

# **DEVELOPMENT MANAGEMENT COMMITTEE 15<sup>th</sup> SEPTEMBER 2025**

**Case No: 25/00972/S73**

**Proposal: VARIATION OF CONDITIONS 1 (PERMITTED USE), 6  
(ACCESS TIME FRAME) AND REMOVAL OF  
CONDITION 2 (5 YEAR LIMIT) OF 18/00840/FUL.**

**Location: LEGACY PARK, CHATTERIS ROAD, SOMERSHAM**

**Applicant: MR F ADAMS**

**Grid Ref: 538044 279276**

**Date of Registration: 29<sup>th</sup> May 2025**

**Parish: SOMERSHAM**

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## **RECOMMENDATION - APPROVE**

**This application is referred to the Development Management Committee (DMC) in accordance with the Scheme of Delegation as the Officer recommendation of approval is contrary to that of the Parish Council.**

### **1. DESCRIPTION OF SITE AND APPLICATION**

#### **Site and Surroundings**

- 1.1** The application site is located in the countryside to the north-east of Somersham approximately 2.9km travelling distance from the centre of the village.
- 1.2** The site is primarily in Flood Zone 3a with small sections of Flood Zone 2 and is therefore considered to be at a high risk of flooding from river sources. The SFRA 2017 also shows the north-western corner of the site is also shown as being susceptible to surface water flooding and the western portion of the site at high risk of groundwater flooding.
- 1.3** The site has come forward in 3 elements.
- 1.4** The eastern element of the site benefits from permanent planning permission for 4 pitches.
- 1.5** The western element of the site benefits from a 5 year temporary planning permission for 7 pitches granted under 23/02358/FUL on 18.07.2024. Members should note that a similar S73 application

has been received for this part of the site under reference 25/00973/S73.

- 1.6 This application relates to the central element of the site which benefits from a 5 year temporary planning permission for 4 pitches, allowed at appeal (APP/H0520/W/23/3334636) 30<sup>th</sup> May 2024.

#### Proposal

- 1.7 Temporary planning permission for a period of 5 years was allowed on appeal on 30<sup>th</sup> May 2024 under planning permission reference 18/00840/FUL for Change of use of land to provide four additional gypsy/traveller pitches with day rooms and gym room/store
- 1.8 This section 73 application was submitted on 29<sup>th</sup> May 2025 and seeks the Variation of Conditions 1 (Permitted Use), 6 (Access Time Frame) and Removal of Condition 2 (5 Year Limit) of 18/00840/FUL.
- 1.9 This application has been accompanied by the following:
- Supporting statement
  - Flood Risk Assessment
- 1.10 Officers have scrutinised the plans and have familiarised themselves with the site and surrounding area.

## **2. NATIONAL GUIDANCE**

- 2.1 The National Planning Policy Framework (NPPF 2024) sets out the three objectives - economic, social and environmental - of the planning system to contribute to the achievement of sustainable development. The NPPF 2024 at paragraph 10 provides as follows: 'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).'
- 2.2 The NPPF 2024 sets out the Government's planning policies for (amongst other things):
- delivering a sufficient supply of homes;
  - building a strong, competitive economy;
  - achieving well-designed, beautiful and safe places;
  - conserving and enhancing the natural, built and historic environment
- 2.3 Article 1 of the First Protocol (Human Rights Act) sets out that a person is entitled to the peaceful enjoyment of his possessions and that no one shall be deprived of his possessions except in the public interest. Article 8 of the Human Rights Act states that

everyone has the right to respect for his private and family life and his home. Refusing would represent an interference with the home and family life of the proposed occupiers, such that both Articles would be engaged. There is also a positive obligation imposed by Article 8 to facilitate the gypsy way of life.

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- 2.4 For full details visit the government website [National Guidance](#)

### **3. PLANNING POLICIES**

#### **3.1 Huntingdonshire's Local Plan to 2036 (Adopted 15th May 2019)**

- LP1: Amount of Development
- LP2: Strategy for Development
- LP4: Contributing to Infrastructure Delivery
- LP5: Flood Risk
- LP6: Waste Water Management
- LP9: Small Settlements
- LP11: Design Context
- LP12: Design Implementation
- LP14: Amenity
- LP15: Surface Water
- LP16: Sustainable Travel
- LP17: Parking Provision and Vehicle Movement
- LP20: Homes for Rural Workers
- LP25: Housing Mix
- LP27 Gypsies, Travellers and Travelling Showpeople
- LP30: Biodiversity and Geodiversity
- LP31: Trees, Woodland, Hedges and Hedgerows

#### **3.2 Supplementary Planning Documents (SPD) and Guidance:**

- Huntingdonshire Design Guide Supplementary Planning Document (2017)
- Developer Contributions SPD (2011)
- Huntingdonshire Landscape and Townscape SPD (2022)
- Huntingdonshire Strategic Flood Risk Assessment (2017)
- Cambridgeshire Flood and Water SPD (2017)
- LDF Developer Contributions SPD (2011)
- Annual Monitoring Review regarding housing land supply (2024)
- Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021)

Local policies are viewable at <https://www.huntingdonshire.gov.uk>

#### **3.3 The National Design Guide (2021):**

- C1 - Understand and relate well to the site, its local and wider context
- I1 - Respond to existing local character and identity
- I2 - Well-designed, high quality and attractive

