

Application No: 22/2471C

Location: Land South Of, DRAGONS LANE, MOSTON

Proposal: Change of use of land to use as residential caravan site for one gypsy family with two caravans, including construction of access road, laying of hardstanding and erection of amenity building

Applicant: Mrs Emily Hearn

Expiry Date: 27-Sep-2023

SUMMARY

The proposal seeks permission for the change of use of land to use as residential caravan site for one gypsy family with two caravans, including construction of access road, laying of hardstanding and erection of amenity building.

The site is in the open countryside where LPS policy PG 6 'Open Countryside' would apply. Paragraph 25 of the Planning Policy for Traveller Sites (PPTS) notes how local planning authorities should very strictly limit new Traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

Policy SC7 'Gypsies and Travellers and Travelling Showpeople' of the Local Plan Strategy ("LPS") sets out the Council's strategic approach to Gypsies and Travellers and Travelling Showpeople. Criterion 1 of LPS Policy SC7 'Gypsies and Travellers and Travelling Showpeople' notes that sites will be allocated or approved to meet the needs set out in the most recent GTAA. Criterion 2 sets out various considerations that should be taken into account in determining the acceptability of new sites. Criterion 3 of the policy puts in place a presumption against the loss of existing permanent consented Gypsy and Traveller or Travelling Showperson sites where this would result in, or exacerbate, a shortfall unless equivalent provision is made.

Policy HOU 5 'Gypsy and Traveller Site Provision' Site Allocations and Development Policies document provides additional detail to the strategic policies contained in the Local Plan Strategy. SADPD refers to criteria relevant to the consideration of sites in the open countryside, outside of the Green Belt and over and above those on allocated sites.

The application site has previously been permitted through an appeal decision 16/0962C for 1 pitch, the permission has since lapsed, however, it is still a material consideration in the determination of this application. Furthermore, the

pitch was included as a commitment as part of the calculations for the 5-year supply of Gypsy and Traveller sites as part of the SADPD. The provision of 1no Gypsy and Traveller accommodation is a clear social benefit of the proposal.

Having regard to the rural location of the site, the distance from facilities, and the absence of public transport the site is not considered to be in an accessibly sustainable location, however, Planning Inspectors have concluded differently in recent appeals, and this should be considered in the balance of granting planning permission for this development.

There is no objection to the proposal in terms of National Grid or HSE and the proximity of the development to Pipelines and the HSE buffer zones. The Highways Authority have raised no objection to the impact on highway safety. It is also considered that the proposal is would not have adverse impact on the setting of the nearby listed buildings due to the separation distance.

The councils Ecologist and Natural England have also confirmed that the proposal will not have a detrimental impact on the nearby Sandbach Flashes SSSI.

It is therefore considered that on balance, and subject to conditions, the proposal is acceptable and is recommended for approval accordingly.

RECOMMENDATION – APPROVE WITH CONDITIONS

REASON FOR REFERRAL

The application is referred to Southern Planning Committee at the request of Cllr Wray for the following reasons;

‘site is within HSE inner consultation zone i.e over high pressure gas pipeline. Over development of the site. Will have an adverse impact on the open countryside Previous application refused at appeal.’

PROPOSAL

The application proposes the change of use of land, for the use as a residential caravan site for one gypsy family with two caravans, including construction of access road, laying of hardstanding and erection of amenity building.

SITE DESCRIPTION

The application site was originally an open greenfield site located within the Open Countryside.

The site is accessed off Dragons Lane, Moston, but is in the same ownership as the adjacent Traveller site Thimswarra farm which is located on the corner of Dragons Lane and Plant Lane.

On the wider site, there is permission for 8 other pitches all have been implemented, and there are a number of other unauthorised pitches, and some extended pitches which are not authorised.

There are two National Grid Pipelines which run along the eastern side of the field, underground, and a Gas Governor.

Planning permission was granted at appeal under reference 16/0962C on the 29th June 2019 for one pitch with 2 caravans. However, this approval has lapsed prior to being implemented.

RELEVANT PLANNING HISTORY

There are currently 8 lawful permanent pitches on the wider Dragons Lane site.

Below are the permission which relate to this application site.

19/5213C - Change of use of land to use as a residential caravan site for 7 gypsy families with a total of 16 caravans, including no more than 7 static caravans/mobile homes, together with laying of hardstanding, erection of communal amenity building, erection of 5 utility buildings and erection of stable building – Refused 25th January 2021; Dismissed at Appeal 11th May 2022

17/2114C – Removal of condition 1 to make permission permanent and non personal and variation of condition 2 and condition 5 to increase to 3 pitches (total of 7 caravans) on 15/5650C- Temporary permission granted 5th April 2018 – Appeal Allowed and issued permanent permission 27th June 2019

16/0962C – Change of use of land to use as a residential caravan site for one gypsy family with two caravans, including construction of access road, laying of hardstanding and erection of amenity building – Refused 29th November 2017 – Appeal allowed 29th June 2019

15/5650C – Variation or removal of Condition 5 on application 14/3086C – approved with conditions 13th September 2016 (number of pitches increased to 3)

