

Planning Reference No:	10/2810N
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 Two Caravans, including Improvement of Access, Construction of Access Road, Laying of Hard-standing and Provision of Foul Drainage.
Applicant:	Mr T Hamilton
Application Type:	Full
Grid Reference:	364027 345697
Ward:	Cholmondeley
Expiry Dated:	14 th September 2010
Date Report Prepared:	
Constraints:	Open Countryside

SUMMARY RECOMMENDATION – REFUSE.

MAIN ISSUES

- 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 ecology.

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 Gypsy and Traveller Accommodation Assessment (GTAA) process and addressed as part of the Local Development Framework for Cheshire East.

GENERAL COMMENT

The application is a re-submission of application (ref 09/4331N) which was refused at Strategic Planning Board on 2nd June 2010. This application is essentially the same in scale and form however, the previous application was considered unacceptable due to the lost of wildlife habitat, unsustainable location and the resultant unjustified intrusion into the open countryside. The Applicant has provided additional information which seeks to address the reasons for refusal.

The application was considered acceptable in all other respects therefore, this application does not represent an opportunity re-considered issues that were

considered previously acceptable unless there has been a material change in circumstances. The material changes are considered in detail below.

A copy of the officer's report for 09/4331N is annexed to this report and should be considered as part of this report.

It should be noted that the officer's report referred to Nantwich Health Centre as Beam Heath Medical Centre, it should read Church View Primary Care Centre, Beam Street, Nantwich.

Whilst it is important to consider the proposal in full, in order to provide focus, comment within this report will, in the main, be limited to issues relating to the reasons for refusal for the previous application.

Since the previous decision was made Regional Spatial Strategies have been abolished. Supporting guidance issued by the Communities and Local Government office states, amongst other things, that the determination of the right level of provision of Gypsy and Traveller sites rests with the local authority, reflecting local need and historic demand, and for bringing forward land in Development Plan Documents (DPDs) and that they should continue to do this in line with current policy.

The Government has also announced its intention to replace Circular 01/2006 (ODPM) Planning for Gypsy and Traveller Caravan Sites and strengthen enforcement rules

The accompanying document to PPS1, 'the Planning System; General Principles' (Jan 2005) indicates that "*Emerging policies, in the form of draft policy statements and guidance, can be regarded as material considerations, depending on the context. Their existence may indicate that a relevant policy is under review; and the circumstances which have led to that review may need to be taken into account.*" In this case it is not altogether clear what will replace the circular other than it will be 'light touch guidance'. Never the less the Government has sent a clear signal that it considers that the current advice is in need of revision – and by implication – too prescriptive in its content and tone. In these circumstances we contend that the advice of Circular 01/06 remains pertinent, but that overall it should be afforded less weight than before.

This report has therefore been prepared in the context of these new circumstances

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 and 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 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 include 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 trailers 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.

Application ref 09/4331N: Change of Use of Land as a Residential Caravan Site for 8 Gypsy Families, Each with Two Caravans, including Improvement of Access, Construction of Access Road, Laying of Hard-standing and Provision of Foul Drainage. Refused on 2nd June 2010 for the following reasons:

1. The development represents an inappropriate and unjustified visual intrusion in the open countryside due to the introduction of hardcore and the siting of caravans which is considered to have an adverse impact on the character and openness of the surrounding area contrary to the provisions of Policy NE.2 (Open Countryside) and Policy RES.5 (Housing in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan

2011.

2. The application fails to provide the Local Planning Authority with sufficient information to assess the appropriate mitigating measures required for the loss of wildlife habitat contrary to the provisions of Policy NE.5 (Nature Conservation Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.
3. The location of the site represents an unsustainable form of development due to the distance from local services and facilities contrary to Policy RES.13 (Sites for Gypsy and Travelling Showpeople) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the guidance contained within Circular 01/2006.

An appeal has been lodged against this decision and will be considered by means of a public enquiry. A provisional date in November 2010 has been set.

