

Application No: 14/2714N

Location: Former Hack Green RAF Camp, Coole Lane, Hack Green, Austerson, Nantwich, Cheshire, CW5 8AS

Proposal: Change of use of land to provide 9 yards for 10 travelling showpeople's families, formation of roads and hard surfacing.

Applicant: The Hack Green Group

Expiry Date: 02-Sep-2014

REASON FOR REPORT

The proposal is a major application which requires a committee decision.

SUMMARY

The application site is not in a sustainable location, and has limited access to public transport. There will be harm to the character and appearance of this rural area arising from the substantial numbers of vehicles, caravans and trailers, which cannot be mitigated by the proposed landscaping scheme particularly in the short to medium term and especially during the winter months. In addition, there will be harm to the living conditions of neighbouring properties arising from the comings and goings associated with the proposed use that may occur at all times of the night. The 2014 GTTSAA identifies a need for 13 extra plots for travelling showpeople in Cheshire East to 2028. In addition, the Council's own site identification study identified the application site as the only potential site that could accommodate some of that plot requirement. There are no current available alternatives. These factors carry positive weight in the consideration of the proposal. However, the harm identified is considered to outweigh the benefits of the proposal, which is not considered to be a sustainable form of development. Consequently, there is not considered to be any overriding public interest in granting the proposal and therefore the disturbance to Great Crested Newts cannot be justified under the terms of the Habitats Directive. Consideration has been given to a temporary permission however the level of harm, whilst reduced in duration, will still be significant.

SUMMARY RECOMMENDATION

Refuse on the grounds that the proposal is not in a sustainable location, impact upon the character of the area and the impact upon the living conditions of neighbouring properties.

PROPOSAL

The application seeks full planning permission for the change of use of land to provide 9 yards for 10 travelling showpeople's families, formation of roads and hard surfacing. The applicants' submission makes reference to "yards" and "plots". It has been confirmed that

these are referring to the same thing, i.e. that the proposed development is for 9 yards or 9 plots. One of the yards/plots will accommodate two families hence the description of the application as use of land to provide 9 yards for 10 Travelling Showpeople's families.

The applicant has stated that having undertaken a head count, there would be an average number of four people per plot. In respect of total numbers of caravans, there would be a minimum of one and a maximum of two main accommodation units per yard (i.e. minimum ten, maximum 20 for the overall site). The main accommodation unit will either be a mobile home or Showman's living trailer. In addition, each plot may have one smaller touring caravan used either for ancillary bedroom accommodation or for taking out to the local fetes and fairs.

It is the applicant's intention to use the site mainly as a winter base to house ten families in mobile homes and site equipment relating to the residents' occupation as travelling showpeople. In general, the fairground equipment will leave the site at the start of the travelling season (February / March) and return at the end (November). During the season the equipment tends to move from one fairground site to another, rather than returning to the site.

During the summer months the occupation of the site is limited. Three of the ten families that are proposed to occupy three of the yards have retired, and will remain on the site all year round.

SITE DESCRIPTION

The application site comprises a former RAF camp, which has been left unmanaged for over 40 years. Areas of hardstanding are apparent on the site, and a single small scale building, but the majority of the site has been colonised by vegetation. The south and east boundaries have mature vegetation to open the countryside beyond, the northern boundary has lower level vegetation and to the west lie the residential properties on Crisham Avenue and Atcherley Close. The site is located within the open countryside as identified in the Crewe & Nantwich Local Plan.

RELEVANT HISTORY

P03/0062 - Change of use from RAF Base to Showmans Permanent Quarters – Refused / Appeal dismissed 14.03.2006 (Impact on character of area / unsustainable location / impact on GCN)

P94/0342 - Use of land as a travelling showman's depot to include the erection and testing of equipment, siting of residential caravans and provision of children's play area – Refused 30.06.1994, Appeal dismissed 18.01.1995 (Impact on character of area)

P93/0486 - Use of land as travelling showman's depot: - to include the erection and testing of equipment, siting of residential caravans and provision of a children's play area – Refused 19.08.1993, Appeal dismissed 18.01.1995 (Impact on character of area)

P93/0200 - Outline for rural employment development – Refused 15.04.1993 / Appeal dismissed 24.09.1993 (open countryside / impact on character of area)

P93/0201 - Use of land for open storage and pony paddocks – Refused 15.04.1993 / Appeal dismissed 24.09.1993 (open countryside / impact on character of area)

P93/0202 - Use of land as a mobile home park – Refused 15.04.1993 / Appeal dismissed 24.09.1993 (open countryside / impact on character of area)

P92/0317 - Outline for residential development – Refused 18.06.1992 (open countryside)

P92/0318 - Outline for trading estate (class B2 uses) – Refused 18.06.1992 (open countryside)

7/20232 - Outline for housing development, retail out-lets and community hall – Refused 30.10.1991

NATIONAL & LOCAL POLICY

National Policy

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

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

Development Plan:

The Development Plan for this area is the Crewe & Nantwich Replacement Local Plan 2011, which allocates the whole site as open countryside

The relevant Saved Policies are:

NE.2 (Open Countryside)

NE.5 (Nature Conservation and Habitats)

NE.9 (Protected Species)

BE.1 (Amenity)

BE.2 (Design Standards)

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)

RES.8 (Affordable Housing in Rural Areas Outside Settlement Boundaries)

RES.13 (Sites for Gypsies and Travelling Showpeople)

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

SD1 Sustainable Development in Cheshire East

SD2 Sustainable Development Principles
PG5 Open Countryside
SC7 Gypsies and Travellers and Travelling Showpeople

Other relevant documents

Cheshire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (March 2014)
Cheshire East Council Gypsy, Traveller and Travelling Showpeople Site Identification Study (April 2014)

CONSULTATIONS:

Environment Agency – No comments to make

Natural England – No objections

Environmental Health – No objections, subject to conditions for lighting, maintenance, repair and testing activities to be restricted, details of secure bin storage facilities, and informative for Construction hours and contaminated land

Strategic Highways Manager – Objects on the grounds that Coole Lane has a restricted weight bridge.

