

**PARISH** Pinxton

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**APPLICATION** Change of use to Showman's Winter Quarters for 14 plots; construction of access road and plot divisions including front boundary walls; installation of services; diversion of public footpath 27 along proposed road.

**LOCATION** Land to The South Of FW Masons And Sons Ltd Station Road Pinxton

**APPLICANT** Fair Park Estate 13 Rockwell Ave Westbury-on-Trym Bristol BS11 0UF

**APPLICATION NO.** 14/00512/FUL

**CASE OFFICER** Mrs Kay Crago

**DATE RECEIVED** 29th October 2014

Delegated Application referred to Committee by Assistant Director of Planning  
Reason: Balance of issues.

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### **SITE**

The site is currently unused but was previously used for storage in association with industrial premises. It is hard surfaced and fenced. A broadly level site. The River Erewash runs immediately adjacent the southern boundary and the Maghole Brook and an unnamed watercourse lie within the application site to the east. An area immediately adjacent the River Erewash is separately fenced off and this area is characterised by relatively dense scrub understorey and trees. There are also areas of standing water. Public Footpath number 27 crosses the site linking the Erewash Trail with countryside to the east. To the south of the river Erewash is a well established Showman's quarters (approximately 19 plots). The site lies immediately adjacent the M1 motorway.

### **PROPOSAL**

Change of use to showman's winter quarters. The site is shown to be divided into 14 plots, with a new vehicular access off Station Road/Beaufit Lane. Each plot has a vehicular access onto the central access road. The front boundaries of the plots are shown to be 2m high brick faced walls with metal gates. The side boundaries to the plots will comprise 2.4m high chain link security fencing. Public footpath 27 is shown to be re-routed to the south of the site adjacent to the River Erewash within a 10m wide buffer zone.

Engineering operations will be required to six of the plots (Plots 8-13) to locally raise the ground level and retain with gabions.

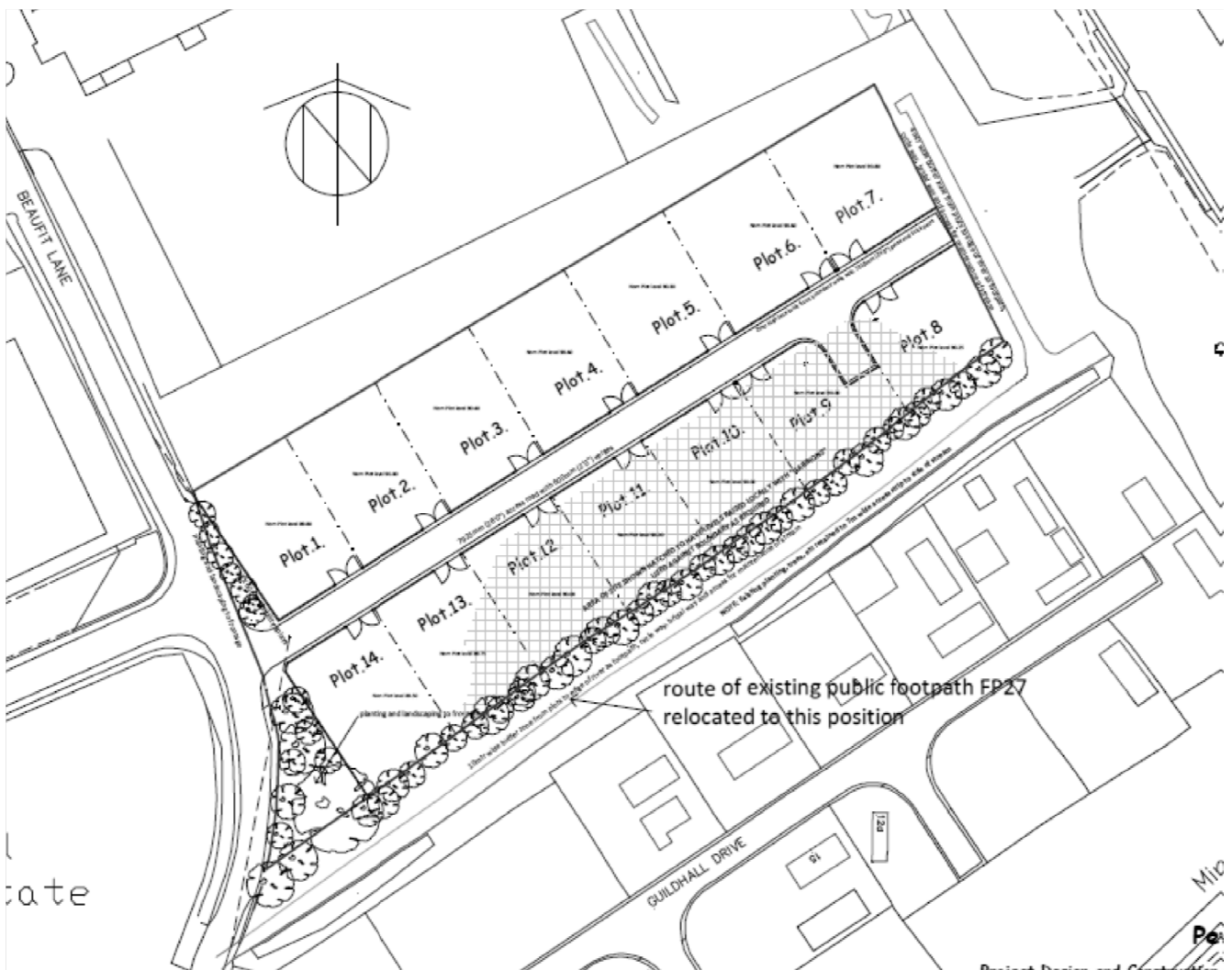
Planting is shown to the site frontage.

