

Application No: 15/5650C

Location: THIMSWARRA FARM, DRAGONS LANE, MOSTON

Proposal: Variation or removal of Condition 5 on application 14/3086C

Applicant: Mr P Cosnett

Expiry Date: 08-Feb-2016

## **SUMMARY**

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 some adverse implications in terms of use of natural resources and movement towards a low carbon economy. In addition, there will be further, but still limited, adverse impact upon the character and appearance of this rural area arising from the visual impact of the proposal, when compared to the existing development. There is therefore conflict with the environmental role of sustainable development as set out in the Framework.

Balanced against this is the significant identified need for accommodation for gypsies and travellers in the Borough and the lack of available alternatives. A total of 69 additional plots are required within the Borough for the period to 2028. Whilst 24 additional permanent pitches have been granted planning permission since the publication of the GTTSAA, they are not currently available, and substantial weight should still be attached to this unmet need in favour of the application.

Alongside this the Council's site identification study rejects the application site as a potential site for additional provision noting that it is in an unsuitable location and would have an unacceptable impact upon landscape character. However, there are currently no alternative sites that are available to the applicants or any other gypsy or traveller. The lack of any alternative site now and at least for the immediate 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 definition of sustainable development set out in the Framework includes

more than an assessment of the proximity of the site to shops, services and facilities. It should be viewed in environmental, social and economic terms. Given the Inspector's conclusions on the original application where he identified that the poor accessibility of the proposed development and the limited harm to the character and appearance of the area were clearly outweighed by the substantial unmet need for gypsy and traveller pitch provision in Cheshire East, which still remains despite recent planning permissions, it is considered that the same conclusions should be drawn again, given the limited additional harm arising from two extra pitches in this case. It is also important to note that the Inspector stated that, "This would be the case irrespective of whether specific gypsies or travellers had been identified as prospective occupiers".

The statement put forward by the applicants notes that the current occupants of the site are the applicant, his wife and three children (two of which are school age). The proposal would provide accommodation for the whole family (son and married daughter would occupy the other plots) and provide a settled base where the family can access healthcare and schooling.

The Inspector in the original appeal also noted that Policy H of the PPTS specifies that new traveller site development in open countryside should be strictly limited and that, consequently, the location of the appeal site was far from ideal. He also acknowledged that new pitches are likely to become available through the development plan process by 2015.

The PPTS was revised in August 2015 and now policy H states that "Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan." The word "very" has now been inserted before "strictly limit" presumably to increase the protection given to open countryside locations, such as the application site. In addition, whilst the local plan process has been subject to delay, there are clear indications of additional pitches coming forward (evidenced by recent planning permissions) and now that the local plan process has resumed, further new pitches are again likely to become available through the development plan process, in order to meet the identified need. However at this moment there remains a significant unmet need for gypsy and traveller pitches.

As such, the situation is similar to that considered by the Inspector in 2012 with the Council working towards delivering site allocations as part of the development plan. Therefore, having regard to the limited additional harm arising from the current proposal, the stage of the local plan and site allocation process for gypsy and traveller site provision, it is considered that a temporary permission for the additional pitches can be justified in order for the Council to be given the opportunity to provide these site allocations on suitable sites, and to cater for the site owner's short term needs. It is recommended that this permission is aligned with the existing consent until 14 September 2018.

## **SUMMARY RECOMMENDATION**

Temporary approval subject to conditions

## **REASON FOR REPORT**

The proposal was called to committee by Cllr Wray, the local ward member for the following reasons:

- 1. At the request of Moston Parish Council because of considerable public interest.*
- 2. The conditions that were applied at the time are still relevant today and there is no cogent reason to alter them.*

## **PROPOSAL**

The application seeks to vary Condition 5 (number of pitches) on Application 14/3086C. Condition 5 stated:

*No more than one residential pitch shall be provided. No more than two caravans shall be stationed on the land at any one time, only one of which shall be a residential mobile home.*

The applicant is seeking consent for a further two residential pitches, which will increase the number of pitches from 1 to 3 and the total number of caravans from 2 to 6.

## **SITE DESCRIPTION**

The application site occupies a position on the corner of Plant Lane and Dragons Lane and is located within the Open Countryside as identified in the Congleton Borough Local Plan First Review. The site currently comprises a gravelled surface with one mobile home, two touring caravans, a mobile day room, stable block and a shipping container.

