

**Planning Committee 29 September 2020
Report of the Planning Manager**

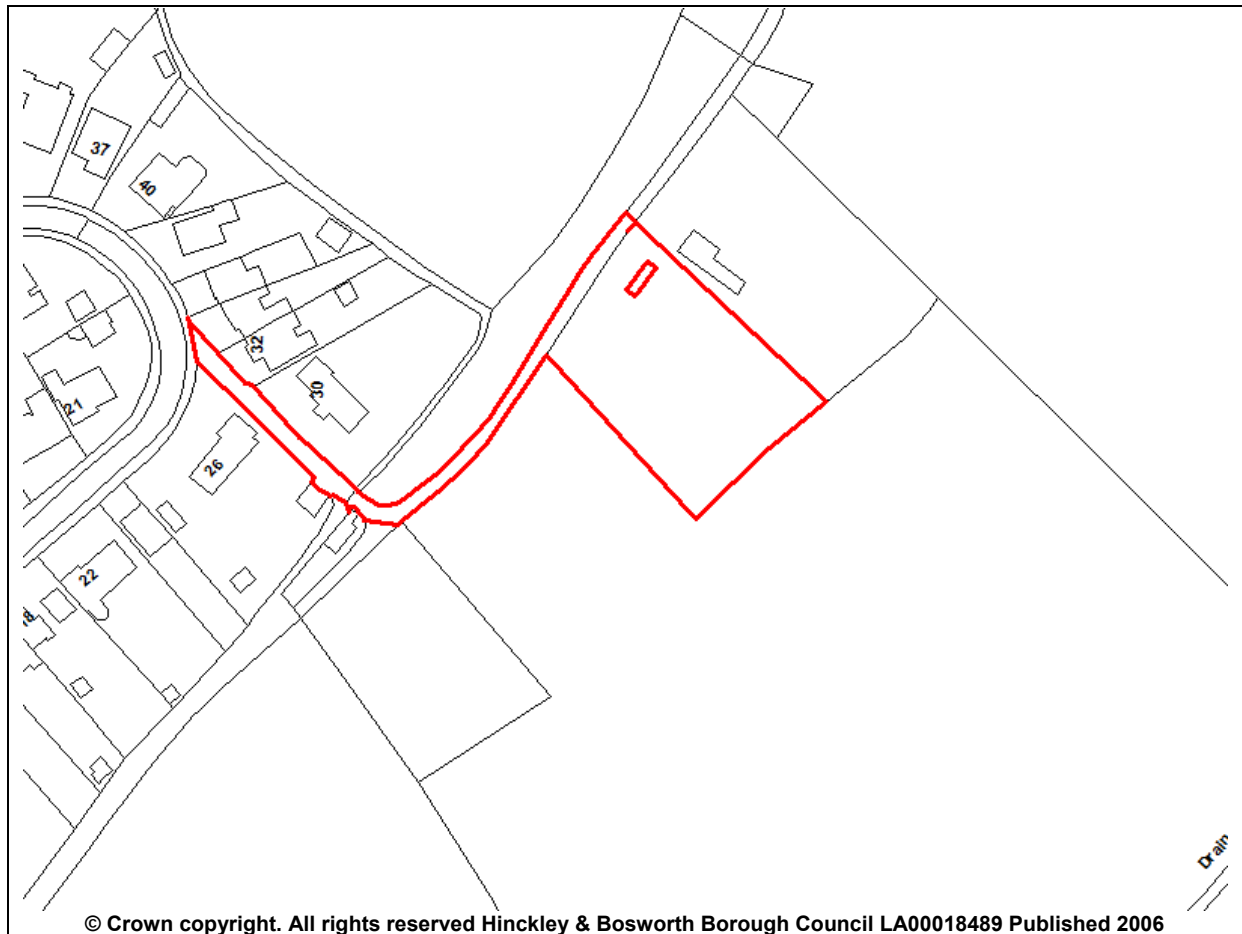
**Planning Ref: 19/01407/FUL
Applicant: A Connors
Ward: Groby**



**Hinckley & Bosworth
Borough Council**

Site: Land To The East Wallace Drive Groby

Proposal: Change of use of land to 2 No. Gypsy / Traveller pitches comprising of 2 static caravans, 1 day room and 2 No. touring caravans and associated infrastructure



- 1. Recommendations**
 - 1.1. Refuse planning permission:**
 - 1.2. Refuse planning permission** for the reasons at the end of this report.
- 2. Planning application description**
 - 2.1.** This application is for the creation of two gypsy caravan pitches, which would contain one static and one touring caravan per pitch. The proposal also includes, the erection of a day room and the laying of additional hard standing and a post and rail boundary fence, as well as additional landscaping to boundaries.
 - 2.2.** The pitches would be positioned at right angles to each other, with the day room to the south of the vehicular entrance. The proposed day room would comprise of a pitched roofed brick and tile building with a rectangular footprint (7.5 metres x 5

metres). Its maximum height would be 4.15 metres. A range of openings are proposed to its front and rear elevations. Internally the building would be subdivided into two utility and bathrooms.