14/3086C – Removal of Condition 2 (Time Limit) on Application 11/3548C – approved with conditions 6th October 2015 (further temporary permission granted until 14th September 2018)

12/3847C – Change Of Use Of Land To Use As A Residential Caravan Site For Two Gypsy Families, Including Laying Of Hardstanding And Driveway – Refused 8th January 2013

12/3603C - The use of land for the stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hard standing and utility/ dayrooms ancillary to that use. – Refused 8th January 2013

12/0971C - The use of land for the stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hard standing and utility/ dayrooms ancillary to that use. – Refused 19th June 2012; Allowed at appeal 13th February 2014

11/3548C – Change Of Use Of Land To Use As Residential Caravan Site For One Gypsy Family With Two Caravans, Including Laying Of Hardstanding And Erection Of Stables – Refused 23rd February 2012 – Appeal Allowed 14th September 2012 (issued temporary permission for 4 years)

09/2358C – Retrospective Application for Change of Use from Agricultural Land to a Site for a Mobile Home for Occupation by an English Traveller who has Ceased to Travel Due to Ill Health and long Standing Disability – Refused 17th March 2011

NATIONAL & LOCAL POLICY

National Policy

The National Planning Policy Framework (the Framework) establishes a presumption in favour of sustainable development. The Framework sets out that there are three dimensions to sustainable development: economic, social and environmental. These roles should not be undertaken in isolation, because they are mutually dependent.

Planning Policy for Traveller Sites (PPTS) 2015 sets out the Government’s planning policy for traveller sites. It should be read in conjunction with the Framework. The overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.

Cheshire East Local Plan Strategy (CELPS)

SD1 Sustainable Development in Cheshire East
SD2 Sustainable Development Principles
PG6 Open Countryside
SE1 Design
SE2 Efficient Use of Land
SE3 Biodiversity and Geodiversity
SE4 The Landscape
SE7 The Historic Environment
SE 11 Sustainable Management of Waste
SE 12 Pollution, Land Contamination and Lands Instability
SE13 Floodrisk and water management
SC3 Health and Well being
SC7 Gypsies and Travellers and Travelling Showpeople
CO1 Sustainable Travel and Transport
CO4 Travel Plans and Transport Assessments
IN 1 Infrastructure

Site Allocations and Development Policies Document (SADPD)

GEN 1 Design principles
ENV 1 Ecological network
ENV 2 Ecological implementation
ENV 5 Landscaping
ENV 6 Trees, hedgerows and woodland implementation

ENV 15 New development and existing uses
ENV 16 Surface water management and flood risk
HOU 5 Gypsy and Traveller and Travelling Showperson site principles
HOU 7 Gypsy and Traveller and Travelling Showperson site principles
HOU 12 Amenity
HOU 13 Residential Standards

Moston Neighbourhood Plan – made on the 14th February 2019

HOU1 – Location of New Homes
HOU2 – Housing mix and type
LCD1 – Design and Landscape setting
LCD2 – Dark Skies
INF3 – Surface water management
ENV1 – Wildlife Habitats, Wildlife Corridors and Biodiversity
ENV2 – Trees, Hedgerows and Watercourses
HER1 - Heritage

Other relevant documents

Cheshire East Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (August 2018)
Cheshire East Local Plan – Site Allocation and Development Policies Document – Gypsy, Traveller and Travelling Showpeople Site Selection Report – (August 2018)

CONSULTATIONS:

Natural England - No objection

Strategic Highways – No Objections

Cheshire Brine – No objections, suggest informative

HSE – Does not advice against, on safety grounds, the granting of planning permission in this case.

National Grid – None received at time of writing this report

Environmental Protection – No objections subject to conditions for Phase I Contaminated Land report, Verification Report, soil importation, unexpected contaminated land; and informatives for Construction works, pile foundations, site specific dust management plan and unexpected contaminated land

United Utilities – No objections

Floodrisk – No objections, informatives suggested.

Environment Agency – No objections subject to informatives

Moston Parish Council – Object to the proposal, a summarised below (full version available to view on the website)

- There many traveller settlements in Moston and the proliferation of sites has led to the urbanisation of the character of the rural village.
- This application would further urbanise this part of the open countryside.
- Recent appeal APP/R0660/W/21/3279631 (19/5213C) was dismissed, which included this site. Reasons included impact on the SSSI. This application should be considered the same.
- Impact on the setting of the listed buildings Ivy Cottage Farm and Ivy Oak Barn which are within 40m of the application site.
- The site needs to include biodiversity enhancements as required by law.
- Concerns that conditions would be breached if permission granted, as previously has happened.
- Concerns raised that the wider site does not have any Caravan site licences.
- Although permission was previously granted on the site, it was never implemented therefore the site is not an existing gypsy and traveller site.
- 25% of the site is within the HSE inner zone and the rest of the site is in close proximity therefore concerns are raised particularly at the likely location of a mobile home within the inner zone.
- The site has an area of pluvial flooding in the proximity of the application site.
- The Council should have a 5-year supply by the time this application is determined due to the adoption of the SADPD
- Notwithstanding the objections raised by the PC, if permission is granted a condition should be added to stop any vehicle access being taken through Thimsworra farm for the following reasons;
 - o The approved access for pitches within this area of the field is that given on appeal 12/0971C.
 - o To prevent damage and potential creeping development of an agricultural field by such use.
 - o To prevent noise and disturbance to occupiers of listed buildings Ivy Cottage Farm and Ivy Oak Barn To save the integrity of an agricultural field.
 - o A recent planning appeal which included vehicular access from this location via Thimsworra was recently refused.
- Having regard to the rural location of the site, the distance from facilities, and the absence of public transport the site is not considered to be in a sustainable location. This would have some adverse implications in terms of use of natural resources and movement towards a low carbon economy. There will also be an adverse impact upon the character and appearance of this rural area arising from the visual impact of the proposal. There is conflict with the environmental role of sustainable development as set out in the Framework, it is therefore, the Parish Council's view that this application is refused, in consistency with recent decisions of the Council and the Inspectorate on similar applications very nearby, as well as the other reasons/concerns mentioned above.