## **RELEVANT HISTORY**

14/3086C - REMOVAL OF CONDITION 2 (TIME LIMIT) ON APPLICATION 11/3548C - CHANGE OF USE OF LAND TO USE AS RESIDENTIAL CARAVAN SITE FOR ONE GYPSY FAMILY WITH TWO CARAVANS INCLUDING LAYING OF HARDSTANDING AND ERECTION OF STABLES – Further temporary permission approved 06.10.2015

11/3548C - CHANGE OF USE OF LAND TO USE AS RESIDENTIAL CARAVAN SITE FOR ONE GYPSY FAMILY WITH TWO CARAVANS, INCLUDING LAYING OF HARDSTANDING AND ERECTION OF STABLES – Refused 23.02.2012, Appeal allowed 14.09.2012

## **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) 2015 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 Congleton Borough Local Plan First Review 2005, which allocates the whole site as open countryside

The relevant Saved Policies are:

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

### **Cheshire East Local Plan Strategy – Proposed Changes 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**

**Environmental Health** – Comments not received at time of report preparation

**Head of Strategic Infrastructure** - Comments not received at time of report preparation

**Brine Board** – No objections subject to condition relating to foundation design

**Moston Parish Council** – Object to the proposal on the following grounds:

This condition re-imposed by Cheshire East Council in 2015 was originally imposed on planning application 11/3548C by The Planning Inspectorate, an executive agency sponsored by The Dept. for Communities and Local Government. Moston Parish Council is not convinced such a condition/decision should be removed by a local authority. This was reinforced by a decision of Cheshire East Borough Council to refuse an application to extend Thimswarra Farm by an 2 extra pitches in January 2013 (12/3847C refers) and the Peter Brett report instigated by Cheshire East Council to find additional sites. The final paragraph and summing up of this site in their report states. The site is unsuitable as a location for permanent or any additional development.

There is a lack of information as to the specific requirement for this condition to be removed.

## **REPRESENTATIONS**

14 letters of representation have been received objecting to the proposal on the following grounds:

- Same application as 12/3847C, which was refused
- Other unauthorised structures on the site
- Lack of information
- Expansion of this site is against the NPPF/PPTS
- Visual harm
- Over development
- Unsustainable location
- Peter Brett report states - *“The site is unsuitable as a location for permanent or any additional development”*.
- Inadequate public consultation on application
- National Grid not consulted

## **APPLICANTS SUBMISSION**

A statement has been submitted on behalf of the applicant, which summarises how the proposal satisfies relevant planning policies, and outlines the family circumstances and requirement for the additional two pitches, which are for the applicant's son and daughter.

## **APPRAISAL**

The key issue in the determination of this application is whether the condition restricting the number of pitches is reasonable or necessary in the interests of the following matters:

- (a) Whether the site is in an appropriate location for the 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) Whether there is any harm and conflict with policy, there are material considerations which outweigh any identified harm and conflict with policy.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Character and appearance**

There is a very 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.

In his decision letter, granting the original permission on this site, the Inspector identified that the presence of a mobile home and touring caravan *“would be likely to cause discernible, albeit limited, harm to the character and appearance of the countryside”*, and he found that there would be *“a degree of conflict with saved LP Policies H8, GR1 and GR2 and national policy in the PPTS and NPPF”*.

In this case, there would be an additional 4 caravans on the site, which would intensify the use of the site, increase the visual impact of the development and harm to the character and appearance of the countryside. However, the caravans would all be located within the existing area of hardstanding and there would be no further encroachment into the countryside. Whilst there is screening to the Dragons Lane and Plant Lane boundaries of the site, although not prominent features, the additional caravans would be visible, and there would therefore still be some conflict with local plan policies H8, GR1 and GR2 of the local plan and national policy in the PPTS and NPPF. Given the nature of Moston Green as a dispersed settlement of individual and small groups of dwellings, the proposed development would form another small group of dwellings which would not dominate the settled community. This approach, and identification of harm to the character and appearance of the countryside is consistent with previous Inspectors who have considered previous applications on this field.

### **Accessibility**

Policy H8 of the local plan set out criteria which proposals for gypsy caravan sites are expected to comply with. One of these is that, wherever possible, such sites should be within 1.6 kilometres of existing local shops, community facilities, a primary school and public transport facilities. The more recent PPTS does not provide any further guidance on acceptable distances between traveller sites and local facilities

The Inspector on this site and the Inspector who considered the appeal on the adjacent site both acknowledged that policy H8 in the local plan is consistent with the Framework and the PPTS. Both Inspectors also identified that most facilities are beyond the 1.6kms specified in the local plan, that most journeys to and from the site would be by private car, but that these journeys would be relatively short and limited in number. The current proposal would therefore conflict with the requirements of policy H8 of the local plan.

### **Amenity**

No significant impact upon the living conditions of neighbours were identified at the time of the previous appeal, and it is considered that the presence of an additional two pitches would not

have a significantly adverse impact upon the living conditions of neighbours in accordance with policy GR6 of the local plan.

