

Planning Reference No:	09/3918C
Application Address:	Horseshoe Farm, Warmingham Lane, Moston, Middlewich, Cheshire, CW10 0HJ
Proposal:	Extension to existing gypsy caravan site including laying of hardstanding, stationing of 9 caravans for residential purposes (including 3 static caravans) storage of 2 touring caravans, erection of 9 utility buildings and installation of lighting
Applicant:	Mr Oliver Boswell
Application Type:	Full
Grid Reference:	370941 362636
Ward:	Congleton Rural
Expiry Dated:	24 February 2010
Date Report Prepared:	23 April 2010
Constraints:	Open Countryside

SUMMARY RECOMMENDATION: Refuse

MAIN ISSUES

- The need for and provision of gypsy and traveller sites in the area.
- Whether the development would provide a sustainable form of development.
- The impact of the development on the character and appearance of the area.
- Impact of the development on neighbouring amenity

1. REASON FOR REFERRAL

This application has been 'called in' for consideration by Committee by Councillor Margaret Hollins on the grounds that the development is contrary to the Local Plan, it is contrary to the conditions in the appeal Inspector's decision and to allow the merits of the application to be debated in public forum.

2. DESCRIPTION OF SITE AND CONTEXT

An area of 0.5 hectare of land on the westerly side of Warmingham Lane with access 220 metres north of the junction with Forge Mill Lane in the Parish of Moston.

3. DETAILS OF PROPOSAL

Extension to existing gypsy caravan site including laying of hardstanding, stationing of 9 caravans for residential purposes (including 3 static caravans) storage of 2 touring caravans, erection of 9 utility buildings and installation of

lighting. The application also includes the construction of a manege in the northeasterly corner of the site in front of the existing stables and barn.

4. RELEVANT HISTORY

- 1989 (8/20706/3) Temporary permission for wooden sectional building providing loose boxes and storage.
- 1991 (8/22907/3) Temporary permission for wooden sectional building providing two loose boxes.
- 1994 (8/26098/6) Renewal of planning permission 8/20706/3 – wooden sectional building providing loose boxes and storage.
- 1994 (8/26099/6) Renewal of planning permission 8/22907/3 – wooden sectional building providing two loose boxes.
- 1999 (8/30970/6) Renewal of planning permission 8/26098/6 – wooden sectional building providing loose boxes and storage.
- 1999 (8/30971/6) Renewal of planning permission 8/26099/6 – wooden sectional building providing two loose boxes.
- 1999 (8/31265/3) Permission for the exercising of horses.
- 2002 (8/34297/3) Application for removal of temporary condition relating to stables and barns on permission 8/30971/6 – withdrawn.
- 2002 (8/34471/3) Permission for removal of temporary conditions relating to stables and barns on permissions 8/3030970/6 and 8/30971/6.
- 2003 (8/36153/3) Permission to replace existing timber stables and barn with steel frame and block building to include tack room, fodder and implement store and toilet.
- 2008 (07/0647/FUL) Permission granted on appeal for gypsy caravan site for 3 families, together with 2 transit pitches, including the laying of a hardstanding and erection of toilet blocks.
- 2008 (EA829) Enforcement Notice upheld on appeal in respect of the change of use of the land from keeping of horses to a mixed use for keeping of horses and stationing of residential caravans/mobile homes together with associated works, structures and paraphernalia including the deposit of broken bricks, broken concrete, demolition materials, crushed stone and road planings to create a hardstanding, the installation of kerbs, construction of toilet block and sheds, erection of close boarded timber panel fencing and lighting columns.

5. POLICIES

North West Plan Partial Review

Cheshire 2016: Structure Plan Alteration

Saved Policy HOU6 – Caravan Sites for Gypsies

Local Plan Policy

PS8	Open Countryside
GR1	General Requirements for All Development
GR2	Design Requirements for All Development
GR6	Amenity and Health
H1	Provision of New Housing Development
H2	Distribution of New Housing Development
H7	Residential Caravans and Mobile Homes
H8	Gypsy Caravan Sites

Other Material Considerations

Circular 01/2006 – Planning for Gypsy and Traveller Caravan sites
The Gypsy and Traveller Accommodation Assessment (GTAA)

6. CONSULTATIONS (External to Planning)

Highways: No comment or objection.

Environmental Health: If planning permission were granted a site licence would be required under the Caravan Sites and Control of Development Act 1960. Site Boundaries should be clearly marked, Roads, gateways and footpaths must be of suitable material/construction, suitably lit and have adequate access for emergency services, etc. Suitably surfaced parking spaces shall be provided where necessary to meet the additional requirements of the occupants and visitors; A Foul Drainage system must be provided and each caravan must be connected to this and have its own water supply, W.C., wash hand basin, shower or bath with hot and cold water. If these facilities are not present they should be provided in an adequately constructed building. Each caravan should have adequate surface water drainage. Each caravan should stand on a concrete or tarmacadam hard-standing extending over the whole area occupied by the caravan upon it and projecting a sufficient distance outwards from its entrance to enable the occupants to enter and leave safely. Recreational space equivalent to about 1/10th of the total area should be allocated for children's games and/or other recreational purposes and should be kept tidy and maintained.

7. VIEWS OF THE PARISH / TOWN COUNCIL:

Object on the following grounds:

- many of the conditions attached to the previous appeal decision have been consistently flouted. If this application were granted they expect that any conditions attached would again be ignored. The Inspector's decision gave a clear ruling allowing the development only with strict conditions. This judgement should not be overturned just because the applicant has ignored these conditions.
- the applicant is now applying for an area of 0.5 hectares more than double the area for which planning permission was granted. The area owned by the applicant extends to 7 acres and given the past record of unauthorised development more of this is likely to be encroached upon. If this happens there would be a greater number of horses with a reduced area of grazing land. On at least 3 occasions since 2008 horses have been put in local landowners' fields without permission causing great inconvenience.
- there is inconsistency in the documentation as to the exact number of caravans that could be accommodated with pitches being inadequately defined. At the time of the original application it was stated that '3 families would occupy 5 caravans and 2 transit pitches (4 caravans)' giving a total of 9. This was shown on the original plans but was exceeded on many occasions with up to 14 caravans on one visit whilst it was covered by an enforcement order. As permission is now being sought for 3 static caravans and 6 other pitches with extra storage for 2 touring caravans it could be claimed at a later date that a total of 17 caravans were permitted. The current view of privately owned gypsy caravan sites is that they should be small family sites. The previous planning permission allowed for such a site not for much larger site that is now applied for and which is the subject of unauthorised development. The local community has accepted that a site for at most 9 caravans is not unreasonable but continued expansion is unacceptable.
- nowhere is it defined what a family consists of. A clear frame of reference is needed to prevent unlimited expansion.
- the inclusion of 9 separate utility blocks implies greater occupation of the transit sites even permanency. Only 5 toilet blocks were indicated on the original application.
- the Inspector's decision on the development at Wybunbury Lane, Stapeley does state that Cheshire East needs to provide more pitches over the next 6 years but nowhere states that they should be provided in the Congleton area and Macclesfield in particular. The North West RSS encouraged a more equitable distribution of sites throughout Cheshire East. The CW10 postcode area has 7 out of 9 sites in the Congleton District and Macclesfield District has none. It is unreasonable to expect that much of the growth should be absorbed by the places where sites already exist as this could place too great a strain on resources and community relations. A forecast 3% annual growth in the same place each year would lead to a 34% increase over 10 years and 81% over 20 years. This is not sustainable.

