

# **Strategic Planning Board**

## **Agenda**

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**Date:** **Wednesday, 5th May, 2010**  
**Time:** **2.00 pm**  
**Venue:** **Victoria Community Centre, The Long Gallery - Crewe**

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

To receive any apologies for absence.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have made a pre-determination in respect of any item on the agenda.

3. **Minutes of the Meeting held on 14 April 2010** (Pages 1 - 8)

To approve the minutes as a correct record.

4. **Public Speaking**

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For any apologies or requests for further information, or to arrange to speak at the meeting  
**Contact:** Sarah Baxter  
**Tel:** 01270 686462  
**E-Mail:** [Sarah.Baxter@cheshireeast.gov.uk](mailto:Sarah.Baxter@cheshireeast.gov.uk)

A total period of 5 minutes is allocated for the planning application for Ward Councillors who are not members of the Strategic Planning Board.

A period of 3 minutes is allocated for the planning application for the following individuals/groups:

- Members who are not members of the Strategic Planning Board and are not the Ward Member
- The relevant Town/Parish Council
- Local Representative Group/Civic Society
- Objectors
- Applicants
- Supporters

5. **09/3918C-Extension to existing gypsy caravan site including laying of hardstanding, stationing of 9 caravans for residential purposes (including 3 static caravans) storage of 2 touring caravans, erection of 9 utility buildings and installation of lighting, Horseshoe Farm, Warmingham Lane, Moston, Middlewich, Cheshire for Mr Oliver Boswell (Pages 9 - 40)**

To consider the above application.

6. **09/4331N-Change of Use of Land as a Residential Caravan Site for 8 Gypsy Families, each with 2 Caravan, including Improvement of Access, Construction of Access Road, Laying of Hard-standing and Provision of Foul Drainage, Land Off, Wettenhall Road, Poole, Nantwich, Cheshire for Mr T Loveridge (Pages 41 - 54)**

To consider the above application.

7. **Briefing Note on:Planning Policy Statement (PPS) 5:Planning for the Historic Environment;Draft PPS Consultation on Planning for a Natural and Healthy Environment;Draft PPS Consultation on Planning for a Low Carbon Future in a Changing Climate (Pages 55 - 60)**

To consider the above report.

8. **Summary of the New Community Infrastructure Levy Regulations (Pages 61 - 64)**

To consider the above report.

9. **Briefing Note on: The Infrastructure Planning Commission (Pages 65 - 70)**

To consider the above report.

10. **Appeal Summaries (Pages 71 - 72)**

To note the Appeal Summaries.

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Strategic Planning Board**  
held on Wednesday, 14th April, 2010 at The Capesthorne Room - Town Hall,  
Macclesfield SK10 1DX

### **PRESENT**

Councillor H Gaddum (Chairman)  
Councillor J Hammond (Vice-Chairman)

Councillors Rachel Bailey, A Arnold, D Brown, P Edwards, M Hollins,  
D Hough, B Moran, G M Walton and S Wilkinson

Ms R Ellison (Principal Planning Officer), Mrs R Goddard (Senior Lawyer), Mr  
S Knowles (Affordable Housing Officer) and Ms P Lowe (Development  
Manager)

### 194 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors W J Macrae and C  
Thorley.

### 195 **DECLARATIONS OF INTEREST**

Councillor J Hammond declared a personal interest in application  
09/4017N-Construction of Two Newt Mitigation Areas and Associated  
Corridors, 92 London Road, Stapeley, Nantwich for Mr R Adams, NJL  
Consulting, Adamson House, Towers Business Park, Wilmslow Road,  
Didsbury, Manchester by virtue of the fact that he was a member of  
Cheshire Wildlife Trust who had been a consultee on the application and  
in accordance with the Code of Conduct he remained in the meeting  
during consideration of the application.

In addition he informed the Board that he had received a number of emails  
from one of the speakers objecting to the application.

Councillor M Hollins declared a personal interest in the same application  
and Minute No. 200 Amendments to Section 106 Agreement for Planning  
Application P06/1001 for Outline Application for Redevelopment and  
Relocation of Existing Garden Centre Facilities, A1 and A3 Retail Units,  
Construction of Class C3 Residential Development, B1 Office  
Development, Car Parking, Ancillary Facilities and Associated  
Infrastructure at Stapeley Water Gardens, London Road, Stapeley by  
virtue of the fact that she had been on the Planning Committee of the  
former Crewe and Nantwich Borough Council that had given approval to  
the original application and in accordance with the Code of Conduct she  
remained in the meeting during consideration of the application.

### 196 **MINUTES OF THE PREVIOUS MEETING**

RESOLVED

That the minutes be approved as a correct record and signed by the Chairman subject to the inclusion of the words 'head of' after the word 'regeneration in respect of the last paragraph of Minute 190.

197        **PUBLIC SPEAKING**

RESOLVED

That the public speaking procedure be noted.

198        **09/4017N-CONSTRUCTION OF TWO NEWT MITIGATION AREAS AND ASSOCIATED CORRIDORS, 92 LONDON ROAD, STAPELEY, NANTWICH FOR MR R ADAMS, NJL CONSULTING, ADAMSON HOUSE, TOWERS BUSINESS PARK, WILMSLOW ROAD, DIDSBURY, MANCHESTER**

(As the Planning Officer presented the report Councillors Rachel Bailey and S Wilkinson arrived to the meeting. The Chairman asked the Officer to repeat her opening of the application in order for both Councillors to be able to take part in the debate and vote on the application. Councillor J Wray arrived part way through consideration of the application and in accordance with the Code of Conduct did not take any part in consideration of the application).

Consideration was given to the above application.

(Councillor R Walker, the Ward Councillor Mr Williams, an objector and Mr Adams the agent for the applicant attended the meeting and spoke in respect of the application).

RESOLVED

That the application be approved subject to the completion of a Section 106 agreement in relation to application P06/1001 which includes a requirement for the submission of an ecological mitigation strategy shall be modified to ensure that (1) reference is made to the Ecological Mitigation Design Strategy prepared by TEP and dated August 2007 as modified by planning application 09/4017N and (2) the wording reflects the fact that this application has already been submitted. In addition the following conditions were also agreed:-

1. Standard.
2. Amended plans-to refer to the latest revised plans received.
3. Phasing plan and timetable for implementation of works.

4. If the S106 for Stapeley Water Gardens development site is not completed and signed within 6 months of the date of the planning permission for the newt mitigation, a fully detailed maintenance scheme, identifying parties responsible for the maintenance and provision for maintenance in the event that the original party is no longer able to meet the requirements, shall be submitted to the Local Planning Authority within one month of the expiry of the 6 month period for approval in writing. The maintenance plan shall provide for maintenance in perpetuity and be implemented in accordance with the approved scheme.
5. Fully detailed landscaping scheme to be submitted within four months of the date of the newt mitigation decision notice.
6. Implementation of the landscaping scheme within the 2010-2011 planting season.
7. Ponds and habitat areas in Areas A and B and the linking corridor between these two areas to be used solely for wildlife mitigation and not for any other purpose and no ponds to be stocked with fish at any time. No ponds to be used for any SUDS scheme. No public access to Areas A and B and the linking habitat corridor between these two areas.
8. Application for the access road to serve the relocated Water Gardens and the B1 office development to include planting to form linkages to Area A and compensate for the short fall of terrestrial habitat requirements of the EMDS and provide additional planting to link Area A and the Cronkinson Farm mitigation land. Landscaping to include a minimum of 0.1 ha.
9. Full details of bat boxes to be submitted, location of appropriate tree in area. Implementation.
10. Prior to the completion of the development hereby approved and implementation of landscaping scheme no tree felling or other works to trees within the application area for this application without the prior written approval of the Local Planning Authority
11. Scheme for the submission of tree and hedgerow protection and implementation.
12. The formation of mounds using excavated material shall not take place within the root zone of any retained trees.
13. Scheme for the removal of the reservoir and repositioned at ground level in the southern linking corridor to be submitted approved and implemented.
14. Scheme for the provision of nest boxes for BAP species (Dunnock and Song Thrush).
15. All phases of residential development to include details of bird nest boxes for house sparrows and implementation.

16. Details of provision of amphibian tunnels to be provided in the appropriate applications for the construction of the roads and provided as the roads are constructed.
17. Masterplan submitted with the application shall be purely illustrative and not binding on the future development of Stapeley Water Gardens.
18. Protection of nesting birds.

(The following application was taken after Minute No. 200).

199      **10/0552M-PROPOSED ERECTION OF A THREE STOREY, 75NO. ONE BED CARE HOME, MACCLESFIELD DISTRICT HOSPITAL, VICTORIA ROAD, MACCLESFIELD FOR CANNON CAPITAL PARTNERSHIP**

Consideration was given to the above application.

**RESOLVED**

That the application for Reserved Matters be delegated to the Head of Planning and Policy, in consultation with Chairman of Strategic Planning Board and Ward Councillor W J A Arnold to approve subject the following conditions:-

1. A02RM      - To comply with outline permission
2. A05RM      - Time limit following approval of reserved matters
3. A01AP      - Development in accord with approved plans
4. A06EX      - No development involving the use of any facing materials (to be a brown Cheshire multi brick or similar) roofing materials (slate) shall take place until details of all such materials have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
5. A07EX      - Sample panel of brickwork to be made available
6. A12LS      - Landscaping to include details of boundary treatment
7. A15LS      - Submission of type and colour of block pavements
8. A02HA      - Construction of access
9. A07HA      - No gates - new access
10. A01HP      - Provision of car parking
11. Contaminated land
12. Surface water should not be allowed to discharge to foul/combined sewer
13. Submission of materials

14. Details of the method, timing and duration of any pile driving operations connected with the construction of the development hereby approved shall be approved in writing by the Local Planning Authority prior to such works taking place and shall be implemented in accordance with the approved details.
15. No development other than permitted demolition and that required for the construction of the junction and the roundabout with the public highway and internal access roads (as approved under the outline application 09/1300M) shall take place until the junction with the public highway and the roundabout and internal access roads have been constructed in accordance with a scheme of details which have previously been submitted to and approved in writing by the Local Planning Authority.
16. Prior to the commencement of works involving the movement of materials in bulk to or from the site, facilities shall be provided as agreed with the Local Planning Authority, to prevent the deposition of extraneous matter (mud, debris, etc) on the public highway and shall thereafter be retained and used whenever the said operations are carried out.
17. The surface water drainage system of the site of the proposed works shall be designed and constructed in accordance with one or both of the following, listed in priority.
  1. Sustainable urban drainage system (SUDS)-best practise manual C523 (permeable paving) published by SIRIA.
  2. Environment Agency's Pollution Prevention Guidelines (PPG)3 'Use and design of oil separators in surface water drainage systems'

The Development shall not be occupied until the approved system/separator, or similar, has been constructed/installed ready for operation. The system/separator, or similar, shall be retained at all times thereafter and shall be maintained in accordance with best practice guidelines to the satisfaction of the Local Planning Authority. In the event that a surface water drainage system can not be implemented in accordance with the above, full details and justification for the drainage system to be implemented shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full.
18. The hours of construction (and associated deliveries to the site) of the development hereby approved shall be restricted to 0730 to 1800 hours on Monday to Friday, 0800 to 1300 hours on Saturday, with no work at any other time including Sundays and Public Holidays.
19. The lifts on drawing ref 08-105-120 rev H (adjacent to the reception/admin room and adjacent to bedroom 23 on the ground floor, which will service the first and second floors) shall be provided prior to the first occupation of the building, unless alternative lift details are submitted to and agreed in writing with

the Local Planning Authority. The details which are approved shall be carried out in full and shall be retained in accordance with the approved details thereafter.

The following informatives were also recommended to be included:-

1. This reserved matters application be submitted with reference to outline application 09/1300M. It is necessary for the applicant(s) to ensure that all pre-commencement conditions of application 09/1300M have been discharged prior to the commencement of any works on the site.
2. Attention was also drawn to the contents of the letter from United Utilities dated 23<sup>rd</sup> March 2010. The applicant/developer should seek to ensure that any statutory requirements contained in the letter are satisfied.

200      **AMENDMENTS TO SECTION 106 AGREEMENT FOR PLANNING APPLICATION P06/1001 FOR OUTLINE APPLICATION FOR REDEVELOPMENT AND RELOCATION OF EXISTING GARDEN CENTRE FACILITIES, A1 AND A3 RETAIL UNITS, CONSTRUCTION OF CLASS C3 RESIDENTIAL DEVELOPMENT, B1 OFFICE DEVELOPMENT, CAR PARKING, ANCILLARY FACILITIES AND ASSOCIATED INFRASTRUCTURE AT STAPELEY WATER GARDENS, LONDON ROAD, STAPELEY**

Consideration was given to the above report.

(Councillor R Walker, the Ward Councillor and Mr Adams, the agent for the applicant attended the meeting and spoke in respect of the application).

**RESOLVED**

To issue permission in respect of outline planning application P06/1001 for the redevelopment of Stapeley Water Gardens subject to conditions as detailed in the decision by the Development Control Committee of the former Crewe and Nantwich Borough Council on 20<sup>th</sup> September 2007 and subject to the applicant completing and signing a Section 106 Agreement to secure:-

- (1) the provision of 33% affordable housing on the site with:-
  - (a) a minimum provision of 26% for the development of Stapeley Manor site (Phase 1) on the basis that the level of provision for



each phase will be identified in the first reserved matters application and that the overall provision will be 33% and

(b) one third 1-bed units, one third 2-bed units and one third 3-bed units across the whole site or the option for the provision of twelve 1-bed units, nineteen 2-bed units and nineteen 3-bed units and 50% social rented dwellings and 50% shared ownership/ Rent to Homebuy dwellings in all phases of residential development,

(2) phasing of the development and submission of a master plan to ensure that the site is brought forward as a mixed use development together with the provision and continuity of the relocated Water Gardens,

(3) commuted payments for off site highways works as per report P06/1001 (to include signage to direct traffic away from Nantwich town centre, contributions to the Willaston to Nantwich cycle link, contributions to works for the signalised junction at Wellington Road/ Park Road junction, contributions to traffic calming in London Road and Wellington Road, a sum for completion of a cycle link on South Crofts/ Monks Lane),

(4) the provision of an equipped play space to be provided in phase 1 of the residential development, and shared recreational open space and play space. A maintenance scheme for all areas of open space/ play equipment to be submitted.

(5) a maintenance scheme for ecological mitigation areas.

The meeting commenced at 2.00 pm and concluded at 3.58 pm

Councillor H Gaddum (Chairman)

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<b>Planning Reference No:</b>	09/3918C
<b>Application Address:</b>	Horseshoe Farm, Warmingham Lane, Moston, Middlewich, Cheshire, CW10 0HJ
<b>Proposal:</b>	Extension to existing gypsy caravan site including laying of hardstanding, stationing of 9 caravans for residential purposes (including 3 static caravans) storage of 2 touring caravans, erection of 9 utility buildings and installation of lighting
<b>Applicant:</b>	Mr Oliver Boswell
<b>Application Type:</b>	Full
<b>Grid Reference:</b>	370941 362636
<b>Ward:</b>	Congleton Rural
<b>Expiry Dated:</b>	24 February 2010
<b>Date Report Prepared:</b>	23 April 2010
<b>Constraints:</b>	Open Countryside

**SUMMARY RECOMMENDATION: Refuse**

**MAIN ISSUES**

- The need for and provision of gypsy and traveller sites in the area.
- Whether the development would provide a sustainable form of development.
- The impact of the development on the character and appearance of the area.
- Impact of the development on neighbouring amenity

## **1. REASON FOR REFERRAL**

This application has been 'called in' for consideration by Committee by Councillor Margaret Hollins on the grounds that the development is contrary to the Local Plan, it is contrary to the conditions in the appeal Inspector's decision and to allow the merits of the application to be debated in public forum.

## **2. DESCRIPTION OF SITE AND CONTEXT**

An area of 0.5 hectare of land on the westerly side of Warmingham Lane with access 220 metres north of the junction with Forge Mill Lane in the Parish of Moston.

## **3. DETAILS OF PROPOSAL**

Extension to existing gypsy caravan site including laying of hardstanding, stationing of 9 caravans for residential purposes (including 3 static caravans) storage of 2 touring caravans, erection of 9 utility buildings and installation of

lighting. The application also includes the construction of a manege in the northeasterly corner of the site in front of the existing stables and barn.

#### **4. RELEVANT HISTORY**

- 1989 (8/20706/3) Temporary permission for wooden sectional building providing loose boxes and storage.
- 1991 (8/22907/3) Temporary permission for wooden sectional building providing two loose boxes.
- 1994 (8/26098/6) Renewal of planning permission 8/20706/3 – wooden sectional building providing loose boxes and storage.
- 1994 (8/26099/6) Renewal of planning permission 8/22907/3 – wooden sectional building providing two loose boxes.
- 1999 (8/30970/6) Renewal of planning permission 8/26098/6 – wooden sectional building providing loose boxes and storage.
- 1999 (8/30971/6) Renewal of planning permission 8/26099/6 – wooden sectional building providing two loose boxes.
- 1999 (8/31265/3) Permission for the exercising of horses.
- 2002 (8/34297/3) Application for removal of temporary condition relating to stables and barns on permission 8/30971/6 – withdrawn.
- 2002 (8/34471/3) Permission for removal of temporary conditions relating to stables and barns on permissions 8/3030970/6 and 8/30971/6.
- 2003 (8/36153/3) Permission to replace existing timber stables and barn with steel frame and block building to include tack room, fodder and implement store and toilet.
- 2008 (07/0647/FUL) Permission granted on appeal for gypsy caravan site for 3 families, together with 2 transit pitches, including the laying of a hardstanding and erection of toilet blocks.
- 2008 (EA829) Enforcement Notice upheld on appeal in respect of the change of use of the land from keeping of horses to a mixed use for keeping of horses and stationing of residential caravans/mobile homes together with associated works, structures and paraphernalia including the deposit of broken bricks, broken concrete, demolition materials, crushed stone and road planings to create a hardstanding, the installation of kerbs, construction of toilet block and sheds, erection of close boarded timber panel fencing and lighting columns.