The application is supported by the following documents:

1. Phase 1 Environmental Survey
2. Flood Risk Assessment
3. Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement
4. Phase 1 Habitat Survey

### **AMENDMENTS**

Various amendments have been received in response to consultation comments which have been included in the proposal description above.



**HISTORY (if relevant)**

**CONSULTATIONS**

**DCC Greenways Officer.** There is a proposed greenway which coincides with Public Footpath 27. This development provides an opportunity to secure higher rights through the site for horse riders and cyclists. Concerned that the access to the properties becomes a private road with public rights on foot only. It will prove very difficult to secure rights for cyclists and horse riders in future which would jeopardise this proposed long distance Greenway which links Pinxton, Alfreton, Ripley and on to Nottinghamshire. It is crucial that rights for cyclists and horse riders are secured as part of the planning process. 26/02/2015  
Comments on revised layout: There is merit in diverting the proposed Greenway to the southern boundary of the site, provided that there is sufficient width to accommodate a multi user trail (minimum width of 5m to accommodate a 3 metre path and a 1 metre verge either side). The exit of the Greenway onto Beaufit Lane will require assessment to ascertain whether the required visibility splays are available for a multi user trail. 15/05/15

**Ramblers:** request information about the potential for the site to be patrolled by dogs which would cause discomfort for users of the footpath 15/1/15

**Peak and Northern Footpaths Society.** Prefer some form of segregation of footpath users from vehicular traffic to avoid exposure to vehicle movements. If not feasible some form of signage is needed to warn path users and site users of the likelihood of vehicles and walkers encountering each other. Any footpath furniture requires should be of British Standard and comply with the requirements of disability legislation. 16/01/2015

**Coal Authority.** Originally objected to the proposed development as insufficient information had been submitted which addressed the issues arising from the presence of two mine shafts within the application site. Additional information was submitted (Coal Mining Risk Assessment dated 29/01/2015) and the Coal Authority was re-consulted. Revised Coal Authority comments indicate no objection subject to the inclusion of conditions relating to the undertaking of intrusive site investigations. 16/02/2015