- B2 - Appropriate building types and forms
  - M3 - Well-considered parking, servicing and utilities infrastructure for all users
  - N3 - Support rich and varied biodiversity
  - H1 - Healthy, comfortable and safe internal and external environment
  - H2 - Well-related to external amenity and public spaces
  - H3 - Attention to detail: storage, waste, servicing and utilities.
- 3.4 National Planning Policy for Traveller sites ( Dec 2024)
- 3.5 Planning Practice Guidance (PPG)

For full details visit the government website

#### **4. PLANNING HISTORY**

- 4.1 0801685FUL: Temporary change of use of land from agriculture to caravan/mobile home travellers site (two pitches) including new vehicular access, associated roadway and hardstanding. (Refused)
- 4.2 0803522FUL: Permanent change of use of agricultural land to a travellers site with 6 pitches including new vehicular access roadway and hardstanding (Refused)
- 4.3 0803523FUL: Permanent change of use of agricultural land to a travellers site for 2 pitches including new vehicular access, associated roadway and hardstanding (Refused, Appeal Allowed)
- 4.4 0900550FUL: Permanent change of use of land from agriculture to caravan/mobile home travellers site (6 pitches) including vehicular access roadway and hardstanding (Refused, Appeal Dismissed)
- 4.5 1401501FUL: Change of use of land to provide two additional pitches for gypsy/travellers (Approved)
- 4.6 18/00840/FUL: Change of use of land to provide four additional gypsy/traveller pitches with day rooms and gym room/ store (Refused, Appeal Allowed)
- 4.7 22/02501/FUL: Change of use of agricultural land to caravan holiday park comprising 18 pitches and toilet block (retrospective) (Approved temp 5 year)
- 4.8 23/02358/FUL: Use of Land for Gypsy and Traveller Residential Use creating 7 pitches comprising the siting of 1 mobile home, 1 touring caravan, a Day Room and associated parking and a new Children's Play Area. (Temp 5 year approval)

- 4.9 25/00973/S73: Removal of Conditions 1 (5 Year Time Limit), 5 (Permanent Pitches), 6 (90 Days), 7 (Transient Pitches) and Variation of Condition 10 (Access) of 23/02358/FUL (pending consideration)

## **5. CONSULTATIONS**

- 5.1 Somersham Parish Council – Object.

Permitted use was passed for family members only. The applicant has now applied for the 5 year limit to be removed, and for access to the site to be upgraded. Somersham Parish Council agreed that if these are going to be permanent sites, they are therefore not operating as per the site requirements under planning policy. It is also dangerous for pedestrians walking into the village from the site.

- 5.2 Environment Agency - The removal of condition 2 would allow the siting of four mobile homes intended for residential use on a permanent basis within Flood Zone 3. The development is classed as 'highly vulnerable' in accordance with Annex 3 of the NPPF. Table 2 of the PPG makes it clear that this type of development is not compatible with Flood Zone 3 and therefore should not be permitted. The appeal decision concluded that no evidence had been provided to demonstrate that the Sequential Test has been passed. No further evidence has been submitted with this application. We would only be able to withdraw our objection to this application if confirmation is provided that your Authority considers the Sequential Test has been passed. As previously advised, the site is located outside the extent of our Fenland breach mapping and we therefore consider that the main source of flood risk at this site is associated with watercourses under the jurisdiction of the Internal Drainage Board (IDB). However, please note that our Fenland breach mapping does not include an allowance for climate change in this location.

- 5.3 Middle Level Commissioner (Warboys, Somersham & Pidley Internal Drainage Board ("the Board")) – No objection.

As previously discussed, the comments forwarded to HDC in June 2023 on behalf of the Board, were perhaps too 'in-depth' to be understood by those without technical expertise. I have considered the various documents on the HDC planning portal, and hope that the simple response below is easier for a non-professional person to comprehend. The Board's Standard of Protection (SoP) provided is 2.00 – 3.33% AEP, which means that the whole district would be at risk from a 1-in-30 to 1-in-50-year storm. However, it is considered that the existing systems, assets, and defences provided by the various water level and flood Flood Risk Management Authority's (Environment Agency, Middle Level Commissioners and Warboys, Somersham & Pidley IDB) are appropriate for the design life of the development. No evidence

has been discovered of the site or immediate area being flooded in recent years. Appropriate design can ensure that the proposals are resistant and resilient to flooding with any residual risk managed safely. Neither the Commissioners nor the Board have objected to the previous planning applications relating to the above site. It is hoped that the above information will help enable the planning permission to be changed from a temporary approval to a permanent one.

- 5.4 Highway Authority - Following a review of the documents provided to the Highway Authority as part of the above planning application it was noted that the applicant has requested to vary Condition 6 (Access Time Frame) to carry out the access improvement works within 18 months of this decision. However, 18 months is an excessive time frame for the works of this nature and I have noted that we have already received a Short Form 278 application to carry out the works. I would therefore suggest that six months from the date of the decision is adequate.
- 5.5 Environmental Health – No objections.
- 5.6 Lead Local Flood Authority – No comment.

## **6. REPRESENTATIONS**

- 6.1 No representations received.

