

Application No: 15/4060N

Location: New Start Park, WETTENHALL ROAD, REASEHEATH

Proposal: Removal of Condition 1 on Application 09/4331N to make permission permanent

Applicant: Mr T Hamilton

Expiry Date: 30-Oct-2015

## **SUMMARY**

Having regard to the rural location of the site, the distance from local facilities and the absence of public transport, the site is not considered to be locationally sustainable. This would have some adverse implications in terms of use of natural resources and movement towards a low carbon economy.

The site is however considered to be well screened in terms of its boundaries and overall siting and it is considered that it has limited visual impact on the character and appearance of the open countryside. 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 a 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 sites unsustainable location, the limited harm the proposal is considered to have on 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 has

expired on 21<sup>st</sup> January 2016, and it is recommended that a further three years is given, from the date of the decision notice.

## **SUMMARY RECOMMENDATION**

Temporary approval subject to conditions

## **REASONS FOR REFERRAL:-**

The application has been called in by the Head of Planning and Regulation.

## **PROPOSAL**

The application seeks to remove Condition 1 on Application 09/4331N. The condition stated:-

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

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

The improvement of the access, construction of access road and laying of hardstanding as well as the provision of foul drainage, were also subject to the temporary period condition, given the condition states that the land shall be restored to its former condition when the temporary 5 year period is over. Therefore these elements should also be considered in the determination of this application.

## **SITE DESCRIPTION**

The application site is a roughly rectangular shaped parcel of land set back from the frontage of Wettenhall Road and located within the open countryside, as identified within the Borough of Crewe and Nantwich Local Plan 2011.

## **RELEVANT HISTORY**

12/3020N - Removal of Condition 1 of 09/4331N - Change of Use as a Residential Caravan Site for 8 Gypsy Families, Each with Two Caravans, Including Improvement of Access, Construction of Access Road, Laying of Hardstandings and Provision of Foul Drainage. Refused 06<sup>th</sup> December 2012.

10/2810N - Change of Use of Land to Use as a Residential Caravan Site for Eight Gypsy Families, Each with Two Caravans, Including Improvement of Access, Construction of Access Road, Layout of Hardstandings and Provision of Foul Drainage. Refused 06<sup>th</sup> December 2012.

09/4331N – Change of use of land to use as a residential caravan site for 8 gypsy families, each with two caravans, including improvement of access, construction of access road, laying of hardstanding, installation of services (water and electric) and provision of foul drainage. Refused 15<sup>th</sup> June 2010. Appeal allowed 21<sup>st</sup> January 2011.

## **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 whilst respecting the interests of the settled community.

### **Borough of Crewe and Nantwich Local Plan 2011**

The relevant Saved Policies are:

NE.2 – Open Countryside  
BE.1 – Amenity  
BE.2 – Design Standards  
BE.3 – Access and Car Parking  
BE.4 - Drainage  
RES.13 – Sites for gypsies and travelling showpeople

### **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 objection, subject to conditions restricting the number of caravans on the site, removal of p.d rights, formation of formal hardstanding with minimal pitch separation and provision of new foul drainage system.

**Environment Agency** – No objection. Comments were raised regarding the sewage treatment plant. The sewage plant installed was not the Marsh Ensign 27-32, as specified in the email dated 17/03/2011 regarding the discharge of condition relating to foul and surface water attached to permission 09/4331N. The applicant should demonstrate that the existing plant has sufficient capacity for the development to ensure that the foul effluent from the site is being adequately treated.

**CEC Drainage** – No objection.

**Worleston Parish Council** – Object to the application. Concerns raised include the site is unsustainable, repeated violation of the conditions attached to permission 09/4331N, no explanation of how the site would be changed to bring it up to specification for permanent permission.

## **REPRESENTATIONS**

6 letters of representation received objecting to the proposal. Concerns raised include:-

- The site is unsustainable
- Repeated violation of the conditions attached to permission 09/4331N
- No explanation of how the site would be changed to bring it up to specification for permanent permission.
- No change in circumstances to warrant the removal of the condition
- Inadequate access and highway safety along Wettenhall Road
- No evidence provided to justify the removal of the condition
- The occupants of the site have not integrated with the community
- The scale of the site does not respect the nearest settled community
- Loss of an agricultural site

## **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**

Policy RES.13 states that proposals for temporary or permanent gypsy caravan sites should amongst other criteria, avoid visual encroachment into open countryside and should have substantial natural screening or include proposals to provide such screening.