- 2.3. The built development would be sited on an area of hard standing, which would provide parking and turning within the site, beyond this would be grassed amenity area, which would be along the south and east boundaries of the site. The boundaries are to be denoted by post and rail fencing along the north, east and south, with a 2 metre close boarded fence along its north west boundary set in from the existing access, to allow for landscaping to be provided. The site is to be access via an unmade access track leading from Wallace/Lena Drive.
- 2.4. This application is similar to a previous scheme submitted in 2014, planning reference 14/01247/COU and subsequent appeal (ref: APP/K2420/W/15/3135595). The appeal was dismissed on Highway grounds.

3. Description of the site and surrounding area

- 3.1. The site comprises of a parcel of land of 0.18 hectares, there is an adjacent parcel of land (to the north east), similar in size, also within the applicant's ownership. This would provide paddock land and accommodates an existing timber building. The applicant's land forms part of a larger, ridge and furrow field, which is in separate ownership. An access track runs along the front (west) boundary of the site. This runs between the A50 and Pool Tail Cottage. This track is intersected by Public Footpath J92.
- 3.2. The sites most recent use was for the keeping of pigeons, however at present the site has become overgrown and a number of associated buildings remain. To the north of the site, on the opposite side of the access track is the Site of Special Scientific Importance, (SSSI) known as Lady Hay Woods.
- 3.3. The site is within the countryside, situated adjacent to the settlement of Bradgate Hill, which is classified as a rural hamlet. Further to the west is a post war housing estate, comprising the majority of this hamlet. This consists of Wallace Drive, Lena Drive and further to the west, Elsalene Drive.

4. Relevant planning history

15/00029/PP

- Change of use of land to 2 No. Gypsy / Traveller pitches, including day room and associated works
- Appeal Dismissed
- 22.07.2016

13/01029/COU

- Change of use of land to use as a residential caravan site for two gypsy families (four caravans, two pitches) with associated parking, hardstanding and amenity block
- Refused
- 17.11.2014

14/01247/COU

- Change of use of land to 2 No. Gypsy / Traveller pitches, including day room and associated works
- Refused
- 10.07.2015

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and 40 letters from individual addresses have been received which raise the following objections:

- 1) No proper entrance or exit
- 2) Lena Drive already experiences a lot of traffic and is used as a race track
- 3) Vehicles would have to swing wide at a slow speed creating problems on the A50
- 4) Traffic light are dangerous without adding more traffic
- 5) Access on Wallace Drive is on a bend and is dangerous
- 6) Safety of walker and dog walkers which use the footpath which is popular as it links up to Martinshaw woods with Lady Hey Woods, Groby Pool and Bradgate Park
- 7) Formal notice of the application being submitted has not been given by the applicant or agent, the certificate of ownership on the application form is therefore incorrect.
- 8) Lena Drive and Wallace Drive are narrow with impeded visibility
- 9) Accidents continue to occur on the A50 despite average speed cameras and stopping up of central reservations.
- 10) Size of the proposed vehicles would not be able to access the site from Wallace Drive due to the narrow nature.
- 11) The site is close to a SSSI
- 12) A site notice has not been displayed
- 13) Commercial vehicles will be associated with the use entering the site on a regular basis
- 14) Given that the development relates to the same development on the same site, it is highly relevant and material consideration in the determination of this application. The Court of appeal explained that one important reason why previous decision are capable of being material is that like cases should be decided in a like manner so that there is consistency in the appellate process
- 15) Three general propositions concerning the principle of consistency in planning can be identified in the *DLA Delivery Ltd v Baroness Cumberlege of Newick, Patrick Cumberlege (2018) J.P.L. 1268 Lindblom L.J.*
- 16) There has been no changes since the last application which was refused and upheld at appeal
- 17) The Inspector was not satisfied with the practicality of bringing two static caravans onto the either via Wallace Drive or directly from the A50
- 18) Due to the land ownership and restrictive covenants the fall position would be the use of the A50 which there is an undisputed right of access which would continue to be available, and the Inspector gave substantial weight to the harm.
- 19) The access is not in the ownership of the applicant
- 20) Entry along the single track lane is dangerous with no room for vehicles to pass, which could lead to reversing back onto the A50
- 21) The closure of the central reservations gaps on the A50, has had detrimental consequences as it results in vehicles no longer able to use the gaps to get across to the opposite carriage, now use both Wallace Drive and Lena Drive as a rat run to avoid travelling to the nearest traffic island
- 22) A50 is the standard diversion route when there is an accident on the M1
- 23) Beyond the speed cameras at the traffic lights there is not another camera which makes it difficult to exit onto the A50 from Wallace Drive due to speeds
- 24) On street parking already makes it hard for emergency vehicles to proceed along the route

- 25) Barrister has confirmed there is no legal right of access to the site from Wallace Drive due to a restrictive covenant and is subject to legal action at present
- 26) There is a locked gate and fence which prevents access
- 27) The previous appeal highlighted the reality of using access directly onto the A50
- 28) Near misses and minor accidents that do not get reported or appear in any official figures and slow moving vehicles will increase this
- 29) Serious detrimental effect upon wildlife and biodiversity
- 30) Pollution of air and water
- 31) Disturbance from construction
- 32) Increased vandalism and risk of fire and antisocial behaviour
- 33) Would result in noise nuisance to neighbouring residents
- 34) High water table the application site is liable for flooding
- 35) There are great crested newts in the area
- 36) Loss of outlook
- 37) There is a sharp bend along the access which creates a further pedestrian safety issue with the right of way

