

Application No: 12/3847C

Location: THIMSWARRA FARM, DRAGONS LANE, MOSTON, SANDBACH, CHESHIRE, CW11 3QB

Proposal: CHANGE OF USE OF LAND TO USE AS A RESIDENTIAL CARAVAN SITE FOR TWO GYPSY FAMILIES, INCLUDING LAYING OF HARDSTANDING AND DRIVEWAY

Applicant: MR LAWRENCE NEWBURY

Expiry Date: 03-Dec-2012

**SUMMARY RECOMMENDATION:** APPROVE subject to the receipt of a statement stating where the horses will be grazed and confirmation of land ownership.

In the event that the above are not received: REFUSE on the grounds of insufficient information relating to grazing of horses and land ownership.

**MAIN ISSUES:**

- Site History;
- Procedural Matters;
- Main Issues;
- Principle of Development;
- Sustainability;
- Impact on Character and Appearance of the Open Countryside;
- Assessment;
- Amenity; Ecology;
- Impact on SSSI (Sandbach Flashes);
- Demonstrable Need;
- Human Rights;
- Precedent;
- Highways;
- Gas Pipeline;
- Drainage; and
- Other Matters

**REFERRAL**

The application has been referred to Committee at the discretion of the Development Management & Building Control Manager due to the considerable public interest in the application, and the current limited policy position with regard to Gypsy/Traveller Sites.

**DESCRIPTION OF SITE AND CONTEXT**

The application site is located in the corner of a (much larger) field on the south side of Dragons Lane. The site is in a fairly prominent position adjacent to the junction of Dragon Lane and Plant Lane. The north and east site boundaries are demarcated by mature native hedgerows, which are punctuated at sporadic intervals with trees. On the eastern boundary of the application a close boarded timber fence has been erected. The site will be accessed directly from Dragons Lane. Beyond the gate is an extensive area of hardstanding. The application site is located wholly within the open countryside.

## **DETAILS OF PROPOSAL**

This application is for a change of use of land to use as a residential caravan site for two gypsy families including the laying of hardstanding and driveway at land adjacent to Thimswarra Farm, Dragons Lane, Moston, Sandbach.

## **RELEVANT HISTORY**

09/2358C - Retrospective Application for Change of Use from Agricultural Land to a Site for a Mobile Home for Occupation by an English Traveller who has Ceased to Travel Due to Ill Health and long Standing Disability – Refused – 17<sup>th</sup> March 2011

11/3548C – Change of Use of Land to Use as Residential Caravan Site for One Gypsy Family with Two Caravans, Including Laying of Hardstanding and Erection of Stables – Refused – 23<sup>rd</sup> February 2012. Allowed on Appeal (APP/R0660/A/12/2173171) – 14<sup>th</sup> September 2012 for a Four Year Period.

## **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 Congleton Borough Local Plan First Review 2005:

- GR1 (New Development)
- GR2 (Design)
- GR6 (Amenity and Health)
- GR9 (Accessibility, Servicing and Parking Provision)
- GR17 (Car Parking)
- GR19 (Infrastructure)
- GR20 (Public Utilities)
- PS8 (Open Countryside)
- H6 (Residential Development in the Open Countryside and the Green Belt)

- H7 (Residential Caravans and Mobile Homes)  
H8 (Gypsy Caravan Sites)

### **Structure Plan**

HOU6 (Gypsy Caravan Sites)

### **Other Documents**

Interim Strategy on Gypsy and Traveller Accommodation Needs

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

**Gypsy Liaison Officer:** No objections subject to the grant of a temporary consent.

**Canal and River Trust:** No comments

**Ecologist:** No objections

**Natural England:** No objections

**United Utilities:** No comments received at the time of writing this report

**Environment Agency:** No objections subject to the following advice:

If any waste is to be used on site, the applicant will be required to obtain the appropriate exemption or authorisation from us. We are unable to specify what exactly would be required if anything, due to the limited amount of information but a U1 exemption is likely to be required.

**Highways:** No comments received at the time of writing this report

**Environmental Health:** No objection subject to conditions relating to no external lighting and hours of construction.

### **SITE LICENCE**

If planning permission were granted a site licence would be required under the Caravan Sites and Control of Development Act 1960. The site licence will have to be in the name of the land owner. The following conditions will need to be taken into consideration that may have a bearing on planning:

**Site boundaries**, should be clearly marked i.e. with fences or hedges.

**Roads, gateways and footpaths** - Must be of suitable material/construction, be of a minimum width of 3.7 metres, be suitably lit and have adequate access for emergency services etc. Suitably surfaced parking spaces shall be provided where necessary to meet the additional requirements of the occupants and visitors.

**Drainage sanitation and washing facilities** - There must be provision of a foul drainage system made. Prior to its installation details of the foul waste package plant shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Each caravan standing should be capable of being connected to foul drainage. Where this provision is for a mobile home/chalet type then this connection **MUST** be made

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 within a caravan/mobile home they should be provided in a building that meets building regulations, thus giving it suitable insulation and frost protection.

Each hard standing should have adequate surface water drainage.

**Hard-standing** - Every caravan should stand on a concrete or other suitable hard- standing which should extend over the whole area occupied by the caravan placed upon it, and should project a sufficient distance outwards from its entrance to enable occupants to enter and leave safely.

**Miscellaneous** - The pitches will remain under one ownership for the lifetime of the site. There should be a minimum distance of 3 metres from the siting of a caravan/mobile home to the boundary of the site. Clarification that the amenity space is included within the application area is required and this will be maintained as and when necessary. This department would have to issue a caravan site licence if this application is permitted.

The planning department needs to establish the applicable ethnicity or other qualification requirement as claimed in the application (Gypsy/Traveller) and to state if permission granted this ethnic restriction, as the provision will count towards the Gypsy and Traveller Housing Needs assessment.

The planning department may wish to consider restricting any work use at the site and a maximum vehicle weight at the site to control the potential for work activities

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

**Warmingham Parish Council object for the following reasons:**

Applications 12/3847C and 12/3603C (re-submission of 12/0971C) should be considered together as they are in effect on the same field. The potential for expansion of the site to its full size of 11 acres by any number of small applications or, indeed, unauthorised occupations, is a very real possibility and therefore a problem which must be considered.