In his decision letter, the Inspector identified that the visual impact of the development was *“to a large extent reduced by the fact that it is sited within an enclosed field set back beyond the frontage grassland field fronting Wettenhall Road.”*

He concluded that *“any visual harm or physical encroachment that might harm the character of the countryside would be small and, with the benefits of additional planting, could be absorbed into the landscape structure with little impact.”*

The impact of the proposal on existing visual amenities of the area and surrounding open countryside has already been accepted.

### **Accessibility**

Policy RES.13 states that proposals for temporary or permanent gypsy caravan sites should be within easy reach of local services and facilities. The more recent PPTS does not provide any further guidance on acceptable distances between traveller sites and local facilities.

The Inspector concluded as part of the overall balance that *“the location of the site still has serious shortcomings in relation to accessibility”* and that *“the site is a generally unsustainable location for the scale of the use proposed.”*

The current proposal would therefore conflict with the requirements of Policy RES.13 of the Borough of Crewe and Nantwich Local Plan 2011.

### **Amenity**

No significant impact upon the living conditions of neighbours were identified at the time of the previous appeal under 09/4331N, 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 BE.1 of the Borough of Crewe and Nantwich Local Plan 2011.

### **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, subject to further information regarding the sites access arrangements. The proposal was considered to be in accordance with Policy BE.3 of the Borough of Crewe and Nantwich Local Plan 2011. The removal of the condition would have no significant impact upon the traffic generation for the site.

## **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 (GTTSAA). 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 GTTSAA 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 would not be suitable for full planning permission, as it would have an unacceptable impact on landscape character. Situated within an area of rectilinear small pasture fields beyond the northern edge of Nantwich where there are signs of creeping urban fringe uses which, collectively, are eroding the prevailing strong rural character of the locality. A loose ribbon of properties is located along Cinder Lane to the east and the site is separated from this, essentially lying on its own; it therefore relates poorly to the prevailing settlement pattern. Although the site (and the existing development) is visually quite well contained due to the prevailing landscape structure of robust hedgerows, the area's rural character is susceptible to erosion through piecemeal uses and activities, some of which is already apparent (including this site). The site is considered to be in inappropriate location for a permanent Gypsy and Traveller development.”*

## **ECONOMIC SUSTAINABILITY**

With regard to the economic role of sustainable development, the proposed development would 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 would 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 a 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. The Inspector's conclusions on the original application identified that the positive factors in favour of the appeal did not outweigh the harm identified.

However, given the Council could not demonstrate a 5 year supply of deliverable sites during the determination of the appeal, a temporary 5 year permission for the site was considered to be appropriate, given new sites would likely become available at the end of the temporary period, in line with Circular 01/2006.

In this respect, the positive factors in favour of the appeal when considered on the basis of a 5 year temporary permission were considered to outweigh the harm identified and justified the development for a limited period. This conclusion remains, given the substantial unmet need for gypsy and traveller pitch provision in Cheshire East, despite recent planning permissions.

It is also important to note that the Inspector stated that:-

*"There is a substantial local need for more gypsy sites, no alternatives and it is likely to be in the order of 5 years before additional sites are available through the development plan process. The intended occupiers have a need for a lawful pitch and I have given particular weight to the need to facilitate the education of the school-age children among the families."*

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 PPTS was revised in August 2015 and 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 2009 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 has expired on 21<sup>st</sup> January 2016, and it is recommended that a further three years is given, from the date of the decision notice.

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 would 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, subject to the following conditions.

- 1) Time period**
- 2) Occupation of the site**
- 3) Amount of pitches**
- 4) Vehicle tonnage**
- 5) Commercial activities**
- 6) Environment Improvement**
- 7) Environment Improvement Implementation**
- 8) Landscape implementation**
- 9) Remedial measures**
- 10) Ecological Impact Assessment**

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

**Should this application be the subject of an appeal, authority be delegated to the Interim Planning and Place Shaping Manager in consultation with the Chairman of the Southern Planning Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.**

