

Application No: 12/1113M

Location: LAND OFF SPINKS LANE, PICKMERE

Proposal: The use of Land as a Private Gypsy and Traveller Caravan Site
Comprising 3 Mobile Homes, 3 Touring Caravans and Associated
Hardstandings

Applicant: MESSRS FELIX, THOMAS & MIKEY DORAN

Expiry Date: 28-May-2012

Date Report Prepared: 20 July 2012

SUMMARY RECOMMENDATION

REFUSE

MAIN ISSUES

- **Effect on the Green Belt**
- **Effect on environmental quality**
- **Effect on biodiversity**
- **Effect on highway safety**
- **Suitability of the site**
- **Compliance or conflict with the development plan and national policy**
- **General need**
- **Alternative sites**
- **Personal circumstances of the applicants**

REASON FOR REPORT

The application is being considered by the Strategic Planning Board due to the planning history and public interest in this case.

DETAILS OF PROPOSAL

The planning application seeks retrospective planning permission for the change of use of land as a private Gypsy and Traveller caravan site comprising of 3 mobile homes, 3 touring caravans and associated hardstandings.

In the Design and Access statement it states that a temporary permission is sought although the length of the temporary period applied for has not been specified.

DESCRIPTION OF SITE AND CONTEXT

The site lies within the North Cheshire Green Belt. The site is approximately 0.6 hectares in area and is located within agricultural land at the eastern end on the south side of Spinks Lane. Prior to the unauthorised development taking place the site itself was undeveloped and formed part of the adjoining agricultural fields. The site itself is relatively flat, as are the surrounding fields, which become slightly more undulating to the south and east. The site is bounded on its northern and eastern sides by a public right of way

Spinks Lane is a narrow single lane track that merges with Pickmere Lane approximately 400 metres west of the appeal site. It is an attractive rural track bounded by hedgerows and mature trees and forms part of the rural public footpath network which continues south across fields at the east termination of Spinks Lane. The character of the surrounding land is attractive rural countryside with mature hedgerows, trees and open fields out to pasture, reflecting its status within the North Cheshire Green Belt.

There is no development on the fields adjacent to the site. A horticultural structure is the nearest form development which is located approximately 200 metres from the site on a field near to Pickmere Lane.

Pickmere itself is a small rural settlement that lies on the western border of the boroughs of Cheshire East and Cheshire West. The site is also near to the village of Wincham which contains a limited level of local services including a shop, post office and primary school.

RELEVANT HISTORY AND BACKGROUND

On 3rd and 4th October 2008, six caravans were brought onto the land and works to create tracks and areas of hardstanding were undertaken. Works were also undertaken on Spinks Lane which involved the deposit of large amounts of hardcore. An extended family of adults and young children commenced occupation of the land as a Gypsy and Traveller site. On 6th October 2008, it was established that a related planning application (reference 08/2196P) had been submitted to the Council during the afternoon of Friday 3rd October 2008.

The Council obtained an interim Injunction ('without notice') at Chester County Court on Tuesday 7th October 2008 which effectively 'froze' the situation until the date of the full hearing

A full injunction was obtained on 10th October 2008. The injunction remained in effect until "final determination of the application for planning permission... including a decision in respect of any appeal by the Claimant against any refusal of the planning application and any decision in respect of any subsequent appeal application to the High Court"

The purpose and effect of the final injunction was to maintain the 'status quo' on the site until the planning application was finally determined, and, as such allowed those occupying the site at the time of the injunction to remain there.

Planning Application 08/2196P and related Enforcement Notice

Planning application 08/2196P was refused by the Planning Committee of the former Macclesfield Borough Council on Monday 23rd March 2009. An appeal was lodged on 23rd April 2009

An enforcement notice (reference 08/00573E) was issued and served on 31st March 2009. The Notice required the cessation of the residential use of the site, the removal of the caravans, hardstandings and other equipment related to the unauthorised use, and the reseedling of the land. An appeal was lodged on 29th April 2009

Both appeals were heard together at a six day Public Inquiry held 20th -22nd October 2009 and 5th – 7th May 2010. The Secretary of State's decision was issued on 11th June 2010. Both appeals were dismissed. However, the two time periods for compliance with the enforcement notice were extended by five months. The two compliance dates were 11th April (to cease the residential use and remove caravans from the land) and 11th May 2011(to remove hardstandings and reseed the land).

