

Planning Reference No:	10/4977C
Application Address:	Horseshoe Farm, Warmingham Lane, Moston, Middlewich, Cheshire, CW10 0HJ
Proposal:	Extension to existing gypsy caravan site including laying of hardstanding, stationing of 9 caravans for residential purposes and, erection of 6 utility buildings.
Applicant:	Mr Oliver Boswell
Application Type:	Full
Grid Reference:	370941 362636
Ward:	Congleton Rural
Expiry Dated:	
Date Report Prepared:	
Constraints:	Open Countryside

SUMMARY RECOMMENDATION: Approve

MAIN ISSUES

- The scale of the development in the context of the open countryside location.
- The impact of the development on the character and appearance of the locality.

REASON FOR REFERRAL

This application has been referred to Strategic Planning Board because it is a re-submission of a previous application (09/3918C) which was refused by the Board on the 5th May 2010.

DESCRIPTION OF SITE AND CONTEXT

The site is an area of 0.5 hectare on the westerly side of Warmingham Lane with access 220 metres north of the junction with Forge Mill Lane in the Parish of Moston.

The site is within an area identified as open countryside in the Congleton Borough Local Plan First Review. It is situated close to a former agricultural building and a small set of stables. The immediate surrounding area is characterised by agricultural fields enclosed by traditional hedgerows.

DETAILS OF PROPOSAL

Extension to existing gypsy caravan site, including laying of hardstanding, stationing of 9 caravans for residential purposes and erection of 6 utility buildings.

The Authority received an amended plan on 18th January 2011 following officer comment regarding the site layout. The plan indicated a relocation of one of the residential pitches and the introduction of an amenity block. A full re-consultation exercise has been carried out.

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.
- 2010(09/3918C) Extension of existing Gypsy caravan site including laying of hard standing, stationing of 9 caravans for residential purposed (including

3 static caravans) storage of 2 touring caravans, erection of 9 utility buildings and installation of lighting. This application was refused by Board on 5th May 2010. However, due to a clerical error the Decision Notice was not sent out until the 7th September 2010.

POLICIES

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
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 2007 (GTAA)

Designing Gypsy and Traveller Sites – Good Practice Guide, Communities and Local Government 2008.

Model Standards 2008 for Caravan Sites in England, Communities and Local Government.

Appeal Ref APP/R0660/A/10/2131930: New Start Park, Wettenhall Road, Reaseheath, Nantwich. Change of Use to Use as a Residential Caravan Site for 8 Gypsy Families.

CONSULTATIONS (External to Planning)

Highways: No objection

Environmental Health: If planning permission were granted a site licence would be required under the Caravan Sites and Control of Development Act 1960.

VIEWS OF THE PARISH / TOWN COUNCIL: (awaiting comments)

OTHER REPRESENTATIONS:

Objections from: Warmingham Parish Council (Adjacent Parish); Anonymous letter and email correspondence from a person who failed to provide an address:

- Conditions attached to the previous permission have been consistently ignored and there is no confidence that any new conditions will have any effect on the activities;

- The scale of the new site is unsuitable to the location;
- The proposed Localism Bill intends to close loopholes relating to retrospective planning applications such as this. Therefore, refusal of this application and enforcement of the original conditions would be in line with government policy;
- The site is not an official Gypsy site and the occupiers have continually ignored the original planning permission. Also, there are always more vehicles/caravans than permitted;
- The Agent for the applicant states that the approval would contribute 6 pitches towards the (alleged) unmet need, the extension would do nothing to add to the existing totals and consequently his reasons for granting permission is not valid and should be disregarded.

APPLICANT'S SUPPORTING INFORMATION:

Design and Access Statement

The Design and Access Statement dated 20th December 2010 submitted by Philip Brown Associates with this application states that the application is designed to meet the reasons for refusal of the previous application ref 09/3918C.

The salient points of the statement are as follows:-

The revised application provides for 3 residential pitches and 2 transit pitches (as amended).

The statement describes 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.

A manege is proposed, utilising part of an existing, and lawful, hard standing area. However, this area has been excluded from the application site, but is in the ownership of the applicant and its use can be made the subject to a planning condition.

