *January – March 2020 (Regulation 19 Initial Publication consultation)*
- *January – June 2021 (Regulation 19 Second Publication consultation)*

No representations have been received by the council in relation to the draft Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessment. Should any have been made these would have been taken into account as part of the Local Plan Review in considering either bringing forward the reserve traveller site or if any alternative sites had been promoted assessing their suitability through the Sustainability Appraisal/Strategic Environmental Assessment process."

Broadfield Kennels Site

Crawley is an extremely constrained borough. The extensive land use survey undertaken in advance of the current adopted Local Plan (December 2015) concluded the Broadfield Kennels site was the only site the council could propose as a Gypsy and Traveller pitch site for allocation. Other sites considered were constrained by flooding and/or aircraft noise particularly. Appendix D of the GTTS ANA sets out the site criteria for identifying Traveller sites. Appendix E summarises the consultation undertaken and conclusions to identify the Broadfield Kennels site as part of the site allocations consultation undertaken in 2013 (against the other site option the council had been able to narrow for the purposes of consultation).

Broadfield Kennels was confirmed to be an acceptable location for the reserve Gypsy and Traveller pitch site through the adopted Local Plan examination, as set out in the independent Planning Inspector's report (November 2015), paragraphs 68-69. Paragraph 70 of the Inspector's report supports the criteria established by Policy H5 for assessing other proposals for permanent or transit sites for travellers."

NEIGHBOUR NOTIFICATIONS:-

The Nest;
 Cobblers;
 Radfords Farm;
 The Dolphins;
 Warwick Cottage;
 Little Deben;
 Brookside;
 Lincova;

Greenford;
Mayfield.

RESPONSES RECEIVED:-

Reponses have been received from 78 different addresses **objecting** to the proposal on the following grounds:

The Principle of the Development

- Concerns that this will set a precedent for future expansion
- The proposal should not be accepted at this inappropriate location just because the application is retrospective
- It will set a precedent for similar development in the area
- There are already enough traveller pitches within 5 miles
- New build housing should take priority

Nearby Residents' Amenities

- Disruption to the area
- Increased crime
- Impact upon residential amenities and living conditions
- Extra larger vehicles will lead to disruption and noise
- More pollution on roads
- Detrimental to youth health and enjoyment of the outdoors
- Kennels (dogs) are noisy for neighbours
- Light pollution from the site
- Increased anti-social behaviour

Character of the Area

- Loss of open space
- Harm to character of the rural area and out of keeping in a street of established detached housing
- Inappropriate use, better used as a park or dog walking area
- Light pollution from the site

Flooding, Drainage, Sewage and Contamination

- Increased flooding
- Extra inhabitants will add to flooding issues
- Disposal of sewage
- No contamination check on the materials laid
- It will potentially block a culvert adding to drainage issues and flooding in the area

Heritage Issues

- Effect on Listed building
- Impact on archaeology

Gatwick Airport

- Unacceptable development within Gatwick safeguarding area
- Unacceptable noise from Gatwick Airport on future residents

Ecology and Trees

- Loss of trees
- Harm to nature
- Kennels and dogs cause harm to wildlife/nature
- Protected species in the area already affected
- Protected trees have been felled

Impacts on Operation of the Highway

- Increase in traffic on busy road
- Unsuitable access

- Increased traffic will be dangerous to children walking to school
- Cumulative impact upon roads when taking into consideration nearby developments

Infrastructure Impacts

- Not enough amenities in the area to support the application
- School is already over subscribed
- Lack of medical facilities

Other

- Will generate waste
- Public health risk

Non-planning Matters

- Loss of house value
- Nomadic lifestyle not protected by Human Rights Act
- The Council could home the homeless
- Contrary to covenants on neighbour's property
- It effects the human rights of others to enjoy their homes

One representation has been received stating it has **no objection** to the development.

REASON FOR REPORTING TO COMMITTEE:-

The application is being reported to Committee at the discretion of the Head of Economy and Planning due to the significant public interest in the application.

THE APPLICATION SITE:-

- 1.1 The site is an area of former paddock/woodland to the north of Radford Road. The total area of the site is approximately 0.7ha, but the developed part to which this application applies is approximately 0.23ha of the total site. The developed part of the land is located towards the centre and north edge of the site and comprises an area of hardstanding raised between 0.3-0.5m from the original ground level, constructed of what appears to be building waste and topped with road scalplings. The development is accessed from the existing access shared with Radford Farm to the west. The hardstanding is fenced and divided into three distinct areas comprising:
 - a) the shared access areas adjoining the existing vehicular access point onto Radford Road to the south, adjacent to Radford Farm. The access comprises a relatively narrow strip along the southern part of the hardstand area.
 - b) an area to the west and north end of the site occupied by one family group, with a main mobile home, two ablution blocks in portable buildings and a touring caravan. This site is occupied by one family with their children.
 - c) an area to the east and north end of the site occupied by another family group with one main mobile home, two ablution blocks in portable buildings and two touring caravans. This area is occupied by a family with children and the parents.
- 1.2 At the northern end of the hardstanding area between the two mobile homes a water treatment plant has been installed that is discharging into a ditch to the north.
- 1.3 The boundaries and the areas of the site are separated from each other and the surrounding retained woodland by approximately 1.2m high post and rail timber fencing.
- 1.4 Although a small area of trees has been cleared from the eastern side of the hardstanding to the Thames Water access road to the east of the site, the trees to the south along Radford Road, along the east boundary with the access Road and along the north boundary have in the main been retained.
- 1.5 There is a small abandoned building outside the site to the north west of the site, within the applicants' ownership.

- 1.6 As noted earlier, the site uses what was an existing vehicular access point onto Radford Road in the south-east corner of the site close to the access for Radford Farm. It has been extended to the north and adjoins the main area of hardstanding at its south west corner.
- 1.7 In terms of the sites wider context, the site is surrounded by the following:
- a) to the north beyond the retained trees and shrubs is open countryside,
 - b) to the north west, and also owned by the applicant and accessed from this site is an area of woodland.
 - c) to the immediate west is the grade II Listed Radford Farm (a house) and its gardens.
 - d) to the south is Radford Road and beyond this a number of larger detached houses facing onto Radford Road.
 - e) to the east is the access to the Thames Water sewage plant and beyond this open countryside.
- 1.8 The site is also subject to the following constraints (relevant policy numbers listed below):
- a) Safeguarded for a second runway. – GAT2.
 - b) the southern part of the site is within Environment Agency Flood Zone 2.
 - c) the site is within the 57dba and close to the 60 dba noise contours. – GAT1, ENV11 and the Noise Annex.
 - d) the site would be within the 69dba and close to the 72dba noise contours if the southern runway safeguarded by policy GAT2 was to be delivered. – GAT1, GAT2, ENV11 and the Noise Annex.
 - e) the site is also an Archeologically Sensitive Area – Iron Age Cremation Cemetery. – CH12.
 - f) Outside the built up area boundary within the North East Crawley High Woodland Fringe. – CH9.
 - g) Tree Preservation Order to the retained trees around the site.