POLICIES

The development plan includes the Borough of Crewe and Nantwich Replacement Local Plan 2011 (LP) extended policies within the Cheshire 2016 Structure Plan Alteration.

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

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 objection subject to the submission of an acceptable method of foul and surface water disposal.

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.

Cheshire Fire Authority: Comments that access and facilities should be in accordance with guidance given in Approved Document B supporting the Building Regulations and Model Standards 2008 for Caravan Sites in England. Also details of the mains water supply should be submitted to them and recommends that the applicant should consider the inclusion of an automatic water suppression system within the design.

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 – Requests further details relating to the creation of the wildlife area.

VIEWS OF THE PARISH / TOWN COUNCIL – No received at the time of writing the report.

OTHER REPRESENTATIONS

Objections have been received from: The occupiers of Foxcroft Cottage; Cinder Lane Farm; The Cottage; Oak View; Brook House and Poole Hall which are all situated in Cinder Lane, Reaseheath. Additionally, objections have been received from the occupiers of Holders House on Wettenhall Road.

Walsingham Planning have also submitted representations on behalf of Poole and Reaseheath Residents' Association.

A number of issues have been raised however, the majority of these issues were considered and dealt with within the Officer Report which is annexed to this report.

In order to provide clarity, the following issues only relate to new matters which are considered material and comments relating to additional information produced by the applicant to address the reasons for refusal on the previous application:

No further Ecological Study has been carried out by the applicant and due to the contradictory results of the two studies there is no justification for the Council to now take a different view on ecology; and the second reason for refusal;

The Poole and Reaseheath Resident's Association consider that the location of the proposed development to local services, schools, shops transport networks is of paramount importance to the consideration of the application;

It is considered inappropriate to compare this site with other similar application sites which have been the subject of an appeal in terms of sustainability;

Since the previous application was refused the Secretary of State has revoked Regional Spatial Strategies and subsequently the targets they set;

There may be a need for additional gypsy sites within Cheshire East, the need is clearly not pressing (based on figures submitted by Walsingham Planning as comments to the previous application) and certainly does not justify overriding the previous reasons for refusal;

There is poor infrastructure and there are no pedestrian pavements or street lighting in the vicinity therefore people walking along the road would be at risk of injury;

The wider benefits of easier access to doctors, other health services, schools and local shops are not met as the site is too far from these services due to the lack of public transport into Nantwich;

The provisions of Policy HOU.6 are not satisfied because the site is not located within 1.6km of a local school;

The Government has announced that it intends to replace Circular 01/2006;

Policy regarding travellers sites appears to be changing and that local authorities have been issued with new guidelines, it is hoped that Cheshire East will ensure that these guidelines are adhered to.

APPLICANT'S SUPPORTING INFORMATION – The applicant has submitted a Design and Access Statement and two appeal decisions PDA1 and PBA2. The main emphasis and contents are designed to address the reasons for refusal on 09/4331N;

Scale, Landscaping and Appearance.

Gypsy sites are acceptable in principle in rural areas which are not subject to special protection and that the test that should be applied to the impact on the character and appearance of the countryside is whether the development causes unacceptable

harm which cannot be made acceptable with additional landscaping. Annex C to Circular 01/2006 infers that sites do not have to be adequately screened from the outset; secondly, that gypsy sites do not have to be hidden from view and, thirdly, that sites can be assimilated into their surroundings to a sufficient degree.

The Statement then refers to a appeal decision (PBA1) where the Inspector concluded that a balance should be drawn in terms of screening and planting, so that the occupiers are visually part of the community.

It is considered that this particular site is already well screened from public vantage points but the applicant is willing to carry out additional planting if required.

Access and Sustainability.

The access and verge will be improved to Highway Authority specifications. It is considered that the existing visibility splays are adequate, this is particularly the case if the most up to date sight stopping distances, set out in Manual for Streets (applicable to lightly used country lanes), are taken into account.