REPRESENTATIONS

Around 50 letters of objection have been received. The main issues raised are;

- Views of the Parish Council are fully supported by the neighbours.
- Development is contrary to policy, PG6, SC7, SE1 of the CELPS; Policy H of the PPTS and the NPPF
- Contrary to the Moston NP
- The proposed development would result in further urbanisation of a rural area, encroaching into the countryside.
- It would threaten the wildlife in the nearby SSSI and have an adverse impact on the environment in terms of ecological damage.
- Lack of proposed biodiversity enhancements
- Concerns raised over the proximity of the site to the High-Pressure gas Pipeline and the HSE inner zone.
- Impact on nearby listed buildings
- Impact on neighbouring amenity
- The site is in an unsustainable location.
- The site is known to flood.
- The Council will have a 5-year supply when SADPD is adopted– site is not needed and is not allocated
- Concerns raised that conditions are breached when applied.
- Concerns over more CCTV cameras being installed on the site
- The applicant has already got a stable base and there are no additional personal circumstances set out for the need of a further 1 pitch
- The site has not been plotted correctly on the interactive map on CE website

OFFICER APPRAISAL

Principle of Development

The site is in the open countryside where LPS policy PG 6 'Open Countryside' would apply. Paragraph 25 of the Planning Policy for Traveller Sites (PPTS) notes how local planning authorities should very strictly limit new Traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

Paragraph 25 of the PPTS notes that local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

Policy SC7 'Gypsies and Travellers and Travelling Showpeople' of the Local Plan Strategy ("LPS") sets out the Council's strategic approach to Gypsies and Travellers and Travelling Showpeople. Criterion 1 of LPS Policy SC7 'Gypsies and Travellers and Travelling Showpeople' notes that sites will be allocated or approved to meet the needs set out in the most recent GTAA. Criterion 2 sets out various considerations that should be taken into account in determining the acceptability of new sites. Criterion 3 of the policy puts in place a presumption against the loss of existing permanent consented Gypsy and Traveller or Travelling Showperson sites where this would result in, or exacerbate, a shortfall unless equivalent provision is made.

As noted above, Criterion 2 of LPS policy SC7 'Gypsies and Travellers and Travelling Showpeople' includes several considerations that should be taken into account to determine the acceptability of new sites, these include: -

- a. locational sustainability. Site specific factors including the proximity of the site to local services and facilities; access to public transport;
- b. Highway related factors, including whether the site can achieve safe pedestrian, cycle and vehicular access onto the site and provide for appropriate provision for parking, turning and servicing;
- c. Impact on the character and appearance of the surrounding area, particularly given the sites location in the open countryside.

The Site Allocations and Development Policies document provides additional detail to the strategic policies contained in the Local Plan Strategy.

SADPD policy HOU 5 'Gypsy and Traveller Site Provision' refers to criteria relevant to the consideration of sites in the open countryside, outside of the Green Belt and over and above those on allocated sites. The policy notes that sites in these circumstances will only be permitted through:-

- The application of criterion 3(i) of LPS policy PG6 'Open Countryside';
- The application of SADPD policy PG 10 'Infill Villages'; **or**
- Where it is evidenced that the intended occupiers of the pitch have a genuine need for culturally appropriate accommodation in Cheshire East and cannot meet their accommodation needs by occupying an existing pitch within an established, authorised Gypsy and Traveller site or a new pitch on an allocated site.

Criteria 4 of policy HOU 5 'Gypsy and Traveller Site Provision' notes that where the requirements of criteria 3 are met, new pitches should be provided within an established Gypsy and Traveller site wherever possible, or, if not, as a small-scale extension to it. A pitch on a new, stand-alone site will only be permitted where it is demonstrated that neither of these options are feasible.

Furthermore, policies within the development plan, in conjunction with national planning guidance and advice in Planning Policy for Traveller Sites, accept that outside Green Belt areas, in rural settings, where the application proposal is located, (Open Countryside) are acceptable in principle for gypsy and traveller sites.