THE PROPOSED DEVELOPMENT:-

- 2.1 The proposal seeks planning permission to change the use of the land two gypsy/traveller pitches and retain the works set out in the description in the application site in paragraphs 1.1 to 1.4 above.
- 2.2 The applicant has submitted the following documents in support of the application:
- a) Noise report
 - b) Flood Risk Assessment
 - c) Preliminary Ecological Assessment
 - d) Archaeological Impact Assessment
 - e) Planning, Design and Access Statement
 - f) Evidence of gypsy status statement

PLANNING HISTORY:-

- 3.1 In 1971 an outline application to erect 3, 4 or five dwellings houses was refused. The refusal reasons included the impact from noise from Gatwick Airport, that part of the site had been previously subject to flooding and there would be harm to the rural open character of the area around Gatwick Airport. Ref DH/R/71/495.
- 3.2 In 1973 an outline planning application to erect 9 houses on a larger site that included the current application site, was refused. The refusal included a refusal reason on the basis that the site had flooded in 1968 and development would be undesirable and would adversely affect the interests of the Thames Conservancy, there would be harm to the rural open character of the area around Gatwick Airport, and the previous refusal reasons set out in DH/R/71/495 had not been addressed. Ref. DH/R/73/832.

3.3 In 1975 an application was submitted to retain a mobile home on land immediately to the west of the current application site. This is within the blue line for the current application but is outside of the current application site. Ref CR/502/75. The appeal was dismissed and in 1977 an enforcement notice (ref. ENF/1977/0011) was issued requiring the following:

- 1) The discontinuance of the said use of the land for the siting of a caravan as living accommodation.
- 2) The removal of the caravan from the said land.
- 3) Restoration of the said land to its former condition.

The enforcement notice has not been withdrawn or found to be a nullity and still therefore applies to this area of land.

3.4 There is an Enforcement Notice that applies to the site and a Stop Notice that applies to the wider site. The enforcement notice requires the following:

“5.1 Cease the use of the land for the stationing of mobile homes for the purposes of human habitation.

5.2 Remove the mobile homes identified as A and B on the attached plan, any touring caravans and ancillary buildings, including the portable building identified as C on the attached plan, from the Land and remove any resulting debris and any domestic paraphernalia associated with any residential use of the land.

5.3 Break up the hardstanding and access drives in the approximate positions shown in green on the attached plan to the notice and remove the resulting debris from the Land.

5.4 Excavate and remove any sewerage and water pipes and plant from the site and backfill where the pipes and plant has been removed from with topsoil.

5.5 Following compliance with 5.1 to 5.4 above, reinstate the finished land levels on the land to where they were prior to the unauthorised change in the use of the land to a residential caravan site.

5.6 Following compliance with 5.1 to 5.5 above reseed the areas within the area marked in green on the attached plan with grass. “

The Enforcement Notice is the subject of an appeal and no decision has yet been taken by the Planning Inspectorate. Ref ENF/2021/0058.

PLANNING POLICY:-

At a National Level the following documents are relevant.

4.1 National Planning Policy Framework (NPPF 2021)

4.2 Planning policy for traveller sites (PPTS 2015)

At the Local Level the following documents are relevant:

Crawley Borough Local Plan 2015-2030 (CBLP2015)

This document was adopted on December 2015 and the following policies are relevant to this application:

4.3 SD1: Presumption in Favour of Sustainable Development:

This sets out how the Council will take a positive approach to approving development which is sustainable in line with the planned approach to Crawley as a new town and its spatial development patterns relating to neighbourhood principles.

4.4 CH2: Principles of Good Urban Design:

States that in order to assist in the creation, retention or enhancement of successful places. In particular, development proposals will be required to:

*“(a) respond to and reinforce locally distinctive patterns of development and landscape character and to protect and/or enhance heritage assets,
(b) create continuous frontages onto streets and spaces enclosed by development which clearly defines private and public areas,
(c) create public spaces and routes that are attractive, safe, uncluttered and which work effectively for all in society including disabled and elderly people,
(d) make places that connect with each other and are easy to move through,
(e) provide recognisable routes, intersections and landmarks to help people find their way around,
(f) consider flexible development forms that can respond to changing social, technological and economic conditions,
(g) provide diversity and choice through a mix of compatible development and uses that work together to create viable places that respond to local needs”.*

- 4.5 CH3: Normal Requirements of all New Development:
Development should be based on a thorough understanding of the significance and distinctiveness of the site and its wider context and demonstrate how attractive or important features of the site will be retained. These include: views, landmarks, footpaths, rights of way, trees, green spaces, hedges, other historic landscape features or nature conservation assets, walls and buildings. Developments will also need to be of high quality in terms of their urban, landscape and architectural design and relate sympathetically to their surrounds in terms of scale, density, height massing, orientation, views, landscape, layout, details and materials. Development should also provide/retain a good standard of amenity for future occupants or cause harm to the amenity of the surrounding area, including through traffic generation, general activity. Development should demonstrate compliance with Secured by Design and meet the requirements for its safe and proper use, in particular in regard to access, circulation and manoeuvring and in this case vehicle parking. Individual or groups of trees that contribute positively to the area should be retained and where any are lost replacement tree planting should accord with the standards set out in policy CH6.
- 4.6 CH4: Comprehensive Development and Efficient use of Land:
Development proposals must use land efficiently and not unduly restrict the development potential of adjoining land, nor prejudice the proper planning and phasing of development.
- 4.7 CH6: Tree Planting and Replacement Standards:
Sets out that where development would result in the loss of trees these should be identified and replaced to mitigate the visual impact from the loss of canopies. The requirement for replacement trees is based on the size of the trees to be lost and this is expected to take place on site or be subject to commuted payments for planting elsewhere.
- 4.8 CH9: Development Outside the Built-Up Area:
This policy seeks to ensure that Crawley’s compact nature and attractive setting is maintained. Where harm to the landscape cannot be avoided appropriate mitigation or compensation will be required. All proposals must recognise the individual character and distinctiveness and the role of these areas/edge. The site is within the North East Crawley High Woodland Fringe and this states that proposals which do not create or are able to adequately mitigate visual/noise intrusion are generally supported. This area has an important role in maintaining the separation of the distinct identity of Gatwick Airport from Crawley. Proposals which do not create or are able to adequately mitigate visual/noise intrusion are generally supported.
- 4.9 CH12: Heritage Assets:
All development should ensure that Crawley’s heritage assets are treated as a finite resource, and that their key features or significance are not lost as a result of development.
- 4.10 H5: Gypsy, Traveller and Travelling Showpeople Sites:

“Site Provision

The following site is allocated on the Local Plan Map as a reserve Gypsy and Traveller site for up to ten pitches to meet the future needs of the existing population within Crawley. This site is considered to be critical to the delivery of future Gypsy and Traveller pitches in Crawley and is identified as being ‘developable’ in years 6-10 or 11-15 (2020/2021 – 2029/2030) of the Plan, dependent on when the ‘need’ arises.

- *Broadfield Kennels, southwest of the A264*

Acceptable development of this site will include adequate highway and pedestrian and cycle access being achieved, along with appropriate design, layout and landscaping to ensure the requirements of the AONB Management Plan are satisfied and the impacts of development adjacent to the country park are mitigated. Both the landscape character and ecological value of the Broadfield Kennels site will be assessed, and any harmful impacts will be adequately mitigated if required.

Ongoing monitoring of Gypsy, Traveller and Travelling Showpeople accommodation needs within Crawley will ensure that any identified ‘need’ for a Gypsy and Traveller pitch is accommodated on the reserve site.

Criteria for Assessing other Proposals

Proposals for a new permanent or transit Gypsy, Traveller and Travelling Showpeople site will only be considered suitable if the proposed site:

- a) is not subject to existing or predicted air, road and/or rail noise in excess of 57 decibels for permanent sites, 60 decibels for long term temporary sites of up to one month, and 66 decibels for temporary sites;*
- b) does not create a design and amenity impact that is incompatible with the surrounding area, particularly when located within residential areas or on land beyond the Built-up Area Boundary;*
- c) is not located in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans;*
- d) is in a sustainable location that reduces the need for long distance travelling, and to reflect traditional lifestyles, whereby some travellers live and work in the same location;*
- e) avoids placing undue pressure on infrastructure and community services; and*
- f) meets an identified local need for Gypsy, Traveller and Travelling Showpeople accommodation.*

Where proposals are located in areas predicted to be noise affected at some point in the future, temporary planning permission may be appropriate.”