With respect to sustainability, the “in principle” acceptance of Gypsy sites in rural areas (paragraph 54 of Circular 01/2006) has a number of intended consequences. One of these is that rural areas in the main are less “sustainable” than urban areas, in that the range of transport options is likely to be more limited, and access to essential services is therefore more likely to be car dependant. Clearly, if rural areas are acceptable in principle, the aim of reducing car dependence must be secondary to the sustainability benefits set out in paragraph 64 of Circular 01/2006 (see below), and to the aim of achieving a major increase in the delivery of an adequate supply of Gypsy/Traveller sites.

Sustainability should not be assessed on the narrow basis of distance to services and transport modes. Account should be taken of the wider benefits set out in paragraph 64 of Circular 01/2006 which include easier access to a Doctor and other health services; children attending school on a regular basis and the provision of a settled base that reduces the need for long distance (or frequent) travelling and possible environmental damage caused by unauthorised encampment. The development achieves all of these benefits.

Reference is made to an appeal decision (PBA2), where the Inspector concluded that rural Gypsy and Traveller sites are similar to other rural sites and that therefore there was no justification for withholding planning permission.

Nature Conservation

An ecological walkover survey was carried out in January 2010 and found that the applicant’s land provided areas of low diversity habitat, and areas of greatest conservation interest would be unaffected by the development. Furthermore, protected species would be unaffected.

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

Policy Context

The Statement then goes on to discuss the planning policy context in relation to the need for Gypsy and Traveller accommodation in Cheshire East. It is not considered necessary to include this in the report because this issue was fully considered during the assessment of the previous report.

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 plans relating to the provision of gypsy and traveller accommodation have been superseded by ODPM Circular 01/2006. Whilst under review, this 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

As mentioned above the need for Gypsy and Traveller accommodation was considered within the officer's report to Committee relating to the previous application which is annexed to this report. It was concluded that there was an unmet need within the Borough based on the figures published in the GTAA.

The recent appeal decision, issued in June this year, relating to the formation of a Gypsy/Traveller site off Spinks Lane, Knutsford concluded amongst other things; that there was a serious shortage of accommodation for Gypsies and Travellers in Cheshire East. The Inspector commented *"as a consequence additional problems and inequalities for the gypsy and traveller community are created in terms of access to health, education, employment and other opportunities. Tensions over the use of pitches without planning permission also occur. It is such outcomes that Circular 01/2006 aims to address. I attach substantial weight to unmet need"*. This appeal was dismissed for other reasons however, the Inspector's comments relating to the un-met need are relevant and material to the current accommodation situation in Cheshire East.

The revocation of Regional Spatial Strategies does not materially alter the assessment as the guidance issued with the revocation letter advises that local planning authorities should determine the need within their area and they should do

this in line with current policy. The guidance suggests that GTAA's are a good starting point. The GTAA is the most up to date quantifiable needs assessment for Gypsy and Traveller accommodation for the area and will be the basis of formulating the Authority's Core Strategy. The Strategy will set out the vision, objectives and strategy for the spatial development of Cheshire East over the next 15 years.

Sustainability

The principles of sustainability were considered within the officer's report to Committee relating to the previous application which is annexed to this report. The report concluded that there were question marks over the sustainability of the site therefore only a temporary permission was recommended in order to allow the Authority to formulate policy and allocate more suitable sites. However, the Committee considered that the un-met need did not out-weigh the unsustainable location of the site and therefore the development was considered to be contrary to the provisions of Policy RES.13.

This revised application seeks to provide additional information to address these concerns. The agent has reiterated his opinion that the site is sustainability located and made reference to a 2009 appeal decision (PBA2) where the Inspector concluded that the "acceptable in principle" advice of gypsy sites in rural areas found in Circular 01/2006 outweighed local plan policy relating to the location of development.