6. Consultation

6.1. No objections received from:

Natural England
 Leicestershire County Council (Ecology)
 Leicestershire County Council (Archaeology)
 HBBC Drainage
 Severn Trent Water Ltd
 Environment Agency
 HBBC Environmental Services (Pollution)

6.2. LCC Traveller Sites & Liaison Officer has provided comments on the application.

6.3. Objection has been received from:

Leicestershire County Council (Highways)

6.4. Groby parish Council have objected to the proposal for the following reasons:-

- 1) Nothing has changed since the last application was refused at appeal in 2016
- 2) There has been an increase in traffic flow on the A50 since the previous application including a large increase in HGV traffic, which is exacerbated when it is used as a diversion route from Junction 22 on the M1
- 3) Any additional traffic from this area was turned down on appeal when 2 additional houses were proposed on a road off Lena Drive
- 4) The right of access stated in the application via Wallace Drive is disputed by the owner of that land and there have been gates and a fence erected. The legal right of way has been confirmed by a Barrister
- 5) There are a number of wildlife issues including the applicants area being proven habitat for GCN
- 6) The A50 site access is an unsuitable access for access and egress of caravans and trailers
- 7) Owners of the land have already been driving vehicles out of the limited access track onto the A50

- 8) Due to increased on street parking on Wallace Drive and Lena Drive access by anything other than car is greatly restricted

7. Policy

7.1. Core Strategy (2009)

- Policy 18: Provision of Sites for Gypsies , Travellers and Travelling Show People

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM13: Preserving the Boroughs Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2019)
- Planning Practice Guidance (PPG)
- Planning Policy for Traveller Sites (2015)

7.4. Other relevant guidance

- Gypsy and Traveller Accommodation Needs Study (2016)
- DCLG Designing Gypsy and Traveller Sites: Good Practice Guide
- Hinckley and Bosworth Landscape Character Appraisal (2017)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon highway safety
- Other considerations

Assessment against strategic planning policies

8.2 'Planning Policy for Traveller Sites' (PPTS) (2015) provides the national policy for the provision of traveller sites. The development plan consists of the Core Strategy (2009) and the Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).

8.3 Policy 18 of the Core Strategy relates to the provision of sites for Gypsies, Travellers and Travelling Show people. The first paragraph of the policy and supporting text identified a need of 42 pitches at the time of the publication of the Core Strategy (2009). Since then the Borough Council has produced an updated Gypsy and Traveller local needs assessment (GTAA) as required by and prepared in conformity with the PPTS for the period to 2037. The assessment concludes that no further pitches are needed over the period to 2037. A new Accommodation Needs Assessment is currently being prepared to inform the Local Plan review.

8.4 As referred to under the PPTS above, where no need is identified, locally specific criteria should be used to assess applications that may come forward on unallocated sites. Policy 18 provides the relevant criteria against which to assess proposals for

traveller sites. The conformity of the scheme against each of the criteria is considered below to assess the suitability of the proposed site:

1) Proximity to settlement/Local Services (Sustainability)

- 8.5 Policy 18 states that planning permission will be granted for gypsy and traveller sites where a proposed site is located within a 'reasonable' distance of local services and facilities (including shops, schools and healthcare) even if the site is not directly adjacent to the settlement boundary. The proposal would also have to meet the criteria laid out in this Policy.
- 8.6 Policy 13 of the Core Strategy identifies Bradgate Hill as a Rural Hamlet; this identifies the types of development suitable in such locations. Given that this site is not situated within the Hamlet itself, the requirements of this policy are not considered directly relevant to the determination of this application.
- 8.7 The application site is situated within the countryside, and therefore outside any defined settlement boundary. However when having regard to the proximity of the application site to the settlement boundary of Bradgate Hill it could not be defined as isolated. Bradgate Hill as previously mentioned is identified as a rural hamlet and as such has limited services and facilities, the nearest settlement providing a range of services would be Groby. The application site is situated approximately 1km from the centre of Groby and is connected to Groby by lit footpaths and a safe crossing over the intervening A50. Whilst there is no definition as to what is considered to be 'reasonable' having regard to its location and connection to Groby would be considered to be within a "reasonable" distance to local services and facilities as required by Policy 18. In addition, the site is connected to the wider area by a public highway footway network and public transport bus route (Bradgate Hill/Markfield road) providing safe travel through other means than the private car.

2) Highway Safety

- 8.8 Policy 18 requires a site to have safe access and provision for parking and servicing. The site is served by two private, unadopted points of access. Objections have been received in respect to highway safety and during the course of the application an independent highway review has been submitted as part of residents objections which has been considered by the Local Highway Authority.
- 8.9 Wallace Drive access, which is this point of access is identified by a red line on the submitted plans, and therefore is identified as the route that the users and visitors to the application site would use to gain access to the application site. This access is a shared access which runs along the frontages of No.30 – 34 Wallace Drive, and along the side boundary of No.26 Wallace Drive. The access is not surfaced in bound material, and is narrow, however it meets the adopted highway boundary of Wallace and Lena Drive.
- 8.10 There is a further access point to the application site, from the A50 which falls outside the red line of the application site. This access is positioned to the south of Wallace Drive exit, and is a of compacted gravel construction, which runs along the rear boundaries of the dwellings within Wallace Drive and past the front of the application site to Pool Tail Bungalow and Cottage.
- 8.11 A previous application, reference 14/01247/COU, was refused and upheld at appeal on highway safety grounds, due to the uncertainty over the right of access via Wallace Drive and the fall back position of the use of the A50, which would continue to be available and would lead to a serious highway danger which was given substantial weight by the Inspector in the determination of the appeal (Paragraph 26 of appeal reference APP/K2420/W/3135595). However the Inspector concluded that

in principle access via Wallace Drive would not be unduly harmful on highway grounds.