8. OTHER REPRESENTATIONS:

A local resident has objected to this application on the following grounds:

- there is already far too much noise and light pollution from the existing camp for a countryside/green belt area.
- there is not enough respect for neighbouring properties boundaries. One or more of the occupiers has in excess of 9 horses which are regularly grazed on neighbour's land rather than on the site. If further vans are put on the site then the livestock will end up on neighbours land more often.
- the Gypsy community should not be afforded any extra rights over the current rural community – if people who live in the green belt cannot get planning permission then why should the Gypsies get their application granted. There are plenty of sites locally where Gypsies can be accommodated so an extension on this site is not necessary and will be too much for the immediate area. This should not now be turned into a development area because the first application was granted.
- if planning permission is granted there should be strict controls on noise (no generators), lighting and provision of fencing.
- they too would like to live on a green field site. As their family tree shows a bit of Irish/Traveller background this will give them the go-ahead to buy a bit of land and set up a plot for a caravan.
- the permission granted on appeal was for 3 families together with 2 transit pitches in accordance with the original application for up to 5 families and the permission accommodates this in allowing for up to 9 caravans two of which can be termed in transit and no more than 3 static. The inspector's decision **does** limit the number of families in view of the fact that up to 7 caravans, including 3 static caravans, can only accommodate 3 families i.e. just under 0.5 families per caravan. Mathematically 2 further caravans would only be sufficient for 1 family. The total number of families permitted to use the site is 4 – not 9 as the applicant's agent states.
- the proposed layout shows that the applicant is seeking to apply for two additional caravan pitches therefore the site will not still only accommodate 9 caravans but 11 in total. He also seeks planning permission for 18 vehicles equating to 4.5 vehicles per family which is not consistent with the sustainability statement or planning policy.
- the submitted plans do not appear to be drawn to scale, in particular the existing commercial building (barn).
- given the applicant's track record and assurance that planting will be carried out is unlikely to materialise and the concept that the surface of the exercise yard can be controlled by condition is clearly something that applicant will ignore and the Local Authority unable to enforce as the last year's events demonstrate
- contrary to the statement by the applicant's agent, the proposed scheme does not allow for occupation by any additional families, the scheme clearly shows two more caravans overall and argues wrongly that the permission granted on appeal intended the land to be used for up to 9 families. The permission allows for up to 3 families and 2 transit pitches. It is clearly wrong to assume that 3

families would live in 7 caravans and that somehow a further 6 families could be accommodated in just 2 small transit caravans. The statement is absurd, without substance and incorrect.

- Policy H8 of the Local Plan states that permanent sites will only be permitted if, amongst other things, wherever possible they avoid encroachment into the open countryside and are within 1.6 kilometres (1 mile) of existing shops, community facilities, primary school and public transport facilities. In addition Cheshire 2016: Structure plan Alteration states that, amongst others, there must be a proven need. This site is in the open countryside, the nearest shop is 2.3 kilometres (1.5 miles), the nearest school is 3 kilometres (2 miles) and Middlewich Town centre 5 kilometres (3 miles) away. Conversely the nearest house owned and occupied by the applicant's family members is just 0.32 kilometres away from the school. There is no proven need, he refers to a previous e-mail in January 2008 when he says he demonstrated that the GTAA findings when matched against existing sites showed that Congleton Borough Council and in particular the Middlewich area had exceeded requirements up to the end of 2011. He refers to the last five Gypsy Caravan counts and says this shows that in the North West the number of socially rented caravans dipped from 520 in July 2007 before returning back to the same number in July 2009. The number of caravans on authorised private sites actually decreased from 672 in July 2007 to 644 in July 2009. Given that there has been an increase in the number of sites granted permission over this period especially privately owned sites, he would expect an increase in the number of caravans but there has been a downward trend so clearly there is no evidence of any further need. The overall count for the North West (including all authorised and unauthorised sites) has decreased over the same period from 1447 to 1415. The only reason the Planning Inspector could give for a need in this case was the fact that the applicant had occupied the site therefore this demonstrated a need. He finds it difficult to respond to such a comment but believes it is open to challenge. The applicant's agent interprets this document to demonstrate that there is an unmet need and states that the Gypsy population is growing. He should substantiate this claim otherwise it should be ignored. The count figures show a downwards trend therefore permission should be refused.
- if the County Council's Draft Gypsy Policy identifies Middlewich as lying within one of the two main travelling routes through Cheshire then every single town, village, hamlet and area of open countryside along this route should be considered a suitable site. The correlation between travel route and suitable site is nonsense, it just merely points out that it is major travel route otherwise we should consider a by the side of the M6.
- paragraph 64(a) which lists the promotion of peaceful and integrated co-existence between the site and the local community and one of the issues to be considered) has not been met. The site does not promote easy access to local facilities, none are within walking distance and the application for 18 car parking spaces does

not exactly support a considered a approach to sustainability and climate change.

- there is no proven need, only a proven case for the local need having not been met. The Design and Access Statement is full of inaccuracies, omissions and false statements wholly designed to mislead.
- the present site had planning permission granted at appeal subject to conditions. Condition 3, in particular (ii) and (iii) has not been complied with by the required date consequently permission for the land to be used as a caravan site ceased and the applicant should no longer be occupying the original site. Notwithstanding this, he cannot understand how an application for an extension to a site which no longer has planning permission can be accepted. The application should therefore be inadmissible and should be refused.
- with respect to the Observation report from the Council's Spatial Planning Team the author says that Table 7.2 highlights the proposed need for 60 extra pitches from 2007 to 2016 which equates to just 3.15 pitches per year. This poorly researched and prepared document could easily mislead those relying on its conclusions. The adopted RSS does not include policy on Gypsy and Traveller Sites and part 2 has not even been published for public consultation yet. In addition the Partial Review has now been subject to Examination in Public but a spokeswoman has said that it is unlikely to be published until the end of 2010 and this depends upon the outcome of the General Election which in any case will delay proceedings. The author agrees that the development is not in accordance with Policy PS8 And it is debatable whether it is generally consistent with Policy H8 perhaps the author should consult local residents as to whether the development complies with (i). It is opinion as to whether it is appropriate in scale and the landscape and Forestry response clearly does not agree that the existing and proposed screening is acceptable. In fact he finds little to commend the proposal but does not object to it!

9. APPLICANT'S SUPPORTING INFORMATION:

Design and Access Statement

In the Design and Access Statement dated 19th November 2009 submitted by Philip Brown Associates with this application the applicant's agent says that the original caravan site was intended for occupation by up to 5 families including two families in transit however the Inspector's decision letter does not limit the number of families that can occupy the site and does not differentiate between residential and transit pitches. He argues therefore that the existing permission allows for up to 9 families to occupy the authorised caravan site.

He says that this application is for an extension of the authorised site including re-organisation of the existing site. The site would still only accommodate 9 caravans including 3 static mobile homes for use as living accommodation, but would also accommodate the storage of 2 towing caravans and re-instatement of a manege in front of the existing

barn and stables. The proposed layout of the site includes grass amenity areas, parking facilities for 18 vehicles and turning facilities.

The site is already well screened by existing buildings and hedgerows. These would be supplemented by tree and hedge planting along the western and northern boundaries to screen and break up the mass of caravans on the site and help assimilate them into their landscape setting. The remainder of the land will be retained for grazing horses.

There is an existing access from Warmingham Lane that was deemed satisfactory for the authorised caravan site and the proposed scheme does not allow for occupation of the extended site by any additional families. As for wider sustainability issues, the site is close to the edge of Middlewich and only about 1.4 miles from the closest shop (Tesco Express on Warmingham Lane). The previous appeal Inspector found the site to be sustainable in terms of advice in Circular 01/2006.

In terms of planning policy he says that the development plan pre-dates Circular 01/2006 and hence fails to reflect up-to-date Government advice. The Circular makes clear that in principle Gypsy sites are acceptable in the countryside provided that, as in this case, the area is not subject to special controls. Matters of sustainability are now looked at in the round taking into account that provision of a settled site gives access to health and education services and prevents the need for long distance travelling.

A Countywide assessment of need has established that there is an unmet need for Gypsy sites in the study area and the County Council's draft Gypsy Policy identifies Middlewich as lying within one of two main travelling routes through Cheshire. There is clearly a very large Gypsy/Traveller population in the Middlewich area, living in caravans and in conventional housing. The Gypsy population is growing with a rate of household growth of about 3 percent per annum. The Council must first assess the existing needs of this population including the needs of Gypsies in over crowded or unsuitable accommodation, and project those needs forward for a period of at least 5 years. The Local Development Framework must then allocate land on which to accommodate all of the needs identified. He says that it is quite obvious that household growth alone will generate a substantial need for additional Gypsy sites in the Middlewich area.