## **7. ASSESSMENT**

- 7.1 When determining planning applications, it is necessary to establish what weight should be given to each plan's policies in order to come to a decision. The following legislation, government policy and guidance outline how this should be done.
- 7.2 As set out within the Planning and Compulsory Purchase Act 2004 (Section 38(6)) and the Town and Country Planning Act 1990 (Section 70(2)) in dealing with planning applications the Local Planning Authority shall have regard to have provisions of the development plan, so far as material to the application, and to any other material considerations. This is reiterated within the NPPF (2024). The development plan is defined in Section 38(3)(b) of the 2004 Act as "the development plan documents (taken as a whole) that have been adopted or approved in that area".
- 7.3 In Huntingdonshire the Development Plan (relevant to this applications) consists of:
- Huntingdonshire's Local Plan to 2036 (2019)
  - Cambridgeshire & Peterborough Minerals and Waste Local Plan (2021)
- 7.4 The statutory term 'material considerations' has been broadly construed to include any consideration relevant in the

circumstances which bears on the use or development of the land: *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government & Anor* [2011] EWHC 97 (Admin); [2011] 1 P. & C.R. 22, per Lindblom J. Whilst accepting that the NPPF does not change the statutory status of the Development Plan, paragraph 2 confirms that it is a material consideration and significant weight is given to this in determining applications.

- 7.5 The Planning Practice Guidance (PPG) advises that the Section 73 application process can be used to vary a condition on a planning permission which, if approved, will result in a completely new standalone planning permission:

"Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted. A decision notice describing the new permission should clearly express that it is made under Section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect."

- 7.6 Temporary planning permission for a period of 5 years was allowed on appeal on 30<sup>th</sup> May 2024 under planning permission reference 18/00840/FUL for Change of use of land to provide four additional gypsy/traveller pitches with day rooms and gym room/store.

- 7.7 This section 73 application was submitted on 29<sup>th</sup> May 2025 and seeks the Variation of Conditions 1 (Permitted Use), 6 (Access Time Frame) and Removal of Condition 2 (5 Year Limit) of 18/00840/FUL.

- 7.8 Condition 1 stated:

*'The use hereby permitted shall be carried on only by the following:  
Household 1: Mr D & Mrs F Fossey  
Household 2: Mr Nathan Russell  
Household 3: Mr Jonny Russell  
Household 4: Mr David Smith  
and shall be for a limited period being the period of 5 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.'*

- 7.9 The application seeks to vary condition 1 so it reads:

*'The site shall not be occupied by any persons other than gypsies and travellers, defined in Annex 1 to Planning Policy for Traveller Sites, December 2024, namely "persons of nomadic habit of life*

whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such', or as amended in any subsequent wording of the definition'.

7.10 Condition 2 stated:

*'When the premises cease to be occupied those named in condition 1 above, or at the end of 5 years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition before the development took place.'*

7.11 The application seeks to remove condition 2 as it will no longer be necessary if condition 1 is varied.

7.12 Condition 6 stated:

*'Within 6 months of the date of this decision, the access shall be widened to a minimum width of 6m, for a minimum distance of 15m measured from the near edge of the highway carriageway and laid out with 7.5 radius kerbs. The access shall be laid out and constructed in accordance with the Cambridgeshire County Council construction specification, including adequate drainage measures to prevent surface water run-off onto the adjacent public highway and thereafter retained.'*

7.13 The application seeks to vary condition 6 so it reads:

*'Within 18 months of the date of this decision, the access shall be widened to a minimum width of 6m, for a minimum distance of 15m measured from the near edge of the highway carriageway and laid out with 7.5 radius kerbs. The access shall be laid out and constructed in accordance with the Cambridgeshire County Council construction specification, including adequate drainage measures to prevent surface water run-off onto the adjacent public highway and thereafter retained.'*

7.14 Looking at the appeal decision and reasons for the three conditions, the main issues to consider in the determination of this application are:

- Flood Risk
- Highway Safety



## Flood Risk

- 7.15 The great channel of the Ouse Washes is approximately 3.25km from the appeal site and together with the Ouse Washes Barrier banks, the Ouse Washes protect the area from fluvial flooding from the Delph and New Bedford rivers. The Delph and New Bedford Rivers are artificial channels into which water from the Great Ouse is channelled at Earith. The site is protected from these potential sources of flooding because, if the river banks are at risk of being over topped, the Environment Agency opens the Earith Sluices to allow water into the Ouse Washes from the Great Ouse.
- 7.16 Sited within the Middle Level of the Fens, the site lies within Flood Zone 3a but the Environment Agency have confirmed that it is located outside of the extent of the Fenland Breach mapping and is therefore not considered to be at a risk of flooding in the event of a breach of the Ouse Washes flood defences. The main source of flood risk at this site is associated with watercourses under the jurisdiction of the Warboys, Somersham and Pidley Internal Drainage Board (IDB).
- 7.17 The following paragraphs summarise the Planning Inspector's key findings for the current application to vary and remove conditions:
- Para 9: The site lies within Flood Zone 3a but the Environment Agency have confirmed it is outside the extent of the Fenland Breach mapping and not at risk of flooding in the event of a breach of the Ouse Washes flood defences. The main source of flood risk is associated with watercourses under the jurisdiction of the Warboys, Somersham and Pidley Internal Drainage Board (IDB). The Middle Level Commissioners, on behalf of the IDB, have set out that there are a range of defences to minimise the risks of flooding and that these have been designed to give adequate protection between the 1 in 60 and 1 in 100 years events, inclusive of climate change;
  - Paras 11 – 13: Whilst, based on the 2010 Strategic Flood Risk Assessment (SFRA), the appellant's Flood Risk assessment refers to the site being within Flood Zone 1, which took account of defences, the Council relied on the 2017 SFRA, which did not, and consequently most of the site is within Flood Zone 3a;
  - Paras 16 -19: Given its location in Flood Zone 3a, irrespective of whether the Environment Agency or IDB consider the site to be at a low risk of flooding, it is necessary to carry out a sequential test. It has not been demonstrated the sequential test has been passed as it has not been shown that sites at a lower risk of flooding are not reasonably available.
  - Paras 22- 23: In terms of the wider sustainability benefits that outweigh the flood risk limb of the exceptions test, the proposal would provide limited economic and social benefits for the wider community through the spending of future occupiers in the local economy. In terms of environmental benefits, the proposal would

provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment.

- Paras 24 – 28: In terms of the safe for its lifetime without increasing flood risk elsewhere limb of the exceptions test, the investments in flood defences will ensure the development will be safe for its lifetime and drainage of the site will not increase flood risk elsewhere. However, the access is within Flood Zone 3 and would be impassable during a flood event, and on that basis would not be safe throughout its lifetime;
- Para 29: The Inspector concluded that the development significantly harms the living conditions of future occupiers due to the risk of flooding and so undermines wider consideration of public safety contrary to the requirements of Local Plan policy LP5, and the Cambridgeshire Flood and Water Supplementary Planning Document.
- Para 59: Two appeal decisions where Traveller sites were allowed in Flood Risk Zone 3 at Wisbech St Mary (Appeal 3196061) and Ramsey Heights (Appeal 3196305) are not comparable because in those cases the sequential test was passed;
- Para 68: In the overall planning balance, the benefits of the proposal, including that the development would provide a settled base for four households, are not sufficient to outweigh the harm arising from the risks from flooding;
- Paras 69 – 76: On the basis that the risks of flooding are low and would be incurred for a limited period, of the difficulties for the occupiers of finding alternative, authorised accommodation, of the benefits for them from continued access to specialist medical treatment locally, and that the Council is updating the Local Plan, which will identify future sites, a 5 year temporary permission is justified, and would be a proportionate response that balances the Article 8 Human Rights of the occupants.
- At para 73 the Inspector indicated that a temporary permission would allow the appellants and the Council to work together to find a long term solution.

7.18 Local Plan Policy LP5 states a proposal will only be supported where all forms of flood risk, including breaches of flood defences or other defence failures have been addressed and with reference to the Cambridgeshire Flood and Water Supplementary Planning Document (SPD). This includes that the sequential approach and sequential test are applied and passed and if necessary the exception test is applied and passed. The majority of the site has been identified as being within Flood Zone 3a.

7.19 Whilst the applicants Flood Risk Assessment makes reference to the site being within Flood Zone 1 within the 2010 Strategic Flood Risk Assessment (SFRA), Officers are relying on the 2017 SFRA as its evidence base, rather than the 2010 SFRA which took into account existing defences and concluded that the site was therefore in Flood Zone 1.

7.20 PPG Paragraph: 024 Reference ID: 7-024-20220825 Revision date: 25 08 2022:

*“How can the Sequential Test be applied to the location of development?”*

*The Sequential Test ensures that a sequential, risk-based approach is followed to steer new development to areas with the lowest risk of flooding, taking all sources of flood risk and climate change into account. Where it is not possible to locate development in low-risk areas, the Sequential Test should go on to compare reasonably available sites:*

- Within medium risk areas; and*
- Then, only where there are no reasonably available sites in low and medium risk areas, within high-risk areas.*

*Initially, the presence of existing flood risk management infrastructure should be ignored, as the long-term funding, maintenance and renewal of this infrastructure is uncertain. Climate change will also impact upon the level of protection infrastructure will offer throughout the lifetime of development. The Sequential Test should then consider the spatial variation of risk within medium and then high flood risk areas to identify the lowest risk sites in these areas, ignoring the presence of flood risk management infrastructure.*

*It may then be appropriate to consider the role of flood risk management infrastructure in the variation of risk within high and medium flood risk areas. In doing so, information such as flood depth, velocity, hazard and speed-of-onset in the event of flood risk management infrastructure exceedance and/or failure, should be considered as appropriate. Information on the probability of flood defence failure is unsuitable for planning purposes given the substantial uncertainties involved in such long-term predictions.”*

7.21 The 2017 SFRA follows the recommended approach in the Planning Practice Guidance (PPG) in relation to existing defences and is the most up to date in relation to flood risk.

7.22 The Framework and the PPG indicate that residential development should be directed to areas of lowest flood risk. Paragraph 168 of the Framework states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding and this is on the basis of a sequential, risk based approach to the location of development.

7.23 Paragraph 173 of the Framework sets out that when determining any planning application, development should only be approved in areas at risk of flooding where it can be demonstrated that the most vulnerable development is located in areas of lowest flood risk. In addition, the PPG requires the appellant to carry out a

sequential test first, which steers new development to areas with the lowest risk of flooding from any source.

