

Application No: 12/3020N

Location: New Start Park, WETTENHALL ROAD, REASEHEATH, NANTWICH, CHESHIRE, CW5 6EL

Proposal: Removal of Condition 1 of 09/4331N - Change of Use as a Residential Caravan Site for 8 Gypsy Families, Each with Two Caravans, Including Improvement of Access, Construction of Access Road, Laying of Hardstandings and Provision of Foul Drainage

Applicant: Mr Gwyn Hamilton

Expiry Date: 26-Sep-2012

**SUMMARY RECOMMENDATION:** Refuse

**MAIN ISSUES:**

- Site History;
- Main Issues;
- Principles of Development;
- Sustainability; and
- Demonstrable Need

**DESCRIPTION OF SITE AND CONTEXT**

The application site is situated wholly within the open countryside, adjacent to an equine complex which includes a small stable block and outdoor manege. The site measures approximately 1.2 ha and is laid out for 8 caravan pitches. The access has been taken from an existing field gate with a gravelled drive way running through the first field towards where the pitches are located.

The site itself lies approximately 1.7km from the edge of Nantwich, west of Reaseheath Agricultural College. There are a number of residential properties within the vicinity, with the nearest being located approximately 68m away to the east.

The boundaries of the site are defined by hedgerows comprising native species. The hedge line is punctuated at sporadic intervals with mature trees.

**DETAILS OF PROPOSAL**

This application is for the removal of condition 1 relating to a temporary consent attached to planning application 09/4331N at New Start Park, Wettenhall Road, Reaseheath, Nantwich.

**RELEVANT HISTORY**

09/4331N - Change of Use of Land to Use as a Residential Caravan Site for 8 Gypsy Families, Each with 2 Caravans, Including Improvement of Access, Construction of Access Road, Laying of Hardstanding and Provision of Foul Drainage – Refused – 15<sup>th</sup> June 2010 – Appeal Allowed – APP/R0660/A/10/2131930 – 21<sup>st</sup> January 2011

10/2810N - Change of Use of Land to Use as a Residential Caravan Site for Eight Gypsy Families, Each with Two Caravans, Including Improvement of Access, Construction of Access Road, Layout of Hardstandings and Provision of Foul Drainage – Refused – 16<sup>th</sup> September 2010

## **POLICIES**

### **National Policy**

The application should be determined in accordance with national guidance set out in:

National Planning Policy Framework  
Planning Policy for Traveller Sites

### **Local Policy**

The principle issue surrounding the determination of this application is whether the development is in accordance with the following policies within the Borough of Crewe and Nantwich Replacement Local Plan 2011:

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

### **Cheshire 2016 Structure Plan Alteration:**

HOU6 (Caravan Sites for Gypsies)

### **Other Documents**

Interim Strategy on Gypsy and Traveller Accommodation Needs

## **CONSIDERATIONS (External to Planning)**

**Ecology:** No objections

**Environment Agency:** No objections

**Landscape:** No objection subject to a scheme of landscaping.

## **VIEWS OF THE PARISH / TOWN COUNCIL**

After only one and half years we believe it is too early to consider this. The Parish Council accepted, albeit reluctantly, the Inspectors decision to grant five years temporary permission. This was given under his assertion that five years was a reasonable period to enable Cheshire East to put together their plan for legal alternative sites for gypsies and travellers. Therefore, as a Parish Council we conclude that Cheshire East should be given this time and the temporary permission should run its' course.

Cheshire East is taking its responsibilities to the needs of Gypsies and Travellers very seriously and money has been allocated to initiate the process of developing alternative legal sites, and this process should be allowed to continue in order that this allocation is not wasted, and that sites without permanent planning consent do not default to permanent sites during this period which was the basis of the Inspectors decision

The inspector further concluded that the site was harmful to the local area, but that the need for sites outweighed this at that time hence the temporary permission. Since that time circular 1/2006 has been superseded by new guidance published March 2012, and this document clearly suggests that this five year period should be adhered to.

The Inspector also concluded in his report that the location of the site was unsustainable. As a Parish Council we see that nothing has changed fundamentally to change this and that the sustainability is still as poor as it was when the temporary permission was granted, and the change of the temporary permission to permanent would be contrary to the National Planning Policy Framework.