He enclosed a copy of the appeal decision relating the site at Wybunbury Lane in which the Inspector said that there is an identified need for gypsy and traveller site provision in both Cheshire East and regionally which needs to be addressed urgently. The Inspector noted that no sites had been identified through the LDF process and that sites were unlikely to be identified until 2014. As a result she found that the timetable for provision failed to accord with the advice in Circular 01/2006 or PPS3 and these matters weighed in favour of the appellants.

In the case of the site at Horseshoe Farm, the extended site would contribute 9 pitches towards meeting the unmet need within the

timescale envisaged by Circular 01/2006 (i.e. before the end of February 2011) therefore it will assist the Council in meeting its obligations to the gypsy/traveller communities.

10. OFFICER APPRAISAL

Introduction

In February 2008 the former Congleton Borough Council refused planning permission for 'Proposed Gypsy caravan site for 3 Gypsy families, together with 2 transit pitches, including the laying of a hardstanding and erection of toilet blocks' on an area of 0.24 hectares in the south easterly corner of the land for the following reason:

The Cheshire Partnership Area Gypsy & Traveller Accommodation and Related Services Assessment May 2007 identifies a need arising within Congleton Borough for 17 – 25 pitches between 2006 – 2011 and a further 9 – 11 pitches between 2011 – 2016. This Assessment will inform (a) the forthcoming Partial Review of Regional Spatial Strategy anticipated for adoption in 2010 and (b) any site-specific allocations in Development Plan Documents adopted in the interim in accordance with ODPM Circular 1/06.

In view of

- (1) the Assessment's cautionary note against the assumption that those needs be actually met in that form in that specific locality, and
- (2) the North West Regional Assembly Planning Group's recommendation of September 2007 that the Partial Review should redistribute pitch provision more equitably among the Cheshire Districts whilst taking into account the aspirations and preferences of the Gypsy & Traveller Community, and
- (3) the existing commitment to an additional 24 pitches at Three Oaks Caravan Park, Booth Lane, Middlewich for which planning permission was granted on 8th November 2005 under reference 05/0766/FUL,

the Borough Council does not accept that there is a need for the development at the present time. In the absence of such need, the development is contrary to Policy HOU6 of Cheshire 2016: Structure Plan Alteration. Further, the Borough Council considers that the Partial Review will reduce the Borough's contribution towards demand and that a grant of planning permission at this time would prejudice the proper consideration of the results of the Assessment through the Development Plan process.

In fact a larger area of approximately 0.5 hectare had already been laid with hardcore and was being used for the stationing of caravans consequently in March 2008 an enforcement notice was issued in relation to this unauthorised development. The requirements of the enforcement notice were as follows:

- (i) Stop using the land for the stationing of residential caravans/mobile homes.
- (ii) Dismantle all of the ancillary buildings and structures including the toilet block, sheds, close boarded timber panel fencing and lighting columns.
- (iii) Remove all of the materials arising from requirement (ii) above from the Land.
- (iv) With the exception of the area shown for identification purposes only hatched Black on Plan B ("the Driveway") remove all of the broken bricks, broken concrete, demolition materials, crushed stone and road planings from the Land.
- (v) With the exception of the area shown for identification purposes only cross-hatched Black on Plan B ("the Manege") and the Driveway, restore the Land to its condition before the development took place by spreading a layer of topsoil and seeding it with grass.
- (vi) In respect of the Manege, EITHER lay a surface of sand, rubber or timber bark OR spread a layer of topsoil and seed it with grass.

For the avoidance of doubt the list of works above does not include the timber stable building adjacent to Warmingham Lane or the open ranch style fencing previously on the land.

The owner/occupiers of the land appealed against both the refusal of planning permission and the enforcement notice. A copy of the Inspector's decision letter dated 30th October 2009 is appended to this report.

As may be seen from this the Inspector allowed the appeal against the refusal of planning permission and granted permission subject to the conditions set out at paragraph 2. As the necessary fees had not been paid the Inspector could not consider whether planning permission ought to be granted on the larger area covered by the enforcement notice. The only ground of appeal against the enforcement notice was that the time given to comply with the requirements of the Notice was too short.

The Inspector noted that because planning permission was being granted on part of the land, the notice ceased to have effect in so far as it is inconsistent with the planning permission considered that 12 months was adequate to carry out the requirements of the enforcement notice in respect of the remaining notice land consequently he dismissed their appeal and upheld the enforcement notice.

In November 2008 the Council reminded the landowner and his agent of the requirements of the conditions attached to the appeal decision expressed concern that further works were being carried out on the site. They were advised that any works carried out otherwise than in accordance with the conditions attached to the appeal decision would be unauthorised and, if not already covered by the previous enforcement notice, they could lead to further

enforcement action. Any works carried out in breach of condition 3 of the planning permission could invalidate that permission.

The applicant was also reminded of the requirements of the enforcement notice and that failure to comply with these requirements would be an offence.

A Site Development Scheme was submitted on the final day for submission in January 2009. Following consultations the Council wrote to Philip Brown Associates advising them informally that the proposed layout and landscaping were not acceptable and suggesting amendments, also requesting clarification of the external lighting and timetable for implementation. The Environment Agency had stated that the drainage details were satisfactory consequently the applicant's agent was advised that these were acceptable.

Despite a subsequent reminder no amended details have ever been received.

On 11th November 2009 another site visit confirmed that there were still caravans stationed outside the planning permission area together with a toilet block, fencing, lighting columns, hardstandings, surfacing, etc. A report was prepared seeking authority for prosecution through the Courts however the retrospective application now before you was submitted seeking to regularise the situation.

In his Design and Access Statement the applicant's agent says that although the original caravan site was intended for occupation by up to 5 families, the Inspector's decision does not limit the number of families that can occupy the site consequently he argues that the appeal decision allows for up to 9 families to occupy the authorised site.

This is not agreed by officers. Although condition 2 of the appeal decision refers only to a maximum number of caravans on the site, not families, the description of development given on the original application forms referred specifically to 3 Gypsy families together with 2 transit pitches. Furthermore at paragraph 2 of his decision letter the appeal Inspector says that 'I allow the appeal and grant planning permission for a gypsy caravan site for 3 families, together with 2 transit pitches ... in accordance with the terms of the application Ref 07/0647/FUL dated 24 May 2007 and the plans submitted with it'.

The applicant's agent has been asked to clarify why he suggests that there is no limit on the number of families that can occupy the site (and to consider making amendments to other aspects of the scheme), but despite a reminder, again no reply has been received.

In my opinion the description of development is an integral part of the decision notwithstanding that there is no reference to any maximum number of families in the conditions, consequently the appeal permission is in effect for 5 families.

Furthermore, although the 2007 planning application was regarded as being a retrospective application for that part of the land and the subsequent appeal was also dealt with on the basis that it too was retrospective, works had been carried out over a wider area even before the first application was submitted

and the layout shown on the plans accompanying the current application are quite different from that submitted with the first application.

Thus, whilst the current application is in effect for an extension to the geographical area previously granted planning permission as a gypsy caravan site, the development is a different development. This view is strengthened by virtue of the fact that the further works carried out after the appeal decision were inconsistent with the appeal permission and the plans accompanying the current application indicate that it relates to the whole area used for stationing of caravans and ancillary purposes (together with the manege).

With hindsight it is questionable therefore whether the development was actually carried out pursuant to the appeal permission. Consequently the application now before you is in effect a new application for what has actually been carried out 'on the ground' nevertheless the conclusions of the previous appeal Inspector on matters of principle are still an important material planning consideration and cannot be ignored.