#### **5. POLICIES**

##### **North West Plan Partial Review**

Draft Policy L6 – Scale and Distribution of Gypsy and Travellers Pitch Provision

### **Cheshire 2016: Structure Plan Alteration**

Saved Policy HOU6 – Caravan Sites for Gypsies

### **Local Plan Policy**

PS8	Open Countryside
GR1	General Requirements for All Development
GR2	Design Requirements for All Development
GR6	Amenity and Health
H1	Provision of New Housing Development
H2	Distribution of New Housing Development
H7	Residential Caravans and Mobile Homes
H8	Gypsy Caravan Sites

### **Other Material Considerations**

Circular 01/2006 – Planning for Gypsy and Traveller Caravan sites  
The Gypsy and Traveller Accommodation Assessment (GTAA)

## **6. CONSULTATIONS (External to Planning)**

**Highways:** No comment or objection.

**Environmental Health:** If planning permission were granted a site licence would be required under the Caravan Sites and Control of Development Act 1960. Site Boundaries should be clearly marked, Roads, gateways and footpaths must be of suitable material/construction, suitably lit and have adequate access for emergency services, etc. Suitably surfaced parking spaces shall be provided where necessary to meet the additional requirements of the occupants and visitors; A Foul Drainage system must be provided and each caravan must be connected to this and have its own water supply, W.C., wash hand basin, shower or bath with hot and cold water. If these facilities are not present they should be provided in an adequately constructed building. Each caravan should have adequate surface water drainage. Each caravan should stand on a concrete or tarmac hard-standing extending over the whole area occupied by the caravan upon it and projecting a sufficient distance outwards from its entrance to enable the occupants to enter and leave safely. Recreational space equivalent to about 1/10<sup>th</sup> of the total area should be allocated for children's games and/or other recreational purposes and should be kept tidy and maintained.

## **7. VIEWS OF THE PARISH / TOWN COUNCIL:**

Object on the following grounds:

- many of the conditions attached to the previous appeal decision have been consistently flouted. If this application were granted they expect that any conditions attached would again be ignored. The Inspector's decision gave a clear ruling allowing the development only with strict conditions. This judgement should not be overturned just because the applicant has ignored these conditions.
- the applicant is now applying for an area of 0.5 hectares more than double the area for which planning permission was granted. The area owned by the applicant extends to 7 acres and given the past record of unauthorised development more of this is likely to be encroached upon. If this happens there would be a greater number of horses with a reduced area of grazing land. On at least 3 occasions since 2008 horses have been put in local landowners' fields without permission causing great inconvenience.
- there is inconsistency in the documentation as to the exact number of caravans that could be accommodated with pitches being inadequately defined. At the time of the original application it was stated that '3 families would occupy 5 caravans and 2 transit pitches (4 caravans)' giving a total of 9. This was shown on the original plans but was exceeded on many occasions with up to 14 caravans on one visit whilst it was covered by an enforcement order. As permission is now being sought for 3 static caravans and 6 other pitches with extra storage for 2 touring caravans it could be claimed at a later date that a total of 17 caravans were permitted. The current view of privately owned gypsy caravan sites is that they should be small family sites. The previous planning permission allowed for such a site not for much larger site that is now applied for and which is the subject of unauthorised development. The local community has accepted that a site for at most 9 caravans is not unreasonable but continued expansion is unacceptable.
- nowhere is it defined what a family consists of. A clear frame of reference is needed to prevent unlimited expansion.
- the inclusion of 9 separate utility blocks implies greater occupation of the transit sites even permanency. Only 5 toilet blocks were indicated on the original application.
- the Inspector's decision on the development at Wybunbury Lane, Stapeley does state that Cheshire East needs to provide more pitches over the next 6 years but nowhere states that they should be provided in the Congleton area and Macclesfield in particular. The North West RSS encouraged a more equitable distribution of sites throughout Cheshire East. The CW10 postcode area has 7 out of 9 sites in the Congleton District and Macclesfield District has none. It is unreasonable to expect that much of the growth should be absorbed by the places where sites already exist as this could place too great a strain on resources and community relations. A forecast 3% annual growth in the same place each year would lead to a 34% increase over 10 years and 81% over 20 years. This is not sustainable.

## **8. OTHER REPRESENTATIONS:**

A local resident has objected to this application on the following grounds:

- there is already far too much noise and light pollution from the existing camp for a countryside/green belt area.
- there is not enough respect for neighbouring properties boundaries. One or more of the occupiers has in excess of 9 horses which are regularly grazed on neighbour's land rather than on the site. If further vans are put on the site then the livestock will end up on neighbours land more often.
- the Gypsy community should not be afforded any extra rights over the current rural community – if people who live in the green belt cannot get planning permission then why should the Gypsies get their application granted. There are plenty of sites locally where Gypsies can be accommodated so an extension on this site is not necessary and will be too much for the immediate area. This should not now be turned into a development area because the first application was granted.
- if planning permission is granted there should be strict controls on noise (no generators), lighting and provision of fencing.
- they too would like to live on a green field site. As their family tree shows a bit of Irish/Traveller background this will give them the go-ahead to buy a bit of land and set up a plot for a caravan.
- the permission granted on appeal was for 3 families together with 2 transit pitches in accordance with the original application for up to 5 families and the permission accommodates this in allowing for up to 9 caravans two of which can be termed in transit and no more than 3 static. The inspector's decision **does** limit the number of families in view of the fact that up to 7 caravans, including 3 static caravans, can only accommodate 3 families i.e. just under 0.5 families per caravan. Mathematically 2 further caravans would only be sufficient for 1 family. The total number of families permitted to use the site is 4 – not 9 as the applicant's agent states.
- the proposed layout shows that the applicant is seeking to apply for two additional caravan pitches therefore the site will not still only accommodate 9 caravans but 11 in total. He also seeks planning permission for 18 vehicles equating to 4.5 vehicles per family which is not consistent with the sustainability statement or planning policy.
- the submitted plans do not appear to be drawn to scale, in particular the existing commercial building (barn).
- given the applicant's track record and assurance that planting will be carried out is unlikely to materialise and the concept that the surface of the exercise yard can be controlled by condition is clearly something that applicant will ignore and the Local Authority unable to enforce as the last year's events demonstrate
- contrary to the statement by the applicant's agent, the proposed scheme does not allow for occupation by any additional families, the scheme clearly shows two more caravans overall and argues wrongly that the permission granted on appeal intended the land to be used for up to 9 families. The permission allows for up to 3 families and 2 transit pitches. It is clearly wrong to assume that 3

families would live in 7 caravans and that somehow a further 6 families could be accommodated in just 2 small transit caravans. The statement is absurd, without substance and incorrect.

- Policy H8 of the Local Plan states that permanent sites will only be permitted if, amongst other things, wherever possible they avoid encroachment into the open countryside and are within 1.6 kilometres (1 mile) of existing shops, community facilities, primary school and public transport facilities. In addition Cheshire 2016: Structure plan Alteration states that, amongst others, there must be a proven need. This site is in the open countryside, the nearest shop is 2.3 kilometres (1.5 miles), the nearest school is 3 kilometres (2 miles) and Middlewich Town centre 5 kilometres (3 miles) away. Conversely the nearest house owned and occupied by the applicant's family members is just 0.32 kilometres away from the school. There is no proven need, he refers to a previous e-mail in January 2008 when he says he demonstrated that the GTAA findings when matched against existing sites showed that Congleton Borough Council and in particular the Middlewich area had exceeded requirements up to the end of 2011. He refers to the last five Gypsy Caravan counts and says this shows that in the North West the number of socially rented caravans dipped from 520 in July 2007 before returning back to the same number in July 2009. The number of caravans on authorised private sites actually decreased from 672 in July 2007 to 644 in July 2009. Given that there has been an increase in the number of sites granted permission over this period especially privately owned sites, he would expect an increase in the number of caravans but there has been a downward trend so clearly there is no evidence of any further need. The overall count for the North West (including all authorised and unauthorised sites) has decreased over the same period from 1447 to 1415. The only reason the Planning Inspector could give for a need in this case was the fact that the applicant had occupied the site therefore this demonstrated a need. He finds it difficult to respond to such a comment but believes it is open to challenge. The applicant's agent interprets this document to demonstrate that there is an unmet need and states that the Gypsy population is growing. He should substantiate this claim otherwise it should be ignored. The count figures show a downwards trend therefore permission should be refused.
- if the County Council's Draft Gypsy Policy identifies Middlewich as lying within one of the two main travelling routes through Cheshire then every single town, village, hamlet and area of open countryside along this route should be considered a suitable site. The correlation between travel route and suitable site is nonsense, it just merely points out that it is major travel route otherwise we should consider a by the side of the M6.
- paragraph 64(a) which lists the promotion of peaceful and integrated co-existence between the site and the local community and one of the issues to be considered) has not been met. The site does not promote easy access to local facilities, none are within walking distance and the application for 18 car parking spaces does



not exactly support a considered a approach to sustainability and climate change.

- there is no proven need, only a proven case for the local need having not been met. The Design and Access Statement is full of inaccuracies, omissions and false statements wholly designed to mislead.
- the present site had planning permission granted at appeal subject to conditions. Condition 3, in particular (ii) and (iii) has not been complied with by the required date consequently permission for the land to be used as a caravan site ceased and the applicant should no longer be occupying the original site. Notwithstanding this, he cannot understand how an application for an extension to a site which no longer has planning permission can be accepted. The application should therefore be inadmissible and should be refused.
- with respect to the Observation report from the Council's Spatial Planning Team the author says that Table 7.2 highlights the proposed need for 60 extra pitches from 2007 to 2016 which equates to just 3.15 pitches per year. This poorly researched and prepared document could easily mislead those relying on its conclusions. The adopted RSS does not include policy on Gypsy and Traveller Sites and part 2 has not even been published for public consultation yet. In addition the Partial Review has now been subject to Examination in Public but a spokeswoman has said that it is unlikely to be published until the end of 2010 and this depends upon the outcome of the General Election which in any case will delay proceedings. The author agrees that the development is not in accordance with Policy PS8 And it is debatable whether it is generally consistent with Policy H8 perhaps the author should consult local residents as to whether the development complies with (i). It is opinion as to whether it is appropriate in scale and the landscape and Forestry response clearly does not agree that the existing and proposed screening is acceptable. In fact he finds little to commend the proposal but does not object to it!

## **9. APPLICANT'S SUPPORTING INFORMATION:**

### **Design and Access Statement**

In the Design and Access Statement dated 19<sup>th</sup> November 2009 submitted by Philip Brown Associates with this application the applicant's agent says that the original caravan site was intended for occupation by up to 5 families including two families in transit however the Inspector's decision letter does not limit the number of families that can occupy the site and does not differentiate between residential and transit pitches. He argues therefore that the existing permission allows for up to 9 families to occupy the authorised caravan site.

He says that this application is for an extension of the authorised site including re-organisation of the existing site. The site would still only accommodate 9 caravans including 3 static mobile homes for use as living accommodation, but would also accommodate the storage of 2 towing caravans and re-instatement of a manege in front of the existing

barn and stables. The proposed layout of the site includes grass amenity areas, parking facilities for 18 vehicles and turning facilities.

The site is already well screened by existing buildings and hedgerows. These would be supplemented by tree and hedge planting along the western and northern boundaries to screen and break up the mass of caravans on the site and help assimilate them into their landscape setting. The remainder of the land will be retained for grazing horses.

There is an existing access from Warmingham Lane that was deemed satisfactory for the authorised caravan site and the proposed scheme does not allow for occupation of the extended site by any additional families. As for wider sustainability issues, the site is close to the edge of Middlewich and only about 1.4 miles from the closest shop (Tesco Express on Warmingham Lane). The previous appeal Inspector found the site to be sustainable in terms of advice in Circular 01/2006.

In terms of planning policy he says that the development plan pre-dates Circular 01/2006 and hence fails to reflect up-to-date Government advice. The Circular makes clear that in principle Gypsy sites are acceptable in the countryside provided that, as in this case, the area is not subject to special controls. Matters of sustainability are now looked at in the round taking into account that provision of a settled site gives access to health and education services and prevents the need for long distance travelling.

A Countywide assessment of need has established that there is an unmet need for Gypsy sites in the study area and the County Council's draft Gypsy Policy identifies Middlewich as lying within one of two main travelling routes through Cheshire. There is clearly a very large Gypsy/Traveller population in the Middlewich area, living in caravans and in conventional housing. The Gypsy population is growing with a rate of household growth of about 3 percent per annum. The Council must first assess the existing needs of this population including the needs of Gypsies in over crowded or unsuitable accommodation, and project those needs forward for a period of at least 5 years. The Local Development Framework must then allocate land on which to accommodate all of the needs identified. He says that it is quite obvious that household growth alone will generate a substantial need for additional Gypsy sites in the Middlewich area.

He enclosed a copy of the appeal decision relating the site at Wybunbury Lane in which the Inspector said that there is an identified need for gypsy and traveller site provision in both Cheshire East and regionally which needs to be addressed urgently. The Inspector noted that no sites had been identified through the LDF process and that sites were unlikely to be identified until 2014. As a result she found that the timetable for provision failed to accord with the advice in Circular 01/2006 or PPS3 and these matters weighed in favour of the appellants.

In the case of the site at Horseshoe Farm, the extended site would contribute 9 pitches towards meeting the unmet need within the

timescale envisaged by Circular 01/2006 (i.e. before the end of February 2011) therefore it will assist the Council in meeting its obligations to the gypsy/traveller communities.

## **10. OFFICER APPRAISAL**

### **Introduction**

In February 2008 the former Congleton Borough Council refused planning permission for 'Proposed Gypsy caravan site for 3 Gypsy families, together with 2 transit pitches, including the laying of a hardstanding and erection of toilet blocks' on an area of 0.24 hectares in the south easterly corner of the land for the following reason:

The Cheshire Partnership Area Gypsy & Traveller Accommodation and Related Services Assessment May 2007 identifies a need arising within Congleton Borough for 17 – 25 pitches between 2006 – 2011 and a further 9 – 11 pitches between 2011 – 2016. This Assessment will inform (a) the forthcoming Partial Review of Regional Spatial Strategy anticipated for adoption in 2010 and (b) any site-specific allocations in Development Plan Documents adopted in the interim in accordance with ODPM Circular 1/06.

In view of

- (1) the Assessment's cautionary note against the assumption that those needs be actually met in that form in that specific locality, and
- (2) the North West Regional Assembly Planning Group's recommendation of September 2007 that the Partial Review should redistribute pitch provision more equitably among the Cheshire Districts whilst taking into account the aspirations and preferences of the Gypsy & Traveller Community, and
- (3) the existing commitment to an additional 24 pitches at Three Oaks Caravan Park, Booth Lane, Middlewich for which planning permission was granted on 8<sup>th</sup> November 2005 under reference 05/0766/FUL,

the Borough Council does not accept that there is a need for the development at the present time. In the absence of such need, the development is contrary to Policy HOU6 of Cheshire 2016: Structure Plan Alteration. Further, the Borough Council considers that the Partial Review will reduce the Borough's contribution towards demand and that a grant of planning permission at this time would prejudice the proper consideration of the results of the Assessment through the Development Plan process.

In fact a larger area of approximately 0.5 hectare had already been laid with hardcore and was being used for the stationing of caravans consequently in March 2008 an enforcement notice was issued in relation to this unauthorised development. The requirements of the enforcement notice were as follows:

- (i) Stop using the land for the stationing of residential caravans/mobile homes.
- (ii) Dismantle all of the ancillary buildings and structures including the toilet block, sheds, close boarded timber panel fencing and lighting columns.
- (iii) Remove all of the materials arising from requirement (ii) above from the Land.
- (iv) With the exception of the area shown for identification purposes only hatched Black on Plan B ("the Driveway") remove all of the broken bricks, broken concrete, demolition materials, crushed stone and road planings from the Land.
- (v) With the exception of the area shown for identification purposes only cross-hatched Black on Plan B ("the Manege") and the Driveway, restore the Land to its condition before the development took place by spreading a layer of topsoil and seeding it with grass.
- (vi) In respect of the Manege, EITHER lay a surface of sand, rubber or timber bark OR spread a layer of topsoil and seed it with grass.

For the avoidance of doubt the list of works above does not include the timber stable building adjacent to Warmingham Lane or the open ranch style fencing previously on the land.

The owner/occupiers of the land appealed against both the refusal of planning permission and the enforcement notice. A copy of the Inspector's decision letter dated 30<sup>th</sup> October 2009 is appended to this report.

As may be seen from this the Inspector allowed the appeal against the refusal of planning permission and granted permission subject to the conditions set out at paragraph 2. As the necessary fees had not been paid the Inspector could not consider whether planning permission ought to be granted on the larger area covered by the enforcement notice. The only ground of appeal against the enforcement notice was that the time given to comply with the requirements of the Notice was too short.