**Derbyshire County Council Flood** The proposed site is likely to be subject to surface water flooding during critical storm duration in the 1 in 100 year return period event in its current land use. 40 percent of the proposed development site may be subject to surface water flooding although some may be fluvial flooding associated with the River Erewash. In a 1 in 1000 critical storm 90 percent of the site may be affected. The applicant intends to incorporate SUDS within the development. DCC requires additional information on the drainage strategy prior to any development taking place. Regardless of the sites status as greenfield or brownfield, water discharge should be as close to the greenfield runoff rate as is reasonably practicable. Historical incidents of flooding have been recorded 86m south of the proposed development site on Beaufit Road and 120m upstream. On site drainage should be attenuated or restricted to the current rate to avoid increasing the flooding potential downstream. The Maghole Brook, an unnamed watercourse and the River Erewash affect the site.

The River Erewash, as assessed under the Water Framework Directive 2000, has a poor ecological status. No activities or works should deteriorate the status of these watercourses as the main objective of the WFD is to prevent deterioration in status. There have been reported sightings of water vole 800m downstream of the proposed site. In respect to groundwater data the groundwater may be vulnerable to contamination, is likely to be less than 3m below ground level, there is a significant potential for one or more geo-hazards associated with infiltration and ground instability problems are probably present. It is recommended that a site specific ground investigation is undertaken for the site based on the review of the British Geological Survey data.

Any works in or nearby to an ordinary watercourse require consent from Derbyshire County Council as Lead Local Flood Authority.  
27/01/2015

**Parish Council** Comments: None. 26/01/2015

**Amber Valley Borough Council** No Comment. 20/01/2015

**Ashfield District Council** Proposed planting needs to be labelled with accompanying Horticultural Society Trades Association and National Plant Specification/ British Standards

Information. The Right of Way could be realigned. The visual appearance could be improved by increasing the width of the verges either side of the access road to create planted margin forming a continuation of the planting at the entrance into the site. The details of the type and finish proposed for walls and gates should be incorporated onto the plan. Chain link fencing does not have the same expected product life compared to other potential fencing options and doesn't provide a great deal of privacy or long term security. 18/02/2015

**Derbyshire Wildlife Trust:** Comments on original layout.

The site is divided into two areas and a fence line demarcates the two areas. The area to the north has been cleared of vegetation and the ecological impact of losing this area is low. The area to the south is identified in the submitted ecological survey as being of moderate ecological value. The proposed development would result in the loss of almost the entire habitat to the south. Whilst hawthorn scrub occurs across a large part of this area, the eastern end and the woodland stands closer to the river include willows and alder and are arguably wet woodland, a UK BAP priority habitat type. These areas are seasonally wet and in wetter years retain and store water sometimes in the summer months.

The application site is within the potential Local Wildlife Site B0904 Station Road Scrub noted for its habitat mosaic. The site was formerly a wildlife site when it was within Nottinghamshire. There is sufficient evidence to strongly indicate that the woodland habitat present within the site would meet Derbyshire Local Wildlife Site selection guidelines as wet woodland and the habitat should therefore be treated as of substantive value. Water voles and reptiles could be present on the site.

The proposed development would result in the loss of semi natural scrub and wet woodland habitat within a wildlife corridor/ecological network along the river Erewash. The value of the site has not been fully assessed. The proposal does not accord with the NPPF as it would result in a net loss in biodiversity. No adequate measures are proposed to mitigate or compensate for the loss of the habitat. The development could have an adverse impact on grass snake and water vole. Surveys for these species have not been undertaken. Several hundred trees have been recently planted. This planting has potentially enhanced the site by diversifying the range of species present and creating some structural diversity. The planting of these trees may be mitigation for ecological impacts resulting from earlier applications on nearby land.

