

ENFORCEMENT NOTICE

**TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)**

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

ISSUED BY BEDFORD BOROUGH COUNCIL

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A (1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land at Bushmead Road, Staploe, Bedford as shown edged red on the attached plan.

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Without planning permission:-

- (i) The material change of use of agricultural land to use for the siting of a mobile home and caravans for residential occupation;
- (ii) The carrying out of engineering operations for the formation of hardstanding comprising of the laying of a concrete base for the stationing of the mobile home and/or caravans and the laying of hardcore on the land; and
- (iii) The carrying out of engineering operations for the installation of a septic tank and the creation of an access onto the land.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last ten years.

- (a) It is expedient to issue an Enforcement Notice because:-
 - (i) This is a development in the countryside in the form of a mobile home and caravans where there is a presumption against such development unless there is a clearly identified need. No such justification has been provided and therefore it is considered that the development is contrary to policies H26 and H37 of the Bedford Borough Local Plan 2002.
 - (ii) The laying of concrete base and hardcore by reason of its location, area of coverage and visual impact is detrimental to the amenity of the local area and nearby residential properties and inappropriate in the open countryside. The

works are therefore contrary to Policy BE30 and S6 of the Bedford Borough Local Plan 2002.

- (b) Other policies and proposals in the development plan which are relevant to the decision to issue this Enforcement Notice other than those referred to in 4(a) above are S6 (which defines settlement policy areas) and BE30 (material considerations in control of new development) and Policies H27 and H30 of the Bedford Borough Local Plan 2002.

5. WHAT YOU ARE REQUIRED TO DO

- (i) Remove permanently the mobile home and caravans from the land and cease the use of the land for the stationing of a mobile home and caravans for residential purposes;
- (ii) Remove permanently from the land the hardstanding and all the hardcore spread across the land and restore the land to its former conditions as agricultural land and remove permanently all the resultant materials from the land;
- (iii) Remove permanently the septic tank from the land and fill the hole with earth;
- (iv) Stop up the access and plant a hedgerow across the entrance to the land using species matching the established hedgerow on either side; and
- (v) Reinstate and seed the highway verge to match the verge on either side.

6. TIME FOR COMPLIANCE

One calendar month after this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 9 January 2008, unless an appeal is made against it beforehand.

Dated: 11 December 2007

M J Gough

Signed:

M J Gough
Head of Corporate Administration
(Solicitor to the Council)

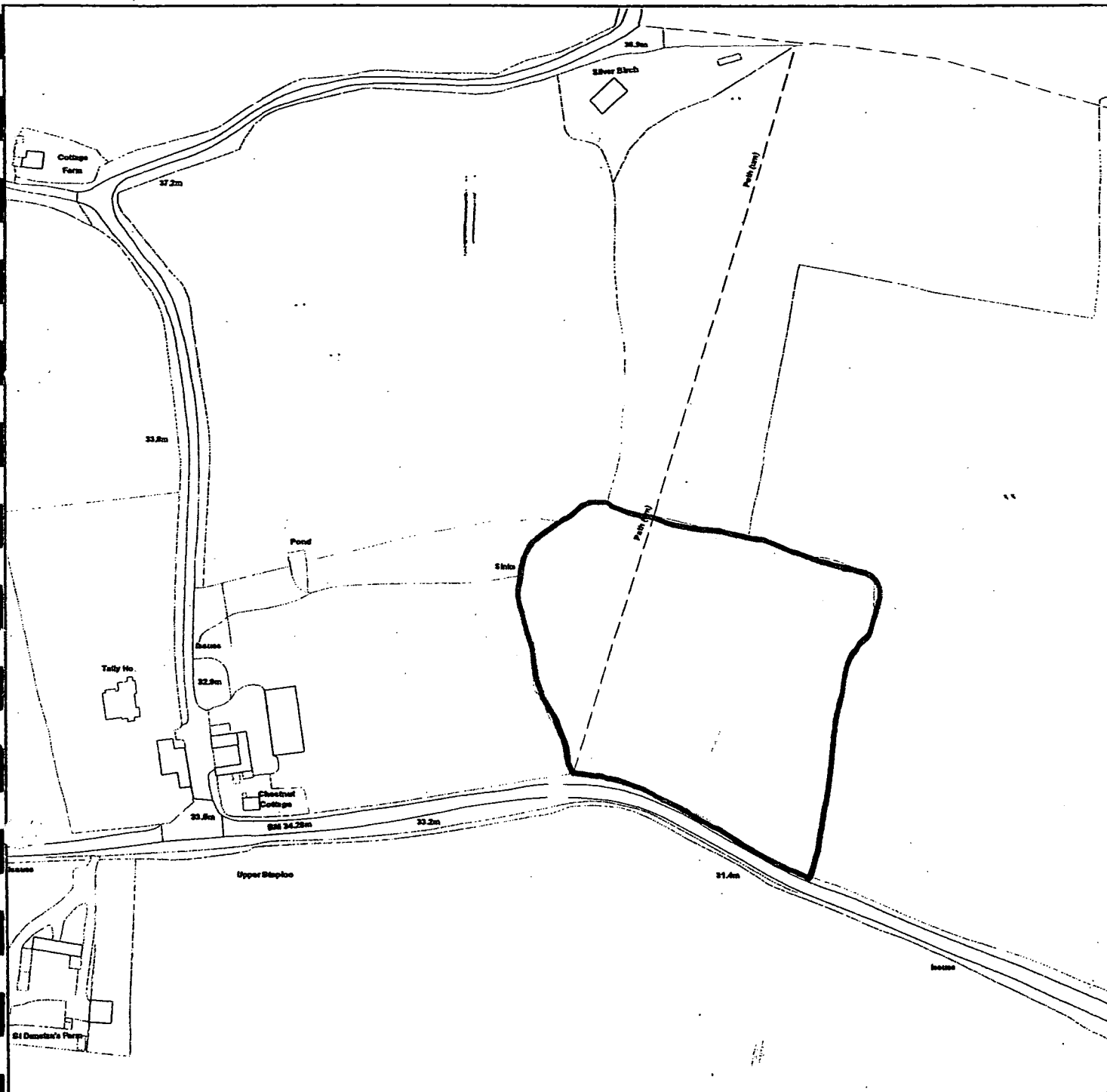
on behalf of Bedford Borough Council, Town Hall, Bedford, MK40 1SJ.

