

Planning Reference No:	09/4331N
Application Address:	Land Off, Wettenhall Road, Poole, Nantwich, Cheshire
Proposal:	Change of Use of Land as a Residential Caravan Site for 8 Gypsy Families, each with 2 Caravan, including Improvement of Access, Construction of Access Road, Laying of Hard-standing and Provision of Foul Drainage.
Applicant:	Mr T Hamilton (<i>Error on previous report which stated it was a Mr T Loveridge</i>)
Application Type:	Full
Grid Reference:	364027 345697
Ward:	Cholmondeley
Expiry Dated:	07 May 2010
Date Report Prepared:	23 April 2010
Constraints:	Open Countryside

SUMMARY RECOMMENDATION – Approve with conditions

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 the ecology.
- Impact of the development on neighbouring amenity.

In order to provide an up to date report all relevant additional information, comments and any corrections have been consolidated into the report for convenience and are highlighted in italics.

Referral

This application is referred to the Strategic Planning Board due to the potential impact upon the provision of Gypsy and Traveller accommodation across the Borough set out by the North West Draft Regional Spatial Strategy Partial Review and GTAA process and addressed as part of the Local Development Framework for Cheshire East.

A decision on the application was deferred by Committee on 5th May 2010 in order to carry out a site visit.

DESCRIPTION OF SITE AND CONTEXT

The application site is situated within the open countryside, adjacent to an equine complex which includes a small stable block and outdoor manege. The site measures approximately 1.2 ha and comprises two fields, one adjacent to Wettenhall Road the other immediately behind. The access has been taken from an existing field gate with a gravelled drive way running through the first field towards the second field which provides for the main caravan parking area.

The site itself lies approximately 1.7km from the edge of Nantwich, west of Reaseheath Agricultural College. There are a number of residential properties within the vicinity, with the nearest being those located on Cinder Lane which is 250 metres to the *East*.

The boundaries of the site are defined by hedgerows comprising native species. The hedge line also contains a number of mature oak trees however, one appears to be dead.

The application was made invalid following its original validation after it was discovered that there was a discrepancy within the ownership certification. This matter has now been resolved. Additional information was requested around the same time due to the omission of pond on neighbouring land to the south and the lack of information relating to the impact on barn owls from the supporting Ecological Report. In light of these issues a limited re-consultation exercise was undertaken involving the Council's Ecologist, neighbours and the Parish Council.

The site lies outside a flood risk area as identified by the Environment Agency's Flood Zone Map.

DETAILS OF PROPOSAL

The proposal involves the creation of 8 family pitches designed to accommodate Gypsies. Each pitch will comprise one static/mobile home and one small touring sized caravan. Each pitch will be defined with a post and rail fence. The main caravan parking area has been predominately laid with self binding gravel to provide hard-standing for the caravans and to facilitate access and parking for the occupiers motor vehicles which includes 8 light goods vehicles. The submitted plan indicates a grassed area at the western side of the main parking area and either side of the access track.

RELEVANT HISTORY

The use of the site has been the subject of enforcement action, including the service of two temporary Stop Notices to prevent more than eight caravans being stationed on the land and to prevent further hardcore from being deposited. Both of these notices have now expired. The site is now subject to an injunction issued by the Court which limits the size and number of caravans to a maximum of eight single unit trailer and prevents any further engineering work until such time that planning permission is granted. The purpose of the injunction is to prevent further

development and intensification in the use of the site without proper consideration of the impact via the planning application procedure.

POLICIES

The development plan includes the Regional Spatial Strategy for the North West of England (RSS), and the Borough of Crewe and Nantwich Replacement Local Plan 2011 (LP).