4.11 ENV1: Green Infrastructure:

Crawley’s multi-functional green infrastructure, both urban and rural will be conserved and enhanced.

4.12 ENV2: Biodiversity:

All development proposals will be expected to incorporate features to encourage biodiversity where appropriate, and where possible enhance existing features.

4.13 ENV8: Development and Flood Risk:

Development proposals must avoid areas which are exposed to flooding and must not increase the risk of flooding elsewhere.

4.14 ENV11: Development and Noise:

Sets out the Councils policy to protect quality of life from unacceptable noise impacts. It advises that residential and other noise sensitive development will be permitted where it can

be demonstrated that users of the development will not be exposed to unacceptable noise disturbance from existing or future uses. To achieve this, this policy should be read in conjunction with the Local Plan Noise Annex.

4.15 IN3: Development and Requirements for Sustainable Transport:

Development should be located in locations where sustainable travel patterns can be achieved through the use of the existing transport network including public transport and the cycling and walking network.

4.16 IN4: Car and Cycle Parking Standards:

Development will be permitted where the proposals provide the appropriate amount of car and cycle parking to meet its needs.

4.17 GAT2: Safeguarded Land:

The site is within the area identified in the Local Plan Map which will be safeguarded from development which would be incompatible with expansion of the airport to accommodate the construction of an additional wide spaced runway (if required by national policy). Proposals for development such as changes of use and small scale building works may be acceptable, and permission may be granted on a temporary basis where appropriate, however Gatwick Airport will be consulted on all applications within the safeguarded area.

4.18 The following Supplementary Planning Documents are also relevant:

- Green Infrastructure SPD - This includes specific guidance in regard to trees and the landscape areas outside the built up area boundaries, including the North East Crawley High Woodland Fringes
- Planning and Climate Change SPD
- Urban Design SPD - This includes the Council minimum vehicle and cycle parking standards.

Regulation 19 Draft Crawley Borough Local Plan 2021-2037

4.19 This has been subject to public consultation but is at a relatively early point in its adoption process. The following policies should therefore only be accorded limited weight in the decision making process.

- SD1 Presumption in Favour of Sustainable Development
- SD2 Enabling Healthy Lifestyles and Wellbeing
- CL1 Neighbourhood Principle
- CL2 Making Successful Places – Principles of Good Urban Design
- CL8 Development Outside the Built-Up Area
- DD1 Normal Requirements of All New Development
- DD4 Tree Replacement Standards
- DD5 Aerodrome Safeguarding
- HA1 Heritage Assets
- HA4 Listed Buildings and Structures
- HA7 Heritage Assets of Archaeological Interest
- GAT2 Safeguarded Land
- H1 Housing Provision
- H8 Gypsy, Traveller and Travelling Showpeople Sites
- GI1 Green Infrastructure
- GI2 Biodiversity Sites
- GI3 Biodiversity and Net Gain
- EP1 Development and Flood Risk
- EP4 Development and Noise
- ST1 Development and Requirement of Sustainable Transport
- ST2 Car and Cycle Parking

- Noise Annex

PLANNING CONSIDERATIONS:-

5.1 In addition to a consideration of the principle of the development at this location and whether the development meets an identified local need for Gypsy, Traveller and Travelling Showpeople Accommodation, the following considerations are key determining for this planning application:

- The amenities of occupiers on the site including the impact of noise from Gatwick Airport
- Visual amenity, the street scene and the character of North East Crawley Rural fringe
- Nearby occupiers' amenities
- Drainage and flood risk
- Sustainability
- Infrastructure impacts
- Trees
- The operation of the highway
- Heritage Assets
- Biodiversity

The Principle of the development and whether the development meets an identified local need for Gypsy, Traveller and Travelling Showpeople Accommodation.

5.2 There are two main policy considerations that are considered applicable in assessing whether the principle of the development of this site as Gypsy and Traveller Accommodation is acceptable, these are:

- Policy GAT2: Safeguarded Land and whether the development/use is compatible with the safeguarding of land for a second wide spaced runway at Gatwick Airport and;
- Whether the development meets an identified local need as required by Policy H5: Gypsy, Traveller and Traveling Showpeople Sites, within the context of the national Planning Policy for Traveller Sites 2015.

Policy GAT2 – Safeguarded Land

5.3 The site is located wholly within the area safeguarded for a potential additional wide spaced runway for Gatwick Airport. A decision on increasing airport capacity within the south east of England and whether or not land should continue to be safeguarded at Gatwick is still awaited from the Government and the land therefore is still subject to protection from inappropriate development that would prejudice the delivery of an additional wide spaced runway at this location. Policy GAT2 of the Crawley Local Plan 2015-2030 reflects this position and seeks to restrict development within this area to minor development, such as changes of use and small scale building works such as residential extensions.

5.4 The level of works undertaken on the application site are not considered to be minor, as they comprise a quite substantial area of hardstanding, and the change of use of the site from an agriculture/paddock use to a residential use.

5.5 The development has resulted in building works and a change of use of the site that provides two pitches for numerous caravans for residential occupation. It is considered that the increase in the number of people living in this area on the two pitches, creates a constraint and would increase the costs and complexity of the development or operation of an additional wide spaced runway. It is therefore considered that the proposal would be contrary to National Aviation Policy and GAT2 of the Crawley Borough Local Plan 2015-2030 that seek to safeguard this land to allow the potential delivery of an additional wide spaced runway at Gatwick Airport. The development of the site as undertaken is therefore not considered to be acceptable in principle.

Whether the development meets an identified local need for Gypsy, Traveller and Travelling Showpeople Accommodation.

- 5.6 The Planning Policy for Traveller Sites 2015 (PPTS) sets out the Government's planning policy for such uses. Paragraph 2 states that
"Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. This policy must be taken into account in the preparation of development plans, and is a material consideration in planning decisions."
- 5.7 Policy H of the PPTS provides specific national guidance on determining planning applications for traveller sites. Paragraph 22 reiterates the requirement for applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 24 states that

"Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) the existing level of local provision and need for sites*
- b) the availability (or lack) of alternative accommodation for the applicants*
- c) other personal circumstances of the applicant*
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
- e) that they should determine applications for sites from any travellers and not just those with local connections.*

However, as paragraph 16 makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances."

- 5.8 For the purposes of the PPTS "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 showpeople or circus people travelling together as such". The agent has provided confirmation of the applicants' Gypsy/Traveller status. Evidence has been provided that the site is being occupied by two related extended families with children of school age attending local schools.

- 5.9 The supporting statement sets out that the applicant has acquired the land due to a change in circumstances (medical) and because of Covid-19 restrictions which led to the family being displaced from their previous site (its location is not stated). The men travel to work and have a nomadic lifestyle whilst the women have ceased travelling temporarily to assist with medical issues and to help the children attend school. Attendance at traveller events has been limited by Covid-19.
- 5.10 Whilst accepting they form part of an established Gypsy/Traveller family related to most of the larger traveller families across Kent, Oxford and the UK, no evidence has been supplied of a local connection to Sussex/Crawley. The supporting statement refers to family links being to Colchester, and that they work away in London, Coventry, Warwickshire and Cardiff. The statement also sets out that their nomadic lifestyle will commence again once Covid restrictions have been fully lifted.