Whilst the need for gypsy and traveller accommodation is a material planning consideration, other development plan policies and Government guidance require, in addition, the consideration of the impact on surrounding area, neighbouring amenity, highway safety, the need to respect the scale of the nearest settled community and also the availability of alternatives to the car in accessed local services. This is addressed further below.

This planning application is for a change of use of land to a single Gypsy and Traveller pitch. The application site recently had planning permission for a single pitch. This was granted planning permission, at appeal on the 17 June 2019 (ref 16/0962C). The planning permission (ref 16/0962C) lapsed on the 17 June 2022.

The site was also part of an appeal site for a wider Gypsy and Traveller site at Thimsworra Farm, which proposed a total of 16 caravans (ref 19/5213C). The appeal on the wider appeal

site was dismissed on the 11 May 2022. The appeal inspector recognised (at the time of determining the appeal) that there was a commitment on the planning application site for a single pitch that would lapse on the 17 June 2022. The previous planning commitment on the site (16/0962C) formed part of the Council's calculation on a five-year supply of sites.

Need for Gypsy and Traveller Pitches

The Council, in support of the SADPD updated its evidence base on a sub-regional basis, on the need for additional Gypsy and Traveller and Travelling Showperson accommodation. The GTAA has a base date of May 2017.

The 2018 GTAA formed part of the evidence base for the SADPD. The accommodation needs in the 2018 GTAA study, for Cheshire East, up to 2030, are shown below:-

	Total
Gypsy and Traveller residential pitches	32
Transit site pitch provision	5-10
Travelling Showperson Plots	5

The sites proposed to be allocated in the SADPD, include:-

SADPD site Reference	Site Name	Number of pitches / plots proposed for allocation in the SADPD
G&T1	Land East of Railway Cottages, Nantwich (Baddington Park)	2 additional permanent pitches
G&T2	Land at Coppenhall Moss	7 permanent pitches
G&T3	New Start Park, Wettenhall Road, Nantwich	8 permanent pitches
G&T4	Three Oakes Site, Booth Lane, Middlewich	24 permanent pitches
G&T5	Cledford Hall, Cledford Lane, Middlewich	10 transit pitches
G&T6	The Oakes, Mill Lane, Smallwood	4 additional permanent pitches
TS1	Lorry Park, Mobberley Road, Knutsford	3 Travelling Showperson Plots
TS2	Land at Firs Farm, Brereton	10 Travelling Showperson Plots
TS3	Land at Former Brickworks, A50 Newcastle Road	2 additional Travelling Showperson Plots.

The SADPD identifies a need for 32 permanent pitches for Gypsies and Travellers who meet the definition in Annex 1 of the PPTS. The supporting text to SADPD policy HOU 5 also notes that the 2018 GTAA acknowledges that it was not possible to determine the travelling status of all of the households surveyed in the study, and a proportion of these households may meet the definition provided in Annex 1 of Planning Policy for Traveller Sites (2015). The GTAA (2018) identifies that two additional pitches may be needed to address the potential needs of households where the travelling status has not been able to be determined through the GTAA.

The GTAA (2018) also identifies a need for 3 additional pitches in the Plan period for households who may need culturally appropriate accommodation but fall outside of the planning definition provided in Annex 1 of Planning Policy for Traveller Sites (2015).

The SADPD Inspector in his final report on the SADPD noted that following updated evidence discussed at the examination hearings, it would be reasonable to assume an additional need for up to 7 rather than 2 permanent pitches (identified in the preceding paragraph) for needs that could potentially arise from households where the travelling status has not been able to be determined through the GTAA.

The SADPD Inspector noted that the SADPD, alongside commitments and completions and supported by its proposed allocations, provides sufficient pitches to meet the identified need for permanent pitches for Gypsies and Travellers for the period 2017-2030. The identified supply of sites for Gypsy and Traveller accommodation is consistent with national policy in respect of its deliverability and developability, so that the Council can demonstrate a sufficient supply of deliverable sites to support a five-year supply.

In addition to the above, SADPD policy HOU 7 'Gypsy and Traveller and Travelling Showperson Site Principles' includes a number of site-specific principles that applications for Gypsy and Traveller sites should consider.

Personal circumstances

The Glossary of the PPTS 2015 states that,

'1. For the purposes of this planning policy "gypsies and travellers" means: 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, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

2. In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) whether they previously led a nomadic habit of life*
- b) the reasons for ceasing their nomadic habit of life*
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.'*

Therefore, the change in the definition means that for the purposes of assessing the 5 year need for Traveller sites, those that do not travel anymore and have no intention of living a nomadic habit of life in the future eg. Retired. However this does allow for temporary ceasing of travel, for educational/health issues.

In this case the applicant lives on the adjoining site, Thimswarra Farm and, had previously stated during an appeal hearing that the family met the definition of a 'gypsy or traveller', this was not disputed at the appeal, and the Inspector applied the standard condition on the permission for the occupants of the pitches must meet the definition in the PPTS. No personal circumstances

have been submitted as part of this application. Therefore, in this instance no weight can be given to the personal circumstances of the proposed occupants.

