

Application No: 11/3548C

Location: THIMSWARRA FARM, DRAGONS LANE, MOSTON, SANDBACH, CHESHIRE, CW11 3QB

Proposal: 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.

Applicant: MR DENNIS SHERIDAN

Expiry Date: 17-Nov-2011

**SUMMARY RECOMMENDATION:** Approve subject to conditions

**MAIN ISSUES:**

- Procedural Matters;
- Site History;
- Main Issues;
- Principle of Development;
- Assessment against Policy;
- Sustainability;
- Impact on the Character and Appearance of the Open Countryside;
- Stable Block;
- Residential Amenity;
- Demonstrable Need;
- Human Rights and Race Relations;
- Highways;
- Drainage; and
- Other Matters.

**REFERRAL**

This application is to be dealt with under the Council's delegation scheme. However, Councillor Wray has requested that it be referred to Committee for the following reasons –

- (1) *The proposal would be detrimental to the amenity of the area;*
- (2) *It would have a detrimental impact on the open countryside and its character and appearance; and*
- (3) *A previous almost identical application has already been refused on the site and there is an existing enforcement to remove the static caravan and associated items.*

**DESCRIPTION OF SITE AND CONTEXT**

The application site is located in the corner of a (much larger) field on the south side of Dragon Lane. Furthermore, the site is in a prominent position adjacent to the junction of Dragon Lane and Plant Lane. The site boundaries are demarcated by mature native hedgerows. A close boarded timber fence (in excess of 2m high) has been erected around the majority of the perimeter of the site. The site is accessed directly from Dragons Lane via a utilitarian double wooden gate. Beyond the gate is an extensive area of hard standing which skirts around the periphery of the site and terminates at a large static caravan (which is the subject of this application), located to the front of the caravan is a large timber decked area and pergola, with a lawned area beyond. It was noted that when the case officer conducted his site visit there was numerous vehicles and a touring caravan. Located towards the rear of the mobile home was a steel shipping container with solar panels erected on top of it. The application site is separated from the remainder of the field by a post and wire fence. The application site is located wholly within the open countryside.

## **DETAILS OF PROPOSAL**

This is a retrospective application for the change of use of agricultural land to a site for a mobile home, touring caravan and stable block at Thimswarra Farm, Dragons Lane, Moston, Sandbach. The static caravan has been positioned in the northwest corner of the application site adjacent to the junction of Dragons Lane and Plant Lane. The caravan is to be occupied by one gypsy family.

## **RELEVANT HISTORY**

09/2358C – Change of Use from Agricultural Land to a Site for a Mobile Home for the Occupation by an English Traveller who has ceased to travel due to ill health and long standing disability – Refused – 17<sup>th</sup> March 2011.

Appeal Reference – APP/R0660/C/10/2140668 – Dismissed – 14<sup>th</sup> June 2011

## **POLICIES**

### **Local Plan Policy – Congleton Borough Local Plan First Review 2005**

- GR1 (New Development)
- GR2 (Design)
- GR6 (Amenity and Health)
- GR9 (Accessibility, Servicing and Parking Provision)
- GR17 (Car Parking)
- GR19 (Infrastructure)
- GR20 (Public Utilities)
- PS8 (Open Countryside)
- H6 (Residential Development in the Open Countryside and the Green Belt)
- H7 (Residential Caravans and Mobile Homes)
- H8 (Gypsy Caravan Sites)

### **National Planning Guidance**

- PPS.1 (Delivering Sustainable Development)

PPS.3 (Housing)  
PPS.7 (Sustainable Rural Development)  
PPG.13 (Transport)

### **Structure Plan**

HOU6 (Gypsy Caravan Sites)

### **Other Material Considerations**

Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites

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

**Environmental Health:** No objections subject to conditions relating to no external lighting, containment, storage and disposal of manure, use of the stables and

If planning permission were granted a site licence would be required under the Caravan Sites and Control of Development Act 1960. The following conditions will need to be taken into consideration that may have a knock on effect for planning:

1. **Site boundaries**, should be clearly marked i.e. with fences or hedges.
1. **Roads, gateways and footpaths** must be of suitable material/construction and 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.
2. **Drainage sanitation and washing facilities.** There must be provision of a foul drainage system made. Each caravan standing should be connected to foul drainage. Each caravan standing should have it's own water supply, W.C, W.H.B, shower or bath (hot & cold water). Where these facilities are not present, they should be provided in an adequately constructed building. Each hard standing should have adequate surface water drainage.
3. **Hard-standing.** Every caravan should stand on a concrete or tarmacadam hard-standing which should extend over the whole area occupied by the caravan placed upon it, and should project a sufficient distance outwards from its entrance to enable occupants to enter and leave safely.

**Contaminated Land:** No objection subject to a contaminated land condition

**Highways:** No objections subject to the following informatives:

Prior to first use the developer will provide a new vehicular crossing to the property, the specification for which will comply with Cheshire East Council Highway Authority requirements.