None of the requirements of the enforcement notice were complied with within the required time period. Therefore, a decision was taken to commence legal proceedings against the two members of the family that own the land with Summonses being served on 20th April 2011. After initially pleading not guilty at the Magistrates Court, both defendants opted for trial at the Crown Court. At the Plea and Directions Hearing on 14th October 2011, they both acknowledged their guilt by changing their pleas to guilty and were fined £2,000 each. The Council were awarded 50% of their costs.

Planning application 11/0333M

Planning application 11/0333M was submitted in January 2011 for 2 stable blocks and the retention of the existing hardstandings and was refused by the Northern Planning Committee on 4th May 2011.

Planning Application 11/2434M

In September 2011, the Council used its powers under s.70 of the Town and Country Planning Act 1990 (TCPA) to decline to determine planning application 11/2434M for the use of the land as a private gypsy and traveller caravan site for 3 mobile homes and 3 touring caravans with associated hardstandings for a temporary period of one year.

CONSULTATIONS (External to Planning)

Strategic Highways & Transportation Manager: Recommend Refusal

There have been changes made to the speed limit where Spinks lane emerges onto Pickmere Lane. The previous limit of 40mph has been reduced to 30mph.

Spinks Lane is very narrow and is only suitable of single file traffic. The application proposes 3 pitches that the applicant estimates will generate between 10 and 12 movements per day.

Traffic generation figures agreed at the inquiry were in the range of 8 and 14/16 movements per day.

The main highway issue relating this application concerns the junction of Pickmere Lane/ Spinks Lane and the very limited visibility in both directions. In order to determine the required visibility, speed surveys have been undertaken by the applicant and Cheshire East Council has also undertaken their own survey to assess traffic speeds. The applicant's results show 85%ile speeds of 36.9mph southbound and 38.8mph northbound, our own survey indicates 85%ile speeds of 42.4 southbound and 39.8 northbound.

This is a rural road that, despite the speed limit being 30mph, has high recorded traffic speeds. As such the visibility requirements as set out in DMRB (Design Manual for Roads and Bridges) should be used. Based upon these speeds the minimum visibility that should be provided is 2.4m x 120m in each direction. It can be seen that due to the close proximity of the hedgerows the available visibility is not more than 20m in each direction to the nearside kerb. It is therefore woefully short of the requirement.

In summary, the junction of Pickmere Lane/Spinks Lane falls well below standards, not only in terms of width, but also visibility. I would not wish to see the use intensified. Therefore, I would recommend that the application is refused on grounds that access to the site is unsafe and fails to meet design standards.

Environmental Protection:

The environmental health officers have raised numerous points which relate to the layout and servicing of the site in respect of normal requirements for a site licence. These are not directly planning matters but do emphasise the requirement for appropriate servicing facilities on the site.

They are concerned about the existing method of foul sewage removal as the applicant has ticked other method for disposal of foul sewage in section 11 of the application form. In addition the applicant is not proposing to connect to the existing drainage system. The site should be provided with access to mains water, electricity supply, drainage and sanitation. Electrical generators are prohibited.

Each caravan standing should be connected to foul drainage. There must be provision of a foul drainage system approved by the LPA and consideration should be given to the suitability of any system from the Environment Agency.

Each caravan standing should have its own water supply, W.C, W.H.B, shower or bath (hot & cold water).

Where the WC and related WHB facilities are not present, or there is a cultural aversion to these facilities being provided with/in a caravan/mobile home they should be provided in a building that complies with Building Regulations, thus giving it suitable insulation and frost protection.

VIEWS OF THE PARISH COUNCIL

Pickmere Parish Council: **Recommend refusal.**

This is a retrospective application and subject to two previous applications and a planning appeal. The main objections are:

1. Inappropriate development in the green belt
2. The loss of openness to the green belt
3. The adverse impact on important habitat of protected species on and around the site
4. Adverse impact on recognised valuable biodiversity
5. The exacerbation of a very dangerous junction between Pickmere Lane and Spinks Lane which is dangerous for road users and pedestrians
6. The loss of visual amenity
7. Light and noise pollution in a green belt location
8. Non-compliance with Local Plan or National Planning Policy Framework

The Council sees no very special circumstances being made in this application. It is identical to the application refused and dismissed on appeal. The Inspector found that no purpose would be served by a temporary planning permission. The Parish Council also considers it unacceptable that this application is being considered given there is wilful non-compliance with the Enforcement Notice.

