

Application No: 14/3086C

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

Proposal: Removal of Condition 2 (Time Limit) on Application 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.

Applicant: Mr D Sheridan

Expiry Date: 27-Aug-2014

## REASON FOR REPORT

The proposal was called to committee by Cllr Wray, the local ward member for the following reasons:

- 1. [At the time of the call in] The site has never been occupied in the 22 months since temporary planning permission was given - on appeal, so that the applicant, Mr Sheridan could provide a settled base for his young children to attend school.*
- 2. There is considerable local concern that if conditions are lifted that it would set a precedent for a similar application on an adjacent site which also has a current temporary 5 year permission.*
- 3. The inspector gave temporary permission to allow Cheshire East Council the time and opportunity to provide permanent sites in more sustainable locations.*

## SUMMARY

Having regard to the rural location of the site, the distance from facilities, and the absence of public transport the site is not considered to be in a sustainable location. This would have some adverse implications in terms of use of natural resources and movement towards a low carbon economy. In addition, there will be a limited adverse impact upon the character and appearance of this rural area arising from the visual impact of the proposal. There is therefore conflict with the environmental role of sustainable development as set out in the Framework.

Balanced against this is the significant identified need for accommodation for gypsies and travellers in the Borough and the lack of available alternatives. A total of 69 additional plots are required within the Borough for the period to 2028. Whilst 24 additional permanent pitches have been granted planning permission since the publication of the GTTSAA, they are not currently available, and substantial weight should still be attached to this unmet need in favour of the application.

The lack of any alternative site now and at least for the immediate future also carries significant weight in favour of the proposal. The Council does not have an adopted policy that is based on an accurate assessment of need in the Borough. A 5 year supply of deliverable sites cannot be demonstrated, which is matter that also weighs in favour of the application.

The situation with this site is similar to that considered by the Inspector in 2012 with the Council working towards delivering site allocations as part of the development plan. Therefore, due to the far from ideal location of the site, the limited harm to the character of the area, the PPTS advice to “very strictly limit” new traveller site development in the open countryside, and the stage of the local plan and site allocation process, the permanent occupation of the site is not considered to be justified. However, in order for the Council to be given the opportunity to provide these site allocations on suitable sites, and to cater for the site owner’s short term needs, it is recommended that permission should be granted for a further temporary period. The existing permission expires on 14 September 2016, and it is recommended that a further two years is given, which would then grant permission to 14 September 2018.

## **SUMMARY RECOMMENDATION**

Temporary approval subject to conditions

## **PROPOSAL**

The application seeks to remove Condition 2 (Time Limit) on Application 11/3548C. Condition 2 stated:

*The use of the land as a residential caravan site shall be discontinued and the relevant part of the land, other than the approved stable block, septic tank and hardstanding, restored to its former condition on or before the expiry of four years from the date of this permission, in accordance with a scheme of work submitted to and approved in writing by the local planning authority.*

The applicant is therefore seeking a permanent permission for a residential caravan site for one gypsy family with two caravans (one mobile home and one touring caravan).

The approved hardstanding and stable block were not subject to the temporary period condition and do already have the benefit of permanent planning permission.

It has become apparent that there is an extra caravan, shipping container and a mobile day room currently on the site that did not form part of the original planning permission. Enforcement investigations are currently ongoing regarding this breach of the original planning permission. The existing unauthorised development is a separate matter to the current proposal.

The site ownership has also changed during the course of the application. The temporary planning permission was not granted on a personal basis to the previous owner of the site, and does run with the land. Therefore, in planning terms there is no issue with the site now being occupied by a different family to that which obtained the initial consent.

## **SITE DESCRIPTION**

The application site occupies a position on the corner of Plant Lane and Dragons Lane and is located within the Open Countryside as identified in the Congleton Borough Local Plan First Review. The site currently comprises a gravelled surface with one mobile home, two touring caravans, a mobile day room, stable block and a shipping container.