- 5.11 The PPTS para 24 sets out that the personal circumstances of the applicant are a significant consideration that weighs in favour of the planning application subject to compliance with Policy H5 of the CBLP2015 and the other relevant provisions of the PPTS.
- 5.12 Local Plan Policy H5 (CBLP 2015) identifies a reserve Gypsy and Traveller site for up to ten pitches to meet the future needs of the existing population in Crawley at Broadfield Kennels. Further on-going monitoring of the needs for Gypsy, Traveller and Traveling Showpeople has been undertaken since the adoption of the Local Plan in 2015. This includes:
- 1) The Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessment (GTTS ANA) that was updated and published in draft in January 2021. (The document is also clear that it was not possible to undertake the detailed surveys with the members of the Travelling community living within Crawley's administrative boundaries at that time due to Covid restrictions).
Notwithstanding this, the assessment review and update was carried out through undertaking:
 - public consultation;
 - the duty to cooperate with neighbouring authorities;
 - a review of planning applications, housing requests and encampments data (through liaisons with the West Sussex County Council Traveller Liaison Officer)
- and,
- 2) Local Plan Review consultations that were undertaken in accordance with the council's Statement of Consultation (2020) and in line with the Town and Country Planning (Local Planning) (England) Regulation 2012 (Regulation 18 and Regulation 19) on the following dates:
 - July – September 2019 (Regulation 18 Early Engagement consultation)
 - January – March 2020 (Regulation 19 Initial Publication consultation)
 - January – June 2021 (Regulation 19 Second Publication consultation)
- 5.13 During these consultations the Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessment was available for comment, alongside the draft Local Plan Policy H8 and the associated retained allocation site at Broadfield Kennels.
- 5.14 No representations have been made requesting an immediate site or promoting other/alternative sites through any of the Local Plan Review consultations carried out, nor have any been received since the close of the consultation periods.
- 5.15 The Council has undertaken significant consultations recently, to identify the future needs of its existing population within Crawley and has identified a site that would be developable between 2021-2030 to meet this local need when it arises at its reserve site at Broadfield Kennels owned by Crawley Borough Council. The applicant has located into the borough in March 2021. It would not therefore have been possible to identify their need for a site, if required in addition to that allocated within the Local Plan at Broadfield Kennels reserve site, prior to the occupation of the application site and the retrospective submission of the planning application.
- 5.16 The Council therefore continues to demonstrate that it has an allocated and deliverable 5 year supply of Gypsy and Traveller pitches to meet an identified need when it arises. It is not therefore considered that principle of Gypsy and Traveller use of this site is acceptable to meet an identified local need.
- 5.17 The principle of the development at this site is therefore considered to be contrary to the aims of policy GAT2 (CBLP2015) in that it would add complexity and cost to the delivery of a second

wide bodied runway at Gatwick Airport. The development has also not demonstrated that it is required to meet an identified “local need” in the context of the available deliverable Gypsy and Traveller site, allocated within the current up to date Local Plan.

The amenities of occupiers on the site including the impact of noise from Gatwick Airport

- 5.18 Policy H5 a) of the CBLP2015 sets out that *“Proposals for new permanent or transit Gypsy, Traveller and Traveling Showpeople site will only be considered suitable if the proposed site: a).is not subject to existing or predicted air, road and/or rail noise in excess of 57 decibels for permanent sites, 60 decibels for long term temporary sites of up to one month, and 66 decibels for temporary sites.”*
- 5.19 Policy ENV11 (CBLP2015) identifies residential use as being noise sensitive and that proposals that would expose future users to unacceptable noise levels will not be permitted. For transport sources the Unacceptable Adverse Effect is considered to occur where noise exposure is above 66dB LAeq,16hr (57dB LAeq, 8hr at night).
- 5.20 The Noise Annex of the CBLP2015 identifies that noise levels of between 57dB and 66dB from air traffic has a Significant and Observed Adverse Effect Level. Examples of the Outcomes of this are that *“Noise causes a material change in behaviour and/or attitude e.g., having to keep windows closed most of the time, avoiding certain activities during periods of intrusion. Potential for sleep disturbance resulting in difficulty in getting to sleep premature awakening, and difficulty getting back to sleep. Quality of life diminished due to change in acoustic character of the area.”*
- 5.21 The site is within the existing 57 decibel noise contour and close to the 60 decibel noise contours linked to aircraft noise from Gatwick Airport. The site is also located within an area that would be affected by noise from an additional wide spaced runway at Gatwick Airport. Policy GAT2 safeguards land from inappropriate development within this area that would prejudice the delivery of a southern runway. If the runway was provided the application site would be subject to noise levels of between the 69 decibel and 72 decibel contours.
- 5.22 The site is therefore currently subject to an unacceptable level of noise from aircraft and this situation would be significantly worse if the predicted noise levels for an additional wide spaced runway at Gatwick Airport, if/when it would be provided, the development is therefore contrary specifically to a) of policy H5 as well as CH3 and ENV11 of the CBLP2015.
- 5.23 The Council’s Environmental Health Department has considered the information submitted and assessed the impact of both the current aircraft noise levels relevant to the site and the proposed noise levels if an additional wide spaced runway was to be constructed.
- 5.24 With regard to existing noise levels and the noise surveys submitted, it is observed that these have been undertaken during quiet times at the airport due to the Covid pandemic, and that these are not an accurate representation of future noise levels as the airport once again becomes busier.
- 5.25 The Environmental Health Dept. has confirmed that on the basis of a southern wide spaced runway being constructed, the noise levels at the site would be within the *“Unacceptable Exposure range for dwellings of conventional construction (i.e., of substantial construction) by reference to the existing local policy”*. The comments then continue with specific regard to living in caravans and note that, *“The application is for dwellings that are of considerably less substantial construction and as such would need to be exposed to much lower sound levels (than of conventional construction) to protect the residents”*.

5.26 It is therefore considered that currently the site is not suitable due to the noise issues for residential occupation and as applicants are living in caravans the noise impact is therefore likely to be have a greater impact upon the occupants that cannot be mitigated. The impact would be significantly greater if an additional wide spaced runway was to be provided and the site retained. The site therefore fails to be an acceptable place for people to live due to the noise environment and it therefore does not comply with the requirements of policy ENV11 of the CBLP2015, and also fails to comply with policy H5 (a) as a location for a Gypsy/Traveller site.

5.27 As the site is subject to currently unacceptable noise levels it is not considered that a temporary permission would be appropriate as the impact upon the residents is already happening and is not based on a hypothetical impact in the future.

Visual amenity, the street scene and the character of North East Crawley Rural fringe.

5.28 The impact of Gypsy, Traveller and Travelling Showpeople accommodation in terms land beyond the built-up area boundary forms a key consideration in the assessment of sites within policy H5 as well as CH2, CH3 and CH9 of the CBLP2015.

5.29 The PPTS states 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*”. Furthermore, it advises that any sites in rural areas respect the scale of, and do not over-dominate, the nearest settled community.