The Inspector noted that because planning permission was being granted on part of the land, the notice ceased to have effect in so far as it is inconsistent with the planning permission considered that 12 months was adequate to carry out the requirements of the enforcement notice in respect of the remaining notice land consequently he dismissed their appeal and upheld the enforcement notice.

In November 2008 the Council reminded the landowner and his agent of the requirements of the conditions attached to the appeal decision expressed concern that further works were being carried out on the site. They were advised that any works carried out otherwise than in accordance with the conditions attached to the appeal decision would be unauthorised and, if not already covered by the previous enforcement notice, they could lead to further

enforcement action. Any works carried out in breach of condition 3 of the planning permission could invalidate that permission.

The applicant was also reminded of the requirements of the enforcement notice and that failure to comply with these requirements would be an offence.

A Site Development Scheme was submitted on the final day for submission in January 2009. Following consultations the Council wrote to Philip Brown Associates advising them informally that the proposed layout and landscaping were not acceptable and suggesting amendments, also requesting clarification of the external lighting and timetable for implementation. The Environment Agency had stated that the drainage details were satisfactory consequently the applicant's agent was advised that these were acceptable.

Despite a subsequent reminder no amended details have ever been received.

On 11<sup>th</sup> November 2009 another site visit confirmed that there were still caravans stationed outside the planning permission area together with a toilet block, fencing, lighting columns, hardstandings, surfacing, etc. A report was prepared seeking authority for prosecution through the Courts however the retrospective application now before you was submitted seeking to regularise the situation.

In his Design and Access Statement the applicant's agent says that although the original caravan site was intended for occupation by up to 5 families, the Inspector's decision does not limit the number of families that can occupy the site consequently he argues that the appeal decision allows for up to 9 families to occupy the authorised site.

This is not agreed by officers. Although condition 2 of the appeal decision refers only to a maximum number of caravans on the site, not families, the description of development given on the original application forms referred specifically to 3 Gypsy families together with 2 transit pitches. Furthermore at paragraph 2 of his decision letter the appeal Inspector says that 'I allow the appeal and grant planning permission for a gypsy caravan site for 3 families, together with 2 transit pitches ... in accordance with the terms of the application Ref 07/0647/FUL dated 24 May 2007 and the plans submitted with it'.

The applicant's agent has been asked to clarify why he suggests that there is no limit on the number of families that can occupy the site (and to consider making amendments to other aspects of the scheme), but despite a reminder, again no reply has been received.

In my opinion the description of development is an integral part of the decision notwithstanding that there is no reference to any maximum number of families in the conditions, consequently the appeal permission is in effect for 5 families.

Furthermore, although the 2007 planning application was regarded as being a retrospective application for that part of the land and the subsequent appeal was also dealt with on the basis that it too was retrospective, works had been carried out over a wider area even before the first application was submitted

and the layout shown on the plans accompanying the current application are quite different from that submitted with the first application.

Thus, whilst the current application is in effect for an extension to the geographical area previously granted planning permission as a gypsy caravan site, the development is a different development. This view is strengthened by virtue of the fact that the further works carried out after the appeal decision were inconsistent with the appeal permission and the plans accompanying the current application indicate that it relates to the whole area used for stationing of caravans and ancillary purposes (together with the manege).

With hindsight it is questionable therefore whether the development was actually carried out pursuant to the appeal permission. Consequently the application now before you is in effect a new application for what has actually been carried out 'on the ground' nevertheless the conclusions of the previous appeal Inspector on matters of principle are still an important material planning consideration and cannot be ignored.

## **Planning Policy**

### Regional Spatial Strategy

Policy L6 of the RSS Partial Review, although still in draft, sets out a requirement for an additional 825 net additional residential pitches and 270 transit pitches for Gypsies and Travellers across the North West over the period 2007 – 2016. Table 7.2 of the RSS sets out the scale and distribution of these additional pitches and shows a minimum of 60 additional permanent residential pitches and a minimum of 10 additional transit pitches over that period within Cheshire East.

The supporting text explains that there is an urgent need to address the shortage of accommodation suitable for Gypsies and Travellers. It recognises that accommodation is currently concentrated in particular parts of the region and seeks to balance providing additional pitches in those areas where most Gypsies and Travellers currently live with broadening the choice available to families by providing some pitches in most parts of the North West.

The more specific location and design of pitches is a matter for Local Planning Authorities to address by setting policies in Local Development Documents taking account of advice in Circular 01/2006. However it lists important things to consider as follows:

- Location to local services and transport networks
- Location in relation to employment opportunities
- Ability to co-exist with settled communities
- Ensuring that the site is serviced
- Ensuring no significant adverse effect on the amenity of nearby residents
- Ensuring that any impact upon the character and appearance of the countryside (including wildlife, biodiversity and nature conservation) is minimised
- Ensuring the site is not within an area at high risk of flooding

- That the provision of a settled base will reduce the need for long distance travelling
- Ensuring easy and safe access to the road network
- Avoiding overcrowding and doubling up by ensuring adequate pitch size which allows space for short term visitors; facilities; amenity blocks; mixture of accommodation; utility of outside space; homes for life principles and health and safety
- Health and related support links
- Tenure mix
- Management

The RSS recognises that sites may need to be situated in places which meet the current working patterns of Gypsies and Travellers and that these may include countryside locations. However sustainability issues are important and decisions about the acceptability of particular sites need to take into account access to essential services and the impact on the settled community in order to promote co-existence between them.

It also recognises that some Gypsies and Travellers may prefer to buy and manage their own sites, often living in relatively small family groups. Private sector sites therefore should be encouraged.

### Cheshire 2016: Structure Plan Alteration

Paragraph 8.43 of the Cheshire 2016: Structure Plan Alteration states that the provision of sites for Gypsies is to be encouraged in satisfactory locations and policy HOU6 sets out criteria that Gypsy caravan sites should satisfy as follows:

- it must meet a proven need;
- it is not located in the Green Belt, unless no alternative location is available;
- it is located outside existing settlements but wherever possible within 1.6 kilometres (one mile) of existing local shops, community facilities, primary school and frequent public transport;
- it should be suitable for the gypsies to carry on their regular activities; and
- it should have easy and safe access to primary and other main roads.

### Cheshire County Council – Draft Gypsy Policy

In November 2006 Cheshire County Council published a revised Draft Gypsy Policy taking into account the content of Circular 01/2006. This Draft Gypsy Policy repeats much of the advice set out in the Circular (and referred to above), it acknowledges that the Structure Plan was adopted before this Circular was issued however it advises that Structure Plan policy HOU6 conforms with the guidance set out in the Circular and is still relevant.

The Draft Gypsy Policy explains that the North West Regional Assembly is undertaking research on the future requirements of Gypsies and Travellers in the North West Region to form the basis of a Regional Spatial Strategy and Regional Housing Strategy. This will be complemented by two more detailed sub regional studies in Cheshire and Lancashire, a Cheshire wide Gypsy and Traveller accommodation needs assessment has been commissioned by the Cheshire Chief Executives Advisory Group and individual local authorities will then allocate land for these requirements through Development Plan Documents.

The number of authorised and unauthorised sites in Cheshire is examined with 190 pitches at July 2005 distributed throughout the County as follows:

<b>District</b>	<b>Number of sites</b>	<b>Number of pitches</b>
Chester	1	22
Congleton	6	108
Crewe & Nantwich	3	37
Vale Royal	2	23

The report found that there are two general Gypsy movement lines through Cheshire, one generally from Chester towards Manchester and the other from Manchester southwards in the general direction of Birmingham i.e. following the lines of motorway communication.

#### Congleton Borough Local Plan First Review

Local Plan policy PS8 defines various categories of development that will be allowed in the Open Countryside. These categories do not include Gypsy Caravan sites.

Policy GR1 states that all development will be expected to be of a high standard to conserve or enhance the character of the surrounding area and not detract from its environmental quality and to have regard for the principles of sustainable development. Policy GR2 refers specifically to Design and states that planning permission will only be granted where the proposal is sympathetic to the character, appearance and form of the site and surrounding area *inter alia* in terms of height, scale, form and grouping of buildings, choice of materials, external design features and the visual, physical and functional relationship to neighbouring properties, the street scene and the locality generally.

Local Plan policy GR6 seeks to safeguard residential properties from any development which would have an unduly detrimental effect on their amenity due to loss of privacy; loss of sunlight and daylight; visual intrusion; environmental disturbance or pollution; traffic generation, access and parking.

Policy H1 of the Local Plan defines the number of new dwellings to be provided from mid-1996 to mid-2011 whilst policy H2 determines the distribution of these new dwellings. In accordance with policy H7, planning applications for residential caravans and mobile homes normally will need to satisfy the same policies as new housing development and count towards dwelling totals. However the former Congleton Borough Council's Supplementary Planning



Document 10 “Housing Land Supply” (adopted January 2005 and withdrawn in January 2008) explained that accommodation for Gypsies is a form of Special Needs Housing. As such it does not present housing land supply issues (provided that it meets a specific local need), it does not undermine regional spatial development policies and indeed it may bring it within the scope of policy PS8 which allows for affordable housing for local needs.

Policy H8 refers specifically to Gypsy Caravan Sites and states that temporary or permanent Gypsy caravan sites will be granted provided that they comply with all the following criteria:

- (I) avoids unacceptable consequences for the amenity of nearby residents;
- (II) comprises a site which is not within the Green Belt, area of Special County Value for Landscape or affects sites of nature conservation or archaeological interest;
- (III) is of an appropriate scale which would not detract from the value of the surrounding landscape;
- (IV) is adequately screened and landscaped;
- (V) provides satisfactory onsite parking and access from a public highway;
- (VI) provides adequate onsite facilities and services to serve all caravans;
- (VII) does not prejudice other relevant Local Plan policies;
- (VIII) does not conflict with utility company or agricultural interests;
- (IX) avoids wherever possible encroachment on the Open Countryside;
- (X) is, wherever possible, within 1.6 km (1 mile) of existing shops, community facilities, primary school and public transport facilities.

### Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA)

In May 2007 the Final Report was published by Salford Housing & Urban Studies Unit to present the findings of an assessment of accommodation and related service needs of Gypsies and Travellers across Cheshire including Halton, Warrington and St Helens. This research and report was commissioned by the authorities of the Cheshire Partnership (of which Congleton Borough Council is a member).

The study comprised a review of literary and statistical information, consultation with service providers and other stakeholders and a survey with Gypsies and Travellers across the study area. At the time of the July 2006 count, there were a reported 409 caravans throughout the study area. The vast majority were on some form of authorised provision (82% of all caravans) with authorised private sites accommodating the most (64%). The Boroughs of Congleton (125), Halton (63) and Chester (60) recorded the largest number of caravans, all but two authorities (Ellesmere Port & Neston and Macclesfield) had caravans present on some form of authorised provision and only Macclesfield recorded a zero count of caravans (see Appendix 1).

From July 1994 until July 2006 the overall number of caravans increased however there is a seasonal variation with an increase from 315 caravans in

January 1994 to 440 caravans in January 2006 (40%) and from 384 caravans in July 1994 to 409 caravans in July 2006 (7%). There was a reduction in the number of unauthorised sites by 25% (January to January) and 56% (July to July) and a reduction in the number of caravans on Council owned sites of almost a quarter. The increase in the total number of caravans was entirely accounted for on authorised private sites which almost tripled over this period.

Although there are some inconsistencies, further analysis of unauthorised sites also shows a seasonal variation with significantly more unauthorised caravans during the summers of 1999, 2000, 2001 and 2005 than at the winter counts.

Geographically, the spread of Local Authority owned sites has decreased over this period with one site closing in each of Chester and Crewe & Nantwich districts so that by January 2006 there were local authority owned sites only in Halton, St Helens and Congleton. Conversely, there has been an increase in the number of private authorised site with a larger number of caravans on such sites in Congleton and Crewe & Nantwich Boroughs and new private authorised sites provided in all Boroughs except Ellesmere Port & Neston and Macclesfield. A map showing the locations of these sites shows that there are two close together in Crewe & Nantwich, a cluster in St Helens, a cluster broadly following the M56/M62 motorway corridor and another cluster running from Winsford to Sandbach parallel to the M6 motorway.

The report contains a detailed study of the type and size of local authority sites, site occupancy and over crowding, demographics and household formation, travelling lifestyles and visitors, waiting lists and allocation criteria, licence fees and rents. In addition, local authorities were asked about the number of Gypsies and Travellers living in or registered for social housing and those living in private housing. Some authorities were unable to provide this information and for those that could, the numbers appear to vary greatly however the report notes that there appear to be concentrations of Gypsies living in both social and private housing in the Middlewich area with some in Sandbach and Congleton.

In terms of unauthorised sites, although there was some variation on the number of caravans on unauthorised sites between January 1994 and January 2006, the distribution remained the same i.e. in those districts across the north of the study area and in Congleton.

A more detailed analysis of unauthorised encampments during 2005/6 produced a total of 167 although there may be an element of double counting because the same people may have been recorded several times whilst travelling within the study area. All authorities experienced at least one unauthorised encampment during the year, Warrington recorded the most with 38 encampments.

Authorities were asked to provide detailed information about unauthorised encampments during the summer of 2006 and seven authorities responded with details of 54 encampments. Two had experienced more than 10 encampments (Chester and Warrington), the majority were relatively small (up to 10 caravans), the largest encampments of over 20 caravans were in St Helens (5), Congleton (2), Ellesmere Port & Neston (2), Warrington (2) and Chester (2). Most were of short duration with about 60% being of around 1 week either because of eviction

or because the Gypsies and Travellers only wanted to stay in the area a short time. All 6 encampments of over 4 weeks duration were in St Helens.

There is detailed discussion of the findings from the Gypsy and Traveller survey in terms of gender and age, marital status, household size, accommodation history (such as their views on their present type of accommodation, their reasons for moving site or into 'bricks and mortar' accommodation), over-crowding, concealed households and household formation rates, life on unauthorised encampments, travelling patterns and experiences, access to facilities, health and housing related issues, educational issues, work/employment issues, accommodation preferences and aspirations.

Accommodation need has then been calculated based upon the following:

- current shortfall of pitches represented by families on unauthorised sites who are over-crowded and/or doubled up
- allowance for family growth over the assessment period
- need as shown by current waiting lists
- need for authorised pitches from families on unauthorised developments
- allowance for net movement over the assessment period between sites and housing
- allowance for net movement over the assessment period between the Study Area and elsewhere
- allowance for closure of existing sites
- potential need for residential pitches in the area from families on unauthorised encampments

Summing these together, the Report concludes that for the period 2006 to 2011 across the whole study area there is an estimated need for between 79 and 112 permanent residential pitches and a further 25 to 37 transit pitches. Projecting this forward, the Report estimates that there will be a need for an additional 61 to 66 new residential pitches across the study area between 2011 and 2016.

Breaking this down into Districts, the Report concludes that for the former Congleton Borough the current authorised provision was 74 pitches, there is a need for an additional 22 – 30 residential pitches for the period 2006 – 2011 and an additional 14 – 16 pitches for the period 2011 – 2016. The Report makes an allowance for pitches being vacated at the rate of 1 per year nevertheless there is a total requirement for between 26 – 36 additional residential pitches over the whole period from 2006 to 2016.

### Circular 01/2006 – Planning for Gypsy and Traveller Caravan sites

Circular 01/2006 was published by the Office of the Deputy Prime Minister in February 2006 (and supersedes Circular 1/94 referred to by Warrington Parish

Council). Related to this is UK Race Relations law and Article 8 of the European Convention on Human Rights which affords protection to the homes, lifestyle and cultural identity of Gypsies as a minority, ethnic group.

For the purposes of this Circular, Gypsies and Travellers are defined as

Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group or travelling show people or circus people travelling together as such.

The main intentions of the Circular are set out at paragraph 12 as follows:

- (a) to create and support sustainable, respectful and inclusive communities where Gypsies and Travellers have fair access to suitable accommodation, education, health and welfare provision; where there is mutual respect and consideration between all communities for the rights and responsibilities of each community and individual; and where there is respect between individual and communities towards the environments in which they live and work;
- (b) to reduce the number of unauthorised encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this Circular;
- (c) to increase significantly the number of Gypsy and Traveller sites in appropriate locations with planning permission in order to address under-provision over the next 3 – 5 years;
- (d) to recognise, protect and facilitate the traditional travelling way of life of Gypsies and Travellers, whilst respecting the interests of the settled community;
- (e) to underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- (f) to identify and make provision for the resultant land and accommodation requirements;
- (g) to ensure that Development Plan Documents include fair, realistic and inclusive policies and to ensure identified need is dealt with fairly and effectively;
- (h) to promote more private Gypsy and Traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own sites; and

- (i) to help to avoid Gypsies and Travellers becoming homeless through eviction from unauthorised sites without an alternative to move to.

Circular 01/2006 reminds local authorities that the Housing Act 2004 requires them to include Gypsies and Travellers in their accommodation assessments and to take a strategic approach, including drawing up a strategy that demonstrates how the accommodation needs of Gypsies and Travellers will be met, as part of their wider housing strategy. The assessment of Gypsy and Traveller accommodation needs is integral to the assessment of general accommodation needs, the planning process should begin by local authorities assessing their accommodation needs as part of a Gypsy and Traveller Accommodation Assessment (GTAA).

The GTAA process should assess need and identify pitch requirements for each local authority area. This feeds into housing policies in the Regional Spatial Strategy and specifies pitch numbers for each local authority which must then be translated into specific site allocations in a Development Plan Document.