- 7.24 Given its location in Flood Zone 3a, irrespective of whether the Environment Agency or IDB consider the site to be at a low risk of flooding, it is necessary to carry out a sequential test, as set out in the LP policy, SPD and PPG. In particular the PPG confirms that the presence of existing flood risk management infrastructure should be ignored, as long term funding, maintenance and renewal of this infrastructure is uncertain. Climate change could also impact on the level of protection infrastructure will offer throughout the lifetime of the development.
- 7.25 The SPD sets out how a sequential test should be undertaken, including agreeing the geographical search for the sequential test, which is generally the entire Local Planning Authority area.
- 7.26 The applicant has submitted a sequential test on the basis of the guidance at Section 4.4 of the Cambridgeshire Flood and Water Supplementary Planning Document (SPD), and following discussions with the planning officer.
- 7.27 The applicant and the Council agreed that that the appropriate geographical area for the test is the Huntingdonshire District Council area. This satisfied Stage A (Geographical Area over which the Test is to be applied) of the sequential test.
- 7.28 Stage B of the sequential test is for the applicant to identify reasonably available sites. The applicant sets out that the following:
- Social Rented Site: only social rented site in Huntingdonshire is the former local authority site at St Neots. The site is fully occupied with a waiting list for pitches.
  - Local Plan Allocations: There are no allocations for Gypsy and Traveller residential use in the adopted Huntingdonshire Local Plan to 2036.
  - Sites with Permanent Planning Permission for Gypsy and Traveller Residential Development: None of the sites approved over the last 5 years can be considered as reasonably available for the occupants of the pitches at Legacy Park (with the possible exception of the two pitches at Straight Drove, Farcet, but that is because at the time of writing we have been unable to confirm whether the site is occupied. Given the nature of the site, consider it highly unlikely it would be available). Whilst this is unknown, given that this site is only for 2 pitches, it wouldn't be suitable to accommodate the required need on this application. Most, if not all the sites that have been approved are small, family owned sites, or extensions to such sites. Such sites tend to be strongly favoured by gypsy's and travellers, and in most cases, once they have secured permissions, such families tend to hold onto them for their children and grand-children, which means that they are rarely available for sale. While the Council has been willing to

approve appropriate Zone 1 sites, because of the challenges for gypsy's and travellers in acquiring suitable land, such sites are not coming forward at a fast enough rate to keep up with the need for accommodation. Secondly, there are a significant number of sites with planning applications undetermined or granted for temporary periods in Flood Risk Zone 3, notably at Ramsey Heights. Reflecting land prices and other factors there is a strong tendency for the sites which have been acquired by Gypsies in recent years to be in Flood Risk Zone 3.

- Land and Sites for Sale: Generally, estate and land agents do not deal much in Traveller sites.. Where land is sold, it tends to be within the community, although Travellers do monitor land available for auction with a view to acquiring suitable sites. 3.12 The only source of information about Traveller sites available for sale that we are aware of is the Dragon Driving website, which is used almost exclusively by Travellers. Excluding sites, which were described as sold, on 7 April 2025 the Equestrian Property, Land and Buildings section of the website contained four adverts for land or pitches with planning permission, one for a house with stables, 12 for land either without planning permission or with applications undetermined, and five for bungalows with land. Adverts were for properties all over the country. None was in Huntingdonshire.
- Applicant's personal experience: Mr Adams is a Romany Gypsy business man with strong local connections. Like many Gypsies and Travellers, he found it very difficult to acquire land where he and his family could live in a way that reflects their cultural preferences. At one stage he, his family and his parents lived at Crystal Lakes caravan park site at Fenstanton, but the site was badly flooded. (This was fluvial flooding along the Great Ouse, rather than flooding of the protected Fens.) They then lived on an industrial site at Wyton near Huntingdon, occupying a caravan and an industrial unit adapted for domestic use. Because of being unable to acquire a suitable site they then lived in a house near Huntingdon, although Mr Adams often slept in a caravan in the drive because of his intolerance of housing. While occupying the house he was actively looking to acquire an appropriate site with the potential for Gypsy and Traveller residential use. Mr Adams eventually purchased the land at Legacy Park in 2006. Drawn from his own experience, Mr Adams makes two points on why it is difficult for Gypsies and travellers to acquire land in Huntingdonshire. Most of the land that comes to the market is large scale agricultural land, or medium sized sites with potential for housing. Neither are affordable for gypsy's and travellers. Secondly, if people do try to buy land, and there is any suggestion the purchase is by gypsies and travellers, the sale is often withdrawn.