Nantwich Town Council – Object on the following grounds:

- Circumstances not changed since refused appeal in 2006
- Coole Lane is unsuitable for the heavy traffic that will be generated
- Traffic generation will have an adverse impact on the highways through Nantwich
- Development is more suited to an industrial estate location
- Demonstrable harm to the living conditions of nearby residents.

Sound Parish Council – Object on the following grounds:

- The site will be a bigger area than the existing housing, and will be hugely overbearing
- Approach roads have weight restrictions, narrow bridges, and pinch points where two vehicles will be unable to pass.
- Defects in the report of the actual need for this site.
- Detrimental effect on the open countryside and current local amenities.
- No mention of storage of diesel, gas containers, disposal of waste oil nor the effects of maintenance of equipment within the application
- Impact upon water pressure
- The current hard standing on the site will mean run off which will go to the local river – no mention of this or remedy to the problem.
- Concern expressed over sewage waste from the number of residents the site will accommodate.
- Detrimental to tourist activity in the area
- Access for all the residential and HGV vehicular movements will be through a very quiet cul-de-sac

- No provision of mains electric for the site – generators will result in noise and fumes

REPRESENTATIONS

Neighbour notification letters were sent to all adjoining occupants, a site notice erected and a press advert was placed in the Crewe Chronicle.

Approximately 88 letters, and petitions with around 2000 signatures, have been received objecting to the proposal on the following grounds:

- Proposal will not contribute to local economy
- Does not support strong, vibrant and healthy communities
- Fails to protect natural environment
- Would not support or benefit tourism
- Would increase use of high emission vehicles, and cannot satisfy requirement for sustainable transport
- Applicants have not worked closely with those directly affected
- Loss of open space
- More plots could be accommodated in 9 yards and have greater impact
- Impact on water supply
- Increased light pollution – impact on ecology
- Site is possibly contaminated
- Audlem Medical Practice cannot accommodate any increase in population (letter from Audlem Medical Practice)
- Comments / requirements from Environmental Health are different on this application compared to another major development in Wistaston
- Impact on air quality
- Transport statement is outdated
- Comparisons with use of site as an RAF camp is not reasonable (disused for approximately 40 years)
- Site should be recorded and preserved as one of a complex of strategic wartime / post-war sites.
- 2012 SHLAA identifies the site as not suitable and not sustainable for residential development, therefore should not be appropriate for travellers
- Criteria used by Peter Brett Associates in their site identification study was wrong in its approach to including sites not suitable for residential housing and sustainability
- Peter Brett reports suggest that local plan should ignore terms of 2008 Design Guide
- Site at Newcastle Road, Brereton could provide 5 extra plots
- Site is not big enough for mixed residential and business uses
- Reference to use of site by 10 families is vague and infinitely flexible
- Out of keeping with the area
- Noise and disruption to local area
- Application lacks detail
- Coole Lane and Crisham Avenue are unsuitable for heavy vehicles
- Impact on protected species / wildlife
- Proposal will dwarf existing residential community

- Impact upon living conditions of existing residents
- Safety, storage and disposal of oil, gas canisters
- No provision for septic tanks
- Site at Pochin way is a better option
- Inadequate and unreliable conclusions in the GTAA 2014-12-03
- No properly identified need in Cheshire East
- No health impact assessment submitted
- Electric charging points will be required.
- Personal circumstances of unidentified people cannot be considered
- Application seeks consent for a change of use when the site has no current use
- If figures in model site layout are extrapolated it would mean a minimum of 200, and a maximum of over 200 vehicles on the site
- Dominate existing community
- No further planting has taken place since dismissed appeal in 2006
- Contrary to policy RES13
- Site is not sustainable
- Not acceptable development in open countryside
- Due to weight restrictions vehicles could only access and leave the site at its Nantwich end
- Heavy vehicles at local junctions will cause serious hazards for traffic
- A yard can traditionally hold 5 plots
- GTAA refers to plots, application refers to yards
- Certificate A is defective
- Impact on highway safety
- Planning consent at nearby marina was conditioned to require works to take place indoors
- Impact on house values
- No details of waste facilities provided
- Further contamination will result from vehicles
- PBA Assessment did not involve contact with residents – biased and unfair
- Sites only considered for residential use, not business by PBA
- Impact on local schools
- No change since previous appeals
- Traffic impact is unknown
- Site is not brownfield
- Showmen's Guild website states: "As a rule of thumb one acre of land can accommodate ten showmen's caravans and accompanying vehicles and equipment".
- GTAA does not sufficiently differentiate between the accommodation needs of Gypsies and Irish Travellers as protected groups and Travelling Showmen who, are not a protected group
- Site has been re-gained by nature
- GTAA does not comply with requirements of Housing Act and NPPF in terms of accommodation needs in their area.
- GTAA fails to establish an evidence base on which it is entitled to conclude that those who "*own land in Cheshire East*" and "*who are currently based in Newcastle-under-Lyme*" are persons whose needs ought to be assessed by the Council under section 225.

