

Application No: 12/4247M

Location: LAND TO THE NORTH WEST OF, MOOR LANE, WILMSLOW, SK9 6DN

Proposal: The use of land for the stationing of caravans for residential purposes for 1No - gypsy pitch, together with the formation of additional hard standing and utility/dayroom ancillary to that use

Applicant: John Allan

Expiry Date: 01-Jan-2013

Date Report Prepared: 10 January 2012

SUMMARY RECOMMENDATION

Refuse

MAIN ISSUES

- Whether the proposal is acceptable in the Green Belt, the effect on openness and the purposes of including land within it.
- The impact upon the character and appearance of the area.
- The effect on highway safety.
- The impact upon nature conservation interests.
- The suitability of the site in relation to access to services and public transport and availability of on-site services and utilities.
- The general need for gypsy and traveller sites in the region and borough.
- The needs and personal circumstances of the applicant.
- The availability of alternative sites

REASON FOR REPORT

This application has been referred to the Committee by the Head of Development due to the significant local interest in the proposal.

DESCRIPTION OF SITE AND CONTEXT

The application site comprises an area of open land, the majority of which has an undisturbed / overgrown appearance. The application site area has been altered from the refused application site and now broadly includes only the area of land to be covered by hardstanding and the area for the proposed soakaway. The existing structures on the eastern boundary of the wider field, including a caravan and two small sheds, now fall outside of the application

site. The site is located within the Green Belt as identified in the Macclesfield Borough Local Plan.

DETAILS OF PROPOSAL

This application seeks full planning permission to change the use of the land for the stationing of caravans for residential purposes for 1no. Gypsy pitch with the formation of additional hard standing and utility / dayrooms ancillary to that use.

RELEVANT HISTORY

12/1144M - The use of land for the stationing of caravans for residential purposes for 1 no. gypsy pitches together with the formation of additional hard standing and utility/ dayrooms ancillary to that use – Refused 06.07.2012

POLICIES

Regional Spatial Strategy

DP1 (Spatial Principles applicable to development management)

DP5 (Objectives to reduce the need to travel and improve accessibility)

DP7 (Criteria to promote environmental quality)

Local Plan Policy

NE11 (Protection and enhancement of nature conservation interests)

BE1 (Design principles for new developments)

GC1 (Control over new buildings in the Green Belt)

DC1 (High quality design for new build)

DC3 (Protection of the amenities of nearby residential properties)

DC6 (Safe and convenient access for vehicles, special needs groups and pedestrians)

DC8 (Requirements to provide and maintain landscape schemes for new development)

DC31 (Criteria for Gypsy sites)

Other Material Considerations

National Planning Policy Framework (March 2012)

Planning Policy for Traveller Sites (March 2012)

Cheshire East area is the Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA) (May 2007)

Draft North West Plan Partial Review (July 2009)

CONSULTATIONS (External to Planning)

Strategic Highways Manager – No objections, noting that Moor Lane does provide access to a number of businesses and one of these is a caravan park just further along Moor Lane. This road is very narrow and certainly cannot accommodate many vehicle movements and any large development would not be acceptable in highway terms, although as this application is for only one caravan [pitch] it does not justify recommending a refusal on traffic impact grounds especially as there is an existing caravan park near the proposed site.

Environmental Health – No objections but issues raised relating to drainage, water supply, lighting, roadways, parking / hardstanding; and contaminated land.

VIEWS OF THE PARISH / TOWN COUNCIL

Wilmslow Town Council – Object on the following grounds:

1. The development represents inappropriate use of the green belt with no appropriate special circumstances identified;
2. Concerns as to the ecological impact of the development;
3. The potential increase in traffic and access problems on an already inappropriate road;
4. The lack of detail and ambiguous nature of the application; and
5. The danger of setting a precedent for further green belt development

Mobberley Parish Council – Object on the grounds that this is an inappropriate development within the greenbelt and no special circumstances have been shown to justify the harm that this application will cause to the openness of the greenbelt. Furthermore, we cannot understand why the applicants would want to build an ancillary building to enable the provision of washing and cooking facilities, surely this contradicts the whole Gypsy life style.

