

Application No: 23/4181N

Location: Land at Cemetery Road, Weston, Crewe, CW2 5LQ

Proposal: The use of land for the stationing of additional caravans for residential purposes, the erection of a second dayroom and formation of additional hardstanding

Applicant: Mr Michael Stokes, c/o agent

Expiry Date: 08-Mar-2024

## **SUMMARY**

The proposal seeks permission for the change of use of land to use as residential caravan site for one pitch with two caravans, and erection of an amenity building.

The site is in the open countryside where Cheshire East Local Plan Strategy (CELPS) policy PG 6 'Open Countryside' would apply. Paragraph 25 of the Planning Policy for Traveller Sites (PPTS) notes how local planning authorities should very strictly limit new Traveller site development in the countryside that is away from existing settlements or outside areas allocated in the development plan. The application site is also located within a Strategic Green Gap where development should not erode the physical gap between settlements, or adversely impact on the visual character of the landscape or significantly affect the undeveloped character of the Green Gap or lead to a coalescence between existing settlements. The Planning Inspector for the previous permission on the site concluded that the development would not harm the open countryside or the Green Gap, and it is considered that the addition of pitch on the site would not have a significantly greater impact than that which has been accepted previously.

Policy SC7 'Gypsies and Travellers and Travelling Showpeople' of the Cheshire East Local Plan Strategy sets out the Council's strategic approach to Gypsies and Travellers and Travelling Showpeople. Policy HOU 5 'Gypsy and Traveller Site Provision' Site Allocations and Development Policies Document (SADPD) provides additional detail to the strategic policies contained in the Local Plan Strategy. SADPD refers to criteria relevant to the consideration of sites in the open countryside, outside of the Green Belt and over and above those on allocated sites.

The SADPD Inspector noted that the SADPD, alongside commitments and completions and supported by its proposed allocations, provided sufficient pitches to meet the identified need for permanent pitches for Gypsies and Travellers for the period 2017-2030. The identified supply of sites for Gypsy and Traveller accommodation was considered to be consistent with national policy in respect of its

deliverability and developability, and so that the Council could demonstrate a sufficient supply of deliverable sites to support a five-year supply.

However, on the 19<sup>th</sup> December 2023, the Department for Levelling Up, Housing and Communities (DLUHC) changed the definition of a Gypsy and Traveller in its Planning Policy for Traveller Sites (PPTS). The effect of these changes is to broaden the definition of a Gypsy & Traveller to include persons of nomadic habit of life who have ceased to travel permanently on the basis of their own, their family's or dependants educational or health needs or old age. This change follows the judgment in the Court of Appeal in the case of Smith v SSLUHC & Or which found the previous definition set out in the PPTS 2015 to be discriminatory.

The PPTS expects LPA's to set pitch targets for Gypsies and Travellers as defined in Annexe 1 to address likely permanent site accommodation needs in their local plans and to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against those locally set targets. Where a local planning authority cannot demonstrate an up to date 5-year supply of deliverable sites, this is a significant material consideration when considering applications for the grant of temporary planning permission.

CELPs Policy SC7 states that sites will be allocated or approved to meet the needs set out in the most recent Gypsy and Traveller Accommodation Assessment (GTAA). The Council published its latest GTAA in 2018 and this was independently examined as part of the evidence base for the SADPD. The GTAA identified a need for 32 permanent pitches for households that met definition of a Gypsy & Traveller for the period 2017-30 and this formed the basis for criteria 1(i) of SADPD Policy HOU5. At the time of adoption, the Examining Inspector was satisfied with robustness of the GTAA, the policy approach and that a deliverable five-year supply could be demonstrated. However, it is highlighted that the needs identified in the GTAA and SADPD reflect the now superseded definition in the PPTS. Because the definition of a Gypsy and Traveller has now been widened by DHLUC, the LPA cannot say with confidence what the remaining need is for permanent pitches over the plan period and the likelihood is that it will be higher than what was concluded through the SADPD examination process. Without clarity on the need figure, it is not possible to properly evidence the Council's five-year supply position and therefore Cheshire East cannot demonstrate a five-year supply for the purposes of determining planning applications and appeals. Criteria 2 of LPS Policy SC 7 & Criteria 3 & 4 of Policy HOU 5 remain relevant to the consideration of this application.

As a result, the need for gypsy and traveller accommodation is a significant material planning consideration in the assessment of this application. The provision of 1no Gypsy and Traveller accommodation is a clear social benefit of the proposal.

The site does not meet all the criteria of the sustainability checklist, nevertheless the site is located on the edge of the village settlement boundary and is well connected to Weston and the Town of Crewe where most services are available.

The Highways Authority have raised no objection to the impact on highway safety. It is also considered that the proposal would not have adverse impact on the setting of the nearby listed buildings or the Conservation area.

There are no significant issues raised to the scheme in terms of ecology, landscape, amenity and drainage subject to conditions.

It is therefore considered that on balance, and subject to conditions, the proposal is acceptable and is recommended for approval accordingly.