## **RELEVANT HISTORY**

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 23.02.2012, Appeal allowed 14.09.2012

## **NATIONAL & LOCAL POLICY**

### **National Policy**

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

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

### **Development Plan:**

The Development Plan for this area is the Congleton Borough Local Plan First Review 2005, which allocates the whole site as open countryside

The relevant Saved Policies are:

- 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)

### **Cheshire East Local Plan Strategy – Submission Version (CELP)**

The following are considered relevant material considerations as indications of the emerging strategy:

- SD1 Sustainable Development in Cheshire East
- SD2 Sustainable Development Principles
- PG5 Open Countryside

## SC7 Gypsies and Travellers and Travelling Showpeople

### **Other relevant documents**

Cheshire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (March 2014)

Cheshire East Council Gypsy, Traveller and Travelling Showpeople Site Identification Study (April 2014)

### **CONSULTATIONS**

Environmental Health – No objections, subject to conditions on original approval being complied with.

Moston Parish Council – Object to the proposal on the following grounds:

No one has resided at this site since the original application on the 14th of September 2012, this leaves a further two years of the original application to run and within that time work has taken place which fails to meet the conditions stipulated. Evidence that temporary planning permission was given because of educational needs of children has not proved correct and this being the major factor for granting temporary permission by the inspector, in his deliberation the inspector stated that the site was unsustainable and unsuitable for a permanent site. Clearly applications of this nature present major problems in the minds of the people of Moston without doubt considerable mistrust exists between the two communities particularly when a deliberate act of deception such as this application takes place.

### **REPRESENTATIONS**

20 letters of representation have been received objecting to the proposal on the following grounds:

- Temporary permission was to allow time for the development and implementation of Cheshire East's five year plan which would include adequate provision for gypsy traveller pitches.
- Reasons for temporary permission still apply.
- No grounds to extend to a permanent permission.
- No attempt to reside at the site since permission was granted – therefore no urgent need for site
- Moston already has more than its quota of gypsy sites
- Planning Inspectors identified the site as unsustainable, unsuitable and intruding into open countryside
- Too early to request removal of condition
- Highway safety
- Will set a precedent for the neighbouring site on Dragons Lane

### **APPLICANTS SUBMISSION**

A statement has been submitted on behalf of the new owner / occupier of the site, which outlines his gypsy status, local connections, family circumstances, travelling history, and continued nomadic habit of life.

## **APPRAISAL**

The key issue in the determination of this application is whether the condition is reasonable or necessary in the interests of the following matters:

- (a) Whether the site is in an appropriate location for the 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;
- (c) Whether there is any harm and conflict with policy, there are material considerations which outweigh any identified harm and conflict with policy.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Character and appearance**

There is a very strict limitation on new traveller site development in the open countryside that is away from existing settlements identified in Policy H of the PPTS. This policy states local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing undue pressure on the local infrastructure.

In his decision letter, the Inspector identified that the presence of a mobile home and touring caravan *“would be likely to cause discernible, albeit limited, harm to the character and appearance of the countryside”*, and he found that there would be *“a degree of conflict with saved LP Policies H8, GR1 and GR2 and national policy in the PPTS and NPPF”*. This harm and policy conflict would therefore remain if the development was granted a permanent consent.

### **Accessibility**

Policy H8 of the local plan set out criteria which proposals for gypsy caravan sites are expected to comply with. One of these is that, wherever possible, such sites should be within 1.6 kilometres of existing local shops, community facilities, a primary school and public transport facilities. The more recent PPTS does not provide any further guidance on acceptable distances between traveller sites and local facilities

The Inspector on this site and the Inspector who considered the appeal on the adjacent site both acknowledged that policy H8 in the local plan is consistent with the Framework and the PPTS. Both Inspectors also identified that most facilities are beyond the 1.6kms specified in the local plan, that most journeys to and from the site would be by private car, but that these journeys would be relatively short and limited in number. The current proposal would therefore conflict with the requirements of policy H8 of the local plan.

### **Amenity**

No significant impact upon the living conditions of neighbours were identified at the time of the previous appeal, and it is considered that the presence of a permanent site of the scale

proposed would not have a significantly adverse impact upon the living conditions of neighbours in accordance with policy GR6 of the local plan.

### **Highways**

The Head of Strategic Infrastructure raised no objections to the original proposal. The Inspector was also satisfied that access and parking arrangements would be adequate and additional traffic generated by the proposed use would have a negligible impact on highway safety, in accordance with policies GR9 and GR17 of the local plan. The removal of the condition would have no significant impact upon the traffic generation for the site. No highways issues are therefore raised.