Chorley Parish Council - Object on the grounds that it is not suitable development in the Green Belt.

OTHER REPRESENTATIONS

To date over 550 letters of representation have been received objecting to the proposal on the following grounds:

- Personal information the same as previous refused application
- Day room unnecessary given facilities in mobile home
- Use of plurals within design and access statement is misleading
- Application is vague / incomplete
- Could result in a business running caravan site for other gypsy families
- Permission could lead to further development
- Highway safety concerns due to single track nature of Moor Lane
- Inappropriate development in the Green Belt
- Pressure on existing schools
- Drainage concerns
- No provision on application form for waste storage / collection
- No parking provision on application form
- No very special circumstances
- Out of character with the area
- Noise and disturbance to quiet area
- Impact upon nature conservation (including Peat Bog)
- Japanese Knotweed exists on the site
- Housing previously rejected in this area
- Impact upon network of bridleways
- Impact upon property value
- Already a caravan site close by

- Can trees on the site be protected?
- Ecological survey inadequate
- Loss of openness
- Site is not a sustainable location
- Brownfield sites should be considered first – have they been considered by applicant?
- Gypsy sites already identified by Cheshire East Council and this is not one of them
- Risk of flooding
- If the applicant seeks to justify a ‘specific and identified’ need for a traveller site this should, as stated in Policy E, be only done through the plan-making process and not via a planning application
- Personal information put forward is not evidence based
- Other traveller sites closer to Manchester Eye Hospital
- Poor public transport links
- Has the archaeological impact been considered?

One letter of support has also been received.

APPLICANT'S SUPPORTING INFORMATION

A design and access statement and supporting letter have been submitted which outline:

- Site layout designed with reference to *Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites* and *Designing Gypsy and Traveller Sites: Good Practice Guide*, May 2008.
- Caravans will meet statutory definition of a caravan.
- Site is 3.5km from Wilmslow town centre, and the nearest bus stop is 1km away.
- Existing hedgerows, bunds and areas of vegetation will be retained and augmented where possible to minimise visual impact.
- Existing access to be realigned to improve access whilst better screening the development.
- Existing hard standing that is not required will be removed and replaced with grass.

A document briefly outlining the applicant’s personal circumstances has also been submitted. The reasons put forward for the need of the site include unmet need for gypsy and traveller sites in the area; lack of alternative sites and the personal circumstances of the applicant and his family.

OFFICER APPRAISAL

Green Belt

Paragraph 79 of the NPPF states that “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open;” Paragraph 89 identifies that the construction of new buildings within the Green Belt is inappropriate. The proposed development is not for one of the identified exceptions to this. The recently published *Planning Policy for Traveller Sites* (March 2012) reflects this by stating that “Traveller sites (temporary or permanent) in the Green Belt are inappropriate development.” Inappropriate development is, by definition, harmful to the Green Belt.

The application site itself is rural in character, although there are other developed sites adjacent to it and on the opposite side of this section of Moor Lane, including the neighbouring Peat Farm and Joiner's Workshop. Approaching the site from the east along Moor Lane or Cumber Lane, the strong built up residential character of these roads is gradually replaced by more sporadic development and narrow lanes, which reinforces the rural character of the area. The site is located on a narrow section of Moor Lane that leads to a residential caravan site approximately 300 metres further along the road. The land to the north and south of the site is predominantly open.

As noted above, the application site comprises two small sheds and a caravan along the eastern boundary of the site. The proposed development will create a hard surfaced area, upon which will be sited a mobile home, a touring caravan and a brick built utility / day room.

Whilst there is currently some degree of hardstanding within the site (primarily the access tracks) the proposed hardstanding will create a large expanse of tarmac of approximately 480 square metres. The brick built utility / day room will increase the permanent nature of the structures on the site and in addition to the proposed mobile home and touring caravan, the parking of vehicles and other domestic paraphernalia all centrally located within the site will have a greater impact upon the openness and visual amenity of the Green Belt, than the existing structures and layout on site.