The core strategy should set out criteria for the location of Gypsy and Traveller sites which will be used to guide the allocation of sites in the relevant Development Plan Document. These criteria must be fair, reasonable, realistic and effective in delivering sites, policies that rule out or place undue constraints on the development of Gypsy and Traveller sites should not be included and local authorities must allocate sufficient sites for Gypsies and Travellers in terms of the number of pitches required by the Regional Spatial Strategy.

The Circular acknowledges that identifying and allocating specific plots of land is a more difficult process than using the solely criteria based approach however it ensures some certainty for local people and Gypsies and Travellers when planning applications are to be determined by local planning authorities or appeals considered by the Secretary of State. It also reminds local authorities that the Government has powers to intervene in the plan making process where it considers that these constraints are too great or have been inadequately justified or where a local planning authority does not adequately address Gypsy and Traveller site provision in its area.

In advance of Regional Planning Bodies carrying out a GTAA, translated into pitch numbers for Development Plan Documents for individual local authority areas, the Circular recognises that other means of assessing need will be necessary. Furthermore, where it is not possible to allocate pitch numbers in the current round of Regional Spatial Strategy revisions, Regional Planning Bodies will need to consider interim arrangements which should include a statement as to,

- (a) priority attached to addressing immediate need and timescale for doing so;
- (b) extent of existing provision;

- (c) identifying those parts of the region with high numbers of unauthorised sites;
- (d) an interim estimate of the additional pitch requirements at regional level;
- (e) arrangements for putting in place district level requirements.

In terms of site identification, Circular 01/2006 states that Gypsies and Travellers often face difficulties in securing an adequate supply of affordable land for their needs. Where there is a lack of affordable land to meet local Gypsy and Traveller needs (as demonstrated by an up-to-date assessment) local planning authorities in rural areas should include a 'rural exception policy' in the relevant DPD. Rural exception sites for Gypsies should be identified as such but should otherwise operate in the same way as rural exception site policies for housing as set out in Annex B of PPG3. In applying the rural exception site policy, authorities should consider in particular the needs of households who are either current residents or have an existing family or employment connection.

PPG2 gives advice regarding all forms of development within Green Belts and Circular 01/2006 confirms that Gypsy and Traveller sites within Green Belts will normally be inappropriate development. The current application site however is not within a Green Belt.

Circular 01/2006 also refers to areas of nationally recognised designation (e.g. SSSIs, AONBs, National Parks, Conservation Areas, etc) and advises that, as with other forms of development, planning permission for Gypsy and Traveller sites should only be granted where it can be demonstrated that the objectives of the designation will not be compromised. The Circular continues by stating that local landscape/nature conservation designations should not be used in themselves to refuse planning permission for Gypsy and Traveller sites. The current application site is not within an area of nationally or locally recognised designation.

Sites may be found on the outskirts of built-up areas or in rural or semi-rural settings. Rural settings, where not subject to special planning constraints, are acceptable in principle and, in assessing such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Sites should respect the scale of, and not dominate the nearest settled community, they should also avoid placing undue pressure on the local infrastructure.

In some cases, perhaps involving previously developed (brownfield), untidy or derelict land, the establishment of a well planned or softly landscaped Gypsy and Traveller site can be seen as positively enhancing and increasing openness.

Paragraph 65 of the Circular states specifically that in deciding where to provide Gypsy and Traveller sites, local planning authorities should first consider locations in or near existing settlements with access to local services e.g. shops, doctors and schools. All sites considered for allocation should have their social, environmental and economic impacts assessed in accordance with the principles of sustainable development.

Regional Spatial Strategies and Development Plan Documents form part of the 'development plan' and of course the determination of planning applications should be made in accordance with the development plan unless material considerations indicate otherwise. Circular 01/2006 advises local planning authorities that they should be able to release sites sequentially with sites identified in Development Plan Documents being used before windfall site.

Issues of sustainability should include not only the means of transport and distance from services for applicants but also the promotion of peaceful and integrated co-existence between the site and the local community, the wider benefits of easier access to GP and other health services, children's attendance at school on a regular basis, reducing the need for long-distance travelling and the environmental damage that can be caused by unauthorised camping.

Other considerations for such applications are likely to include the impact on the surrounding area, the existing level of provision and the need for sites in the area, the availability or lack of alternative accommodation for applicants and other personal circumstances, the suitability of vehicular access from a public highway, parking/turning/servicing provision on site and road safety for occupants and visitors. Local authorities should have regard to the potential for noise and other disturbance from the movement of vehicles to/from the site, the stationing of vehicles on-site and on-site business activities however proposals should not be rejected if they would only give rise to modest additional daily vehicle movements and/or the impact on minor roads would not be significant.

Landscaping/planting may help sites blend into their surroundings, give structure and privacy and maintain amenity however enclosing a site with too much hard landscaping, high walls or fences can give the impression of deliberately isolating the site and its occupants from the rest of the community and should be avoided. Finally Circular 01/2006 reminds local authorities that the provisions of the European Convention on Human Rights and Race Relations legislation should be considered as an integral part of their decision making process but at the same time, emphasising that this obligation on public authorities does not give Gypsies and Travellers the right to establish sites in contravention of planning control.

Annex E of the Circular provides guidance to Gypsies and Travellers making planning applications. Firstly they are advised to make their planning application before entering a site as to do so beforehand can be a breach of planning control and may result in enforcement action. Applicants should provide as much background information with their application as they can for example the efforts that they have made to find a site, why they have selected this particular site and details of all the people who plan to live there. As much detail as possible on the site, including the layout, landscaping, access and number of caravans should be provided at the outset.

### Human Rights

In considering this application the decision maker should have regard, *inter alia*, to the provisions of the Human Rights Act 1998.

Article 8 of the Human Rights Act states that everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals or the protection of the rights and freedoms of others.

Article 14 of the Human Rights Act states that the enjoyment of the rights and freedoms set forth in that Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

In this particular case, although some caravans are stationed outside the area previously granted planning permission on appeal and associated works have been carried out around them (e.g. hardstandings, fencing, etc) if the current application was refused they could simply contain the development within the area previously granted permission. The Council may pursue enforcement action to secure compliance with the conditions attached to the appeal decision and legal action for failure to comply with the requirements of the previous enforcement notice but such action would NOT require the total cessation of the use of the land as a whole as a gypsy caravan site consequently it would not totally deprive the occupiers of their property, their private and family life, their homes or their correspondence.

Although the planning permission was subject to a condition limiting the occupation of the site to gypsies and travellers and the occupiers of the other caravans/mobile homes on the Enforcement Notice Area are also gypsies/travellers, the conclusions of the appeal Inspector to only grant planning permission on a part of the land and uphold the Enforcement Notice on the remainder were based soundly on planning considerations. The decision on the application must be based on material planning considerations and any decision to take enforcement action to secure compliance with the conditions attached to the appeal decision and/or legal action in respect of the alleged failure to comply with the requirements of the Enforcement Notice must be based upon the evidence irrespective of the sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status of the owner/occupiers.

#### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act states that, without prejudice to any other obligation imposed upon it, it shall be the duty of each local authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

The issue of crime and anti-social behaviour has been raised by residents. In a recent case from 2005 (Smith v. First Secretary of State and Mid-Bedfordshire District Council) the Court of Appeal quashed an appeal Inspector's decision where planning permission had been refused on the basis of fear of crime. It was



held that fear had to have a reasonable basis and the object of that fear had to be the use of the land. A caravan site was not inherently likely to cause difficulties to neighbours and it was wrong to take the view that the use of land as a Gypsy site created the same concern as that attached for example to an institution such as a bail hostel. Where concern for the future rests not on an extrapolation of past events but at least partly on assumptions unsupported by evidence as to the characteristics of future occupiers, then it must not be taken into account.

In this particular case, although residents refer generally to the occupiers of this site having a lack of respect for other people's property also noise and disturbance to nearby residents this is unsupported by any specific evidence (e.g. crime report numbers) and such activities are not specific to the occupiers of this site. Overall these issues are not considered to be of such weight as to sway the determination of this application.

### **Previous Appeal Decisions**

#### Oakotis, Heath Road, Sandbach

This application was refused for two different reasons. Firstly because at that time Congleton Borough Council did not accept that there was any proven need consequently the development was contrary to policy HOU6 of Cheshire 2016: Structure Plan Alteration (also the former housing moratorium although this subsequently ended in January 2008) and secondly because the applicant had failed to demonstrate that the air quality and the noise climate on this site, in close proximity to the M6 motorway, would provide a satisfactory level of amenity for the occupiers of the caravans, contrary to Policy GR1 of the adopted Congleton Borough Local Plan First Review.

The Inspector's attention was drawn to the 'cautionary note' in the GTAA recognising that there remains a need for deeper discussion in terms of identifying need at more local level.

The Council pointed out that the GTAA Report observes that because of historical inequalities in pitch provision, Gypsies and Travellers have constrained choices as to where and how they live compared to how they would choose to live if they had real choice. Over time this inevitably has meant that Gypsies and Travellers have generally moved to areas they see offering the best life chances.

It therefore was argued that there is a tendency when the need for additional accommodation is being assessed for this to further compound these inequalities in site provision i.e. authorities that are already providing Gypsy and Traveller accommodation publicly or privately are assessed as having a greater need for additional pitch provision than authorities that have little or no pitch provision. As a result the Report accepts that need where it is seen to arise is not necessarily a sustainable indicator of where the need for sites actually is.

Circular 01/2006 advises that the results of a GTAA normally should feed into housing policies in the Regional Spatial Strategy and specify pitch numbers for individual local authorities and these must then be translated into specific site allocations in a Development Plan Document. In the present circumstances, where the GTAA has been published but the RSS is still only in draft

consequently a DPD has yet to be prepared, it may be argued that planning permission should not be granted for Gypsy caravan sites on an *ad hoc* basis.

Furthermore the Council stated that the number of additional pitches needed both within the overall study area and more particularly within individual local authority areas are based upon administrative boundaries whereas in practice it might be that the 'need' (or a more suitable site) exists just over the boundary within an adjacent local authority area, especially in the case of Middlewich which is situated very close to the boundaries with Crewe & Nantwich and Vale Royal districts.

In his decision letter the Inspector responded to these issues stating that,

The GTAA is a recent publication and I accept that there will be consideration and discussion at regional, county and district level before it feeds down to individual district allocations. Even so, it seems to me that it is inevitable that Congleton Borough will continue to be identified as having a need for pitch provision at some level. In my view this can only be seen as a specific local need.

Consequently I accept that it has been shown that a specific local need exists, and therefore Policy H1 of the Local Plan, together with SPD10 (and its draft replacement) do not bite, with the effect that the proposed development cannot contribute to the oversupply of housing. In addition the need requirement of Structure Plan Policy HOU6 is met.

Although the Inspector went on to conclude that the site at Heath Road, Sandbach could not provide a satisfactory residential environment in terms of proximity to the motorway and associated noise and air quality, and for this reason he dismissed that appeal, it is very clear that he accepted the principle of need.

#### Horseshoe Farm

In the case of the appeals against the refusal of planning permission and the enforcement notice on this site at Horseshoe Farm, the Inspector's attention was again drawn to the cautionary note in the GTAA regarding the provision of pitches where the need arises and the suggestion that there should be a more equitable distribution of sites however he concluded that there is a demonstrable need for additional Gypsy pitches in the former Congleton Borough. He agreed that it would serve no purpose if sites were identified in areas where Gypsies and Travellers do not want to go and concluded that the small number of pitches involved on this site would not prejudice the objectives of the ongoing RSSS review or the subsequent preparation of the Council's LDD.

Control over the siting of the caravans and landscaping could be covered by conditions such that they would not materially detract from the character and appearance of the area and he noted that the nearest residential properties were some distance away consequently their occupiers should not be unduly disturbed by activities on the site or by additional traffic movements on nearby roads.

Land at Wybunbury Lane, Stapeley

The applicant's agent has drawn attention to this appeal decision and in particular the finding of the Inspector there that 'there is undoubtedly an immediate need for further pitch provision both in Cheshire East Borough and regionally'.

Furthermore he says that the Inspector heard evidence from Council officers that no sites had been identified through the LDF process and that sites were unlikely to be identified until 2014. As a result, the Inspector found that the timetable for provision through the LDF failed to accord with the advice in Circular 01/2006 or PPS3 and these matters weighed in favour of the appellant.

In view of the conclusions of these previous appeal Inspectors, to attempt to refuse the current application for the same reason(s) would very likely encounter another appeal and another claim for costs against the Council.

**Principle of Development and Sustainability**

Although there is some doubt as to whether the planning permission granted on appeal has been implemented or whether the development that has been carried out 'on the ground' is actually a different development, the appeal Inspector certainly did consider the issues of need and the suitability of this site (including the effect on the surrounding countryside and sustainability).

At paragraph 15 of his decision letter he said that,

As far as sustainability is concerned 01/2006 says that this is not merely a question of transport modes and distances from services; it includes other benefits in terms of health and education and integration with the local community. I noted the relationship between the site and Moston, Warrington and Macclesfield and although I agree that walking along unlit narrow rural roads is not without danger the distances involved are within or close to the threshold for access to services set out in the structure plan. I therefore consider that the objectives of the 01/2006 regarding sustainability would be met in this case.

The principle of development for a Gypsy caravan site in this location is therefore already established. Furthermore each of the three previous appeal Inspectors referred to above have all concluded that there is an immediate need to provide additional Gypsy caravan pitches in Cheshire East Borough.

The four additional pitches will assist in satisfying the GTAA and draft RSS requirement. Whilst it is most unusual for pitches to have only a single caravan on each there is no requirement for more than one caravan.

To attempt to refuse the current application on matters of principle would almost certainly result in an appeal and application for costs against the Council.

## Need

As may be seen from the previous appeal decisions referred to above, all three of those Inspectors concluded that there was a need to provide additional pitches within the former Congleton Borough Council and latterly within Cheshire East Borough.

The residential accommodation need for the three former Boroughs now comprising Cheshire East was summarised in the GTAA as follows:

Former Authority	Current authorised provision (pitches)	Total additional residential need (pitches) 2006 – 2011	Supply of pitches (1 pitch per year allowance for turn over)	Total additional residential need (pitches) 2011 – 2016	Estimated supply of pitches 2011 - 2016	Total additional residential need (pitches) 2006 – 2016
Congleton	74	22 – 30	5 + 5 Horseshoe Fm + 3 Five Acre Fm	14 – 16	5	26 – 36
Crewe & Nantwich	27	5 – 11	Nil + 3 at Wybunbury	5 – 6	Nil	10 – 17
Macclesfield	0	0 – 1	Nil	14	Nil	11 – 15

As explained above, the RSS target for 2007 – 2016 is a minimum of 60 additional residential pitches plus 10 transit pitches.

At the Horseshoe Farm appeal inquiry the Council argued that the planning permission granted in November 2005 for an additional 24 pitches at Three Oaks Caravan Park, Booth Lane, Middlewich would satisfy the requirement at least until 2011. However the Inspector did not accept that because work had started that this equated to the provision of new pitches or, because Three Oaks Caravan Park is operated for English Gypsies, that they were available for occupation by the appellant and his family who are Irish Gypsies.

There has been little further progress on the extension to the site at Three Oaks Caravan Park since the Horseshoe Farm appeal decision in October 2008. In light of the previous appeal Inspector's comments mentioned above it must now be accepted that the additional pitches at Three Oaks Caravan Park cannot be counted against the GTAA or RSS targets at least until they are completed and ready for occupation.

Clearly the number of additional pitches that have been provided to date falls well short of the GTAA and RSS targets.

## Scale

It is clear from the previous application at Horseshoe Farm that three of the pitches (5 caravans) were to be occupied by the applicant and his extended family. The other two pitches were not stated as being for occupation by other family members but were intended to be for other Irish Gypsies.

As mentioned above, at the subsequent appeal inquiry the applicant's agent argued successfully that even if the additional 24 pitches at Three Oaks Caravan Park were completed, they would not be let to the appellant and his family because they are Irish Gypsies. Furthermore the Inspector noted that private sites tend to be let to specific groups or families. It seems likely therefore

that any Irish Gypsies occupying the transit pitches would have some association with the applicant and his family.

In the case of the current application there is no indication whatsoever that any of the caravans are for occupation by the applicant or other members of his family. On the contrary the accompanying letter from Philip Brown Associates argues that the existing permission allows for up to 9 families to occupy the authorised site, the accompanying drawings show 9 caravans/mobile homes, each of these has its own utility block and 18 parking spaces are shown (i.e. 2 per caravan). There is no indication as to whether the site is intended for Irish or any other particular group of Gypsies.

Indeed as the applicant's two children have families of their own, necessitating 2 caravans each, by implication they will not be able to use the single caravan pitches for which permission is now sought.

In the circumstances because the number of pitches is almost doubling from 5 to 9 and each of these pitches may be occupied independently, this can no longer be described as a 'small family site'. Furthermore, the development extends further westwards and northwards (see 'Design' below) and, notwithstanding the existing trees and hedgerows around the periphery, this enlarged scheme will inevitably have a detrimental effect upon the character and appearance of the surrounding countryside. Overall it is considered that the scale of development as currently submitted is inappropriate in this location, and will need to be reduced.