The applicant or their contractor will sign a S184 Road Opening Notice under the highways Act 1980 and prior to the commencement of the work.

**National Grid:** Providing the gypsy site is outside the pipeline easement of 24.4m (12.2m either side) National Grid has no objections

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

**Moston Parish Council have the following comments regarding the proposed development:**

- This site has been refused planning once before and therefore there should be no change in this application;
- This area has the highest concentration of pitches in Cheshire East;
- It should be borne in mind that there are gas pipes crossing this land and should not be built on; and
- This site has also already been refused by the Inspector.

**Warminingham Parish Council objects to the proposed development on the following grounds:**

- It does not consider that there is a proven need in this particular part of Cheshire East;
- The site at Booths Lane in Middlewich currently has vacant pitches, with the option of the addition of further pitches;
- There is currently a proposal for the creation of a further 12 pitches on a permanent Council Site in Coppenhall;
- The proposed development is not sufficiently close to existing local shops, primary school and community facilities. It is unlikely that these could be accessed other than by car or van which will increase traffic movements along already over-used rural lanes;
- The site is not on a bus route;
- The development is inappropriate for what is an area of open countryside and would set a precedent for the flooding of the rural environment by similar developments;
- The mobile home at present on the site is there illegally and subject to an enforcement order; and
- The field in question is crossed by at least one mains high pressure gas pipe and such development may cause a serious hazard.

## **OTHER REPRESENTATIONS**

Letters of objection have been received from the occupiers of Oak Barn, 124 Plant Lane, 7 Watch Lane, The Willows, 11 Watch Lane, Woodville Farm, 5 Plant Farm, Cherry Farm, Ivy Cottage Farm, Hillcrest, Hillside, 10 Watch Lane, Salters Cottage, Laburnum Cottage, Pequa, 7 Plant Lane, 4 The Fox, White House, Larvin, 4 Needhams Bank and 6 Eaton Close. The salient points raised in the objection letters are:

- The proposal would detract from the essentially agricultural nature of the area;
- The planning inspectorate supported the refusal of the former planning application on this site (09/2358C) and this application not only incorporates the unlawful existing facilities which have been directed to be removed on an Enforcement Notice, but has planned additional development of a large stable block;

- The intrusive development is contrary to policies GR1 and GR2 of the adopted Congleton Borough Local Plan;
- The Council and the Planning Inspectorate have already made a ruling that this is an unsuitable site for development;
- The Council should be consistent with their previous decision and refuse this application;
- The proposed use of the existing caravan, hardstanding and septic tank should not be considered with this application because they should have been removed;
- There is adequate provision in Moston and the surrounding areas for traveller sites;
- The proposal is not in keeping with the rural vernacular and will have a detrimental impact on the visual character and appearance of the area;
- The existing boundary treatment which comprises stained panel fencing is entirely unsuitable;
- The site is in a unsustainable location;
- The applicants Design and Access Statement is meaningless and misleading as it refers to cases near Thirsk without any planning reference or context;
- The submitted plans for the stable block and site layout do not provide specific dimensions. The stable block is extremely large and not in keeping with other similar buildings;
- The static caravan and Touring Caravan when scaled off are extremely large and the touring caravan is nearly as large as the static caravan;
- The touring caravan due to its size could be used as second static/mobile home rather than a touring caravan for incidental use;
- The proposal if allowed will affect property values in the area;
- The caravans will be an eyesore and the mess and litter created will become unbearable;
- How many more Travellers sites are we going to get in this area;
- The Council has designated an area in Coppenhall for a traveller site, based on the grounds of easy access to amenities and facilities, as opposed to semi-remote location of Dragons Lane/Plant Lane with no public transport and limited access to shops, schools and medical practices;
- If approved the proposal could lead to other 'Travellers' joining the applicant;
- We do not want a traveller home to be allowed on agricultural land in our community when there are four travellers sites already in the area. We have a nature reserve close by and wish to keep the countryside as it is. If one traveller is allowed a mobile home on this land, others may follow;
- Moston is a predominantly agricultural area where planning is extremely restricted. The applicant has set up an intrusive unpermitted development which has an adverse affect on the countryside area and is contrary to policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review;
- There is nothing to stop the site being further developed if permission is granted, leading to further retrospective planning applications to increase the site development;
- Allowing retrospective planning for this application will set a precedent which may encourage others to follow a similar route, by ignoring recognised planning process and procedure in the hope of securing a positive outcome;
- The proposal would be detrimental to the area as it is in a green belt area which, by definition, is predominately an agricultural area;
- This site is unnecessary as there are already sufficient adequate sites in the local area;