## **Highways**

The Head of Strategic Infrastructure (HSI) raised no objections to the original proposal. The Inspector was also satisfied that access and parking arrangements would be adequate and additional traffic generated by the proposed use would have a negligible impact on highway safety, in accordance with policies GR9 and GR17 of the local plan. Comments are awaited from the HSI on the current proposal; however, it is not considered that two additional pitches would have any significant impact upon the traffic generation for the site. No highways issues are therefore anticipated, but further clarification will be reported as an update.

## **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**

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 (GTTSA). 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 2015. It provides up-to-date evidence about the accommodation needs of gypsies, travellers and travelling showpeople in the study area up to 2028.

In terms of future need within Cheshire East, an extra provision totalling 69 pitches is required to 2028. Over 5 year periods, this translates to 32 pitches between 2013-2018, 17 pitches between 2018-2023 and 20 pitches between 2023-2028. There was also a recommendation

within the GTTSAA that the Council provide a transit site of between 5 and 10 pitches in order to address unauthorised encampments.

In June 2015, the Council granted approval for an additional 24 permanent pitches at Three Oaks Caravan Park, Booth Lane, Moston, which does go some way towards meeting the first five year requirement to 2018. This permission has been implemented, but the pitches have not been provided to date. Additionally a transit site comprising 9 pitches and a warden's pitch was granted approval at Cledford Lane in Middlesbrough in May 2015. This permission has not been implemented. It is however clear that the Council is taking steps towards addressing the need for additional traveller pitches within the Borough.

### **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.

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).

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.

In terms of the application site, the Peter Brett report rejects the site as an option for permanent development stating that:

*Although the site has temporary permission for Gypsy and Traveller use, the site is not suitable for full planning permission, as it would have an unacceptable impact on landscape character. There are partial views (reasonably screened in summer) through the hedgerow adjoining the junction of Dragons Lane and Plant Lane; as such the site is in a quite prominent location and development is likely to be recognisable as an isolated and non-vernacular intrusion into this rural area, although further appropriate screening could undoubtedly be provided. Furthermore, development within this part of the field would make it difficult to resist further piecemeal expansion and the extension of related activities (site CHE031 relates to part of the site and adjoining land and is evidence of this). The site is unsuitable as a location for permanent or any additional development.*

### **ECONOMIC SUSTAINABILITY**



With regard to the economic role of sustainable development, the proposed development will make a very limited contribution towards bringing increased trade to local shops and businesses.

### **THIRD PARTY COMMENTS**

With regard to the comments received in representation, not addressed above, it should be noted that application 12/3847C related to the parcel of land adjacent to the appeal site, involved further significant encroachment into the field and is therefore materially different to the current proposal.

The current application includes some of the unauthorised structures that are currently on the site. Any further structures that remain on site will be the subject of separate enforcement action.

The neighbour notification procedure was carried out in accordance with the statutory requirements for publicity.

### **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 some adverse implications in terms of use of natural resources and movement towards a low carbon economy. In addition, there will be further, but still limited, adverse impact upon the character and appearance of this rural area arising from the visual impact of the proposal, when compared to the existing development. There is therefore conflict with the environmental role of sustainable development as set out in the Framework.

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application where he identified that the poor accessibility of the proposed development and the limited harm to the character and appearance of the area were clearly outweighed by the substantial unmet need for gypsy and traveller pitch provision in Cheshire East, which still remains despite recent planning permissions, it is considered that the same conclusions should be drawn again, given the limited additional harm arising from two extra pitches in this case. It is also important to note that the Inspector stated that, "This would be the case irrespective of whether specific gypsies or travellers had been identified as prospective occupiers".

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As such, the situation is similar to that considered by the Inspector in 2012 with the Council working towards delivering site allocations as part of the development plan. Therefore, having regard to the limited additional harm arising from the current proposal, the stage of the local plan and site allocation process for gypsy and traveller site provision, it is considered that a temporary permission for the additional pitches can be justified in order for the Council to be given the opportunity to provide these site allocations on suitable sites, and to cater for the site owner's short term needs. It is recommended that this permission is aligned with the existing consent until 14 September 2018.

## **RECOMMENDATION**

It is recommended that the application be granted for a temporary period.

## Application for Variation of Condition

RECOMMENDATION: Approve subject to following conditions

1. Use of the land as a residential caravan site shall be discontinued on or before 14 September 2018
2. Approved plans
3. Occupation by gypsies and travellers
4. Landscaping scheme to be submitted within 3 months
5. No more than six caravans (no more than three static caravans)
6. External lighting to be approved
7. Details of external colour of stable block to be submitted
8. Manure storage details to be submitted



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