Not Set

Not Set



GIS by ESRI (UK)



Scale : 1:2500

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Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	14 November 2007
SLA Number	Not Set

STOP NOTICE

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

SERVED BY: BEDFORD BOROUGH COUNCIL

**To: Mrs Kathleen Rooney
Land at Bushmead Road
Staploe
Bedford**

1. On 11 December 2007, the Council issued an enforcement notice (of which a copy is attached to this notice) alleging that there has been a breach of planning control on land at Bushmead Road, Staploe, Bedford.
2. **THIS NOTICE** is issued by the Council, in exercise of their power in section 183 of the 1990 Act, because they consider that it is expedient that the activity specified in this notice should cease before the expiry of the period allowed for compliance with the requirements of the enforcement notice on the land described in paragraph 3 below. The Council now prohibit the carrying out of the activity specified in this notice. Important additional information is given in the Annex to this notice.
3. **THE LAND TO WHICH THIS NOTICE RELATES**
Land at Bushmead Road, Staploe, Bedford as shown edged red on the attached plan.
4. **ACTIVITY TO WHICH THIS NOTICE RELATES**
Without planning permission;
 - (i) The material change of use of agricultural land to use for the siting of a mobile home and caravans for residential occupation;
 - (ii) The carrying out of engineering operations for the formation of hardstanding comprising of the laying of a concrete base for the stationing of the mobile home and/or caravans and the laying of hardcore on the land; and
 - (iii) The carrying out of engineering operations for the installation of a septic tank and the creation of an access onto the land.

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

SITE NOTICE STATING STOP NOTICE SERVED

**TOWN AND COUNTRY PLANNING ACT 1990
(As amended by the Planning and Compensation Act 1991)**

Issued by: Bedford Borough Council ("the Council")

TO WHOM IT MAY CONCERN

Whereas:

- 1 A copy of the Stop Notice (with plan annexed) which has today been served is attached together with the Enforcement Notice (plan annexed) dated 11 December 2007 and relates to land at Bushmead Road, Staploe, Bedford as shown edged red on the annexed plan.
- 2 The Council, being the Local Planning Authority for the land to which this Notice relates, has served a Stop Notice dated 14 December 2007 in respect of the following activities:

Without planning permission;
 - (i) The material change of use of agricultural land to use for the siting of a mobile home and caravans for residential occupation;
 - (ii) The carrying out of engineering operations for the formation of hardstanding comprising of the laying of a concrete base for the stationing of the mobile home and/or caravans and the laying of hardcore on the land; and
 - (iii) The carrying out of engineering operations for the installation of a septic tank and the creation of an access onto the land.
- 3 The Stop Notice requires the following:
 - (i) Cease the bringing onto the land of any additional caravans /mobile homes for any residential purposes, which are not present at the time of serving of this notice;
 - (ii) Cease all further engineering/operational development of the land not in connection with the agricultural use; and
 - (iii) Cease the further importation of hardstanding material on the land.
- 4 The Stop Notice takes effect on the 14 December 2007 and all the activities specified in (i) to (iii) in paragraph 3 above must cease from the date this Stop Notice takes effect.

TAKE NOTICE that any person contravening or causing or permitting the contravention of the Stop Notice may be prosecuted for an offence under section 187(1) of the above Act.

Signed..... *M J Gough*

Michael Gough
Head of Corporate Administration and
Solicitor to the Council
Bedford Borough Council
St Pauls Square
Town Hall
Bedford MK40 1SJ

Dated 14 December 2007



Appeal Decision

Inquiry held on 30 September &
1 October 2008 and 21, 22, 23 & 30
January 2009

Site visits made on 1 October 2008 and
30 January 2009.

by **Claire Sherratt** DipURP MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
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Temple Quay House
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Temple Quay
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☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
10 March 2009

Appeal Ref: APP/W0205/C/08/2064126 Bushmead Road, Staploe, Bedford PE19 8BP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Kathleen Rooney against an enforcement notice issued by Bedford Borough Council.
- The Council's reference is 07/00620/UNAUTHU.
- The notice was issued on 11 December 2007.
- The breach of planning control as alleged in the notice is without planning permission:
 - i) The material change of use of land to use for the siting of a mobile home and caravans for residential occupation;
 - ii) The carrying out of engineering operations for the formation of hardstanding comprising of the laying of a concrete base for the stationing of the mobile home and / or caravans and the laying of hardcore on the land; and
 - iii) The carrying out of engineering operations for the installation of a septic tank and the creation of an access onto the land.
- The requirements of the notice are:
 - i) Remove permanently the mobile home and caravans from the land and cease the use of the land for the stationing of a mobile home and caravans for residential purposes;
 - ii) Remove permanently from the land the hardstanding and all the hardcore spread across the land and restore the land to its former conditions as agricultural land and remove permanently all the resultant materials from the land;
 - iii) Remove permanently the septic tank from the land and fill the hole with earth;
 - iv) Stop up the access and plant a hedgerow across the entrance to the land using species matching the established hedgerow on either side; and
 - v) Reinstate and seed the highway verge to match the verge on either side.
- The period for compliance with the requirements is one calendar month.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
- An application for planning permission is deemed to have been made under S177(5) of the Act as amended.

Procedural Matters

1. I established at the inquiry that there was an existing agricultural access. As such it was agreed that requirement (iv) of the notice 'to stop up the access and plant a hedgerow across the entrance to the land using species matching the established hedgerow on either side' should be deleted. In addition, I consider that requirement (ii) of the notice should also refer to the removal of hardcore at the access point for the avoidance of any doubt. I am satisfied that no parties would be prejudiced as a result and I will correct the notice accordingly.
2. Permission is sought for the following family members to live on the site: Mrs Kathleen Rooney (the appellant), Mr Patrick Rooney, Bridget Rooney (aged 19), Mr F Connors and Mary Connors (nee Rooney) (18) and their baby Eddie (born 2008), Martin Rooney (15), Lawrence (Larry) Rooney (11), Patrick Rooney (9), Kathleen Rooney (4) and Ann Rooney (2).
3. Based on the information available to the inquiry, the gypsy status of the appellant and her family, including Mr and Mrs Connors was not disputed by the parties. Mr and Mrs Rooney are Irish Travellers. I am satisfied that Mr and Mrs Rooney and their family are gypsies in accordance with the definition set out in paragraph 15 of Circular 01/2006.
4. The notice makes no reference to the number of caravans on the site. There is no dispute between the parties that a mobile home is stationed on the site. In addition, there have been 3 and on occasions 4 touring caravans stationed on the site. Written documentation submitted at the time of the appeal confirms that permission is sought for the twin unit mobile home and 2 other touring caravans, one for Mary and her husband and one for Mr Rooney when he visits. I heard that ideally the appellant would like 4 touring caravans in addition to the mobile home. I will therefore consider the effect of the development having regard to one mobile home and 2, 3 or 4 additional touring caravans.

Decision

5. I direct that the enforcement notice be corrected by:
 - the deletion of requirement (iv) 'Stop up the access and plant a hedgerow across the entrance to the land using species matching the established hedgerow on either side'.
 - The insertion of 'including the access' after 'spread across the land' in requirement (ii).
- I direct that the enforcement notice be varied by:
- the deletion of 1 calendar month and the substitution of 18 months as the period for compliance.
6. Subject to these corrections and variations I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ground (a) appeal and the deemed application.