- GTAA makes an assumption of “net migration sum to zero” for gypsies and travellers but not for Travelling Showpeople.
- ORS who compiled GTAA has compiled 26 others and in the majority of cases applied an assumption of zero net migration to both gypsies and travellers and travelling showpeople.
- A countrywide assessment would be the only proper and accurate means of calculating total in-migration
- GTAA makes no distinction whatsoever between wishes or aspirations and need
- Impact on human rights
- Application with English Heritage for the registration of Hack Green Aerodrome and the Secret Bunker as a heritage site
- Application for heritage designation made to English Heritage

Approximately 110 letters of support have been received noting that:

- For Showmen to sustain their way of life more permanent sites are needed
- Showmen are not Gypsies or Travellers
- Showmen have fine cultural traditions
- People are too quick to judge certain lifestyles
- Hack Green is only viable site in East Cheshire
- Site is screened by existing trees
- Set daily time for working and noise will be reduced by trees
- Up to 45% of land will be designated green space
- PBA report identifies the site as suitable and available
- Need for accommodation is more significant than distance to facilities
- Existing light industry business on the site
- Mains power will be used not generators
- Families have been forced away from Cheshire due to lack of sites
- 10 families will not overwhelm existing community
- Bring site back into active use
- Increase natural surveillance of open space
- Business people who just want to live and work on their own land
- Site will be provided at no cost to Council

An additional letter has been received from the applicant noting that all local GPs are currently accepting patients according to the NHS choices website.

APPRAISAL

The key issues 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 Planning Policy for Traveller Sites;
- (b) The effect of the proposed development on the character and appearance of the area;
- (c) The impact upon the living conditions of neighbours;
- (d) The impact upon highway safety;
- (e) The impact upon nature conservation interests; and

- (f) Whether there is any harm and conflict with policy, there are material considerations which outweigh any identified harm and conflict with policy.

ENVIRONMENTAL SUSTAINABILITY

Paragraph 11 of the PPTS states local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally, and that planning policies should:

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

Accessibility

Policy RES.13 of the Local Plan (Sites for Gypsies and Travelling Show people) criterion (4) states that proposal should be '*within easy reach of local services and facilities*', but does not elaborate on how far away a service is before it is not within easy reach. The more recent PPTS does not provide any further guidance on acceptable distances between traveller sites and local facilities.

It was noted by the Inspector in 2006 that the nearest primary schools are 2.2–3.6km away, the nearest high school 2.4km away, the closest supermarkets approximately 3.2km away and the closest post office some 4km away. The nearest railway station is 3km away in Nantwich town centre. These distances remain applicable to the current application. It is therefore considered that the location of the site is such that it is almost inevitable that the private car will be needed to access virtually all shops, services and facilities. The Inspector acknowledged that by providing a single permanent site in a broadly central location within the widespread circuit of fairs and events attended by the applicants could be a benefit by reducing distances travelled to events in some cases. However, she found that due to the rural location of the site, the distance from facilities, and the absence of public transport the site was not a suitable location for permanent quarters for showpeople.

It is considered that given the location of the site, the surrounding highway network, and the lack of street lighting and pavements in the area the proposal would generate a significant number of trips by private car, and as such the site is not in a sustainable location.

Character & Appearance of the countryside

Policy NE.2 of the Local Plan restricts development in the open countryside unless it is for one of a number of specified purposes. The proposed development does not fall into any of the identified categories and therefore conflicts with policy NE.2.

There is also a strict limitation on new traveller site development in the open countryside that is away from existing settlements identified in Policy H of the PPTS. This policy states local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing undue pressure on the local infrastructure.

The applicants' agent has clarified that there would be an average number of four people per plot. In respect of caravans, there would be a minimum of one and a maximum of two main accommodation units per yard (i.e. minimum 10, maximum 20 for the overall site). The main accommodation unit will either be a mobile home or Showman's living trailer. In addition, each plot may have one smaller touring caravan used either for ancillary bedroom accommodation or for taking out to the local fetes and fairs. A condition would be required to limit the numbers of caravans / living trailers on the site in the event that the application is approved.

The maximum height of the equipment/rides when on the site will not exceed four metres for most rides with the occasional one being five metres. In the event planning permission is granted a condition would also be required to limit the height of vehicles and equipment parked on the site to no more than five metres in height.

Nearest settled community

Policy C and policy H (para 23) of the PPTS require local authorities to ensure that the scale of such sites does not dominate the nearest settled community. In this case the nearest settled community is located within the 23 dwellings that lie adjacent to the site on Coole Lane, Crisham Avenue and Atcherley Close. In terms of numbers of occupants, with a maximum of 20 main accommodation units, the scale of the population occupying the site would be similar to the numbers of people that could occupy the dwellings. However, the application site is significantly larger than the area occupied by the existing dwellings, approximately 2.5 times the size, and would therefore be the dominant element in scale terms, compared to the existing settled community. As noted further below, the main visual impact would be from the north. Along this northern boundary, the proposal would more than double the extent that the existing buildings project into the field. The proposal will also bring structures closer to the public footpath to the east of the site.

A number of the letters received in representation have referred to the impact upon Impact on local infrastructure including schools, doctors and the water supply. The water supply is a matter that could be dealt with outside of the planning process.

In terms of the impact upon local medical facilities, a letter has been received from Audlem medical practice noting that it currently operates above the national average of patients per partner. They will not be able to take any more patients. However, the applicant has submitted information from the NHS choices website, which indicates all local medical practices, including Audlem are accepting new patients.

Comments are awaited from education to confirm whether local schools can accommodate the pupils generated by the proposed development.

Previously developed land

The Inspector in 2006 noted that the remains of structures have in the process of time blended into the landscape to the extent that they would be considered part of the natural surroundings. She notes that it was agreed at the Inquiry that the site was excluded from the definition of previously developed land as set out in Annex C to PPG3. Whilst these comments are acknowledged and no further works have taken place on the site since the appeal, the areas of hardstanding are still clearly evident to this day, as is the remaining building on the site. For this reason, the site is not considered to be excluded from the definition of previously developed land in the Framework. The site is considered to be brownfield.