- The planned position of a septic tank is not suitable for access/servicing/emptying because it is to be placed at the edge of the site, far away from the entrance gate. There is no indication of the position/structure/materials required for a soakaway or connections to field drains/outlets. The overflow/waste water from impermeable structures such as the mobile home, storage unit, vehicles, driveways and septic tank will exit into roadside ditches and have serious implications for nearby land, neighbouring properties and highways;
- The proposal will have a significant detrimental impact on the enjoyment of residential amenities;
- The applicant's occupation of the site presents unacceptable consequences for the amenity of nearby residents and detracts from the aesthetic value of the surrounding landscape and area;
- There is an audible impact on nearby residents and the locality. Electricity is not only produced by the solar panels but also by the frequent use of a noisy generator that can be heard in the surrounding area;
- The proposal is detrimental to the amenity of the area;
- I feel that threatened by this development which has expanded at an alarming rate. I am concerned that there will be further growth in residential use directly opposite my house, stables and lane.

**A letter from Fiona Bruce MP (dated 9<sup>th</sup> November 2011).**

- I share the concerns of local residents and the Parish Council that the proposal is inappropriate.

**APPLICANT'S SUPPORTING INFORMATION**

Design and Access Statement

**OFFICER APPRAISAL**

**Procedural Matters**

A number of local residents have claimed that as the application is retrospective the applicant has been acting illegally. However, as confirmed in PPG 18: Enforcing Planning Control, it is not an offence to carry out development without first obtaining planning permission required for it. Furthermore, Section 73A of the 1990 Town and Country Planning Act specifically provides that a grant of planning permission can be given for a development that has already taken place. A number of local residents have stated that the planning application forms have been completed inaccurately. The case officer acknowledges that this may be the case but does not consider that the application is fundamentally flawed and the information submitted is sufficient for it to be determined on its merits, and if necessary some of the issues raised by residents could be controlled by the imposition of conditions, in the event that planning permission is granted.

**Site History**

The siting of a mobile home was first reported to the Council in April 2009. The site was visited on 29<sup>th</sup> April 2009 when it was noted that a mobile home had been stationed on the

site, at that time there was also a 4 wheel drive vehicle, lorry containing furniture and a horsebox. Since that time a pergola had been constructed along with an area of decking directly outside the mobile home. In addition to this a driveway/hardstanding had been formed around the part of the perimeter of the site. A steel shipping container had been sited on the land with solar panels installed on top of it.

In June 2009 a letter was sent to the previous owner (Mr. Arrowsmith) which set out the Councils view regarding the use of the land. In this letter the previous owner was advised that there were serious concerns, having due consideration to relevant national and local policies that planning permission would be granted for the change of use of the land for the siting of a residential caravan.

In July 2009 a retrospective planning application was submitted to the Council, however, this could not be made valid as it lacked sufficient information and a fee. Whilst the outstanding documentation was submitted the full fee was not paid so the application remained invalid. By May 2010, the applicant had still failed to pay the full fee, consequently a further letter was sent advising if the outstanding balance was not received by the 14<sup>th</sup> May 2010 the Council would have no option but to consider the expediency of enforcement action. On the 28<sup>th</sup> July 2010 authority was given to issue an Enforcement Notice in relation to the unauthorised change of use. The Enforcement Notice was issued on the 14<sup>th</sup> October 2010. However, the applicant made the final payment on the 15<sup>th</sup> October 2010 and the planning application was made valid. Upon receipt of the Enforcement Notice the applicant decided to Appeal against it.

Members will recall that the planning application (09/2358C) was refused planning permission by the Southern Planning Committee on the 17<sup>th</sup> March 2011 for the following reasons:

*'The Local Planning Authority does not accept that the occupier of the caravans qualifies as a Gypsy or Traveller as defined in Circular 01/2006 or that he is engaged in full-time in agriculture, forestry or other business appropriate to the locality and that it is necessary for him to reside in this location. The use of the land for stationing of residential caravans is therefore contrary to policies PS8 (Open Countryside), H6 (Residential Development in the Open Countryside and the Greenbelt) and H7 (Residential Caravans and Mobile Homes) of the adopted Congleton Borough Local Plan First Review'.*

*'The site which includes a static mobile home, shipping container, solar panels and boundary fencing etc is clearly visible from Dragons Lane and Plant Lane and the Local Planning Authority considers that the proposal due to its inappropriateness causes inherent harm to the visual appearance and character of this part of the open countryside. To allow the development would be contrary to policies GR1 (General Criteria), GR2 (Design) and PS8 (Open Countryside) of the adopted Congleton Borough Local Plan First Review 2005 and advice advocated in PPS1: Delivering Sustainable Development and PPS7: Sustainable Development in Rural Areas*

In addition to the above, Mr. Arrowsmiths appeal against the Enforcement Notice was also dismissed on 14<sup>th</sup> June 2011. Shortly after the issue of these decisions, Mr. Arrowsmith sold the land to the current applicant Mr. Sheridan, who confirms that he is a gypsy. Mr. Sheridan has completed Certificate A which states that he is the owner of the land. In addition a land registry search has proven that the application site is owned by the current applicant.