Planning Policy

Regional Spatial Strategy

Policy L6 of the RSS Partial Review, although still in draft, sets out a requirement for an additional 825 net additional residential pitches and 270 transit pitches for Gypsies and Travellers across the North West over the period 2007 – 2016. Table 7.2 of the RSS sets out the scale and distribution of these additional pitches and shows a minimum of 60 additional permanent residential pitches and a minimum of 10 additional transit pitches over that period within Cheshire East.

The supporting text explains that there is an urgent need to address the shortage of accommodation suitable for Gypsies and Travellers. It recognises that accommodation is currently concentrated in particular parts of the region and seeks to balance providing additional pitches in those areas where most Gypsies and Travellers currently live with broadening the choice available to families by providing some pitches in most parts of the North West.

The more specific location and design of pitches is a matter for Local Planning Authorities to address by setting policies in Local Development Documents taking account of advice in Circular 01/2006. However it lists important things to consider as follows:

- Location to local services and transport networks
- Location in relation to employment opportunities
- Ability to co-exist with settled communities
- Ensuring that the site is serviced
- Ensuring no significant adverse effect on the amenity of nearby residents
- Ensuring that any impact upon the character and appearance of the countryside (including wildlife, biodiversity and nature conservation) is minimised
- Ensuring the site is not within an area at high risk of flooding

- That the provision of a settled base will reduce the need for long distance travelling
- Ensuring easy and safe access to the road network
- Avoiding overcrowding and doubling up by ensuring adequate pitch size which allows space for short term visitors; facilities; amenity blocks; mixture of accommodation; utility of outside space; homes for life principles and health and safety
- Health and related support links
- Tenure mix
- Management

The RSS recognises that sites may need to be situated in places which meet the current working patterns of Gypsies and Travellers and that these may include countryside locations. However sustainability issues are important and decisions about the acceptability of particular sites need to take into account access to essential services and the impact on the settled community in order to promote co-existence between them.

It also recognises that some Gypsies and Travellers may prefer to buy and manage their own sites, often living in relatively small family groups. Private sector sites therefore should be encouraged.

Cheshire 2016: Structure Plan Alteration

Paragraph 8.43 of the Cheshire 2016: Structure Plan Alteration states that the provision of sites for Gypsies is to be encouraged in satisfactory locations and policy HOU6 sets out criteria that Gypsy caravan sites should satisfy as follows:

- it must meet a proven need;
- it is not located in the Green Belt, unless no alternative location is available;
- it is located outside existing settlements but wherever possible within 1.6 kilometres (one mile) of existing local shops, community facilities, primary school and frequent public transport;
- it should be suitable for the gypsies to carry on their regular activities; and
- it should have easy and safe access to primary and other main roads.

Cheshire County Council – Draft Gypsy Policy

In November 2006 Cheshire County Council published a revised Draft Gypsy Policy taking into account the content of Circular 01/2006. This Draft Gypsy Policy repeats much of the advice set out in the Circular (and referred to above), it acknowledges that the Structure Plan was adopted before this Circular was issued however it advises that Structure Plan policy HOU6 conforms with the guidance set out in the Circular and is still relevant.

The Draft Gypsy Policy explains that the North West Regional Assembly is undertaking research on the future requirements of Gypsies and Travellers in the North West Region to form the basis of a Regional Spatial Strategy and Regional Housing Strategy. This will be complemented by two more detailed sub regional studies in Cheshire and Lancashire, a Cheshire wide Gypsy and Traveller accommodation needs assessment has been commissioned by the Cheshire Chief Executives Advisory Group and individual local authorities will then allocate land for these requirements through Development Plan Documents.

The number of authorised and unauthorised sites in Cheshire is examined with 190 pitches at July 2005 distributed throughout the County as follows:

District	Number of sites	Number of pitches
Chester	1	22
Congleton	6	108
Crewe & Nantwich	3	37
Vale Royal	2	23

The report found that there are two general Gypsy movement lines through Cheshire, one generally from Chester towards Manchester and the other from Manchester southwards in the general direction of Birmingham i.e. following the lines of motorway communication.

Congleton Borough Local Plan First Review

Local Plan policy PS8 defines various categories of development that will be allowed in the Open Countryside. These categories do not include Gypsy Caravan sites.

Policy GR1 states that all development will be expected to be of a high standard to conserve or enhance the character of the surrounding area and not detract from its environmental quality and to have regard for the principles of sustainable development. Policy GR2 refers specifically to Design and states that planning permission will only be granted where the proposal is sympathetic to the character, appearance and form of the site and surrounding area *inter alia* in terms of height, scale, form and grouping of buildings, choice of materials, external design features and the visual, physical and functional relationship to neighbouring properties, the street scene and the locality generally.

Local Plan policy GR6 seeks to safeguard residential properties from any development which would have an unduly detrimental effect on their amenity due to loss of privacy; loss of sunlight and daylight; visual intrusion; environmental disturbance or pollution; traffic generation, access and parking.

Policy H1 of the Local Plan defines the number of new dwellings to be provided from mid-1996 to mid-2011 whilst policy H2 determines the distribution of these new dwellings. In accordance with policy H7, planning applications for residential caravans and mobile homes normally will need to satisfy the same policies as new housing development and count towards dwelling totals. However the former Congleton Borough Council's Supplementary Planning

Document 10 “Housing Land Supply” (adopted January 2005 and withdrawn in January 2008) explained that accommodation for Gypsies is a form of Special Needs Housing. As such it does not present housing land supply issues (provided that it meets a specific local need), it does not undermine regional spatial development policies and indeed it may bring it within the scope of policy PS8 which allows for affordable housing for local needs.

Policy H8 refers specifically to Gypsy Caravan Sites and states that temporary or permanent Gypsy caravan sites will be granted provided that they comply with all the following criteria:

- (I) avoids unacceptable consequences for the amenity of nearby residents;
- (II) comprises a site which is not within the Green Belt, area of Special County Value for Landscape or affects sites of nature conservation or archaeological interest;
- (III) is of an appropriate scale which would not detract from the value of the surrounding landscape;
- (IV) is adequately screened and landscaped;
- (V) provides satisfactory onsite parking and access from a public highway;
- (VI) provides adequate onsite facilities and services to serve all caravans;
- (VII) does not prejudice other relevant Local Plan policies;
- (VIII) does not conflict with utility company or agricultural interests;
- (IX) avoids wherever possible encroachment on the Open Countryside;
- (X) is, wherever possible, within 1.6 km (1 mile) of existing shops, community facilities, primary school and public transport facilities.

Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA)

In May 2007 the Final Report was published by Salford Housing & Urban Studies Unit to present the findings of an assessment of accommodation and related service needs of Gypsies and Travellers across Cheshire including Halton, Warrington and St Helens. This research and report was commissioned by the authorities of the Cheshire Partnership (of which Congleton Borough Council is a member).

The study comprised a review of literary and statistical information, consultation with service providers and other stakeholders and a survey with Gypsies and Travellers across the study area. At the time of the July 2006 count, there were a reported 409 caravans throughout the study area. The vast majority were on some form of authorised provision (82% of all caravans) with authorised private sites accommodating the most (64%). The Boroughs of Congleton (125), Halton (63) and Chester (60) recorded the largest number of caravans, all but two authorities (Ellesmere Port & Neston and Macclesfield) had caravans present on some form of authorised provision and only Macclesfield recorded a zero count of caravans (see Appendix 1).

From July 1994 until July 2006 the overall number of caravans increased however there is a seasonal variation with an increase from 315 caravans in

January 1994 to 440 caravans in January 2006 (40%) and from 384 caravans in July 1994 to 409 caravans in July 2006 (7%). There was a reduction in the number of unauthorised sites by 25% (January to January) and 56% (July to July) and a reduction in the number of caravans on Council owned sites of almost a quarter. The increase in the total number of caravans was entirely accounted for on authorised private sites which almost tripled over this period.

Although there are some inconsistencies, further analysis of unauthorised sites also shows a seasonal variation with significantly more unauthorised caravans during the summers of 1999, 2000, 2001 and 2005 than at the winter counts.