The southern half of the site is providing a functional role in respect of flood storage and water regulation and that this has not been investigated or considered in relation to adverse hydrological or hydro ecological impacts. 02/03/2015

Comments on revised layout: No significant measures to avoid, minimise, mitigate or compensate for the ecological impacts and issues associated with the site have been proposed. The retention of a 4m path along the river does little to address the loss of the wet woodland and associated habitat. Our earlier comments therefore are still applicable. 18/6/15

**Environment Agency (EA)**

Objects to the application for various reasons:

1) The development falls within Flood Zone 3b functional floodplain. This is defined as where the probability of flooding to this site would be greater than 1 in 20 in any given year. The development type in the proposed application is classified as more vulnerable and the Technical Guide to the NPPF makes clear that this type of development is not compatible with this flood zone and should therefore not be permitted. Part of the site where the caravans are to be situated is located within the 1:5 year outline from the River Erewash according to

Environment Agency mapping and modelling data. We have serious concerns about the location of the development due to the danger to both life and property.

2) Impact on biodiversity. Inadequate buffer zone to the water course. Planning permission should be refused on this basis. Development could lead to the erosion of the banks of the river Erewash and would be contrary to the Water Framework Directives. We would advise that a 10m wide buffer strip adjacent the river Erewash and associated tributaries is provided free from any built development including formal landscaping and domestic gardens. Loss of habitat. Significant concern over the loss of habitat, with no proposed compensation. This site has the potential to offer good riparian habitat which will contribute to achieving WFD targets and any development here will be removing current and potential habitat creation opportunities. Contradicts the Government's commitment to halt the overall decline in Biodiversity. Paragraph 118 of the NPPF states that if significant harm resulting from a development cannot be avoided, through locating elsewhere, adequately mitigated or as a last resort compensated for then planning permission should be refused. Loss of trees proposed which has not been compensated for.

In the event that planning permission is granted conditions should be included for a water vole survey and the submission of a method statement/construction environmental management plan. Include informative note on treatment and control of non-native invasive plant species.  
13/03/2015

**Environmental Health Officers** (Environmental Protection Officer): Recommends the inclusion of a condition requiring a full phased contaminated land investigation which addresses the sensitive end use. The submitted report has identified several potential sources of contamination and has recommended that further intrusive investigations be undertaken. I am in agreement with these recommendations but cannot agree with the initial risk assessment that has been undertaken as it has been carried out for an industrial end use. This will be used as a residential Showman's site which is significantly different from an industrial end use and will have a different critical receptor to that used within the report.  
24/04/15

**Environmental Health Officer** There could be both noise and air quality issues, may be beneficial to request a noise impact assessment and an air quality impact assessment. Do not anticipate that this will prevent the development from going ahead, but should assess any mitigation that may be required. 02/03/15

**Derbyshire County Council Highways** No objections to the proposal subject to the inclusion of conditions relating to the provision of area for site compound, creation of new vehicular and pedestrian access to Beaufit Lane with 2.4m x 47m visibility splays in both directions, permanent closure of any redundant vehicular accesses, inclusion of pedestrian inter-visibility splays, proposed street to be to binder course level prior to occupation and gradient to be no steeper than 1:30 for first 10m and 1:12 thereafter. A number of highway informative notes suggested also. 13/03/2015

## **PUBLICITY**

Site notice posted and 17 neighbouring properties notified. Two letters of support received, one letter of support submitted by the Showman's Guild of Great Britain and a letter from Pinxton Carpets and Beds. The representation on behalf of other showmen in Pinxton outlines the need for additional sites and the success of the existing site off Guildhall Drive

and off Plymouth Avenue. The application site is seen as a logical extension to these existing facilities.

## **POLICY**

Bolsover District Local Plan (BDLP) adopted saved policies:

GEN 1 Minimum Requirements for Development

GEN2 Impact of Development on the Environment

GEN4 Development on Contaminated Land

GEN5 Land Drainage

GEN6 Sewerage and Sewage Disposal

GEN7 Land Stability

EMP5 Protection of Sites and Buildings for Employment Uses

CLT10 Countryside Recreation facilities

ENV5 Nature Conservation interests throughout the District

HOU14 Residential Caravans and Mobile Homes

HOU15 Sites for Gypsies and Travellers.

National Planning Policy Framework (March 2012)

Paragraph 214 states that: "For 12 months from the day of publication, decision takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework."

Paragraph 215 states that "In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given."