## **SOCIAL SUSTAINABILITY**

The PPTS 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. 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 encampments. 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.

### **Need**

The PPTS requires local authorities to identify and update annually, a supply of deliverable sites sufficient to provide five years worth of sites for gypsies, travellers and travelling showpeople against their locally set targets, and identify a supply of specific, developable sites or broad locations for growth for years six to ten and, where possible, for years 11-15.

In 2013 Opinion Research Services (ORS) was commissioned by the local authorities of Cheshire to undertake a Gypsy, Traveller and Travelling showpeople Accommodation Assessment (GTTSA). The local authorities involved were: Cheshire West & Chester, Cheshire East, Halton and Warrington. Prior to this the last Gypsy and Traveller Accommodation and Related Services Assessment was published in 2007.

The study provides an evidence base to enable the Councils to comply with their requirements towards gypsies, travellers and travelling showpeople under the Housing Act 2004, the National Planning Policy Framework 2012 and Planning Policy for Traveller Sites 2015. It provides up-to-date evidence about the accommodation needs of gypsies, travellers and travelling showpeople in the study area up to 2028.

In terms of future need within Cheshire East, an extra provision totalling 69 pitches is required to 2028. Over 5 year periods, this translates to 32 pitches between 2013-2018, 17 pitches between 2018-2023 and 20 pitches between 2023-2028. There was also a recommendation within the GTTSA that the Council provide a transit site of between 5 and 10 pitches in order to address unauthorised encampments.

In June 2015, the Council granted approval for an additional 24 permanent pitches at Three Oaks Caravan Park, Booth Lane, Moston, which does go some way towards meeting the first five year requirement to 2018. This permission has not been implemented to date. Additionally a transit site comprising 9 pitches and a warden's pitch was granted approval at Cledford Lane in Middlewich in May 2015. This has also not been implemented to date. It is however clear that the Council is taking steps towards addressing the need for additional traveller pitches within the Borough.

### **Site Identification Study**

Peter Brett Associates were appointed by the Council to carry out research to identify gypsy, traveller and travelling showpersons sites across the Borough. Sites have been assessed to determine if they are suitable, available and achievable. It is intended that the results of the study will be used to inform the development of relevant policies and allocations and to guide the consideration of planning applications.

Potential sites were established from a review of information relating to: a call for sites; existing authorised sites subject to full, temporary or personal consents or certificates of lawful use; existing unauthorised and tolerated sites and encampments; other sites owned by gypsies, travellers and travelling showpeople; surplus Council owned land; sites from previous and current land studies; housing allocations and potential urban extensions, and; sites owned by Registered Providers (housing associations).

It should be clarified that the site identification study does not allocate land for the proposed use, or confirm the acceptability in planning terms of the identified sites. It simply serves to highlight options available to the Council to meet the identified need for accommodation for gypsies, travellers and travelling showpeople within the Borough.

In terms of the application site, the Peter Brett report rejects the site as an option for permanent development stating that:

*Although the site has temporary permission for Gypsy and Traveller use, the site is not suitable for full planning permission, as it would have an unacceptable impact on landscape character. There are partial views (reasonably screened in summer) through the hedgerow adjoining the junction of Dragons Lane and Plant Lane; as such the site is in a quite prominent location and development is likely to be recognisable as an isolated and non-vernacular intrusion into this rural area, although further appropriate screening could undoubtedly be provided. Furthermore, development within this part of the field would make it difficult to resist further piecemeal expansion and the extension of related activities (site CHE031 relates to part of the site and adjoining land and is evidence of this). The site is unsuitable as a location for permanent or any additional development.*

### **ECONOMIC SUSTAINABILITY**

With regard to the economic role of sustainable development, the proposed development will make a very limited contribution towards bringing increased trade to local shops and businesses.

## PLANNING BALANCE

Having regard to the rural location of the site, the distance from facilities, and the absence of public transport the site is not considered to be in a sustainable location. This would have some adverse implications in terms of use of natural resources and movement towards a low carbon economy. In addition, there will be a limited adverse impact upon the character and appearance of this rural area arising from the visual impact of the proposal. There is therefore conflict with the environmental role of sustainable development as set out in the Framework.