7.29 This satisfied Stage B (identify reasonably available sites) of the sequential test.

- 7.30 Stages C, D and E of the sequential test is for the Applicant to obtain flood risk information for all sites, apply the Sequential Test, and Conclusion.
- 7.31 The applicant sets out the following argument that ‘Based on consideration of various potential sources of sites: social rented sites; local plan allocations; sites with permanent planning position; and information on land and sites for sale, together with Mr Adams’ personal experience of trying to buy land, we have been unable to identify any reasonably available sites within Huntingdonshire, which offer realistic alternative accommodation for the occupants of the application site, let alone any sites at lower risk of flooding than Legacy Park. This means the sequential test is passed.’
- 7.32 In addition to what has been submitted by the applicant, Members should be aware that the Council has recently undertaken a call for sites (originally ran from 29 March to 7 June 2023, with an ongoing call for sites was opened and then closed on 31 Jan 2025) as part of the preparation of the new Local Plan. A consultation was held on the additional sites submitted which ran from 23 April 2025 and closed on 4 June 2025. The next step will be for the Council to formulate a list of preferred sites. The key point for members in consideration of this application is that no gypsy or traveller sites were submitted in the call for sites process.
- 7.33 In addition to this, and part of the evidence base document that will inform and shape the new Local Plan, the Council has recently published an updated Gypsy and Traveller(GTAA), Travelling Showperson, boat dwellers and other caravan dwellers Accommodation Assessment 2024 which can be viewed here: <https://www.huntingdonshire.gov.uk/planning/local-plan-update/evidence-library-for-local-plan-update/>
- 7.34 This concludes that there is an overall minimum need for 127 additional Gypsy and Traveller pitches across Huntingdonshire District over the period 2023/24 to 2045/46. Of this need, 36 are needed in the first five years, 69 over the period 2028/29 to 2041/42 and 22 over the period 2042/43 to 2045/46. Due to this, the Council is not currently meeting it’s need in terms of gypsy and traveller pitches.
- 7.35 Within the conclusion section of the report, it advises that in order to meet its need for pitches, the Council should consider regularising sites that are not permanently authorised or temporary authorised in flood zone 3 areas where flood mitigation is in place, alongside other approaches. Members should note that each site should be assessed on its own merits.
- 7.36 The conclusion section of the report also goes onto state that notwithstanding evidence in this GTAA on need, additional need may arise over the plan period, for instance from a higher number

of households moving into Huntingdonshire than anticipated. It is therefore recommended that the Local Plan references the need in the GTAA as a minimum need which is likely to be met but sets out policies to inform future planning applications for private sites.

- 7.37 Officers therefore agree that the sequential test for this site is passed on this basis.
- 7.38 The Cambridgeshire Flood and Water SPD states (page 33) that the passing of the sequential test 'does not mean that the proposed development is acceptable in terms of flood risk as it may be necessary to undertake the Exception Test and a site specific flood risk assessment.'
- 7.39 The applicant has provided an updated site specific flood risk assessment and has also undertaken the exception test which will be discussed in turn.
- 7.40 The Middle Level Commissioners has provided updated comments on this application that clarifies the position of Middle Level Commissioners and the IDB. The comments set out that it is considered that the existing systems, assets, and defences provided by the various water level and flood RMA's (Environment Agency, Middle Level Commissioners and Warboys, Somersham & Pidley IDB) are appropriate for the design life of the development. No evidence has been discovered of the site or immediate area being flooded in recent years. Appropriate design can ensure that the proposals are resistant and resilient to flooding with any residual risk managed safely. Neither the Commissioners nor the Board have objected to the previous planning applications relating to the above site. It is hoped that the above information will help enable the planning permission to be changed from a temporary approval to a permanent one.
- 7.41 The site specific flood risk assessment sets out that Legacy Park is at the highest point within the Warboys, Somersham and Pidley IDB area. The IDB main drainage system is designed to provide minimum 900mm. freeboard for rainfall equivalent to the 1 in 50 year event. But that is for the lowest land within the IDB area. During recent years Pidley Pumping Station has had a winter pumping range of between – 2.80m. and – 2.2m Above Ordnance Datum (AOD) and during summer of between – 2.60m and – 1.60m (due to higher summer retention in the drains for crop irrigation purposes). The topographic survey, Annex 5 shows that ground levels in the appeal site range from between 0.92 and 1.22 m. AOD. This means, that the lowest point within the appeal site sits at least  $2.2 + 0.92 = 3.12$  m above the winter range and at least  $1.6 + 0.92 = 2.52$ m above the summer range, that is above any conceivable flood within the IDB area. As para 5.2 of the FRA states: 'There are many hectares of agricultural land that would

flood in such circumstances before the development site was put at risk’.

7.42 If Pidley Pumping Station failed during an extreme rainfall event there would come a point when local flooding would occur, but the water which could not be pumped up into Fenton Lode would only originate from that part of the IDB area that drains to Pidley Pumping Station and because the land is flat and low-lying, the water would spread as a thin film over the surface of a wide area. To protect the farmland the Commissioners would take action to repair the pumping station or bring in temporary pumping equipment long before the site was affected. And the fact that much of the area surrounding the site is underlain by gravels will contribute to drainage of the land and to minimising any flooding that might occur.

7.43 In regard to the Exception Test, the applicant argues that the following:

Based on the evidence of the Environment Agency and the Middle Level Commissioners, the site and Chatteris Road are protected by three layers of flood defences by the Environment Agency, the Middle Level Commissioners, and the IDB. The economic importance of the area for agriculture and to keep existing homes and businesses safe, means that those agencies, supported by Government funding, are continuing to invest in flood defences and land drainage, including to take account of the impact of climate change.

The Ouse Washes barrier banks protect the area west of the Ouse Washes from flooding from the Delph and New Bedford rivers. The site is protected from these potential sources of flooding because, if the river banks are at risk of being over-topped, the Environment Agency opens the Earith Sluices to allow water into the Ouse Washes (which have the capacity to store a huge amount of water) from the Great Ouse. The works to the Middle Level barrier bank, raising it to a height of 5.5m. AOD, were completed in 2022 and meet the standards of the Reservoirs Act 1975, that is they are adequate for the 1 in 1,000 year event, taking account of climate change.