OTHER REPRESENTATIONS

110 letters of objection from individual addresses have been received. The objections are summarised under the following key issues:

The occupation of the site is in breach of the law and planning rules are being ignored

- There is no change from the refused application which has been dismissed at appeal. The enforcement notice has been upheld by the Inspector but is being ignored by the applicants.
- The same reasons for refusal and objections still apply

Green Belt & Countryside

- The proposal is inappropriate development in the green belt
- Harm to the openness of the green belt
- Harm to the visual amenity of the green belt and countryside
- Harm to the character and appearance of the rural area
- Contrary to national planning policy for traveller sites (March 2012)
- Green belt sites should only be granted through the plan making process and not in response to a planning application
- There are no very special circumstances to justify the development

Environment & Ecology

- Harm to ecology including barn owls, protected species and wildlife

- Damage to trees and hedgerows has been caused
- Noise and light pollution
- Operation of noisy plant and machinery
- Can no longer enjoy walking the footpath due to fear for safety

Highway Safety

- The Spinks Lane / Pickmere Junction is unsafe due to poor visibility
- Visibility has not been improved
- Lack of recorded accidents does not justify the increased use of the access
- The “Fall Back” position of the applicants would not result in the same level of use

Other matters

- There is no need for the development in this location
- The site is often unoccupied
- Not a sustainable location and not near any local services.

Full details of representations are available on the Council’s website.

APPLICANT'S SUPPORTING INFORMATION

The application is accompanied by a Design and Access Statement and a statement on Highway issues. These documents are available on the online file as background documents.

The Design and Access statement sets out the applicants’ case that the proposal is compliant with saved policy HOU6 of the Cheshire Replacement Structure Plan to 2016 and draft RSS policy L6. The document sets out the applicants’ case that there are very special circumstances which clearly outweigh the harm caused by inappropriateness. The matters relied on, cumulatively and individually, are:

- i) The need for further sites for Gypsies and Travellers nationally, regionally, locally and personally for these families
- ii) The unavailability of suitable alternative sites
- iii) The families’ personal circumstances in particular their health and education needs
- iv) Deficiencies with Development Plan policy provision for Gypsy and Traveller caravan sites in Cheshire East
- v) The consequence of the application being dismissed for the families
- vi) Human Rights consideration.

OFFICER APPRAISAL

Policy

The Development Plan

The development plan for the area consists of the North West of England Plan Regional Spatial Strategy to 2021, the saved policies of the Structure Plan Alteration Cheshire 2016, and the saved policies of the Macclesfield Borough Local Plan.

In the RSS, Policies DP7 and DP5 identify criteria to apply principles (i) to promote environmental quality, and (ii) to manage travel demand, reduce the need to travel and increase accessibility.

Policy HOU6 is a saved policy of the Structure Plan and contains a list of criteria to be satisfied in respect of gypsy caravan sites, including a proven need, that it is not located in the Green Belt unless no alternative location is available, relationship to services and community facilities, suitability for Gypsies and satisfactory access. This policy was prepared in light of the advice in Circular 1/94, since superseded by 01/2006 and now superseded by *Planning Policy for Traveller Sites, March 2012*.

Similarly policy DC31 of the Local Plan also predates current national guidance. The policy states that planning permission for a gypsy caravan site will normally be granted subject to 10 criteria. The criteria include:

- accessibility to shops, schools and essential services;
- compliance with other policies of the Local Plan;
- adequate access and parking;
- development not being prominent in public vantage points;
- retention of mature trees and hedgerows;
- protection of residential amenity;
- protection of landscapes and habitats of designated importance;
- and sympathetic design of buildings.

Other relevant policies of the Local Plan include DC1 (Design), DC3 (Amenity), DC6 (Circulation and Access), DC8 (Landscaping), DC9 (Tree Protection) and NE11 (Nature Conservation).