Balanced against this is the significant identified need for accommodation for gypsies and travellers in the Borough and the lack of available alternatives. A total of 69 additional plots are required within the Borough for the period to 2028. Whilst 24 additional permanent pitches have been granted planning permission since the publication of the GTTSAA, they are not currently available, and substantial weight should still be attached to this unmet need in favour of the application.

Alongside this the Council's site identification study rejects the application site as a potential site for permanent provision noting that it is in an unsuitable location and would have an unacceptable impact upon landscape character. However, there are currently no alternative sites that are available to the applicants or any other gypsy or traveller. The lack of any alternative site now and at least for the immediate future also carries significant weight in favour of the proposal.

The Council does not have an adopted policy that is based on an accurate assessment of need in the Borough. A 5 year supply of deliverable sites cannot be demonstrated, which is matter that also weighs in favour of the application.

The definition of sustainable development set out in the Framework includes more than an assessment of the proximity of the site to shops, services and facilities. It should be viewed in environmental, social and economic terms. Given the Inspector's conclusions on the original application where he identified that the poor accessibility of the proposed development and the limited harm to the character and appearance of the area were clearly outweighed by the substantial unmet need for gypsy and traveller pitch provision in Cheshire East, which still remains despite recent planning permissions, it is considered that the same conclusions must be drawn again. It is also important to note that the Inspector stated that, *"This would be the case irrespective of whether specific gypsies or travellers had been identified as prospective occupiers"*. The lack of alternative accommodation available to the appellant and his family and the educational needs of the children then simply served to add more weight to the Inspector's conclusions in favour of the development.

The statement put forward by the current owner and occupant of the site notes that the family comprises three school aged children. One of these children is awaiting an operation, and a further child (beyond school age) has Cerebral Palsy, and requires daily physio. The owner of the site, also owns another piece of the field where consent is sought separately for 3 plots (14/3106C). There is no other known alternative accommodation.

However, the Inspector went on to note 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 was far from ideal. He also acknowledged that new pitches are likely to become available through the development plan process by 2015.

The PPTS was revised in August 2015 and now policy H states that *“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.”* The word “very” has now been inserted before “strictly limit” presumably to increase the protection given to open countryside locations, such as the application site. In addition, whilst the local plan process has been subject to delay, there are clear indications of additional pitches coming forward (evidenced by recent planning permissions) and once the local plan process resumes in the very near future, further new pitches are again likely to become available through the development plan process, in order to meet the identified need. However at this moment there remains a significant unmet need for gypsy and traveller pitches

As such, the situation is similar to that considered by the Inspector in 2012 with the Council working towards delivering site allocations as part of the development plan. Therefore, due to the far from ideal location of the site, the limited harm to the character of the area, the PPTS advice to “very strictly limit” new traveller site development in the open countryside, and the stage of the local plan and site allocation process, the permanent occupation of the site is not considered to be justified. However, in order for the Council to be given the opportunity to provide these site allocations on suitable sites, and to cater for the site owner’s short term needs, it is recommended that permission should be granted for a further temporary period. The existing permission expires on 14 September 2016, and it is recommended that a further two years is given, which would then grant permission to 14 September 2018.

It is acknowledged that the National Planning Practice Guidance (NPPG) advises that it will be rarely justifiable to grant a second temporary permission. However, given the particular circumstances of this case, and the stage of the local plan process which is relied on to provide the site allocations for further gypsy and traveller site provision, it is considered to be the most reasonable approach in this case. It is expected that the planning circumstances will change at the end of the temporary period, which is a specific situation where the NPPG advises a temporary permission is appropriate.

## **RECOMMENDATION**

It is recommended that the application be granted for a further temporary period.

1. Use of the land as a residential caravan site shall be discontinued on or before 14 September 2018
2. Approved plans
3. Occupation by gypsies and travellers
4. Landscaping scheme to be submitted within 3 months
5. No more than two caravans
6. External lighting to be approved
7. Details of external colour of stable block to be submitted

8. Drainage details to be submitted within 3 months
9. No commercial use
10. Manure storage details to be submitted