Main issues

7. I consider the main issues are:
 - (a) the need for and provision of gypsy sites in the area;
 - (b) the effect of the development on the character and appearance of the surrounding area;
 - (c) the effect of the development on highway safety; and
 - (d) the personal circumstances of the appellant and her family;

Planning Policies

8. The Core Strategy and Rural Issues Plan (CSRIP) was adopted on 15 April 2008, after the enforcement notice had been issued. Policy CP12 adopts the Settlement Policy Areas (SPAs) defined in the former Local Plan although these will be revised on adoption of an Allocations and Designations Development Plan Document (DPD). The site is not within a SPA. It is situated in open countryside. Of particular relevance to this appeal is Policy CP9 'Accommodation for gypsies, travellers and travelling showpeople'. Where a need for such accommodation has been identified, Policy CP9 requires sites to be allocated and planning permission granted within or adjoining the urban area or SPAs or, where no such sites are reasonably available or suitable for the use, in the countryside, provided that in relation to all locations, a number of requirements are clearly satisfied. These requirements include evidence to justify a local need, a satisfactory vehicular access, that any impact upon the character and appearance of the locality is minimised; amenities of the occupiers of nearby land and property would not be harmed; adequate facilities are within reasonable travelling distance and preferably can be reached by foot, cycle or public transport; the scale of the site would not dominate the nearest community; and, the site would not be located in an area at high risk of flooding.
9. The Bedfordshire and Luton Gypsy and Traveller Accommodation Needs Assessment (GTAA) was carried out in 2006. It concluded that there was a need to accommodate 74 households during the period 2006 to 2011. Of these, accommodation for up to 10 households should be provided in Bedford Borough. Most families interviewed expressed a preference to live in the countryside on private sites.
10. The East of England Plan forms the Regional Spatial Strategy (RSS). A Single Issue Review (SIR) concerning Planning for Gypsy and Traveller Accommodation in the East of England is underway. An Examination in Public was carried out in October 2008 and the Report of the Panel was published recently. It recommends that the minimum requirement to provide pitches in Bedford is increased from 15 pitches to 25. The report recognises that in Bedford there is potential to accommodate these additional 10 pitches between 2006 and 2011 having regard to the opportunities provided by housing development in Bedford, its role as a Key Centre for Development and Change, the availability of unconstrained land, and the position of the district in relation to need in Cambridgeshire. The effect of the Panel Report recommendations is to increase regional need overall by 50 pitches. This is the most up-to-date

assessment of need. Local authorities must allocate sufficient sites for gypsies and travellers, in terms of pitches required by the RSS, in site allocations DPDs.

11. The Council is in the process of preparing the Allocations and Designations DPD that will identify sites for new development, including gypsy and traveller sites. It has carried out a 'call for sites'. As part of this process, three sites have been advanced as potential gypsy and traveller sites. The Council intends to publish its preferred options in August 2009 and anticipates the DPD will be adopted in April 2011. In the meantime, the Full Council and the Mayor of Bedford Borough have resolved that action be taken towards the provision of sites before April 2009.

Reasons

General need for and provision of gypsy and traveller sites

12. Both the GTAA and the recent RSS SIR identify a need for further sites both regionally and in Bedford. Bedford County Council's public site at Kempston Hardwick is full to capacity (16 pitches). I heard that there is a slow turnover of pitches and a waiting list containing in the region of some 14 applicants. There have also been a number of unauthorised encampments in the borough in 2008 as well as the unauthorised development on the appeal site. I am satisfied there is evidence of a general and immediate need for additional pitch provision both regionally and in the borough.
13. At present there are no existing alternative sites within the borough that would be available to the appellant and her family. I heard that a planning application for a private site accommodating 4 pitches had recently been refused in the borough and an appeal has been lodged. I heard no substantive evidence to suggest that if successful on appeal, any of these pitches would be likely to be available and affordable to the appellant. In any event the outcome of the appeal remains unknown and I afford any potential for this site to be available in the near future very little weight. The parties did not refer to any other sites inside or outside the borough that currently have any vacancies and that may be suitable.
14. Living in conventional housing has clearly not been a satisfactory situation for the appellant in the past. In any event, this option would not recognise, protect or facilitate the traditional travelling way of life of the appellant and her family. It is not necessary for the appellant to demonstrate any local connection to the area. One of the main intentions of Circular 01/2006 is to underline the importance of assessing needs at regional and sub-regional level to enable local authorities to develop strategies to ensure that the needs of gypsies and travellers are dealt with fairly and effectively; and to identify and make provision for the resultant land and accommodation requirements. I consider the appellant and her family have demonstrated a personal need for a site.
15. Where a need has been identified, Policy CP9 advocates a sequential approach to the allocation of sites and granting of planning permission. Where no sites are reasonably available or suitable for use within or adjoining urban areas or SPAs, sites will be provided in the countryside providing they meet all other relevant criteria. Paragraph 65 of Circular 01/2006 also requires local authorities, in deciding where to provide sites, to first consider locations in or

near existing settlements with access to local services. At present, there are no sites within or adjoining urban areas or SPAs. If the sites advanced through the DPD 'call for sites' are found to be acceptable sites having regard to the Council's site selection criteria, then they would be large enough to meet Bedford's required pitch provision up to 2011 and beyond. I heard that the appeal sites will not automatically be considered as part of the DPD process.

16. The sites put forward are all in close proximity to each other and close to the settlements of Willington and Cople. Willington is identified as a SPA. All the sites are vacant and available although it is unclear if any remediation works would need to be carried out on the Dog Farm former petrol filling station site or Balls Lane site. The sites are well located for lower schools, a local shop and post office, churches and village hall, all of which would be within a reasonable walking distance. With the exception of the Dog Lane pfs site, there is a public footpath on the opposite side of the road and street lighting between the sites and both settlements. In addition, I saw that the sites are well located for public transport routes. I heard that the Council have also identified two further potential sites but it was unclear if these are likely to be considered as transit sites, permanent sites or a mix of both.
17. Providing there is no slippage of the DPD timetable, sites are likely to be allocated by April 2011. A further period of time may be required for the actual implementation of the allocated sites unless applications have been made and planning permission successfully obtained in advance. The Council's witness anticipated that planning applications would be submitted before April 2009 as a consequence of the resolution of the Full Council and Mayor requiring action towards the provision of sites before April 2009. There was some uncertainty if these applications would relate to proposals for transit and / or permanent sites.
18. To conclude on this issue, I accept that there is an undisputed need for additional gypsy sites in the region and Bedford as evidenced by the RSS SIR and GTAA. I consider Mrs Rooney and her dependents can demonstrate a need for a site. The accommodation needs of Mr and Mrs Connors are less proven given they stay on the site far less frequently. This is however perhaps not surprising given they have no children of school age which may inhibit their travelling way of life. In the absence of suitable, alternative and available sites that are located within or adjoining urban areas or SPAs, the appeal site in the countryside, would accord with Policy CP9 subject to meeting other criteria.