The site is screened from Moor Lane by existing vegetation, and further planting is proposed, which will help to significantly reduce the visual impact of the development. However, the new structures are larger than the existing and more spread across the width of the site, encroaching into the currently open aspect of the site, as opposed to the existing structures, which are tucked tight against the eastern boundary. In addition, whilst the intensity of the use of the site would be determined by several factors including the number of residents as well as their lifestyle, any significant increase in this regard would be likely to result in additional outside activity such as levels of vehicle movements and car parking which would have further effect on openness. The resultant reduction in openness would conflict with this most important attribute of Green Belts. This weighs against the proposal, and should be added to the harm through inappropriateness.

Character and appearance

As noted above the residential character of Moor Lane and Cumber Lane gives way to a more open rural landscape as the site is approached from the east, with intermittent residential and commercial properties within the immediate vicinity of the site. Some of these nearby properties have comparable areas of hardstanding to that currently proposed, and the site is generally well screened by surrounding hedgerows and woodland, and an existing earth mound within the site. The proposed development would be screened or filtered from Moor Lane, from the residential property at Foxholme Stables and from public footpath (Mobberley FP52) to the west by roadside hedges and other vegetation. The proposed on-site planting would provide further screening when mature.

Whilst the extent of hardstanding, additional structures, domestic activity and paraphernalia is at odds with the existing natural appearance of this Green Belt site, views of the development from public vantage points are extremely limited due to the extent of existing and proposed boundary landscaping. Paragraph 24(d) of *Planning policy for traveller sites* notes that sites should not be enclosed with so much hard landscaping, high walls or fences that create the

impression that the site and its occupants are deliberately isolated from the rest of the community. However, given that the boundary treatment is soft and itself is in keeping with the character of the area, the site would not be distinctly different to other nearby residential properties, and should not significantly impact upon the character and appearance of this section of Moor Lane. Similarly, given that there is a reasonably sized caravan site further along the Lane, such a use is not unduly out of character.

Ecology

One of the reasons for refusal of application 12/1144M was:

Insufficient information has been submitted with the application in order to assess adequately the impact of the proposed development on nature conservation interests and trees. In particular, adequate survey(s) of the site for the existence of water voles, badgers and reptiles, or a survey of the existing trees, were not submitted. In the absence of this information, it has not been possible to demonstrate that the proposal would comply with relevant national policy guidance and Development Plan policies relating to nature conservation and trees.

In order to address this, the applicant has submitted a protected species survey report. Following consultation with the nature conservation officer, it is now considered that:

Broad nature conservation value of the site

Due to the undisturbed nature of the site and the lack of any type of management tall ruderal and scrub habitats have been allowed to develop together with early successional habitats on the former areas of hard standing. It seems likely that these habitats would be lost or at least highly modified as a result of the proposed development. Whilst these types of habitats can support a number of widespread species they are not considered a priority for nature conservation and so do not present a constraint on the proposed development.

Reptiles

A survey for reptiles has been undertaken and no evidence of reptiles was recorded. Only five survey visits were made to the site and two of these were undertaken during periods of slightly high temperature. However, considering the relatively small size of the site and the number of survey tiles employed the nature conservation officer is satisfied that reptiles are likely to be absent from the proposed development site.

Water Voles and Badgers

Whilst both of these species are known to occur within the locality there is no evidence of them being present on the application site. It is therefore considered that reptiles, water voles and badgers do not present a constraint on the proposed development.

Bluebells

The site supports a small number of native bluebells (a Biodiversity Action Plan (BAP) Priority Species and hence a material consideration). For the most part this species is located on the bunds on the eastern boundary of the site. It is therefore recommended that these bunds be retained as part of the proposed development in order to safeguard this species.