The relevant development plan policies are:

Local Plan Policy

NE.2 (Open Countryside)
NE.9 (Protected Species)
BE.1 (Amenity)
BE.2 (Design Standards)
BE.3 (Access and Parking)
BE.4 (Drainage, Utilities and Resources)
E.6 (Employment Development within Open Countryside)
RES.8 (Affordable Housing in Rural Areas Outside Settlement Boundaries)
RES.13 (Sites for Gypsies and Travelling Showpeople)

Cheshire 2016 Structure Plan Alteration:

HOU6 (Caravan Sites for Gypsies)

Other Material Considerations

PPS.1 (Delivering Sustainable Development)
PPS.3 (Housing)
PPG.13 (Transport)
PPS. 25 (Development and Flood Risk) 2010
RSS. L6 (Draft) (Scale & Distribution of Gypsy and Traveller Pitch Provision)
Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA) 2007.
Circular 01/2006 (ODPM) Planning for Gypsy and Traveller Caravan Sites.
Circular 06/2005 (ODPM) Biodiversity and Geological Conservation – Statutory Obligations and their Impact on the Planning System.
Designing Gypsy and Traveller Sites: Good Practice Guide May 2008.
English Nature: Barn Owls on Site; A Guide for Developers and Planners 2002.

CONSIDERATIONS (External to Planning)

Environment Agency – No comments to make in relation to the application.

Environmental Health – No objection however recommends conditions relating to drainage, boundary treatment and internal layout.

Highways - No objection subject to a condition requiring access arrangements to be submitted and agreed.

Housing – The GTAA identified a need for 54 pitches to be delivered by 2016 within Cheshire East. There is still a significant shortfall and therefore a need for the additional pitches.

Ecologist – It cannot be satisfactorily concluded that Great Crested Newts are not present within the ponds close to the site however, due to the retrospective nature of the application and the lack of information to the quality of the habitats lost to the recently created hard standing area I am unable to offer advice on the impact. I can advise that minor future works within the present area of hard standing are unlikely to result in a significant adverse impact on newts if present.

VIEWS OF THE PARISH / TOWN COUNCIL

Objects to the application for the following reasons:-

1. The site is in open countryside and there is no viable or historical for it to be there.
2. The manner in which the occupation took place was conducted in order to present a fait accompli to the planning authority.
3. The dates on the application will bear some scrutiny compared with the facts of the case.
4. The GCN survey is dubious give it was undertaken in the depths of the hibernation period.
5. Work started prior to the application.
6. There is potential for pollution of the nearby brook and into the river from any outfall drainage.
7. This issue is very disquieting for parishioners, and undermines the whole credibility of the planning system.

OTHER REPRESENTATIONS

Objections have been received from : The occupiers of Foxcroft; Cinder Lane Farm; The Cottage; Chestnut Cottage; No 9; Lime Tree Cottage; OakView; Poole Green Cottage; East View & Brook House which are all situated in Cinder Lane, Reaseheath. Additionally, objections have been received from the occupiers of Lengthmen's Cottage & Poolehill Cottage both on Poole Hill Road together with the occupiers of Holders House and Copper Beach which is on Wettenhall Road, Oak View and Willow Cottage, in the Poole area.

Objections have also been received on behalf of Reaseheath College.

Cobbetts Law firm have also submitted representations on behalf of residents living in Cinder Lane and the occupiers of Pool Hall. The submission includes an additional ecological assessment carried by TEP ecological consultants and a written statement from Walsingham Planning Consultants regarding the planning merits of the application.

The key issues raised by these objections are:

The scale of the development is inappropriate to the area and will lead to difficulties of integration with the existing community;
Development of this nature is not part of the Regional Spatial Strategy;
There is insufficient existing infrastructure;
No public transport serves the site;
The development will lead to an increase in traffic along a road that is already over-stretched;
Questions over the surface water drainage of the site, ditches now appear to be blocked;
The existing settled community have human rights also;
Concerns over the method of foul water discharge;
The proposal will result in over-development of a small site;
The development is contrary to the character of the area;
The development was carried out without pre-application discussions with the local authority contrary to the provisions of Circular 01/2006;
Commercial vehicles are parked on the site;
The site is too far from local services and therefore unsustainable and consequently fails to meet policy set out in Cheshire 2016 Structure Plan Alterations Policies GEN1, GEN.3, HOU3 & HOU6 and Policy L6 of the Draft North West Plan Partial Review;
Access to the nearest facilities is dangerous by foot;
Commercial activities already taking place are objectionable given the rural location;
There are inaccuracies in the submitted Ecological Report therefore the Authority should carry out an independent survey;
The proposal conflicts with Local Plan Policies RES.8; RES.13; RES.5; BE.1 & NE.2;
The site is subject to a high water table and flooding;
The proposal will result in harm to the natural conservation resource of the immediate area and be harmful to the character and amenity of the area by reason of the proposed layout, design, materials of construction, appearance and its degree of permanence within the open countryside;
Further ecological work is required to confirm or rule out the presence of Great Crested Newts, Bats and Barn Owls;