## **RECOMMENDATION – APPROVE WITH CONDITIONS**

### **REASON FOR REFERRAL**

The application is referred to Southern Planning Committee at the request of Cllr Edgar for the following reasons;

*'I wish to call it on the grounds of*

- 1)The conditions set are not being complied with under application 17/2879,*
- 2) there are more than 2 caravans on site,*
- 3) tree planting condition not complies with,*
- 4) Further development will adversely affect the character of the area,*
- 5) the council now has sufficient caravan pitches since the adoption of the SADPD in December 2022*
- 6) The personal circumstances that permission being granted to the applicants son was not recognised in the Inspectors report as being a determinative issue'.*

### **PROPOSAL**

The proposal seeks permission for the use of land for the stationing of additional caravans for residential purposes to create a second pitch, the erection of a second dayroom and formation of additional hardstanding.

### **SITE DESCRIPTION**

The application site is located off Cemetery Road, Weston. The site is access off a track from Cemetery Road. The application site relates to an existing Gypsy and Traveller site which was given permission under 17/2879N at appeal (APP/R0660/W/19/3223623) for 1 pitch (2 caravans not more than one static caravan).

The site is located within the Open countryside and Green Gap. The site is bound by existing development to the south, equestrian buildings to the west, and a PROW runs along the north/east of the site. The north of the site is open fields.

A site visit was carried out by the Planning Officer on the 26<sup>th</sup> January 2024. Hardstanding has been installed; some tree planting has also recently been carried out to the north/east of the application site. There were no Statics on the site at the time of the site visit, but 2 tourers were present. The utility building has not yet been constructed. There was also an additional caravan located on the field beyond the site which the applicant stated was just being stored.

## **RELEVANT PLANNING HISTORY**

22/3257N – Variation of Condition 3 - Approved Plans on application 17/2879N - APP/R0660/W/19/3223623 – Approved with conditions 21<sup>st</sup> December 2022

21/4372D – Discharge of conditions 5, 6, 7, 8, 12 and 13 of app 17/2879N - The use of land for the stationing of caravans for residential purposes for one family gypsy pitch together with formation of hardstanding and ancillary utility/dayroom, and the retention of the existing permitted stables – Part Approved/Part Refused 8<sup>th</sup> November 2021

21/4574N – Erection of two detached dwellings – Refused 14<sup>th</sup> April 2022

20/2692N – application for change of use of agriculture to equine use and construction of stable block for 3 horses, a hay barn and menage together with hardstanding parking space for tractor and owners horse box – Approved with conditions 12<sup>th</sup> November 2020

17/2879N – The use of land for the stationing of caravans for residential purposes for one family gypsy pitch together with formation of hardstanding and ancillary utility/dayroom, and the retention of the existing permitted stables – Refused 4<sup>th</sup> October 2018; Allowed at appeal 29<sup>th</sup> August 2019

16/4579N – Resubmission of application 15/5242N for the creation of hardstanding area around existing stable block for use of horsebox/trailers and storage of equine equipment – approved with conditions 29<sup>th</sup> November 2016

15/5242N – Creation of hardstanding area around existing stable block for use of horsebox/trailers and storage of equine equipment – Refused 13<sup>th</sup> January 2016; Dismissed at appeal 22<sup>nd</sup> July 2016

P99/0346 – Change of use to residential garden – approved with conditions 27<sup>th</sup> May 1999

7/12646 – Stables/Tack shed – Approved with conditions 19<sup>th</sup> December 1985

## **NATIONAL & LOCAL POLICY**

### **National Policy**

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

Planning Policy for Traveller Sites (PPTS) 2015 sets out the Government's planning policy for traveller sites. It should be read in conjunction with the Framework. The overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.

### **Cheshire East Local Plan Strategy (CELPS)**

SD1 Sustainable Development in Cheshire East  
SD2 Sustainable Development Principles  
PG5 Strategic Green Gaps  
PG6 Open Countryside  
SE1 Design  
SE2 Efficient Use of Land  
SE3 Biodiversity and Geodiversity  
SE4 The Landscape  
SE7 The Historic Environment  
SE11 Sustainable Management of Waste  
SE12 Pollution, Land Contamination and Lands Instability  
SE13 Floodrisk and water management  
SC3 Health and Wellbeing  
SC7 Gypsies and Travellers and Travelling Showpeople  
CO1 Sustainable Travel and Transport  
CO4 Travel Plans and Transport Assessments  
IN1 Infrastructure

### **Site Allocations and Development Policies Document (SADPD)**

PG 9 Settlement Boundaries  
PG 12 Strategic Green Gap boundaries  
GEN 1 Design principles  
ENV 1 Ecological network  
ENV 2 Ecological implementation  
ENV 5 Landscaping  
ENV 6 Trees, hedgerows and woodland implementation  
ENV 15 New development and existing uses  
ENV 16 Surface water management and flood risk  
HER 3 Conservation Areas  
HOU 5 Gypsy and Traveller Provision  
HOU 7 Gypsy and Traveller and Travelling Showperson site principles  
HOU 12 Amenity  
HOU 13 Residential Standards

### **Weston and Basford Neighbourhood Plan Modification**

E2 Landscape Quality, Countryside and Open Views  
E3 Habitat Protection and Biodiversity  
H1 Settlement Boundaries  
H3 Car Parking on Existing and New Developments  
T3 Footpaths

## HE1 Conservation Areas

### **Other relevant documents**

Cheshire East Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (August 2018)

Cheshire East Local Plan – Site Allocation and Development Policies Document – Gypsy, Traveller and Travelling Showpeople Site Selection Report – (August 2018)

### **CONSULTATIONS:**

**Strategic Highways** – No objection.

**Environmental Protection** – No objection, highlighted that a caravan site licence will be required and informative for unexpected contaminated land suggested.