These two paragraphs mean that, since the Bolsover Local Plan was prepared and adopted prior to 2004, that 'due weight' rather than 'full weight' should be attached to its policies. Greater weight should be given to the policies of the NPPF where the plan is out of date or silent on any issue.

Paragraph 100 (part): Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

Paragraph 103: When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

Paragraph 117 states (in part)

To minimise impacts on biodiversity and geodiversity, planning policies should:

- promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan;

Paragraph 118 states (in part)

When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- opportunities to incorporate biodiversity in and around developments should be encouraged;

Paragraph 120: To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 121: Planning policies and decisions should also ensure that:

the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;

- after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- adequate site investigation information, prepared by a competent person, is presented.

## **ASSESSMENT**

### Amenity, Employment Issues and need for additional sites.

It is characteristic of showman sites for the residential use to be located alongside the repair, storage of fairground equipment etc (commercial/industrial uses). The application would create showman's quarters which would have both residential and storage/maintenance

elements. The mixed industrial and residential nature of such sites can mean that location within a wholly residential area is not always acceptable.

The site is adjacent to a well established showman's site and the design and layout of the proposed scheme broadly reflects that of the existing Guildhall Drive development. This site has operated at this edge of the employment area of Pinxton without any interference in the effectiveness of other commercial operations. Other smaller showmen's sites lie nearby off Plymouth Avenue. The use does include some employment activity and so is not contrary to the aims of EMP5 Protection of Sites and Buildings for Employment Uses.

It also appears that the current showman's site has been acceptable to the occupiers for residential use as there is no record of complaints about the impact from other commercial operators. In principle therefore the application site seems to be an acceptable location subject to being able to comply with other requirements and having no unacceptable impacts on other material factors.

Policies HOU14 and HOU15 relate to residential caravan sites and sites for gypsies and travellers respectively. Neither policy is directly applicable to showman use, but both provide some criteria which are a useful guide to ensure a satisfactory level of residential amenity is achieved. The site is located within walking distance of local shops and services and public bus routes. Adequate private amenity space is potentially available within each plot (this would be dependent on how individuals used the plots). It is intended that full services will be available to residents in respect of water, electricity and sewage disposal etc. The site lies adjacent the Erewash Trail and countryside to the east and there is the opportunity for informal recreation. In broad terms the location is sustainable.

A new Gypsy and Traveller Accommodation Assessment 2015 (GTAA) is being undertaken for the whole of Derbyshire. Once published it will identify the objectively assessed need for Showman's plots that will need to be met in the (new) Bolsover Local Plan.

The previous GTAA (2008) is out-of-date, therefore when developing the Local Plan Strategy Proposed Submission 2013 (now withdrawn) the Council used the evidence for the need for Showman's Plots contained within the East Midlands Regional Spatial Strategy (RSS) (now revoked). By applying the RSS's assumed growth rate for Showman's Plots of 1.5%, it gave a requirement of 11 plots for the district to provide by 2031. By October 2012, three new plots had been granted planning permission. Whilst these can be given little weight overall they help create a context for a need for additional plots, which is generally accepted by officers.

The existing sites within Pinxton have successfully historically met the requirements of this particular community. There is a strong likelihood of a need for additional showmen's quarters in the Pinxton area and this development seeks to provide facilities for 14 families. Recent case law would suggest that the Council also needs to give weight to maintaining a five year supply of deliverable sites for showmen; the lack of a five year supply is a strong favourable material consideration in the balance of determining this application in compliance with the NPPF.

#### Highway considerations including footpaths

A relocated vehicular access off Station Road will be created to serve the site. The road into the site would be in the form of a cul de sac with a turning head provided towards the far end



of the road. Individual accesses to the 14 plots would be created. Visibility splays are shown to both sides of the vehicular access. Planting is shown within the splays which is likely to interfere with visibility, but this could be controlled by condition.

There are no objections to the proposed access arrangements subject to conditions as set out above. Those directly relating to details of the access arrangements are acceptable; the compound is permitted development and it has not been shown why such a condition is necessary.