Should the Authority consider approval of the application, the following suggestions have been made:

Consideration should be given to granting a temporary permission to allow the Authority to identify more suitable sites through the LDF process;
The number of caravans should be limited to a total of six to minimise the impact on the existing small community;
Additional screening should be required;
No continuous 24 hour lighting.

Officer Comment: Policies GEN.1; GEN3 & HOU3 have not been saved and have been replaced by RSS Policy.

Additional Letter Addressed to Members of the Strategic Planning Board dated 4th May 2010 from the Occupier of Poole Green Cottage, Cinder Lane, Reaseheath.

The letter suggests that the views of the local residents have not been taken into account by the Council's Officers and that approval of the application would set a precedent which would make it difficult for the Council to refuse similar applications in the future. The letter confirms support of the neighbours views who will speaking at the meeting on the 5th May.

In response, whilst it is not practical to reproduce all representations verbatim within the planning report, it is considered that all comments received that are material to the application were considered within the report.

APPLICANT'S SUPPORTING INFORMATION – The applicant has submitted a Design and Access Statement. The main points are;

Caravans are capable of assimilation within rural areas through the use of natural screening. It is considered that the site is already satisfactorily screened but the applicant is willing to carry out additional planting if required.

The existing access will be improved and the crossing made up to Highway specification. Wettenhall Road is a lightly trafficked and the sight stopping distances contained in Manual for Streets have been taken into account.

The site is only 1.5km from the edge of Nantwich and even closer to the bus stops on the A51. Having regard to the recent Wybunbury Lane appeal decision, the application site must be regarded as being reasonably sustainable for a gypsy site.

Draft Policy L6 of the RSS Partial Review stipulates that provision will be made for at least 60 additional permanent pitches in Cheshire East between 2007 – 2016. the supporting text explains that “there is an urgent need to address the shortage of suitable accommodation for Gypsies and Travellers”.

The Inspector in the recent appeal concerning a proposed gypsy site at Wybunbury Lane stated there is undoubtedly an immediate need for further pitch provision both in Cheshire East and regionally. This is particularly the case because the GTAA found that the need was for small private family sites.

Structure Plan Policy HOU6 and Local Plan Policy RES.13 relate to the provision of gypsy sites but either are based on a quantitative assessment of need therefore this application should be determined in accordance with the more up to date circular advice (01/2006).

The Authority has not produced a site allocations DPD, and suitable alternative sites have not been identified as part of the Local Development Framework process and the Authority is unlikely to remedy this situation before 2014.

The countryside location is not subject to special planning constraints and therefore according to paragraph 54 of Circular 01/2006, is acceptable for use as a gypsy site in principle subject to being in a sustainable location and not subject to flooding.

OFFICER APPRAISAL

Principle of Development

PPS.1 states that where the development plan contains relevant policies, planning applications should be determined in line with the plan, unless material considerations indicate otherwise. In this particular case the policies contained in the adopted local and structure plan relating to the provision of gypsy and traveller accommodation have been superseded by ODPM Circular 01/2006 requires local planning authorities to identify sites to accommodate for the gypsy and traveller community following a needs assessment (GTAA) for their area in the same way that sites are allocated for conventional dwellings for the settled population.

Need for Gypsy and Traveller Sites

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

(Amended as per previous updates)

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	*0*	Nil	*1*

The assessment identifies a need for 10-17 pitches in the former Crewe and Nantwich Borough during the period 2006 to 2016 of which 5 to 11 pitches are identified as being required by 2011. The draft RSS indicates that provision for Cheshire East should be at least 60 permanent residential pitches during the period 2007 to 2016.

The RSS requires pitch provision to be made between 2007-2016. The supporting text table 7.2 of the RSS which sets out the scale and distribution of pitch provision across the region (referred to above), explains that there is an urgent need to address the shortage of suitable accommodation for Gypsies and travellers.