**United Utilities** – No objection.

**CEC Flood Risk** – No objection.

**PROW** – No objection subject to PROW informative.

**Weston and Crewe Green Parish Council** – Object to the proposal, a summarised version below (full version available to view on the website)

- Site was approved by Appeal in August 2019. Development appears to have commenced on site.
- Condition 2 imposed on 17/2879N which limits the number of caravans to no more than 2 caravans on site is not being complied with – PC site inspections saw 3 caravans on hardstanding and 2 in field.
- Tree planting is more than the original red line suggested.
- Site edged in red would allow for significantly more caravans to be sited on the land.
- The PC consider that in visual and physical terms, the current proposals will substantially extend this development to the North West.
- The second day room would be a large 5 x 8 structure with a hipped roof, this would add to the adverse impact on the character and appearance of the local area.
- The issues of the character and appearance of the area is specifically referred to on para 32, page 6 of the Inspectors report dated 29<sup>th</sup> August 2019.
- The number of caravans should be restricted by condition.
- Since the appeal was allowed the CEC adopted the SADPD which allocates 32 additional pitches within the area. This is a change in circumstances.
- The Inspector specifically stated that personal circumstances of the appellant are not determinative issue in the appeal, and that the identified need for accommodation of this form in the area was the determinative issue in the appeal and a personal permission was not reasonable.
- It is therefore questioned that the use of the extra pitch for the applicants son is relevant to the proposal or not.
- The Parish Council objects to the current proposal and urge it to be refused.

## REPRESENTATIONS

No representations received at time of writing this report.

## OFFICER APPRAISAL

### Principle of Development

The site is located on the edge of the open countryside where the Cheshire East Local Plan Strategy policy PG 6 'Open Countryside' applies. Paragraph 25 of the Planning Policy for Traveller Sites (PPTS) notes how local planning authorities should very strictly limit new Traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

Paragraph 25 of the PPTS notes that local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

Policy SC7 'Gypsies and Travellers and Travelling Showpeople' of the Local Plan Strategy ("LPS") sets out the Council's strategic approach to Gypsies and Travellers and Travelling Showpeople. Criterion 1 of LPS Policy SC7 'Gypsies and Travellers and Travelling Showpeople' notes that sites will be allocated or approved to meet the needs set out in the most recent GTAA. Criterion 2 sets out various considerations that should be taken into account in determining the acceptability of new sites. Criterion 3 of the policy puts in place a presumption against the loss of existing permanent consented Gypsy and Traveller or Travelling Showperson sites where this would result in, or exacerbate, a shortfall unless equivalent provision is made.

As noted above, Criterion 2 of LPS policy SC7 'Gypsies and Travellers and Travelling Showpeople' includes several considerations that should be taken into account to determine the acceptability of new sites, these include: -

- a. locational sustainability. Site specific factors including the proximity of the site to local services and facilities; access to public transport;
- b. Highway related factors, including whether the site can achieve safe pedestrian, cycle and vehicular access onto the site and provide for appropriate provision for parking, turning and servicing;
- c. Impact on the character and appearance of the surrounding area, particularly given the sites location in the open countryside.

The Site Allocations and Development Policies (SADPD) document provides additional detail to the strategic policies contained in the Local Plan Strategy.

SADPD policy HOU 5 'Gypsy and Traveller Site Provision' refers to criteria relevant to the consideration of sites in the open countryside, outside of the Green Belt and over and above those on allocated sites. The policy notes that sites in these circumstances will only be permitted through:-

- The application of criterion 3(i) of LPS policy PG6 'Open Countryside';
- The application of SADPD policy PG 10 'Infill Villages'; **or**
- Where it is evidenced that the intended occupiers of the pitch have a genuine need for culturally appropriate accommodation in Cheshire East and cannot meet their

accommodation needs by occupying an existing pitch within an established, authorised Gypsy and Traveller site or a new pitch on an allocated site.

Criteria 4 of policy HOU 5 'Gypsy and Traveller Site Provision' notes that where the requirements of criteria 3 are met, new pitches should be provided within an established Gypsy and Traveller site wherever possible, or, if not, as a small-scale extension to it. A pitch on a new, stand-alone site will only be permitted where it is demonstrated that neither of these options are feasible.

Furthermore, policies within the development plan, in conjunction with national planning guidance and advice in Planning Policy for Traveller Sites, accept that outside Green Belt areas, in rural settings, where the application proposal is located, (Open Countryside) are acceptable in principle for gypsy and traveller sites.

In this instance the applicant set out that the site is required for the son of the applicant to move out of the existing caravan and into their own pitch, and they will require culturally appropriate accommodation. The site is located adjacent to an existing pitch and therefore would comply with criteria 4 in relation to a small-scale extension to an existing site.

#### Need for Gypsy and Traveller Pitches

The Council, in support of the SADPD updated its evidence base on a sub-regional basis, on the need for additional Gypsy and Traveller and Travelling Showperson accommodation. The GTAA has a base date of May 2017.