In effect the applicant is inviting the Council to re-visit its consideration of the sustainability argument and to view the site afresh and in a different light. However the revised application does not alter the fundamentals of the site's location nor its intrinsic relationship to adjacent facilities. The Committee previously concluded that the site was unsatisfactory with regard to its sustainability – and conflicted with Policy RES13. There is not sufficient within the revised application to justify a deviation from this position.

Ecology

The statutory duty imposed on local authorities to consider the impact of development proposals on protected species and their habitat was highlighted in the previous Officers report which is annexed to this report.

The previous application was refused because the Committee considered that the development contravened the criteria set out in Policy NE.5. This policy seeks to protect, preserve and enhance the natural conservation resource and states that development must preserve this resource or provide replacement habitat as compensation. The site was originally unimproved grassland which would have provided ideal habitat for various species.

The revised application states that the applicant is prepared to create a wildlife area within the site as part of any landscape mitigation measures. However, further details will be required to evaluate whether this wildlife area will mitigate for the loss

of the un-improved grassland and the habitat which it afforded. Further information has been requested but at the time of writing this report information has not been received therefore the additional information provided fails to address the Council's reasons for refusal on the previous application.

Impact on the Character and Appearance of the Countryside

The revised application does not address this issue in a direct sense however, the Design and Access Statement states that that the development would not conflict with Circular 10/2006 or relevant development plan policies in so far as these are consistent with the Circular. The inference being that the development complies with other relevant policy therefore is considered appropriate development when judged against the criterion contained within Policy NE.2.

The Council has previously concluded that the development is an inappropriate and unjustified visual intrusion in the open countryside due to the introduction of hardcore and the siting of caravans. These are considered to have an adverse impact on the character and openness of the surrounding area – and consequently the development would be contrary to the provisions of Policies NE.2 and RES.5

Once again a re-assessment of this position is invited, but with limited change to the fundamentals of the development itself. Circular 01/06 supports the principle of sites in a rural setting, but does not suggest that such development will always be acceptable. Given that is the case – and the fact that the Government has signalled a revision to this advice – there appears to be no reason to alter the balanced assessment that the Council has made on impact on the Countryside.

Other matters

The introduction of the hardcore could have a potential to contaminate to surrounding groundwater therefore were the committee to consider approval of the application a condition requiring a detailed analysis of the hardcore together with any remedial measures would be recommended.

CONCLUSIONS AND REASON(S) FOR THE DECISION

Members will be aware that the original permission was refused contrary to officers' recommendations due to concerns over the sustainability of the site and the loss of natural habitat both of which resulted in the development being judged inappropriate in a countryside location.

The additional information provided by the applicant reinforces the applicant's stance that the site is sustainably located nevertheless, the situation remains substantially

the same because the additional information does not include any proposals that could be considered compensatory for what was considered to be an unsustainable location.

The additional information relating to mitigation for the loss of the wildlife habitat is not considered sufficient to address the Council's original reason for refusal on ecological grounds.

Accordingly it is considered that the revised application does not provide sufficient grounds to overcome or alter the conclusion that the Council previously reached. On that basis and having regard to Development plan policy and other material factors it is considered that the application should be refused

RECOMMENDATION: REFUSE

1. The development represents an inappropriate and unjustified visual intrusion in the open countryside due to the introduction of hardcore and the siting of caravans which is considered to have an adverse impact on the character and openness of the surrounding area contrary to the provisions of Policy NE.2 (Open Countryside) and Policy RES.5 (Housing in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.
2. The application fails to provide the Local Planning Authority with sufficient information to assess the appropriate mitigating measures required for the loss of wildlife habitat contrary to the provisions of Policy NE.5 (Nature Conservation Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.
3. The location of the site represents an unsustainable form of development due to the distance from local services and facilities contrary to Policy RES.13 (Sites for Gypsy and Travelling Showpeople) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the guidance contained within Circular 01/2006.