The previous submission by Warmingham Parish Council regarding 11/3548C and 12/0971C, a copy of which is included, holds good for both the new applications.

The site referred to as Land off Dragon's Lane (12/3603C) is for four pitches i.e. eight more caravans and associated vehicles. The site referred to as Thimswarra Farm (12/3847C) has recently been granted permission, following appeal, for one gypsy family only, with one

residential pitch and no more than two caravans in total, but is now applying for an extension of the site to accommodate two more pitches i.e. four more caravans and associated vehicles.

The judgement found that that “the presence of a mobile home and touring caravan on the appeal site would be likely to cause discernible, albeit limited, harm to the character and appearance of the countryside” and conflicted with “saved LP Policies H8, GR1 and GR2 and national policy in the PPTS and NPPF.”

The inspector found that “the occupiers of the appeal site would rely almost exclusively on private motorised vehicles for day-to-day travel needs” thus breaching the principles of sustainability for such sites. He found that this adverse effect on the countryside would be limited by the fact that “the scheme concerns only a single gypsy/traveller pitch.”

He also found that the site may have no access to mains electricity and that “this might necessitate the use of a small generator which, inevitably, could cause noise.” An increase in the number of pitches - a possible 14 caravans in total considering both applications 12/3847 and 12/3603C - could lead to a much larger noise pollution issue.

If this extended site had been the subject of the appeal, it is clear that the conflict with the regional and national saved policies regarding sustainable development would have been given more weight and may well have led to the appeal being refused. So, this further application coming so soon after the appeal judgement is an obvious attempt to navigate around the planning rules, which are there to prevent the encroachment of development on the open countryside.

The inspector found that there was a substantial need for gypsy and traveller pitch provision in Cheshire East, but this does not equate to a need for more provision in the Brereton Rural Ward and, more particularly, in Moston Parish, especially when other wards have few or no traveller sites. Brereton Rural and Moston are well served by existing traveller sites, at least one of which has vacant pitches.

The issue of English versus Irish travellers should not be acceptable as an argument for these pitches being unavailable for certain categories of gypsy - this would not be allowed in any other area of civil interaction under the discrimination laws.

The inspector also found that the “location of the appeal site is far from ideal.” Such being the case, CEC should not have abandoned its search for more appropriate sites. A well-run council site, with clear boundaries, would fulfil the Borough’s obligation to provide more pitches far better than allowing the intrusion on open countryside of sites where enforcement of planning conditions is extremely problematic.

The inspector concluded “that planning permission should be granted for the residential use of the land for a temporary period of four years, to cater for the Appellant’s short term needs” only. He also found “there to be a significant difference between the two schemes in terms of scale and detail” referring to Applications

11/3548C and 12/0971C.

That “significant difference” therefore means that the appeal judgement should not be used as a precedent for resolving this and any further planning applications relating to this site or adjoining sites.

The conditions attached to the decision state that “to minimise conflict with the principles of sustainable development, the residential element of the use must be restricted to a single pitch with no more than two caravans, only one of which shall be a residential mobile home” and that “no commercial use, other than the parking of one commercial vehicle used by the residential occupiers of the site and storage of equipment therein, shall take place on the site.”

This is a very strong endorsement of the fact that the 2 larger sites (12/3847 C and 12/3603C) currently under consideration would have an unacceptable impact on the character of the area and the safety of nearby lanes.

**Moston Parish Council:** Objects for the following reasons

The original application for this site was refused by the Borough Council but given temporary approval at appeal. The inspector considered that the small scale of the development, for one gypsy family and two caravans would not have a significant effect on the local environment or services on the community. This further proposal would clearly have a greater effect on the locality and its services.

The site is not sustainable due to the distance from local services and facilities contrary to Policies GR1 (new development) and H8 (Gypsy Caravan Sites) of the Congleton Borough Local Plan First review 2005 and Policy HOU6 (Gypsy Caravan Sites) of the Cheshire Structure Plan and the guidance contained within Circular 01/2006. The distance of the site from schools, shops and other local services would inevitably lead to increased traffic on unsuitable narrow lanes.

The Inspector’s report following the Appeal on the adjoining site found that there was a substantial need for traveller sites in Cheshire East but that does not mean they should all be in Moston. Presently there are 14 privately owned traveller site in Cheshire East, 10 of which are in CW10 and CW11. Six of these sites are in Moston. The Parish Council feels very strongly that these sites should be allocated more evenly throughout the Borough.

The original approval was based on the stated premise that the owner would use a majority of the land for grazing horses and live on the site to attend to these horses. The intention now is to develop this grazing land negating the original reason for the development.

**OTHER REPRESENTATIONS**

64 Letters of objection have been received regarding the proposed development. The salient points raised in the letters of objection are:

- It is unfair that Cheshire East Council is imposing this number of Travellers on the Parish of Moston;
- The proposal would detract from the essentially agricultural nature of the area;
- The application requires the fundamental change of use of a field from agriculture to developed residential occupancy;
- The proposal will dominate the local area and the settled community;
- The proposal is a commercial operation;
- Other sites in the area are not being fully utilised;