Geographically, the spread of Local Authority owned sites has decreased over this period with one site closing in each of Chester and Crewe & Nantwich districts so that by January 2006 there were local authority owned sites only in Halton, St Helens and Congleton. Conversely, there has been an increase in the number of private authorised site with a larger number of caravans on such sites in Congleton and Crewe & Nantwich Boroughs and new private authorised sites provided in all Boroughs except Ellesmere Port & Neston and Macclesfield. A map showing the locations of these sites shows that there are two close together in Crewe & Nantwich, a cluster in St Helens, a cluster broadly following the M56/M62 motorway corridor and another cluster running from Winsford to Sandbach parallel to the M6 motorway.

The report contains a detailed study of the type and size of local authority sites, site occupancy and over crowding, demographics and household formation, travelling lifestyles and visitors, waiting lists and allocation criteria, licence fees and rents. In addition, local authorities were asked about the number of Gypsies and Travellers living in or registered for social housing and those living in private housing. Some authorities were unable to provide this information and for those that could, the numbers appear to vary greatly however the report notes that there appear to be concentrations of Gypsies living in both social and private housing in the Middlewich area with some in Sandbach and Congleton.

In terms of unauthorised sites, although there was some variation on the number of caravans on unauthorised sites between January 1994 and January 2006, the distribution remained the same i.e. in those districts across the north of the study area and in Congleton.

A more detailed analysis of unauthorised encampments during 2005/6 produced a total of 167 although there may be an element of double counting because the same people may have been recorded several times whilst travelling within the study area. All authorities experienced at least one unauthorised encampment during the year, Warrington recorded the most with 38 encampments.

Authorities were asked to provide detailed information about unauthorised encampments during the summer of 2006 and seven authorities responded with details of 54 encampments. Two had experienced more than 10 encampments (Chester and Warrington), the majority were relatively small (up to 10 caravans), the largest encampments of over 20 caravans were in St Helens (5), Congleton (2), Ellesmere Port & Neston (2), Warrington (2) and Chester (2). Most were of short duration with about 60% being of around 1 week either because of eviction

or because the Gypsies and Travellers only wanted to stay in the area a short time. All 6 encampments of over 4 weeks duration were in St Helens.

There is detailed discussion of the findings from the Gypsy and Traveller survey in terms of gender and age, marital status, household size, accommodation history (such as their views on their present type of accommodation, their reasons for moving site or into 'bricks and mortar' accommodation), over-crowding, concealed households and household formation rates, life on unauthorised encampments, travelling patterns and experiences, access to facilities, health and housing related issues, educational issues, work/employment issues, accommodation preferences and aspirations.

Accommodation need has then been calculated based upon the following:

- current shortfall of pitches represented by families on unauthorised sites who are over-crowded and/or doubled up
- allowance for family growth over the assessment period
- need as shown by current waiting lists
- need for authorised pitches from families on unauthorised developments
- allowance for net movement over the assessment period between sites and housing
- allowance for net movement over the assessment period between the Study Area and elsewhere
- allowance for closure of existing sites
- potential need for residential pitches in the area from families on unauthorised encampments

Summing these together, the Report concludes that for the period 2006 to 2011 across the whole study area there is an estimated need for between 79 and 112 permanent residential pitches and a further 25 to 37 transit pitches. Projecting this forward, the Report estimates that there will be a need for an additional 61 to 66 new residential pitches across the study area between 2011 and 2016.

Breaking this down into Districts, the Report concludes that for the former Congleton Borough the current authorised provision was 74 pitches, there is a need for an additional 22 – 30 residential pitches for the period 2006 – 2011 and an additional 14 – 16 pitches for the period 2011 – 2016. The Report makes an allowance for pitches being vacated at the rate of 1 per year nevertheless there is a total requirement for between 26 – 36 additional residential pitches over the whole period from 2006 to 2016.

Circular 01/2006 – Planning for Gypsy and Traveller Caravan sites

Circular 01/2006 was published by the Office of the Deputy Prime Minister in February 2006 (and supersedes Circular 1/94 referred to by Warmingham Parish

Council). Related to this is UK Race Relations law and Article 8 of the European Convention on Human Rights which affords protection to the homes, lifestyle and cultural identity of Gypsies as a minority, ethnic group.

For the purposes of this Circular, Gypsies and Travellers are defined as

Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group or travelling show people or circus people travelling together as such.

The main intentions of the Circular are set out at paragraph 12 as follows:

- (a) to create and support sustainable, respectful and inclusive communities where Gypsies and Travellers have fair access to suitable accommodation, education, health and welfare provision; where there is mutual respect and consideration between all communities for the rights and responsibilities of each community and individual; and where there is respect between individual and communities towards the environments in which they live and work;
- (b) to reduce the number of unauthorised encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this Circular;
- (c) to increase significantly the number of Gypsy and Traveller sites in appropriate locations with planning permission in order to address under-provision over the next 3 – 5 years;
- (d) to recognise, protect and facilitate the traditional travelling way of life of Gypsies and Travellers, whilst respecting the interests of the settled community;
- (e) to underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- (f) to identify and make provision for the resultant land and accommodation requirements;
- (g) to ensure that Development Plan Documents include fair, realistic and inclusive policies and to ensure identified need is dealt with fairly and effectively;
- (h) to promote more private Gypsy and Traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own sites; and

- (i) to help to avoid Gypsies and Travellers becoming homeless through eviction from unauthorised sites without an alternative to move to.

Circular 01/2006 reminds local authorities that the Housing Act 2004 requires them to include Gypsies and Travellers in their accommodation assessments and to take a strategic approach, including drawing up a strategy that demonstrates how the accommodation needs of Gypsies and Travellers will be met, as part of their wider housing strategy. The assessment of Gypsy and Traveller accommodation needs is integral to the assessment of general accommodation needs, the planning process should begin by local authorities assessing their accommodation needs as part of a Gypsy and Traveller Accommodation Assessment (GTAA).

The GTAA process should assess need and identify pitch requirements for each local authority area. This feeds into housing policies in the Regional Spatial Strategy and specifies pitch numbers for each local authority which must then be translated into specific site allocations in a Development Plan Document.

The core strategy should set out criteria for the location of Gypsy and Traveller sites which will be used to guide the allocation of sites in the relevant Development Plan Document. These criteria must be fair, reasonable, realistic and effective in delivering sites, policies that rule out or place undue constraints on the development of Gypsy and Traveller sites should not be included and local authorities must allocate sufficient sites for Gypsies and Travellers in terms of the number of pitches required by the Regional Spatial Strategy.

The Circular acknowledges that identifying and allocating specific plots of land is a more difficult process than using the solely criteria based approach however it ensures some certainty for local people and Gypsies and Travellers when planning applications are to be determined by local planning authorities or appeals considered by the Secretary of State. It also reminds local authorities that the Government has powers to intervene in the plan making process where it considers that these constraints are too great or have been inadequately justified or where a local planning authority does not adequately address Gypsy and Traveller site provision in its area.

In advance of Regional Planning Bodies carrying out a GTAA, translated into pitch numbers for Development Plan Documents for individual local authority areas, the Circular recognises that other means of assessing need will be necessary. Furthermore, where it is not possible to allocate pitch numbers in the current round of Regional Spatial Strategy revisions, Regional Planning Bodies will need to consider interim arrangements which should include a statement as to,

- (a) priority attached to addressing immediate need and timescale for doing so;
- (b) extent of existing provision;

- (c) identifying those parts of the region with high numbers of unauthorised sites;
- (d) an interim estimate of the additional pitch requirements at regional level;
- (e) arrangements for putting in place district level requirements.

In terms of site identification, Circular 01/2006 states that Gypsies and Travellers often face difficulties in securing an adequate supply of affordable land for their needs. Where there is a lack of affordable land to meet local Gypsy and Traveller needs (as demonstrated by an up-to-date assessment) local planning authorities in rural areas should include a 'rural exception policy' in the relevant DPD. Rural exception sites for Gypsies should be identified as such but should otherwise operate in the same way as rural exception site policies for housing as set out in Annex B of PPG3. In applying the rural exception site policy, authorities should consider in particular the needs of households who are either current residents or have an existing family or employment connection.