Impact on countryside

19. The site is situated in open countryside. Policy CP9 requires that siting and landscaping ensure that any impact upon the character and appearance of the locality is minimised. Circular 01/2006 accepts that sites in rural settings, where not subject to special planning constraints, are acceptable in principle. The Bedford Borough Landscape Character Assessment identifies the area as a low lying landscape with largely level topography dominated by arable farmland. Settlements within the area take the form of dispersed villages and scattered farmsteads. This is typical of the area surrounding the appeal site where long views are available across the relatively level fields. The openness and wide views are considered to be the visual sensitivities of the area.

20. Given the topography of the surrounding landscape, the caravans and associated domestic paraphernalia are visually prominent from various points along the surrounding lanes and even more so from the public footpath network which includes a public footpath that is situated within the site. The development appears unduly stark and unacceptably harms the character and appearance of the surrounding countryside.
21. Some landscaping has been carried out along part of the northern boundary of the site. This together with supplementary landscaping could help to lessen the prominence of the development. Whilst the relevant policy criterion only requires any impact to be minimised, I consider any sensible interpretation of the policy must require the impact of a development to be minimised to an acceptable degree. Indeed, Policy CP24 that is applicable to all types of development requires new development to protect and where appropriate enhance the quality and character of the landscape.
22. I appreciate that the site is not situated within a nationally designated area and has no local designation. Even if it had, paragraph 53 of Circular 01/2006 confirms that local landscape designations should not be used in themselves to refuse planning permission for gypsy and traveller sites. Furthermore the RSS SIR recognises the availability of unconstrained land in the borough as one of the reasons that the borough can accommodate more pitches than originally anticipated. Nevertheless, even bearing these points in mind, I am not persuaded that the development could be satisfactorily integrated into its surroundings on this particular site so that its overall impact would not remain unacceptable even if additional landscaping is carried out and permission restricted to one mobile home and 2 touring caravans. It would, in my judgement, remain an intrusive form of development. I find conflict with the development plan in this respect.

Highways

23. Although not raised as a concern by the Borough Council, Radius, the residents group represented at the inquiry, argue that the access to the site is substandard, having regard to Design Manual for Roads and Bridges (DMRB). The standards within DMRB must be applied to Trunk Roads. However, its application on roads elsewhere is not obligatory. If I consider DMRB is the appropriate design guidance the visibility to the West of the access and the Sight Stopping Distance (SSD) for vehicles travelling westbound would fall short of DMRB minimum requirements. The appellant's case is that the advice in Manual for Streets (MfS), a more recent document issued in March 2007 by the Department of Transport, should be applied in this case. It draws on more recent research. SSD are reduced to reflect perception / reaction times and deceleration times attributable to modern vehicles. MfS does not apply to the trunk road network.
24. The status and application of MfS is explained on page 5 of the document and confirms that 'MfS focuses on lightly trafficked residential streets, but many of its principles may be applicable to other types of street, for example high streets and lightly trafficked lanes in rural areas'. It draws a distinction between streets and roads at paragraph 2.2.1 explaining that 'roads are essentially highways whose main function is accommodating the movement of motor traffic. Streets are typically lined with buildings and public spaces, and

- while movement is still a key function, there are several others of which the place function is the most important.' In respect of SSDs paragraph 7.5.1 confirms that 'this section provides guidance on SSDs for streets where 85th percentile speeds are up to 60 Km/h. At speeds above this, the recommended SSDs in DMRB may be more appropriate.'
25. The required minimum western 'y' distance, as set out in DMRB is 136m, based on the appellant's speed survey or 133m based on the County Council's survey. It has been measured by the parties as 111m (Radius) and 118m (the Appellant). I saw that to achieve a visibility distance of 118m some minor trimming of the hedge would be necessary and that this could be reasonably deemed as being within the highway and therefore achievable. However, beyond 118m it seemed to me that a substantial amount of the hedge would need to be removed in order to facilitate a visibility splay of 130m¹ or more. This in itself would have a significant impact as roadside hedges are clearly a characteristic of the surrounding area and the site would become more prominent from Bushmead Road. Furthermore, I am not satisfied that the entire works necessary to provide satisfactory visibility could be achieved on highway land or without causing additional harm to the character and appearance of the area. I consider visibility is substandard for drivers leaving the site and could not be adequately improved having regard to the requirements of DMRB.
26. The Forward Stopping Sight Distance (SSD) for a driver approaching from the east (westbound traffic) is severely substandard having regard to DMRB criteria that specifies a minimum requirement for a SSD of 158m². It was measured as being a distance of only 50m, taken to an object 0.26m high in the road opposite the access, by the highways witness appearing on behalf of Radius. From my observations on site, I concur this is the maximum distance from which the object could be viewed. I am mindful that it was identified by a fluorescent jacket so it was perhaps more visible than may be the case in reality. It was argued on behalf of the appellant that a more realistic assessment would be the distance at which any part of a vehicle could be seen waiting to turn into the access. The appellant's representative calculated this to be a distance of about 85m. Again this was confirmed on site.
27. The 85th percentile speeds for the section of road passing the appeal site are above 60Km/h. Furthermore there are not many access points on the approach to the site along Bushmead Road. I therefore consider that a vehicle waiting to turn into the appeal site would be rather unexpected thereby impacting in turn on driver reaction times. In my view, DMRB would be the most appropriate method of assessment in this case. I appreciate that a vehicle travelling immediately behind another vehicle along Bushmead Road would be aware of the imminent turning manoeuvre as the driver of the leading vehicle is likely to indicate in advance of the bend in the road. However, if there has been some distance between two vehicles such that the leading car has already negotiated the bend before it is in sight of the following vehicle, then I consider a vehicle waiting to turn would present a hazard that would prejudice highway safety given the limited distance that a following driver would first have sight of the vehicle and be aware that it is stationary. I

¹ The highway authority suggests a condition requiring a visibility splay of 2.4m x 130m.

² It is agreed that the design speed of eastbound traffic is 84Km/h

✓ appreciate Bushmead Road is not heavily trafficked. Nevertheless, I am not persuaded from my own observations of the site that vehicles turning right into the access would not have to wait occasionally before turning. This would be a more regular occurrence that I would expect from the use of the access for agricultural purposes. In any event, even having regard to MfS, the minimum forward SSD should be 97m.

✓ 28. Circular 01/2006 confirms that proposals should not be rejected if they would give rise to modest additional daily vehicle movements and / or the impact on minor roads would not be significant. Daily vehicle movements would only be modest. However, I consider the impact on Bushmead Road by the potential for vehicles to be stopped in the carriageway, waiting to turn right, is significant and would present an undue risk to highway safety.