The effective use of brownfield land is one of the matters that paragraph 24 of the PPTS requires local authorities to give weight to when considering applications. The other specified matters in paragraph 24 are: sites being well planned or soft landscaped in such a way to positively enhance the environment; promoting opportunities for healthy lifestyle, such as ensuring adequate landscaping and play areas for children, and not enclosing the site with so much hard landscaping, high walls or fences that would give the impression the occupants are deliberately isolated from the community.

Trees / landscape

No buildings are proposed within the site. Each of the 9 yards would be occupied by caravans, vehicles and equipment related to the occupation of the applicants as travelling showpeople. The vehicles and equipment would include: cars, vans, LGVs, HGVs, adult ride trailers, catering kiosks and small rides / goods trailers. Other than the maturing of the existing vegetation, the landscape situation appears to be similar to that described by the Inspector in 2006.

Groups of mature Sycamore, Birch, Ash and occasional Horse Chestnut are located around the boundary of the site which were likely to be present during the time of the RAF camp's operation. Whilst these are not protected by a Tree Preservation Order, nor is the site within a Conservation Area, their contribution to public amenity, landscape character and habitat value of the area would make them worthy of protection.

Pioneer species of Silver Birch, Goat Willow and Hawthorn have subsequently colonised between the areas of hard standing and an occasional young sapling Oak can be found which would ultimately form the high forest canopy cover in the long term.

It is anticipated that the application (and ultimate use of the site) would result in the loss of the natural regeneration that has occurred within the site. As there are other valuable habitats within the site as referred to in the consultation comments of the nature conservation officer, any retention and management of areas of woodland would need to be considered within the Habitat Management Plan suggested by the Council's nature conservation officer.

The site can be viewed from Coole Lane to the north and the south and is currently viewed simply as a large vegetated area extending to the rear of the existing residential development. When viewed from the south along Coole Lane the proposed development would be well screened by a line of existing mature trees and other planting. Similarly, the eastern boundary

has pockets of tree groups and shrubs, which would not screen views but would provide some filtering of views from the public footpath located approximately 230 metres from the eastern boundary of the site.

From the west, the properties on Coole Lane that back onto the site will be screened by existing trees and hedges and the properties on Atcherley Close that back onto the site have a small contractor's yard between it and the application site that stores vehicles, plant, tools and materials. Beyond the existing contractor's yard, additional planting will take place within the landscape buffer that will further reduce the visual impact from these properties.

The northern end of the eastern boundary and the northern boundary itself is the area where the existing boundary vegetation is most sparse. Landscape proposals have been submitted, and the landscape officer has noted that the proposed planting is acceptable, with the exception of the northern boundary. He advises that existing vegetation along this boundary is sparse and although a fairly substantial belt of planting is proposed, the landscape plan identifies that all trees and underplanting shrubs will be 60-90cm in height. A number of specimen trees should be planted along this boundary to provide more immediate mitigation, which could be conditioned.

This view is consistent with the Council's Site Identification Study, which noted that, *"This previously developed site has considerable scope for accommodating a Travelling Showpeople's site without giving rise to significant adverse landscape or visual effects. However, any proposal needs to respect the site's boundaries, allowing sufficient space for the retention of existing trees and hedgerows and for reinforcement of these boundaries"*.

However, the Inspectors in both previous appeals for travelling showpeople accommodation on this site raised concerns about the effectiveness of a landscape scheme during the winter months, and the length of time it would take to establish. The winter months are when the site will be occupied by the greatest number of residents, caravans and vehicles and as such will be the period when effective landscaping will be most required. Other than the maturing of the existing vegetation, there hasn't been any material change in circumstances on the site in landscape terms since the last appeal in 2006. The Inspector in 2006 made similar comments about the maturing landscaping since the appeal in 1995.

Whilst some evergreen planting is proposed (Holly), it is limited in numbers and it would also not be appropriate in the context of the local area to have a wholly evergreen planting scheme. It is therefore still considered that the effectiveness of the landscaping will be compromised for many years, and especially in the winter months, when it will be most required. Therefore, due to the nature and extent of the vehicles, caravans and trailers that will be parked on the site, there will be an urbanising impact upon this rural area. As such there will be harm to the character and appearance of the area, and the proposal will conflict with one of the bullet points of policy RES.13, which seeks to avoid visual encroachment into open countryside.

Amenity

As noted above, during the summer months the majority of residents on the site would be travelling, and the site would be occupied by relatively few people, and the equipment would not be there to require maintenance. General levels of comings and goings at this time of

year would be relatively low and are unlikely to result in a significant impact upon the living conditions of neighbours.

During the winter months the numbers of people on the site would increase, and as such there would be a respective increase in vehicle movements, in addition to any required maintenance work on the equipment. Traffic movements in the winter have been identified at approximately 15 trips per hour, which is the same as the previous appeals. The conclusions of the appeals 1999 were that whilst the increase in traffic arising through the proposed use of the site would be noticeable to local residents, it would not seriously harm their living conditions. In 2006 the Inspector observed that fairground vehicles could return to the site late into the evening, given that some fairs do not finish until around 10pm. This was identified as something that could cause an unacceptable degree of noise and disturbance to local residents. However this issue was “not a determinative matter” for the inspector but it did add weight to her concerns about the suitability of the site.

The area in which the application site is located is a quiet rural area, with very low levels of background noise. Therefore any increase in levels of activity on the application site would be noticeable. The potential for vehicles to return to the site at any time during the night would have a significant impact upon the living conditions of the existing residents. In 2006, the Inspector considered whether this could be overcome through the use of a condition that prevented vehicles entering or leaving the site between 0700 and 2400 hours. It was concluded that it would not overcome the concern as traffic could still cause significant noise and disturbance before midnight. This is still the case now. It is also considered that any restrictions upon the hours the applicants can access their homes is an unreasonable one. The proposal is therefore considered to be contrary to policy BE.1 and RES.13 of the local plan.