- 8.12 Leicestershire County Council (Highways) has considered the application taking into account the previous appeal decision and findings, and has considered both accesses, which will be considered in turn.
- 8.13 The existing lawful use of the site (as a paddock for the keeping of pigeons) is unlikely to generate more than four vehicle trips per day. Leicestershire County Council considered that 2 pitches could generate around 11 trips a day, this figure was considered low by the Inspector, and a worst case scenario of 20 movements per day is considered, this would reduce to 16 trips should the existing lawful pigeon keeping use cease. However the increase use must be considered against the existing use.
- 8.14 Wallace Drive access currently serves 3 dwelling, assuming that each dwelling generates an average of 6 trips a day, this together with the existing lawful pigeon keeping use would equate to 22 trips per day existing. The A50 access currently serves 1 dwelling (6 trips) agricultural land (conservative estimate of 2 trips) and pigeon keeping (4 trips), totalling 12 trips per day existing.
- 8.15 Since the appeal in 2016, the nature of the A50 has changed, with the introduction of average speed cameras in April 2018. LHA commissioned speed surveys in February and March 2020. The surveys were carried out immediately to the west of the A50 access prior to the bus lay by. These surveys recorded 85th percentile recorded speeds of 39.9mph and 41.6mph respectively. The average speed cameras on the A50 have been installed by LCC on a trial basis and therefore can not be certain that they will remain in perpetuity and that speeds will not increase to pre-average speed camera levels in the future.
- 8.16 At the time of the appeal there had been 5 injury accidents, including one fatal recorded on the A50 within 500m of the access, four of which were caused by slow moving turning vehicles. Based on the available records available now, there have been two Personal Injury Collisions (PICs) within 500 metres of the site access in the past 5 years. Both recorded as slight. The first being a sudden breaking incident that caused a rear shunt accident, no cause identified, the second involved a vehicle being pursued by Police. There have been no PICs in the past 5 years associated with turning movements on and off the A50. Since the Inspectors Decision in 2016 LCC have closed the crossing points in the central reservations and a banned movement order came into force in April 2017.
- 8.17 In terms of access the Leicestershire Highway Design Guide states that an access serving up to five dwelling (2x traveller pitches, 1 x existing dwelling, plus agricultural use) should be 4.25 metres wide for a distance of 5 metres, but if bound on both side an addition 1 metre should be added, therefore a width of 5.25 metre should be provided. In this instance the access from the A50, in its present form would not be capable of achieving and would therefore require improvements.
- 8.18 The LHA considered that the A50 access would need to be improved due to the proposed intensification of use by vehicles towing touring caravans, and to facilitate the delivery of static caravans. These improvements would include the levelling of the rutted track and a hard bound surface for the first 15 metres behind the highway boundary. Drainage would also be required at the back of the highway boundary to prevent surface water from flowing into the public highway. However based on the submitted application, the access along to the A50 does not fall within the blue nor red line of the application site and therefore it is unclear if the applicant has full control over this access and therefore able to carry out any required improvements to

this access, including improvements to the access radii which would require widening.

- 8.19 The Inspector in their consideration found that the increase use of the Wallace Drive access would not be considered severe, which remains the case in this application. During the course of the application, the applicant has submitted tracking information, to demonstrate that the site can be accessed by a car pulling a touring caravan, and for the delivery of a mobile home (in sections for assembly on site). From Wallace Drive access to the site encounters a bend in the track which may result that adjustments to trailers transporting the mobile home sections may have to be moved manually and tourers unhitched, however this would happen beyond the extent of the public highway, and therefore not for the consideration of the LHA. Notwithstanding this the LPA has instructed independent highway advice to appraise and consider the manoeuvring of caravans beyond the highway boundary, which will be reported by way of a late item.
- 8.20 In terms of the delivery of the proposed two static caravans the applicant submitted tracking which suggests that this would be possible using both the Wallace Drive access or the A50 track. The static caravans are proposed to be delivered the manufacturers, which can be of bespoke design and could be manufactured in sections and delivered to the site.
- 8.21 The applicant has sought to demonstrate that the access to the site would be via Wallace Drive and not via the A50 and maintains that they have access rights via Wallace Drive and has no intention of using the A50 access. However there would remain two access points to the site and the prevention of the use of the access to the A50 could not be controlled by way of condition. It can therefore be assumed that users are likely to use both routes, especially when travelling from the site in a south easterly direction onto the A50 as it provides a more direct route. This is an approach consistent with the assessment of the previous appeal at the site.
- 8.22 The applicant maintains that there is a right of access Via Wallace Drive, and although matters relating to ownership and legal rights of way are not planning considerations it is clear that there are two potential routes of which the applicant is not the sole owner. Since the previous appeal the legal matter and dispute in respect to rights of way via Wallace Drive has not changed and there remains uncertainty with an existing restrictive covenant upon the access via Wallace Drive and the applicants right of access via Wallace Drive, as such the fall back position would be the direct access to the A50. This would lead to the intensification of use of the A50 access which is substandard in width, and would result in an unacceptable increase traffic using an access which has inadequate width, that could lead to vehicles giving way within or reversing on to an A classified road subject to a 40mph speed limit to the detriment of highway safety.
- 8.23 The access to the A50, for approximately 250metre follows a public footpath (J92), which forms part of the National Forest Way. The access is narrow and the inspector in consideration of the previous appeal (Ref: APP/K2420/W/15/3135595) had regard to the increase in vehicle numbers upon walkers using this footpath. The Inspector considered that this increase in vehicle movements with the narrowness of this access would increase the danger for walkers along this stretch of the footpath, a matter which would remain.
- 8.24 As with the previous planning application and subsequent appeal, there remains a strong possibility that many vehicles will choose to access and egress the site via the A50. For the reasons stated as part of the consideration of that application, access to and from the site via that route would harm highway safety, contrary to policy 18 of