### **Design**

The layout of the site consists of three caravans each on a concrete base parallel to the boundary with Warmingham Lane, another three caravans each on a concrete base parallel to the southerly boundary of the site, three larger caravans (presumably the mobile homes) each on a concrete base at intervals along the rear (westerly) boundary and two other caravans without a concrete base (presumably the touring caravans) near the north westerly corner of the site. Two of the mobile homes have grassed areas associated with them and there is a separate, circular grassed area in the centre of the site to form a turning circle for vehicles.

Each of the nine residential caravans/mobile homes has a utility block associated with it (one of these is already existing) each measuring 2.2 metres by 3.7 metres with concrete panel walls pebble dash finished and a profiled metal sheet pitched roof 2.8 metres high to the ridge.

There are 14 parking spaces adjacent to the caravans/mobile homes and another 4 parking spaces separately on a limb of the site extending past the westerly end of the barn into part of the adjacent field. Five lighting columns are shown around the periphery of the site each comprising a 5 metre high tubular metal pole.

An area measuring 20 metres by 15 metres in the north easterly corner of the site in front of the stable building and barn is to be separated from the remainder of the site by a post and rail fence for use as a manege. This is to

have either a tarmacadam, concrete or gravel surface. The remainder of the site around and in between the caravans/mobile homes will have a gravel surface.

Other than across the access, there is a substantial hedgerow that screens the site from Warmingham Lane. The scheme for which planning permission was granted on appeal included dense screen planting directly inside the entrance. The present scheme indicates only a 1.8 metre high wooden panel fence facing the entrance. The applicant's agent has been requested to re-instate an earth mound and/or dense planting in this location but no reply has been received. Nevertheless if the Council were minded to grant permission in principle, earth mounding and/or planting could be required by planning condition.

There is an existing 1.8 metre high wooden fence already along the southerly boundary of the site and an existing post and rail fence along the rear (westerly) boundary. Along part of the northerly boundary is an existing 1.4 metre high blockwork wall and a 1.0 metre high wooden panel fence. These are to be supplemented by a 1.8 metre high earth mound where the parking spaces mentioned above project out into the adjacent field.

It is considered that this extension of the site into the adjacent field beyond the otherwise well defined boundaries of the site to provide an 'over spill' parking area together with the isolated and incongruous appearance of the earth mound will have a seriously detrimental effect upon the character and appearance of the surrounding locality.

The applicant's agent has been requested to omit this area of 'over spill' parking and the associated earth mound but no reply has been received.

The applicant's agent was also requested to provide supplementary screening along the northern and western boundaries comprising native hedgerow and tree planting, to provide infill planting to 'gap up' the hedgerows to the southern and eastern boundaries and soft landscaping within the site to break up the otherwise large area of hard surfacing. His attention was drawn to the comments of the Environmental Health Officer in respect of site licence requirements. In particular he was requested to consider amending the layout to provide recreational space and to confirm details of the site drainage systems.

It would have been preferable if these matters could have been dealt with by dialogue but unfortunately there has been no response. If the Council were minded to grant planning permission in principle it is considered the matters of landscaping, recreation space and drainage could be covered by condition(s).

However, it is considered that it would not be reasonable to impose a condition attempting to modify the scheme in respect of the 'over spill' parking area and earth mound.

### **Amenity**

As explained above, the matter of the effect of the development upon the amenities of nearby residents was considered by the previous appeal Inspector. Although the site the subject of this application is more than twice the size the additional area is to the rear of the site and the nearest residential properties

are still a considerable distance away consequently it is not considered that their occupiers would be unduly disturbed as a result of the larger development to which the current application relates.

### **Ecology**

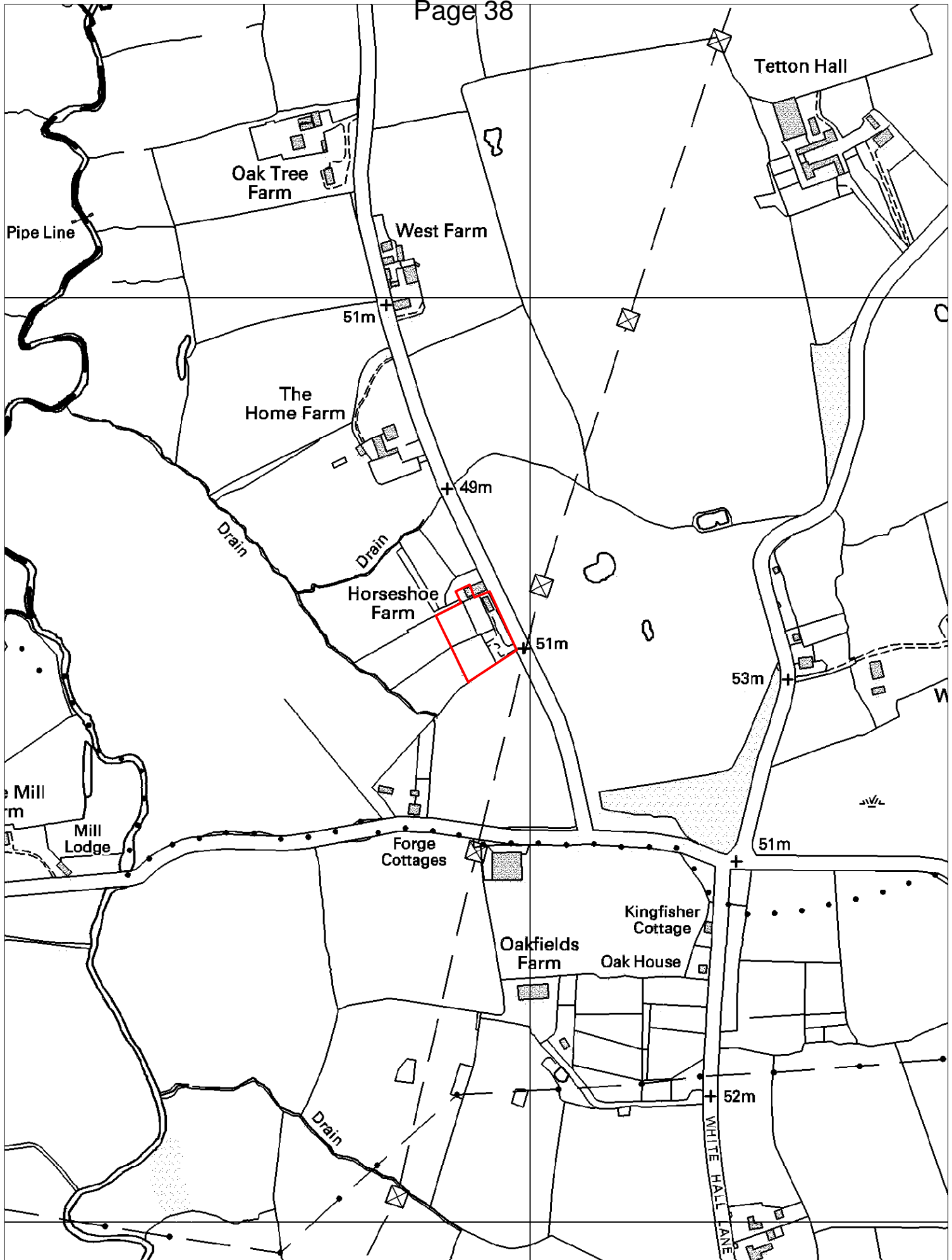
There are no known ecological implications.

## **11. CONCLUSIONS**

As explained above, the applicant's agent has been informed (without prejudice) of various detailed concerns regarding the development the subject of this application but unfortunately no response has been received.

If the Council were minded to grant planning permission the majority of these concerns could perhaps be overcome by way of imposing conditions the scale of the development is fundamental (i.e. the extension of the site to the west, the 'over spill' parking area and associated earth mound to the north) consequently these cannot be dealt with in this manner.

In the circumstances it is concluded that the only course is to refuse this application.



**HORSESHOE FARM, WARMINGHAM LANE, MOSTON, SANDBACH, CHESHIRE, CW10 0HJ**

**NGR - 370,910 : 362,648**

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## **12. RECOMMENDATION**

**REFUSE for the following reasons:-**

- 1. The scale of the development to which this application relates is inappropriate in this location within an area of predominantly open rural countryside and as such is contrary to criterion (III) of Local Plan policy H8. In particular the extension of the site further westwards and the parking area and associated 1.8 metre high earth mound projecting from the northerly end of the site into part of the adjacent field would have a detrimental effect upon the character and appearance of the surrounding locality contrary to policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review.**

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<b>Planning Reference No:</b>	09/4331N
<b>Application Address:</b>	Land Off, Wettenhall Road, Poole, Nantwich, Cheshire
<b>Proposal:</b>	Change of Use of Land as a Residential Caravan Site for 8 Gypsy Families, each with 2 Caravan, including Improvement of Access, Construction of Access Road, Laying of Hard-standing and Provision of Foul Drainage.
<b>Applicant:</b>	Mr T Loveridge
<b>Application Type:</b>	Full
<b>Grid Reference:</b>	364027 345697
<b>Ward:</b>	Cholmondeley
<b>Expiry Dated:</b>	07 May 2010
<b>Date Report Prepared:</b>	23 April 2010
<b>Constraints:</b>	Open Countryside

#### **SUMMARY RECOMMENDATION – Approve with conditions**

##### **MAIN ISSUES**

- The need for and provision of gypsy and traveller sites in the area.
- Whether the development would provide a sustainable form of development.
- The impact of the development on the character and appearance of the area.
- Impact of the development on the ecology.
- Impact of the development on neighbouring amenity.

#### **DESCRIPTION OF SITE AND CONTEXT**

The application site is situated within the open countryside, adjacent to an equine complex which includes a small stable block and outdoor manege. The site measures approximately 1.2 ha and comprises two fields, one adjacent to Wettenhall Road the other immediately behind. The access has been taken from an existing field gate with a gravelled drive way running through the first field towards the second field which provides for the main caravan parking area.

The site itself lies approximately 1.7km from the edge of Nantwich, west of Reaseheath Agricultural College. There are a number of residential properties within the vicinity, with the nearest being those located on Cinder Lane which is 250 metres to the West.

The boundaries of the site are defined by hedgerows comprising native species. The hedge line also contains a number of mature oak trees however, one appears to be dead.

The application was made invalid following its original validation after it was discovered that there was a discrepancy within the ownership certification. This matter has now been resolved. Additional information was requested around the same time due to the omission of pond on neighbouring land to the south and the lack of information relating to the impact on barn owls from the supporting Ecological Report. In light of these issues a limited re-consultation exercise was undertaken involving the Council's Ecologist, neighbours and the Parish Council.

The site lies outside a flood risk area as identified by the Environment Agency's Flood Zone Map.

## **DETAILS OF PROPOSAL**

The proposal involves the creation of 8 family pitches designed to accommodate Gypsies. Each pitch will comprise one static/mobile home and one small touring sized caravan. Each pitch will be defined with a post and rail fence. The main caravan parking area has been predominately laid with self binding gravel to provide hard-standing for the caravans and to facilitate access and parking for the occupiers motor vehicles which includes 8 light goods vehicles. The submitted plan indicates a grassed area at the western side of the main parking area and either side of the access track.

## **RELEVANT HISTORY**

The use of the site has been the subject of enforcement action, including the service of two temporary Stop Notices to prevent more than eight caravans being stationed on the land and to prevent further hardcore from being deposited. Both of these notices have now expired. The site is now subject to an injunction issued by the Court which limits the size and number of caravans to a maximum of eight single unit trailer and prevents any further engineering work until such time that planning permission is granted. The purpose of the injunction is to prevent further development and intensification in the use of the site without proper consideration of the impact via the planning application procedure.

## **POLICIES**

The development plan includes the Regional Spatial Strategy for the North West of England (RSS), and the Borough of Crewe and Nantwich Replacement Local Plan 2011 (LP).

The relevant development plan policies are:

### **Local Plan Policy**

NE.2 (Open Countryside)  
NE.9 (Protected Species)

BE.1 (Amenity)  
BE.2 (Design Standards)  
BE.3 (Access and Parking)  
BE.4 (Drainage, Utilities and Resources)  
E.6 (Employment Development within Open Countryside)  
RES.8 (Affordable Housing in Rural Areas Outside Settlement Boundaries)  
RES.13 (Sites for Gypsies and Travelling Showpeople)

Cheshire 2016 Structure Plan Alteration:

HOU6 (Caravan Sites for Gypsies)

### **Other Material Considerations**

PPS.1 (Delivering Sustainable Development)  
PPS.3 (Housing)  
PPG.13 (Transport)  
PPS. 25 (Development and Flood Risk) 2010  
RSS. L6 (Draft) (Scale & Distribution of Gypsy and Traveller Pitch Provision)  
Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA) 2007.  
Circular 01/2006 (ODPM) Planning for Gypsy and Traveller Caravan Sites.  
Circular 06/2005 (ODPM) Biodiversity and Geological Conservation – Statutory Obligations and their Impact on the Planning System.  
Designing Gypsy and Traveller Sites: Good Practice Guide May 2008.  
English Nature: Barn Owls on Site; A Guide for Developers and Planners 2002.

### **CONSIDERATIONS (External to Planning)**

**Environment Agency** – No comments to make in relation to the application.

**Environmental Health** – No objection however recommends conditions relating to drainage, boundary treatment and internal layout.

**Highways** - No objection subject to a condition requiring access arrangements to be submitted and agreed.

**Housing** – The GTAA identified a need for 54 pitches to be delivered by 2016 within Cheshire East. There is still a significant shortfall and therefore a need for the additional pitches.

**Ecologist** – It cannot be satisfactorily concluded that Great Crested Newts are not present within the ponds close to the site however, due to the retrospective nature of the application and the lack of information to the quality of the habitats lost to the recently created hard standing area I am unable to offer advice on the impact. I can advise that minor future works within the present area of hard standing are unlikely to result in a significant adverse impact on newts if present.

## **VIEWS OF THE PARISH / TOWN COUNCIL**

Objects to the application for the following reasons:-

1. The site is in open countryside and there is no viable or historical for it to be there.
2. The manner in which the occupation took place was conducted in order to present a fait accompli to the planning authority.
3. The dates on the application will bear some scrutiny compared with the facts of the case.
4. The GCN survey is dubious give it was undertaken in the depths of the hibernation period.
5. Work started prior to the application.
6. There is potential for pollution of the nearby brook and into the river from any outfall drainage.
7. This issue is very disquieting for parishioners, and undermines the whole credibility of the planning system.

## **OTHER REPRESENTATIONS**

Objections have been received from : The occupiers of Foxcroft; Cinder Lane Farm; The Cottage; Chestnut Cottage; No 9; Lime Tree Cottage; OakView; Poole Green Cottage; East View & Brook House which are all situated in Cinder Lane, Reaseheath. Additionally, objections have been received from the occupiers of Lengthmen's Cottage & Poolehill Cottage both on Poole Hill Road together with the occupiers of Holders House and Copper Beach which is on Wettenhall Road, Oak View and Willow Cottage, in the Poole area.

Objections have also been received on behalf of Reaseheath College.

Cobbets Law firm have also submitted representations on behalf of residents living in Cinder Lane and the occupiers of Pool Hall. The submission includes an additional ecological assessment carried by TEP ecological consultants and a written statement from Walsingham Planning Consultants regarding the planning merits of the application.

The key issues raised by these objections are:

The scale of the development is inappropriate to the area and will lead to difficulties of integration with the existing community;  
Development of this nature is not part of the Regional Spatial Strategy;  
There is insufficient existing infrastructure;  
No public transport serves the site;  
The development will lead to an increase in traffic along a road that is already over-stretched;  
Questions over the surface water drainage of the site, ditches now appear to be blocked;  
The existing settled community have human rights also;  
Concerns over the method of foul water discharge;

The proposal will result in over-development of a small site;  
The development is contrary to the character of the area;  
The development was carried out without pre-application discussions with the local authority contrary to the provisions of Circular 01/2006;  
Commercial vehicles are parked on the site;  
The site is too far from local services and therefore unsustainable and consequently fails to meet policy set out in Cheshire 2016 Structure Plan Alterations Policies GEN1, GEN.3, HOU3 & HOU6 and Policy L6 of the Draft North West Plan Partial Review;  
Access to the nearest facilities is dangerous by foot;  
Commercial activities already taking place are objectionable given the rural location;  
There are inaccuracies in the submitted Ecological Report therefore the Authority should carry out an independent survey;  
The proposal conflicts with Local Plan Policies RES.8: RES.13; RES.5; BE.1 & NE.2;  
The site is subject to a high water table and flooding;  
The proposal will result in harm to the natural conservation resource of the immediate area and be harmful to the character and amenity of the area by reason of the proposed layout, design, materials of construction, appearance and its degree of permanence within the open countryside;  
Further ecological work is required to confirm or rule out the presence of Great Crested Newts, Bats and Barn Owls;

Should the Authority consider approval of the application, the following suggestions have been made:

Consideration should be given to granting a temporary permission to allow the Authority to identify more suitable sites through the LDF process;  
The number of caravans should be limited to a total of six to minimise the impact on the existing small community;  
Additional screening should be required;  
No continuous 24 hour lighting.

*Officer Comment: Policies GEN.1; GEN3 & HOU3 have not been saved and have been replaced by RSS Policy.*

**APPLICANT'S SUPPORTING INFORMATION** – The applicant has submitted a Design and Access Statement. The main points are;

Caravans are capable of assimilation within rural areas through the use of natural screening. It is considered that the site is already satisfactorily screened but the applicant is willing to carry out additional planting if required.