The noise arising from the maintenance of the equipment would also have an impact upon the living conditions of neighbours, given the scale of the development and the fact that any maintenance works would not be contained within a building. However, this is not a matter that has resulted in previous appeals being dismissed. Environmental Health has also recommended a restriction of the hours when maintenance work can be carried out in order to further protect residential amenity. Subject to this condition, the impact of maintenance work upon neighbouring properties is considered to be acceptable.

From an air quality perspective, Environmental Health confirms that the air quality impacts from this proposal would be negligible with no requirement for mitigation.

One of the objections refers to the inconsistency between the Environmental Health consultation response on this application compared to their response to another major development in the Borough. The requirements imposed on the respective applicants are significantly different. As expected, the response from Environmental Health is that they assess every application individually and read all of the information submitted, conducting site visits where necessary, before they make their recommendations/comments to Planning.

Ecology

The nature conservation officer has provided the following comments on the proposal:

Great Crested Newts

Due to the lateness of the season when the great crested newt survey was undertaken and access constraints a full survey in accordance with the Natural England guidelines has not been undertaken. The survey has however confirmed the presence of breeding great crested newts at a pond adjacent to the development site and based on historical surveys and the known abundance of this species in Cheshire it is reasonable to conclude that a 'Medium' sized great crested newt meta-population is likely to be present in the locality.

In the absence of mitigation the proposed development is likely to result in a Low-Medium scale adverse impact upon great crested newts. To mitigate the potential impacts of the proposed development the applicant is proposing to trap and exclude newts from the footprint of the proposed development (under the terms of a Natural England license) and the loss of habitat associated with the development would be compensated for through the provision of a 0.4ha receptor site which includes 10 hibernacula which would be supplemented by a 1.2ha habitat area located around the site boundary with a significant number of additional hibernacula.

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places.

In the UK, the Habitats Directive is transposed as The Conservation of Habitats and Species Regulations 2010. This requires the local planning authority to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must consider the three tests in respect of the Habitats Directive, i.e. (i) that there is no satisfactory alternative, (ii) that the development is of overriding public interest, and (iii) the favorable conservation status of the species will be maintained. Evidence of how the LPA has considered these issues will be required by Natural England prior to them issuing a protected species license.

Current case law instructs that if it is considered clear, or very likely, that the requirements of the Directive cannot be met because there is a satisfactory alternative or because there are no conceivable "other imperative reasons of overriding public interest" then planning permission should be refused. Conversely if it seems that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements would be met or not, a balanced view taking into account the particular circumstances of the application should be taken.

Alternatives

The Council has carried out its own site identification study for Gypsies and Travellers and Travelling Showpeople. The application site was the only site for travelling showpeople identified as available for the proposed development. No other sites are known, however, in 2006 the Inspector considered that whilst investigations for an alternative site had so far been unsuccessful, that was not the same as concluding that there might not be some feasible alternative, for example, disaggregating the group. This is still considered to be the case.

Overriding public Interest

Whilst a need for travelling showpeople plots has been identified in the 2014 GTTSAA, and no alternative sites are currently known, as explained further below, these matters do not outweigh the harm arising from the proposal, and the proposal is therefore not considered to be of overriding public interest.

Mitigation

A comprehensive mitigation scheme has been proposed, which essentially utilises a landscape buffer area around the perimeter of the site to improve GCN habitat in this area. The Council's nature conservation officer advises the proposed mitigation is acceptable and is likely to maintain the favourable conservation status of the great crested newt meta-population.

On the basis of the above it is considered that requirements of the Habitats Directive would not be met.

Habitats

The application site supports a mosaic of grassland, tall ruderal, ephemeral and scrub habitats together with areas of hard standing.

The nature conservation officer advises that the habitats present upon the application site, with the exception of the areas of scrub and hard standing, would be likely to qualify as a Local Wildlife Site under selection criteria H7 Neutral Grassland. Habitats of this type are a UK BAP priority habitat and listed on section 41 of the Natural Environment and Rural Communities Act and consequently are a material consideration for planning.

Whilst some areas of valuable habitat would be retained as part of the great crested newt compensation areas, some would be lost. The nature conservation officer considers that the proposed landscaping scheme for the site would not compensate for the loss of biodiversity associated with the proposed development. The landscaping plan seeks to retain the trees around the boundary of the site together with areas scrub (which is a lesser value habitat to the open mosaic of habitat associated with the interior of the site). The landscape plan also seeks to plant up the more open areas around the site boundary with screening planting which again is a habitat type which is not considered a priority for nature conservation.

If the Council is minded to grant consent for this application and the loss of habitat is considered to be unavoidable the nature conservation officer recommends that the applicant undertakes and submits an assessment of the residual ecological impacts of the proposed development using the Defra biodiversity offsetting 'metric' methodology. This would enable the residual impacts of the development be calculated to enable them to be off-set by means of a commuted sum that could be utilised to fund off-site habitat creation/enhancement.

However, in other cases where applicants have not undertaken an assessment the alternative is to provide a financial contribution that the nature conservation officer has calculated.

In this case it is estimated that the proposed development would result in the loss of approximately 1ha of habitat which is of more significant biodiversity value. The following method of calculating an appropriate commuted sum is based on the Defra report 'Costing

potential actions to offset the impact of development on biodiversity – Final Report 3rd March 2011’):

The loss of habitat (Semi improved grassland and associated habitats) amounting to approximately 1ha.

- **Cost of creation of Lowland Grassland 1ha x £11,293.00 (cost per ha) = £11,293.00 (Source UK BAP habitat creation/restoration costing + admin costs)**

The applicants’ agent has confirmed their agreement to this approach.

Grass snakes

There are anecdotal records of this species being present on site. The great crested newt mitigation strategy would also be broadly appropriate to mitigate potential impacts upon reptile species; however a specific reptile mitigation strategy has also been incorporated into the submitted GCN mitigation. If planning consent is granted the implementation of this strategy would be secured by condition.