the Core Strategy, and substantial weight should be given to adverse impact upon highway safety.

3) Sympathetic Assimilation into the surrounding

- 8.25 Policy 18 requires a site to be capable of sympathetic assimilation into the surroundings.
- 8.26 The application site is located close to the settlement boundary of Bradgate Hill as defined in the adopted SADMP and is therefore within an area of Designated Countryside. The application site is also situated within the Charnwood and National Forest.
- 8.27 This policy does not state that sites should be screened from the wider area. The requirements of this policy supersede the requirements of Policy 22 (Charnwood Forest) which identifies a range of land uses which will be supported in the Charnwood Forest.
- 8.28 The site comprises a parcel of land being part of a larger field, which has a number of existing portal buildings which have been used in association with historic agricultural uses and pigeon keeping, and has been enclosed through the erection of a 2 metre high fence. However the application site occupies a visually isolated position within the landscape.
- 8.29 Whilst the design, appearance and form of the static caravans proposed would be generic and utilitarian and would offer little in the way of architectural detail, they are functional and would be suitable for their intended purpose. The site is not immediately adjacent to any existing dwelling and is approximately 15 metres from the closest residential property on Wallace Drive. Furthermore the site would be roughly 135 metres from the A50 to the south west. However as found by the inspector landscaping along the south west boundary would help soften the harshness of the development.
- 8.30 There is a public footpath which intersects the site access and runs adjacent to the north western boundary of the site, from which views of the site would be available. However, the south west of the public footpath is bound by a narrow strip of woodland which screens public views from this footpath.
- 8.31 The application proposes a solid fencing to the front (north west) boundary, which would be set in with landscaping to the front to soften this close boarded fencing proposal, with the other three boundaries proposed as post and rail fencing. The use and incorporation of a suitable landscaping scheme, especially native, would aid to soften the proposal, as well as provide an opportunity to contribute towards the requirements of the National Forest Planting Strategy.
- 8.32 Although long distance views across the landscape particularly from the south would be available, the existing close boarded fencing which sits hard up against the access would be set in, and provide a softer edge, in addition to the opportunity for a more comprehensive landscaping scheme across the site in keeping with the rural area. As such although the proposed development would appear stark against the existing back drop, the use of appropriate and native landscaping would soften and aid the site to assimilate into this countryside location. The implementation of a landscaping scheme would also adhere to the requirements of the National Forest Planting Strategy (Policy 21). Such details are considered necessary to ensure the site would be adequately assimilated within its rural setting and as such, a condition requesting these details would be imposed should permission be granted.

4) Appropriate in Scale

- 8.33 Policy 18 requires the proposal to be appropriate to the scale of the nearest settlement, its services and infrastructure, paragraph 23 of the PPTS reiterates this.
- 8.34 As previously discussed the application site is situated outside of identified Rural Hamlet of Bradgate Hill, which relies on Key Rural Centres or surrounding urban areas. Groby is identified as a Key rural Centre and are focal points for their surrounding rural communities. Groby is identified as a Key Rural centre relating to Leicester, these are settlements located on the edge of the Leicester Principal Urban Area. Therefore when considered the proximity to the Key Rural Centre and by virtue of the small scale of the proposal it would be appropriate in scale to the neighbouring settlements.

5) Neighbours Amenity

- 8.35 Policy 18 requires that a site does not cause unacceptable nuisance to existing neighbours by virtue of noise and other disturbance caused by movement of vehicles to and from the site.
- 8.36 As the proposal would result in two pitches, there would be increased activity on site and more vehicle movements generated. However the vehicle movements associated with two pitches is not considered to result in a material level of harm in terms of noise and disturbance. Furthermore the nearest residential property is No.30 Wallace Drive, which is situated approximately 15 metres from the application site. Therefore by virtue of this separation distance, along with the scale of the proposal which is limited to two pitches, it is not considered that the proposal would result in any materially detrimental impacts to neighbouring residential amenity.