The need described above is in addition to any existing sites or planning permissions which existing at the time of the GTAA. It was argued at the recent Planning Enquiry relating to an application for 3 Gypsy/traveller pitches on land off Wybunbury Lane, Stapeley and an appeal hearing for 3 Gypsy families and 2 transit pitches that the extant permission at Three Oaks, Middlewich for the provision of an additional 24 pitches should be taken into account and deducted from the need identified in the GTAA. However, in both cases the respective Inspector ruled that

this permission did not amount to supply because there was no certainty that the pitches would be provided. There were also question marks over the future occupiers of the pitches inasmuch as they would not be made available to traditional Gypsy families. Similarly, a site in Sound, New Meadowside/Pondarosa which formed part of the baseline figures for the GTAA has subsequently been removed from the last Gypsy/Traveller count within Cheshire East because there are no restrictions controlling the ethnic status of the occupants.

Nevertheless, the Middlewich site is relatively large and the preferred type of site as identified in the GTAA is for small private family sites.

A small private family site is not defined therefore it is a matter of fact and degree dependant on the proposal. In this particular case the agent states that the proposal involves the formation of a small private site of the type identified as a preference within the GTAA

Given the aforementioned it is clear that there is an immediate need for Gypsy and Traveller accommodation within the area. It is also noted that the Council's Spatial Planning Section have not raised an objection, as part of the internal consultation process to the application, on policy grounds.

Sustainability

ODMP Circular 01/2006 advocates a sequential approach to the identification of sites in Development Plan Documents (DPDs), requiring authorities to consider locations in or near existing settlements with access to local services first before windfall sites. Neither Cheshire East nor the legacy authorities have produced a Development Plan Document in response to the RSS and no suitable alternative sites have been identified as part of the Local Development Framework process.

Policy RES.13 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and Policy HOU6 of the Cheshire 2016 Structure Plan Alteration both support the provision of sites for the accommodation of gypsies and traveller subject to certain criteria. One of the criteria requires that site should be within easy reach of local services and facilities. Policy HOU6 requires, wherever possible, that sites should be within 1.6km of local services and frequent public transport. However, this Policy was adopted before Circular 01/2006 was issued. The Circular is designed to meet urgent need for sites therefore, the weight given to preferences contained within the Policy is materially reduced.

The agent's submission states that the site is 1.5km from the edge of Nantwich however, the important distance is the distance to the nearest facilities. A convenience store lies 2.4km from the site with a supermarket and hardware store approximately 2.8km away. The nearest primary school lies 3km away with the high school being 2.2km from the site. Beam Heath Medical Centre is approximately 3km from the site and the nearest bus stop is on Welsh Row which is close to the High School.

Wettenhall Lane although, unlit and does not contain a separate footway, is relatively lightly trafficked. However, A51 route into Nantwich is a very busy derestricted road with a speed limit of 60mph and there is little or no highway verge along some stretches of the road and is therefore not considered to afford a safe route for pedestrians especially when using pushchairs or wheelchairs. Although pedestrian access to Nantwich Town Centre is possible using Welshmans Lane which runs from Welsh Row to the A51 at its junction with Wettenhall Road, the road conditions are similar to Wettenhall Road. PPG 13 suggests that 2km is not an unreasonable walking distance and 5km is considered an acceptable cycling distance. Using average walking speeds it would take around 32 minutes to the bus stop and 43 minutes to the centre of Nantwich, by cycle it would take 5 and 10 minutes respectively.

From the aforementioned, it is clear that the location of the site raises some significant concerns over its sustainability due to its distance from local facilities and potential danger of the road conditions for pedestrians. Circular 01/2006 advises that when rural locations are being assessed local planning authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. The Circular also states that transport mode and distances from services is not the only consideration when assessing the sustainability. Other considerations should include; the promotion of peaceful and integrated co-existence with the local community; the wider benefits of easier access health services; children attending school on a regular basis; the provision of a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment.

Circular 01/2006 advises a sequential approach to identifying Gypsy and Traveller sites in DPD's, giving priority over sites that are located in or close to settlements with access to local services first. These identified sites should be used before windfall sites. However, at present the Authority has not produced a DPD and no suitable alternative sites have been identified as part of the Local Development Framework process. Whilst the site may not score high in a sequential assessment against other sites, there are no other sites currently available in the area.