The computer generated maps of Maximum Flood Depth, Flood Velocity and Hazard Level in the event of a breach of the Ouse Washes flood defences at fig 6 of the Flood Risk Assessment show that the line of Chatteris Road provides a boundary between land to the east which would be impacted by a breach of the defences, and the land to the west, including the application site, which would not. This is a consequence of the road standing on land which is higher than that on either side of it.

The advice of the Middle Level Commissioners is that based on their maintenance of their own land drainage and flood



management infrastructure and that of the IDB that there is no significant risk of flooding of the application site within its lifetime, nor of any escape route by Chatteris Road. 5.7 Not only is there no significant risk of flooding of the site, if there was a possibility of such flooding, which the evidence of the Environment Agency and Middle Level Commissioners is that it will not occur, the Environment Agency's flood warning system and related mechanisms mean that people would be able to leave the site long before it could be impacted by any flooding.

On that basis, we would invite the Council to conclude that any escape route along Chatteris Road would not be impassible and that the Exception Test is passed.

- 7.44 Officers have considered this point in detail, especially in light of the PPG which sets out that initially, the presence of existing flood risk management infrastructure should be ignored, as the long-term funding, maintenance and renewal of this infrastructure is uncertain.
- 7.45 However, given the advice received from the Middle Level Commissioners that the existing systems, assets, and defences provided by the various water level and flood RMA's (Environment Agency, Middle Level Commissioners and Warboys, Somersham & Pidley IDB) are appropriate for the design life of the development, officers consider the exception test is passed for this site.
- 7.46 It is therefore considered that the applicant have demonstrated that the Sequential and Exceptions tests are both passed. This will be weighed in the planning balance.

### **Highway Safety**

- 7.47 Condition 6 stated:

'Within 6 months of the date of this decision, the access shall be widened to a minimum width of 6m, for a minimum distance of 15m measured from the near edge of the highway carriageway and laid out with 7.5 radius kerbs. The access shall be laid out and constructed in accordance with the Cambridgeshire County Council construction specification, including adequate drainage measures to prevent surface water run-off onto the adjacent public highway and thereafter retained.

- 7.48 The applicant has sought to vary the condition to 18 months from the date of the decision.
- 7.49 The Highway Authority has been consulted Highway Authority and consider 18 months is an excessive time frame for the works of this nature, and have noted that they have already received a Short Form 278 application to carry out the works. They suggest

that six months from the date of the decision would be more appropriate. Officers accept this advice, and a further 6 months time period for implementation of works is considered acceptable from the point of this decision.

- 7.50 It is therefore considered that condition 6 will be re-imposed, requiring the works to be carried within 6 months of the date of this S73 decision, not the original decision.

### **Other Matters**

- 7.51 The Parish Council has raised concern that it is also dangerous for pedestrians walking into the village from the site. This was considered and addressed within the original consents which set out that it is recognised that there is some conflict with part a of Policy LP27 given the poor quality of the route for pedestrians to access the village of Somersham. However, it is considered the location of the proposed development is broadly in accordance with the aims of the PPTS, and there would not be a significant level of harm associated with the required car journeys in this instance.

### **Conclusion**

- 7.52 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 7.53 It is clear from the appeal decision, that the Inspector left direction for the applicant to undertake further work regarding the sequential test and exception test. At the point of the appeal decision, the Council was still in the process of updating its GTAA and was also in the call for sites process.
- 7.54 The applicant has demonstrated that the sequential test and exceptions test are passed. The Middle Level Commissioners have provided additional information which states that the existing systems, assets, and defences provided by the various water level and flood RMA's (Environment Agency, Middle Level Commissioners and Warboys, Somersham & Pidley IDB) are appropriate for the design life of the development.
- 7.55 Since the granting of the temporary permission, the Council has completed and published the Gypsy and Traveller accommodation assessment (GTAA) to inform the Local Plan Review. This demonstrates an unmet need for gypsy and traveller pitches. Within the conclusion section of the report, it advises that in order to meet its need for pitches, the council should consider regularising sites that are not permanently authorised or temporary authorised in flood zone 3 areas where flood mitigation is in place, alongside other approaches. It is considered that the

application has demonstrated that flood mitigation is in place which aligns with the above.