Adherence with Policy SC7 (Gypsies and Travellers and Travelling Show People)

Policy SC7 (Gypsies and Travellers and Travelling Showpeople) of the Local Plan Strategy (“LPS”) sets out the Council’s approach to Gypsies and Travellers and Travelling Showpeople. Point 1 of Policy SC7 notes that sites will be allocated or approved to meet the needs set out in the most recent GTAA. Point 2 sets out various considerations that should be taken into account in determining the acceptability of new sites. Point 3 of the policy puts in place a presumption against the loss of existing permanent consented Gypsy and Traveller or Travelling Showperson sites where this would result in, or exacerbate, a shortfall unless equivalent provision is made.

Part 1 has been addressed above. Part 3 of the policy is not relevant to this proposal.

Part 2 sets out criteria which should be considered when assessing Gypsy and Traveller sites in relation to sustainable and acceptable in terms of location and design. The criteria are;

- i. Proximity of the site to local services and facilities;*
- ii. Access to public transport;*
- iii. Safe pedestrian, cycle and vehicular access onto the site;*
- iv. Appropriate pitch sizes;*
- v. Adequate provision for parking, turning and servicing;*
- vi. Adequate provision for storage and maintenance, particularly where needed for Travelling Showpeople;*
- vii. Mix of accommodation types and tenures;*
- viii. Impact on the character and appearance of the surrounding area;*
- ix. Impact on the Green Belt;*
- x. Impact on the historic environment.*

The site is not within the Green Belt and is not part of Travelling Showperson allocation/site and therefore vi and ix are not relevant to this application. The sizes of the pitches appear to be of scale which is accepted for this type of development (there are no specific sizes set out in policy). Furthermore, the application does not include any details of tenure mixes or accommodation types. Further consideration is given to the rest of the points in the report below.

Impact on the Character and Appearance of the Open Countryside

There is a very strict limitation on new traveller site development in the open countryside that is away from existing settlements identified in Policy H of the PPTS (para 25).

Paragraph 26 of the PPTS requires local authorities to attach weight to the following matters:

- a) Effective use of previously developed (brownfield), untidy or derelict land;
- a) Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- b) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;

- c) Not enclosing with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

As noted above Policy SC7 (viii) includes consideration to be given to the impacts on the character and appearance of the surrounding area.

Whilst the principle of caravans in the countryside is not unduly out of keeping, the associated development including hardstanding, utility buildings, community utility building, fencing and gates in addition to the proposed caravans, vehicles and existing development, will result in some urbanisation and visual harm to this open countryside area.

At the time of writing this report there are currently a number of authorised and unauthorised pitches on the wider site. There are a total of 9 pitches permitted on the whole site (including the lapsed permission relating to this application), all accessed off Dragons Lane, either associated with Thimswarra Farm or Meadowview. Seven of the pitches front the road, and two other pitches have been approved at appeal further into the site, one has been implemented but not in accordance with approved plans, and the second forms part of this application site, associated with Thimswarra but accessed through Meadow View.

At the time of writing this report, it is believed that there are currently 4 other unauthorised occupied sites, (one recently heard at appeal) and two occupied unauthorised extensions to existing sites on the field. The enforcement team are reviewing the unauthorised development.

Previously, development of this site has been resisted by the Council, particularly those proposals which extend the site further into the field, however appeal decisions 16/2247C and 16/0962C have allowed development which is further into the field, beyond the original frontage development. This application relates to the allowed appeal 16/0962C and is almost identical to that application.

The Planning Inspectors decision at Land South of Dragons Lane (16/0962C), that when considering the harm to the character and appearance of the open countryside, (para 17 – 19) limited harm was identified, and the Inspector considered that the appeal site '*...would be experienced in views from the public footpath and from Dragons Lane*'. The Inspector concluded that, '*I consider that the development would have an urbanising effect in a rural area, including through its 'in-depth' positioning within an open field, but this would be effectively limited by a number of factors, including existing screening, and landscaping proposals which could be further conditioned. This would help to intergrate the development into its rural environs, in accordance with the PPTS.*

Overall, on this matter I find that there is some limited harm which would arise from the permanent change of use and the sites position set into open land within the countryside and there would be conflict with CELP Policy PG6, SC7 and the NP'.

The Inspector when determining application site (16/2247C) stated that;

'As such, despite the low level nature of the structures indicated, the proposal would lead to a distinct new pocket of development in the countryside and the urbanisation of what is currently an open grassed area. Its visual impact would be exacerbated by the tight siting of the pitch itself in the relatively small and confined north west corner of the site. Its partial enclosure by new

hedgerows there would not appear as a regular field/paddock boundary or particularly natural feature. Overall, the proposal would see a further unwelcome incursion of urbanising development into the wider site over and above what is authorised there.

That said, I accept that the sporadic pattern of development nearby (including the surrounding approved gypsy and traveller development in the wider field), along with the small scale of the proposal for a single pitch, and the retention of a good deal of the site as open land, are factors that would limit the effect of the proposal. Consequently, whilst it would detract from the generally rural character of the area, the harm that would arise in this regard would not be substantial.

I therefore conclude on this main issue that the proposal would cause some limited harm to the character and appearance of the surrounding area’.