The proposed layout of the site includes grass amenity areas, parking facilities for 14 vehicles and turning facilities.

Although the provision of the manege, amenity open space, boundary landscaping has resulted in the western extension of the caravan site beyond its previously approved boundary, such extension ensures that:

- Firstly all horse related activity is keep separate from the residential area where children may be playing,
- Secondly, that all residential activity is contained within well defined boundaries.

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 of the site. In addition, tree, hedge, and shrub planting would be carried out either side of the site access, and between caravan pitches. This will screen and break up the mass of caravans on the site, and help assimilate them into their landscape setting.

The area occupied by hard standing has been substantially reduced since the last application. In particular, each residential pitch would now have a private grassed garden area, and a large communal open space would be created in the middle of the site for children's play.

In terms of planning policy, 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.

In the case of the site at Horseshoe Farm, the extended site would contribute 5 pitches towards meeting the unmet need within the timescale envisaged by Circular 01/2006 (i.e. before the end of February 2011). I therefore trust that you look favourably on my client's proposals, which will assist the Council in meeting its obligations to the gypsy/traveller communities.

OFFICER APPRAISAL

Introduction

Permission was granted on appeal ref APP/B0610/C/08/2073155 for the use of the part of the land as a residential caravan site comprising 3 pitches for permanent residential occupation, 2 pitches for visitors in transit and an overall maximum of 9 caravans. However, the occupiers increased the physical size of the site prior to the decision date, giving rise to issues relating to the enforcement of the conditions attached to the appeal decision.

In order to achieve an improved development scheme, negotiations took place with the occupiers which resulted in the submission of a revised application.

Planning application to regularise the situation (09/3918C) was refused for the following reason:

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.

The above application proposed that the site be used to accommodate for 9 residential pitches and the storage of 2 towing caravans (11 caravans in total). The assumption that the site could be used to accommodate for 9 pitches was the applicant's interpretation of the Planning Inspector's decision notice which stated, that consent was

granted for use of the site for a Gypsy caravan site for 3 families, together with 2 transit pitches and that no more than 9 caravans (of which no more than 3 shall be a static or mobile home) shall be stationed on the site at any one time. This interpretation was contrary to that of the Authority which is, that the permission allowed for 5 pitches in total of which 2 were to be transit.

The current application returns the number of pitches to 5 (3 permanent residential and 2 transit) and the maximum number of caravans to 9 and it deletes the westward extension and mound which were the substance of the refusal in 2010.

Planning Policy

When considering the appeal against the Authority's refusal of planning permission in 2008, the Inspector indicated that Local and Structure Plan policy relating to the Gypsy and Traveller sites was based on guidance contained in Circular 1/94. However, this document has now been superseded by Circular 01/2006. Therefore, he gave particular regard to the new document.

In a recent appeal decision against the Authority's refusal of planning permission for use of land as a residential caravan site for 8 Gypsy families in Reaseheath, Nantwich, the Inspector stated that:

"The Secretary of State has recently announced an intention to revoke Circular 01/2006, describing it as "flawed". No timing of such revocation has yet been announced and he has indicated that an impact assessment is required. The Secretary of State's announcement is clearly a material consideration which must be taken into account, and effects the weight that can be attached to the Circular as a statement of Government policy, albeit that it remains in place for the time being with, as yet, no draft replacement."

The Inspector went on to describe 01/2006 as the most up to date and authoritative document. This statement clearly indicates that the advice contained within Circular 01/2006 still has considerable material weight.

Human Rights and Race Relations

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.

The applicants are Irish Travellers, a racial group protected from discrimination by the race relations act 1976. 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.

In this particular case, the determination of this application will not have a direct impact on the occupiers rights given that the application is for the most part retrospective. Should the application be refused, any resultant enforcement proceedings would only be taken following due consideration of the aforementioned rights.

The impact of the development on the rights of the local residents has been fully assessed, both in this report and the previous appeal decision relating to a Gypsy caravan site in this location and accordingly any impact is considered acceptable.