A number of objectors have stated that as the Enforcement Notice was upheld all the caravans and other associated development should have already been removed from the site. However, the period for compliance does not start until the date of the Inspectors Letter, and as such its requirements are held in abeyance until such a time and the appeal has been determined. The date of the appeal decision was 14<sup>th</sup> June 2011 and therefore the compliance date is 13<sup>th</sup> June 2012 when all structures should be removed from the site.

## **Main Issues**

The main issues in this case are:

- (a) Whether the site is in an appropriate location for the scale of use proposed having particular regard to accessibility to services and facilities as well as other sustainability considerations referred to in the Local Plan and Circular 01/2006;
- (b) The effect of the proposed development on the character and appearance of the area; and
- (c) Whether, if there is any harm and conflict with policy, there are material considerations which outweigh the harm and conflict, including the need for more gypsy sites in the area, the likelihood and timescale for identified needs to be met through the development plan system, the appellants and intended occupiers personal and family circumstances and accommodation alternatives.

## **Principles of Development**

As with national planning guidance, Policy PS8 (Open Countryside) of the Local Plan seeks to safeguard the countryside for its own sake and prevent non-essential development that may cause harm to the character and appearance and openness of the countryside.

However, policies within the development plan, in conjunction with national planning guidance and advice in Circular 01/2006 (Planning for Gypsy and Traveller Caravan Sites), accept that outside Green Belt areas, rural settings are acceptable in principle for gypsy and traveller caravan sites. The applicant argues that a degree of harm to the character and appearance of the countryside is unavoidable but points out that Government advice suggests that in most cases this visual harm can be satisfactorily mitigated with appropriate landscaping. However, whilst the need for gypsy and traveller accommodation is a consideration, both development plan policies and Government guidance require, in addition, consideration of the impact on the 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 accessing local services.

## **Assessment against Policy**

Policy H.8 (Gypsy Caravan Sites)

According to Policy H.8 planning permission will be granted for proposals for temporary or permanent gypsy caravan sites provided they comply with the following criteria:

- (i) *Avoids unacceptable consequences for the amenity of nearby residents;*
- (ii) *Comprises a site which is not within the Greenbelt, 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; and*
- (x) *Is, wherever possible, within 1.6km (1 mile) of existing local shops, community facilities, primary school and public transport facilities.*

In addition to the above, Circular 01/2006 'Planning for Gypsy and Traveller Caravan Sites' is an important material planning consideration. The Circular defines a gypsy or traveller as:

*'Person 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 of travelling show people or circus people travelling together as such'.*  
(Paragraph 15)

The applicant confirms that he was not employed in agriculture, forestry or any other appropriate rural enterprise, however, he does vehemently state that he is a gypsy. According to the applicants Design and Access Statement *'The applicant is an Irish Traveller who travels with his family in the area between Birmingham and Manchester in order to make his living by touting for gardening work. He regularly camps on Pochin Way, Middlewich but wants a settled base in this area with proper facilities, and access to health and education services'.*

The applicant claims that the occupation of the site does not represent unacceptable consequences for the amenity of nearby residents, due to separation distances and boundary treatment, which will help to mitigate any negative externalities. The applicant goes on to state that the plot of land approximately 1.5 acres is ample to site the mobile home, touring caravan and stable block and provide sufficient manoeuvring space so that vehicles can access/egress the site in a forward gear and the servicing of the caravan. The application site is not located in an area of countryside which is subject to any 'special planning constraints' and the proposal has a safe means of access. The applicant acknowledges that the application site is located in a remote area and some distance from local services, for example, shop(s), school(s) and doctors etc.

It is considered, having regard to the above definition, that Circular 01/2006 defines gypsies and travellers as 'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or families or dependants educational or health needs or old age have ceased to travel temporarily or permanently'. The applicant has confirmed that he has always lived in a caravan and has never had a permanent residence. The applicant goes on to claim that he is ceasing to travel so that he can be near health facilities and to meet the educational needs of his child. Therefore, it is considered that the

applicant does satisfy the definition of a Gypsy or Traveller and that policy H.8 (Gypsy Caravan Sites) should be applied.

## **Sustainability**

A key principal of national and local planning policies is to promote sustainable patterns of development in order to reduce the need to travel and the dependence on the private car. It is noted that buses travel along Dragons Lane at various intervals in the day. The nearest service centre to the application site is Elworth and there is a distance of approximately 2.5km separating the two sites. Therefore, it is considered that the application site is in an isolated rural setting and is removed from any settlement, shop(s), school(s), community facilities or place(s) of employment. Dragons Lane is typical of many rural highways being twisty, unlit and without footways. The road is wide enough for vehicles to pass each other with relative ease.