GTAA and Partial Review of RSS

The findings of the Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA) were published in May 2007. The study looked at the current position on authorised sites, together with evidence of unauthorised developments and encampments, and carried out consultation with key stakeholders in order to estimate concealed households, household formation and potential movement from bricks and mortar housing. The study identified a need of one pitch for the former Macclesfield Borough Council up to 2016.

The study identified a need in Cheshire East for 27 – 42 Gypsy and Traveller pitches between 2006 and 2011 and further 19 - 22 pitches from 2011 to 2016. (A pitch is generally defined as space for two trailers and a vehicle – a family unit). Since May 2007, eight pitches have been supplied on privately owned sites and a further two are being developed on the local authority owned site in Astbury. In Cheshire East there are a total of 13 private sites, with (112 permanent pitches and 2 transit pitches), one council run site (with 16 pitches) and 2 under

construction and 1 site (8 pitches) with temporary permission. There are also 2 Travelling Showpersons sites in the borough with 4 pitches.

In addition to this the draft *North West Plan Partial Review* July 2009 identified a requirement for 60 pitches in Cheshire East for the period 2007 to 2016 under policy L6. However, given the anticipated revocation of the Regional Spatial Strategy, and its general uncertainty since 2010, policy L6 has never been adopted and therefore is considered by officers to carry limited weight. However, the level of need and the provision required by draft policy L6 is similar to the higher figure identified in the GTAA for the Cheshire East area. There is clearly an identified need for additional gypsy and traveller sites across the Borough and this was clearly acknowledged in the Appeal Decision

Government Advice

Planning Policy for Traveller Sites (March 2012)

The document sets out the Government's up to date planning policy for traveller sites. It states that, *"The Government's 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."*

The policy makes it clear that Traveller sites (temporary or permanent) in the Green Belt are inappropriate development.

The policy states that LPAs should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) the existing level of local provision and need for sites
- b) the availability (or lack) of alternative accommodation for the applicants
- c) other personal circumstances of the applicant
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- e) that they should determine applications for sites from any travellers and not just those with local connections

National Planning Policy Framework

Whilst independent national guidance is provided for Traveller Sites, policies in the Framework are still a material consideration in the determination of the application.

The document sets out the presumption in favour of sustainable development. Sustainable development has three dimensions: economic, social and environmental. Paragraph 14 of the Framework sets out that development proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or or relevant policies are out of date permission should be granted unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

The footnote to this policy sets out that Green Belt policy is an example of where development may be restricted.

The Framework sets out the purposes of including land in the Green Belt and re-enforces previous guidance that openness is the most important attribute of the Green Belt.

The Framework also confirms that inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Substantial weight should be given to the harm to the Green Belt. 'Very Special circumstances' will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Other Material Considerations

Appeal Decisions ref APP/R0660/C/092103368, 2103369 AND 2103773

The conclusions from the recent enforcement and planning appeal decisions are material to the assessment of this application. (This document shall be referred to throughout this report as the Appeal Decision).

Human rights

The European Convention on Human Rights should be considered as an integral part of local authorities' decision making – including its approach to the question of what are material considerations in planning cases. LPAs should consider the consequences of refusing or granting planning permission on the rights of the individuals concerned, both gypsies and travellers and local residents. However, the obligation on public authorities to act compatibly with Convention rights does not give gypsies and travellers a right to establish sites in contravention of planning control.

Strasbourg case law places particular emphasis on the special, and vulnerable, position of Gypsies as a minority racial group. In reaching planning decisions on individual cases there is therefore an obligation to give special consideration to the needs of Gypsies and their different lifestyle. Against this background, recent planning case law instructs that personal circumstances relating to the needs of Gypsies, even though potentially commonplace, are capable in law of being regarded as a 'very special' factor. Particular weight should be given to the health and educational needs of children.

Equality Act 2010

The Act does not define race. However case law has established that Roma gypsies and Irish travellers are covered by the protected characteristic of race for the purposes of the Equality Act 2010. Local authorities have a duty under section.149 of the Act to actively have regard to the need to eliminate unlawful discrimination, advance equality of opportunity and promote good race relations.

Children Act

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 recent 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.