- The GTAA is out date and ambiguous and is open to legal challenge;
- The proposal will lead to an increase in fly tipping and litter;
- Too much development in the locality already;
- The site is totally unsustainable;
- The proposal is contrary to national and regional policy;
- There are already a large number of Traveller sites in the locality;
- Brownfield sites should be used before Greenfield sites;
- There is no requirement for additional sites in the locality;
- The previous applicant was ordered off the site due to it being a Greenfield site and objections from residents;
- The Planning Department have not advised against this application in order to reduce Cheshire East's obligations to meet target numbers of Traveller pitches;
- The roads are very narrow in the locality and the proposal will exacerbate highway safety issues;
- The proposal is more akin to a small housing estate in the open countryside;
- The proposal if allowed would open the floodgates to similar development;
- There are already Traveller sites not being used to full capacity;
- Moston is an Area of Natural Outstanding Beauty;
- The proposal will lead to high demand for local facilities;
- Its not fair that Travellers are given preferential treatment;
- The current application should be refused on the same grounds as the previous application. Furthermore, due to the materials, scale and design make the proposal even more unacceptable in the open countryside. The proposal is not in keeping with the local environment;
- The proposed caravans and buildings will appear as alien and inappropriate development out of keeping with the local environment;
- The site have a detrimental impact on the character and appearance of the area;
- The proposed access involves the removal of large swathe of native hedgerow and the bridging of an established roadside ditch of at least 1m. This would require major construction work and involve the destruction of established field lines and habitats;
- The application site is located in a wholly unsustainable location and is contrary to both local and national policy;
- The claim in the applicant's Design & Access statement that there is a recognized need for this type of development in the area must be rejected. The Parish of Moston has within or close by a disproportionate number of gypsy/traveller pitches in relation to other areas of Cheshire East.
- The development would have a negative impact on the surrounding countryside and there is an abundance of unoccupied caravan pitches on well equipped and well managed traveller caravan sites within a distance of less than two kilometres of Dragons lane;
- Amenities such as electricity, water, and waste would need to be supplied and the collection of refuse. The utility/day rooms are these to be paid for by the council or by the applicants including council tax;
- I believe there is a Gas pipeline running across this area which if disturbed could become a hazard;
- The Gypsy community is already being well catered for in the area and there are several sites which currently operate close to the land proposed in this application. These sites most certainly do not seem to be over crowded and any potential residents would find space. Moston is one of the few areas around which still holds a vested

agricultural interest and the land surrounding should be encouraged to continue in this vain as opposed to granting planning applications of these sorts which inevitably have a snowball effect.

- I believe consultees should know the address of the Applicant. In the Application the Applicant states via the Agent that he is the owner of the proposed development site. If this is his address then I would like to know if he is living there legally. There is currently a caravan and building adjacent to the proposed development;
- The existing caravan and building are not shown on the Site Layout.
- The application forms have been completely incorrectly and the Design and Access statement is misleading;
- The application site is located within the open countryside. The Local Plan seeks to safeguard the countryside for its own sake and keep development to a minimum in order to protect its character and amenity. The establishment of permanent, brick built day rooms and the siting of mobile homes will diminish from the openness and character of the area;
- In accordance with the Planning Policy for Traveller Sites issued by Central government in 2012 Cheshire East is required to "use a robust evidence base to establish accommodation needs [to inform the preparation of local plans and] make planning decisions". There is no supporting evidence that there is a need other than the applicants own wishes. Until such time that all available traveller sites in the council area are fully occupied (with residents), no new sites should be approved;
- Moston already has 7 Gypsy sites within 3 miles of the village. Any further additions to this would only further add tensions and have a negative impact on the relationship between the residents and the Gypsy's. The ratio of Gypsy's in the area is very high in comparison to other areas of the Cheshire East Council and as part of the Government's plans to reduce tensions surely this would be more beneficial to be spread out as opposed to be concentrated in an area.
- Moston is a very small rural village with no amenities what so ever. Further planning application of any description should be seriously considered for their viability let alone an application for up to 8 families/homes. The roads are already in a poor state of repair and have to withstand a surprisingly high volume of traffic from people taking short cuts to HGV's in the area;
- There are already over 3 gypsy caravan sites within 2 miles of the proposed new open countryside site and these existing sites have adequate empty pitches so there is no need for any additional sites;
- The great number of gypsy sites in the area is causing local unrest and further destruction of Cheshire open countryside is undesirable;
- As the police will no doubt inform you the crime rate has soared in the vicinity. We ourselves have been victims of theft;
- Approval of this application would lead to increased tensions between the Gypsy population and local residents who would feel aggrieved that the countryside had been spoilt by this development. It should also be noted that the Moston / Middlewich area already has more than its fair share of Gypsy sites – none of which appear to be near capacity;
- I have been unable to find a planning notice attached to the site during the consultation period.
- An Environmental survey would raise further issues that are as yet not apparent, however, by the very presence of such a compound and unsuitable use the natural habitat and wild life would be significantly affected;

- If the proposal is allowed it will set a precedent for similar developments in the locality;
- The lanes giving access to this site are unsuitable for the sort of traffic the development would generate;
- The intrusive development is contrary to policies GR1 and GR2 of the adopted Congleton Borough Local Plan;
- The Council have already made a ruling that this is an unsuitable site for development;
- The Council should be consistent with their previous decision and refuse this application;
- The proposal is not in keeping with the rural vernacular and will have a detrimental impact on the visual character and appearance of the area;
- The proposal if allowed will affect property values in the area;
- The proposal will have a significant detrimental impact on the enjoyment of residential amenities;
- The area is swarming with Great Crested Newts and no Protected Species Survey has been submitted with the application.

### **Letter from Action Moston dated 7<sup>th</sup> November 2012**

In September 2012 temporary permission was granted on appeal for 1 gypsy family on the holding known as Thimswarra Farm (App/R0660/A/12/2173171).

The Appeal decision stated in the schedule of conditions (no. 6) that “no more than one residential pitch shall be provided. No more than 2 caravans shall be stationed on the land at any one time, only one of which shall be a residential mobile home.”

Now less than a month after the Appeal decision date, Application 12/3847C has been submitted for ‘change of use of the remainder of Thimswarra Farm for use as a residential caravan site for 2 additional Gypsy families, each with 2 caravans ...extension of the access driveway ...laying of hardstanding for vehicle parking and manoeuvring and ...underground cess-tanks’.

The Travellers’ agent (Philip Brown Associates) stated on behalf of the appellant that “the appeal site would only accommodate one family”. Philip Brown Associates is now submitting Application 12/3847C for change of use to extend into the remainder of Thimswarra Farm. The agent also clearly stated in the original Design & Access statement (Application 11/3548C) that the majority of the land holding would remain as grass used for the grazing of horses. New hedgerows would be planted along the open boundaries of the caravan site in order to contain the residential use and prevent encroachment into the adjoining paddock. It is this very paddock that Application 12/3847C proposes to change into residential use including positioning of 4 caravans, laying of hardstanding for driveways and vehicle parking, etc. The grazing will therefore be removed which raises the issue that the Planning Inspector allowed permanent permission for a stable block so that the appellant could live on the site and look after his horses.