- 7.56 Since the granting of the temporary permission, Members should be aware that the Council has recently undertaken a call for sites (originally ran from 29 March to 7 June 2023, with an ongoing call for sites was opened and then closed on 31 Jan 2025) as part of the preparation of the new Local Plan. A consultation was held on the additional sites submitted which ran from 23 April 2025 and closed on 4 June 2025. The next step will be for the Council to formulate a list of preferred sites. The key point for members in consideration of this application is that no gypsy or traveller sites were submitted in the call for sites.
- 7.57 Article 1 of the First Protocol (Human Rights Act) sets out that a person is entitled to the peaceful enjoyment of his possessions and that no one shall be deprived of his possessions except in the public interest. Article 8 of the Human Rights Act states that everyone has the right to respect for his private and family life and his home. Refusing would represent an interference with the home and family life of the proposed occupiers, such that both Articles would be engaged. There is also a positive obligation imposed by Article 8 to facilitate the gypsy way of life.
- 7.58 Occupants of gypsy and traveller pitches are an ethnic minority, and thus have the protected characteristic of race under s149(7) of the Equality Act 2010. The proposal would meet the needs of those persons with a relevant protected characteristic, by reason of race, and so, as required by section 149(1) of the Equality Act 2010, the public sector equality duty is applicable.
- 7.59 Legacy Park is a well-contained and well-looked after site that is appropriately managed. The location and scale of the site does not dominate the nearest settled community, when considered collectively with other nearby traveller sites.
- 7.60 Taken into account all of the above, it is considered that the application has demonstrated that the site should benefit from permanent planning permission.
- 7.61 It is therefore recommended that condition 1 is varied to:
- ‘The site shall not be occupied by any persons other than gypsies and travellers, defined in Annex 1 to Planning Policy for Traveller Sites, December 2024, namely “persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus

people travelling together as such', or as amended in any subsequent wording of the definition'.

- 7.62 This will ensure the site can only be occupied by those meeting the formal definition of a gypsy or traveller as set out in Annex 1 to Planning Policy for Traveller Sites, December 2024.
- 7.63 Given that the Officer recommendation is to grant permanent permission for the site as the application has satisfied the flood risk issue, and in doing so would help meet the need of gypsy and traveller pitches in the district, it is considered that the removal of the personal consent is also supported in this instance. Condition 2 is therefore recommended to be removed.
- 7.64 A further condition is recommended to ensure an evacuation plan is submitted for consideration.
- 7.65 The section 73 application also sought to vary condition 6. Following advice from the highway authority, a further 6 months is considered acceptable from the point of this decision and is therefore recommended.
- 7.66 All other relevant conditions on 18/00840/FUL will be reapplied.
- 7.67 The proposal is in overall accordance with the Development Plan and there are no material considerations which indicate that permission should be refused.
- 7.68 For the above reasons, it is recommended that planning permission be granted in this instance.

**8. RECOMMENDATION - APPROVAL subject to the following conditions:**

- G&T definition
- Number of pitches
- Layout
- No commercial activities
- Access works 6 months
- Drawings
- Submission of an updated Flood evacuation plan

If you would like a translation of this document, a large text version or an audio version, please contact us on 01480 388388 and we will try to accommodate your needs.

**CONTACT OFFICER:**

Enquiries about this report to **Lewis Tomlinson Senior Development Management Officer** – [lewis.tomlinson@huntingdonshire.gov.uk](mailto:lewis.tomlinson@huntingdonshire.gov.uk)

**From:** DevelopmentControl <developmentcontrol@huntingdonshire.gov.uk>  
**Sent:** 11 June 2025 12:18:26 UTC+01:00  
**To:** "DevelopmentControl" <DevelopmentControl@huntingdonshire.gov.uk>  
**Subject:** Comments for Planning Application 25/00972/S73

## Comments summary

Dear Sir/Madam,

Planning Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 11/06/2025 12:18 PM from Mrs Irene Healiss.

### Application Summary

Address:	Legacy Park Chatteris Road Somersham
Proposal:	Variation of Conditions 1 (Permitted Use), 6 (Access Time Frame and Removal of Condition 2 (5 Year Limit) of 18/00840/FUL
Case Officer:	Lewis Tomlinson

[Click for further information](#)

### Customer Details

Name:	[REDACTED]
Email:	executiveofficer@somersham-pc.gov.uk
Address:	The Norwood Building Parkhall Road Somersham Huntingdon

### Comments Details

Commenter Type:	Town or Parish Council
Stance:	Customer objects to the Planning Application
Reasons for comment:	
Comments:	<p>Further to the meeting held on the 9th June, Somersham Parish Council agreed to object to this proposal (which was approved at the end of last May on appeal.)</p> <p>Permitted use was passed for family members only. The applicant has now applied for the 5 year limited to be removed, and for access to the site to be upgraded.</p> <p>Somersham Parish Council agreed that if these are going to be permanent sites, they are therefore not operating as per the site</p>

requirements under planning policy.  
It is also dangerous for pedestrians walking into the village from  
the site.

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Kind regards

NOTES

1. All dimensions are in millimetres unless stated otherwise.
2. The survey information is taken from topographical survey information prepared by MSurv Ltd.

Existing mature planting

Septic tank

Existing mature planting

Existing mature planting

Existing mature planting

Existing mature planting



Nursery

Drain

The Paddock

Chatteris Road

LOCATION PLAN

Ref.	Amendment	Date	Date
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**STIRLINGMAYNARD**  
Construction Consultants

Stirling House, Bightwell, Breilston, Peterborough, PE3 8DZ  
Tel: 01733 262310 Fax: 01733 335527  
Email: enquiries@stirlingmaynard.com www.stirlingmaynard.com

Client

MR FRED ADAMS

Scheme Title

LAND OFF CHATTERIS ROAD,  
SOMERSHAM

Drawing Title

BLOCK PLAN GENERAL LAYOUT

Project Manager	P S SWALLOW	Drawing Status	PRELIMINARY
Drawn	PSS	Scale	1:500
Checked	PSS	@ A1	
Date	Mar 2018		

4805/01/05