Bats and barn owls

A tree has been identified on the northern boundary of the site as having potential to support roosting bats and barn owls. This tree is located within the proposed great crested newt receptor area and so is unlikely to be affected by the proposed development.

Breeding birds

The application site is likely to support a number of breeding bird species including those which are UK BAP priority species and hence a material consideration. The potential impacts of the proposed development on breeding birds would be partially mitigated through the provision of the great crested newt compensatory habitat. In addition a condition would be necessary in the event of an approval requiring the submission of a breeding birds survey prior to the removal of any vegetation.

Badgers

The submitted phase one survey states that preliminary surveys were undertaken for badgers. The applicants’ consultant has confirmed that no evidence of badgers has been recorded during the ecological surveys undertaken on the site.

Conditions

If planning consent is granted the following conditions would be required:

- Implementation of GCN mitigation strategy
- Submission of 10 year Habitat management Plan
- Safeguarding of breeding birds

Highways

The Strategic Highways Manager (SHM) has commented on the application, and notes that the highways information supplied with the application indicates that there is a seasonal use with the majority of trips taking place in the winter months. The predicted traffic generation in relation to the winter is 15 trips in the hour. Given that there are so few sites similar to that currently proposed it is difficult for the SHM to check the validity of the trip information. Local residents have suggested that the potential usage of the site in terms of traffic generation will

be far in excess of the levels indicated by the applicant. Given the scale and nature of the site there is potential for numerous other residential units to be located within it, although the SHM has stated that he would expect a condition to be attached to limit the number of residential units on the site. However, it is also noted that the existing road infrastructure in Crisham Avenue is of sufficient standard to accommodate considerably more traffic movements than has been indicated, including the existing residential trips.

The tracking movements of HGV's using Crisham Avenue and the junction has also been submitted. The tracking of vehicles can be accommodated within the highway without over running of the footways. The internal site area is also large enough for there to be no internal design issues relating to highways, other than to confirm that it will be a private development and not adopted.

Given that the use of the site will include trips to the site by large heavy goods vehicles Highways have raised the issue of the existing weight restriction Traffic Regulation Order (TRO) on the bridge that crosses the canal (some distance to the south of the site) that limits the weight of vehicles to 10T. The Strategic Highways Manager has objected to the proposal on the grounds that it is not appropriate to allow a use on a road that would be in direct contravention of an existing TRO.

The comments from the Strategic Highways Manager are noted, however, the site can be accessed from the Nantwich (north) end of Coole Lane without crossing the weak bridge, and therefore the bridge is not considered to represent a constraint upon the development. Although it does add some weight to the overall concerns about the suitability of the site for the proposed development.

In summary, whilst the level of traffic predicted is likely to be on the conservative side, in technical terms both Coole Lane and Chisham Avenue can accommodate traffic levels well in excess of that being predicted. The level of car generation from the site is not one that can be deemed as a severe impact on the local highway network which has relatively low existing traffic flows. In these circumstances, no highways objections are raised, and the proposal complies with policy BE.3 of the local plan.

SOCIAL SUSTAINABILITY

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

Need

Travelling showpeople are not a recognised ethnic group under the Equalities Act 2010, but within Planning Policy for Traveller Sites 2012 they are defined as:

Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their family's or dependant's more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily or permanently, but excludes Gypsies and Travellers as defined above..

The PPTS requires local authorities to identify and update annually, a supply of deliverable sites sufficient to provide five years worth of sites for gypsies, travellers and travelling showpeople against their locally set targets, and identify a supply of specific, developable sites or broad locations for growth for years six to ten and, where possible, for years 11-15.

In 2013 Opinion Research Services (ORS) was commissioned by the local authorities of Cheshire to undertake a Gypsy, Traveller and Travelling showpeople Accommodation Assessment (GTTSAA). The local authorities involved were: Cheshire West & Chester, Cheshire East, Halton and Warrington. Prior to this the last Gypsy and Traveller Accommodation and Related Services Assessment was published in 2007.

The study provides an evidence base to enable the Councils to comply with their requirements towards gypsies, travellers and travelling showpeople under the Housing Act 2004, the National Planning Policy Framework 2012 and Planning Policy for Traveller Sites 2012. It provides up-to-date evidence about the accommodation needs of gypsies, travellers and travelling showpeople in the study area up to 2028.

The research methodology for identifying the housing needs of gypsies, travellers and travelling showpeople adopted in the GTTSAA was largely based upon face-to-face interviews with gypsies, travellers and travelling showpeople across Cheshire. ORS undertook a census of gypsy, traveller and travelling showpeople households in April to June 2013. Interviews were sought with every known gypsy, traveller and travelling showpeople household present during this time period and 131 interviews were achieved in total on gypsy and traveller sites, with a further three interviews in bricks and mortar and ten interviews on travelling showperson yards. Though only one member of each household was interviewed, the survey questions cover other members of the same household. It should be noted that Traveller households may occupy several caravans.

For travelling showpeople, the most common descriptions used are a plot for the space occupied by one household and a yard for a collection of plots which are typically exclusively occupied by travelling showpeople. Throughout this study the main focus was upon how many extra pitches for Gypsies and Travellers and plots for travelling showpeople are required in Cheshire.

Existing provision for travelling showpeople within Cheshire East has been identified as one family yard at the White Showman's Yard, Newcastle Road, Berereton with a further single yard identified on an unauthorised development at Booth Lane, Sandbach.