Other aspects of the Inspector’s decision are also significant:

- a) The Inspector referred to the Enforcement Notice (App/R0660/C/10/2140668) stating that all structures on the site must be removed (enactment date 14<sup>th</sup> June 2012). In paragraphs 2 & 3 his decision clearly includes the entrance gates and

driveway/hardstanding, the very same items as being used to access the extended Thimswarra site. This means that Application 12/3847C intends to use gates and an access way that should not exist under enforcement.

- b) There are references throughout the Appeal decision concerning the small size of the development that reduces the acknowledged local and environmental harm. It is stated that this small development would not dominate any settled community. It would not place additional pressure on local schools or community facilities and would not increase local tensions (para. 17, 24 & 47). The additional 2 pitches renders the site no longer small. The application now places residential development directly opposite the house and entrance of the nearest established property.
- c) The Inspector acknowledges (para. 19, 20, 21, 22, 23, 24, 26) that new Traveller site development in open countryside should be strictly limited and that the appeal site is far from ideal, is not sustainable, causes harm to the character and appearance of the countryside and in many ways is contrary to NPPF/PPTS. The Inspector continues to maintain that the modest size of this development minimises the harm. This application trebles the size and the harm.
- d) The decision states that residential use would effectively preclude most types of agricultural use but the parcel of land is too small for this to be a significant consideration (para. 44). Now of course the further residential development affects a larger piece of land i.e. the remainder of the land holding. This removes the whole holding (0.65 hectare) from any agricultural use.

This application is based on exactly the same grounds of need as those cited in the original application (11/3548C) for one family i.e. itinerant, camping illegally, need lawful accommodation, need to access health and education etc. As with that application none of this has any proof.

This larger application is even more unsuitable than the previous application (11/3548C) for Thimswarra Farm. It is totally inappropriate to a green field site with no facilities such as electricity or tapped water. It will seriously affect the character and appearance of the open countryside. As a location it is wholly unsustainable as has previously been ruled. It is not close to health, educational or satisfactory shopping facilities. There is no public transport, no street lighting or pavements/walkways. The site is contrary to NPPF/PPTS (para. 11, 21 & 23).

The applied for residential development is not a small area nor insignificant in scale and size. The land and countryside will be adversely affected by this application because of the extensive hardstanding and driveways and the damage to native wildlife habitats. The Planning Department has confirmed that the applicant has not conducted/submitted any surveys concerning bio-diversity and geological conservation.

There are two applications currently being made for adjoining land in the same field – these are this application 12/3847C and 12/3603C. Given the size of each application area, the overall effect will be a residential development that dominates the local residences and represents a total of 7 pitches (19 units including a stable block) and parking for at least 14 vehicles. This not a brownfield site suitable for redevelopment but a green field site of agricultural land being developed for residential use. There is another 5 acres in this field which is being sold off piecemeal.

The withdrawal of plans for a Traveller site at Coppenhall and the failure to seek any other suitable site has led the Council to seize the opportunity of windfall sites that they do not have to purchase, develop or maintain. Cheshire East Council has failed to provide a plan to identify and deliver suitable sites to meet Gypsy and Traveller needs. Consequently, they have been forced to rely on the out of date and unreliable GTAA target figures. These have been used to override all considerations of suitability, sustainability, use of the open countryside, as well as the interests and views of the local community. The Localism Act 2011 urges Councils to consult with local people who are affected. Cheshire East Council is failing the residents and ratepayers of Moston by not giving any weight to their views.

### **An Email dated 1<sup>st</sup> November 2012 From Action Moston**

As you will be aware, since the introduction of the Localism Act (2011) the power to decide on local issues has been decentralized and local councils are now able to set their own agendas, dependent upon their own regional needs. The Act urges councils to engage in full consultation with neighbourhoods in order that local people are able to influence the planning decisions which directly affect them.

In the past a Regional Spatial Strategy (RSS), although never approved and awaiting revocation, was used to create long-term plans for an area and, in order to determine the needs of the Gypsy and Traveller communities (GTC), the Office for the Deputy Prime Minister ordered the creation of Gypsy and Traveller Accommodation and Related Services Assessments (GTAAs). One of the functions of the GTAA was to identify the number of pitches that would be required for each region. In 2006, Salford University was commissioned to compile the North-West's version of the report. Over the past few years the GTAA has been used as an unquestioned reference to the exact number of Gypsy and Traveller pitches that will be required by 2016.

There are a number of points that we wish to draw to your attention.

The GTAA was commissioned by Central Government. Therefore due to the Localism Act, Local Authorities are no longer required to use the figures in the GTAA as a benchmark.

In 2009 two of the authors (Niner and Brown) of our regional GTAA wrote a critical review of it entitled "First steps towards regional planning for Gypsy and Traveller sites in England (2009)." This concluded that whilst the GTAA was a reasonable starting point for collecting a range of data about the GTC they did not use a reliable and robust method of collecting that data.

They claim that there is no reliable way to calculate the actual need for pitches, partly because of the lack of effective relations between planning and the GTC and partly because there is no idea of their actual population numbers. It is very difficult to assess the needs of a population which is by its very definition travelling. Niner and Brown point out that GTAAs were regionally conducted. However, the GTC cannot be expected to plan their journeys based on the varying findings of the different local authorities.

The following excerpt from this article sums up the effect of these issues:

“The level of predictability implied in making precise estimates of pitch requirements may simply not apply to Gypsies and Travellers, whose whole culture is based on adaptation to circumstances rather than long-term future plans and intentions.” (Niner and Brown, 2009) They concluded that the poor structure of the GTAA rightly leaves it open to be challenged.

National Planning Policy Framework 2012 (NPPF) reinforces the Localism Act and, in its introduction to the specific section on Planning Policy for Traveller Sites (PPTS), it states that Local Planning Authorities should make their own assessment of need for the purposes of planning. They should also use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions. The NPPF/PPTS also states that Local Planning Authorities should identify and update annually a supply of specific deliverable sites against their locally set targets. Cheshire East Council (CEC) has so far failed to produce a local plan and local targets to meet GTC needs. Recent attempts to provide sites have been ad hoc and unsuccessful. Failures to secure the Saxon Cross bid and the withdrawal of the application at Parkers Road, Coppenhall, have exacerbated the situation. We fear that ‘windfall sites’, often on totally unsuitable agricultural land, are now being seen as an easy and cheap option.