5.30 Paragraph 26 of the PPTS advises Local Planning Authorities to attach weight to the following matters when considering new gypsy site proposals:-

- a) effective use of previously developed land (brownfield), untidy or derelict land;*
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;*
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;*
- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.”*

5.31 Policy CH9 of the CBLP2015, and the supporting guidance in the Green Infrastructure SPD provides further criteria upon which to consider locally the impact of development on the areas outside of the built up area, including specific considerations for the North East Crawley High Woodland Fringe where this development is located. Policy CH9 states:

“To ensure that Crawley’s compact nature and attractive setting is maintained, development should:

- i Be grouped where possible with existing buildings to minimise impact on visual amenity;*
- ii Be located to avoid the loss of important on-site views and off-site views towards important landscape features;*
- iii Reflect local character and distinctiveness in terms of form, height, scale, plot shape and size, elevations, roofline and pitch, overall colour, texture and boundary treatment (walls, hedges, fences and gates);*
- iv Minimise the impact of lighting to avoid blurring the distinction between urban and rural areas and in areas which are intrinsically dark to avoid light pollution to the night sky;*
- v Ensure the building and any outdoor storage and parking areas are not visually prominent in the landscape,*

- vi *Does not generate an unacceptable level and/or frequency of noise in area relatively undisturbed by noise and valued for their recreational or amenity value;*
- vii *Does not generate traffic of a type or amount inappropriate to the rural roads; and*
- viii *Does not introduce a use which by virtue of its operation is not compatible with the countryside.*

Where harm to the landscape character cannot be avoided appropriate mitigation and, as a last resort, compensation, will be required as part of a planning application. Applicants are advised to consider the enhancement opportunities identified in the Crawley Borough Council Landscape Character Assessment.

In addition to the above, all proposals must recognise the individual character and distinctiveness, and the role of the landscape character area or edge in which it is proposed as shown on the Local Plan Map, established by the Crawley Borough Council Landscape Character Assessment and set out below:

North East Crawley High Woodland Fringes

Proposals which do not create or are able to adequately mitigate visual/noise intrusion are generally supported. This area has an important role in maintaining the separation of the distinct identities of Gatwick Airport, Crawley and Horley.”

- 5.32 Notwithstanding the small derelict building to the north west of the application site, the site was historically a paddock/small field and was undeveloped. Prior to the works undertaken by the applicants, the aerial photographs show that the wider site had been becoming increasingly wooded, and notwithstanding the felling and clearance of trees and shrubs within centre of the site, the retained trees towards the southern, northern and eastern boundaries continue to provide some screening of the development. The site is also situated adjacent to the residential curtilage of Radford Farm (Grade II Listed Building) to the west, and there are also houses opposite the site along the southern side of Radford Road (the latter are within the built-up area boundary). To the east and north of the site is relatively open/undeveloped countryside. The area further to the north of the site is proposed as an option to provide fluvial flood mitigation by Gatwick Airport Limited in connection with the Development Consent Order application for the proposed northern runway project (Crawley Borough Council ref. CR/2021/0678/CON) however, this is at a relatively early stage of the planning process.
- 5.33 The development must be considered against both the PPTS and the criteria in Policy CH9 of the CBLP2015.
- 5.34 Firstly, with regard the PPTS, the site is not considered previously developed, untidy or derelict land. There would be space within the site for additional planting but there may be issues, that it may have adverse impacts on the potential important archaeology of the site, or result in attracting birds that could be a hazard to aircraft operating out of Gatwick Airport.
- 5.35 The development with the numerous portable buildings and caravans is sited on a significant quantity of hardstanding that has been imported. The hardstanding has raised the land level on the application site by approximately 300-500mm and the fencing and caravans are visible along the road. It is accepted that the retained trees around the boundaries do provide some limited screening. The character of the site has therefore changed significantly and has a far more urban appearance due to the amount of hardstanding laid and trees cleared. It is considered to be out-of-keeping with the traditional larger detached buildings and house types in the area and the original undeveloped character of this piece of land. The scale does not however dominate the existing community as it is providing only two pitches in an area close to more substantial numbers of houses along Radford Road and within Forge Wood neighbourhood more generally.

- 5.36 The number of mobile homes and the increased activity from moving vehicles has resulted in the area losing its previously dark (unlit) character and there is an urbanising impact in this area compared to the previous condition of the site.
- 5.37 In terms of noise and disturbance, although the site is now noisier than it was when it was undeveloped, it is considered that given the context of the adjacent busy Radford Road to the south, the noise from aircraft using Gatwick Airport, as well as traffic using the Thames Water Sewage Plant access to the east that the use of this site for two Gypsy/Traveller pitches, even with the number of people resident, does not result in noise levels at this location that is harmful to the amenity/recreational value of the surrounding area.
- 5.38 It is considered that there is space within the areas of hardstanding for the applicants' children to play, and although outside the application site, the retained wooded areas to the south, east, and to a lesser extent the north would also be available for informal use by the residents. Further works such as excavations/planting in these areas outside the application site may however negatively impact upon the potentially regionally important archaeology that may exist at this site. (See Heritage Assets Section below). The outdoor areas are subject to significant levels of noise disturbance from aircraft using Gatwick Airport. This has been covered in detail in paragraphs 5.18-5.27 above.
- 5.39 The use does introduce a Gypsy/Traveller site (residential use) in an area that was previously undeveloped however there are nearby residential properties along both sides of Radford Road. Whilst the impacts of the development are considered harmful to the character of the area and the street scene it is not considered that the use itself is incompatible with the character of the north side of Radford Road that has a number of existing residential developments along its length.
- 5.40 The open fencing does not create a sense that the residents of the site are isolating themselves from the surrounding community, as there are views into and across the two pitches from nearby public view points along Radford Road to the south and from the Thames Water sewage treatment works access road to the east. The development does in some respects accord with, but does not fully comply with the requirements of siting Gypsy and Traveller sites as set out in the PPTS, due to its relatively conspicuous siting along Radford Road and the loss of the openness of the countryside.
- 5.41 It is therefore considered that the development does not comply with subsections iii) iv) and v) of policy CH9 and the development does have a harmful impact upon the character of the countryside and does not accord with the criteria of the PPTS.

Nearby occupiers' amenities

- 5.42 The development has not resulted in the erection of any habitable buildings and the portable buildings and caravans on site are relatively low level single storey type structures. Notwithstanding the change in levels caused by the construction of a hardstanding between 300mm to 500mm in depth, the development is relatively low level in overall height and the distance to neighbouring houses combined with the intervening landscaping, boundary treatments and overall extent of neighbouring gardens means that the development is not considered to have caused harm to these occupiers in respect of impacts of loss of privacy and dominance.
- 5.43 The use itself, being primarily residential is not a use that results in the creation of noise by virtue of its base activity. Objections have been received from neighbours primarily relating to dog noise. This is not directly caused by the use/development, and could be related to the occupiers of any form of residential use/development. It is specifically subject to control

through other legislative frameworks, notably through the provisions of the Environmental Protection Act 1990. The NPPF2021, in para states that *“The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.”* and on this basis this consideration should not be given significant weight in determining this application.

Drainage and flood risk

- 5.44 Approximately one third of the site closest to Radford Road including the access is within an Environment Agency Zone 2 Flood Risk Area. The hardstanding has raised the land levels in the flood risk area by approximately 300mm to 500mm through the apparent importation of a building waste product topped by road scalplings, rather than crushed stone as set out in the agent’s statement of 13th October 2021. The area covered is approximately 850sqm. No measures to compensate for the loss of this area from the flood risk area has been provided, and there is insufficient evidence to demonstrate that this area is porous or will not result in increased run-off. The caravans and other portable buildings are elevated.
- 5.45 NPPG, Flood risk and coastal change Para. 18, sets out that a sequential approach should be taken to developing sites that are in *“areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible.”*
- 5.46 The use itself as a Gypsy and Traveller use whereby residents are living in caravans is defined by the Environment Agency as being Highly Vulnerable and it must also therefore pass an “Exception Test” that *“...it will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.”* NPPG, Flood risk and coastal change para. 24.
- 5.47 Policy ENV8 of the CBLP2015, states that *“Development proposals must avoid areas which are exposed to an unacceptable risk of flooding, and must not increase the risk of flooding elsewhere”* and sets out that to achieve this development will:
- i) be directed to areas of lowest flood risk, having regard to its compatibility with the proposed location in flood risk terms, and demonstrating (where required) that the sequential and exceptions tests are satisfied;*
 - ii) refer to the Environment Agency Flood Map for Planning and Crawley Strategic Flood Risk Assessment to identify whether the development location is situated in an area identified as being at risk of flooding;*
 - iii) where identified in the SFRA, demonstrate through a Flood Risk Assessment how appropriate mitigation measures will be implemented as part of the development to ensure risk is made acceptable on site, and is not increased elsewhere as a result of the development;*
 - iv) ensure that proposals on all sites of 1 hectare or greater are accompanied by a Flood Risk Assessment, to include detail of mitigation demonstrating how surface water drainage from the site will be addressed;*
 - v) reduce peak surface water run-off rates and annual volumes of run-off for development through the effective implementation, use and maintenance of SuDS, unless it can be demonstrated that these are not technically feasible or financially viable. Further guidance on how to achieve these objectives will be provided in the Planning and Climate Change SPD.”*