6) Safe and Healthy Environment

- 8.37 Policy 18 requires that a site should provide a safe and healthy environment for residents and comply with the design guidelines detailed in the National Guidance (Designing Gypsy & Traveller Sites, Good Practice Guide). The guidance states that many gypsies and travellers express a preference for a rural location which is on the edge of or closely located to a large town or city consistent with traditional lifestyles and means of employment. It goes on to say that sites should not be situated near refuse sites, industrial processes or other hazardous places, as this will have a detrimental effect on the general health and well-being of the residents and pose particular safety risks for young children.
- 8.38 The application site is situated near to existing settlement boundaries of Bradgate Hill and Groby. The National Guidance (Designing Gypsy & Traveller Sites, Good Practice Guide) suggests that sites of various sizes, layouts and pitch numbers operate successfully and work best when they take account of the size of the site and the needs and demographics of the families that are resident on them with the safety and protection of children in mind. The site would have a clear demarcation of its boundaries, and the pitches proposed on site would be for occupation by immediate family members who own the site. The guidance makes reference to this as a positive approach in making good use of small plots of land. The proposal would include one large amenity building to be shared between each plot. The 7 metre separation between each mobile home is achieved within the proposed layout and adequate to meet the guidance. The proposal would require a separate site licence issued by Environmental Health (Pollution) which would secure satisfactory internal arrangements. Overall, it is considered that the site would provide a safe and healthy environment for residents.

Planning Policy for Traveller Sites (2015)

- 8.39 This guidance came in to effect in August 2015 and should be read in conjunction with the National Planning Policy Framework (NPPF) (2019). Policy H of the guidance (in paragraph 24) states that local planning authorities should consider a number of issues amongst other relevant matters when considering planning applications for traveller sites. These issues are considered below:-
- a) The existing level of local provision and need for the site
- 8.40 The targets for residential pitches identified in Policy 18 of the adopted Core Strategy (2009) are out of date. The Council's most up to date gypsy and traveller needs assessment (2016) found that there is a need for no additional pitches in Hinckley and Bosworth for gypsy and traveller households that meet the new definition; and a need for up to 15 additional pitches for gypsy and traveller households that may meet the new definition (although if the national average of 10% were to be applied this could be as few as 1 additional pitch). This 2016 Assessment is also out of date and therefore the current need for residential pitches is not known.
- 8.41 The Council has commissioned a new needs assessment which is nearing completion but has not yet been endorsed by the Council and cannot yet be used in decision making. Paragraph 27 of Planning Policy for Traveller Sites (2015) states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, then this should be a significant material consideration in any subsequent planning decision.
- b) The availability (or lack) of alternative accommodation for the applicant's
- 8.42 LCC's Traveller Sites & Liaison Officer has advised that the Aston Firs, which is in the Borough of Blaby, is owned and managed by Leicestershire County Council and provides accommodation for Gypsies and Travellers, which is at capacity. In addition, there are a number of families living on the site that have grown up children who would like to start their own families with nowhere to move to. There is an extensive waiting list for this site and there are no other local authority sites in the area available for the brothers, who currently live at home with their parents.
- c) Other personal circumstances of the applicant
- 8.43 LCC's Traveller Sites and Liaison Officer has visited the applicants and submitted a letter in support of the applicants. The site is to be occupied by two brothers who currently live at home with their parents. Obtaining permission for this small family site, would allow them to marry and have their own families on a site that would provide all the health and welfare benefits that having a stable and secure home would. The personal needs of the applicant should be attributed significant weight in the determination of this application.
- d) that the locally specified 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 come forward on unallocated sites
- 8.44 The locally specific criteria contained within Policy 18 of the adopted Core Strategy has been considered earlier in this report (paragraphs 8.5 -8.35).
- e) That they should determine applications for sites from any travellers and not just those with local connections
- 8.45 The application has been submitted as a site for gypsy and travellers and the assessment made in paragraphs 8.5 – 8.35 is not restricted to any local connections of the family on site.

- 8.46 In addition to the above paragraph 26 of Planning Policy for Traveller Sites (2015) requires local planning authorities to attach weight to the following matters:
- a) effective use of previously developed (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 the 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
- 8.47 In respect of the above points, the application site has been previously considered at appeal, where it was established that the application site occupies a brownfield site, which has a number of derelict buildings and piles of building material within the application site. The proposal includes opportunity of landscaping along the access, by setting 2 metre high close boarded fence into the site, to allow for landscape buffer, which is currently denoted immediately adjacent to the access a 2 metre high fence. The wider site would also offer opportunities of soft landscaping and post and rail fencing to the perimeters of the site, to enhance the immediate environment.
- 8.48 Paragraph 25 of Planning Policy for Traveller Sites (2015) further states that local planning authorities should very strictly limit new traveller site development in open countryside that lies away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing undue pressure on the local infrastructure. Whilst the site does reside outside any defined settlement boundary and therefore in open countryside, the application site as previously mentioned is a brownfield site in close proximity to the settlement boundary of Bradgate Hill and within walking distance of Groby, which is a Key Rural Centre relating to Leicester. As such when having regard to the scale of the proposal for two pitches it would not be considered to dominate the settlement or put undue pressure on local infrastructure.
- 8.49 Therefore, based on the above assessment of the locally specific criteria contained in Policy 18 of the Core Strategy and the criteria contained in the PPTS it is considered that although the proposal would fulfil some of the requirements set out, the adverse impact to highway safety that has been identified would need to be weighed in the balance. Should permission be granted for a new gypsy and traveller site the site should comply with the other policies in the Development Plan which are assessed below.