The existing access will be improved and the crossing made up to Highway specification. Wettenhall Road is a lightly trafficked and the sight stopping distances contained in Manual for Streets have been taken into account.

The site is only 1.5km from the edge of Nantwich and even closer to the bus stops on the A51. Having regard to the recent Wybunbury Lane appeal decision, the application site must be regarded as being reasonably sustainable for a gypsy site.

Draft Policy L6 of the RSS Partial Review stipulates that provision will be made for at least 60 additional permanent pitches in Cheshire East between 2007 – 2016. the supporting text explains that “there is an urgent need to address the shortage of suitable accommodation for Gypsies and Travellers”.

The Inspector in the recent appeal concerning a proposed gypsy site at Wybunbury Lane stated there is undoubtedly an immediate need for further pitch provision both in Cheshire East and regionally. This is particularly the case because the GTAA found that the need was for small private family sites.

Structure Plan Policy HOU6 and Local Plan Policy RES.13 relate to the provision of gypsy sites but either are based on a quantitative assessment of need therefore this application should be determined in accordance with the more up to date circular advice (01/2006).

The Authority has not produced a site allocations DPD, and suitable alternative sites have not been identified as part of the Local Development Framework process and the Authority is unlikely to remedy this situation before 2014.

The countryside location is not subject to special planning constraints and therefore according to paragraph 54 of Circular 01/2006, is acceptable for use as a gypsy site in principle subject to being in a sustainable location and not subject to flooding.

## **OFFICER APPRAISAL**

### **Principle of Development**

PPS.1 states that where the development plan contains relevant policies, planning applications should be determined in line with the plan, unless material considerations indicate otherwise. In this particular case the policies contained in the adopted local and structure plan relating to the provision of gypsy and traveller accommodation have been superseded by ODPM Circular 01/2006 requires local planning authorities to identify sites to accommodate for the gypsy and traveller community following a needs assessment (GTAA) for their area in the same way that sites are allocated for conventional dwellings for the settled population.

### **Need for Gypsy and Traveller Sites**

The residential accommodation need for the three former Boroughs now comprising Cheshire East was summarised in the GTAA as follows:

Former Authority	Current authorised provision (pitches)	Total additional residential need (pitches) 2006 – 2011	Supply of pitches (1 pitch per year allowance for turn over)	Total additional residential need (pitches) 2011 – 2016	Estimated supply of pitches 2011 - 2016	Total additional residential need (pitches) 2006 – 2016
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Crewe & Nantwich	27	5 – 11	Nil + 3 at Wybunbury	5 – 6	Nil	10 – 17
Macclesfield	0	0 – 1	Nil	14	Nil	11 – 15



The assessment identifies a need for 10-17 pitches in the former Crewe and Nantwich Borough during the period 2006 to 2016 of which 5 to 11 pitches are identified as being required by 2011. The draft RSS indicates that provision for Cheshire East should be at least 60 permanent residential pitches during the period 2007 to 2016.

The RSS requires pitch provision to be made between 2007-2016. The supporting text table 7.2 of the RSS which sets out the scale and distribution of pitch provision across the region (referred to above), explains that there is an urgent need to address the shortage of suitable accommodation for Gypsies and travellers.

The need described above is in addition to any existing sites or planning permissions which existing at the time of the GTAA. It was argued at the recent Planning Enquiry relating to an application for 3 Gypsy/traveller pitches on land off Wybunbury Lane, Stapeley and an appeal hearing for 3 Gypsy families and 2 transit pitches that the extant permission at Three Oaks, Middlewich for the provision of an additional 24 pitches should be taken into account and deducted from the need identified in the GTAA. However, in both cases the respective Inspector ruled that this permission did not amount to supply because there was no certainty that the pitches would be provided. There were also question marks over the future occupiers of the pitches inasmuch as they would not be made available to traditional Gypsy families. Similarly, a site in Sound, New Meadowside/Pondarosa which formed part of the baseline figures for the GTAA has subsequently been removed from the last Gypsy/Traveller count within Cheshire East because there are no restrictions controlling the ethnic status of the occupants.

Nevertheless, the Middlewich site is relatively large and the preferred type of site as identified in the GTAA is for small private family sites.

Given the aforementioned it is clear that there is an immediate need for Gypsy and Traveller accommodation within the area. It is also noted that the Council's Spatial Planning Section have not raised an objection, as part of the internal consultation process to the application, on policy grounds.

### **Sustainability**

ODMP Circular 01/2006 advocates a sequential approach to the identification of sites in Development Plan Documents (DPDs), requiring authorities to consider locations in or near existing settlements with access to local services first before windfall sites. Neither Cheshire East nor the legacy authorities have produced a Development Plan Document in response to the RSS and no suitable alternative sites have been identified as part of the Local Development Framework process.

Policy RES.13 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and Policy HOU6 of the Cheshire 2016 Structure Plan Alteration both support the provision of sites for the accommodation of gypsies and traveller subject to certain criteria. One of the criteria requires that site should be within easy reach of local services and facilities. Policy HOU6 requires, wherever possible, that sites should be within 1.6km of local services and frequent public transport. However, this Policy was adopted before Circular 01/2006 was issued. The Circular is designed to meet

urgent need for sites therefore, the weight given to preferences contained within the Policy is materially reduced.

The agent's submission states that the site is 1.5km from the edge of Nantwich however, the important distance is the distance to the nearest facilities. A convenience store lies 2.4km from the site with a supermarket and hardware store approximately 2.8km away. The nearest primary school lies 3km away with the high school being 2.2km from the site. Beam Heath Medical Centre is approximately 3km from the site and the nearest bus stop is on Welsh Row which is close to the High School.

Wettenhall Lane although, unlit and does not contain a separate footway, is relatively lightly trafficked. However, A51 route into Nantwich is a very busy derestricted road with a speed limit of 60mph and there is little or no highway verge along some stretches of the road and is therefore not considered to afford a safe route for pedestrians especially when using pushchairs or wheelchairs. Although pedestrian access to Nantwich Town Centre is possible using Welshmans Lane which runs from Welsh Row to the A51 at its junction with Wettenhall Road, the road conditions are similar to Wettenhall Road. PPG 13 suggests that 2km is not an unreasonable walking distance and 5km is considered an acceptable cycling distance. Using average walking speeds it would take around 32 minutes to the bus stop and 43 minutes to the centre of Nantwich, by cycle it would take 5 and 10 minutes respectively.

From the aforementioned, it is clear that the location of the site raises some significant concerns over its sustainability due to its distance from local facilities and potential danger of the road conditions for pedestrians. Circular 01/2006 advises that when rural locations are being assessed local planning authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. The Circular also states that transport mode and distances from services is not the only consideration when assessing the sustainability. Other considerations should include; the promotion of peaceful and integrated co-existence with the local community; the wider benefits of easier access health services; children attending school on a regular basis; the provision of a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment.

Circular 01/2006 advises a sequential approach to identifying Gypsy and Traveller sites in DPD's, giving priority over sites that are located in or close to settlements with access to local services first. These identified sites should be used before windfall sites. However, at present the Authority has not produced a DPD and no suitable alternative sites have been identified as part of the Local Development Framework process. Whilst the site may not score high in a sequential assessment against other sites, there are no other sites currently available in the area.

Transitional arrangement guidance in Circular 01/2006 suggests that a temporary permission maybe appropriate subject to the advice contained in paragraphs 108-113 of Circular 11/96 (The Use of Conditions in Planning Permissions) which states that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the

temporary permission. The Authority is working towards preparing a site allocation DPD, the timetable for adoption was quoted as being 2014 during the public enquiry for the Wybunbury Lane site. However, the Circular states in such circumstances that local planning authorities are expected to give substantial weight to unmet need in considering whether a temporary permission is justified. Given the remaining unmet need of up to 8 pitches in the former Crewe and Nantwich area the Council would have to demonstrate that there was likelihood that this need would be met within the timeframe by more suitable sites in order to justify imposing a temporary permission. In this instance given the poor accessibility and sustainability of the site, and the considered view that appropriate need will be satisfied over the coming years as Cheshire East develops its policies, that a temporary permission can be justified. It is therefore considered that a 5 year temporary permission could be issued to give certainty for the next few years for the applicants, but then enable alternatives to be considered for more sustainable sites to come forward in the future.

Designing Gypsy and Traveller Sites: Good Practice Guide; suggests (para.5.35) that “where a site is isolated from local facilities and is large enough to contain a diverse community of residents rather than an extended family, provision of a communal building is recommended”. It is considered that such a building can offer facilities for visitors and the residents.

### **Impact on the Countryside.**

The site is located in an area of open countryside characterised by open fields separated by native hedgerows. Development along Wettenhall Lane is made up for the most part by sporadic individual dwellings with the exception of the adjacent equine stables and manege. A more formal group of residential properties are located in Cinder Lane which is approximately 250m to the south of the site. Beyond lies Reaseheath College which comprises a number of agricultural and office style buildings, Crewe Alexandra Academy is located close to the College on Wettenhall Road.

The main parking area for the caravans is set back from the highway and is completely surrounded by existing hedgerows of varying heights between 2m to 3m. The caravans can still be seen from both Wettenhall Road and a number of the properties within the locality and public footpath: Poole No 5 which runs east to west approximately 150 towards the north of the site.

The entrance to the site utilises an existing field access although the width has been increased to 5.5m. The access track has been formed using dark colour hardcore similar to that used for the main caravan parking area, a simple post and rail fence identifies the boundaries of the track. The land either side of the track is currently unimproved grassland the submitted plan indicates that this will be retained. It is advisable that additional appropriate planting within the site is secured by a condition.

With the introduction of additional landscaping it is considered that the site can be adequately and appropriately screened given that some degree of intrusion is inevitable when Gypsy and Traveller sites are developed in rural areas.

## **Ecology**

The application is supported by a walkover ecological assessment undertaken by Peak Ecology, the report was updated after it was discovered that there was an additional pond near to the site which is not recorded on the ordinance survey map for the area. The accuracy of the survey was somewhat hampered due to access difficulties to land outside the applicant's control.

The report concluded using the Habitat Suitability Index (HSI) that the presence of Great Crested Newts was unlikely in the two ponds which are within 250m of the site and that newts occupying ponds beyond that distance would not be impacted by the development.

The report also concluded that the barn owl box located close to the site showed no sign of occupation and given the retention of the existing trees and hedgerows there would not be a detrimental impact on bats or other protected species.

The ecological survey undertaken by TEP concludes that one of the two ponds mentioned above did have potential using the HSI index. The survey also observed an additional pond just over 100m from the site. This pond was also considered to potential for newt habitation. This particular survey was afforded direct access to the ponds in question and therefore carried greater weight.

The TEP report also questions findings of the Peak Ecology report in relation to the impact on barn owls because whilst the existing box was not occupied, the use of the site would discourage the barn owls from nesting.

Both surveys included an assessment of the hedgerows and trees within the site however, the application does not propose removal of any of the trees or hedgerows.

Circular 06/2005 imposes a duty on local authorities to consider the impact on protected species before planning permission is granted and advises that consents requiring an ecological survey should only be granted in exceptional circumstances.

In this particular case a major issue has been made of the fact that the site was development without the benefit of planning permission in respect to the improvement of the access, construction of the access track and hard-standing area for the caravans. The site was visited immediately after the track and hard-standing were formed by the Council's Ecologist and the Police Countryside and Wildlife Liaison Officer. The main purpose of the visit was to ascertain the impact of the development on ecology and whether there was evidence that an offence had been committed under the Wildlife and Countryside Act. It was concluded by both the Police and the Council officers that there was no evidence that an offense had been committed or because the work was substantially complete that there had been loss of an important ecological resource. Nevertheless, the Council did stop further development on the site by obtaining a Court injunction. The Injunction remains in force until such time that a grant of express planning permission is made or until a further Order of the Court.

Given that it is now not possible to assess the conditions of the site before the hardcore was laid and that any impact it had has happened, it is considered that it is only the work that is required to complete the development and the use of the site that need to be assessed in relation to their impact on ecology.

The main areas of work required to complete the development involve the installation of a private sewer treatment plant, fresh water supply pipe, additional fencing between each pitch, formation of the amenity area and surface finishing of the hard core areas. The applicant's agent has confirmed that the sewage treatment plant will be located on the existing disturbed areas within the site. The installation of the water pipe can be carried out along the line of the existing track thereby minimised ground disturbance.

The Authority's ecologist has confirmed that these activities would constitute minor works unlikely to have an impact on protected species even if it were proven that they are populating the surrounding land.

A barn owl nest box is located within a tree on the boundary of the site. Under the Wildlife and Countryside Act it is an offence to disturb an owl during the nesting period. Neither of the ecology surveys found any evidence of owl occupation and therefore an offence is unlikely.

Great Crested Newts are often found within domestic gardens therefore the existence of humans and associated residential activity would not have a detrimental impact on their environment. Similarly, guidance issued by English Nature (Barn Owls on Site: A Guide for Developer and Planners) states that owls and people can co-exist and that regular human activity can be tolerated, as long as the birds have a dark cavity, well above ground level, in which they can safely roost out of sight. Given this evidence it is clear that the use of the land as a residential caravan site will not have a detrimental impact on protected species.

The applicant has offered to create a wildlife area on land within his ownership to the side of the access track as part of any landscape mitigation measures.

### **Impact on Neighbouring Amenity**

Circular 01/2006 advises that Gypsy and Traveller sites should not dominate the existing community. The scale of the site is similar to other sites within the rural area in Cheshire East which manage to co-exist with the settled community within the vicinity of the site. It is considered that the scale of the site will not dominate the existing community within the vicinity of the site.

It is accepted the activities associated with the operation of a caravan site can have an adverse impact on amenity due mainly to the comings and goings of the vehicles. The site is at least 250m from the nearest dwelling and well screened by existing hedgerows. There will be some disturbance to the neighbouring equestrian site however, any disturbance is not considered materially greater than that experienced by the site from vehicle movements along Wettenhall Road which lies adjacent to it.

It is common for gypsy and Traveller to operate business from which their caravans are stationed. This fact is recognised by Circular 01/2006 which states that mixed use sites are not permitted on rural exception sites. The current occupiers of the site appear to park commercial vehicles on the site however, this is not an uncommon occurrence at any residential property. The fact that this activity is taking place does not automatically result in a material change of use. However, a condition is recommended to limit any commercial activity to a non-material level.

**Other Matters.**

Surface water run-off of the site is not considered to be a major issue as the surface treatment is pervious. Foul water drainage is to be provided by a private treatment plant, which is considered to be acceptable in principle, subject to siting and design being agreed. Given the length of the access track and the existing cluster of waste bins adjacent to the highway it would be prudent to require the submission of appropriate storage details

The Councils Highway Engineers have not raised an objection in principle but have asked for detailed drawings of the access arrangements to be submitted for approval

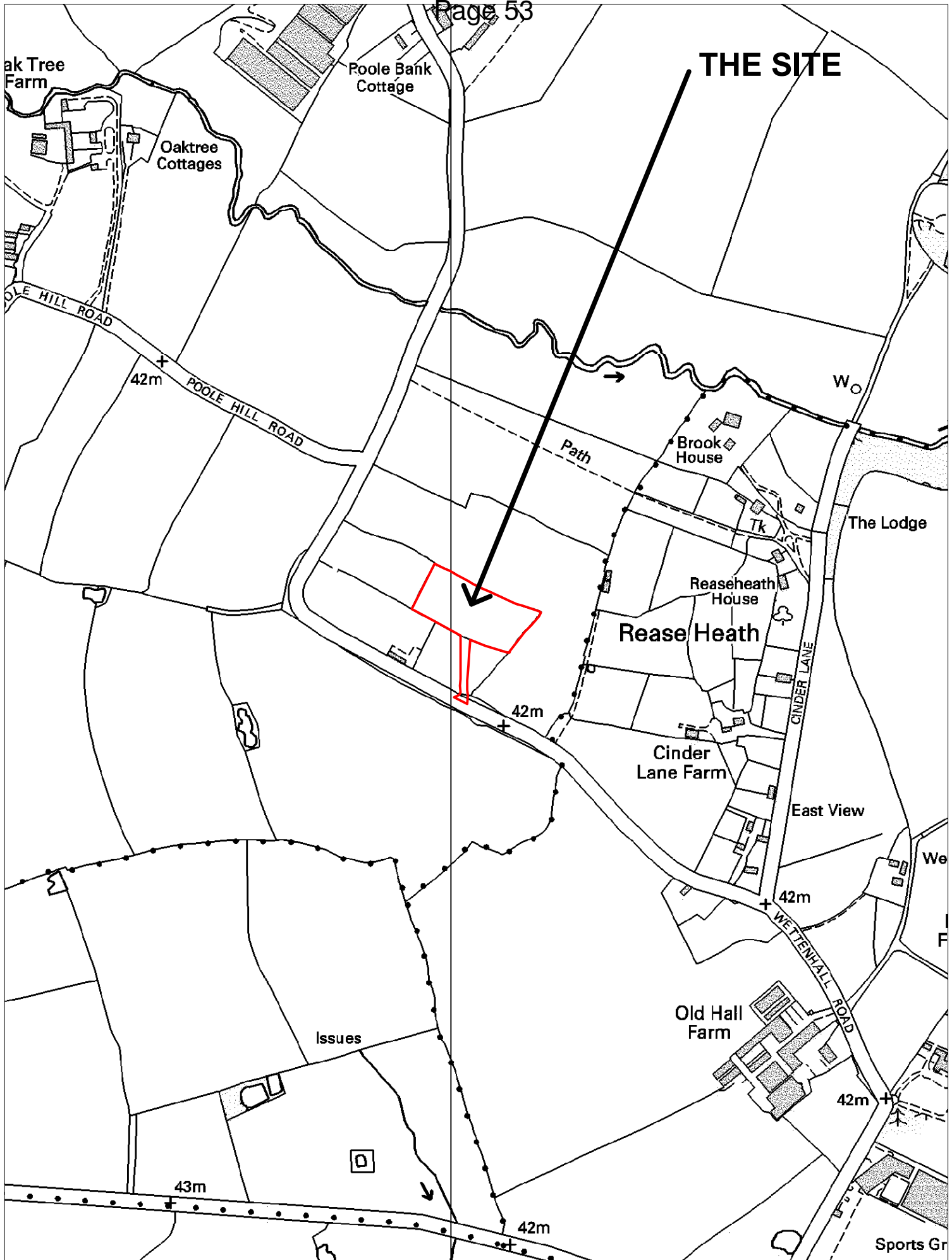
**CONCLUSIONS AND REASON(S) FOR THE DECISION**

It is acknowledged that retrospective applications can be very emotive especially where development is knowingly undertaken without consent however, the development and subsequent proposal have to be considered on their merits.