Transitional arrangement guidance in Circular 01/2006 suggests that a temporary permission maybe appropriate subject to the advice contained in paragraphs 108-113 of Circular 11/96 (The Use of Conditions in Planning Permissions) which states that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission. The Authority is working towards preparing a site allocation DPD, the timetable for adoption was quoted as being 2014 during the public enquiry for the Wybunbury Lane site. However, the Circular states in such circumstances that local planning authorities are expected to give substantial weight to unmet need in considering whether a temporary permission is justified. Given the remaining unmet need of up to 8 pitches in the former Crewe and Nantwich area the Council would have to demonstrate that there was likelihood that this need would be met within the timeframe by more suitable sites in order to justify imposing a temporary permission. In this instance given the poor accessibility and sustainability of the site, and the considered view that appropriate need will be satisfied over the coming years as Cheshire East develops its policies, that a temporary permission can be

justified. It is therefore considered that a 5 year temporary permission could be issued to give certainty for the next few years for the applicants, but then enable alternatives to be considered for more sustainable sites to come forward in the future.

Designing Gypsy and Traveller Sites: Good Practice Guide; suggests (para.5.35) that “where a site is isolated from local facilities and is large enough to contain a diverse community of residents rather than an extended family, provision of a communal building is recommended”. It is considered that such a building can offer facilities for visitors and the residents. *Given the location of the site a condition requiring the provision of an appropriate building is recommended.*

Impact on the Countryside.

The site is located in an area of open countryside characterised by open fields separated by native hedgerows. Development along Wettenhall Lane is made up for the most part by sporadic individual dwellings with the exception of the adjacent equine stables and manege. A more formal group of residential properties are located in Cinder Lane which is approximately 250m to the south of the site. Beyond lies Reaseheath College which comprises a number of agricultural and office style buildings, Crewe Alexandra Academy is located close to the College on Wettenhall Road.

The main parking area for the caravans is set back from the highway and is completely surrounded by existing hedgerows of varying heights between 2m to 3m. The caravans can still be seen from both Wettenhall Road and a number of the properties within the locality and public footpath: Poole No 5 which runs east to west approximately 150 towards the north of the site.

The entrance to the site utilises an existing field access although the width has been increased to 5.5m. The access track has been formed using dark colour hardcore similar to that used for the main caravan parking area, a simple post and rail fence identifies the boundaries of the track. The land either side of the track is currently unimproved grassland the submitted plan indicates that this will be retained. It is advisable that additional appropriate planting within the site is secured by a condition.

With the introduction of additional landscaping it is considered that the site can be adequately and appropriately screened given that some degree of intrusion is inevitable when Gypsy and Traveller sites are developed in rural areas.

Ecology

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places,

- *in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic*

nature and beneficial consequences of primary importance for the environment

and provided that there is

- *no satisfactory alternative and*
- *no detriment to the maintenance of the species population at favourable conservation status in their natural range*

The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection

- *a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and*
- *a licensing system administered by Natural England.*

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

PPS9 (2005) advises LPAs to ensure that appropriate weight is attached to protected species "Where granting planning permission would result in significant harm [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm. In the absence of such alternatives [LPAs] should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where ... significant harm ... cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused."

PPS9 encourages the use of planning conditions or obligations where appropriate and again advises [LPAs] to "refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm."

The converse of this advice is that if issues of detriment to the species, satisfactory alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

Additional email correspondence received from Corbetts on behalf of residents in Cinder Lane, Reaseheath on 5th May 2010.

The correspondence suggests that an ecological survey was undertaken on behalf of the applicant prior to the development of the site and that this should be obtained and considered before a decision is made.

In response, Mr Hamilton, who represents the applicant, has confirmed that an ecological survey was not undertaken prior to the occupation of the site. Whether a

survey was carried or not and what was said to the Police at the time that the hard core was being laid is not for consideration at this time it is however, the Council's duty to consider the merits of proposals based on the information provided by the applicant at the time the application is submitted and any subsequent information submitted in support of the application.