ANNEX A: Previous Officer's Report including Updates

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 conflict 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 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 these 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 developed 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 issue 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.

UPDATES

STRATEGIC PLANNING BOARD UPDATES

2nd June 2010

APPLICATION NO: 09/4331N

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.

ADDRESS: Land Off, Wettenhall Road, Poole, Nantwich, Cheshire

COMMENT

Further correspondence has been received from Walsingham Planning on behalf of residents in Cinder Lane, Reaseheath dated 21st May 2010.

The correspondence comments on a number of points discussed in the main committee report:-

Need for Gypsy and Traveller Sites

The conclusion that there is an immediate need for gypsy and traveller accommodation is factually incorrect, a gross oversimplification of the true position and ignores an important material planning consideration i.e.

That only limited weight should be given to Draft RSS Policy L6;

That Cheshire East has approved 32 pitches since the 2007 GTAA (Gypsy and Traveller Accommodation Assessment), which equates to 76-119% of the immediate 5 year supply requirement (2006-2011) and 59-68% of the full 10 year requirement (2006-2016). Therefore, we challenge the assertion in the original report that additional pitches provide to day fall well short of the GTAA and RSS (Regional Spatial Strategy) target;

That the Officer's conclusion that the Wybunbury Lane appeal inspector concluded that approvals do not amount to supply because there was no certainty that the pitches would be provided, was incorrect.

They conclude that far less weight on the need case when considering the current planning application.

Comment

The figures contained within the GTAA are baseline and considered to be a minimum not a target. The issues highlighted in the correspondence were considered by the Inspector during the Wybunbury Lane Enquiry. It was concluded that although work had commenced at the Three Oaks Site in Middlewich (25 pitches) some time ago, no further work further work has been carried out since, there were also question marks over who will be allowed to occupy the site if the accommodation should become available because the site is operated by and for English Travellers.

It is also noted that the GTAA baseline figures included pitches at Lea Holmes site in Wrenbury (16 pitches) and New Meadows site at Sand (5 pitches) both of which have been subsequently found not to be restricted to Gypsy and Traveller occupation and are now occupied by a number of people who do not meet the definition of a Gypsy or traveller set out in Circular 01/2006. Whilst it is acknowledged that 3 pitches at Wybunbury Lane, Stapeley have been approved, the loss or unavailability of the aforementioned sites is considered significant in relation to the Authority's requirement to meet the immediate need identified in the GTAA for the Cheshire East area.

The Balancing Exercise

The letter questions whether the committee report is balanced given the material issues including compliance with adopted policies and compliance with Circular 01/2006.

Comment

The correspondence does not raise any additional matters not already dealt with in the main committee report therefore, no additional comments are required other than to state that the main report is considered to be a balanced and professional assessment of the development in question.

Human Rights Issues

The letter states that the original committee report failed to address the Human Rights issues raised by an objector.