Following the results of the GTAA undertaking in 2007 it is clear that there is an unmet need for Gypsy and Traveller sites within Cheshire East. The site itself appears adequate to accommodate for 8 family pitches without detrimental impact on highway or neighbouring amenity.

The impact of the already introduced hard-core on ecology cannot be evaluated with any certainty after the event and it is concluded that the operations required to complete the development are not likely to have an adverse impact on ecology

Given the current situation in respect of identified need, a refusal at this time would be difficult to sustain. However, the site nonetheless raises significant concerns in respect of sustainability as highlighted. It is therefore considered that in this instance a temporary consent can be justified, albeit for a 5-year period, providing certainty for the next few years for the applicants, but then to enable alternatives to be considered for more sustainable sites to come forward in the future.



LAND OFF, WETTENHALL ROAD, POOLE, NANTWICH, CHESHIRE

NGR - 364,010 : 354,710

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**RECOMMENDATION: APPROVE**

**Conditions**

- 1. Temporary consent for 5 years**
- 2. Site occupation limited to Gypsy and Travellers**
- 3. No vehicle over 3.5 tonnes to be parked or stored on the site**
- 4. No commercial activities to take place on the land including storage of materials.**
- 5. No more than 8 pitches and no more than 2 caravans on each pitch.**
- 6. The use hereby permitted shall cease following the failure to meet any of the requirements set out below.**
  - i. Within 3 months of the date of this decision a scheme for: Internal layout of the site including any concrete hard-standing; means foul and surface water drainage; proposed external lighting; visibility of splays and road crossing; communal building; installation of service/utilities; landscaping scheme which shall include gapping up of existing hedgerows and environmental improvement measures in mitigation for the loss of grassland; type and location of additional barn owl nest box; and details of measures to ensure that any potential harm to protected species is satisfactorily minimised shall have been submitted for written approval and the said scheme shall include a timetable for implementation.**
  - ii. The approved scheme shall be carried out and completed in accordance with the approved timetable**
- 7. Maintenance of the landscaping.**



## **CHESHIRE EAST COUNCIL**

### **Briefing Note: Strategic Planning Board**

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**Date of Meeting:** 5<sup>Th</sup> May 2010

**Report Of:** Planning Policy Manager

**Title: Briefing Note on:**     **Planning Policy Statement (PPS) 5: Planning for the Historic Environment;**  
                                      **Draft PPS Consultation on Planning for a Natural and Healthy Environment;**  
                                      **Draft PPS Consultation on Planning for a Low Carbon Future in a Changing Climate.**

**Portfolio Holders:** Cllr David Brown (Performance and Capacity)  
                              Cllr Jamie Macrae (Prosperity)

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#### **1.0 Introduction**

This report provides an update on PPS5, concerning the historic environment, which has now been issued following a period of consultation; it also informs members of two draft PPS consultations on planning for a natural and healthy environment and a low carbon future in a changing climate.

#### **2.0 PPS 5: Planning for the Historic Environment**

The widely respected but elderly Planning Policy Guidance Notes 15 (Planning and the Historic Environment) and 16 (Archaeology and Planning) have been replaced by new guidance in a unified document, PPS 5. This follows and heavily modifies an earlier draft, PPS15, which met a hostile reception from professional institutes at its consultation stage. The new PPS is substantially shorter than the documents to be replaced and written in the form of national policies, rather than the discursive text and appendices of the old guidance.

Much of the supporting information formerly available in the old documents has been displaced to an accompanying document, the Historic Environment Planning Practice Guide, which is published by English Heritage, alongside the PPS.

The Government's overarching aim is that the historic environment should be conserved and enjoyed for the quality of life it brings to this and future generations. Policies to secure this end should recognise that England's heritage assets are a non-renewable resource and ensure that development decisions are based on firm evidence. Proposals should take account of the wider social, cultural, economic and environmental benefits of heritage conservation. But it is also essential that assets are put to viable and appropriate uses and intelligently managed change may sometimes be necessary if they are to be maintained for the long term. Their positive contribution to local character and effective place-making should be properly recognised and promoted within the planning system.

There are significant changes of emphasis discernable within the new policies. One is an enhanced recognition of the importance of a reliable and well documented evidence base to support the Plan-making process. This should be maintained in the local Historic Environment Record (HER), which is seen as an important tool with which to understand the significance of

heritage assets as well as a potential predictor as to where new assets will be discovered through the planning process. It will, therefore, be important to preserve and develop the HER, currently maintained by Shared Services, as a viable entity and enhance access to it by planning professionals, the development community and the general public.

There is recognition that Local Development Frameworks should set out a positive and proactive strategy for the conservation and enjoyment of the historic environment, taking into account its potential to be the catalyst for regeneration in an area, the stimulus it can provide to inspire imaginative and high-quality design and to perpetuate its mixed patterns of land-use, which are usually sustainable and likely to remain so. At a local level, plans should consider the special qualities and local distinctiveness of the historic environment and how these can contribute to the spatial vision in the Core Strategy.

New policy advice encourages the monitoring of historic assets to consider the impact of planning policies on them. This should watch for indications of decay as well as outright loss and should consider means by which to respond to threats to long-term use and health.

Policies require that local planning authorities should ensure that sufficient information on the significance of any heritage assets accompanies all applications. Any heritage asset affected by a proposed development should therefore be assessed by appropriate experts and in the case of archaeological assets this may, on occasion, require assessment or field evaluation prior to determination of the planning application. Where loss of significance of a heritage asset is justified, then planning conditions should be used to record and advance the understanding of the heritage asset before it is lost.

There is also an overt recognition that not every aspect of an asset's setting may positively contribute to its significance. In such circumstances, high quality design of development can enhance or better reveal the significance, which may be seen as a positive benefit and part of the process of place-making.

Another noticeable shift is a new recognition that the historic environment should play some part in delivering the government's objectives to reduce greenhouse gas emissions and secure sustainable development. As they embody stored energy from the past, the retention of historic buildings is inherently sustainable, but there will be pressure to improve their day-to-day performance in energy efficiency. In practice, the biggest improvements in this field will be achievable through upgrading the efficiency of boilers in conjunction with thermostatic control systems and providing effective loft insulation, neither of which are usually at all contentious in terms of historic character, but there will also be pressure for microgeneration, solar heating systems and window renewals, all of which could have a deleterious impact on appearance. Where proposals that are promoted for their contribution to mitigating climate change have a potentially negative impact on heritage assets, the PPS recommends early negotiation. This may result, for example, in secondary glazing rather than outright renewal of windows, or careful siting of solar panels in inconspicuous locations, case-by case discussions which could absorb increasing amounts of officer time, even if clear guidance is published on Council or English Heritage websites.

The policies in the earlier draft, PPS15 were particularly criticised for allowing too much ammunition for those persons seeking change within the historic environment. The balance set between those seeking change against those seeking to preserve is more firmly slanted towards conservation in the revised document. The general tenor of PPS 5 takes care to be more overtly supportive towards the retention of heritage assets, now seeing them as potential environmental opportunities rather than economic impediments or intractable site constraints. This is supported by the Government's Vision Statement on the value of the historic environment, with formal support from all Departments across Whitehall, which is published to complement and underpin PPS 5 and the practice guide. Together, this suite of value

statements is the benchmark for the protection of our historic environment for the foreseeable future.

Whilst concerns remain over resource implications for local authorities, conservation staff will find the policies they need to protect the historic assets within their boundaries, in a document that will also set the wider agenda in a manner that should still prove sensible and pragmatic.

A full list of policies contained within PPS5 can be found in the Appendix to this report.

### **3.0 PPS: Consultation on Draft PPS Planning for a Natural and Healthy Environment**

This is a consultation document on a new PPS that sets out the planning framework for the natural environment, green infrastructure, open space, sport, recreation and play. Once adopted this document will replace PPS9: Biodiversity and Geological Conservation, Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation, parts of PPS7: Sustainable Development in Rural Areas (landscape protection, soil and agricultural land quality and forestry) and parts of Planning Policy Guidance 20: Coastal Planning (coastal access, heritage coast and the undeveloped coast). Running concurrently with this consultation is a consultation on a revised draft Circular on 'Biodiversity and Geological Conservation – Statutory Obligations and their Impact', which compliments this draft PPS. Further details on this document can be found in the attached appendix.

The draft PPS contains policies to maintain and enhance, restore or add to biodiversity and geodiversity through the planning system. It includes policies to promote opportunities for the incorporation of beneficial biological and geological features within the design of development and to maintain networks of natural habitats by avoiding their fragmentation and isolation. It suggests that this may be done as part of a wider strategy for the protection and extension of open space and access routes such as canals and rivers. For the first time planning policy on green infrastructure<sup>1</sup> has been produced, with key considerations being the functions or ecosystem service it provides. This new policy recognises that there are subtle differences between planning for open space and planning for green infrastructure.

The legal protection given to certain habitats and species has changed due to recent case law; however planning policy on biodiversity will remain the same. Guidance to Local Planning Authorities (LPAs) on their statutory obligations in this area is currently being revised and a draft Circular has been produced on biodiversity and geological conservation, as mentioned above. Also the Government is considering modifying policy relating to the determination of applications involving the floodlighting of sports and recreational facilities. The wording of the existing policy is proposed to be amended to make it clear that LPAs should consider and balance the impact of local residents against the wider benefits to the community, particularly those using the facilities. They should also take into account of any significant impacts on biodiversity.

A full list of policies contained within this draft PPS can be found in the Appendix to this report. The consultation runs for 12 weeks and finishes on 1<sup>st</sup> June 2010.

### **4.0 PPS: Consultation on Draft PPS Planning for a Low Carbon Future in a Changing Climate**

This is a consultation document on a new PPS that sets out the planning framework for securing lasting progress against the UK's targets to cut greenhouse emissions, use more renewable and

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<sup>1</sup> A strategic network of multi-functional green space, both new and existing, both urban and rural, which supports natural and ecological processes and is integral to the health and quality of life in sustainable communities (Draft PPS: Planning for a Natural and Healthy Environment).

low carbon energy and to plan for climate change. This document combines and updates the existing PPS's on climate change (PPS1 supplement) and renewable energy (PPS22) and it is proposed that it will become a consolidated supplement to PPS1. This will support and provide an overarching framework for PPS25 (Development and Flood Risk) and emerging planning policies on green infrastructure. However this document does not assemble all national policy relevant or applicable to climate change and therefore it should be read alongside other national policy.

This draft PPS sets out clear expectations on LPAs in planning for renewable energy, such as ensuring that development does not prejudice the broad areas identified at regional level for renewable energy and setting out how decentralised energy<sup>2</sup> will supply new development in the area. There have been changes to policy contained within the existing supplement and PPS22 on the provision of decentralised renewable and low carbon energy, whereby LPA-wide targets for decentralised energy to serve new developments, will, over time, become unnecessary as this will be addressed via building regulations. Increased powers have also been put forward for LPAs to set targets relating to water usage. Amendments have been made to local evidence base requirements including greater encouragement of the use of heat mapping where appropriate and the promotion of greater integration of waste and energy agendas. A proposed policy has been introduced on the expectation for support from LPAs on the take-up of electric and plug-in hybrid cars and the setting of local requirements for cabling and charging infrastructure<sup>3</sup> where appropriate. This will complement the Government's proposals for electric charging points to become permitted development.

A full list of policies contained within this draft PPS can be found in the Appendix to this report. The consultation runs for 12 weeks and finishes on 1<sup>st</sup> June 2010.

### ***For further information:***

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                             [victoria.soames@cheshireeast.gov.uk](mailto:victoria.soames@cheshireeast.gov.uk)

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<sup>2</sup> Local renewable energy and local low-carbon energy usually but not always on a relatively small scale. It is a broad term used to denote a diverse range of technologies, including micro-renewables, which can locally serve an individual building, development or wider community and includes heating and cooling energy (Draft PPS: Planning for a Low Carbon Future in a Changing Climate).

<sup>3</sup> The required sub-surface electrical cabling to support electric vehicle charging infrastructure but not the charging points themselves (Draft PPS: Planning for a Low Carbon Future in a Changing Climate).

## Appendix

### 1. Policies within PPS5

- HE1: Heritage Assets and Climate Change

#### *Plan-making Policies*

- HE2: Evidence Base for Plan Making
- HE3: Regional and Local Planning Approaches
- HE4: Permitted Development and Article 4 Directions
- HE5: Monitoring Indicators

#### *Development Management Policies*

- HE6: Information Requirements for Applications for Consent Affecting Heritage Assets
- HE7: Policy Principles Guiding the Determination of Applications for Consent Relating to All Heritage Assets
- HE8: Additional Policy Principle Guiding the Consideration of Applications for Consent Relating to Heritage Assets that are not Covered by Policy HE9
- HE9: Additional Policy Principles Guiding the Consideration of Applications for Consent Relating to Designated Heritage Assets
- HE10: Additional Policy Principles Guiding the Consideration of Applications for Development Affecting the Setting of a Designated Heritage Asset
- HE11: Enabling Development
- HE12: Policy Principles Guiding the Recording of Information Related to Heritage Assets

### 2. Policies contained within Draft PPS: Planning for a Natural and Healthy Environment

#### *Plan-making Policies*

- NE1: Evidence Base for Plan Making
- NE2: Regional Planning Approach
- NE3: Local Planning Approach for the Natural Environment
- NE4: Local Planning Approach for Green Infrastructure
- NE5: Local Planning Approach to Open Space, Sport, Recreation and Play
- NE6: Local Planning Approach to Recreational Rights of Way
- NE7: Local Planning Approach to the Undeveloped Coast and Coastal Access

#### *Development Management Policies*

- NE8: Policy Principles Guiding the Determination of Applications in Relation to the Natural Environment
- NE9: Policy Principles Relating to the Maintenance of an Adequate Supply of Open Space, Green Infrastructure, Sports, Recreational and Play Facilities
- NE10: Policy Principles Guiding the Determination of Applications Affecting Playing Fields
- NE11: The Consideration of Applications for Floodlighting for Sports and Recreational Facilities
- NE12: Proposals for Sport and Recreation Requiring Natural Features and Water
- NE13: Sport and Recreation Provision in Nationally Designated Areas
- NE14: Proposals for Major Sports Development and Mixed Use Sport and Recreational Facilities

3. Brief Summary of revised draft Circular on Biodiversity and Geological Conservation – Statutory Obligations and their Impact

The Circular provides guidance on the application of the law relating to planning and nature conservation and complements the draft PPS on natural and healthy environments. The Circular brings together advice on sources of legislation relevant to various nature conservation topics which may be encountered by planning authorities. The topics included within this draft Circular are:

- The conservation of internationally designated sites;
  - Sites of Special Scientific Interest and the consultation and notification processes;
  - Planning for nature conservation outside the designated sites;
  - Conservation of species; and
  - Advice on other duties and use of statutory powers. These include Environmental Impact Assessment, Strategic Environmental Assessment and Water Framework Directive.
4. Policies contained within Draft PPS: Planning for a Low Carbon Future in a Changing Climate

*Plan-making Policies*

- LCF1: Evidence Base for Plan-making
- LCF2: Regional Planning Approach
- LCF3: Local Planning Approach for a Low-carbon Future in a Changing Climate
- LCF4: Local Planning Approach for Renewable and Low-carbon Energy and Associated Infrastructure
- LCF5: Local Planning Approach for Adapting to a Changing Climate
- LCF6: Local Planning Approach for Selecting Sites for New Development
- LCF7: Local Planning Approach to Setting requirements for using Decentralised Energy in New Development
- LCF8: Local Planning Approach to Setting Authority-wide Targets for using Decentralised Energy in New Development
- LCF9: Local Planning Approach to Setting Requirements for Sustainable Buildings
- LCF10: Local Planning Approach for Electric and Plug-in Hybrid Vehicles
- LCF11: Testing Local Planning Requirements

*Development Management Policies*

- LCF12: General Approach
- LCF13: Designing for a Low Carbon Future in a Changing Climate
- LCF14: Renewable and Low Carbon Energy Generation
- LCF15: Safeguarding Renewable and Low Carbon Energy Supplies

# **CHESHIRE EAST COUNCIL**

## **Briefing Note: Strategic Planning Board**

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**Date of Meeting:** 5<sup>th</sup> May 2010

**Report Of:** Planning Policy Manager

**Title:** Summary of the New Community Infrastructure Levy Regulations

**Portfolio Holders:** Cllr David Brown (Performance & Capacity)  
Cllr Jamie Macrae (Prosperity)

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### **1.0 Introduction**

The Planning Act 2008 provided broad powers to enable local authorities to introduce a planning charge on development, referred to as the Community Infrastructure Levy (CIL), with the intention of helping to fund the infrastructure necessary to bring about the proposals for development identified in Local Development Frameworks. The detailed legislative framework<sup>1</sup> to bring this into effect came into force on 6<sup>th</sup> April 2010. This briefing note provides a summary of the key features of CIL, how it is to be implemented, and the proposed relationship between CIL and planning obligations.