As a Parish Council we have a responsibility to the residents in the immediate area adjacent to the site, and to their rights. There has been some activities carried out by New Start residents that are contrary to the quality of life previously enjoyed by these residents prior to December 2009:

- light pollution from site lighting that is not sensor activated, but remains on throughout the night time hours, clearly outlining the site from several hundred metres away. Street lighting totally unsuitable to the area was removed after resident protest and local councillor intervention
- the regular pumping of foul smelling water at weekends onto Wettenhall Road, exacerbating the already high level of the water table and flooded ditches in the area, and leaving a long stretch of the highway flooded for many days. Hedges opposite the site are also showing signs of "die back".

## **OTHER REPRESENTATIONS**

20 letters of objection have been received regarding the proposed development. The salient points raised in the letters of objection are as follows:

- Five years temporary permission has already been granted, so that the Council could identify alternative sites;
- The land in question is agricultural land not building land;
- The park is out of character with the surrounding landscape;
- The proposal is already causing traffic problems in the area and there is likely to be an accident;;
- If this application is approved the park will continue to grow;
- The site is poorly located;
- The proposal is clearly in conflict with Local Plan policy and National Policy;
- The proposal is an inappropriate form of development within the open countryside;
- Cheshire East is taking its responsibilities to the needs of Gypsies and Travellers very seriously and money has been allocated to initiate the process of developing alternative legal sites, and this process should be allowed to continue in order that this allocation is not wasted, and that sites without permanent planning consent do not default to permanent sites during this period which was the whole basis of the Inspectors decision;
- The inspector further concluded that the site was harmful to the local area, but that the need for sites outweighed this at that time hence the temporary permission. Since that time circular 1/2006 has been superseded by new guidance published March 2012, and this document clearly suggests that this five year period should be adhered to;
- The Inspector also concluded in his report that the location of the site was unsustainable. I cannot see that anything has fundamentally changed to change this, and that the sustainability is still as poor as it was when the temporary permission was granted There is also a view, that I also adhere to, that the change of the temporary permission to permanent would be contrary to the National Planning Policy Framework;
- Environmental concerns raised by the Inspector remain relevant. The temporary nature of the permission sought to avoid "permanent harm". This leads me onto two further points, in that light pollution occurs through out times of darkness which is not in keeping with the rural location i.e. at night it gets dark!; and I recently witnessed New Start Park pumping liquid via pipes from their entrance out onto Wettenhall Road, subsequently flooding the ditches and partially flooding Wettenhall Road, which means vehicles move to the road centre and further emphasizes the lack of pedestrian walk ways which the residents of New Start Park do not have down Wettenhall Road. This is at best aided by the permissive right through Reaseheath College, which the Inspector noted "cannot be regarded as permanently available", remains permissive only.
- The local highway network is dangerous and is not safe for pedestrians;
- There are no facilities in the locality;
- It is my view that all previous comments on sustainability still apply and the site is not appropriate for the location of a residential caravan site. In particular, there are access issues along Wettenhall Road, with no public transport and no safe walking arrangements. There is a walking route to Nantwich through the grounds of Reaseheath College but that only covers part of the distance between New Start Park and local amenities. As this is a "permissive" access, only granted at the discretion of Reaseheath College, then it is not an access that can be relied on in perpetuity.
- I see that the letter from Philip Brown Associates Ltd states "New Start Park and its residents have become accepted in the local community." It is interesting to note that the letter does not go on to provide evidence to support this statement because it is untrue. We are a law abiding community and unlikely to harm the site in any way but

that does not mean we accept it. I think the comments of local residents show how much opposition there is to the site.

- Mr Brown's letter seeks to demonstrate that the travellers are helping the Council by reducing the need for the Council to find spaces for residential pitches. It also implies that there is insufficient time for the Council to meet its obligations in this matter. As a local resident, I would expect the Council to give this matter priority and achieve the deadlines for identifying suitable sites.