Assessment against the policies of the adopted Site Allocations and Development Management Policies (SADMP) DPD (2016)

Impact on the Countryside

- 8.50 The application site lies outside the settlement boundary of Burbage as defined in the SADMP and is therefore in the countryside. Policy DM4 of the SADMP states that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development. The policy goes on to list a number of categories of development that would be considered sustainable in the countryside. The provision of a gypsy and traveller site is not included in the list of categories which are considered to be sustainable.
- 8.51 However, Policy 18 in the Core Strategy does allow for planning permission to be granted on sites adjacent to the settlement boundaries of Hinckley, Burbage, Barwell and Earl Shilton and any of the Key Rural Centres/Rural Villages. Policy 18 also

allows for planning permission to be granted where the site is a reasonable distance from local services and facilities even if the site is not directly adjacent to the settlement boundary provided the site meets the criteria laid out in this Policy.

- 8.52 Therefore, whilst the proposed development is not included in the list of sustainable development in the countryside as set out in Policy DM4, the principle of gypsy and traveller sites in countryside locations adjacent to or within a reasonable distance of these settlement boundaries is accepted under Policy 18 of the Core Strategy subject to the criteria of this Policy being met. Paragraphs 8.5 – 8.26 conclude that the proposal would meet the criteria laid out in Policy 18.
- 8.53 Policy DM4 of the SADMP (2016) provides the following criteria which development proposals should meet:
- a) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - b) It does not undermine the physical and perceived separation and open character between settlements; and
 - c) It does not create or exacerbate ribbon development.
- 8.54 The proposal includes the inclusion of soft landscaping along with being set back from the highway. Whilst there would be some harm to the open character of the landscape, there would not be a significant adverse impact on the character of the countryside in this location. The proposal would not undermine the separation between settlements or exacerbate ribbon development in this case. As such, the proposal would not have a significant adverse impact on the countryside.

Impact on the Character of the Area and Residential Amenity

- 8.55 Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout and design with the intention of preventing development that is out of keeping with the character of the surrounding area. Policy DM10 also seeks to ensure that development would not have a significant adverse effect on the privacy and/or amenity of nearby residents and occupiers of adjacent buildings and that the amenity of the future occupiers of proposed development would not be adversely affected by activities in the vicinity of the site.
- 8.56 The site lies within Landscape Character Appraisal Area A: Charnwood Forest. The area covers the more elevated land to the north east part of the Borough and is an area which forms part of the Charnwood Forest, an area of similar rugged 'upland' character recognised in the local planning policy, and the National Forest which covers almost all this character area. One of its many key characteristics are small to medium scale field pattern interspersed with large areas of woodland cover. In view of the scale of the proposal and the existing brownfield nature of the site, along with a carefully considered landscaping scheme is not considered that two pitches in this location would have any significant impact upon the character of this semi rural area.
- 8.57 By virtue of its small scale, screening by landscaping and separation distances of approximately 15 metres to the nearest neighbouring dwellings to the boundary of the site, the proposal would not result in any significant adverse impacts on the residential amenity of any neighbouring properties. As such there would be no significant conflict with Policy DM10 of the adopted SADMP.

Impact on Highway Safety

- 8.58 Policies DM17 of the SADMP states that development proposals will be supported where they demonstrate that there is not a significant adverse impact upon highway safety and the residual cumulative impacts of development on the transport network

are not severe. Paragraphs 108 and 109 of the NPPF (2019) state that development should ensure safe and suitable access to the site for all users and that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe. Policy DM18 requires new development to provide an appropriate level of parking provision to serve the development proposed.

- 8.59 As previously considered in paragraphs 8.8 – 8.23, the proposal has been assessed by the Highways Authority who consider that the due to uncertainty about access rights, and the presence of a fall back position of another access as previously considered by a Planning Inspector the Highway Authority are of the view that should the proposal be approved it would lead to an unacceptable increase in traffic using an access which has inadequate width, that could in turn lead to vehicles giving way within or reversing on to an A classified road subject to a 40mph speed limit to the detriment of highway safety. The proposal would therefore be contrary to Policy DM17 of the SADMP.

- 8.60 Other Considerations
Ecology

- 8.61 Policy DM6 of the SADMP states that major developments must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services. On-site features should be retained, buffered and managed favourably to maintain their ecological value, connectivity and functionality in the long-term.

- 8.62 Objections have been raised in respect to the impact of the proposed development on the area of the scientific interest (SSSI) and the Slate Brook, in terms of impact on wildlife and water pollution and contamination. Leicestershire County Ecology have considered the application and have no objection to the proposed development subject to conditions relating to the proposed mitigation measures relating to exclusion areas for GCN and habitat enhancement, therefore subject to conditions the proposed development would accord with Policy DM6 of the SADMP.