PPG2 gives advice regarding all forms of development within Green Belts and Circular 01/2006 confirms that Gypsy and Traveller sites within Green Belts will normally be inappropriate development. The current application site however is not within a Green Belt.

Circular 01/2006 also refers to areas of nationally recognised designation (e.g. SSSIs, AONBs, National Parks, Conservation Areas, etc) and advises that, as with other forms of development, planning permission for Gypsy and Traveller sites should only be granted where it can be demonstrated that the objectives of the designation will not be compromised. The Circular continues by stating that local landscape/nature conservation designations should not be used in themselves to refuse planning permission for Gypsy and Traveller sites. The current application site is not within an area of nationally or locally recognised designation.

Sites may be found on the outskirts of built-up areas or in rural or semi-rural settings. Rural settings, where not subject to special planning constraints, are acceptable in principle and, in assessing such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Sites should respect the scale of, and not dominate the nearest settled community, they should also avoid placing undue pressure on the local infrastructure.

In some cases, perhaps involving previously developed (brownfield), untidy or derelict land, the establishment of a well planned or softly landscaped Gypsy and Traveller site can be seen as positively enhancing and increasing openness.

Paragraph 65 of the Circular states specifically that in deciding where to provide Gypsy and Traveller sites, local planning authorities should first consider locations in or near existing settlements with access to local services e.g. shops, doctors and schools. All sites considered for allocation should have their social, environmental and economic impacts assessed in accordance with the principles of sustainable development.

Regional Spatial Strategies and Development Plan Documents form part of the 'development plan' and of course the determination of planning applications should be made in accordance with the development plan unless material considerations indicate otherwise. Circular 01/2006 advises local planning authorities that they should be able to release sites sequentially with sites identified in Development Plan Documents being used before windfall site.

Issues of sustainability should include not only the means of transport and distance from services for applicants but also the promotion of peaceful and integrated co-existence between the site and the local community, the wider benefits of easier access to GP and other health services, children's attendance at school on a regular basis, reducing the need for long-distance travelling and the environmental damage that can be caused by unauthorised camping.

Other considerations for such applications are likely to include the impact on the surrounding area, the existing level of provision and the need for sites in the area, the availability or lack of alternative accommodation for applicants and other personal circumstances, the suitability of vehicular access from a public highway, parking/turning/servicing provision on site and road safety for occupants and visitors. Local authorities should have regard to the potential for noise and other disturbance from the movement of vehicles to/from the site, the stationing of vehicles on-site and on-site business activities however proposals should not be rejected if they would only give rise to modest additional daily vehicle movements and/or the impact on minor roads would not be significant.

Landscaping/planting may help sites blend into their surroundings, give structure and privacy and maintain amenity however enclosing a site with too much hard landscaping, high walls or fences can give the impression of deliberately isolating the site and its occupants from the rest of the community and should be avoided. Finally Circular 01/2006 reminds local authorities that the provisions of the European Convention on Human Rights and Race Relations legislation should be considered as an integral part of their decision making process but at the same time, emphasising that this obligation on public authorities does not give Gypsies and Travellers the right to establish sites in contravention of planning control.

Annex E of the Circular provides guidance to Gypsies and Travellers making planning applications. Firstly they are advised to make their planning application before entering a site as to do so beforehand can be a breach of planning control and may result in enforcement action. Applicants should provide as much background information with their application as they can for example the efforts that they have made to find a site, why they have selected this particular site and details of all the people who plan to live there. As much detail as possible on the site, including the layout, landscaping, access and number of caravans should be provided at the outset.

Human Rights

In considering this application the decision maker should have regard, *inter alia*, to the provisions of the Human Rights Act 1998.

Article 8 of the Human Rights Act states that everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals or the protection of the rights and freedoms of others.

Article 14 of the Human Rights Act states that the enjoyment of the rights and freedoms set forth in that Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

In this particular case, although some caravans are stationed outside the area previously granted planning permission on appeal and associated works have been carried out around them (e.g. hardstandings, fencing, etc) if the current application was refused they could simply contain the development within the area previously granted permission. The Council may pursue enforcement action to secure compliance with the conditions attached to the appeal decision and legal action for failure to comply with the requirements of the previous enforcement notice but such action would NOT require the total cessation of the use of the land as a whole as a gypsy caravan site consequently it would not totally deprive the occupiers of their property, their private and family life, their homes or their correspondence.

Although the planning permission was subject to a condition limiting the occupation of the site to gypsies and travellers and the occupiers of the other caravans/mobile homes on the Enforcement Notice Area are also gypsies/travellers, the conclusions of the appeal Inspector to only grant planning permission on a part of the land and uphold the Enforcement Notice on the remainder were based soundly on planning considerations. The decision on the application must be based on material planning considerations and any decision to take enforcement action to secure compliance with the conditions attached to the appeal decision and/or legal action in respect of the alleged failure to comply with the requirements of the Enforcement Notice must be based upon the evidence irrespective of the sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status of the owner/occupiers.

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act states that, without prejudice to any other obligation imposed upon it, it shall be the duty of each local authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

The issue of crime and anti-social behaviour has been raised by residents. In a recent case from 2005 (Smith v. First Secretary of State and Mid-Bedfordshire District Council) the Court of Appeal quashed an appeal Inspector's decision where planning permission had been refused on the basis of fear of crime. It was

held that fear had to have a reasonable basis and the object of that fear had to be the use of the land. A caravan site was not inherently likely to cause difficulties to neighbours and it was wrong to take the view that the use of land as a Gypsy site created the same concern as that attached for example to an institution such as a bail hostel. Where concern for the future rests not on an extrapolation of past events but at least partly on assumptions unsupported by evidence as to the characteristics of future occupiers, then it must not be taken into account.

In this particular case, although residents refer generally to the occupiers of this site having a lack of respect for other people's property also noise and disturbance to nearby residents this is unsupported by any specific evidence (e.g. crime report numbers) and such activities are not specific to the occupiers of this site. Overall these issues are not considered to be of such weight as to sway the determination of this application.

Previous Appeal Decisions

Oakotis, Heath Road, Sandbach

This application was refused for two different reasons. Firstly because at that time Congleton Borough Council did not accept that there was any proven need consequently the development was contrary to policy HOU6 of Cheshire 2016: Structure Plan Alteration (also the former housing moratorium although this subsequently ended in January 2008) and secondly because the applicant had failed to demonstrate that the air quality and the noise climate on this site, in close proximity to the M6 motorway, would provide a satisfactory level of amenity for the occupiers of the caravans, contrary to Policy GR1 of the adopted Congleton Borough Local Plan First Review.

The Inspector's attention was drawn to the 'cautionary note' in the GTAA recognising that there remains a need for deeper discussion in terms of identifying need at more local level.

The Council pointed out that the GTAA Report observes that because of historical inequalities in pitch provision, Gypsies and Travellers have constrained choices as to where and how they live compared to how they would choose to live if they had real choice. Over time this inevitably has meant that Gypsies and Travellers have generally moved to areas they see offering the best life chances.

It therefore was argued that there is a tendency when the need for additional accommodation is being assessed for this to further compound these inequalities in site provision i.e. authorities that are already providing Gypsy and Traveller accommodation publicly or privately are assessed as having a greater need for additional pitch provision than authorities that have little or no pitch provision. As a result the Report accepts that need where it is seen to arise is not necessarily a sustainable indicator of where the need for sites actually is.

Circular 01/2006 advises that the results of a GTAA normally should feed into housing policies in the Regional Spatial Strategy and specify pitch numbers for individual local authorities and these must then be translated into specific site allocations in a Development Plan Document. In the present circumstances, where the GTAA has been published but the RSS is still only in draft

consequently a DPD has yet to be prepared, it may be argued that planning permission should not be granted for Gypsy caravan sites on an *ad hoc* basis.