Circular 01/2006 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 Circular clearly acknowledges that, whilst other sites near to existing settlements should be considered first, many sites are likely to be found within rural areas. The Circular also makes it clear that sustainability is important and should not only be considered in terms of transport mode and distance from services. Other considerations include the wider benefits of access to GP and other health services; children attending school on a regular basis; and the provision of a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampments.

The services and facilities available in Elworth are beyond the walking distance of 2kms normally regarded as the maximum distance referred to in PPG13: Transport, but not by a large distance. However, the site is within 5kms distance normally considered acceptable to cycling. It is noted that bus services operate along this stretch of Dragons Lane, but these appear to be irregular and infrequent. Furthermore, the case officer did not identify any bus stops in close proximity to the application site and the nearest bus is on London Road approximately 2km away from the application site.

It is considered that 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. It is generally acknowledged that as distance increases the likelihood of car use becomes generally greater. According to Policy H.8 (Gypsy Caravan Sites) criterion (x) states that proposal should be *'wherever possible, within 1.6km (1 mile) of existing local shops, community facilities, primary school and public transport facilities'*, the advice is qualified by the term *'wherever possible'*. It does not therefore rule out sites which are further away. Furthermore, the policy does not specify the modes of transport are to be utilised. However, it is considered given the location of the site, the surrounding highway network and the lack of street lighting and pavements in the area, the main mode of transport will be the private car.

Overall, it is considered that the application site is not in a sustainable location and the proposal conflicts with advice advocated within Policies H.8 (Gypsy Caravan Sites) and HOU6 (Gypsy Caravan Sites).

## Impact on the Character and Appearance of the Open Countryside

At the time of the case officer site visit there was a large static caravan located within the application site. The caravan measured approximately 10m deep by 3.5m wide. Located at the front of the static caravan is a large decked area projecting out approximately 5m and incorporated a pergola. As mentioned previously the static caravan is located in the northwest corner of the application site. It was noted that immediately behind the static caravan was a large steel shipping container with solar panels located on top of it. The applicant is proposing to store a touring caravan, which will be located to the north east of the static caravan. Furthermore, to the south west the applicant is proposing to erect a stable block. There is a large area of hard standing predominately around the periphery of the site and in front of the static caravan was a pergola, the remainder of the site was laid to lawn. The case officer noted that the application site is bounded by mature native hedgerows, which are punctuated at sporadic intervals by trees. It was noted around the majority of the periphery of the application site, the applicant had erected a close boarded timber fence which is in excess of 2m high and is clearly visible through the hedge line, particularly during winter months when the hedgerow and trees are in leaf fall. The application site is part of a much larger field and the boundary separating the two fields is demarcated by a post and rail fence.

The application site is located wholly within an area of open countryside and the area is characterised by agricultural fields bounded by native hedgerows. According to Circular 01/2006 makes it clear that gypsy sites are acceptable in principle in the countryside and this advice overrides any apparent conflict with conventional policies for the constraint of residential development in such areas. It is acknowledged that the caravans may be visible in the public realm but this does not necessarily equate to visual harm.

### Assessment

According to policy PS8 (Open Countryside) permits uses which are appropriate to a rural area. Furthermore, paragraph 54 of Circular 01/2006 states that *'Sites on the outskirts of built-up areas may be appropriate. Sites may also be found in rural or semi-rural settings. Rural settings, where not subject to special planning constraints, are acceptable in principle. In assessing the suitability of 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 an undue pressure on the local infrastructure'*. Therefore, both local and national policy accepts that gypsy sites can be located within rural areas. It is acknowledged that some degree of encroachment and visual impact will be derived from the location of gypsy sites within rural locations. Policy H.8 criterion (iv) stipulates that proposals should be *'adequately screened and landscaped'* and criterion (iii) states that proposals should be *'an appropriate scale which would not detract from the value of the surrounding landscape'*. The Circular 01/2006 is more up to date than the local plan and significant weight must be given to the advice contained within it.

The proposal is for the siting of a static caravan, a touring caravan and a stable block and other associated paraphernalia. It is considered that the visual impact of the development to a large extent is reduced by the fact that it is sited within the corner of a field with front and side elevations well screened from nearby roads by mature trees and hedges. Access is via a

previously existing gateway. The case officer noted that the previous applicant had installed close boarded timber fencing (This fencing has been retained by the current applicant), which was well in excess of 2m and this draws the eye, making the site appear more prominent and visually discordant with the rural vernacular. It is considered that if planning permission is to be approved a condition requiring the removal of the fencing within a specified time period shall be attached to the decision notice. Furthermore, the gate which is approximately 2m high is very utilitarian and this style of gate causes inherent harm to the open countryside and is wholly inappropriate. Therefore, a condition will be attached to the decision notice requiring the removal of the gate and its replacement with a more sympathetic gate.