The 2018 GTAA formed part of the evidence base for the SADPD. The accommodation needs in the 2018 GTAA study, for Cheshire East, up to 2030, are shown below:

	<b>Total</b>
Gypsy and Traveller residential pitches	32
Transit site pitch provision	5-10
Travelling Showperson Plots	5

The sites proposed to be allocated in the SADPD, include:

<b>SADPD site Reference</b>	<b>Site Name</b>	<b>Number of pitches / plots proposed for allocation in the SADPD</b>
G&T1	Land East of Railway Cottages, Nantwich (Baddington Park)	2 additional permanent pitches
G&T2	Land at Coppenhall Moss	7 permanent pitches
G&T3	New Start Park, Wettehall Road, Nantwich	8 permanent pitches
G&T4	Three Oakes Site, Booth Lane, Middlewich	24 permanent pitches
G&T5	Cledford Hall, Cledford Lane, Middlewich	10 transit pitches
G&T6	The Oakes, Mill Lane, Smallwood	4 additional permanent pitches

TS1	Lorry Park, Mobberley Road, Knutsford	3 Travelling Showperson Plots
TS2	Land at Firs Farm, Brereton	10 Travelling Showperson Plots
TS3	Land at Former Brickworks, A50 Newcastle Road	2 additional Travelling Showperson Plots.

The SADPD identifies a need for 32 permanent pitches for Gypsies and Travellers who meet the definition in Annex 1 of the PPTS. The supporting text to SADPD policy HOU 5 also notes that the 2018 GTAA acknowledges that it was not possible to determine the travelling status of all of the households surveyed in the study, and a proportion of these households may meet the definition provided in Annex 1 of Planning Policy for Traveller Sites (2015). The GTAA (2018) identifies that two additional pitches may be needed to address the potential needs of households where the travelling status has not been able to be determined through the GTAA. The GTAA (2018) also identifies a need for 3 additional pitches in the plan period for households who may need culturally appropriate accommodation but fall outside of the planning definition provided in Annex 1 of Planning Policy for Traveller Sites (2015).

The SADPD Inspector in his final report on the SADPD noted that following updated evidence discussed at the examination hearings, it would be reasonable to assume an additional need for up to 7 rather than 2 permanent pitches (identified in the preceding paragraph) for needs that could potentially arise from households where the travelling status has not been able to be determined through the GTAA.

The SADPD Inspector noted that the SADPD, alongside commitments and completions and supported by its proposed allocations, provided sufficient pitches to meet the identified need for permanent pitches for Gypsies and Travellers for the period 2017-2030. The identified supply of sites for Gypsy and Traveller accommodation was considered to be consistent with national policy in respect of its deliverability and developability, and so that the Council could demonstrate a sufficient supply of deliverable sites to support a five-year supply.

However, on the 19<sup>th</sup> December 2023, the Department for Levelling Up, Housing and Communities (DLUHC) changed the definition of a Gypsy and Traveller in its Planning Policy for Traveller Sites (PPTS).

The effect of these changes is to broaden the definition of a Gypsy & Traveller to include persons of nomadic habit of life who have ceased to travel permanently on the basis of their own, their family's or dependants educational or health needs or old age. This change follows the judgment in the Court of Appeal in the case of Smith v SSLUHC & Or which found the previous definition set out in the PPTS 2015 to be discriminatory.

The PPTS expects LPA's to set pitch targets for Gypsies and Travellers as defined in Annexe 1 to address likely permanent site accommodation needs in their local plans and to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against those locally set targets. Where a local planning authority cannot demonstrate an up to date 5-year supply of deliverable sites, this is a significant material consideration when considering applications for the grant of temporary planning permission (except in the Green Belt or on other specified protected sites – see PPTS paragraph 27).

LPS Policy SC7 states that sites will be allocated or approved to meet the needs set out in the most recent GTAA. The Council published its latest GTAA in 2018 and this was independently examined as part of the evidence base for the SADPD. The GTAA identified a need for 32 permanent pitches for households that met definition of a Gypsy & Traveller for the period 2017-30 and this formed the basis for criteria 1(i) of SADPD Policy HOU5. At the time of adoption, the Examining Inspector was satisfied with robustness of the GTAA, the policy approach and that a deliverable five-year supply could be demonstrated. However, it is highlighted that the needs identified in the GTAA and SADPD reflect the now superseded definition in the PPTS. Because the definition of a Gypsy and Traveller has now been widened by DHLUC, the LPA cannot say with confidence what the remaining need is for permanent pitches over the plan period and the likelihood is that it will be higher than what was concluded through the SADPD examination process. Without clarity on the need figure, the Council cannot properly evidence the five-year supply position and therefore cannot demonstrate a five-year supply for the purposes of determining planning applications and appeals. Criteria 2 of LPS Policy SC 7 & Criteria 3 & 4 of Policy HOU 5 remain relevant to the consideration of this application.

Therefore, the need for gypsy and traveller accommodation is a significant material planning consideration in the assessment of this application.