### **Reaseheath College**

- We object to the establishment of a gypsy site as it has a significant adverse impact on the immediate location and surrounding area. The character of the site is alien in the landscape and looks urban in character which is detrimental to the area being exceedingly rural and with no infrastructure;
- Similar views were confirmed by the Inspector following an appeal hearing in late 2010 and he supported the fact that the site does not represent a sustainable and acceptable location;
- Since the Gypsies occupied the site in 2010 there is significant safety concern for pedestrians and drivers on the Wettenhall Road in the area as a result of pedestrians from the Gypsy site accessing a permitted cycleway which runs through Reaseheath College;
- We note that the inspector made it abundantly clear that the temporary permission was granted for a maximum of five years by which time the provision of permanent sites by Cheshire East Council would have increased sufficiently to accommodate these families. The temporary permission would therefore cease in 2016 and there is consequently a significant amount of time to enable the permanent and more suitable site accommodation to be made available and thus we see no justification for the removal of Condition 1;
- We do not think that this site should be made permanent and the granting of the temporary permission should not set a precedent for the granting of permanent permission.

### **A report from Civitas Planning Limited acting on behalf of Poole Residents dated 10<sup>th</sup> September 2012**

- This application is premature. The Council is spending a lot of money on redoing the GTAA and looking at future sites for gypsy/travellers;
- There is no change in the applicants personal circumstances;
- The site is in a unsustainable location and is contrary to Local Plan and National Policy;
- The site is far removed from essential services;
- The site is prone to flooding;
- The applicant is of the opinion that the Council will not be able to fulfil its obligations in relation to number of gypsy pitches. However, as previously stated the Council is spending lots of money on producing a new GTAA and looking for sites within the Borough.

### **APPLICANT'S SUPPORTING INFORMATION**

## Supporting Statement

### OFFICER APPRAISAL

#### Site History

Members may recall that an application was submitted for the change of use of land to use as a residential caravan site for 8 gypsy families, each with 2 caravans, including improvement of access, construction of access road, laying of hardstanding and provision of foul drainage. This application was refused planning permission on 15<sup>th</sup> June 2010 for the following reasons:

*The development represents an inappropriate and unjustified visual intrusion in the open countryside due to the introduction of hardcore and the siting of caravans which is considered to have an adverse impact on the character and openness of the surrounding area contrary to the provisions of Policy NE.2 (Open Countryside) and Policy RES.5 (Housing in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.*

*The application fails to provide the Local Planning Authority with sufficient information to assess the appropriate mitigating measures required for the loss of wildlife habitat contrary to the provisions of Policy NE.5 (Nature Conservation Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.*

*The location of the site represents an unsustainable form of development due to the distance from local services and facilities contrary to Policy RES.13 (Sites for Gypsy and Travelling Showpeople) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the guidance contained within Circular 01/2006.*

Once the decision notice was issued the applicant appealed and the appeal was allowed subject to a number of conditions. This application is for a variation of condition and the applicant is proposing to vary Condition 1, which was attached to the permission via an Inspector's decision (Appeal Reference: APP/R0660/A/10/2131930). The condition is as shown as follows:

***'The use hereby permitted shall be for a limited period being the period of 5 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, materials and equipment brought on to the land in connection with the use shall be removed, and the land restored to its former condition in accordance with a scheme previously submitted to and approved in writing by the local planning authority'.***

In reference to the above Appeal the Inspector concluded that *'On balance, I find that the positive factors in favour of the appeal do not outweigh the harm I have identified. Given this conclusion, I have considered whether a temporary permission should be granted. Temporary permissions are suggested in Circular 01/2006 (paragraphs 45 and 46) where new sites are likely to become available at the end of any temporary period'.*

Therefore, whilst the Inspector acknowledged there was a need for the additional pitches, he tempered this by stating additional, more sustainable sites may come forward over the next few years.

## **Main Issues**

The main issue in this case is the justification for removing the condition imposed by the Inspector at appeal, with consideration given to:

- (a) Whether the site proposal is in a sustainable development; and
- (b) Whether, if there is any harm and conflict with policy, there are material considerations which outweigh the harm and conflict, including the need for more gypsy sites in the area, the likelihood and timescale for identified needs to be met through the development plan system.
- (c) Any change in circumstance since the Inspectors decision.

## **Principles of Development**

As with national planning guidance, Policy NE.2 (Open Countryside) of the Local Plan seeks to safeguard the countryside for its own sake and prevent non-essential development that may cause harm to the character and appearance and openness of the countryside.