✓ 29. To conclude on this issue, I consider the location of the access to the site would seriously prejudice highway safety by reason of inadequate visibility to the right for drivers of vehicles leaving the access and due to the severely limited SSD available for the drivers of vehicles travelling westbound if vehicles are waiting to turn right into the site. I find conflict with Policy CP9 in this regard.

Personal circumstances of the appellant

30. Three of the six children living on site are of school age with Kathleen also due to start soon. Martin attends Ridgeway Special School in Bedford. He has a Statement of Special Educational Need. Larry attends St. Neots Community College. I understand he has a speech problem but has not had any formal assessment to date. Patrick attends Bushmead Primary School. Taxis transport the children to and from school. A settled base enables the children to attend school on a regular basis and ensures continuity in their education.

31. Martin has a complex and serious medical condition known as Mitochondrial Disorder which causes significant motor difficulty. He can only walk short distances and requires a wheelchair for longer distances. He receives treatment at Hammersmith Hospital in London and from various other health service providers. He needs a multi-disciplinary team approach including help with physiotherapy, occupational therapy and speech and language therapy. Medical reports regrettably confirm that his condition is deteriorating and given the need to coordinate all aspects of Martin's care it is recognised that it is beneficial for Martin to remain in one place for a prolonged period.

32. Circular 01/2006 acknowledges that gypsies and travellers are believed to experience the worst health and education status of any disadvantaged group in England. Research has consistently confirmed the link between the lack of good quality sites for gypsies and travellers and poor health and education. The provision of sites in accordance with the requirements of the circular should enhance the health and education outcomes of gypsies and travellers. The special educational and health requirements of the appellant's family make her circumstances all the more compelling in the absence of any alternative site provision.

Other Matters

33. A number of other concerns have been raised that relate to other criteria that must be satisfied under the provisions of Policy CP9. In terms of the impact of

the development on the living conditions of the occupiers of nearby properties, my only concern is the continued use of generators on the site. Given the tranquil and quiet nature of the surrounding area and the topography of the surrounding land, noise is likely to be more apparent. At the initial site visit the noise from the generator was audible from the surrounding lanes and although it was not unbearably loud or likely to constitute a statutory nuisance, it was nevertheless readily noticeable such that I consider it would indeed be a source of disturbance and of detriment to the living conditions of those living nearby. There is no electricity connection. However I understand that if planning permission were forthcoming then the connection could be provided which would negate the continued need for external generators. I therefore find no conflict in respect of criterion (iv) of Policy CP9 in this respect.

34. Criterion (v) requires that adequate facilities are within reasonable travelling distance and preferably can be reached by foot, cycle or public transport. There are adequate facilities nearby in Eaton Socon and St Neots that are within a reasonable travelling distance although there is no regular or frequent public transport service. Occupiers of the site are in my opinion unlikely to walk to facilities as there is no street lighting or footpath along Bushmead Road. In my opinion, walking along Bushmead Road would be dangerous and although I did see people prepared to cycle, I do not consider this would be a particularly safe alternative particularly for the children. Whilst Circular 01/2006 requires that I should be realistic about the availability, or likely availability, of alternatives to the car in assessing local services and facilities, I am mindful that any one of the sites advanced through the DPD call for sites, would be sequentially better located than the appeal site given they are close to a SPA and in my view, within a reasonable and safer walking and cycling distance of a number of facilities and well located for public transport.
35. I recognise that the larger Ball Lane site has been advanced as suitable for all development and Dog Farm has been advanced as a transit site. I can not be sure that any will result in an allocated site or the timescales that they may be bought forward as available if found to be acceptable. The initial call for sites does nevertheless demonstrate that there is every likelihood, notwithstanding the inherent and recognised difficulties of finding sites in urban areas or SPAs, that sites could be available that perform better in terms of their location than the appeal site.
36. Criterion (vi) stipulates that the scale of the site or number of pitches would not be sufficient to dominate the nearest settled community and would not place undue pressure on local infrastructure. This reflects advice contained in paragraph 54 of Circular 01/2006. There is no concern that the development would put any undue pressure on local infrastructure. The site is situated near Upper Staploe, a small cluster of some 5 properties, largely focused around the junction of Bushmead Road and Gypsy Lane (as it was referred to throughout the inquiry). There is no definition of what constitutes a 'settled community' in the CSRIP or circular. In the context of the rural nature of the surrounding area, I consider it is reasonable to regard Upper Staploe as the nearest settled community.
37. Whilst the potential number of people occupying the site would be comparable to the population of Upper Staploe, I do not consider resident numbers to be the overriding consideration given the occupiers of the site are members of one

immediate family. I have also had regard to the size of the residential area of the appeal site³, the equivalent number of households / pitches and caravans that the site would provide. In my view, the scale of the development, if restricted to that part of the site used for residential purposes and the number of pitches / caravans that the site can accommodate restricted, would not dominate the community of Upper Staploe. I therefore find no conflict with criterion (vi) of Policy CP9 in this respect.

Conclusions

38. There is an identified and immediate need for the provision of additional sites for gypsies and travellers, both regionally and in the borough. The appellant, Mr Rooney and their resident dependents have a need for a site. There is no requirement upon them to demonstrate a local connection to the area. There are no alternative sites that I have referred to that are available to the family at this time. The appeal site provides a settled base that enables the children of school age to attend school on a regular basis and the family to have access to health care. A settled base is particularly important to allow Martin's complex health requirements to be satisfactorily addressed. These are important considerations that I give significant weight.
39. Against these considerations are the unacceptable impact that the development has on the character and appearance of the countryside and highway safety. I consider these are compelling factors that are not outweighed by the need for and lack of available sites elsewhere or the personal circumstances of the appellant and her family. Circular 01/2006 advises that where there is an unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, local planning authorities should give consideration to granting a temporary permission.
40. Planning circumstances in relation to the provision of sites are likely to change following the adoption of the Allocations and Designations DPD in April 2011. There is every likelihood, based on the evidence before me, that sites that are located near to SPAs may be found. The harm to the countryside, if only for a temporary period, would in my view be justified given the need for and lack of alternative sites and the personal circumstances of the family. However, I consider a temporary permission would not be appropriate given the impact of the development in respect of the highway safety of both occupiers of the site and other highway users. I recognise that should the appeal under ground (a) fail and the enforcement notice be upheld, this would interfere with the appellant's home and family life. However this must be weighed against the wider public interest. For the reasons given above, I have found that this proposal would be harmful to the character and appearance of the countryside and even more significantly, to highway safety. I am satisfied that these legitimate aims can only be adequately safeguarded by the refusal of permission. On balance, I consider that enforcement action is a necessary and proportionate approach. The appeal on ground (a) therefore fails.