### Personal circumstances

The revised definition is within the Glossary of the PPTS, which now states that,

- 1. For the purposes of this planning policy “gypsies and travellers” means:  
Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or **permanently**, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.*
- 2. In determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:
  - a) whether they previously led a nomadic habit of life*
  - b) the reasons for ceasing their nomadic habit of life*
  - c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.**

Therefore, the change in the definition means that for the purposes of assessing the 5 year need for Traveller sites, those that do not travel anymore and have no intention of living a nomadic habit of life in the future are still able to meet the definition, where previously the cessation of travel (except for a temporary period) would not meet the definition of the PPTS.

In this case the applicant, and his family are known to meet the definition of a ‘gypsy or traveller’, and this is not disputed. If permission were approved a standard condition could be attached for the occupants of the pitches must meet the definition in the PPTS. The Planning Statement does not set out any personal circumstances other than the pitch being required for the applicants son.

### **Adherence with Policy SC7 (Gypsies and Travellers and Travelling Show People) and HOU 7 (Gypsy and Traveller and Travelling Showperson site principles)**

Policy SC7 (Gypsies and Travellers and Travelling Showpeople) of the Local Plan Strategy (LPS) sets out the Council's approach to Gypsies and Travellers and Travelling Showpeople. Point 1 of Policy SC7 notes that sites will be allocated or approved to meet the needs set out in the most recent GTAA. Point 2 sets out various considerations that should be taken into account in determining the acceptability of new sites. Point 3 of the policy puts in place a presumption against the loss of existing permanent consented Gypsy and Traveller or Travelling Showperson sites where this would result in, or exacerbate, a shortfall unless equivalent provision is made.

Part 1 has been addressed above. Part 3 of the policy is not relevant to this proposal.

Part 2 sets out criteria which should be considered when assessing Gypsy and Traveller sites in relation to sustainable and acceptable in terms of location and design. The criteria are;

- i. Proximity of the site to local services and facilities;*
- ii. Access to public transport;*
- iii. Safe pedestrian, cycle and vehicular access onto the site;*
- iv. Appropriate pitch sizes;*
- v. Adequate provision for parking, turning and servicing;*
- vi. Adequate provision for storage and maintenance, particularly where needed for Travelling Showpeople;*
- vii. Mix of accommodation types and tenures;*
- viii. Impact on the character and appearance of the surrounding area;*
- ix. Impact on the Green Belt;*
- x. Impact on the historic environment.*

The site is not within the Green Belt and is not part of Travelling Showperson allocation/site and therefore vi, and ix are not relevant to this application. The sizes of the pitches appear to be of scale which is accepted for this type of development, although quite large (there are no specific sizes set out in policy). Furthermore, the application does not include any details of tenure mixes or accommodation types. Further consideration is given to the rest of the points in the report below.

Furthermore, HOU 7 (Gypsy and Traveller and Travelling Showperson site principles) states that;

*Alongside the considerations set out in LPS Policy SC 7 'Gypsies and Travellers and Travelling Showpeople', proposals for Gypsy and Traveller and Travelling Showperson sites in the borough should make sure that they:*

- 1. respect the scale of, and do not dominate, the nearest settled community where located in rural areas;*
- 2. avoid placing an undue pressure on the local infrastructure and services;*
- 3. clearly indicate the proposed number of pitches/plots intended for the site;*
- 4. are well planned, including clearly marked site and pitch or plot boundaries and include soft landscaping, appropriate boundary treatments and play areas for children where needed;*
- 5. provide a safe environment for intended occupants through layout, design and lighting;*
- 6. provide for an appropriate level of essential services and utilities including mains electricity, a connection to a public sewer or provision of discharge to a septic tank, a mains water supply and a suitable surface water drainage system, prioritising the use of Sustainable Drainage Systems (SuDS) in line with LPS Policy SE 13 'Flood risk and water management'; and*

*7. make provision for waste to be stored appropriately for disposal and is able to be collected in an efficient manner.*

It is not considered that the approval one additional pitch would overly dominate the nearest community or place undue pressure on local infrastructure and services; all other matters are discussed further within the report.

### **Impact on the Character and Appearance of the Open Countryside and Green Gap**

There is a very strict limitation on new traveller site development in the open countryside that is away from existing settlements identified in Policy H of the PPTS (para 25). Paragraph 26 of the PPTS requires local authorities to attach weight to the following matters:

- a) Effective use of previously developed (brownfield), untidy or derelict land;
- a) Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- b) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;
- c) Not enclosing with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

As noted above Policy SC7 (viii) includes consideration to be given to the impacts on the character and appearance of the surrounding area.

Also, HOU 5 (3 and 4) states that,

*'3. In the open countryside, outside the Green Belt, Gypsy and Traveller pitches, over and above those provided for on allocated sites, will only be permitted through the application of Criterion 3(i) of LPS Policy PG 6 'Open countryside' and Policy PG 10 'Infill villages' or where it is evidenced that the intended occupiers of a proposed pitch:*

- i. have a genuine need for culturally appropriate accommodation in Cheshire East; and*
- ii. cannot meet their accommodation needs by occupying an existing pitch within an established, authorised Gypsy and Traveller site or a new pitch on an allocated site.*

*4. Where these requirements are met, new pitches should be provided within an established Gypsy and Traveller site wherever possible, or, if not, as a small scale extension to it. A pitch on a new, stand-alone site will only be permitted where it is demonstrated that neither of these options are feasible'.*

The site is also located within the Strategic Green Gap between Policy PG5 of the CELPs, GG1 of the NP and PG 12 of the SADPD set out the detailed boundaries of the Strategic Green Gaps in the Borough. The application site is located within the (iii) Crewe/Shavington/Basford/Weston Strategic Green Gap.