Impact of the development

The physical impact of the development and the constraints / characteristics of the site remain unchanged since the Appeal Decision. Similarly the general picture of need for Gypsy and Traveller sites across Cheshire East and the availability of alternative sites have not changed to any material degree. No new personal circumstances have been advanced by the applicant with this proposal.

The key argument of the applicant's agent is that the policy has changed and that the safety of the junction of Spinks Lane and Pickmere Lane should be revisited in the light of new policy and information.

The headings set out below reflect the assessment made in the Appeal Decision. Members must consider whether the planning balance has altered sufficiently to enable a temporary planning permission to be granted or not.

Effect on the Green Belt

The development is classed as inappropriate development in the green belt for which there is a presumption against. Members must also consider the level of actual harm to the green belt. The site used to be part of a larger agricultural field that was open in character and appearance with the absence of any built form. The use of the land as a Gypsy caravan site has introduced incongruous and visually intrusive features into the landscape which are readily visible from public vantage points along Spinks lane and the adjoining public footpath.

The result is a serious and harmful loss of openness due to the structures and hardstanding on the site. Maintaining openness is the fundamental aim of green belt policy.

There is an open character to the surroundings outside the delineated villages of Wincham and Pickmere. Development of the site in this way amounts to an encroachment into the countryside. Preventing encroachment is one of the purposes of including land in the green belt and therefore this harm is also significant.

Effect on environmental quality

In the Appeal Decision the Inspector commented in relation to the tranquil rural setting of the site that "the use of the site for residential purposes is out of character with this traditional

land use pattern". The spread of development across the site and extensive areas of hardstanding have exacerbated the impact.

The inspector also commented on the works to facilitate the development that have led to a change in the character of Spinks Lane itself to the detriment of the appearance and a character and countryside in this location. Nothing has changed to alter this conclusion and the development has caused a significant harm to the rural character of the site and surroundings.

Effect on biodiversity

The site and adjoining fields are not subject to any specific ecological designation. However, evidence from the last Inquiry gave strength to arguments about the potential impacts on protected species including Great Crested Newts and Bats (European Protected Species) and Barn Owls. The natural habitats in the form of native hedgerows and trees have also been damaged. Planting taking place around the site also includes invasive non-native species.

Whilst the Council's ecologist raised no direct objection to the development, this was subject to a level of mitigation taking place. Nothing has been put forward by the applicant (bearing in mind the impacts were clearly set out in the Appeal Decision) to try and mitigate this harm. The evidence suggests that harm may well have been caused to habitats of protected species and this is a harm which must weigh against the development, particularly in the absence of any mitigation or compensation for the damage caused.

Conditions for landscaping and nature conservation could potentially secure some improvements over the existing situation. However, the effect over a temporary period is likely to be limited. The Inspector also noted the damage caused along Spinks Lane would be outside the scope of any potential planning conditions and that the environmental damage would be hard to repair.

Effect on highway safety

The real issue in respect of highway safety is the junction between Pickmere / Spinks Lane. The junction is substandard in respect of lateral visibility splays. The residential use of the site on Spinks lane has served to intensify the use of this junction causing a highway safety risk.

A key contention of the applicant's agent is that the conditions around highway safety have altered to the extent that the development should now be allowed. It is claimed that the lack of a recorded accident to date, the reduction in speed limit to 30 mph along Pickmere Lane, the introduction of Manual for Streets 2 (MfS2) and the fall back position to other uses of the site should warrant a reconsideration over the safety of the junction in respect of the planning application. Their main argument is that, whilst the lateral visibility splays from Spinks Lane are substandard, forward visibility splays on Pickmere Lane are sufficient to observe traffic coming out of the junction and react accordingly within the appropriate Sight Stopping Distance (SSD). They advocate that these are principles supported in MfS2 and that this supports the case that the intensification of the use of the junction will not result in a highway safety issue.

A speed survey was undertaken by the applicants and has been submitted in support of the application. That speed survey indicates speeds well above 30 mph. The Council has undertaken its own speed survey and confirms even higher speeds at the 85 percentile (42.4 mph southbound and 39.8 northbound). The Strategic Highways & Transportation Manager is clear that DMRB should be the framework guidance to assess the visibility splays required. The visibility splays are substandard at 20 metres when 120 metres is required. Even if the MfS methodology is applied (which is considered to be the wrong approach) then the junction still does not provide the recommended visibility by some distance. It should also be noted that both MfS2 and DMRB provide a framework of guidance for assessing the situation, but a judgement on the safety of the junction on the ground still needs to be made. Experience of using the junction, as confirmed by more than one previous Inspector in relation to proposed developments along Spinks Lane, is that it requires extreme caution and its use should not be intensified further.