The case officer noted that the existing hedgerow is patchy in places and this will allow for glimpses into the site from the surrounding roads. It is considered that views of the development would be limited to glimpses of the roofs and higher sections of walls of the mobile homes and stable block. However, in order to mitigate the visual presence of the development a landscaping condition will be attached to the decision notice which will help to reinforce the perimeter hedgerows that already exist. The case officer notes that the boundary treatment along the southern boundary of the application site comprises a post and rail fence and this permits views into the site. Therefore, this boundary will also need to be adequately screened and will be conditioned accordingly.

Overall, it is considered that any visual harm or physical encroachment that might harm the character and appearance of the countryside would be small and it is considered that providing conditions relating to landscaping will help to mitigate any negative externalities associated with the proposal and in addition conditions requiring the removal of the close boarded timber fence and gate. Therefore, it is considered that the proposal complies with Policy GR2 (Design) and advice advocated within PPS.1 (Delivering Sustainable Development) and PPS.7 (Sustainable Rural Development)

### **Stable Block**

PPS7 is broadly supportive of equestrian activity within the open countryside and states that:

*'Horse riding and other equestrian activities are popular forms of recreation in the countryside that can fit in well with farming activities and help to diversify rural economies. In some parts of the country, horse training and breeding businesses play an important economic role. Local planning authorities should set out in LDDs their policies for supporting equine enterprises that maintain environmental quality and countryside character. These policies should provide for a range of suitably located recreational and leisure facilities and, where appropriate, for the needs of training and breeding businesses. They should also facilitate the re-use of farm buildings for small-scale horse enterprises that provide a useful form of farm diversification.'*

Therefore both national and local planning policies are supportive of equestrian activities within the open countryside provided that it can be demonstrated that the development is essential.

The proposed stable block will be located adjacent to Plant Lane and in close proximity to the caravans. The footprint of the stable block is rectilinear in form and the building will measure approximately 11.8m long by 4.7m deep (at the widest point) and is 2.1m high to the eaves and 3.4m high to the apex of the pitched roof. There will be overhang of approximately 800mm, which will span the whole of the stables. According to the submitted plans and

application forms the proposed stable block will be constructed out of timber under a felt roof. It is considered that the materials used to construct the stable block are acceptable and will not appear as incongruous or obtrusive features having a detrimental impact on the character and appearance of the open countryside. Internally the stable block comprises of 2no. loose boxes and a feed and bedding room. It is considered that the proposed stable block will not have a detrimental impact on the character and appearance of the open countryside and the proposal is in accord with policies GR2 (Design Standards), GR6 (Amenity and Health) and PS8 (Open Countryside) of the Local Plan.

## **Amenity**

Policy GR6 (Amenity and Health) states that development will be permitted provided that the proposal would not have an unduly detrimental effect on amenity due to loss of privacy, loss of sunlight and daylight, visual intrusion, environmental disturbance or pollution, traffic generation, access and parking.

The nearest residential properties are those located to the south west (Ivy Cottage Farm) and west (Woodville Farm) which are sited approximately 150m and 200m respectively away from the application site. As previously stated, the site is demarcated by a mature native hedgerow, which is punctuated at irregular intervals with mature trees. It is considered the distances between the existing properties and the application site and the intervening vegetation will minimise any loss of amenity through overlooking or over domination. Furthermore, colleagues in Environmental Health have raised no objections. It is considered that the proposal complies with policy GR6 (Amenity and Health).

## **Demonstrable Need**

Planning Policy Statement 3 sets out the need for planning authorities to create mixed and sustainable communities. The key characteristics identified for a mixed community are a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people. The need to take account of the diverse range of housing requirements across an area, including the need to accommodate Gypsies and Travellers, is highlighted.

Guidance on identifying sites for gypsy and travellers is contained in Circular 01/2006. A sequential approach to the identification of sites in DPDs is advocated in the Circular, requiring Local Planning Authorities to consider locations in or near existing settlements with access to local services first. Local Planning Authorities should be able to release sites for development sequentially, with sites being identified in DPDs being used before windfall sites. However, at present the Council has not produced a DPD and no suitable alternative sites have been identified as part of the Local Development Framework process.

Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA) was completed in May 2007. In Cheshire East, the GTAA identified an overall need for between 37-54 permanent residential pitches and 10 pitches for transit provision by 2016. The council are part of the Strategic Gypsy & Traveller Partnership across the sub region and together the authorities have secured future funding from the Homes and Communities Agency (HCA) to deliver new sites. Previously this funding was accessed to extend the council run site, Astbury Marsh, by 2 pitches (still under construction).

Since the GTAA in May 2007, when the number of pitches was 101, there have been four new sites approved with permanent permission, giving an additional 9 pitches with 2 under construction on Astbury Marsh and 1 site with temporary permission with 8 pitches (temporary permissions do not count towards the GTAA figures). The Council are in the process of addressing the shortfall of provision and have recently submitted a new permanent residential site with 10 pitches. However, it should be noted that there would still be a shortfall in the need for gypsy sites.