Current provision within Cheshire is therefore limited. The Showmen's Guild worked with ORS to provide firm evidence of households seeking to move to Cheshire as 'in-migrants'. The GTTSAA notes that whilst there is no clear reason why any of the above groups or households' needs must be met in Cheshire, there is also no reason they must be met

anywhere else, and they have identified the area they want to have them met as being Cheshire. ORS and the Cheshire authorities cannot ignore the needs of these households and their stated requirement for accommodation in Cheshire. The PPTS is clear where it states that local authorities should determine applications for sites from any travellers and not just those with local connections.

For gypsies and travellers, ORS has counted any household who are on unauthorised sites and wish to remain there as being part of the needs of that area. In this case, none of the travelling showpeople have chosen to move on to the yard they own and instead all wish to work with the respective Local Authorities to find a solution to their problems. It would be a rather perverse incentive to count households who buy land and move on to it as need, but not those who seek to work through the planning process before occupying the site.

The GTTSAA used four sources for identifying requirements for the showperson population in Cheshire, namely concealed households, those on an unauthorised yard, groups of travelling showpeople who are seeking accommodation in the area and the growth in the population over time. In total, the area requires 44 extra plots to 2028. The study found that 13 extra plots for travelling showpeople are required in Cheshire East from 2013-2028. This can be broken down as 11 plots for the period 2013-2018, 1 plot for the period 2018-2023, and 1 plot for 2023-2028. These are the figures that have been carried forward into policy SC7 of the emerging local plan.

This Policy was subject to consideration by Inspector Stephen Pratt during hearings held in the autumn of 2014 as part of the Examination of the Local Plan Strategy. Although in his Interim views published in November, it was stated that policies such as SC7 did not raise fundamental concerns, the full outcome of these hearings is as yet unknown. At the examination, objection was raised to the evidence base in particular, with the suggestion that the quantum of identified requirement for new sites reflected aspiration rather than a genuine need for accommodation.

Similar points are made in relation to the current application. There has been some suggestion in the letters of objection that the need identified in the GTTSAA, insofar as it relates to travelling showpeople in Cheshire East, is not supported by a robust evidence base. It is claimed that the GTTSAA itself does not establish an accommodation need for the travelling showpeople who own land in Cheshire East and who are seeking to develop it to provide nine plots. The site would meet the desires of the applicants rather than an essential need.

Such arguments have been made elsewhere in the country, for example there was an appeal in Selby where the planning inspectorate has found in favour of the Travelling Showpeople, noting that two previous inspectors found the particular accommodation assessment based on robust evidence, and it was the only robust evidence available. If an area currently contains no population then any needs must arise from in-migration. ORS, the organisation that carried out the GTTSAA on behalf of Cheshire East, Cheshire West, Halton and Warrington, have confirmed that they have adopted a similar position with other local authority needs assessments. It is also notable that the Inspector's report on the Cheshire West and Chester Local Plan stated that the GTTSAA provides a "robust evidence base for future provision in the Borough". However whilst the findings of the Cheshire East Inspector are yet

to be published and there remain outstanding objections to the evidence base, the weight that can be given to the precise quantum of need is at the current time, accordingly diminished.

Site Identification Study

Peter Brett Associates were appointed by the Council to carry out research to identify gypsy, traveller and travelling showpersons sites across the Borough. Sites have been assessed to determine if they are suitable, available and achievable. It is intended that the results of the study will be used to inform the development of relevant policies and allocations and to guide the consideration of planning applications.

Travelling showpeople sites often combine residential, storage and maintenance uses. Typically a site contains areas for accommodation, usually caravans and mobile homes, and areas for storing, repairing and maintaining vehicles and fairground equipment. These combined residential and storage sites are known as plots.

Potential sites were established from a review of information relating to: a call for sites; existing authorised sites subject to full, temporary or personal consents or certificates of lawful use; existing unauthorised and tolerated sites and encampments; other sites owned by gypsies, travellers and travelling showpeople; surplus Council owned land; sites from previous and current land studies; housing allocations and potential urban extensions, and; sites owned by Registered Providers (housing associations).

From this study, one site was identified as being potentially suitable for Travelling Showpeople to meet identified future needs in the short to medium term period. The one site is the former Hack Green RAF camp, the current application site, which could provide 9 plots in total.

It should be clarified that the site identification study does not allocate land for the proposed use, or confirm the acceptability in planning terms of the identified sites. It simply serves to highlight options available to the Council to meet the identified need for accommodation for gypsies, travellers and travelling showpeople within the Borough. However, it is acknowledged that the application site is the only site that has been identified for travelling showpeople through this process.

Alternatives

The submitted planning statement notes that over the years the applicants have also undertaken searches for sites for Travelling Showpeople and this was updated in March 2014 by emails sent to 7 Local Authorities "within the environments of Cheshire East". In addition a Land Wanted advert was sent out to Local Land and Estate Agents in the Towns of Knutsford, Congleton, Stoke-on-Trent, Newcastle-under-Lyne, Newport, Market Drayton, Nantwich, Whitchurch, Wrexham, Chester, Winsford and Northwich. This follows identification of a site search area within 20 miles.

Their requirement to be located in Cheshire East arises from the circuit of fairs attended by the applicants in and around Cheshire, and the fact that many of the group originate from Cheshire.

ECONOMIC SUSTAINABILITY

With regard to the economic role of sustainable development, the proposed development has the potential to bring increased trade to nearby shops and businesses.

RESPONSE TO OBJECTIONS

With regard to the comments received in representation not addressed above, the site is not allocated as open space within the local plan, and is privately owned. Therefore, in planning terms there is not an identified loss of open space. Calls for the site to be listed as a heritage asset are acknowledged, however the site has remained vacant for approximately 40 years and no steps have been taken in that time for it to be designated as such. The site has no designation within the development plan as a heritage asset, therefore there is no conflict with the development plan in this regard. It is accepted that the 2012 SHLAA identifies the site as not suitable and not sustainable for residential development, and that traveller sites should not be located in areas where housing would not be acceptable. However, the SHLAA is not a policy document, and does not confirm the acceptability or otherwise of specified development on particular sites. There is also no evidence to suggest that the development will have a detrimental impact upon local tourism. A health impact assessment has not been submitted with the application; however there is no formal requirement for one to be submitted.