Safeguarding of ditches

Whilst the ditch towards the eastern boundary of the site does not appear to be particularly valuable, the submitted protected species report recommends that no development occurs within 5m of it. This could be achieved by condition.

Common toad

Common toad (a BAP species and a material consideration) has been identified on site. Despite this finding, the nature conservation officer advises that the proposed development is unlikely to have a significant impact upon this species.

Bats and trees

The submitted protected species report has identified the trees on the eastern boundary of the site as having potential to support roosting bats. It appears from the submitted layout plan that these trees will be retained. The proposed development is therefore unlikely to have an adverse impact upon bats.

Japanese Knotweed (*Fallopia japonica*) is present on the proposed development site. Under the terms of the Wildlife and Countryside Act 1981 it is an offence to cause Japanese Knotweed to grow in the wild. Japanese knotweed may be spread simply by means of disturbance of its rhizome system, which extends for several metres around the visible parts of the plant and new growth can arise from even the smallest fragment of rhizome left in the soil as well as from cutting taken from the plant.

Disturbance of soil on the site may result in increased growth of Japanese Knotweed on the site. If the applicant intends to move any soil or waste off site, under the terms of the Environmental Protection Act 1990 any part of the plant or any material contaminated with Japanese Knotweed must be disposed of at a landfill site licensed to accept it and the operator should be made aware of the nature of the waste.

The Nature Conservation Officer has also considered potential impacts upon the adjacent Saltersley Moss SBI, and it is considered that there are no likely impacts associated with the proposed development. The exception to this might be the proposed soakaway however it is assumed that this would be designed in accordance with current best practice to avoid any potential pollution of the surrounding land. This matter could be the subject of a condition.

No significant ecological issues are therefore anticipated, subject to conditions.

Trees / landscaping

The Forestry Officer has confirmed that there appears to be no significant implications for existing trees within the site.

If the application is approved a detailed landscape scheme will be required. The landscape scheme should include details for the proposed use and long-term management of the northern area of the site. Japanese knotweed has colonised part of the site so appropriate ongoing measures should be established to eradicate this highly invasive plant.

Amenity

The nearest residential property is on the opposite side of Moor Lane at Foxholme Stables. Having regard to the scale of development and the distance to this nearest residential property, no significant amenity issues are raised.

Highways

The Strategic Highways Manager has assessed this application and notes that the lane does provide access to a number of businesses and one of these is an existing caravan park just further along Moor Lane. This section of Moor lane is very narrow and certainly cannot accommodate many vehicle movements and any large development would not be acceptable in highway terms. However, given that this application is for only one pitch, a refusal on traffic impact grounds would not be justified, especially as there is an existing caravan park near the proposed site. No significant highway safety concerns are therefore raised.

Archaeology

A number of letters of representation question whether there may be an archaeological impact arising from the proposed development given its proximity to Lindow Moss. The Council's archaeologist does not consider that further archaeological mitigation would be necessary. This is based on the fact that, although a number of late prehistoric bog bodies have been recovered from the moss, the application area lies beyond the limits of the deep peats, from which the bodies were recovered.

Sustainability

There are three primary schools within walking distance, and local shops are available at Lindow Parade on Chapel Lane also within walking distance, which would provide for most day to day needs and Wilmslow Town centre is approximately 3kms from the site. The nearest bus stop is approximately 500 metres from the application site on Moor Lane. The closest healthcare provision is again close to Wilmslow Town Centre at the corner of Bedells Lane and Chapel Lane. Some concern has been raised by third parties regarding the pressure upon local schools arising from the proposed development. However, the application is for one family, therefore any increased demand upon any local infrastructure would be minimal.

With regard to on site service provision, drainage has been raised within the representations as a particular concern. This issue could be controlled via condition, as could details relating to waste disposal facilities.

Strong, vibrant and healthy communities are a key aspect of the Government's view of what sustainable development is. In terms of peaceful and integrated co-existence between the site and the local community, the applicant's supporting statement outlines that the applicant's children attend the local primary school (although which school is not specified), and having a settled base will allow the children to attend school on a regular basis.