However, 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, rural settings are acceptable in principle for gypsy and traveller caravan sites. The applicant argues that a degree of harm to the character and appearance of the countryside is unavoidable but points out that Government advice suggests that in most cases this visual harm can be satisfactorily mitigated with appropriate landscaping. However, whilst the need for gypsy and traveller accommodation is a consideration, both development plan policies and Government guidance require, in addition, consideration of the impact on the surrounding area, neighbouring amenity, highway safety, the need to respect the scale of the nearest settled community and also the availability of alternatives to the car in accessing local services.

## **Sustainability**

Planning Policy for Travellers Sites clearly enunciates 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;
- b) Promote, in collaboration with commissioners of health services, access to appropriate health services;
- c) Ensure that children can attend school on a regular basis;
- d) Provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment
- e) 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;
- f) Avoid placing undue pressure on local infrastructure and services;
- g) Do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans;

h) 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

It is clear that the key principals of national and local planning policies are to promote sustainable patterns of development in order to reduce the need to travel and the dependence on the private car. It has been suggested that a bus travels along Wettenhall Road at various intervals in the day, but this bus service would appear to be infrequent. The nearest service centre to the application site is Nantwich and there is a distance of approximately 1.7km separating the two sites. Therefore, it is considered that the application site is in an isolated rural setting and is removed from any settlement, shop(s), school(s), community facilities or place(s) of employment. Wettenhall Road is typical of many rural highways being twisty, unlit and without footways. The road is wide enough for vehicles to pass each other with relative ease.

As previously stated the Planning Policy for Traveller Sites 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 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 23). 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 authorized 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 unauthorized encampment.

These are all benefits to be considered in the round when considering issues of sustainability. The Inspector found that '*I have found that the site is poorly located for access to shops, services, facilities and the nearest primary school. Taking into account the wider consideration of sustainability applicable to gypsy cases, I have found that the location of the site still has serious shortcomings in relation to accessibility*'.

It is considered that the location of the site is such that it is almost inevitable that the private car will be needed to access even those facilities relatively close to the site. It is generally acknowledged that as distance increases the likelihood of car use becomes generally greater. According to Policy RES.13 (Sites for Gypsies and Travelling Showpeople) states (amongst other criteria) that sites should be within easy reach of local services and facilities. The policy does not specify the modes of transport that are to be utilised. However, it is considered given the location of the site, the surrounding highway network and the lack of street lighting and pavements in the area, the main mode of transport will be the private car.



Overall, it is considered that the application site is not in a wholly sustainable location and the proposal would conflict with advice advocated within Policies RES.13 (Sites for Gypsies and Travelling Showpeople) and HOU6 (Gypsy Caravan Sites).

### **Demonstrable Need**

Planning Policy for Traveller sites advocates that local planning authorities should ensure that their policies promote peaceful and integrated co-existence between the site and the local community and ensure that traveller sites are sustainable economically, socially and environmentally. The key characteristics identified for a mixed community are a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people. The need to take account of the diverse range of housing requirements across an area, including the need to accommodate Gypsies and Travellers, is an important consideration.

A sequential approach to the identification of sites in Site Allocations Development Plan Document (DPD) is advocated, requiring Local Planning Authorities to consider locations in or near existing settlements with access to local services first. Local Planning Authorities should be able to release sites for development sequentially, with sites being identified in DPDs being used before windfall sites. However, at present the Council has not produced a DPD and no suitable alternative sites have been identified as part of the Local Development Framework process.

Additionally, Planning Policy for Traveller Sites clearly states in paragraph 9 criterion (a) that local planning authorities should, in producing their Local Plan identify and update annually, a supply of specific deliverable site sufficient to provide five years worth of sites against their locally set targets. However, at present the Council does not have a five year supply of traveller sites. Furthermore, as previously stated, no specific site provision is made for gypsies and travelers in the development plan at present.

This document goes on to state that 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'* (paragraph 25). It is considered in light of the lack of availability of a five year supply of gypsy/traveller sites and given the factors already cited any permission which should be granted will be for a temporary five year period. This will allow the Council to see if any more sustainable and deliverable sites can be identified and brought forward.

Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA) was completed in May 2007. In Cheshire East, the GTAA identified an overall need for between 37-54 permanent residential pitches and 10 pitches for transit provision by 2016. The Council are part of the Strategic Gypsy & Traveller Partnership across the sub region and together the authorities have secured future funding from the Homes and Communities Agency (HCA) to deliver new sites. Previously this funding was accessed to extend the Council run site, Astbury Marsh, by 2 pitches (which have now been constructed).

Since the GTAA in May 2007, when the number of pitches was 101, there have been four new sites approved with permanent permission, giving an additional 11 pitches and 2 sites with temporary permission for 9 pitches (this includes this site, temporary permissions do not

count towards the GTAA figures). The application for 10 pitches at Parkers Road, Crewe was withdrawn. A recent application for Land off Spinks Lane, Pickmere (12/1113M) for 3no. pitches was refused planning permission on the 8th August 2012 and land lying to the north west of Moor Lane, Wilmslow (12/1144M) was refused planning permission on the 6th July 2012.

Furthermore, an appeal decision at land at Wynbunbury Lane, Stapeley (November 2009) found that *'there is undoubtedly an immediate need for further pitch provision both in Cheshire East and regionally'*.

This view was further endorsed at the current site, when the Inspector stated *'that there is little or no prospect of the Council being able to successfully address the challenge in Circular 01/2006 to increase significantly the number of gypsy and traveller sites in appropriate locations. I conclude that there is an urgent and substantial unmet need for permanent residential pitches for gypsies and travellers in Cheshire East which needs to be addressed'*.

The GTAA is the most up to date document the Council has in relation to need for Gypsy/Traveller sites. Therefore, it is an important material consideration, which is regularly used by the Council in assessing applications. Furthermore, Planning Inspectors have never questioned the validity of the GTAA and they also use it to assess any Appeals. Indeed the recent Inspectors decision was based upon the GTAA figures and considered that the need identified was 47 to 64 pitches to 2016. The appeal (at Thimswarra Farm (APP/R0660/A/12/2173171)) identified the need to be 14 and 31 pitches (although this included 24 pitches approved nearly 3 years but has yet to be implemented).

The Council are to appoint consultants to redo the GTAA (as agreed by Cabinet on the 23<sup>rd</sup> July 2012) in 2013. Following on from the new GTAA the Council will make specific land allocations which are likely to be made in due course as part of the Local Plan. The Council concedes that the relevant Development Plan Document is unlikely to be adopted before December 2014. Therefore, it is unlikely that sites allocated would, in all probability, begin to become available until at least mid-2015. However, the Council is confident that as part of the new Local Plan more sustainable sites will be allocated making up the current shortfall in pitches and this will be achieved by 2015. Consequently, it is considered granting permanent planning permission for this site, which has previously stated is not in a sustainable location will be in conflict with the aims and aspirations of the new Local Plan. The applicants temporary permission is due to expire on the 21<sup>st</sup> January 2016, which is when the sites will have been allocated in the new Local Plan. Furthermore, the applicants agent had been advised not to submit the current application, due to it being premature.

### **Change in Circumstances**

The Inspector at appeal determined that a temporary consent should be given due to the site's unsustainable location and the potential for the Council to have identified policies and strategies in place over the next few years.

This situation has not changed. The Council is formulating its policies through the Local Plan process but also actively seeking to find and pursue sites where possible.

The situation has not therefore changed since the Inspector reached the conclusions at appeal, and therefore should be refused accordingly.

## **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The site has been identified as unsustainable, and while there is still an identified need for Gypsy/Traveller sites across Cheshire East the Council does have a strategy through the Local Plan process to seek to address this need. This process will take some time, but there is an identified timescale in the Strategy and it is expected that sites will come forward before the expiry of the temporary consent.

The removal of the condition and to allow this as a permanent site at this time would be premature to the process, and would represent unsustainable development.

## **RECOMMENDATION: Refuse for the following reason**

1. **It is acknowledged that the site is poorly located in order to access shops, services and other community facilities and the site is located in an unsustainable location. Consequently, it is considered granting permanent planning permission for this site, which is not in a sustainable location will be in conflict with the aims and aspirations of the developing new Local Plan and guidance advocated in Policy RES.13 (Sites for Gypsies and Travelling Showpeople) and advice advocated within Planning Policy for Traveller Sites, the National Planning Policy Framework and the Councils Interim Strategy on Gypsy and Traveller Accommodation Needs**

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