Reference is made within the objections to the Peter Brett report suggesting that the local plan should ignore the 2008 document Designing Gypsy and Traveller Sites – Good Practice Guide. This guidance is primarily intended to cover social site provision for Gypsies and Irish Travellers and notes that further material on the development of sites designed specifically for travelling showpeople will be produced at a later date.

PLANNING BALANCE

Having regard to the rural location of the site, the distance from facilities, and the absence of public transport the site is not considered to be in a sustainable location. This would have adverse implications in terms of use of natural resources and movement towards a low carbon economy, as the proposal would result in a significant number of trips by private car being generated. The site is not readily accessible by public transport, and the absence of footpaths and street lighting on both sides of Coole Lane severely limits its attractiveness to pedestrians. The proposal would also cause harm to the character and appearance of the countryside due to the visual exposure resulting from the limited existing screening along the northern boundary, and the limited effect particularly during the winter months when the site will be most populated of the proposed planting scheme. There would also be an unacceptable impact upon the living conditions of existing residents arising from the comings and goings associated with the use of the site, which could potentially be at all hours. There is therefore considered to be significant conflict with the environmental role of sustainable development as set out in the Framework.

Balanced against this is the need for accommodation for travelling showpeople in the Borough and the lack of available alternatives. A total of 13 additional plots are required within the Borough for the period to 2028. Even with the outcome of the Local plan examination outstanding, weight should be attached to this unmet need in favour of the application.

Alongside this the Council's own site identification study highlights the application site as the only site with the potential to accommodate travelling showpeople. There are currently no alternative sites that are available to the applicants or any other travelling showperson. The lack of any alternative site now and in the future also carries significant weight in favour of the proposal.

The Council does not have an adopted policy that is based on an accurate assessment of need in the Borough. A 5 year supply of deliverable sites cannot be demonstrated, which is matter that also weighs in favour of the application.

The appeal in 2006 preceded the 2007 GTAA, and therefore there was no formal "need" documented. However, the Inspector accepted the appellant's evidence that all existing sites in the Cheshire area were full, indicating a lack of alternatives. She also acknowledged that the current accommodation arrangements of a number of the group were unsatisfactory. Even though the applicants wanted their accommodation requirements to be met in Cheshire, the Inspector concluded that this set of circumstances did not equate to imperative reasons of overriding public interest (for the purposes of satisfying the tests of the Habitats Directive). This remains the situation with the current application, alternatives are not currently available and existing accommodation arrangements are apparently unsuitable.

The existing need has been derived from ORS, on behalf of the Cheshire Partnership Councils, working with the Showman's Guild to provide firm evidence of households seeking to move to Cheshire as "in-migrants". The applicants have identified that they want their need to be met in Cheshire. As noted above, the applicants were also seeking to move to Cheshire in 2006 in similar circumstances, and therefore little appears to have changed since the last appeal. The same conclusions can therefore be drawn.

Whilst it is accepted that the Council's own site identification study only identified the application site as a potential site for travelling showpeople, it does not confirm its acceptability as such. Indeed, the use of the site for travelling showpeople quarters has been the subject of two planning appeals and considered as part of a local plan process in 2004 /2005. On all three occasions the site was found to be unsuitable for such a use.

The site is not in sustainable location, and the numbers of trips to and from the immediate area will significantly increase as a result of the proposed development. In addition a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development. Due to the identified harm to the character and appearance of the area and the living conditions of neighbours, there are no reasons of overriding public interest to allow the proposal. The proposal therefore fails to meet the tests of the Habitats Directive. Taken together, these matters result in significant conflict with the environmental role of sustainable development.

The only identified contribution to the economic role of sustainable development is the potential to bring increased trade to nearby shops and businesses. However, the nearest shops and services are located in Nantwich as there are virtually no facilities close to the application site. Whilst there maybe some increased trade for Nantwich businesses, the proposal will do little to help sustain rural shops, businesses and communities.

The provision of permanent accommodation for this group of travelling showpeople is a clear benefit of the proposal. However, whilst the requirement for sites and the current lack of alternatives weigh in favour of the proposal, they are not considered to outweigh the identified harm. Even if policy SC7 of the emerging local plan is accepted at the local plan examination and the need is confirmed, site specific factors are sufficient to override need. Weighing this harm against the matters in favour of the proposal and the potential imposition of conditions would not make the development acceptable even for a temporary period. The proposal is therefore considered to be contrary to policies NE.2, BE.1, RES.13 of the local plan, Policy H of the Planning Policy for Traveller Sites, the National Planning Policy Framework and the requirements of the Habitats Directive.

The proposal is therefore not considered to be a sustainable form of development.

Human Rights and Safeguarding Children

Local Planning Authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned. Article 8 of the Human Rights Act 1998 states that everyone has the right to respect for his private and family life, his home and his correspondence. It adds there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals or the protection of the rights and freedoms of others.

Local Planning Authorities also have a duty to safeguard and promote the welfare of children under section 11 of the Children's Act 2004. In addition, the 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.

RECOMMENDATION

For the reasons set out above, the application is recommended for refusal.

Application for Full Planning

RECOMMENDATION: Refuse for the following reasons

1. R05LP The proposal would be harmful to the character and appearance of the countryside.
2. R07MS The proposal would have an adverse impact upon the living conditions of neighbours.
3. The site is located in an unsustainable location, and is not within easy reach of local services and facilities.
4. Due to the environmental harm identified, there are no reasons of overriding public interest to allow the proposal. The proposal therefore fails to meet the tests of the Habitats Directive.

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