Furthermore, the Inspector considered the safety of the junction in the light of a potential reduction in speed limit from 40 mph to 30 mph and also in relation to MfS principles and the relevant stopping sight distance of 59 metres. The conclusion was still that the use of the junction should not be intensified further. It should also be noted that the Inspector concluded that the number of daily vehicle movements to and from the site was likely to be above those suggested by the applicants and would involve a significant increase in the number of vehicle movements. In comparison, the number of vehicle movements required in relation to an alternative use of the site, such as the grazing of horses, would only be about 4 movements per day.

In summary, the development involves a significant increase in the use of a junction which has inadequate visibility and increases the risk of a collision or serious accident. The arguments put forward by the applicant's agent and introduction of MfS2 do not alter the conclusion that this is unsafe and contrary to Local Plan policy DC6.

There appears to be no way a condition could be applied to improve visibility. The hedges lie outside the applicant's control, and even when cut back previously the visibility has not been adequate.

Suitability of the site

National planning policy states that LPAs should ensure that traveller sites are sustainable economically, socially and environmentally. Applications should be assessed and determined in accordance with the presumption in favour of sustainable development.

The primary school, Spar shop and post office are within walking distance of the site in Wincham and there are bus stops on Pickmere Lane. Whilst the site is in rural area, it is served by a limited level of local service and transport. The relationship of the development with local services is considered sufficient to satisfy the criteria in Policy HOU6.

The relative isolation of the site has proved problematic for on-site services. The temporary provision of on-site services, in the form of oil tank, generator and toilet block has contributed to a loss of amenity on the site and from the public footpath. Electricity poles would be required to permanently service the site, but, as a permanent permission is not now being applied for, this would not be relevant. If a temporary permission was granted the "status quo"

would therefore be maintained and this would continue to detract from amenity to some extent. The Inspector, at public inquiry, concluded that there would be no evidence of undue pressure on local infrastructure resulting from the development and nothing has changed in this respect.

In terms of wider sustainability, the development enables easier access to health and education services. Although evidence suggests that only one of the families is benefiting from regular attendance at the local primary school. Balanced against this, it is evident from the previous appeal and continued objections from local residents that, good community relations have not been promoted through the development.

Conclusions on the development plan

In respect of the relevant Development Plan policies, the same criteria apply when compared to the Appeal Decision. Policies are met in respect of meeting a proven need, accessibility, housing quality and vehicle parking. Policy HOU6 is still not fully satisfied because the site does achieve safe and easy access. Similarly policy DC6 is contravened because of the unsafe access. The harmful landscape, amenity, ecological and green belt impacts mean that Local Plan policies NE11, DC31 and DC8 are not complied with. The Regional Spatial Strategy, whilst part of the Development Plan, arguably carries less than full weight due to the intentions for it to be abolished. However, policies DP5 and DP7 are not met, again due to the lack of safe access and harm to environmental quality.

General need and alternative sites

The section earlier in this report under the heading “GTAA and Partial Review of RSS”, sets out that there is clearly an unmet need for gypsy and traveller housing. The unmet need should be given substantial weight in favour of the proposal.

Paragraph 25 of the national guidance Planning Policy for Traveller Sites states that:

“Subject to the implementation arrangements at paragraph 28, if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.”

Paragraph 28 confirms that the policy set out in paragraph 25 only applies to applications for temporary planning permission for traveller sites made 12 months after the policy comes into force.

Paragraph 25 therefore does not apply as it is well within 12 months since the policy was introduced in March 2012. This appears to confirm the Government's intentions to place more protection on the Green Belt and ensure that sites in the Green Belt are only allocated through plan making process and not in response to individual planning applications.

Notwithstanding this, Members are advised that the unmet need for Gypsy and Traveller pitches within Cheshire East and the lack of alternative site provision is a material consideration in favour of the proposal that should be accorded significant weight. Article 8 of the ECHR imposes a positive obligation to facilitate the Gypsy way of life. If the applicants are

refused permission and unable to remain on the site they may become homeless, which would be an interference with their human rights which would need to be justified in the public interest.