### **2.0 Key Features**

- CIL is intended to be more transparent, provide greater legal certainty, be broader (and fairer) in the range of developments that contribute, and be more predictable on the level of contribution required than the existing planning obligations (or Section 106) system that it will largely replace.
- Local authorities are not required to introduce CIL but opportunities for financing infrastructure through the existing planning obligations system are proposed to be reduced in the future<sup>2</sup>
- It is intended that infrastructure provision will continue to be provided in the main by core public funding streams, with CIL being used to bridge the funding gaps identified by local authorities.
- CIL monies can only be spent on the infrastructure identified by local authorities as being needed to support the development of their area. This should focus on new infrastructure provision but can be used to either increase the capacity of or repair failing existing infrastructure. It should not be used to remedy pre-existing infrastructure deficiencies unless they will be made more severe by new development.
- Up to 5% of CIL revenues can be used to recover the costs of administering CIL.
- The statutory definition of infrastructure which can be funded by CIL is broad and includes transport, flood defences, schools, hospitals and other health and social care facilities. This means that facilities such as play areas, parks and green spaces, cultural and sports

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<sup>1</sup> The Community Infrastructure Regulations 2010

<sup>2</sup> New Policy Document for Planning Obligations Consultation, CLG, March 2010

facilities, district heating schemes and police stations and other community safety facilities can be funded by CIL.

- Providing affordable housing is not permitted through CIL and will continue to be delivered through planning obligations, as these should be delivered on site and tailored to the particular circumstances of the site.
- CIL monies may be passed to other bodies or used to provide infrastructure outside of a local authority's area where this will benefit or support the development of their area. For example, CIL revenues can be given to the Environment Agency for flood defence or another local authority to deliver a large sub-regional transport project.
- Local authorities may 'prudently' borrow against future CIL income or backfill early funding provided by a financier, such as the Homes and Community Agency, to ensure that infrastructure is delivered when the need arises.
- A short CIL report must be prepared annually and made available on the Council's website by year end, detailing relevant CIL information for the past financial year including revenue received, revenue spent (in total and by itemised infrastructure scheme) and revenue unspent. This could be included in the Council's Annual Monitoring Report on the local development plan.

### 3.0 Implementing the CIL Charge

#### **Procedure**

- CIL should normally be implemented when an up-to-date development plan is in place, although a draft plan may be used when a local authority is intending to have a joint examination of their core strategy and CIL charging schedule.
- The CIL charging schedule will form part of a local authority's Local Development Framework but will not be part of the statutory development plan.
- The production and approval of a charging schedule, setting out the CIL rates for an area, is required before CIL can be implemented. This will need to draw on the infrastructure planning that underpins the development strategy for the area, as the local authority will need to identify both the infrastructure funding gap that CIL is intended to support and a selection of the projects or types of infrastructure likely to be funded. CIL money may be spent on different projects to those identified during the rate setting process.
- The Council, as a charging authority, will need to prepare evidence to show that the proposed CIL rates strike the right balance between the desirability of funding infrastructure and the impact this will have on the economic viability of development. Different rates may be implemented in different parts of the Council's area or for different types of development to reflect variations in land values and viabilities respectively.
- The process for preparing a charging schedule is similar to that which applies to development plans in that the public must be consulted and an independent public examination held, the findings from which will be binding. However, the Council is not obliged to adopt the final schedule and may instead opt to submit a revised charging schedule to a fresh examination.
- The charging schedule must be formally approved by full council and kept under review, although there is no fixed end date.

#### **Application**

- CIL rates will be expressed in the charging schedule as pounds per square metre of net internal floorspace for all classes of development.



- Most buildings will be liable to pay CIL. Structures which are not buildings, such as pylons and wind turbines, and changes of use that don't result in an increase in floorspace will not be liable to pay CIL.
- To ensure CIL does not discourage redevelopment it can only be levied on the net additional increase in floorspace of any given development i.e. the floorspace of existing buildings to be demolished can be deducted. Minimum thresholds for CIL liability are set at 100 square metres of floorspace and a charge of £50.
- CIL charges must be updated annually in line with an inflation index of construction costs.
- CIL will be charged on new buildings permitted through some form of planning permission, including permitted development rights.
- The planning permission will identify the buildings that will be liable for a CIL charge and the land on which the chargeable buildings will stand. Any existing buildings to be demolished and deducted from the CIL floorspace liability will be situated on this land.
- CIL charges will become due from the date that a chargeable development commences and normally payable within 60 days, although large liabilities (of over £10,000) may be paid in installments. The amount of charges due, the payment procedure and the possible consequences for not following this procedure will be set out in a liability notice issued when the planning permission is granted.
- The responsibility to pay CIL runs with the ownership of the land on which the CIL liable development will be situated, although anyone can come forward and assume CIL liability for the development.
- Relief from CIL can be obtained by a charity landowner, where the chargeable development will be used mainly for charitable purposes, or where the development is used as social housing. The Council may offer CIL relief in exceptional circumstances, subject to conditions, and consider claims for relief on a case by case basis.
- The Council may accept transfers of land as a payment 'in kind' for the whole or part of a CIL charge but only if this is done to use the land to provide or facilitate infrastructure to support development in the Council's area. Such payments are only acceptable for CIL amounts over £50,000 and where an agreement to make the in-kind payment was agreed before development commenced.
- To ensure payment, the regulations provide for a range of proportionate enforcement measures, such as surcharges on late payments, a stop notice on development, the seizure and sale of assets, and short prison sentences.

#### **4.0 The Relationship between CIL and Planning Obligations**

- Planning obligations (S106 contributions) and CIL have two distinct purposes; the former enables the grant of planning permission, while CIL is intended for general infrastructure contributions to support area development.
- The Government is currently consulting on changes to the planning obligations system with the aim of ensuring that it can operate in a complementary way with CIL. These will in essence limit planning obligations to those site specific impacts which cannot be provided for through CIL. The CIL regulations have scaled back the way planning obligations operate in relation to Circular 5/05, prevented double charging of contributions and limited the pooling of S106 contributions.

- The policy tests for planning obligations currently detailed in Circular 5/05 have been made statutory. This means that, when determining a planning application that is capable of being charged CIL (whether there is a local CIL in operation or not), it is a legal requirement for any planning obligation to meet all of the following tests:
  - a) Necessary to make the development acceptable in planning terms;
  - b) Directly related to the development; and
  - c) Fairly and reasonably related in scale and kind to the development.

For all other developments (i.e. those not capable of being charged CIL), the policy in Circular 5/05 will continue to apply.

- Once the Council has adopted CIL, the regulations restrict the local use of planning obligations so that individual developments are not charged for the same items through both planning obligations and CIL. The assumption is that the Council is intending to use CIL monies for any type of infrastructure unless it sets out more specifically on its website how CIL monies will be spent. Consequently, the Council could not seek a planning obligation contribution towards any infrastructure unless it is clearly excluded from CIL.
- The regulations prevent the pooling of S106 contributions that may be funded via CIL, once CIL has been adopted locally or after 6<sup>th</sup> April 2014. However, if the Council has excluded an item of infrastructure from being funded by CIL, it may pool planning obligation contributions from no more than five developments to mitigate the cumulative impacts of these developments.
- For provision that is not capable of being funded by CIL, such as affordable housing or maintenance payments, there are no restrictions in terms of the numbers of obligations that may be pooled, but they must have regard to the wider policies set out in Circular 5/05.

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# **CHESHIRE EAST COUNCIL**

## **Briefing Note: Strategic Planning Board**

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**Date of Meeting:** 5<sup>Th</sup> May 2010

**Report Of:** Planning Policy Manager

**Title:** Briefing Note on: The Infrastructure Planning Commission

**Portfolio Holder:** Cllr Jamie Macrae (Prosperity)

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### **1.0 Introduction**

This report provides a guide to the role of the Infrastructure Planning Commission (IPC) and how it will affect Cheshire East.

### **2.0 Role of the IPC**

The IPC came into being on 1<sup>st</sup> October 2009 and was set up under the Planning Act 2008. It is an independent public body with the dedicated task of examining and deciding applications for nationally significant infrastructure projects. The IPC acts in accordance with the new National Policy Statements (NPS) being prepared for each type of infrastructure in the 5 general fields of energy, transport, water, waste water and waste. Further information on NPSs can be found in the next section. Applications to the IPC may include nuclear and fossil fuel power stations, onshore and offshore windfarms, major improvements to the national grid, railways and roads, reservoirs, harbours, airports and sewerage treatment works. Projects are dealt with by the IPC if they are of a certain size and importance, for example, an offshore generating station having a capacity exceeding 100 megawatts. A list of application thresholds is shown in Appendix 1. If the proposal does not meet the statutory criteria, but is deemed by the Secretary of State to be of national importance then it may also be referred to the IPC. The IPC does not consider applications in other areas, such as retail or housing development.

### **3.0 NPS**

Government departments will publish NPSs in each of the areas within the remit of the IPC. The following NPSs are now in draft form:

- Energy (overarching statement);
- Nuclear power;
- Renewable energy;
- Electricity networks (e.g. power lines);
- Fossil fuels;
- Oil and gas infrastructure (e.g. pipelines and storage);
- Ports.

Others to be expected are:

- National networks (e.g. strategic roads and railways);
- Airports;
- Waste water (e.g. sewerage treatment);

- Water supply (e.g. reservoirs);
- Hazardous waste.

NPSs will be subject to public consultation and Parliamentary scrutiny. They set out the issues of national policy and the need for infrastructure of different types having regard to government policies for achieving sustainable development, addressing climate change and securing good design. For some types of nationally significant infrastructure project the NPS will identify locations or potentially suitable locations for national infrastructure. If no NPS is in place the IPC has no power to decide an application, but will make a recommendation to the Secretary of State.

#### **4.0 Overview of the Process**

The application process for nationally significant projects involves a series of stages, including extensive pre-application consultation, publicity and community engagement that must be undertaken by the applicant. The stages are as follows:

- Pre-application (project development and pre-application consultation. Environmental Impact Assessment where required);
- Acceptance by IPC (28 days to decide whether an application can be accepted as valid);
- Pre-examination (Single Commissioner or panel appointed by the Chair. Procedure and timetable set for examination);
- Examination (a maximum of 6 months to carry out examination);
- Decision (a maximum of 3 months to issue decision (or recommendation to the Secretary of State if no NPS is in place) with statement of reasons);
- Post decision (6 weeks for legal challenge).

#### **5.0 The IPC and Cheshire East**

The introduction of the IPC will leave the balance between national and local decisions on large infrastructure projects largely unchanged. All local authorities (LAs) with an interest will be properly consulted and, by law, local impacts must be balanced against national benefits. Local authorities will have a role that is woven into the system at all stages, including:

- Government will consult LAs on NPSs;
- Promoters must consult LAs, as well as other bodies and the local community, before they submit an application to the IPC;
- Promoters must consult the LA on their proposals for engaging the local community;
- Commissioners<sup>1</sup> must take account of the views of the LA and others on the adequacy of the promoter's publicity and consultation in deciding whether an application can be accepted as valid;
- The LA may submit a Local Impact Report (LIR) to the IPC. The LIR describes the likely effects of the proposed development on the LA's area;
- Commissioners must have regard to the LIR in deciding an application and may reject the application, even if it is in accordance with a relevant NPS, if the adverse impacts outweigh the benefits.

Currently Cheshire East has one outline proposal, which is a Highways Agency scheme for improvements to the A556 between the M6 junction near Tabley/Knutsford and the M56 junction near Bowden. The scheme is currently progressing through the preliminary design stage as planned, with ongoing work including site surveys, detailed design development and the preparation of an Environmental Statement. The publication of environmental information and the

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<sup>1</sup> Commissioners are tasked with examining the applications and are accountable to the courts.

detailed design proposals for the route will provide further opportunities for consultation with local communities, LAs and other stakeholders. An application to the IPC is expected in 2011, with the opening of the completed road planned for 2015.

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## **Appendix 1 - Thresholds for infrastructure projects considered by the IPC**

The thresholds for infrastructure projects that will be considered by the IPC, as set out in the Planning Act 2008, are as follows:

### **Power stations**

- In England or Wales; minimum 50 megawatts (MW) generating capacity if onshore; minimum 100 MW if offshore

### **Electric lines**

- In England or Wales, including lines that run into (but not within) Scotland
- Above ground, minimum 132 kilovolts (kV) capacity

### **Underground gas storage / liquefied natural gas (LNG) facilities / gas reception facilities**

- In England and Wales; minimum 43 million cubic metres working capacity or 4.5 million cubic metres maximum flow rate

### **Pipe-lines**

- In England; minimum 800 millimetres diameter and minimum 40 kilometres (km) length

### **Highways**

- In England; trunk roads and motorways where the Secretary of State is or will be the highways authority

### **Airports**

- In England; will be capable of handling a minimum 10 million passengers per year or 10,000 movements of cargo
- Extensions will need to increase airport capacity by at least 10 million passengers per year or 10,000 movements of cargo

### **Harbours**

- In England and Wales; for container ships, a minimum 500,000 twenty-foot equivalent units (TEU); for roll on roll off (ro-ro) ships, minimum 250,000 units; for facilities for cargo ships of any other description, minimum 5 million tonnes.

### **Railways**

- Wholly in England; part of the railway network

### **Rail freight interchanges**

- In England; at least 60 hectares in area; at least 4 trains per day, from more than one consigner and consignee

**Dams and Reservoirs**

- In England; more than 10 million cubic metres for new developments
- An increase of more than 10 million cubic metres for extensions

**Transfer of water resources**

- In England; more than 100 million cubic metres per year; not piped drinking water

**Waste water treatment plants**

- In England; capacity exceeding a population equivalent of 500,000

**Hazardous waste facilities**

- In England; if landfill or deep geological storage, 100,000 tonnes per year; in other cases, 30,000 tonnes per year

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Ref Number	Address	Description	Level of Decision Del/Cttee	Over turn Y/N	Rec and Decision	Appeal Decision
09/1376N	Land adjacent to Limes Farm, Dean's Lane, Barthomley, Crewe, Cheshire CW2 5PD	Proposed retention of agricultural access track	Delegated	n/a	Refuse 13/07/2009	Dismissed 04/02/2010
09/2242M	Beech Coppy, Bradford Lane, Nether Alderley, Macclesfield	Certificate of lawfulness for the proposed erection of first floor rear extension, detached swimming pool and gym/games room outbuildings	Delegated	n/a	Part approved/p art refused	Part Dismissed/ Part Approved 21/04/2010
09/1316M	(Field Bank Farm, Withinlee Road, Prestbury, Macclesfield	Certificate of lawfulness for the proposed erection of a two-storey & first floor rear extensions to a detached dwelling and a single-storey rear extension to a detached outbuilding within the residential curtilage	Delegated	n/a	Part approved/p art refused 3/11/2009	Dismissed 16/04/2010
09/3293M	58 Adlington Road, Wilmslow, Macclesfield	Detached garage with storage loft in forecourt of dwelling	Deleagted	n/a	Refused 25/11/2009	Dismissed 14/04/2010
09/3187M	1 Hillcrest Road, Bollington, Macclesfield	Proposed first floor extension, rebuild existing external walls of living room, new tiled roof to existing front bay window and new render finish to existing external walls.	Delegated	n/a	Refused 30/11/2009	Dismissed 09/04/2010
09/3311M	2 Green Villa Park, Wilmslow, Macclesfield	Demolition of existing bungalow and	Delegated	n/a	Refused 07/12/2009	Dismissed 07/04/2010

		erection of two semi-detached dwellings (outline) - resubmission of application ref:09/2363m				
09/3142M	1 Chantry Close, Disley, Macclesfield	Orangery to rear elevation	Delegated	n/a	Refused 23/11/2009	Allowed 01/04/2010
08/2653P	Pickwell Cottages, 8 Clarke Lane, Bollington, SK10 5AH	Extension to rear of existing detached double garage (single-storey). Dimensions of proposed extension 7.5m long x 6.5m wide x 4m to ridge.	Delegated	n/a	Refused 12/03/2009	Dismissed 25/03/2010
09/0234/ FUL	Bridge Farm, Liverpool Road West, Church Lawton, Cheshire, ST7 3DE	Extension over an existing swimming pool.	Delegated	n/a	Refuse 02/04/2009	Dismissed 30/03/2010
09/4004C	101 Heath Road, Sandbach, Cheshire CW11 2JY	Proposed is a first floor rear extension.	Delegated	N/A	Refuse 15/01/2010	Dismissed 22/04/2010
P09/0202	'Grannies Cottage', 61 Main Road, Wybunbury, Nantwich, Cheshire, CW5 7LY	Conversion of single garage to double by extending at the rear and side."	Delegated	N/A	Refuse 17/06/2009	Dismissed 25/03/2010