The purpose of the policy is to;

- i) provide long term protection against coalescence,*
- ii) Protect the setting and separate identity of settlement; and*

iii) *Retain the existing settlement pattern by maintaining the openness of land.*

Policy PG5 of the CELPS sets out that Policy PG 6 (Open Countryside) will apply, with the addition of extra controls where development will not be permitted where it would;

- i) Result in erosion of a physical gap between any of the settlements named in this policy; or*
- ii) Adversely affect the visual character of the landscape; or*
- iii) Significantly affect the undeveloped character of the Green Gap, or lead to the coalescence between existing settlements.*

The Inspector in considering the original permission on the site 17/2879N (APP/R0660/W/19/3223623) concluded that the proposal would not harm the Open Countryside or Strategic Green Gap.

*'11. Even having regard to the sensitivity of this area of countryside and its designation as a Green Gap, I do not consider that the development would lead to harm to the character and appearance of the village or the countryside around it. Moreover, the proposal would not materially compromise or undermine the purposes of the Green Gap, for example, in maintaining the separation between settlements and preventing settlements from merging.*

*12. The proposal would therefore not conflict with Policies PG5 and PG6 of the CELP, NE4 of the CNRLP and GG1 of the NP with regards to the protection of the countryside and the Green Gap. The proposal would also not conflict with the PPTS which accepts that gypsy and traveller sites can be located in rural or semi-rural settings. The proposal would also not conflict with the Framework in respect of protecting and enhancing the natural and built environment. The Council also accepts that there is a need for gypsy and traveller accommodation and that it cannot demonstrate an appropriate supply of sites. Drawing these matters together, I conclude that the proposal accords with local and national planning policy for the location of this form of development.'*

Whilst the proposed additional pitch will project further into the Green Gap and Open Countryside, it will not project further than the existing Stable/equestrian development adjacent. Therefore, it is considered that the proposal would have no significantly increased impact on the Green Gap or Open countryside than that already accepted.

Furthermore, landscaping approved as part of the original permission has recently been planted and this will help to create a softer transition between the village and the wider open countryside. The amended plans received in relation to the Dayroom ensure the building is the same size and external appearance as that approved under 17/2879N.

As set out above whilst the site is located adjacent to an existing pitch and therefore would comply with criteria 4 in relation to a small-scale extension to an existing site. It is therefore considered that in this instance the proposal would be an appropriate extension to an existing Traveller Site, and would adhere to policies SC7, HOU 5 and 7 of the Development Plan, the Neighbourhood Plan and national policy in the PPTS and NPPF.

## Sustainability

The PPTS (August 2015) states that travellers sites should be sustainable economically, socially and environmentally and states that Local Authority planning policies should;

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

The PPTS has an intention, amongst other things, to create and support sustainable, respectful and inclusive communities where gypsies and travellers have fair access to suitable accommodation, education and health and welfare provision. The document clearly acknowledges that '*Local Planning Authorities should very strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated within the development plan*' (paragraph 25). However, it does not state that gypsy/traveller sites cannot be located within the Open Countryside.

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

The application site is located adjacent to the settlement boundary of Weston. The village has some day-to-day services such as a Public House, A Primary School, a village play area, Church and Church Hall. The area is also well linked to the town of Crewe where all services such as shopping, high school, bus and train stations can be accessed.

However, most facilities are some distance away and do not meet the distances set out in the sustainability appraisal set out in Policy SD2. Therefore, most journeys to and from the site would be by private vehicle, however, most of these journeys would be relatively short and limited in

number. Policy SC7 of the CELPS does not specify a distance but states that in considering applications, *'(i) Proximity of the site to local services and facilities', ii. Access to public transport; and iii. Safe pedestrian, cycle and vehicular access onto the site;* should be taken account of.

The Inspector in considering 17/2879N concluded that, *'Facilities in Crewe are a relatively short distance away and the number and length of journey associated with a single pitch would be limited. Residents of the proposal would therefore have a good and relatively sustainable access to services in the wider area.'*

The applicant is already living on site with his son, and therefore the number of increased journeys will be minimal and therefore it is considered that the impact will be no greater than the originally approved scheme. Nevertheless, if the pitch was used by a different family the increase in one pitch would not have a significant increased impact above the original permission.