Personal circumstances of the applicants and accommodation needs

Little has changed in this respect since the Appeal Decision. The applicants satisfy the definition of a Gypsy and Traveller for the purposes of Annex 1 of Planning Policy for Traveller Sites.

The information from the public inquiry revealed an uncertainty over previous accommodation of the families and their potential accommodation options.

All three families have young children and access to health care and education is a very important consideration. Felix Doran's daughter is in regular attendance at the local primary school. However, the children of the other families either do not attend the local school or have a low attendance rate. However, a refusal of planning permission will be likely to have an adverse effect on the ability of these children to receive consistent education. No new health considerations have been put forward since the Appeal Decision and there are not known to be any specifically significant health considerations which could be considered an exceptional circumstance. Members should be aware that Mr & Mrs F Doran have recently had a baby. A refusal of planning permission is likely to have an adverse effect on the ability of these families to have regular access to healthcare.

CONCLUSIONS AND REASON(S) FOR THE DECISION

Balancing harm against other considerations

The development is inappropriate development in the green belt. There is also significant actual harm to the green belt resulting from loss of openness, encroachment and visual intrusion. Ecological damage has been caused in formation of the development and this weighs against the proposal, particularly in the absence of any proper mitigation. The tranquillity and rural character of the site and surroundings has suffered as a result of the development.

Since the Appeal Decision, there has been a reduction in speed limit on Pickmere Lane from 40 mph to 30 mph and the introduction of MfS2. However, the objections to the development on highway safety grounds remain as the junction of Pickmere Lane and Spinks Lane remains substantially deficient in acceptable lateral visibility.

Very special circumstances must be demonstrated by the applicants in order for planning permission to be granted, even for a temporary period. Substantial weight should be given to the unmet need for Gypsy and Traveller accommodation and the lack of alternative site provision. Particularly noting the young children present on the site, the uncertainty over future accommodation for the family must weigh significantly in favour of the proposal.

However, these are factors that remain substantially unchanged from the Appeal Decision, where it was determined that there are strong environmental and public safety reasons why the development should not be allowed, even for a temporary period. The harm has already

subsisted for nearly 4 years and it should be a consideration that any further temporary period is lengthening the period of harm.

Members must be aware that refusing permission could lead to an interference with the applicant's human rights. However it would be in the pursuit of the legitimate aims of protecting the environment and public safety.

RECOMMENDATION

Refuse for the following reasons:

1. The site lies within the North Cheshire Green Belt as defined by the Development Plan. The proposed development is inappropriate development in the Green Belt, which should only be approved in very special circumstances. The development causes significant harm to the openness and visual amenity of the Green Belt and does not accord with the purposes of including land within the Green Belt. It is not considered that the material considerations advanced by the applicant in favour of the proposal amount to very special circumstances that would clearly outweigh the harm to the Green Belt by reason of inappropriateness, loss of openness, encroachment and visual intrusion. As such the proposal is contrary to the National Planning Policy Framework and Planning Policy for Traveller Sites.
2. The development is a visually intrusive, prominent and incongruous form of development that seriously damages the character, appearance, tranquillity and biodiversity of the site and surrounding open countryside. It is not considered that conditions could be applied that would overcome this harm. The development is therefore contrary to policies Macclesfield Borough Local Plan policies NE11, DC8 and DC31 and policies DP1 and DP7 of the North West of England Plan Regional Spatial Strategy to 2021.
3. The proposal is contrary to the interests of highway safety by reason of inadequate visibility at the point of access from Spinks Lane onto Pickmere Lane. The number of turning movements into and out of the site that would result from the development would result in an increased danger to other road users on the highway network in the vicinity of the site and in particular to users of Pickmere Lane. Approval of the development would therefore be contrary to advice in policy DP5 of the North West of England Plan Regional Spatial Strategy to 2021, policies DC6 and DC31 of the Macclesfield Borough Local Plan, and policy HOU6 of the Cheshire 2016: Structure Plan Alteration.

(c) Crown copyright and database rights 2012. Ordnance Survey
100049045, 100049046.