Impact upon Archaeology

- 8.63 Policy DM13 states that where a proposal has the potential to impact a site of archaeological interest, developers will be required to provide appropriate desk-based assessment and, where applicable, field evaluation detailing the significance of any affected asset. Where preservation of archaeological remains in situ is not feasible and /or justified the local planning authority will require full archaeological investigation and recording by an approved archaeological organisation before development commences.
- 8.64 The application site is within a larger area of surviving Ridge and Furrow earthworks, which are remains of a medieval or post-medieval agricultural cultivation, lying adjacent to Groby Pool, which is first recorded in documents of 1127 and 16th century documents show that it was supplying fish to Leicester Abbey. This contemporary activity enhances the significance of the Ridge and Furrow earthworks and adds to the understanding of the historic landscape in the vicinity.
- 8.65 This application affects an area within the Ridge and Furrow earthworks that has already been disrupted to some extent by the existing building. However it is a matter which should be taken into account when allocating areas of hardstanding and boundary treatments, which can be controlled through a landscaping condition. Therefore Leicestershire County Council (Archaeology) has no objection to the proposal and would accord with Policy DM13 of the SADMP.

- 8.66 Objections have been received in respect the proposal would have a detrimental impact upon sensitive watercourses due to the high water table. However the application has been considered by the Environment Agency who have no objection to the proposed development to accord with Policy DM7 of the SADMP which seeks the prevention of Pollution and Drainage.
- 8.67 Concerns on loss of view or outlook from neighbouring dwelling are not material planning considerations which can be taken into account. There is no right to a view.
- 8.68 Objections have been received in respect to the applicant not completing the correct certificate of ownership notice within the application form. During the course of the application certificate B was served upon those with a freehold interest or leasehold with at least 7 years left to run.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3 The equality implications arising from this application relate to the protected characteristics of gypsy and travellers and have been addressed within the main body of this report through reference to specifically relevant adopted planning policies and National Planning Guidance.
- 9.4 The requirements of Article 8 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998. The applicant's individual rights for respect for private and family life have been weighed against other factors including the wider public interest and legitimate interests of other individuals.
- 9.5 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Planning Balance and Conclusion

- 10.1 The target number of new gypsy and traveller pitches identified in Policy 18 of the adopted Core Strategy, the most relevant development plan policy for determining the application, is out of date and paragraph 11(d) of the NPPF is therefore engaged whereby planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

- 10.2 The proposal relates to a gypsy and traveller site comprising of 2 pitches. The most up-to-date Gypsy and Traveller Accommodation Needs Study (2016) found no need for additional sites for gypsy and traveller pitches that meet the new definition. However, as stated in the PPTS, where no need is identified, locally specific criteria should be used to assess applications that may come forward on unallocated sites. Policy 18 in the Core Strategy provides the relevant criteria against which to assess proposals for traveller sites.
- 10.3 The proposal has been assessed against the relevant criteria within Policy 18 of the Core Strategy (which are consistent with the NPPF and can therefore be given significant weight in the determination of the application), together with the national planning guidance relating to gypsy and traveller development within Planning Policy for Traveller Sites (2015) and the NPPF (2019). Policy 18 states that planning permission will be granted for new gypsy and traveller sites providing the site is located within a reasonable distance of local services and facilities even if the site is not directly adjacent to the settlement boundary. The proposed site is within a reasonable distance of the local services and facilities in Groby and is situated in close proximity of the settlement boundary of Bradgate Hill. The proposal would also meet the locational, design and environmental criteria of Policy 18 of the Core Strategy and the PPTS however through the consideration of the proposal adverse impact in terms of highway safety have been identified and is attributed substantial weight in the determination of the application.
- 10.4 The applicant's personal circumstances in that they currently reside with parents and seek a settled base to allow them to marry and establish their own families, and obtain a settled base that would provide all the health and welfare benefits a secure home would give in the future. There are no known alternative sites where the brothers could occupy. The personal circumstances of the applicants and Gypsy and Traveller need must be attributed significant weight in the determination of planning applications.
- 10.5 Matters of highway safety and personal circumstances are finely balanced. There is no special health, educational or other personal reasons presented for consideration. The principle danger in terms of highway safety is the availability and use of the access to the A50 as a fall back position given the unresolved dispute over the right of access over Wallace Drive, which results in a substantial highway danger. Weighed against this highway objection is the significant weight given to the need for traveller sites and moderate weight to the particular accommodation needs of the applicant and brother. However these considerations do not outweigh the severe highway safety harm that has been identified. The proposal is therefore considered to be contrary to Policy 18 in the Core Strategy, Policies DM1 and DM17 of the SADMP (2016) and guidance in the PPTS (2015). It is not considered that granting permission for a temporary consent would be appropriate in these circumstances given the substantial highway danger.

11. Recommendation

11.1 Refuse planning permission:

11.2 Refuse planning permission for the reasons at the end of this report.

11.3 Reasons

1. The proposed development would result in an unacceptable increase in traffic using an access which has inadequate width. That would lead to vehicles giving way within or reversing on to an A classified road subject to a 40mph speed limit to the detriment of highway safety. This would be contrary to Policy DM17 of the Site Allocations and Development Management Policies DPD, Policy 18 of the Core Strategy and paragraph 109 of the NPPF.

2. The proposal would result in an unacceptable increase in traffic using an access track which has inadequate width and geometry and which also is a public right of way. This would lead to a conflict between pedestrians and motorists using the track and ultimately pedestrian safety issues. This would be contrary to Policy DM17 of the Site Allocations and Development Management Policies DPD and Policy 18 of the Core Strategy.