General need

Paragraph 8 of *Planning policy for traveller sites* requires local authorities within their plan-making to set pitch targets for gypsies and travellers which address the likely permanent and transit site accommodation needs of travelers in their area. At paragraph 9(a) the document states that local planning authorities should, in producing their Local Plan: "identify and update annually, a supply of specific deliverable site sufficient to provide five years' worth of sites against their locally set targets".

The main source of information on accommodation needs for gypsies and travellers within the Cheshire East area is the *Cheshire Partnership Area Gypsy and Traveller Accommodation*

and Related Services Assessment (GTAA) May 2007. This document identified an overall need for between 37 to 54 pitches within the Borough for the period between 2006 and 2016 (a pitch is generally defined as space for two trailers and a vehicle – a family unit).

In addition to this the draft *North West Plan Partial Review* July 2009 allocated a requirement of 60 pitches to Cheshire East for the period 2007 to 2016. However, given the anticipated revocation of the Regional Spatial Strategy, and its general uncertainty since 2010, it appears that this partial review document has not been progressed further. However, the level of need and the provision required by policy L6 of the partial review document, is similar to the higher figure identified in the GTAA for the Cheshire East area. There is clearly an identified need for additional gypsy and traveller sites across the Borough.

Since May 2007, 8 pitches have been supplied on privately owned sites and a further 2 are being developed on the local authority owned site in Astbury. Across Cheshire East there are a total of 13 private sites, with 112 permanent pitches and 2 transit pitches. The one Council run site has 16 pitches with 2 currently under construction. There is a further site that has temporary permission for 8 pitches. There are also 2 Travelling Showpersons sites in the Borough with 4 pitches. An appeal at the site at Thimswarra Farm, Dragons Lane (1 pitch) was allowed in September 2012 and an application for an additional pitch on that site was refused earlier this year.

It is evident that the number of pitches provided since 2007 makes little inroad in satisfying the need identified above. Paragraph 9 of *Planning policy for travellers* states that when producing their Local Plan local planning authorities should, “identify and update annually, a supply of specific deliverable sites sufficient to provide five years’ worth of sites against locally set targets. The Council cannot demonstrate a five year supply. The identification and delivery of specific sites for occupation is likely to take some time. Therefore, there is considered to be a substantial unmet need for permanent residential pitches in Cheshire East and this lack of available sites does weigh in favour of the application, despite the Green Belt location of the site.

Paragraph 25 of *Planning policy for traveller sites* states that “if a local planning authority cannot demonstrate an up-to-date five year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of a temporary planning permission.” Given that paragraph 26 of this document requires local authorities to consider how they could overcome planning objections to particular proposals using planning conditions, and having regard to the identified need outlined above, a temporary permission should be considered. This is discussed further below; however five years would be necessary for there to be reasonable prospects of alternative sites becoming available to the applicant through the development plan process.

Applicant’s circumstances

The submitted supporting information states that the family are of Romany Gypsy descent. It is not clear where the applicants currently live. The personal circumstances state that immediately before this site the “family lived on the Frodsham Council run site for 3 years”. The wording implies that they no longer live there. However, the Council’s own research carried out by the Cheshire Partnership Gypsy Traveller Co-ordinator shows that they may still live on the site in Frodsham. Prior to the Frodsham site it is understood that the applicant

and his family were previously living on a site in Skipton. However the applicant's eldest son suffers from glaucoma and it was necessary to move closer to Manchester Eye Hospital, as they have to attend regular appointments at the Hospital and sometimes require emergency specialist treatment.

Mr Allen states that he works as a decorator and the three children attend the local primary school. Again, which "local primary school" is unclear. But it is believed to be a local school in Frodsham. They also state that the family are also registered with the local GP. But this is also unknown at this time.