In this particular case an ecological survey was submitted by the applicant and an additional survey submitted on behalf of the local residents. The conclusions and recommendation of both reports were summarised in this report.

On the basis of this advice the conclusions set out within the main report remain the same.

The application is supported by a walkover ecological assessment undertaken by Peak Ecology, the report was updated after it was discovered that there was an additional pond near to the site which is not recorded on the ordinance survey map for the area. The accuracy of the survey was somewhat hampered due to access difficulties to land outside the applicant's control.

The report concluded using the Habitat Suitability Index (HSI) that the presence of Great Crested Newts was unlikely in the two ponds which are within 250m of the site and that newts occupying ponds beyond that distance would not be impacted by the development.

The report also concluded that the barn owl box located close to the site showed no sign of occupation and given the retention of the existing trees and hedgerows there would not be a detrimental impact on bats or other protected species.

The ecological survey undertaken by TEP concludes that one of the two ponds mentioned above did have potential using the HSI index. The survey also observed an additional pond just over 100m from the site. This pond was also considered to potential for newt habitation. This particular survey was afforded direct access to the ponds in question and therefore carried greater weight.

The TEP report also questions findings of the Peak Ecology report in relation to the impact on barn owls because whilst the existing box was not occupied, the use of the site would discourage the barn owls from nesting.

Both surveys included an assessment of the hedgerows and trees within the site however, the application does not propose removal of any of the trees or hedgerows.

Circular 06/2005 imposes a duty on local authorities to consider the impact on protected species before planning permission is granted and advises that consents requiring an ecological survey should only be granted in exceptional circumstances.

In this particular case a major issue has been made of the fact that the site was development without the benefit of planning permission in respect to the improvement of the access, construction of the access track and hard-standing area for the caravans. The site was visited immediately after the track and hard-standing

were formed by the Council's Ecologist and the Police Countryside and Wildlife Liaison Officer. The main purpose of the visit was to ascertain the impact of the development on ecology and whether there was evidence that an offence had been committed under the Wildlife and Countryside Act. It was concluded by both the Police and the Council officers that there was no evidence that an offence had been committed or because the work was substantially complete that there had been loss of an important ecological resource. Nevertheless, the Council did stop further development on the site by obtaining a Court injunction. The Injunction remains in force until such time that a grant of express planning permission is made or until a further Order of the Court.

Given that it is not possible to assess the conditions of the site before the hardcore was laid and that any impact during the construction process has happened, it is considered that it is only the retention of the hardcore, the intended use and the work that is required to complete the development that can be assessed in relation to their impact on ecology.

The retention of the hardcore on the site is not considered to have an adverse impact on Great Crested Newts, should they be present within the vicinity of the site because of the inert nature of the aggregate and the fact that there is sufficient unimproved grassland within the immediate vicinity to facilitate foraging habitat. The ecological impact assessment submitted by TEP (para 5.4) accepts that the conditions within the site (assuming that it was unimproved grassland - Officer Comment) are replicated in the wider landscape and therefore development of the site is unlikely to affect the conservation status of the species (if present) assuming the use of appropriate reasonable avoidance measures during the works.

The main areas of work required to complete the development involve the installation of a private sewer treatment plant, fresh water supply pipe, additional fencing between each pitch, formation of the amenity area and surface finishing of the hard core areas. The applicant's agent has confirmed that the sewage treatment plant will be located on the existing disturbed areas within the site. The installation of the water pipe can be carried out along the line of the existing track thereby minimised ground disturbance.

The Authority's ecologist has confirmed that these activities would constitute minor works unlikely to have an impact on protected species even if it were proven that they are populating the surrounding land.

A barn owl nest box is located within a tree on the boundary of the site. Under the Wildlife and Countryside Act it is an offence to disturb an owl during the nesting period. Neither of the ecology surveys found any evidence of owl occupation and therefore an offence is unlikely.

Great Crested Newts are often found within domestic gardens therefore the existence of humans and associated residential activity would not have a detrimental impact on their environment. Similarly, guidance issued by English Nature (Barn Owls on Site: A Guide for Developer and Planners) states that owls and people can

co-exist and that regular human activity can be tolerated, as long as the birds have a dark cavity, well above ground level, in which they can safely roost out of sight. Given this evidence it is clear that the use of the land as a residential caravan site will not have a detrimental impact on protected species.