Open countryside, green-field and green-belt, are all highly protected areas unless an argument can be made for “exceptional circumstances”. As the GTAA has been criticised by its own authors as not fit for purpose, it should not be used as proof of an exceptional circumstance i.e. lack of available sites/shortfall of target pitches.

We now turn to the implications of the issues we raise above.

We have been resisting unsuitable gypsy/traveller applications for residential development in an unsustainable location in the open countryside since 2009. Some of you will be aware of these applications on a large field on Dragons Lane/Plant Lane, Moston, Sandbach, Cheshire. These are applications 09/2358C, 11/3548C, 12/0971C, 12/3603C and 12/3847C.

Application 11/3548C (Thimswarra Farm) has been granted temporary permission for 4 years on Appeal and this has resulted in a resubmission of 12/0971C (with the new number 12/3603C) and a new application to extend the Thimswarra appeal site (12/3847C).

Our attempts to resist these applications are being seriously hindered by:

The heavy reliance by the Planning Department, the Inspectorate and the Applicants themselves on GTAA figures (now we hope we have proved as unreliable and defunct) Cheshire East Council’s lack of a clear and well defined strategic plan for identifying suitable and sustainable site provision for delivery over the next 3 to 5 years. A seeming reluctance by Cheshire East Council to embrace and implement modern legislation as contained in the Localism Act and NPPF/PPTS.

In his recent decision on Appeal APP/R0660/A/12/2173171 (Thimswarra Farm - 14 September 2012) the Planning Inspector clearly states the exceptional circumstance for allowing the temporary permission of the site for four years was in order to give the Council a three year time frame for providing alternative, suitable permanent sites.

Although we are aware that there is, at present, a move to produce a strategic plan and submit planning applications for sites, we fear this is in such an early and unformed stage it will not assist in preventing the unsuitable developments we are resisting. We are deeply concerned that Cheshire East Council will allow the development of this field and these sites as an easy option in the meantime. We do not have 2000 local residents to protest. This is a small hamlet with just a small population, highlighting the fact that further development will overwhelm the area and its residents. Do not assume, however, that the lack of residents equals a lack of opposition to this development.

We need Cheshire East Council to accelerate its planning process and provide a clearly defined and achievable plan for Gypsy & Traveller provision within a determined time scale and sooner rather than later. We ask for assurances that it is fulfilling the requirements of the Localism Act and is responding to local interests and needs. We demand that it no longer relies on faulty data and it complies with the guidance in the NPPF concerning sustainable development and the strict limits to be applied to development in the open countryside. We request that Planning Department Officers representing Council cases at Committee and at Appeal be conversant with new legislation, are fully briefed and able confidently to outline the Council's prepared plan for site provision or at least able to demonstrate that one is in progress. We also question why the Council is not attempting to secure brownfield sites which are recommended in the NPPF/PPTS and for which we understand that there is Central Government funding. There are numerous such sites in Cheshire East.

Unless Councillors and Officers take action, irreversible damage will be inflicted on the countryside and Cheshire East residents. If Cheshire East Council had fulfilled its obligation to the people it represents and already provided suitable new sites then we would not be in this situation now.

## **APPLICANT'S SUPPORTING INFORMATION**

### **Design and Access Statement**

A Design and Access statement has been submitted to accompany the application. This is available on the application file and provides an understanding of the proposal and why it is required.

## **OFFICER APPRAISAL**

### **Site History**

Members may recall that a similar application (11/3548C) was submitted on a parcel of land to the north of the application site, which is edged in blue on this application. Members of the Southern Planning Committee refused planning permission on the 15<sup>th</sup> February 2012. The reason for refusal was as follows:

*'The location of the site represents an unsustainable form of development due to the distance from local services and facilities contrary to Policies GR1 (New Development) and H8 (Gypsy Caravan Sites) of the adopted Congleton Borough Local Plan First Review 2005 and Policy HOU6 (Gypsy Caravan Sites) of the Cheshire Structure Plan and the guidance contained within Circular 01/2006'.*

Upon receipt of the decision notice the applicant appealed against the decision of the Council and was subsequently granted temporary consent (APP/R0660/A/12/2173171 on the 14<sup>th</sup> September 2012) for a four year period.

In reference to the above Appeal the Inspector concluded that *'the Appellants pressing need for settled site provides the justification for granting planning permission in this case'*. However, the Inspector went on to state *'I must bear in mind that Policy H of the PPTS specifies that new traveller site development in open countryside should be strictly limited and that, consequently, the location of the appeal site is far from ideal. It is also pertinent that new pitches are likely to become available through the development plan process by 2015. This being so, I conclude that planning permission should be granted for the residential use of the land for a temporary period of four years, to cater for the Appellant's short term needs. This also provides the Council with a reasonable opportunity to deliver site allocations as part of the development plan'*. 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.

However, significant weight must be attached to this Inspectors Decision, there has not been any change in policy or other material circumstances to differ from the opinion opined by the Inspector. It is the decision of the LPA to determine how much weight should be given to various factors. It is considered that given the factors cited above considerable weight must be afforded to the Inspectors decision and it cannot lightly be put aside.

## **Procedural Matters**

A number of objectors have stated the location and block plans submitted with the application are incorrect. They make specific reference that the caravan and other associated development, including the decked area and pergola on the adjoining parcel of land are not shown.

Whilst the location and block plans should wherever possible be accurate the application is submitted in relation to development located within the defined application area denoted by the red line. It is not a requirement of the Town and Country Planning Applications Regulations 1988 or the Council's validation documents to ensure that all buildings/structures outside the application area are shown accurately and/or correctly named. Buildings around the site are shown to help locate the application site but the detailed relationship of individual buildings to the application site will need to be assessed by means of a site inspection.

Therefore, whilst it is acknowledged that the applicant has not shown the adjacent caravan on the location or block plans. It is not considered that local residents have been prejudiced and all their comments have been taken into account.

## **Main Issues**

The main issues in this case are:

- (a) Whether the site is in an appropriate location for the scale of use proposed having particular regard to accessibility to services and facilities as well as other sustainability considerations referred to in the Local Plan and Planning Policy for Traveller Sites;
- (b) The effect of the proposed development on the character and appearance of the area; and
- (c) 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, the applicants and intended occupiers personal and family circumstances and accommodation alternatives.