³ Restricted to the specific areas indicated on Plan reference XI or XII

Ground (g) appeal

41. No alternative sites are available at this time. A period of one calendar month is insufficient time to enable Mrs Rooney to find an alternative settled base for herself and her family. I consider a period of 18 months would, in the circumstances, be a reasonable period for compliance.

Overall Conclusions

42. For the reasons given above I conclude that a reasonable period for compliance would be 18 months, and I am varying the enforcement notice accordingly, prior to upholding it. The appeal under ground (g) succeeds to that extent.

Claire Sherratt

INSPECTOR

ENFORCEMENT NOTICE - FAILURE TO COMPLY WITH CONDITIONS
IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)

ISSUED BY BEDFORD BOROUGH COUNCIL ("the Council")

1. **THIS NOTICE** is issued by the Council under section 172 of the above Act because it appears to them that there has been a breach of planning control, within paragraph (b) of section 171A (1) of the Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land known as "St Joseph's Farm" (Land East of Chestnut Cottage), Bushmead Road, Upper Staploe, St Neots, Bedfordshire, PE19 5JF as shown edged red on attached Plan 1("the land").

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Failure to comply with conditions numbers 1 and 2 imposed by the Planning Inspectorate by way of an Appeal Decision under Appeal Reference number APP/K0235/A/11/2149691 dated 6 December 2011 which ran for three years from that date.

Condition 1 States that the residential use hereby permitted shall be carried on only by the following: Mr Patrick Rooney, Mrs Kathleen Rooney, Mrs Ada Rooney (mother of Mrs Kathleen Rooney) and their resident dependants, and shall be for a limited period being the period of 3 years from the date of the decision, or the period during which the premises are occupied by them, whichever is the shorter; and

Condition 2 states that when the premises cease to be occupied by those named in condition (1) above, or at the end of 3 years, whichever shall first occur, the residential use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought onto the land, or works undertaken to it in connection with the residential use shall be removed and the land restored to its condition before the development took place.

The above conditions have not been complied with because the residential use of the land has not ceased in accordance with the above conditions after 6 December 2014 and all caravans, mobile homes, buildings, structures, materials and equipment brought onto the land and works undertaken in

connection with the residential use have not been removed and the land has not been restored to its condition before the development took place.

4. REASONS FOR ISSUING THIS NOTICE

It appears to the Council that the above breach of planning control has occurred within the last ten years. It is expedient to serve this notice because

- Residential development in this location is contrary to development plan policies of constraint including Policies H26 and H37 of the Bedford Borough Local Plan 2002 and Policies CP13 and CP14 of the Bedford Borough Core Strategy and Rural Issues Plan 2008, and the identified need in the 2012 GTAA for residential gypsy and traveller pitches is met by the delivery of new pitches and the development is contrary to Policy CP9 and its criterion (i) of the Bedford Borough Core Strategy and Rural Issues Plan 2008.
- The development has a harmful impact on the character and appearance of the area, and is contrary to Bedford Borough Core Strategy & Rural Issues Plan 2008 Policy CP2(v), CP9(iii), CP21(i)&(iii) & CP24 and Bedford Borough Local Plan 2002 Policies BE30(i) and BE42.
- The development is located in the open countryside without convenient access to local services by foot, cycle and public transport. This is contrary to the aims of Bedford Borough Local Plan (2002) Policy BE30(v) and Policies CP1, CP2(vii), CP9 (v), CP21(v) and CP29 of the Core Strategy and Rural Issues Plan 2008.

Other development plan policies relevant to this development are: Bedford Borough Local Plan 2002 policies NE12, NE13, BE38, H27, H28, U2 & U3, Bedford Borough Core Strategy & Rural Issues Plan 2008 policies CP12 and CP15 and Bedford Borough Allocations & Designations Local Plan 2013 policy AD1.

5. WHAT YOU ARE REQUIRED TO DO

- (i) Cease permanently the residential use of the land and remove permanently all caravans and mobile homes from the land; and
- (ii) Remove permanently all structures and lighting from the land hatched in red on the attached Plan 2; and
- (iii) Remove permanently from the land all equipment and paraphernalia brought onto the land in connection with the residential use, and
- (iv) Remove permanently from the land the sewage treatment plant and gas/oil tanks; and
- (v) Remove permanently all hardstanding, including concrete, hardcore, gravel, road planning and all other materials used in its construction, from the land hatched in red on the attached Plan 2; and
- (vi) Remove permanently from the land all gates, fences and gate and fence posts over two metres in height, and all building materials; and

- (vii) Remove permanently all the resultant materials associated with steps (i)-(vi) above; and
- (viii) Restore the land to its condition before development took place making good the ground level with topsoil graded to meet existing adjacent levels and laid to grass following completion of criteria (ii)-(vi) above.

6. TIME FOR COMPLIANCE

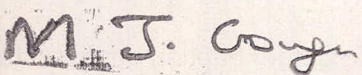
In respect of Paragraph 5 above the Time for Compliance is as listed below;

- (a) For steps ((i), (ii) and (iii), within two calendar months from the date this notice takes effect;
- (b) For step (iv), within three calendar months from the date this notice takes effect;
- (c) For steps (v),(vi) and (vii), within six calendar months from the date this notice takes effect; and
- (d) For step (viii) within nine calendar months from the date this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **26 March 2015**, unless an appeal is made against it beforehand.

Dated: 19 February 2015

Signed: 

M J Gough
Assistant Chief Executive (Governance)
(Solicitor to the Council)