Furthermore the Council stated that the number of additional pitches needed both within the overall study area and more particularly within individual local authority areas are based upon administrative boundaries whereas in practice it might be that the 'need' (or a more suitable site) exists just over the boundary within an adjacent local authority area, especially in the case of Middlewich which is situated very close to the boundaries with Crewe & Nantwich and Vale Royal districts.

In his decision letter the Inspector responded to these issues stating that,

The GTAA is a recent publication and I accept that there will be consideration and discussion at regional, county and district level before it feeds down to individual district allocations. Even so, it seems to me that it is inevitable that Congleton Borough will continue to be identified as having a need for pitch provision at some level. In my view this can only be seen as a specific local need.

Consequently I accept that it has been shown that a specific local need exists, and therefore Policy H1 of the Local Plan, together with SPD10 (and its draft replacement) do not bite, with the effect that the proposed development cannot contribute to the oversupply of housing. In addition the need requirement of Structure Plan Policy HOU6 is met.

Although the Inspector went on to conclude that the site at Heath Road, Sandbach could not provide a satisfactory residential environment in terms of proximity to the motorway and associated noise and air quality, and for this reason he dismissed that appeal, it is very clear that he accepted the principle of need.

Horseshoe Farm

In the case of the appeals against the refusal of planning permission and the enforcement notice on this site at Horseshoe Farm, the Inspector's attention was again drawn to the cautionary note in the GTAA regarding the provision of pitches where the need arises and the suggestion that there should be a more equitable distribution of sites however he concluded that there is a demonstrable need for additional Gypsy pitches in the former Congleton Borough. He agreed that it would serve no purpose if sites were identified in areas where Gypsies and Travellers do not want to go and concluded that the small number of pitches involved on this site would not prejudice the objectives of the ongoing RSSS review or the subsequent preparation of the Council's LDD.

Control over the siting of the caravans and landscaping could be covered by conditions such that they would not materially detract from the character and appearance of the area and he noted that the nearest residential properties were some distance away consequently their occupiers should not be unduly disturbed by activities on the site or by additional traffic movements on nearby roads.

Land at Wybunbury Lane, Stapeley

The applicant's agent has drawn attention to this appeal decision and in particular the finding of the Inspector there that 'there is undoubtedly an immediate need for further pitch provision both in Cheshire East Borough and regionally'.

Furthermore he says that the Inspector heard evidence from Council officers that no sites had been identified through the LDF process and that sites were unlikely to be identified until 2014. As a result, the Inspector found that the timetable for provision through the LDF failed to accord with the advice in Circular 01/2006 or PPS3 and these matters weighed in favour of the appellant.

In view of the conclusions of these previous appeal Inspectors, to attempt to refuse the current application for the same reason(s) would very likely encounter another appeal and another claim for costs against the Council.

Principle of Development and Sustainability

Although there is some doubt as to whether the planning permission granted on appeal has been implemented or whether the development that has been carried out 'on the ground' is actually a different development, the appeal Inspector certainly did consider the issues of need and the suitability of this site (including the effect on the surrounding countryside and sustainability).

At paragraph 15 of his decision letter he said that,

As far as sustainability is concerned 01/2006 says that this is not merely a question of transport modes and distances from services; it includes other benefits in terms of health and education and integration with the local community. I noted the relationship between the site and Moston, Warrington and Macclesfield and although I agree that walking along unlit narrow rural roads is not without danger the distances involved are within or close to the threshold for access to services set out in the structure plan. I therefore consider that the objectives of the 01/2006 regarding sustainability would be met in this case.

The principle of development for a Gypsy caravan site in this location is therefore already established. Furthermore each of the three previous appeal Inspectors referred to above have all concluded that there is an immediate need to provide additional Gypsy caravan pitches in Cheshire East Borough.

The four additional pitches will assist in satisfying the GTAA and draft RSS requirement. Whilst it is most unusual for pitches to have only a single caravan on each there is no requirement for more than one caravan.

To attempt to refuse the current application on matters of principle would almost certainly result in an appeal and application for costs against the Council.

Need

As may be seen from the previous appeal decisions referred to above, all three of those Inspectors concluded that there was a need to provide additional pitches within the former Congleton Borough Council and latterly within Cheshire East Borough.

The residential accommodation need for the three former Boroughs now comprising Cheshire East was summarised in the GTAA as follows:

Former Authority	Current authorised provision (pitches)	Total additional residential need (pitches) 2006 – 2011	Supply of pitches (1 pitch per year allowance for turn over)	Total additional residential need (pitches) 2011 – 2016	Estimated supply of pitches 2011 - 2016	Total additional residential need (pitches) 2006 – 2016
Congleton	74	22 – 30	5 + 5 Horseshoe Fm + 3 Five Acre Fm	14 – 16	5	26 – 36
Crewe & Nantwich	27	5 – 11	Nil + 3 at Wybunbury	5 – 6	Nil	10 – 17
Macclesfield	0	0 – 1	Nil	14	Nil	11 – 15

As explained above, the RSS target for 2007 – 2016 is a minimum of 60 additional residential pitches plus 10 transit pitches.

At the Horseshoe Farm appeal inquiry the Council argued that the planning permission granted in November 2005 for an additional 24 pitches at Three Oaks Caravan Park, Booth Lane, Middlewich would satisfy the requirement at least until 2011. However the Inspector did not accept that because work had started that this equated to the provision of new pitches or, because Three Oaks Caravan Park is operated for English Gypsies, that they were available for occupation by the appellant and his family who are Irish Gypsies.

There has been little further progress on the extension to the site at Three Oaks Caravan Park since the Horseshoe Farm appeal decision in October 2008. In light of the previous appeal Inspector's comments mentioned above it must now be accepted that the additional pitches at Three Oaks Caravan Park cannot be counted against the GTAA or RSS targets at least until they are completed and ready for occupation.

Clearly the number of additional pitches that have been provided to date falls well short of the GTAA and RSS targets.

Scale

It is clear from the previous application at Horseshoe Farm that three of the pitches (5 caravans) were to be occupied by the applicant and his extended family. The other two pitches were not stated as being for occupation by other family members but were intended to be for other Irish Gypsies.

As mentioned above, at the subsequent appeal inquiry the applicant's agent argued successfully that even if the additional 24 pitches at Three Oaks Caravan Park were completed, they would not be let to the appellant and his family because they are Irish Gypsies. Furthermore the Inspector noted that private sites tend to be let to specific groups or families. It seems likely therefore

that any Irish Gypsies occupying the transit pitches would have some association with the applicant and his family.

In the case of the current application there is no indication whatsoever that any of the caravans are for occupation by the applicant or other members of his family. On the contrary the accompanying letter from Philip Brown Associates argues that the existing permission allows for up to 9 families to occupy the authorised site, the accompanying drawings show 9 caravans/mobile homes, each of these has its own utility block and 18 parking spaces are shown (i.e. 2 per caravan). There is no indication as to whether the site is intended for Irish or any other particular group of Gypsies.

Indeed as the applicant's two children have families of their own, necessitating 2 caravans each, by implication they will not be able to use the single caravan pitches for which permission is now sought.

In the circumstances because the number of pitches is almost doubling from 5 to 9 and each of these pitches may be occupied independently, this can no longer be described as a 'small family site'. Furthermore, the development extends further westwards and northwards (see 'Design' below) and, notwithstanding the existing trees and hedgerows around the periphery, this enlarged scheme will inevitably have a detrimental effect upon the character and appearance of the surrounding countryside. Overall it is considered that the scale of development as currently submitted is inappropriate in this location, and will need to be reduced.

Design

The layout of the site consists of three caravans each on a concrete base parallel to the boundary with Warmingham Lane, another three caravans each on a concrete base parallel to the southerly boundary of the site, three larger caravans (presumably the mobile homes) each on a concrete base at intervals along the rear (westerly) boundary and two other caravans without a concrete base (presumably the touring caravans) near the north westerly corner of the site. Two of the mobile homes have grassed areas associated with them and there is a separate, circular grassed area in the centre of the site to form a turning circle for vehicles.