The site is crossed by Footpath 27 on the Definitive map. Originally this path was shown on a revised route along a footway to the proposed access road. Concern was expressed that there may be conflict between vehicular movements and pedestrians along the access. Additionally concern was raised by the DCC Greenways Officer that the opportunity to consider other types of user wasn't being considered and that this was an opportunity for horse riders and cyclists in connection with the proposed long distance Greenway which links Pinxton, Alfreton, Ripley and on to Nottinghamshire. The revised scheme now shows the footpath to be re-routed within a 10m buffer zone adjacent to the River Erewash. The route is described as being 3m in width for use by cyclists, horse riders and pedestrians. The Greenways Officer sees merit in diverting the proposed Greenway to the southern boundary of the site provided that there is sufficient width to accommodate a multi user trail (minimum width of 5m to accommodate a 3 metre path) and subject to there being the required visibility splays onto Beaufit Lane for a multi user trail.

Policy CLT 10 seeks to protect existing countryside recreational facilities; Planning permission will not be granted for development which would have a materially harmful impact on the character, or prejudice the use for countryside recreation. The revised scheme offers a potential opportunity to improve the current access arrangements which would comply with this policy. (See, however, the ecology considerations). It should be noted however that the only element that is needed to address the impacts of the development is a reasonable provision for the public footpath.

In relation to highway matters, subject to conditions relating to specific details, it is likely that the development could meet the requirements of policy GEN1 (1), (2) and (3) of the Bolsover District Local Plan. The revised footpath route minimises the risk of crime- GEN1 (5). In respect of GEN1 (6) Health and Safety see section on flood risk. In relation to GEN1 (4) (landscape matters) it could comply subject to a detailed scheme.

#### Coal Mining and ground stability considerations.

The site is within a former coal mining area and at least two mine shafts are sited within the application site. The application was accompanied by a Phase 1 Environmental Survey Report. The Coal Authority initially objected but were re-consulted on an updated risk assessment and the objection was withdrawn, subject to the inclusion of conditions. Conditions are to cover site investigation works to be undertaken prior to commencement of development and if remedial works are identified that the works are undertaken prior to other development commencing.

This addresses GEN1 (6) in part- and GEN7 Land Stability.

### Flooding and surface water/drainage issues.

Policy GEN 5 considers the interaction of development with the natural watercourse and land drainage system; planning permission will not be granted for development which would result in a reduction in the capacity of the natural floodplain, detrimental changes in the characteristics of surface water run-off, new uses at risk in areas liable to flooding or loss of access to watercourses for future maintenance and improvement works.

Paragraphs 100 and 103 and the related Technical Guidance of the NPPF also apply. It is considered that the local plan policy is generally in compliance with the NPPF and should be accorded due weight.

The site is adjacent to the River Erewash, and the Maghole Brook and another watercourse are within the site. The site falls within Flood Zone 3b functional floodplain as identified by the Environment Agency. This is the highest flood zone risk. This zone is identified as functional flood plain where the probability of flooding to this site would be greater than 1 in 20 in any given year. It comprises land where water has to flow or be stored in times of flood.

The use as a showman's quarters introduces a vulnerable use on to a site where the current use is water compatible. Whilst traditionally occupation has been limited to winter months, that is not always the case. For example a number of residents on the nearby site are permanent, including some retired showmen.

The flood risk assessment submitted with the planning application identifies the flood zone to be 3a, a lower risk category than zone 3b and discusses the potential for flooding and proposed mitigation measures. The report appears to be relying on residents not being permanently resident at the site and having moveable non permanent structures and has defined the development type as being more vulnerable. However it is entirely feasible that families with school age children and retired people are likely to live permanently at the site. Under planning powers it would not be possible to effectively try to restrict occupation to a limited period each year.

Within the design and access statement a description is given "Each plot will have facilities to locate a mobile home which could be used all year around ....." Indeed on the adjacent site there are some permanent brick built chalet style homes indicating that a more permanent occupancy for some residents is likely. It is also likely that more residents will be living on the site during times when flooding is more likely, i.e. the winter months. Given the likelihood that some people will live on site all year round the application has been assessed as "highly vulnerable". The storage and repair element would be classed as less vulnerable.