The Inspector goes on to conclude that the site is contrary to policies PG 6 and SC7, and SE1 of the CELPS, and fails to meet para 26 of the PPTS. The wider site has changed since the last two decisions were made, and the construction of pitches has ‘filled’ in the gaps of vegetation the Inspector notes within their considerations, and the development is no longer sporadic. The site is much more developed, and the suburban sprawl of unplanned development is much more obvious.

A more recent appeal on the site 19/5213C, included the application site and an extended parcel of land to the south of Thimswarra, and to the west of the application site, for a total of 16 caravans (5 pitches). The appeal was dismissed, and the Inspector identified that the proposed development would cause adverse harm to the character and appearance of the area.

This application is for 1 pitch and two caravans located within the field accessed off Meadow View. This pitch has previously had permission, and as noted above the Inspector of that appeal that the sporadic nature of development in the area the site would not have an adverse impact on the character and appearance of the open countryside. Whilst there is unauthorised development on the site which has urbanised the site in recent years, if this permission was granted along with only the authorised development it would retain the character that the Inspector originally considered the site within.

It is therefore considered that given the previous permission for 1 pitch on the site which the Inspector considered to be acceptable in terms of character and appearance of the open countryside, the renewal of the permission is acceptable.

The applicant states that the boundary treatment has been updated to include a 2m close boarded fence which the neighbouring unauthorised site has erected recently, however as this does not have permission a condition for an updated landscape and boundary treatment plan should be added to any permission.

Sustainability

The PPTS (August 2015) states that travellers sites should be sustainable economically, socially and environmentally and states that Local Authority planning policies should;

- a) Promote peaceful and integrated co-existence between the site and the local community.

- a) Promote, in collaboration with commissioners of health services, access to appropriate health services.
- b) Ensure that children can attend school on a regular basis.
- c) Provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment.
- d) Provide proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and wellbeing of any travellers that may locate there or on others as a result of new development.
- e) Avoid placing undue pressure on local infrastructure and services.
- f) Do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.
- g) Reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability

The PPTS has an intention, amongst other things, to create and support sustainable, respectful and inclusive communities where gypsies and travellers have fair access to suitable accommodation, education and health and welfare provision. The document clearly acknowledges that '*Local Planning Authorities should very strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated within the development plan*' (paragraph 25). However, it does not state that gypsy/traveller sites cannot be located within the Open Countryside.

The document makes it clear that sustainability is important and should not only be considered in terms of transport mode and distance from services, but other factors such as economic and social considerations are important material considerations. It is considered that authorised sites assist in the promotion of peaceful and integrated co-existence between the site and the local community. A settled base ensures easier access to a GP and other health services and that any children are able to attend school on a regular basis. It is widely recognised that gypsies and travellers are believed to experience the worst health and education status of any disadvantaged group. In addition, a settled base can result in a reduction in the need for long distance travelling and the possible environmental damage caused by unauthorised encampment. Furthermore, the application site should not be located in an area at high risk of flooding. These are all matters to be considered in the round when considering issues of sustainability.

There has been a number of appeal decisions on this site, with varying conclusions on the sustainable nature of the site. The site is located around 2-3km outside of Sandbach Town centre where the majority of services are available, and 1.8km from Elworth where there are some shops and access to public transport. The distances do not meet the distances set out in the sustainability appraisal set out in Policy SD2, and most journeys to and from the site would be by private vehicle, but that these journeys would be relatively short and limited in number. Policy SC7 of the CELPS does not specify a distance but states that in considering applications, '(i) Proximity of the site to local services and facilities', ii. Access to public transport; and iii. Safe pedestrian, cycle and vehicular access onto the site; should be taken account of.

The Inspector determining the recent appeal on Thimswarra (including this plot) concluded that the appeal site is not in a location away from settlements where traveller site should be very strictly limited in accordance with PPTS, and it would enable reasonable and satisfactory access to local schools and other amenities. The inspector considered the appeal site to be locationally acceptable.

As such, it is the Council's position that the site is an unsustainable location, however given recent permissions this is to be considered within the balance of the decision.

Landscape

The site is located within open countryside and would be accessed from Dragon's Lane. It lies east of Plant Lane (with residential Listed properties to the west), and south of Dragons Lane. Plant Lane is part of a national cycle route and a track to the east linking Plant Lane and Dragon's Lane is identified as a 'proposed route' on Cheshire East PROW records.

The applicants site plan includes basic details of boundary treatment and landscaping. The plan shows a post and rail fence to be erected along 3 sides with a hedge planted adjacent. The plan is not specific and does not include a detailed planting schedule so it is considered necessary to condition the submitting of an updated landscape scheme with detailed planting specification and hard surfacing materials.

Furthermore, the plans show a close boarded fence along the easter side of the site, the Design and Access statement qualifies this is due to the fence being erected by a neighbouring pitch owner, however this is not lawful and therefore a native hedgerow along this boundary should also be proposed as was required by the original permission on the site.

Amenity

The closest neighbouring dwellinghouse is at least 30m away from the proposed site, on the oposite side of Plant Lane. Therefore, from an overbearing, loss of sunlight/daylight or loss of privacy perspective the development is acceptable in policy terms.