Furthermore, a recent appeal decision at land at Wynbunbury Lane, Stapely (November 2009) found that *'there is undoubtedly an immediate need for further pitch provision both in Cheshire East and regionally'*.

This view was further endorsed at a more recent appeal decision at New Start Park, Wettenhall Road, Reaseheath (APP/R0660/A/10/2131930 January 2011) which stated *'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'*. Therefore, as can be seen there is a substantial unmet need for permanent residential pitches in Cheshire East and this lack of permanent residential pitches weighs significantly in favour of the application.

## **Human Rights and Race Relations**

Circular 01/2006 advises that 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 1988 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.

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 occupier's 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 accordingly any impact are considered acceptable.

## **Highways**

The application site is accessed directly off Dragons Lane. The highway is wide enough for two vehicles to pass with relative ease although there are no footpaths along the carriageway. The set of double gates, which gives direct access into the application site are well set back from Dragons Lane and there are good views in either direction. Beyond the gates is an area of hardstanding which provides sufficient space for vehicles to be parked clear of the public highway and to maneuver so that they enter/leave the site in a forward gear. Colleagues in Highways have been consulted and raise no objection to the proposal. Therefore, it is considered that the proposal complies with policy GR9 (Accessibility, Servicing and Parking Provision).

## **Drainage**

A number of objectors are concerned about how the development will be drained. The proposed method for drainage would be via a septic tank and it is the Council's understanding that a drainage pipe will connect the mobile home to the septic tank, which has not yet been installed. Development on sites such as this generally reduces the permeability of at least part of the site and changes the site's response to rainfall. Planning Policy Statement 25 (Development and Flood Risk) states that in order to satisfactorily manage flood risk in new development, appropriate surface water drainage arrangements are required. The guidance also states that surface water arising from a developed site should, as far as possible, be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development. It is possible to condition the submission of a drainage scheme in order to ensure that the site is appropriately drained.

## **Other Matters**

A number of representations make references to the application site lying within the Greenbelt. However, this is not the case and according to the Local Plan the whole of the application site is located wholly within the Open Countryside.

A number of objectors have stated that if planning permission is approved for the proposed development it will have a detrimental impact on house prices in the locality. Whilst the concerns of the objectors are noted, issues to do with devaluation of properties are not a material planning consideration and as such are not a sufficient justification for warranting a refusal of this application.

Several objectors have stated that there are sufficient pitches within the Borough and in any event existing sites could be expanded. Whilst the concerns of the objectors are noted, every application must be judged on its own individual merits and this application cannot be refused on the hypothetical situation that other travellers may want to construct additional pitches at some in the future at this site. If additional pitches are sought this will necessitate a new application and the proposal will be assessed on its merits.

Other objectors claim that the current application in Coppenhall will meet the needs of travellers. However, this application has yet to be determined and in any event would not meet the unmet need for gypsy sites in Cheshire East.

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

It is acknowledged that the site is poorly located in order to access shops, services and other community facilities and the site is located in an unsustainable location. However, there is a substantial and unmet identified need for gypsy and traveller site provision within Cheshire East which needs to be addressed urgently. To date no sites have been identified through the LDF process are unlikely to be so until 2014. Furthermore, significant weight must also be given to the need to facilitate the education and welfare needs of the applicant and his family.

This site would therefore meet some of that identified need. Furthermore, in the context of Circular 01/2006, the impact of the proposed development on the surrounding countryside could be satisfactorily mitigated, the site is within the Open Countryside as opposed to Green belt.

Therefore whilst there are elements of the application which would need addressing via condition such as drainage and landscaping; on balance it is considered that the benefits of the application would outweigh any perceived harm and therefore it is found that the use of the site as a residential gypsy site accommodating 1 pitch would not conflict with Circular 01/2006 or relevant national or local planning policies. The application is therefore recommended for approval accordingly subject to appropriate conditions.

### **Approve subject to the following conditions:**

- 1. Plan References**
- 2. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006**
- 3. There shall be no more than 1 pitch on the site and there shall be no more than two caravans stationed at any time, of which only one caravan shall be a residential mobile home**
- 4. Remove stable within six months when no longer required**
- 5. No external lighting**
- 6. Within 3 Months remove existing stained wooded panel fencing to boundaries fronting Plant Lane and Dragons Lane to be removed**
- 7. Within 3 Months remove existing gate fronting onto Dragons lane and submit details of 5 bar farm gate details of the replacement gate to be agreed and installed within 5 months**
- 8. Materials to be used in the construction of the stable block to be submitted and approved in writing. The development is to completed in accordance with the approved materials**
- 9. Within 3 months landscaping scheme to be submitted and agreed**
- 10. Landscaping implemented within the next available planting season**
- 11. Within 3 months details of the drainage scheme to be submitted and agreed**
- 12. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site**
- 13. No commercial activities shall take place on the land, including the storage**
- 14. Contaminated Land Condition**
- 15. Within 3 months details of hardstanding for the caravan pitch to be submitted and agreed**