### **Impact on Heritage Assets**

The application site is located adjacent to the Weston Conservation Area and within the wider setting of a Grade II Listed Building Weston House. The Inspector in considering the original permission concluded that the site is screened from the central part of the conservation area, however it is visible from the footpath which runs along the side of the site. The Inspector goes on to conclude that;

*21. The appeal site is screened from views within the central part of the CA. However, the site is apparent in views from the footpath which leads along the access track to the site and along the CA boundary. Nevertheless, the site would not be viewed against the features which contribute to the importance of the CA as a designated heritage asset. Landscaping would also provide a degree of screening from the footpath and, within the context of the existing features and surfacing within the site, any harm to the setting of the CA would be very limited. Therefore, any harm to the CA and its significance as a designated heritage asset would be less than substantial.*

*22. The appeal site is adjacent to the landholding associated with Weston House, which is a Grade II Listed Building. I saw that part of this land was used for recreational purposes in association with Weston House. However, I also saw that the curtilage of the Listed Building was defined by planting and a fence to the rear. Furthermore, a historic Tythe Map submitted by the appellants shows that the recreation area was part of wider grassland around Weston House rather than being part of its historic curtilage. Whilst the landholding associated with Weston House is part of the setting of the Listed Building, the curtilage does not extend to the boundary of the appeal site. There was limited intervisibility between the setting of the Listed Building and the appeal site due to mature evergreen planting which provides a substantial degree of screening. On the basis of what I have seen and read the proposal would not impact the setting of Weston House or its historic curtilage.*

The proposed additional pitch will be located further away from the Conservation Area and the Listed Building, and whilst it will amount to up to 2 additional caravans and a Day room, it is considered that the development would have no greater impact on the setting of Weston House its curtilage or the wider Conservation Area setting, than the approved scheme.

## **Landscape**

The site is located within the open countryside, and the Green Gap which as noted above is safeguarded against inappropriate development. It is accepted that Gypsy and Traveller sites are appropriate within the open countryside and the Inspector for the first pitch concluded that the development would not harm the Green Gap or the Open Countryside.

The Landscape Officer has raised some concerns with the proposal, in terms to of the type and level of planting which has occurred recently and what impact that may have on the PROW. Nevertheless, the planting was approved as part of the discharge of conditions application 21/4372D.

It is considered that subject to a revised landscape plan to show the full extent of planting, boundary treatment and hard surfacing materials the proposal is acceptable.

## **Amenity**

The closest neighbouring dwellinghouse is around 50m away from the proposed pitch. Therefore, from an overbearing, loss of sunlight/daylight or loss of privacy perspective the development is acceptable in policy terms.

The increase of the development is likely to have a perceived impact on neighbouring amenity by means of visual intrusion, however it is considered that this is unlikely to have any increased impact on neighbouring amenity than the existing situation.

With regards to environmental disturbance, the Council's Environmental Protection Officer has reviewed the proposal and advised that they have no objections in principal, subject to conditions.

It is considered to ensure the amenity of the neighbours is safeguarded conditions relating to external lighting plans, shall be included.

## **Highway Safety**

Policy SC 7 requires consideration of *Adequate provision for parking, turning and servicing.*

The proposal is to extend the living accommodation for the same family utilising the same access to the highway. The access was raised as an issue during the previous application on this site but was allowed at appeal, and the use of the access will not be intensified as a result of this application. There will be adequate parking area within the site and no objection is raised from the Strategic Highways Officer.

## **Ecology**

The Council's Ecologist has assessed the application and made the following comments.

Local Plan Policy SE 3(5) requires all developments to aim to positively contribute to the conservation of biodiversity and ENV2 requires developments to achieve a Biodiversity Net Gain. The habitats affected by the proposed development are of relatively low value, however the

Councils Ecologists advises that the proposed development is likely to lead to a minor loss of biodiversity due to the loss of grassland and developing scrub habitats.

Native species planting is shown on the submitted plans, but this appears to be associated with a previous planning consent.

If planning consent is granted a condition is suggested to be attached to secure the incorporation of features to increase the biodiversity value of the proposed development.

### **Drainage and Flood risk**

The application site is not located within a Flood risk zone and no objections have been raised in relation to the development by either United Utilities or the LLFA. It is therefore considered reasonable to condition the submission of a foul and surface water drainage scheme to be submitted and approved in line with the original permission on the site.

### **HUMAN RIGHTS AND SAFEGUARDING CHILDREN**

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

Local Planning Authorities also have a duty to safeguard and promote the welfare of children under section 11 of the Children's Act 2004. In addition, the judgment of the Supreme Court in ZH (Tanzania) was that all local authorities are under a duty to consider the best interests of the children.

Section 11 of the Act states that Local Authorities must have regard to the need to safeguard and promote the welfare of children.

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

Furthermore, the Planning Authority is required, under section 149 of the Public Sector Equality Act 2010, in the exercise of its functions, to have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The protected characteristics include:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

The duty to have regard to the three aims listed above applies not only to general formulation of policy but to decisions made in applying policy in individual cases.

Based on the information provided, no significant issues are raised in this regard.

### **Other Matters**

It is noted within the objections that additional caravans have been seen on site and that it is considered that the conditions attached to 17/2879N have not yet been fully adhered to. Non-compliance with conditions should be raised with Planning Enforcement and assessment will be carried out into the breaches. At the time of the Planning Officers visit only two caravans were on the main hard standing, and one caravan was being stored on land to the north of the pitches. Provided the caravan is not being lived in and is moved within 28 days this is permissible.

Planning conditions have been approved as part of 21/4372D subject to implementation in accordance with the approved details. The site does not appear to have been fully implemented to date, with no day room constructed currently and tree planting recently having been planted.

### **CONCLUSION/PLANNING BALANCE**

The proposal seeks permission for the change of use of land to use as residential caravan site for one pitch with two caravans, and erection of an amenity building.