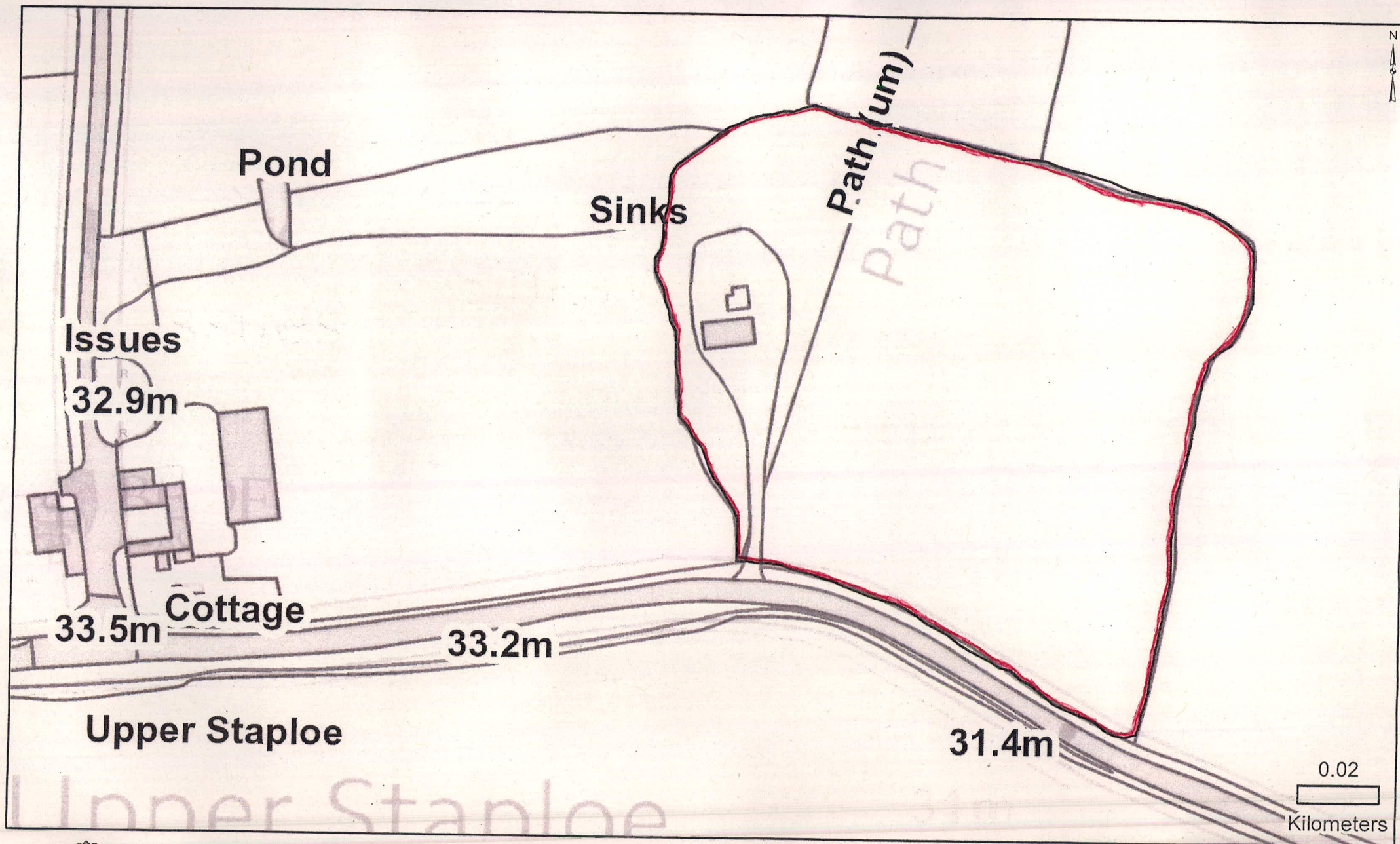
on behalf of Bedford Borough Council, Borough Hall, Cauldwell Street, Bedford,
MK42 9AP.



- Notes:
1. ICD-10 F20.02 EPHEM (Schizophrenia)
 2. The frequency of the following symptoms was assessed on a 5-point Likert scale, 1 = "not at all" to 5 = "very much", as reported on original data sheet.
 3. A similar question was asked about the patient's experience of auditory hallucinations during the previous 4 weeks.
 4. The frequency of the following symptoms was assessed on a 5-point Likert scale, 1 = "not at all" to 5 = "very much", as reported on original data sheet.
 5. First episode was used to identify all cases on the study using a Treatment Team that consisted of the psychiatrist, the psychologist, the social worker, the occupational therapist, the nurse, the community psychiatric nurse, the health visitor, the care coordinator and the housing officer.
 6. The frequency of the following symptoms was assessed on a 5-point Likert scale, 1 = "not at all" to 5 = "very much", as reported on original data sheet.
 7. Some patients had been in contact with the following services:
 - 1. General Practitioner (GP)
 - 2. Community Mental Health Team (CMHT)
 - 3. Specialist Outpatient Clinic (SOC)
 - 4. Specialist Day Hospital (SDH)
 - 5. Specialist Residential Unit (SRU)
 - 6. Specialist Hospital (SH)
 - 7. Specialist Clinic (SC)
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- | | |
|---|--|
|  | Proposed mobile home |
|  | Proposed touring caravan |
|  | Proposed hardstanding, made up of loose bound gravel |
|  | Residential gardens |
|  | Grassed area |
|  | Additional native hedge & tree planting |
|  | Existing hardstanding |
|  | Existing hedgerow |
|  | Sewer |
|  | Proposed tree planting |
|  | Existing trees |
|  | Proposed foul drainage |
|  | Existing buildings/structures |
|  | Proposed post & rail timber fence |
|  | Proposed close boarded timber fence |
|  | Proposed tarmacadam surface |
|  | Visibility splay |
|  | Concrete pad |
|  | Pattern of low energy 42w directional uplight
eg. 'Bloss Junior' by Houghton, Timber Operated |
|  | Planted 'Lumifence LED Bollard' by ADD Lighting,
Motion Sensor Operated |
|  | Area for Restriction |
| Re-planting Works (please refer to Royal Haskoning drawings SK002, 003, 004, 005) | |

A	17/05/2012	Announcements made following comments from Bedford Borough Council		J5
Rev.	Date	Amendments		Author
		Brett D Vermeulen 10ption Magna Business Park Shenmoubury MK4 4TT		t: 01745 709364 f: 01745 709035 e: admin@gpsll.co.uk
Client				
Mr Patrick Rooney				
Project title				
St Josephs Farm, Bushmead Road				
Drawing title				
Restoration				
				
Scale @ 1:1	1:500	Date of first issue:	Drawn:	
Project No.		Revision Number		
10_355_ROOTNS		Planning		
Drawing No.				
10_355_013				
A				



BEDFORD BOROUGH COUNCIL

PLAN 1: 'St. Joseph's Farm', Bushmead Road, Upper Staploe

1:1,250

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STOP NOTICE

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)

SERVED BY: BEDFORD BOROUGH COUNCIL

To: Patrick Rooney
St Joseph's Farm
(Land East of Chestnut Cottage)
Bushmead Road
Upper Staploe
St Neots
Bedfordshire
PE19 5JF

1. On 19 February 2015, the Council issued an enforcement notice (of which a copy is attached to this notice together with the Plans) alleging that there had been a breach of planning control on land known as "St Joseph's Farm" (Land East of Chestnut Cottage), Bushmead Road, Upper Staploe, St Neots, Bedfordshire, PE19 5JF.
2. **THIS NOTICE** is issued by the Council, in exercise of their power in section 183 of the 1990 Act, because they consider that it is expedient that the activity specified in this notice should cease before the expiry of the period allowed for compliance with the requirements of the enforcement notice on the land described in paragraph 3 below. The Council now prohibit the carrying out of the activity specified in this notice. Important additional information is given in the Annex to this notice.
3. **THE LAND TO WHICH THIS NOTICE RELATES**
Land known as "St Joseph's Farm" (Land East of Chestnut Cottage), Bushmead Road, Upper Staploe, St Neots, Bedfordshire, PE19 5JF as shown edged red on the attached Plan 1.
4. **ACTIVITY TO WHICH THIS NOTICE RELATES**
 - (i) Residential use of the land by any persons not already resident on the land at the time of serving of this notice; and
 - (ii) The bringing onto the land of any caravans /mobile homes for any residential purposes; and
 - (iii) Engineering operations/operational development of the land not in connection with the agricultural use or the construction of the approved stable block.