The applicant has offered to create a wildlife area on land within his ownership to the side of the access track as part of any landscape mitigation measures.

Impact on Neighbouring Amenity

Circular 01/2006 advises that Gypsy and Traveller sites should not dominate the existing community. The scale of the site is similar to other sites within the rural area in Cheshire East which manage to co-exist with the settled community within the vicinity of the site. It is considered that the scale of the site will not dominate the existing community within the vicinity of the site.

It is accepted the activities associated with the operation of a caravan site can have an adverse impact on amenity due mainly to the comings and goings of the vehicles. The site is at least 250m from the nearest dwelling and well screened by existing hedgerows. There will be some disturbance to the neighbouring equestrian site however, any disturbance is not considered materially greater than that experienced by the site from vehicle movements along Wettenhall Road which lies adjacent to it.

It is common for gypsy and Traveller to operate business from which their caravans are stationed. This fact is recognised by Circular 01/2006 which states that mixed use sites are not permitted on rural exception sites. The current occupiers of the site appear to park commercial vehicles on the site however, this is not an uncommon occurrence at any residential property. The fact that this activity is taking place does not automatically result in a material change of use. However, a condition is recommended to limit any commercial activity to a non-material level.

Other Matters.

Surface water run-off of the site is not considered to be a major issue as the surface treatment is pervious. Foul water drainage is to be provided by a private treatment plant, which is considered to be acceptable in principle, subject to siting and design being agreed. Given the length of the access track and the existing cluster of waste bins adjacent to the highway it would be prudent to require the submission of appropriate storage details.

The Council's Highway Engineers have not raised an objection in principle but have asked for detailed drawings of the access arrangements to be submitted for approval.

CONCLUSIONS AND REASON(S) FOR THE DECISION

It is acknowledged that retrospective applications can be very emotive especially where development is knowingly undertaken without consent however, the development and subsequent proposal have to be considered on their merits.

Following the results of the GTAA undertaking in 2007 it is clear that there is an unmet need for Gypsy and Traveller sites within Cheshire East. The site itself appears adequate to accommodate for 8 family pitches without detrimental impact on highway or neighbouring amenity.

The impact of the already introduced hard-core on ecology cannot be evaluated with any certainty after the event and it is concluded that the operations required to complete the development are not likely to have an adverse impact on ecology

Given the current situation in respect of identified need, a refusal at this time would be difficult to sustain. However, the site nonetheless raises significant concerns in respect of sustainability as highlighted. It is therefore considered that in this instance a temporary consent can be justified, albeit for a 5-year period, providing certainty for the next few years for the applicants, but then to enable alternatives to be considered for more sustainable sites to come forward in the future.

RECOMMENDATION: APPROVE

Conditions

- 1. Temporary consent for 5 years**
- 2. Site occupation limited to Gypsy and Travellers**
- 3. No vehicle over 3.5 tonnes to be parked or stored on the site**
- 4. No commercial activities to take place on the land including storage of materials.**
- 5. No more than 8 pitches and no more than 2 caravans on each pitch.**
- 6. The use hereby permitted shall cease following the failure to meet any of the requirements set out below.**
 - i. Within 3 months of the date of this decision a scheme for: Internal layout of the site including any concrete hard-standing; means foul and surface water drainage; proposed external lighting; visibility of splays and road crossing; communal building; installation of service/utilities; landscaping scheme which shall include gapping up of existing hedgerows and environmental improvement measures in mitigation for the loss of grassland; type and location of additional barn owl nest box; and details of measures to ensure that any potential harm to protected species is satisfactorily minimised shall have been submitted for written approval and the said scheme shall include a timetable for implementation.**
 - ii. The approved scheme shall be carried out and completed in accordance with the approved timetable**