The site is in the open countryside where Cheshire East Local Plan Strategy (CELPS) policy PG 6 'Open Countryside' would apply. Paragraph 25 of the Planning Policy for Traveller Sites (PPTS) notes how local planning authorities should very strictly limit new Traveller site development in the countryside that is away from existing settlements or outside areas allocated in the development plan. The application site is also located within a Strategic Green Gap where development should not erode the physical gap between settlements, or adversely impact on the visual character of the landscape or significantly affect the undeveloped character of the Green Gap or lead to a coalescence between existing settlements. The Planning Inspector for the previous permission on the site concluded that the development would not harm the open countryside or the Green Gap, and it is considered that the addition of pitch on the site would not have a significantly greater impact than that which has been accepted previously.

Policy SC7 'Gypsies and Travellers and Travelling Showpeople' of the Cheshire East Local Plan Strategy sets out the Council's strategic approach to Gypsies and Travellers and Travelling Showpeople. Policy HOU 5 'Gypsy and Traveller Site Provision' Site Allocations and Development Policies Document (SADPD) provides additional detail to the strategic policies contained in the Local Plan Strategy. SADPD refers to criteria relevant to the consideration of sites in the open countryside, outside of the Green Belt and over and above those on allocated sites.

The SADPD Inspector noted that the SADPD, alongside commitments and completions and supported by its proposed allocations, provided sufficient pitches to meet the identified need for permanent pitches for Gypsies and Travellers for the period 2017-2030. The identified supply of sites for Gypsy and Traveller accommodation was considered to be consistent with national policy in respect of its deliverability and developability, and so that the Council could demonstrate a sufficient supply of deliverable sites to support a five-year supply.

However, on the 19<sup>th</sup> December 2023, the Department for Levelling Up, Housing and Communities (DLUHC) changed the definition of a Gypsy and Traveller in its Planning Policy for Traveller Sites (PPTS). The effect of these changes is to broaden the definition of a Gypsy & Traveller to include persons of nomadic habit of life who have ceased to travel permanently on the basis of their own, their family's or dependants educational or health needs or old age. This change follows the judgment in the Court of Appeal in the case of Smith v SSLUHC & Or which found the previous definition set out in the PPTS 2015 to be discriminatory.

The PPTS expects LPA's to set pitch targets for Gypsies and Travellers as defined in Annexe 1 to address likely permanent site accommodation needs in their local plans and to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against those locally set targets. Where a local planning authority cannot demonstrate an up to date 5-year supply of deliverable sites, this is a significant material consideration when considering applications for the grant of temporary planning permission.

CELPS Policy SC7 states that sites will be allocated or approved to meet the needs set out in the most recent Gypsy and Traveller Accommodation Assessment (GTAA). The Council published its latest GTAA in 2018 and this was independently examined as part of the evidence base for the SADPD. The GTAA identified a need for 32 permanent pitches for households that met definition of a Gypsy & Traveller for the period 2017-30 and this formed the basis for criteria 1(i) of SADPD Policy HOU5. At the time of adoption, the Examining Inspector was satisfied with robustness of the GTAA, the policy approach and that a deliverable five-year supply could be demonstrated. However, it is highlighted that the needs identified in the GTAA and SADPD reflect the now superseded definition in the PPTS. Because the definition of a Gypsy and Traveller has now been widened by DHLUC, the LPA cannot say with confidence what the remaining need is for permanent pitches over the plan period and the likelihood is that it will be higher than what was concluded through the SADPD examination process. Without clarity on the need figure, it is not possible to properly evidence the Councils five-year supply position and therefore Cheshire East cannot demonstrate a five-year supply for the purposes of determining planning applications and appeals. Criteria 2 of LPS Policy SC 7 & Criteria 3 & 4 of Policy HOU 5 remain relevant to the consideration of this application.

As a result, the need for gypsy and traveller accommodation is a significant material planning consideration in the assessment of this application. The provision of 1no Gypsy and Traveller accommodation is a clear social benefit of the proposal.

The site does not meet all the criteria of the sustainability checklist, nevertheless the site is located on the edge of the village settlement boundary and is well connected to Weston and the Town of Crewe where most services are available.

The Highways Authority have raised no objection to the impact on highway safety. It is also considered that the proposal would not have adverse impact on the setting of the nearby listed buildings or the Conservation area.

There are no significant issues raised to the scheme in terms of ecology, landscape, amenity and drainage subject to conditions.

It is therefore considered that on balance, and subject to conditions, the proposal is acceptable and is recommended for approval accordingly.

#### **RECOMMENDATION:**

**Approved subject to the following conditions;**

- 1. Standard Time**
- 2. Approved Plans**
- 3. Gypsy and Traveller occupancy condition**
- 4. 1 pitch only with maximum of 2 caravans, only 1 static**
- 5. No commercial activities permitted**
- 6. No vehicles parked/stored over 3.5 tonnes**
- 7. Details of external lighting to be submitted**
- 8. External materials of utility building**
- 9. Utility building for ancillary use only – no overnight accommodation**
- 10. Updated landscape and boundary treatment plan**
- 11. Landscape Implementation**
- 12. Drainage plan to be submitted**
- 13. Biodiversity enhancement features**

**In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation), in consultation with the Chair (or in his absence the Vice Chair) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.**