The increase of the development is liklely to have a perceived impact on neighbouring amenity by means of visual intrusion, however it is considered that this is unlikley to have any increased impact on neighbouring amenity than the existing situation.

With regards to environmental disturbance, the Council's Environmental Protection Officer has reviewed the proposal and advised that they have no objections in principal, subject to conditions.

The impact of lighting in this rural location is important to ensure the 'dark skies' are safeguarded as required by Policy LCD2 of the Moston NP, and the local wildlife, and neighbouring properties. This can be conditioned.

It is considered to ensure the amenity of the neighbours is safeguarded conditions relating to external lighting plans, shall be included.

Highway Safey

Polict SC 7 requires consideration of *v. Adequate provision for parking, turning and servicing.*

The Strategic Highways officer has considered that the proposal and has raised no objection to it. The proposal is within an established site and an additional unit will not result in a significant highways impact. The existing access onto Dragons Lane will be used which has

operated safely over the last 3 years for the existing site. There is sufficient room within the site for parking. The proposal is acceptable, and no objection is raised.

Impact on the setting of the Listed Buildings

Policy SC 7 requires consideration to be given to the (x). *Impact on the historic environment.* The NPPF paragraph 193 sets out when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 194 states that any harm to or loss of the significance of a designated heritage asset (including from development within its setting) should require clear and convincing justification.

The proposed development will be located opposite two Grade II listed buildings, Ivy Cottage and the Shippon and Stable (which are located 10m north of Ivy Cottage). There are two buildings shown on the Tithe maps in the location of the listed buildings with no other development surrounding, within a very rural setting.

The definition of the setting of a heritage asset within the NPPF is, '*The surrounding in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral*'.

This application site is located on the opposite side of Plant Lane, and therefore would not directly harm the physical building, but would be experienced within the wider setting of the listed building, which has always been set in an open rural landscape. Whilst the Council considered the previous appeal which was closer to the LB's would cause some harm on the setting of the listed building; due to the distance of this application and intervening field and hedgerows this application is not considered to cause harm.

Ecology

Statutory Designated Sites

Natural England have been consulted as part of the proposal and note that the development triggers the Impact Risk Zones for Sandbach Flashes SSSI, therefore the potential impact from this development on the notified features of the SSI should be assessed and any mitigation applied as appropriate. Without the required additional information, Natural England would object to the proposal.

The applicant has submitted a report to Natural England who have noted that whilst it is not sufficient as justification or sources of bird data typically required to assess the potential impacts to qualifying bird species and assemblages at Sandbach Flashes SSSI. Nevertheless, Natural England have stated that based on their knowledge and understanding of the units and qualifying features of Sandbach Flashes SSSI they have no major concerns relating to this development. NE have therefore removed their initial holding objection.

Ecological Enhancement

The Ecologist has also noted that the proposed development is not reasonably likely to have an adverse impact on priority/protected habitats or species. The application however provides an opportunity to incorporate features to increase the biodiversity value of the final development in accordance with Local Plan Policy SE 3. The Ecologist therefore suggested a condition is included in any permission for an Ecological enhancement strategy.

Health and Safety

The proposal site is located adjacent to National Grid's High-Pressure Gas Pipeline – 21 Feeder (Elworth/Mikle Trafford and Pickmere/Audley). National Grid have raised a no objections to this application.

Major hazard sites/pipelines are subject to the requirements of the Health and Safety at Work etc. Act 1974, which specifically includes provisions for the protection of the public. However, the possibility remains that a major accident could occur at an installation and that this could have serious consequences for people in the vicinity. Although the likelihood of a major accident occurring is small, it is felt prudent for planning purposes to consider the risks to people in the vicinity of the hazardous installation.

Policy SD1 of the CELPS states that, Development wherever possible, (8) support the health, safety, social and cultural well being of the residents of Cheshire East.

The National Planning Practice Guidance (paragraph 69 ref ID 39-069-20161209) states that *'Local planning authorities are well placed to judge the extent of development around major hazard establishments and major accident hazard pipelines so, when considering public safety in planning decisions and the formulation of development plan policies, they should take account of the total number of people that are present in the consultation zones around these sites, and the implications of any increase as a result of a planning decision or policy. In the case of encroachment (development getting closer to the major hazard) the risks can increase as well as the number of people'*.

The PPG advises that where a local authority has concerns over cumulative development around a major hazard, they can approach HSE, particularly where HSE may not have been advised against granting of permission for several individual applications but would have advised against had the development been submitted in a single application.

The HSE would not normally comment on applications of this size, however due to cumulative impact of development on the wider field they have previously raised concerns over the proximity of some of the development and the inner zone of the HSE's consultation, which has previously amounted to reasons for refusal on health and safety grounds. There are two other dwellings (pitches) which have been permitted within the inner zone of the HSE consultation zone.

The HSE state that in this instance, in relation to Inner Zones and housing and HSE's land use planning methodology, HSE does not advise against developments of one or two dwelling units within the Inner Zone. HSE advises against developments of 3 or more dwelling units within

the Inner Zone. Paragraph 069 of the Planning Practice Guidance on Hazardous Substances addresses cumulative development.