7. Maintenance of the landscaping.

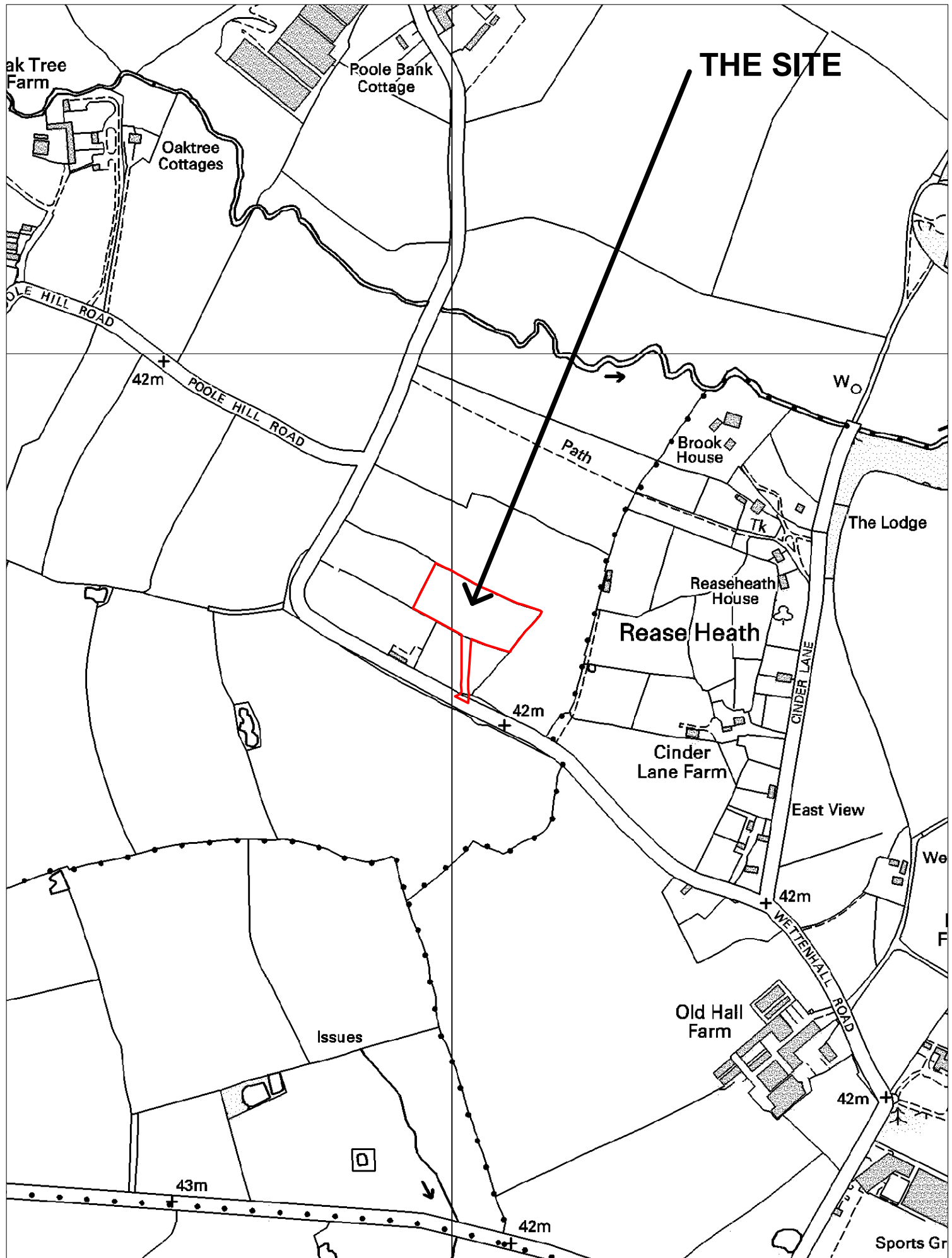
Additional Conditions

In order to ensure that the retention of the hardcore will not lead to contamination of the surrounding ground water a detailed analysis of the hardcore shall be submitted for approval together with any remedial measures.

8. Contaminated land survey.

Following further consideration an additional condition is recommended requiring re-instatement of the site once the use of the site ceases. This re-instatement would be subject to the submission of an ecological assessment of the impact of the scheme for agreement.

9. Reinstatement of the site shall be carried out in accordance with an ecological impact assessment, this assessment should be submitted for approval prior to the reinstatement.



LAND OFF, WETTENHALL ROAD, POOLE, NANTWICH, CHESHIRE

NGR - 364,010 : 354,710

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