Technical Guidance to the NPPF states that where the development contains different elements of vulnerability the highest category should be used.

Even if the caravans were lived in on a non permanent basis and the development could be defined as more vulnerable and not highly vulnerable, Table 3 of the Technical Guidance to the NPPF Flood risk vulnerability and flood zone compatibility considers highly vulnerable and more vulnerable uses NOT to be compatible with flood zone 3b and therefore should not be permitted. The EA objects to the proposed development within the functional floodplain due to the non compatibility of the proposed uses.

The EA also states that part of the site where the caravans are to be situated is located within the 1:5 year outline from the River Erewash according to their mapping and modelling data and they have serious concerns about the location of the development due to the danger to both life and property.

Whilst the revisions have sought to place caravans on the higher ground this has not overcome this fundamental objection.

It is acknowledged that immediately adjacent the River Erewash to the south there is the existing showman's site which also lies within the flood plain. This is a long standing situation that was granted permission many years ago. Current guidance would not support development of this kind within functional flood plains.

The proposed development does not meet the requirements of policy GEN5 (parts 1 and 3) of the Bolsover District Local Plan nor the NPPF (paras 100 and 103). In view of the dangers identified it is also considered to be contrary to GEN1(6).

The proposed site is likely to be subject to surface water flooding during critical storm duration in the 1 in 100 year return period event. 40 percent of the proposed development site may be subject to surface water flooding although some may be fluvial flooding associated with the River Erewash.

The applicant intends to incorporate SUDS within the development. Details have not been provided. The submitted flood risk assessment states that there will be minimal increase in impermeable areas and the siting of proposed cabins and vehicles and mobile units that can be moved from the site and large extent of River Erewash flood plain indicates there would be no tangible flood storage reduction. In respect to groundwater data the groundwater may be vulnerable to contamination, is likely to be less than 3m below ground level, there is a significant potential for one or more geo-hazards associated with infiltration and ground instability problems are probably present. It is recommended that a site specific ground investigation is undertaken for the site based on the review of the British Geological Survey data.

DCC requires additional information on the drainage strategy to achieve a discharge rate as close to the greenfield runoff rate as is reasonably practicable to avoid increasing the flooding potential downstream. This could be required by condition.

In the light of site specific surface water issues, sensitivity of the River Erewash to contamination and possible issues relating to water infiltration and ground stability a condition or conditions would need to be included on any permission requiring the submission of a detailed scheme relating to the management of surface water, foul drainage and water infiltration/ instability.

### Ecological Issues

The flood authority states that the River Erewash as assessed under the Water Framework Directive 2000 has a poor ecological status and that no activities or works should deteriorate the status of these watercourses as the main objective of the WFD is to prevent deterioration in status. There have been reported sightings of water vole 800m downstream of the proposed site.

The northern part of the site is of low ecological value; the southern half which is adjacent to the River Erewash is characterised by scrub, self set trees and recently planted trees and wetland species and is of ecological value; particularly as such sites are relatively rare in this area. As amended the proposed development leaves a 10 metre wide buffer zone adjacent to the River Erewash. Whilst this buffer zone will also contain a 3metre wide multi user trail it will leave more of the habitat in place than previously proposed but the ecological value is likely to be reduced by the introduction of trail users and by the overall reduction in habitat.

Policy ENV5 of the adopted Bolsover District Local Plan requires development to retain wherever possible habitats locally important for diversity, make provision wherever possible for habitat replacement, incorporate creative conservation measures which promote biodiversity targets, incorporate native species in any landscaping or planting scheme, incorporate the maximum possible area of permeable ground surface and to take steps to regulate surface water flows to protect and enhance nature conservation, seek the incorporation of habitats attractive to wildlife in the design of built structures. NPPF paragraph 118 also applies. It is considered that policy ENV5 is generally compliant with the NPPF.