## **Principles of Development**

As with national planning guidance, Policy PS8 (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 is noted that buses travel along Dragons Lane at various intervals in the day. The nearest service centre to the application site is Elworth and there is a distance of approximately 2.5km 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. Dragons Lane 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 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 is not located in an area at high risk of flooding. These are all benefits to be considered in the round when considering issues of sustainability.

It is considered that the application site is within a reasonable walking/cycling distance of the services and facilities available in Elworth. It is noted that bus services operate along this stretch of Dragons Lane, but these appear to be irregular and infrequent. Furthermore, no bus stops have been identified in close proximity to the application site and the nearest bus is on London Road approximately 2km away from the application site.

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 H.8 (Gypsy Caravan Sites) criterion (x) states that proposal should be *'wherever possible, within 1.6km (1 mile) of existing local shops, community facilities, primary school and public transport facilities'*, the advice is qualified by the term 'wherever possible'. It does not therefore rule out sites which are further away. Furthermore, the policy does not

specify the modes of transport 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. It is considered that trips to access facilities required for day to day living would be relatively short and, necessarily, limited in number by the fact that the scheme concerns only four gypsy/traveller pitches.

The Inspector commented that *“trips to access facilities required for day-to-day living would be relatively short and, necessarily, limited in number by the fact that the scheme concerns only a single gypsy/traveller pitch.”* It is not considered that there is a significant difference between one pitch and two pitches in terms of scale.

While clearly there would be a two fold increase with the site for two pitches which would increase ‘unsustainable trips’, as a matter of fact and degree these trips would all still only be of a relatively short nature. It is difficult to state at what level the number of pitches would have to be before that impacted so significantly to refuse on sustainability grounds. For example, the recent temporary consent at New Start Park, Reaseheath which is also not sustainable was for 8 pitches.

Overall, it is considered that the application site is not in a wholly sustainable location and the proposal would moderately conflict with advice advocated within Policies H.8 (Gypsy Caravan Sites) and HOU6 (Gypsy Caravan Sites).

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

The application site is broadly triangular in shape. According to the submitted plans the proposal is for two pitches and each pitch will incorporate a mobile/static home and a touring caravan. According to the submitted plans each of the pitches will be enclosed by a post and rail fence and will be landscaped. The two pitches will be located off the access road, which runs north east to south west. Each of the pitches will incorporate a turning area so that vehicles can enter/leave the site in a forward gear. The proposed development will be erected on land, which according to the recent Appeal was to be set aside for grazing of horses.

It is also noted that whilst the plans indicate that a post and rail fence will be erected along the eastern boundary, at the time of the site visit a close boarded timber fence measuring approximately 2m in height was being erected along this boundary. It is considered that the close boarded timber fence appears very domestic in appearance and is at odds with the local rural vernacular. Therefore, a condition will be attached to the decision notice requesting details of the boundary treatment and remove PD rights for the erection of any other type of fence. It is noted that the application site is bounded by mature native hedgerows along the north facing boundary of the site, which fronts on to Dragon Lane. The plans show that there will be extensive areas of landscaping around the periphery of the site and this will help to assimilate the proposal into the local environment.

The application site is located wholly within an area of open countryside and the area is generally characterised by agricultural fields bounded by native hedgerows. Local Plan policy makes it clear that gypsy sites are acceptable in principle in the countryside. However, the more recent document Planning Policy for Traveller Sites states that local planning authorities should strictly limit new traveller sites within the open countryside that is away from existing settlements. However, this policy does not state that gypsy/traveller sites cannot be located

within the open countryside. It is acknowledged that the caravans may be visible in the public realm but this does not necessarily equate to visual harm.

Notwithstanding the above, according to the plans which were approved on Appeal, the land which the proposed caravans are to be sited was to be used for the grazing of horses. However, as the caravans will now be sited on this land, there is no grazing land available for the horses. The applicant's agent has been approached to withdraw the stable block which was approved under the previous scheme, but is unwilling to do this. The agent was then advised to show where the horses will be grazed, but this information has not been received at the time of writing this report. Furthermore, there appears to be some discrepancies regarding land ownership. The agent states that Mr. Sheridan owns the land to the north of the application site, but this is highlighted in blue, which would indicate that the current applicant Mr. Newbury. Again, the agent has been requested to clarify this issue, but this has not been received at the time of writing this report. It is considered that in the absence of the aforementioned information that the application be refused on grounds of insufficient information.

## **Assessment**

According to policy PS8 (Open Countryside) permits uses which are appropriate to a rural area. Furthermore, paragraph 12 of Planning Policy for Traveller Sites states '*When assessing the suitability of sites in rural or semi rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest community*'. Paragraph 22 states when assessing planning applications local planning authorities should consider the following issues

- The existing level of local provision and need for sites;
- The availability (or lack) of alternative accommodation for the applicants;
- Other personal circumstances of the applicant;
- 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;
- That they should determine applications for sites from any travellers and not just those with local connections.

Therefore, both local and national policy accepts that gypsy sites can be located within rural areas. It is acknowledged that some degree of encroachment and visual impact will be derived from the location of gypsy sites within rural locations. Policy H.8 criterion (iv) stipulates that proposals should be '*adequately screened and landscaped*' and criterion (iii) states that proposals should be '*an appropriate scale which would not detract from the value of the surrounding landscape*'.

The proposal is for the siting of 2no.static caravans, 2no. touring caravan and the associated hardstanding and boundary treatment. It is considered that the visual impact of the development to a large extent is reduced by the fact that the existing boundary treatment to the north and west of the application site will be screened by mature native hedgerow. The applicant is intending to use the existing access arrangements, which were granted approval upon Appeal.

It is considered that views of the development would be limited to glimpses of the roofs of the mobile homes and tourers. However, in order to mitigate the visual presence of the development a landscaping condition will be attached to the decision notice which will help to reinforce the perimeter hedgerows that already exist. It is noted that the boundary treatment along the southern and eastern boundaries of the application site comprises a post and rail fence and this permits views into the site. Therefore, these boundaries will also need to be adequately screened and will be conditioned accordingly.

