

## **UPDATE FOR MEMBERS OF THE STRATEGIC PLANNING BOARD**

**Application number:** 09/4331N

**Application site:** New Start Park, Wettenhal Road, Reaseheath, Nantwich, Cheshire, CW5 6EL

**Proposed development:** Change of Use of Land to Use as a Residential Caravan Site for 8 Gypsy Families, Each with 2 Caravans, Including Improvement of Access, Construction of Access Road, Laying of Hardstanding and Provision of Foul Drainage

### **Update**

This update has been produced to make members aware of a recent appeal decision made on the above retrospective development.

Members will recall that this application was discussed at the Strategic Planning Board meeting on 2<sup>nd</sup> June 2010. The application was recommended for approval for a temporary approval for 5 years but following consideration of the application members decided to refuse the application for the following reasons;

1 The Development represents an inappropriate and unjustified visual intrusion in the open countryside due to the introduction of hardcore and the siting of caravans which is considered to have an adverse impact on the character and openness of the surrounding area contrary to the provisions of Policy NE.2 (Open Countryside) and Policy RES.5 (Housing in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2010

2 The application fails to provide sufficient information for the Local Planning Authority to assess the appropriate mitigating measures for the loss of wildlife habitat contrary to the provisions of Policy NE.5 (Nature Conservation Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

3 The location of the site represents an unsustainable form of development due to the distance from local services and facilities contrary to Policy RES.13 (Sites for Gypsy and Travelling Showpeople) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the guidance contained within Circular 01/2006.

An appeal was lodged and a Public Inquiry was held in November 2010. The Inspector has determined the appeal and in his decision letter the Inspector has responded to the reasons for refusal as follows;

#### Reason for Refusal 1

The Inspector stated that Circular 01/2006 makes it clear that gypsy sites are acceptable in principle in the open countryside. In the Inspectors view this advice overrides any apparent conflict with the conventional policies for the constraint of residential development in the open countryside. The Inspector found no conflict with Policy NE.2 (Open Countryside), and considered that Policy RES.13 (which contains a criterion that gypsy sites should avoid visual intrusion into the open countryside) to be inconsistent with later Government guidance which he gave greater weight.

In terms of visual harm the Inspector stated that this was limited as the field is well enclosed and is set back from the road frontage. In terms of longer views the Inspector found that the views of the development would be limited even in winter months. He concluded that any visual harm or physical encroachment that might harm the character of the countryside would be small and with the benefits of additional planting, could be absorbed into the landscape with little impact.

### Reason for Refusal 2

During the Inquiry the Council withdrew this reason of refusal. This was following an acceptance that the ecological impact of the development is capable of resolution through the imposition of planning conditions. A rule 6 party, the Poole Residents Group maintained their concerns about this matter. In relation to this matter and the use of a condition the Inspector stated that *'given that the appeal site has been laid down to hardcore and any previous ecological interest is unknown the presence of Great Crested Newts within or adjacent to the site is unproven, I consider that the measures agreed are a reasonable and proportionate response to ensure that the wildlife interests are safeguarded'*.

### Reason for Refusal 3

The site is beyond the 2km walking distance for the services and facilities which are found in Nantwich. In terms of the pedestrian/cyclist accessibility of the site the Inspector found that a route through Reaseheath College could not be regarded as permanent and this would involve pedestrians/cyclists from the application site using an unlit country lane and a highly dangerous section of the A51 to access services and facilities.

The Inspector found that there is no persuasive evidence of a peaceful and integrated co-existence between the occupiers of the site and the local community. The provision of a settled base would provide the benefit of better access to a GP, health services and education.

The Inspector found that the *'the location of the site is such that it is almost inevitable that the private car will be needed to access even those facilities relatively close to the site. As distance increases the likelihood of car use becomes generally greater. Whilst the absence of public transport is not in itself a reason to rule out a site, that does not mean that this factor can be ignored. Although the development may not encourage peaceful coexistence with the local community, the other matters which the Circular suggests as examples of a more holistic approach to sustainability do not work against the proposal'*. The Inspector then concluded that the site is not a sustainable form of development and conflicts with the Local Plan Policy RES.13, Structure Plan Policy HOU6 and national guidance.

### Other issues

The Inspector also considered the need for and availability of gypsy sites and future provision as a material consideration.

As part of the Inquiry the Council stated that it was confident of providing 15 additional pitches within the former area of Crewe and Nantwich.

The Inspector considered the use of the GTAA figures (27 – 42 additional pitches by 2011) and the Panel Report relating to the Partial Review of the North West Plan, Regional Guidance (an additional 74 permanent pitches by 2016). The Inspector stated that he would

*'place greater weight on the assessment of need deriving from the Panel Review relied upon by the appellant since it is more up to date and has undergone public examination. This indicates that a higher level of pitch provision is required to both 2011 and 2016 compared to the 2007 GTAA. Nevertheless, even the Council's assessment representing the smaller of the figures referred to earlier leads me to conclude that there is a substantial unmet need for permanent residential pitches in Cheshire East which needs to be addressed'.*

Four new sites have been approved since the GTAA was published in 2007, three of which were on appeal. They amount to an additional 9 pitches and the Inspector found that they would make little inroad in satisfying the identified need.

The Inspector concluded that *'there is little or no prospect of the Council being able to successfully address the challenge in Circular 01/2006 to increase significantly the number of gypsy and traveller sites in appropriate locations. I conclude that there is an urgent and substantial unmet need for permanent residential pitches for gypsies and travellers in Cheshire East which needs to be addressed. This weighs significantly in favour of allowing the appeal'*

### Conclusions

The Inspector found that the site is poorly located for access to shops, services, facilities and the nearest primary school. Taking into account the wider consideration of sustainability applicable in gypsy cases, he found that the location of the site still has serious shortcomings in relation to accessibility. The application site is a generally unsustainable location for the scale of the use proposed.

Against this harm, the Inspector recognised that there is a substantial local need for more gypsy sites, there are no alternatives and it is likely to be in the order of 5 years before additional sites are available through the development plan process. The intended occupiers have a need for a lawful pitch and the Inspector gave particular weight to the need to facilitate the education of the school-age children among the families.

In relation to these arguments the Inspector concluded that *'On balance, I find that the positive factors in favour of the appeal do not outweigh the harm I have identified. Given this conclusion, I have considered whether a temporary permission should be granted. Temporary permissions are suggested in Circular 01/2006 (paragraphs 45 and 46) where new sites are likely to become available at the end of any temporary period. Such an approach to the granting of a temporary permission would also be consistent, in my opinion, with the advice in Circular 11/95: The Use of Conditions in Planning Permissions. For the reasons already given, I consider that 5 years would be necessary for there to be reasonable prospects of alternative sites becoming available to the appellant through the development plan process'.*

**The appeal was allowed**