Each of the nine residential caravans/mobile homes has a utility block associated with it (one of these is already existing) each measuring 2.2 metres by 3.7 metres with concrete panel walls pebble dash finished and a profiled metal sheet pitched roof 2.8 metres high to the ridge.

There are 14 parking spaces adjacent to the caravans/mobile homes and another 4 parking spaces separately on a limb of the site extending past the westerly end of the barn into part of the adjacent field. Five lighting columns are shown around the periphery of the site each comprising a 5 metre high tubular metal pole.

An area measuring 20 metres by 15 metres in the north easterly corner of the site in front of the stable building and barn is to be separated from the remainder of the site by a post and rail fence for use as a manege. This is to

have either a tarmacadam, concrete or gravel surface. The remainder of the site around and in between the caravans/mobile homes will have a gravel surface.

Other than across the access, there is a substantial hedgerow that screens the site from Warmingham Lane. The scheme for which planning permission was granted on appeal included dense screen planting directly inside the entrance. The present scheme indicates only a 1.8 metre high wooden panel fence facing the entrance. The applicant's agent has been requested to re-instate an earth mound and/or dense planting in this location but no reply has been received. Nevertheless if the Council were minded to grant permission in principle, earth mounding and/or planting could be required by planning condition.

There is an existing 1.8 metre high wooden fence already along the southerly boundary of the site and an existing post and rail fence along the rear (westerly) boundary. Along part of the northerly boundary is an existing 1.4 metre high blockwork wall and a 1.0 metre high wooden panel fence. These are to be supplemented by a 1.8 metre high earth mound where the parking spaces mentioned above project out into the adjacent field.

It is considered that this extension of the site into the adjacent field beyond the otherwise well defined boundaries of the site to provide an 'over spill' parking area together with the isolated and incongruous appearance of the earth mound will have a seriously detrimental effect upon the character and appearance of the surrounding locality.

The applicant's agent has been requested to omit this area of 'over spill' parking and the associated earth mound but no reply has been received.

The applicant's agent was also requested to provide supplementary screening along the northern and western boundaries comprising native hedgerow and tree planting, to provide infill planting to 'gap up' the hedgerows to the southern and eastern boundaries and soft landscaping within the site to break up the otherwise large area of hard surfacing. His attention was drawn to the comments of the Environmental Health Officer in respect of site licence requirements. In particular he was requested to consider amending the layout to provide recreational space and to confirm details of the site drainage systems.

It would have been preferable if these matters could have been dealt with by dialogue but unfortunately there has been no response. If the Council were minded to grant planning permission in principle it is considered the matters of landscaping, recreation space and drainage could be covered by condition(s).

However, it is considered that it would not be reasonable to impose a condition attempting to modify the scheme in respect of the 'over spill' parking area and earth mound.

Amenity

As explained above, the matter of the effect of the development upon the amenities of nearby residents was considered by the previous appeal Inspector. Although the site the subject of this application is more than twice the size the additional area is to the rear of the site and the nearest residential properties

are still a considerable distance away consequently it is not considered that their occupiers would be unduly disturbed as a result of the larger development to which the current application relates.

Ecology

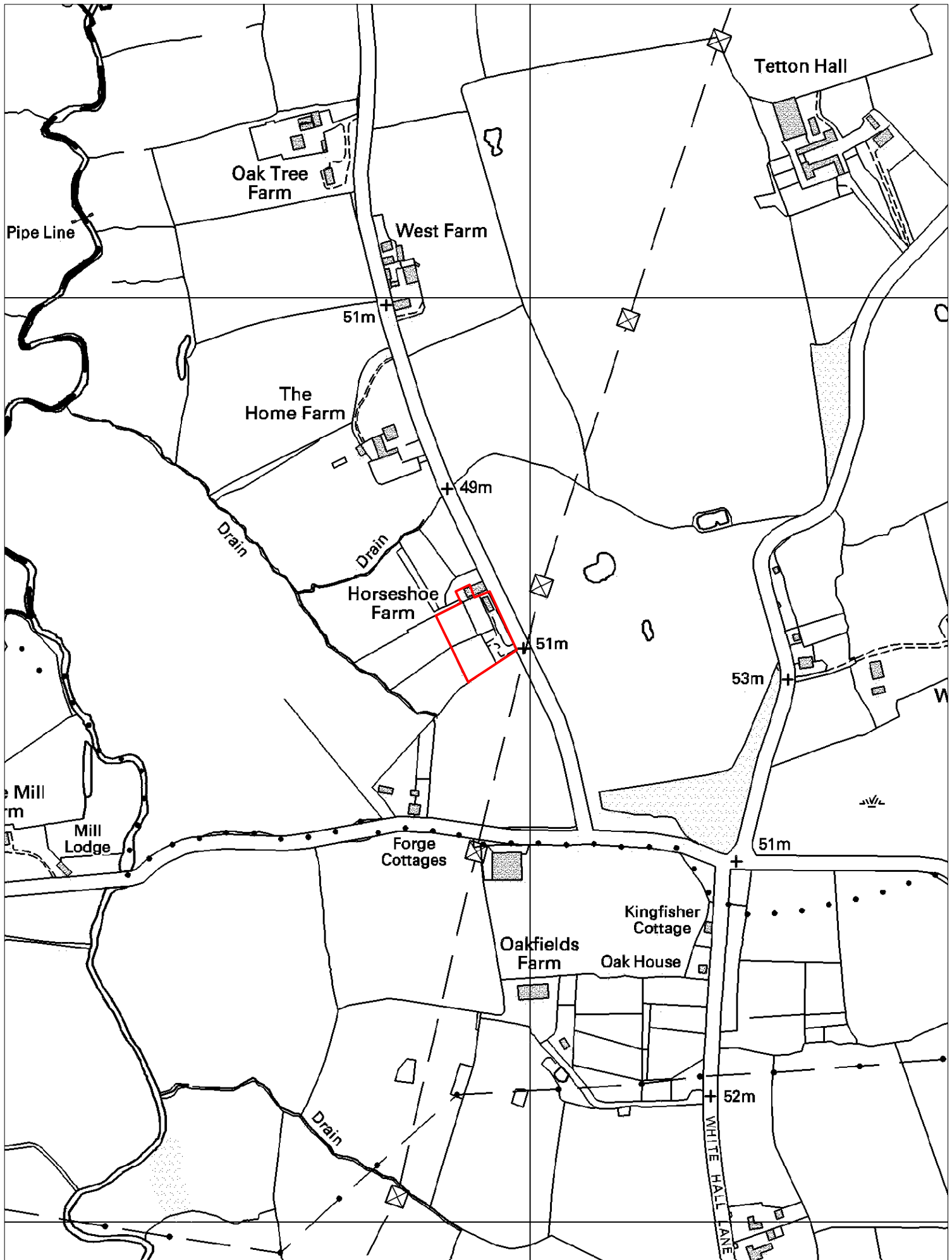
There are no known ecological implications.

11. CONCLUSIONS

As explained above, the applicant's agent has been informed (without prejudice) of various detailed concerns regarding the development the subject of this application but unfortunately no response has been received.

If the Council were minded to grant planning permission the majority of these concerns could perhaps be overcome by way of imposing conditions the scale of the development is fundamental (i.e. the extension of the site to the west, the 'over spill' parking area and associated earth mound to the north) consequently these cannot be dealt with in this manner.

In the circumstances it is concluded that the only course is to refuse this application.



HORSESHOE FARM, WARMINGHAM LANE, MOSTON, SANDBACH, CHESHIRE, CW10 0HJ

NGR - 370,910 : 362,648

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12. RECOMMENDATION

REFUSE for the following reasons:-

- 1. The scale of the development to which this application relates is inappropriate in this location within an area of predominantly open rural countryside and as such is contrary to criterion (III) of Local Plan policy H8. In particular the extension of the site further westwards and the parking area and associated 1.8 metre high earth mound projecting from the northerly end of the site into part of the adjacent field would have a detrimental effect upon the character and appearance of the surrounding locality contrary to policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review.**