Overall, it is considered that any visual harm or physical encroachment that might harm the character and appearance of the countryside would be small and it is considered that providing controlling conditions relating to landscaping and boundary treatment will help to mitigate any negative externalities associated with the proposal. Therefore, it is considered that the proposal complies with Policy GR2 (Design) and advice advocated within the National Planning Policy Framework and Planning Policy for Traveller Sites.

### **Amenity**

Policy GR6 (Amenity and Health) states that development will be permitted provided that the proposal would not have an unduly detrimental effect on amenity due to loss of privacy, loss of sunlight and daylight, visual intrusion, environmental disturbance or pollution, traffic generation, access and parking.

The nearest residential properties are those located to the south west (Ivy Cottage Farm) and west (Woodville Farm) which are sited approximately 20m and 200m respectively away from the application site. As previously stated, the site is demarcated by a mature native hedgerow, which is punctuated at irregular intervals with mature trees (on the north and west boundaries). It is considered the distances between the existing properties and the application site and the intervening vegetation/road will minimise any loss of amenity through overlooking or over domination. Furthermore, colleagues in Environmental Health have raised no objections. It is considered that the proposal complies with policy GR6 (Amenity and Health).

### **Ecology**

A number of local residents claim that there are a number of ponds within the local vicinity which are used by Great Crested Newts. Furthermore, they claim that if the proposal is allowed may have a detrimental impact on other protected species or birds. The Council's ecologist has been consulted and states that the *'proposed site is located on land that appears to be limited nature conservation value additionally I do not anticipate there being any reasonable likely protected species issues associated with the proposed development'*.

Overall, it is considered that the proposal will not have a detrimental impact on any protected species and the proposal is in accordance with policy local plan policy and advice advocated within the NPPF.

### **Impact on SSSI**

According to Policy NR2 (Statutory Sites) clearly states that proposals for development that would result in the loss or damage of the following sites of nature conservation or geological importance will not be permitted

- RAMSAR Sites (Wetlands of International Importance)
- Sites of Special Scientific Interest (SSSI's)
- Any site or habitat supporting species that are protected by law

The policy goes on to state that developers will be required to submit a comprehensive assessment of a proposals impact on nature conservation as part of an application to develop a site which may affect any of the above.

According to the proposals map, the application site is located approximately 800m away from Sandbach Flashes which is a SSSI. Colleagues in Natural England have recently been consulted regarding the application and they state that 'Due to the small scale of the proposals the development is unlikely to have a significant effect on the Sandbach Flashes SSSI'.

Overall, it is considered that the proposed development will not have a significant detrimental impact on the SSSI and proposal is broadly in accordance with policy NR2.

### **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 (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 8<sup>th</sup> August 2012 and land lying to the north west of Moor Lane, Wilmslow (12/1144M) was refused planning permission on the 6<sup>th</sup> 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 a more recent appeal decision at New Start Park, Wettehall Road, Reaseheath (APP/R0660/A/10/2131930 January 2011) which 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'*.

A number of objectors have questioned the validity and accuracy of the GTAA. The objectors claim that *'the GTAA has been criticised by its own authors as not fit for purpose, it should not be used as proof of an exceptional circumstance i.e. lack of available sites/shortfall of target pitches'*. However, 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 used it when assessing any Appeals.

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 Development Framework. 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 not,

in all probability, begin to become available until at least mid-2015. Therefore, it is considered that a temporary consent, which is in line with the neighbouring site and to assess whether any other more sustainable sites come forward, is justifiable in this instance.

The objectors are concerned that there are already a disproportionately large number of Traveller sites within the immediate locality and the proposal if allowed will exacerbate tensions between the local settled community and gypsies. Whilst the concerns of the local residents are noted it is not considered that the amount of Traveller sites in the locality has a detrimental impact on the local community. Furthermore, the Inspector at the previous Appeal stated *'Whilst I acknowledge the presence of a number of gypsy and traveller sites in the vicinity of Moston and Warmingham, I am not persuaded that these are either so numerous or so concentrated as to have a discernible effect on the character of the locality that would be exacerbated by the current proposal. Moreover, I find the limited scale of the latter to be such that the level of activity generated would not, in all likelihood, be so significant as to affect the general perception of the wider locality's prevailing sense of place'*. It is the case officer opinion that the proposal if approved will not have a discernible impact on the local community.

## **Human Rights and Race Relations**

It is right and proper that 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 1988 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.

The applicants are Travellers, a racial group protected from discrimination by the Race Relations Act 1976. 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.

In this particular case, the determination of this application will not have a direct impact on the occupier's rights given that the application site has not been laid out or is being occupied. Should the application be refused, the applicant has a right of appeal and any resultant enforcement proceedings would only be taken following due consideration of the aforementioned rights.

The impact of the development on the rights of the local residents has been fully assessed; both in this report and accordingly any impact are considered acceptable.

## **Precedent**

A number of objectors are concerned that if this application is approved a precedent will be set for other similar types of development in the immediate area. However, appeal decisions

generally are material considerations all cases must be determined on their own merits and any future applications would need to be considered against the circumstances applicable at that time.

The recent appeal decision on the adjacent site commented *“I give little weight to fears that a grant of planning permission in this case would set a precedent for the provision of further gypsy/traveller pitches in the locality. Whilst the recent refusal for four pitches on the adjacent site may yet be subject to appeal, each proposal falls to be assessed primarily on its own merits. In any event, I find there to be significant differences between the two schemes in terms of scale and detail.”*

This therefore demonstrates that each application must be dealt with on its merits, although as mentioned earlier the recent appeal decision is a significant material consideration.

## **Highways**

The application site will be accessed directly off Dragons Lane. The highway is wide enough for two vehicles to pass with relative ease although there are no footpaths along the carriageway. According to the submitted plans the application site will be accessed via the existing access which serves the single plot to the north. The gate is set back approximately 6m from the edge of the public highway. The access road which serves the two pitches lies immediately adjacent to a proposed post and rail fence (according to the submitted plans). The case officer considers it prudent to attach a condition relating to surfacing materials, in the event that planning permission is approved. There is sufficient space within the curtilage of the site for vehicles to be parked clear of the public highway and to maneuver so that they can enter/leave the site in a forward gear. A number of objectors are concerned that if planning permission is approved for the proposed development, it will lead to an intensification of large vehicles utilising the local highway network. Whilst the concerns of the objectors are noted, it is considered prudent to attach conditions relating to the size of vehicles entering/leaving the site and for no commercial activities to take place on the land. Colleagues in Highways have been consulted but at the time of writing this report no comments had been received. Members will be updated in the update report once a response from Highways has been received.