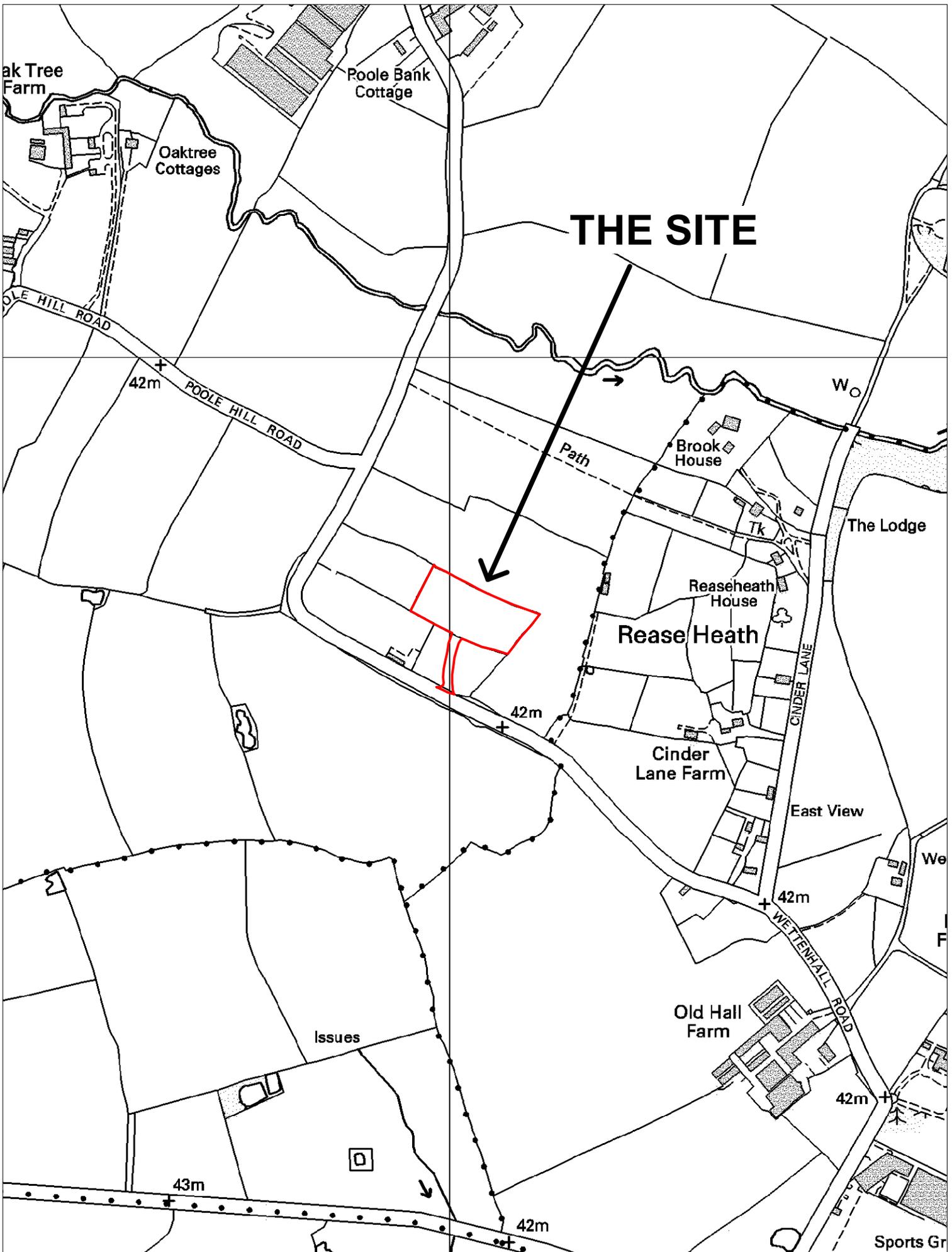
Comment

Circular 01/2006 Para 70 reminds local authorities that the provisions of the European Convention on Human Rights (ECHR) should be considered as an integral part of their decision making.

Article 8: Right to Respect for Private and Family and Home. In cases involving retrospective applications for Gypsy and Traveller sites, human rights issues form an important part of the consideration when the authority is minded to refuse the application because to refuse the application and the consequential liability for enforcement action can result in forced eviction from the occupants home. However, in this particular case, the issues were not discussed in the report because the recommendation was for approval albeit for a temporary period.

The Circular also make reference to the rights of local residents when considering such applications. As stated above, the provisions of the ECHR are integral to all decisions made by the Authority. The application has been assessed against adopted policies and relevant guidance which seek amongst other things to protect the local environment including the living conditions of local residents.

Therefore, it is considered that the recommendations contained within the report accord with the provisions set out by the ECHR.



10/2810N - LAND OFF, WETTENHALL ROAD, POOLE, NANTWICH
 N.G.R. - 364,010 - 354,730

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RECOMMENDATION

That the conclusion and recommendations made in the main committee report stand without alteration.