Principle of Development

There is some debate 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. However, it is clear that the majority of the proposed site has genuinely been occupied as a Gypsy caravan site, in line with the 2008 appeal decision, albeit in breach of conditions attached to this permission.

To attempt to refuse the current application on matters of principle would almost certainly be unsustainable at appeal, since it would be contrary to the 2008 appeal made by the Planning Inspectorate and the Council would be at significant risk of a successful claim for costs.

Need

The revised application now under consideration indicates that the total number of caravans stationed on the site will be 9, which is inline with the maximum allowed by the aforementioned appeal. However, the design and access statement which accompanies the application states that 3 transit pitches would be created which is one more transit pitch than approved on appeal. This statement is contrary to the impression given by the applicant during pre-application discussions. Therefore, attempts were made to contact the agent for an explanation. Unfortunately, the agent failed to respond in good time. The applicant was contacted directly and confirmed that the application should be considered on the basis of the creation of 3 residential and 2 transit pitches and he has given authorisation to amend the design and access statement accordingly.

Given that there is no additional pitch provision proposed by this application, issues relating to need and sustainability do not require consideration as these matters were addressed by the Inspector when granting permission in 2008 and remain unchanged.

Member's attention is also drawn to the recent appeal decision involving 8 residential caravan pitches for Gypsy families at New Start Park, Reaseheath, Nantwich. The Inspector concluded that the figures referred to in the GTAA and the Panel Report in respect of the Partial Review of the North West Plan, Regional Guidance provide a good starting point to the assessment of need as referred to in the Questions and Answers section of the Chief Planners (DCLG) letter to Chief Planning Officers in England dated 6th July 2010 informing that regional strategies were being revoked. The Panel's report concluded that the need in Cheshire East to 2016 is for an additional 74 permanent pitches and the requirement to 2011 would be for a minimum of 27 additional permanent pitches.

The Inspector then went on to say that the new sites approved in the Cheshire East area since the GTAA was published in 2007, including Horseshoe Farm, have made little inroad in satisfying the identified need.

The Inspector stated that there was 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 and concluded that there was urgent and substantial unmet need for permanent residential pitches for Gypsy and Travellers in Cheshire East.

Scale

The previous application ref. 09/3918C was refused predominantly due to the increased size of the site to facilitate the additional pitches. The size of the site is similar to that previously refused, although the small intrusion into open countryside on the northern boundary has been removed and the manege area omitted because the manege was granted consent by virtue of a previous permission ref. 8/31265/3. These omissions result in a site which measures approximately 4000m² which equates to 800m² per pitch based on five pitches. This ratio is similar in comparison to a recently approved residential caravan site for Gypsies in Reaseheath ref. 09/4331N which equated to 814m² per pitch.

The size and number of caravans which make up a pitch is not defined and can vary upon the size of the dependant family in the same way as a settled household varies. However, the GTAA concluded that the average was 2 caravans per pitch. Although 5 pitches are proposed here, the maximum number of caravans would be limited to 9.

Design

The layout of the site consists of:

- Three caravans, (each on a concrete base) adjacent to the boundary with Warmingham Lane (2 transit pitches).
- Three mobile caravans (each on a concrete base), one adjacent to the southern boundary, one adjacent to the western boundary and one adjacent to the northern boundary. Each of the mobile homes is accompanied by a smaller towing type caravan to make up the pitch.

The site also contains 5 utility buildings (3.7m x 2.2m x 2.8m high) with a concrete pebble dash finish to the walls and a profiled steel roof. The proposal also includes an amenity block comprising 2 units (6m x 4m x 3.9m high) placed side by side. This building would be located in the south west corner of the site and would be of rendered finish with light weight roof covering to give a tile like finish.

3 grassed areas would be provided which could be utilised as garden space, 2 adjacent to two of the residential pitches and the third close to the amenity block. A fourth amenity area would be provided within the centre of the site with a 0.5m high trip rail around the perimeter to help prevent children from inadvertently coming into contact with vehicles manoeuvring around the site. The remainder of the site would retain the current gravel finish, which will also provide for the on-site parking. The submitted plan indicates 11 parking spaces. However, it is envisaged that these will not be formally laid out.