Derbyshire Wildlife Trust has been consulted on the application and objects to the proposed development as it would result in the loss of semi natural scrub and wet woodland habitat within a wildlife corridor/ecological network along the river Erewash. The Trust considers that there is sufficient evidence to strongly indicate that the woodland habitat present within the site would meet Derbyshire Local Wildlife Site selection guidelines as wet woodland and the habitat should therefore be treated as of substantive value.

The development could have an adverse impact on grass snake and water vole.

The Environment Agency also considers that there is no mitigation or compensation provided for the loss of riparian habitat or consideration given to the planting of replacement trees.

There are limited opportunities for compensatory habitat creation or mitigation measures to be implemented within the site. Some planting is shown to the site frontage but this may impact upon visibility. There is also limited opportunity for some planting of native species to the boundaries of the proposed plots which would be of some ecological value over time. The proposed development would result in the loss of semi natural scrub and wet woodland habitat within a wildlife corridor/ ecological network along the River Erewash. This would result in a net loss in biodiversity contrary to policy ENV5 (parts 1,2 and 3) of the Bolsover District Local Plan and the National Planning Policy Framework

#### Contamination

Policy GEN4 states that planning permission will only be granted for development on land which is being or has been put to a contaminative use where the developer can demonstrate that measures to be undertaken following a comprehensive site investigation are sufficient for its intended use and remedy or prevent any potentially materially harmful effect on health, safety, or the environment. The submitted phase 1 environmental survey report has identified several potential sources of contamination and has recommended that further intrusive investigations be undertaken. The conclusions suggest that the end use will be industrial and that any risk to human health is likely to be during the redevelopment works. However a mixed use of the site including residential use is proposed and therefore the site has to be suitable for a sensitive end use. The Environmental Health Officer recommends a condition

requiring a full phased contaminated land investigation including where necessary remediation measures which address the sensitive end use.

It has also been suggested that a noise and air quality assessment be undertaken to identify any mitigation measures which could be required given the proximity to the A38 and industrial users. These can be required by condition

It is considered that the proposed development could meet the requirements of policy GEN4 of the Bolsover District Local Plan and achieve general compliance with paragraph 120 of the NPPF.

#### Other Matters

Listed Building: n/a

Conservation Area: n/a

Crime and Disorder: No issues raised.

Equalities: "Showman" is a recognised group that have distinctive requirements for accommodation given the lifestyle associated with them, including residential occupation (often seasonal related to fairs and shows) and repairs of rides and equipment.

Access for Disabled: None raised.

Trees (Preservation and Planting): n/a

SSSI Impacts: n/a

Biodiversity: Included in report above

Human Rights: None raised.

#### Conclusion:

Whilst significant weight should be given to ensuring an adequate supply of accommodation for showmen and this site is well related to an existing facility there are specific problems associated with the site in terms of flooding impacts and ecological impacts that are sufficient to justify refusal in this case.

Whilst there is some compliance with development plan policies as discussed in the report, there are also non-compliances. It is considered that on balance the proposal does not comply with the policies of the development plan and the policies of the NPPF. These policies should be given due weight as they reflect similar policies in the NPPF. Whilst having due regard to the accommodation needs of the showmen within the district, development of this site would not result in a sustainable form of development. It is considered that national and local planning policies should prevail and there are no material circumstances that would override them..

#### **RECOMMENDATION: REFUSE for the following reasons:**

1. The site lies within the historic flood plain of the River Erewash and within Flood Zone 3b as defined by the Environment Agency. The inclusion of a residential use introduces a highly vulnerable use within functional flood plain which is inappropriate. In addition, the raising of land levels within the site would reduce the storage capacity of the site in the event of a flood increasing the risk of flooding elsewhere. As such development of the site would be contrary to policy GEN5\_Land Drainage of the Bolsover District Local Plan and paragraphs 100 and 103 of the NPPF.

2. The proposed development would result in the loss or degradation of semi natural scrub and wet woodland habitat and with no significant measures to avoid, minimise or compensate for the ecological impacts the development will result in a net loss in biodiversity. As such the proposal is contrary to the requirements of policy ENV5 Nature Conservation Interests throughout the District and paragraph 117, 118 of the NPPF.