5. **WHAT YOU ARE REQUIRED TO DO**

- (i) Cease the residential use of the land by any persons not already resident on the land at the time of serving of this notice; and
- (ii) Cease the bringing onto the land of any caravans /mobile homes for any residential purposes; and
- (iii) Cease all engineering operations/operational development of the land not in connection with the agricultural use or the construction of the approved stable block.

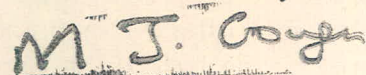
6. **WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on **23 February 2015** when all the activity specified in paragraph 5 above of this notice shall cease.

STATEMENT OF REASONS

To prevent additional caravans/mobile homes from being brought onto the land prior to the Enforcement Notice coming into force. The site is not suitable for residential use and any increase in persons resident at the site, the number of caravans/mobile homes, or works associated with residential use would be contrary to Bedford Borough Core Strategy and Rural Issues Plan 2008 policies CP1, CP2(vii), CP9 & CP9(i),(iii)&(v), CP13, CP14, CP21(i),(iii)&(v), CP24 & CP29 and Bedford Borough Local Plan 2002 policies H26, H37, BE30(i)&(v) and BE42.

Dated: 19 February 2015



Signed:

M J Gough

Assistant Chief Executive (Governance) and Solicitor to the Council

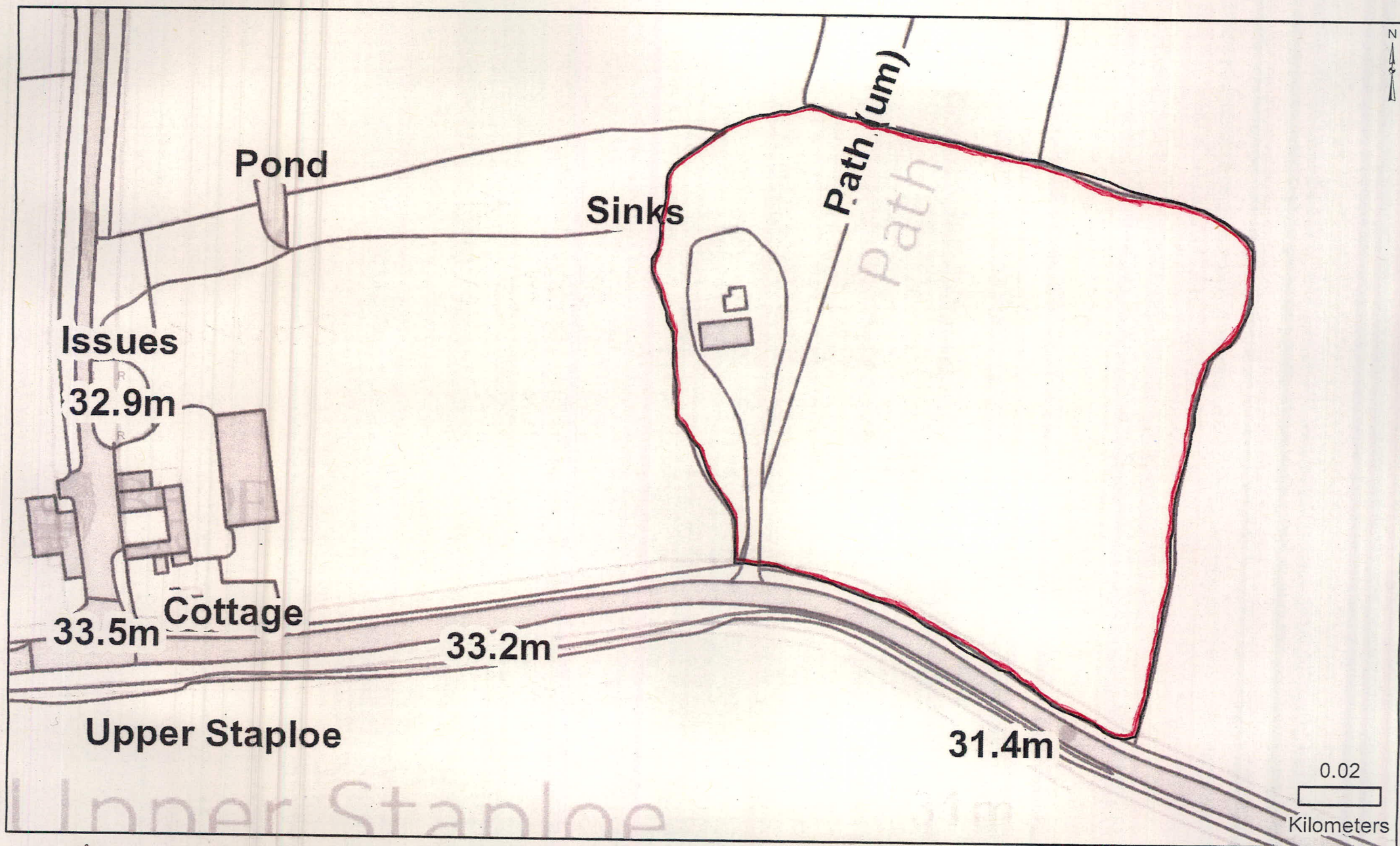
On behalf of: Bedford Borough Council Borough Hall Cauldwell Street
Bedford MK42 9AP.

WARNING

THIS NOTICE TAKES EFFECT ON THE DATE SPECIFIED
IN PARAGRAPH 6.

THERE IS NO RIGHT OF APPEAL TO THE SECRETARY OF STATE
FOR THE ENVIRONMENT AGAINST THIS NOTICE.

It is an offence to contravene a stop notice after a site notice has been displayed or the stop notice has been served on you. (Section 187(1) of the 1990 Act.) If you then fail to comply with the stop notice you will be at risk of **immediate prosecution** in the Magistrates' Court, for which the maximum penalty is £20,000 on summary conviction for a first offence and for any subsequent offence. The fine on conviction on indictment is unlimited. If you are in any doubt about what this notice requires you to do, you should get in touch **immediately** with Mr Peter White, Team Leader, Planning Services, Borough Hall, Cauldwell Street, Bedford, MK42 9AP (Tel: 01234 718555). If you need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the High Court for judicial review.



BEDFORD BOROUGH COUNCIL

PLAN 1: 'St. Joseph's Farm', Bushmead Road, Upper Staploe

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