- 5.48 The applicant has submitted a Flood Risk Assessment with the application. The assessment in the Sequential and Exception Test section identifies the use as Highly Vulnerable and suitable for flood zone 1. No assessment of the availability of other sites has been undertaken. It states that the sequential test will be undertaken within the site with the two static caravans to be located outside the zone 2 flood risk area and the four touring caravans being partially located within the flood zone 2. No exception test has been undertaken.
- 5.49 It is not considered that a sequential approach has been taken to developing this site taking into account sites subject to lower flood risk and taking into consideration that the Council has a reserve site deliverable within the time frame of the Local Plan if/when required. The Council's reserve site at Broadfield Kennels is not subject to increased flood risk. It is considered therefore that the aim of keeping development out of an increased flood risk area as stated in the NPPG para 18 has not been complied with and the development has therefore failed to meet the requirements of the Sequential Test.
- 5.50 No exception test has been undertaken. No wider sustainability benefits to the community have been demonstrated that outweighs the flood risk, although measures taken on site resulting in the raising of the land levels by some 300mm-500mm and with the floor levels of the caravans being raised this would appear to offer some protection to future residents and it is considered that a flood warning and evacuation plan could be agreed through a suitably worded condition, although this has yet to be done. It is not however considered that this will make the development safe from flood risk for its lifetime. The raising of the land levels in the flood risk area, without mitigation measures to prevent increased water run-off will increase flood risk elsewhere and the result of the development has not reduced flood risk overall. It is considered that the development of the site fails the exception test.
- 5.51 An objection has been raised by the Environment Agency to the development on the basis of the development being "Highly Vulnerable" development in Flood Zone 2 and insufficient information has been provided to justify the increase in land levels or that this will neither increase flood risk nor pose a danger to the type of development proposed for this application. It does however accept the use of the sequential approach to development on site. The Council's Drainage Engineer commented in detail in regard of the development and objected on the basis that the choice of site for this type of development has not demonstrated that it has followed either the sequential test in terms of ensuring development is located within areas of lower flood risk, or that the exception test has been followed to demonstrate that public benefits of the development outweigh the flood risks. In addition, the raising of the land levels has not demonstrated that it would not result in increased levels of flooding elsewhere.
- 5.52 The development has therefore failed to demonstrate compliance with subsections i). iii). and v). of policy ENV8 of the CBLP2015 for the following reason: The development has not demonstrated that the Sequential and Exception tests have been satisfied to demonstrate this "highly vulnerable" development is compatible at this location in Flood Risk terms. By reason of its siting, materials and a lack of flood water compensatory measures, it has resulted in a development within the Environment Agency Flood Zone 2 that would displace flood water and cause increased flooding off site to the detriment of nearby land owners/and house occupiers, contrary to policy ENV8 of the Crawley Borough Local Plan 2015-2030, the National Planning Policy Guidance - Flood risk and coastal change, and the Environment Agency Strategic flood risk assessment guide.

Sustainability

- 5.53 The site is located close to existing housing and the northern edge of Forge Wood neighbourhood that will eventually be provided with shops, a school (in situ) and other facilities for residents approximately 600m to the south. The bus route running into Forge Wood from Gatwick Airport and Crawley Town Centre through to Kilnwood Vale (no.3 running every 20

minutes during the day), is approximately 300m to the west along Radford Road. The access to site is also directly onto Radford Road that has a pedestrian footway running along its southern side. WSCC Highways also notes that “The site is located within walking/cycle distance of some local services and amenities, such as a primary school. Local bus services are available nearby on Radford Road and Steers Lane.

5.54 It is considered that the location of the site is not therefore isolated and unsustainable, and it would accord with d). of policy H5 of the CBLP2015 in this regard.

Infrastructure impacts

5.55 The site is considered relatively small providing two pitches for one extended family group and has been developed by the applicants themselves. There are no objections to the development from infrastructure providers and the site is outside of the Sussex North Water Resource Area (the development does not therefore have to prove water neutrality). There are a number of children on site of school age attending schools in Crawley and there are and there are some medical issues affecting the family. The relatively small scale of the development and level of accommodation on site could be restricted by conditions and made personal to the applicants. It is considered that this would limit the possibility for a significant increase in the number of people present on site. On this basis and the current level of occupation of this private site is not considered to place undue pressure on community services or infrastructure. The development would therefore accord in this regard with e). of policy H5 of the CBLP2015.

Other Planning Considerations

Trees

5.56 Several representations have been made in regard to the felling of trees prior to the occupation of site. It was not possible to identify exactly which trees/shrubs were removed at this time, however the trees were not protected at the time of the site clearance and therefore there was no breach of planning control. The retained trees around the site along the southern, eastern and northern boundaries as well as trees in another wooded area to the north west of the application site owned by the applicants are now covered and protected by a Tree Preservation Order which has been confirmed. The retained trees provide significant amenity to the area and help to partially screen the development from nearby public viewpoints.

5.57 The development is not proposing any additional works to trees, and the Tree Preservation Order was made on the basis of, and took into account the impact from the development on the trees. It is not therefore considered that the development undertaken and for which retrospective planning permission is sought is having, or will result in harm/damage to the health and amenity of the retained trees around the site. The development is therefore considered to have an acceptable impact upon trees and it therefore accords with policy CH3 and the Green infrastructure SPD in this regard.

The Operation of the Highway

5.58 A number of representations have been received objecting that the development is having an adverse impact upon highway safety for both vehicles and pedestrians, and this is resulting in congestion/significant increase in the use of nearby roads.

5.59 Policies CH3, IN3 and IN4 when considered together seek to ensure that developments can meet their own operational needs, including parking on site, whilst not adversely impacting upon the safe and efficient operation of the highway.

- 5.60 The development of this previously undeveloped land is for use as two Gypsy/Traveller pitches and this has resulted in an increase in traffic accessing the site. The existing access shared with Radford Farm has been retained and is used as the only access into the site. It adjoins directly onto the carriageway and does not cross any pedestrian footpaths. The speed limit for Radford Road at the access point is 40mph. An additional access partially constructed onto the private road to the Thames Water sewage plant to the east of the site has been removed and the land here is no longer covered in hardstanding.
- 5.61 WSCC Highways has no objection to the proposal in terms of its impact upon the operation of the highway. It states that the existing access onto Radford Road is being used without alterations, and there are no apparent visibility issues. Given the number of pitches, no material intensification of the use of the access is anticipated. There is no evidence that the existing access is operating unsafely or that it would exacerbate an existing safety concern. It concludes that the development “*does not consider that this proposal would have an unacceptable impact on highway safety or result in ‘severe’ cumulative impacts on the operation of the highway network...*” and recommends that cycle parking and car-parking should be agreed and then required to be provided through the use of conditions.
- 5.62 With regard to car-parking and cycle parking, the Council considers that the extent of hardstanding available around the caravans allows space for significantly more than two cars to park, and that as the sites are predominantly open this requirement does not need to be subject to specific control due to the small number of pitches provided. As regard cycle parking there is space available around the site to store/park cycles and this could be achieved through the use of a condition.
- 5.63 It is not considered that the development is having a harmful impact upon safety or the efficient operation of the highway in the area. The site is considered to be relatively sustainable and parking and cycle parking can be provided on site. The impacts of the development on the operation of the highway are therefore considered acceptable and the development would comply with policies CH3, IN3 and IN4 of the CBLP2015 in this regard.