HSE considers a residential caravan site for one gypsy family with 1 mobile home and a tourer to be equivalent to a site for one dwelling unit. This application site 22/2471C appears to have more than 10% of the development area located within HSE's Inner Zone. However, the site layout plan for this application 22/2471C shows the residential elements (the mobile home and the tourer) will be located away from the Inner Zone. In this case, because the equivalent of a dwelling unit is not being proposed in the Inner Zone and therefore not contributing to residential development in the Inner Zone, HSE does not advise against application 22/2471C.

The site layout plan can be conditioned and therefore as the HSE has not advised against development on this site on safety grounds, it is considered to be acceptable. This was the conclusion of the previous two applications on this site also.

HUMAN RIGHTS AND SAFEGUARDING CHILDREN

Local Planning Authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned. Article 8 of the Human Rights Act 1998 states that everyone has the right to respect for his private and family life, his home and his correspondence. It adds 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.

Local Planning Authorities also have a duty to safeguard and promote the welfare of children under section 11 of the Children's Act 2004. In addition, the judgment of the Supreme Court in ZH (Tanzania) was that all local authorities are under a duty to consider the best interests of the children.

Section 11 of the Act states that Local Authorities must have regard to the need to safeguard and promote the welfare of children.

Further, 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.

Furthermore, the Planning Authority is required, under section 149 of the Public Sector Equality Act 2010, in the exercise of its functions, to have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The protected characteristics include:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

The duty to have regard to the three aims listed above applies not only to general formulation of policy but to decisions made in applying policy in individual cases.

Based on the information provided, no significant issues are raised in this regard.

Conclusion and recommendation

The proposal seeks permission for the change of use of land to use as residential caravan site for one gypsy family with two caravans, including construction of access road, laying of hardstanding and erection of amenity building.

The site is in the open countryside where LPS policy PG 6 'Open Countryside' would apply. Paragraph 25 of the Planning Policy for Traveller Sites (PPTS) notes how local planning authorities should very strictly limit new Traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

Policy SC7 'Gypsies and Travellers and Travelling Showpeople' of the Local Plan Strategy ("LPS") sets out the Council's strategic approach to Gypsies and Travellers and Travelling Showpeople. Criterion 1 of LPS Policy SC7 'Gypsies and Travellers and Travelling Showpeople' notes that sites will be allocated or approved to meet the needs set out in the most recent GTAA. Criterion 2 sets out various considerations that should be taken into account in determining the acceptability of new sites. Criterion 3 of the policy puts in place a presumption against the loss of existing permanent consented Gypsy and Traveller or Travelling Showperson sites where this would result in, or exacerbate, a shortfall unless equivalent provision is made.

Policy HOU 5 'Gypsy and Traveller Site Provision' Site Allocations and Development Policies document provides additional detail to the strategic policies contained in the Local Plan Strategy. SADPD refers to criteria relevant to the consideration of sites in the open countryside, outside of the Green Belt and over and above those on allocated sites.

The application site has previously been permitted through an appeal decision 16/0962C for 1 pitch, the permission has since lapsed, however, it is still a material consideration in the determination of this application. Furthermore, the pitch was included as a commitment as part of the calculations for the 5-year supply of Gypsy and Traveller sites as part of the SADPD.

The provision of 1no Gypsy and Traveller accommodation is a clear social benefit of the proposal.

Having regard to the rural location of the site, the distance from facilities, and the absence of public transport the site is not considered to be in an accessibly sustainable location, however, Planning Inspectors have concluded differently in recent appeals, and this should be considered in the balance of granting planning permission for this development.

There is no objection to the proposal in terms of National Grid or HSE and the proximity of the development to Pipelines and the HSE buffer zones. The Highways Authority have raised no objection to the impact on highway safety. It is also considered that the proposal would not have adverse impact on the setting of the nearby listed buildings due to the separation distance.

The councils Ecologist and Natural England have also confirmed that the proposal will not have a detrimental impact on the nearby Sandbach Flashes SSSI.

It is therefore considered that on balance, and subject to conditions, the proposal is acceptable and is recommended for approval accordingly.

OFFICER RECOMMENDATION:

Approve with conditions;

- 1. Standard Time**
- 2. Approved Plans**
- 3. Gypsy and Traveller occupancy condition**
- 4. 1 pitch only with maximum of 2 caravans, only 1 static**
- 5. No commercial activities permitted**
- 6. No vehicles parked/stored over 3.5 tonnes**
- 7. Details of external lighting to be submitted**
- 8. External materials of utility building**
- 9. Utility building for ancillary use only – no overnight accommodation**
- 10. Updated landscape and boundary treatment plan**
- 11. Landscape Implementation**
- 12. Drainage plan to be submitted**
- 13. Biodiversity enhancement features**
- 14. Contaminated land – risk assessment**
- 15. Contaminated land – verification report**
- 16. Soil importation**
- 17. Unexpected contaminated land**

In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation), in consultation with the Chair (or in his absence the Vice Chair) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.



OFFICIAL