**16. Use of Stable personal to the applicant**

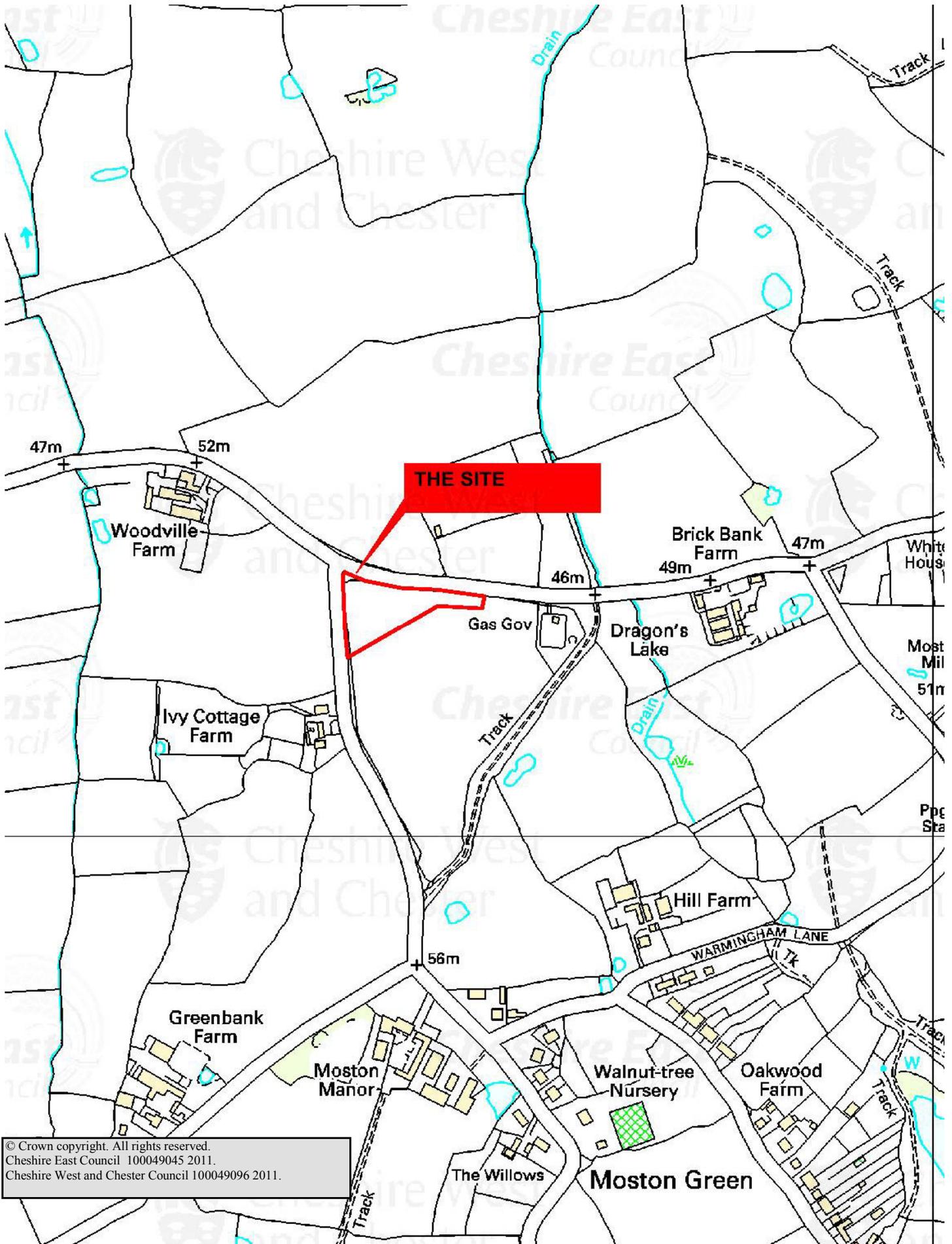
**17. Details of the containment, storage and disposal of manure to be submitted and agreed**

**Informatives:**

The applicant is advised that they have a duty to adhere to the regulations of Part IIA of the Environmental Protection Act 1990, the Town and Country Planning Act 1990 and the current Building Control Regulations with regards to contaminated land. If any unforeseen contamination is encountered during the development, the Local Planning Authority (LPA) should be informed immediately. Any investigation / remedial / protective works carried out in relation to this application shall be carried out to agreed timescales and approved by the LPA in writing. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.

Prior to first use the developer will provide a new vehicular crossing to the property, the specification for which will comply with Cheshire East Council Highway Authority requirements.

The applicant or their contractor will sign a S184 Road Opening Notice under the highways Act 1980 and prior to the commencement of the work.



© Crown copyright. All rights reserved.  
 Cheshire East Council 100049045 2011.  
 Cheshire West and Chester Council 100049096 2011.