Heritage Assets

- 5.64 The site is identified as an Archaeologically Sensitive Area where there has been evidence of an Iron Age cremation cemetery. To the immediate west of the site there is also the Grade II Listed Radford Farmhouse a “C16 restored timber frame building thought to have been a barn to Brookside...”. (Excerpt Listing description). Further to the west is Brookside a “C17 or earlier restored timber framed building...”. (Excerpt Listing description.)
- 5.65 Planning policy CH12 of the CBLP 2015 complements the relevant paragraphs of the NPPF2021 and NPPG when considering the impact of development on heritage assets. They are recognised as important finite resources and that their key features or significance should not be lost as a result of development. Where development affects a heritage assets or its setting a heritage impact assessment will need to be provided that describes the significance, the contribution of their setting and the measures adopted how the heritage asset is respected, preserved or enhanced.
- 5.66 The Councils Archaeology consultant has commented that the site is likely to have a high potential to contain Late Iron Age features that would likely be of considerable regional significance and sensitive to changes in land use – “*ground disturbance at all levels and changes in water levels for example cause deterioration, truncation, or complete destruction of surviving remains.*” The consultant continues that, “*The Archaeological Impact Assessment also provided some information about the expected below ground impact associated with the proposals to date; this included some relatively small scale groundworks associated with fencing and a package treatment plant, but also some more widespread but far shallower*

ground impacts from grass clearing, provision of hardstanding and access. Ideally these works will have been undertaken in association with an archaeological scheme of work in order to mitigate any potential impact. However based on the information available, I consider that due to the fairly limited scale/depth of groundworks, that the likelihood of these works impacting on a Heritage Asset is relatively small.”

5.67 The LPA is advised that there remains the potential for regionally significant archaeological remains to be present that would be sensitive to further ground impacts and the LPA must therefore be satisfied that future intrusive work and the long-term attrition from occupation/ tree planting can be minimised.

5.68 As no further works are proposed with this application it is considered unlikely that the development would be likely to result in greater impacts to the archaeology of the area than has already occurred. Further excavations and development should however be resisted as it may result in further damage, and long term occupation may also result in harm to this heritage asset. This includes any additional drainage that might be proposed to mitigate the increased flood risk of the hardstanding, although if required these types of works would need to be addressed on their own merits.

5.69 The development has resulted in some of the former paddock to the east of Radford Farmhouse to be covered in hardstanding, caravans, other portable buildings and fencing. This has altered the relationship of the previously undeveloped site to the adjacent Listed Building however, the listed building retains fairly generous grounds around it with approximately 25m between the house and the boundary with the application site. The main part of the development is approximately a further 13m away from the shared boundary with Radford Farmhouse and there are also some intervening trees and shrubs along with a 1.8m high close-boarded fence. It is therefore considered that the development does result in the Listed Building appearing in a more urban setting but the level of separation and relatively low height of the caravans and other associated development does not result in an impact that is harmful to the setting of the Listed Building.

5.70 On balance therefore the heritage impacts of the development are considered to be acceptable and would not conflict with provisions of policy CH12 of the CBLP2015.

Biodiversity

5.71 The site was cleared and occupied prior to any assessment being able to be made by the Council as to the ecological impacts of the development. A number of representations have been received that have objected to the impact upon protected species and the ecology/biodiversity of the site and the area. The applicant has submitted an ecological assessment with the site. There has not been a response provided yet by the Council's Ecology consultant and an update on this issue will be provided verbally at the Committee meeting.

Other Issues

5.72 The use is for 2 pitches for effectively the residential use by one extended family. It is not considered that the development would be likely to have any significant impact on crime, disorder or form a use that would result in anti-social behaviour.

5.73 Gatwick Airport Limited has confirmed that it has no objection to the development in terms of aerodrome safeguarding and the safe operation of Gatwick Airport subject to conditions to control planting and lighting.

- 5.74 Issues relating to potential pollution from the materials used for the hardstanding or to the watercourse from the operation of the water treatment unit installed are matters that are subject to the control the Environment Agency consenting regimes and are not considerations in the determination of the planning application. Both matters have been referred to the Environment Agency.
- 5.75 The potential impact of a development on the value of property is not a planning matter and cannot therefore be considered in determining a planning application.
- 5.76 Covenants are legal restrictions on land subject to separate enforcement through the courts/legal system and are not relevant in the consideration of the acceptability of planning applications.

HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS, THE REQUIREMENT TO ENSURE COMPLIANCE WITH THE PUBLIC SECTOR EQUALITY DUTY OF THE EQUALITY ACT 2010 AND ENSURE THE BEST INTERESTS OF THE CHILD

- 6.1 For the purposes of the PPTS “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 showpeople or circus people travelling together as such.”*

The Human Rights Act 1998

- 6.2 Article 8 (Right to respect of a Private and Family Life)

1. *Everyone has the right to respect for his private and family life, his home and his correspondence.*
2. *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

- 6.3 Article 1 of the First Protocol (Protection of Property)

*“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties”.*

- 6.4 The applicants own the land, and it is currently providing them with a home. The applicants therefore have a right to respect for their private and family life and their home. Refusal of the planning application, may be likely to result in the occupants having to vacate the site to comply with the enforcement notice currently being considered by the Planning Inspectorate. This will cause disruption to the children on site in that they may have to move school/disrupt social networks, to family members that may have to move where they get their medical support from and to the families in general in terms of the disruption of finding another site.
- 6.5 Article 8, 2. however allows the interference with Right to respect of a Private and Family Life by a public authority when it is in accordance with the law and where necessary in a democratic

society for reasons including public safety such as including the prevention of disorder or crime, for the protection of health or morals, or the protection of the rights and freedoms of others.

- 6.6 The development of this site for use as gypsy/traveller pitches has been demonstrated in the Planning Considerations section of the report above, to result in noise levels for the occupants that will have adverse impacts on health, and that living in an Environment Agency Flood Zone 2 area would also put the safety/health of residents at an increased risk from flooding. Furthermore, by building on an area at increased risk of flooding, and thereby displacing water outside of the site, there could be impacts on the rights and freedoms of neighbouring residents in terms of compromising the enjoyment of their property if it is at an increased risk of flooding.
- 6.7 It is therefore considered that it is the general interest of the Local Planning Authority to control the use of this property to protect the current residents and neighbouring occupiers from the harm caused by the development and that this outweighs the impacts upon the applicants by way of short term hardship, before they identify an alternative site to relocate to. It is therefore considered that the material considerations that apply to the site have been weighed against the Human Rights of the applicants and other affected parties and the recommendation accords with the provisions of the Human Rights Act.