Whilst which "local primary school" and which "local GP" are not specified within the application, clearly their access to health care and enabling the children to attend school on a regular basis would be facilitated by a settled base. The welfare and educational needs of the children could carry weight in favour of the proposal. The applicant's agent has been invited to expand on any information to support this application on a number of occasions. The information in respect of personal circumstances is very limited and it is considered can only be given very limited weight with the information available.

Availability of alternative sites

The lack of alternative sites is put forward within the supporting statement as a material consideration in favour of the development. However, this lack of alternatives is not qualified in any way. Given that the applicant's current situation is unknown, realistic alternatives are also unknown. The applicant has been given numerous opportunities to expand on their submitted information, including their accommodation options, and have provided no further details.

However, it should also be noted that the partial review document also identified a need for 825 additional residential pitches between 2007 and 2016 across the North West region. This figure derived from regional and sub-regional GTAAs, and together with recent appeal decisions the evidence does suggest that there is a serious shortage of accommodation suitable for gypsies and travellers within the region, which would add weight to the applicant's suggestion that there is a lack of available alternative sites.

Balance of issues

The proposal is identified as inappropriate development, which is, by definition, harmful to the Green Belt. Added to this "in principle" harm, is the resultant loss of openness and the encroachment into the countryside arising from the proposal. It is considered that substantial weight needs to be afforded to this identified harm to the Green Belt.

The applicant puts forward the following material considerations in favour of this application:

1. Unmet need for gypsy and traveller sites in the area;
1. Lack of alternative sites and,
2. The personal circumstances of the applicant and his family.

The level of detail submitted with the application is limited, particularly with regard to the applicant's current situation and personal circumstances, and the consequences of the refusal of planning permission upon the family are not known. Therefore as noted above, this severely restricts any consideration of alternative sites or the applicant's accommodation needs and the relative weight that can be afforded to these matters. Therefore, having regard

to the information that has been submitted only very limited weight can be attributed to these considerations.

In terms of the unmet need for gypsy and traveller sites in the area, this does carry considerable weight in the balancing exercise of the application. Members must weigh this against the harm to the Green Belt that would arise from the development. It is concluded that the unmet need alone is not considered to be sufficient to clearly outweigh the harm to the Green Belt from inappropriateness, loss of openness and encroachment. Therefore very special circumstances do not exist to justify the proposed inappropriate development. The proposal is therefore contrary to policies GC1 and DC31 of the Local Plan, and national policy contained within Planning Policy for Traveller Sites, and the NPPF.

Human Rights, Safeguarding Children and Race Relations

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.

The supporting information states that the applicants are of Romany Gypsy descent, a racial group protected from discrimination by the Equality Act 2010. Local authorities have a duty under the Equality Act to actively seek to eliminate unlawful discrimination, advance equality of opportunity and promote good race relations.

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 recent 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.

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

CONCLUSIONS AND REASON(S) FOR THE DECISION

The proposed development is not considered to raise significant highway safety or residential amenity issues. The site is located within a reasonably sustainable location, and the development would not significantly harm the character and appearance of this rural area due to the extent of existing and proposed landscaping.

However, the proposal is an inappropriate form of development in the Green Belt, which reduces openness and encroaches into the countryside. Whilst the shortage of accommodation for gypsies and travellers in Cheshire East is acknowledged, this is not considered to be sufficient to outweigh the identified harm to the Green Belt. The proposal is therefore contrary to policies GC1 and DC31 of the Macclesfield Borough Local Plan, the National Planning Policy Framework and Planning policy for traveller sites. Accordingly, a recommendation of refusal is made for the following reason:

- 1. The site lies within the North Cheshire Green Belt as defined by the Development Plan. The proposed development is inappropriate development in the Green Belt, and results in a loss of openness and encroachment into the countryside. It is not considered that the unmet need for gypsy accommodation in the area and other material considerations advanced by the applicant amount to very special circumstances that would clearly outweigh the identified harm to the Green Belt. The proposal is therefore contrary to policies GC1 and DC31 of the Macclesfield Borough Local Plan, the National Planning Policy Framework and Planning policy for traveller sites.**

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