## **Gas Pipeline**

There is a high pressure gas pipeline running through the land which is owned by the applicant. The applicant states that no operational development is proposed in the vicinity of the pipeline. The minimum distance is 60m from the development to the gas pipeline. Colleagues at the National Grid have been consulted and raise no objection subject to a number of informatives.

## **Drainage**

Development on sites such as this generally reduces the permeability of at least part of the site and changes the site's response to rainfall. Advice advocated within the NPPF states that in order to satisfactorily manage flood risk in new development, appropriate surface water drainage arrangements are required. The guidance also states that surface water arising from a developed site should, as far as possible, be managed in a sustainable manner to mimic

the surface water flows arising from the site prior to the proposed development. It is possible to condition the submission of a satisfactory drainage scheme in order to ensure that any surface water runoff generated by the development is sufficiently discharged. This will probably require the use of Sustainable Drainage Systems (SUDS) which include source control measures, infiltration devices as well as filter strips and swales which mimic natural drainage patterns.

A number of objectors are concerned about how the development will be drained. According to the submitted application forms the proposed method for drainage would be via a cess pit. The case officer considers it prudent to attach a condition relating to drainage scheme, if planning permission is to be approved. Overall, it is considered that the application is in accordance with policy GR19 (Infrastructure).

### **Other Matters**

A number of objectors have stated that if planning permission is approved for the proposed development it will have a detrimental impact on house prices in the locality. Whilst the concerns of the objectors are noted, issues to do with devaluation of properties are not a material planning consideration and as such are not a sufficient justification for warranting a refusal of this application. Unfortunately, the planning system is not here to duplicate other legislation, for example, issues to do with crime can be dealt with by Police, littering and fly tipping can both be addressed via Environmental Health. The relevant material considerations with regards to this application have been fully addressed in the above report.

Several objectors have stated that there are sufficient pitches within the Borough and in any event existing sites could be expanded. Whilst the concerns of the objectors are noted, every application must be judged on its own individual merits and this application cannot be refused on the hypothetical situation that other travellers may want to construct additional pitches at some site in the future. If additional pitches are sought this will necessitate a new application and the proposal will be assessed on its merits.

Within the letters of objection it has been raised that public consultation has not been carried out. The application consultation process was dealt with in line with the Council's Publicity and Neighbour Notification procedure. This procedure is derived from the General Development Procedure Order 1995 (as amended) and Circular 15/92 – Publicity for planning applications, which outlines the statutory procedures for any applications for development. In this instance the proposed development is considered a minor development and the procedure requires either, neighbours which adjoin the development site to be consulted by letter or a site notice to be erected adjacent to the development site where there are no identifiable adjacent neighbours to the site (usually within rural locations). No neighbours immediately adjoin the application site. Therefore, a site notice was displayed. Further, consultations were also sent to neighbours who made objections to previous applications. It is considered that the Local Planning Authority has sufficiently consulted on the proposed development.

An objector states that local residents should know the location of the applicant and the address should be completed on the application form. However, the applicant's agent is acting on behalf of the applicant and it is not considered that local residents have been prejudiced by not knowing where the applicant currently resides.

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

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 a moderately unsustainable location. However, there is a substantial and unmet identified need for gypsy and traveller site provision within Cheshire East which needs to be addressed urgently. To date no sites have been identified through the Local Plan process are unlikely to be so until 2014 at the earliest.

Furthermore, in the context of Planning Policy for Traveller Sites, the impact of the proposed development on the surrounding countryside could be satisfactorily mitigated, the site is within the Open Countryside as opposed to Green belt. The recent appeal decision is an important significant material planning consideration.

Therefore whilst there are elements of the application which would need addressing via condition such as drainage and landscaping; on balance it is considered that the benefits of the application would outweigh any perceived harm and therefore it is found that the use of the site as a residential gypsy site accommodating 2no. pitches would not conflict with Planning Policy for Traveller Sites or relevant national or local planning policies. The application is therefore recommended for approval accordingly subject to appropriate controlling conditions.

### **APPROVE subject to the following conditions:**

- 1. Temporary Permission for a four year period**
- 2. Plan References**
- 3. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 1 Annex 1 of Planning Policy for Traveller Sites**
- 4. There shall be no more than two pitches on the site and there shall be no more than four caravans stationed at any time, of which only two caravans shall be a residential mobile home**
- 5. No External Lighting**
- 6. Details of a landscaping scheme to be submitted and approved in writing**
- 7. Landscaping scheme to be implemented**
- 8. Details of a drainage scheme to be submitted and approved in writing**
- 9. No vehicles over 3.5 tonnes shall be stationed, parked or stored on the site**
- 10. No commercial activities shall take place on the land, including the storage of materials**
- 11. Details of the porous surfacing materials to be submitted and approved in writing**
- 12. Details of Boundary Treatment to be submitted and approved in writing**
- 13. Hours of Construction**

<b>Monday to Friday</b>	<b>0800 to 1800 hours</b>
<b>Saturday</b>	<b>0900 to 1400 hours</b>
<b>Sundays and Bank Holidays</b>	<b>Nil</b>

- 14. If the site is no longer required as a gypsy site all the structures shall be removed within 3 months and the land returned to its former use**
- 15. Remove PD rights for walls/fences – no permission for the existing 2m high timber fence**

**In the event that the additional information relating to land ownership details and where the horses will be grazed:**

**REFUSE for the following reason:**

**1. In the opinion of the Local Planning Authority the applicant has provided insufficient information to determine whether they own the land and where their horses will be grazed as such the proposal is contrary to policies H6 (Residential Development in the Open Countryside and the Green Belt), H7 (Residential Caravans and Mobile Homes) and H8 (Gypsy Caravan Sites) of the Borough of Congleton Local Plan First Review**

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