Equality Act 2010

- 6.8 Gypsy and certain traveller groups are recognised as being distinct ethnic minority groups sharing protected characteristics and are therefore granted protection from discrimination as “races”, by the Equality Act 2010.
- 6.9 The following sections of the Equality Act 2010 are therefore relevant in the consideration of this planning application:
- Section 1 identifies that age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation are protected characteristics.
 - Section 149 ;- Public sector equality duty
 - *(1)A public authority must, in the exercise of its functions, have due regard to the need to—*
 - *(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
 - *(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
 - *(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*
- 6.10 It has been identified that the residents living on site are gypsy/travellers that share a “race” protected characteristic. The Planning Considerations section of this report, identifies that the site is however subject to unacceptable noise impacts from aircraft connected to the operation of Gatwick Airport at levels which are injurious to health, as well as being at an increased risk of flooding and the potential for the site to be impacted by an additional southern runway for Gatwick Airport. The development of the site for any form of housing would result in harmful impacts for any future residents due to the impact on their health and wellbeing from aircraft noise the risk from flooding, and the impact upon the character of the area would also be considerations in the determination of any other development proposals (the site features and characteristics set out earlier in this report).

6.11 The Local Planning Authority has not therefore acted differently in regard to this application due to the protected characteristics of the applicants "race". The recommendation as to the acceptability of the site for the use as Gypsy/traveller pitches has been informed by the evidence available to the Local Planning Authority. As such it is considered that the Local Planning Authority in exercising its functions has had due regard to the Public Sector Equality Duty (S149 Equality Act 2010).

The Best Interests of the Child

6.12 The principle of the best interests of the child is one of the four overarching guiding principles on children's rights (right to non-discrimination, best interests, the right to life, survival and development, and the right to participation or right to express views and have them taken into account). (European Commission). The concept derives from Article 3 of the United Nations Convention on the Rights of the Child. This must be considered as a paramount consideration of the planning application.

6.13 The Local Planning Authority does therefore recognise that best interest of the child would be for them to attend local schools, whilst living in a stable social environment at a safe and healthy location. The site is however subject to issues of noise from aircraft movements associated with Gatwick Airport that will cause harm to the health of all residents including children, and there are also risks from the site and surrounding area being in an area at a higher risk of flooding. It is not therefore considered to be the safe or a healthy environment for them to live in. On this basis whilst it would not be in the best interests of the child to lose a stable social environment, nor is it in the best interests of the child go grow up in this environment that is detrimental to their health. It is therefore considered that it is not in the best interests of the child to live at this location and that an alternative site not subject to these harms would be in the best interests of the children.

CONCLUSIONS:-

7.1 The Council is currently able to demonstrate a 5 year land supply of deliverable gypsy traveller pitches within the Borough. In addition to the consideration of other material considerations, paragraph 24 of the PPTS sets out the issues when considering applications for gypsy/traveller sites. This includes section d) directing that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites. Policy H5 Gypsy, Traveller and Traveling Showpeople Sites sets out the locally specific criteria and therefore applies in addition to the national Policy in the PPTS. When considered against the criteria within this policy it has been demonstrated that:

- a). The site is subject to current air traffic noise from Gatwick Airport in excess of 57 decibels and would be subject to predicted noise levels in excess of 69 decibels if a second wide spaced runway was to be delivered in accordance with an identified National requirement and set out in policy GAT2. The actual and predicted noise levels from aircraft traffic does not therefore comply with this part of the policy or policies ENV11 and CH3 of the CBLP2015.
- b). The relatively prominent location of the site in this area of sporadic development within the North East Crawley High Woodland Fringe has resulted in a design incompatible with the surrounding area and it therefore fails to comply with the Planning policy for traveller sites and policies CH2, CH3, CH4 and CH9 of the CBLP2015.
- c). The site is partially within a Zone 2 Flood Risk area and development of a "highly vulnerable" use that has not demonstrated compliance with either the Sequential test of the Exception Test, fails to comply with this part of the policy. In addition, it has not been

demonstrated that due to the amount of hardstanding laid the development has not resulted in increased water run-off and increased flooding off site contrary to policy ENV8 of the CBLP 2015.

- 7.2 Notwithstanding the site is considered to comply with criteria d) and e) the non-compliance with the other requirements of Policy H5 of the CBLP2015 set out in 7.2 above, is significant and does not demonstrate an overall compliance with the policy when weighed in the planning balance.
- 7.3 The site is also located within an area safeguarded from development that would be incompatible with the delivery of a second wide spaced runway for Gatwick Airport, and there is therefore a conflict with the requirement of policy GAT2 of the CBLP2015.
- 7.4 The personal circumstances of the applicants and their families has been considered in regard to the Human rights Act 1998, the Equality Act 2010 and the Best Interests of the Child, Article 3 United Nations Convention on the Rights of the Child. The harm caused to the residents and other issues of material importance in the considerations as set out in the section above does not weigh in favour of the application. That the use of the site would result in harm that would not be in the best interests of children should also be accorded significant weight against granting permission for the application.
- 7.5 When weighed in the planning balance it is considered that even taking into account the personal circumstances of the occupants of the site, the harm from the siting of the development at this location to the residents health from aircraft noise, the harm to the rural character of the area, the increased risk of flooding on and off site and the conflict with safeguarding the land to be able to deliver a second wide spaced runway at Gatwick Airport, outweigh the benefits and on this basis the application is recommended to be refused for the following reasons:

RECOMMENDATION RE: CR/2021/0243/FUL

REFUSE:

1. The development harms the landscape character and visual amenity of the North East Crawley Fringe landscape character area, as it does not relate sympathetically to its surroundings in terms of the prominent siting and urbanising layout, scale, massing, damage to landscape, poor detailing and materials; contrary to policies CH2, CH3, CH4, CH9, and H5 of the Crawley Borough Local Plan 2015-2030, the Urban Design SPD, the Green Infrastructure SPD and the NPPF.
2. The development and residential occupation of the Land is within an area which is safeguarded from development that would be incompatible with the expansion of Gatwick Airport to accommodate the construction of an additional wide-spaced runway and is therefore contrary to policy GAT2 of the Crawley Borough Local Plan 2015-2030, the NPPF and the Aviation Policy Framework 2013.
3. The Land is between the 57 and 60 decibel Gatwick Airport aircraft noise contours and would be in an area where, if an addition wide-spaced runway was provided at the airport it would be between the 69 and 72 decibel Gatwick Airport aircraft noise contours. The occupiers of noise sensitive development (residential) are subject to Unacceptable Adverse Noise Effects from a transport source that is harmful to quality of life and health, contrary to policies ENV11, CH3 and H5 of the Crawley Borough Local Plan 2015-2030.

4. The development has not demonstrated that the Sequential and Exception tests have been satisfied to demonstrate this "highly vulnerable" development is compatible at this location in Flood Risk terms. By reason of its siting, materials and a lack of flood water compensatory measures, it has resulted in a development within the Environment Agency Flood Zone 2 that would displace flood water and cause increased flooding off site to the detriment of nearby land owners/and house occupiers, contrary to policies ENV8 and H5 of the Crawley Borough Local Plan 2015-2030, the National Planning Policy Guidance - Flood risk and coastal change, and the Environment Agency Strategic flood risk assessment guide.

1. NPPF Statement

In determining this planning application, the Local Planning Authority assessed the proposal against all material considerations and has worked with the applicant in a positive and proactive manner based on seeking solutions where possible and required, by:

- Liaising with members, consultees, respondents, the applicant and the agent and discussing the proposal where considered appropriate and necessary in a timely manner during the course of the determination of the application.
- Seeking amended plans/additional information to address identified issues during the course of the application.
- Informing the applicant and agent of identified issues that are so fundamental that it has not been/would not be possible to negotiate a satisfactory way forward due to the harm that would be and has been caused.

This decision has been taken in accordance with the requirement in the National Planning Policy Framework, as set out in article 35, of the Town and Country Planning (Development Management Procedure) Order 2015.