The layout of the site with a central play area surrounded by the caravans and the provision of the amenity and utility buildings is in line with advice contained within Designing Gypsy and Traveller Sites – A Good Practice Guide. The guidance also recommends the inclusion of individual garden areas for each pitch where space permits.

The size and layout of the site as approved on appeal failed to meet the criteria set out in the Good Practice Guide in terms of layout design and lack of amenity space. The absence of amenity space would have also been contrary advice contained within Model Standards for Caravan Sites document.

The southern and eastern boundaries are well defined by substantial native hedging. The southern boundary also includes a 1.8m concrete post and wooden panel fence. However, the remaining boundaries have a more open character with low had hoc walls and post and rail fencing defining the limits of the site.

Landscaping/planting may help sites to 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. The submitted plan indicates that landscaping will be provided both on the inside of the site and along the northern and western boundaries. Nevertheless, further detail, including species and planting density will be required. It is considered that this issue can be dealt with by the use of a planning condition.

The revised application does not specify the number, location, or type of lighting to be used. However, once again this can be controlled through the use of an appropriate planning condition.

Amenity

The impact of the development on the amenity of nearby residents was considered by the previous appeal Inspector. Even though the site is larger than that approved by the Inspector, 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 adjacent occupiers would be unduly disturbed as a result of the larger development.

Ecology

The previous application did not raise any concerns relating to ecological impact of the development. No additional hard standing areas are proposed by this application therefore, it is considered that there will be no material change in circumstances.

CONCLUSIONS

Whilst there had been questions raised in the past as to whether the approval granted on appeal in 2008 has actually been implemented. It is clear that the predominant element of that permission, the use of the land as a residential caravan site for the occupation of 3 Gypsy families, has taken place albeit contrary to a number of planning conditions.

This application, if approved, would result in new stand alone permission together with the introduction of a new set of conditions.

It is considered that the additional space for the occupiers is justified in order to provide acceptable levels of amenity space for the occupants, especially the children and safe manoeuvring room for vehicles associated with occupation of the site.

The visual intrusion of the site can be mitigated by the introduction of appropriate landscaping both within the site and along the northern and western boundaries which will help to screen and soften the visual impact of the caravans and associated buildings.

Given that the proposal does not introduce additional pitch requirement over that already approved, subject to the introduction of appropriate conditions in line with those attached to the previous consent, via appeal, ref. 07/0647/FUL, the proposal is considered to satisfy the appropriate adopted local plan policy, and guidance contained within circular 01/2006 and is recommended for approval.

RECOMMENDATION

APPROVE subject to the following conditions:-

1. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.

2. There shall be more than 3 permanent residential pitches and two transit pitches on the site and on each of the 3 residential pitches hereby approved no more than two caravans shall be stationed at any one time, of which only one caravan shall be a residential mobile home. No more than 9 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time.

3. The stationing and or occupation of any caravan(s) located on the transit pitches as identified on the approved site plan ref 10/4977C/1 shall be limited to a period not exceeding 13 weeks in any calendar year.

4. The use of the land as a caravan site hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use (including the areas of hard standing /surfacing) shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

i) within 3 months of the date of this decision a Site Development Scheme (the scheme) shall have been submitted for the written approval of the local planning authority indicating (a) the layout of the site including the siting of caravans/plots, hard standing areas for roads/parking, storage and recreational/open space areas, (b) the means of foul and surface water drainage, (c) the landscaping of the site including the retention and enhancement of the existing hedgerow along the highway boundary, the creation of earth mounds parallel to the western boundary and at the entrance to the site together with proposals for the maintenance thereof and, (d) external lighting (whether fixed to a building or freestanding). The scheme shall include a timetable for its implementation.

ii) within 11 months of the date of this decision the scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the date of this permission and any trees or plants which within a period of tree years from the completion of the development die, are removed , or become seriously damaged or diseased shall be replaced the next planting season with other of similar size and species unless the local planning authority gives written consent to any variation.

6. No commercial activities, including the storage of materials, shall take place on the land.

7. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site without the prior written agreement of the local planning authority.

Location Plan: Cheshire East Council Licence No. 100049045

