

Application No: 18/2925N

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

Proposal: Removal of planning condition 1 (3 years) to make permission permanent to planning application 15/4060N

Applicant: Mr Thomas Hamilton

Expiry Date: 08-Aug-2018

SUMMARY

This application seeks permission to remove condition 1 of 15/4060N to make the site permanent for a residential caravan site for eight gypsy families, each with two caravans (one mobile home and one touring caravan). The site currently has temporary permission until 3rd June 2019.

There is a need for 12 permanent Gypsy and Traveller pitch's in the borough for the next 5 years (at the base date of the updated Gypsy and Traveller Accommodation Assessment ("GTAA")), which is a significant material consideration in the decision making of this application.

The Council's has recently consulted on proposed allocations in the first draft Site Allocations and Development Policies Document ("SADPD") which would provide for a total of 13 permanent pitches and 3 travelling showperson plots. This is sufficient for 5 years site provision from the base date of the GTAA which is May 2017.

The list of sites considered through the draft Gypsy, Traveller and Travelling Showpeople Site Selection Report included sites with temporary planning permission, such as the site at New Start Park, Wettenhall. The site selection report concluded that the site at New Start Park (reference GTTS 17) was not a preferred site and is not proposed as an allocation within the First Draft SADPD. Having regards to the rural location of the site, the distance from facilities, and the absence of public transport the site is considered to be in an unsustainable location.

Although this is a steer of the intentions of the Policy, limited weight can be attributed to the consultation document at this time.

There would be a limited adverse impact upon the character and appearance of this rural area arising from the visual impact of the proposal, given it has been a permitted use of the land for almost 10 years. The proposal will have no significant harm on highway safety, or neighbouring amenity.

Therefore on balance it is considered that a further temporary permission should be granted to allow the SADPD to be progressed to adoption and allow the suitability of this site to be

considered further, against alternative sites identified which would adhere with Local and National Policy.

SUMMARY RECOMMENDATION

Temporary Approval subject to conditions

REASONS FOR REFERRAL:-

The application has been called in by Councillor Chris Green for the following reason.

‘There is growing concern from residents and the parish council which has been raised both with myself and with The Leader. Gypsy & Traveller sites are always contentious and it is unfair to both officers and residents that decisions that create a permanent site should be delegated.

The site is subject to a temporary planning permission (15/4060N) which does not expire for nearly a year.

That temporary permission was specifically given “to allow sufficient time for the emerging Local Plan and site allocation documents to progress.”

The SADP is in preparation and will specifically indicate sites available for permanent Gypsy & Traveller sites. The SADP will certainly be published in draft format before the current temporary permission expires.

It seems premature to replace the temporary permission before the draft SADP is published.

Furthermore, there are several ongoing issues that have been submitted to the enforcement team at CE Council.’

PROPOSAL

The application seeks to remove Condition 1 on Application 15/4060N. The condition stated:-

‘The use hereby permitted shall be for a limited period being the period of 3 years from the date of the decision notice. 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 site currently has temporary permission until 3rd June 2019.

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.

RELEVANT HISTORY

17/3231N - Brick building day room – Approved with conditions 13th October 2017

15/4060N - Removal of Condition 1 on Application 09/4331N to make permission permanent – Approved with the imposition of a further temporary planning condition 3rd June 2016

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 06th 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 06th 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 15th June 2010. Appeal allowed 21st January 2011.

NATIONAL & LOCAL POLICY

National Policy

The National Planning Policy Framework
Planning Policy for Traveller Sites (PPTS) 2015

Cheshire East Local Plan Strategy (CELPS)

SD1 - Sustainable Development in Cheshire East

SD2 - Sustainable Development Principles

PG6 - Open Countryside

SE1 – Design

SE4 - Landscape

SC7 - Gypsies and Travellers and Travelling Showpeople

Saved policies of the Borough of Crewe and Nantwich Local Plan 2011

BE.1 – Amenity

BE.3 – Access and Car Parking

BE.4 - Drainage

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)

Cheshire East Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (August 2018)

Cheshire East Local Plan – Site Allocation and Development Policies Document – Gypsy, Traveller and Travelling Showpeople Site Selection Report – August 2018

First Draft Site Allocation and Development Policies Document (published September 2018)

CONSULTATIONS

Strategic Housing - The Cheshire Gypsy, Traveller & Travelling Showpeople Accommodation Assessment (GTTSA) 2014 shows a need for 69 extra pitches in Cheshire East from 2013 to 2028. As such there is an identified need for these pitches. The GTTSA 2014 was commissioned in order to comply with the Housing Act 2004, the National Planning Policy Framework 2012 and Planning Policy for Traveller Sites 2012.

Strategic Highway - The site has operated satisfactorily in highway terms and there is no reason to object to the removal of Condition 1.

Environmental Health – No objections

Environment Agency – No objections

Worleston Parish Council – None received at time of writing this report.

REPRESENTATIONS

6 letters of representation, (1 from the Poole Residents Group) have been received objecting to the proposal. Concerns raised include:-

- The application is premature and it is not possible to fully assess the proposal until the SADPD is published and adopted. The current permission is still valid for a further year
- Current breach of condition 4 under investigation
- Question if all conditions are being met
- The site remains unsustainable and therefore should not be permitted for permanent use
- The permitted Kingsley Fields site is still 1km away on rural roads with no pedestrian paths
- The site is still in conflict with policy SC7 of CELPS
- The visual and landscape impact of the site remains detrimental to the area,
- The Peter Brett Associates 'Gypsy, Traveller and Travelling Showpeople: Site Identification Study' discounts the site, as inappropriate location for a permanent site.
- The need for sites has lessened from the previous application
- Council need to allocate suitable sites
- The PPTS states the LPAs should very strictly limit Travellers site in the open countryside
- Scale of site would dominate the local community
- The road is unsafe for pedestrians and large vehicles

OFFICER 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.

Principle of Development

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, in rural settings, where the application proposal is located, (Open Countryside) are acceptable in principle for gypsy and traveller sites.

Whilst the need for gypsy and traveller accommodation is a material planning consideration, other development plan policies and Government guidance require, in addition, the consideration of the impact on 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 accessed local services. This is addressed further below.

This site has been assessed on two previous occasions as not suitable for permanent permission, and currently has permission on a temporary basis until June 2019.

Need

Policy SC7 of the Cheshire East Local Plan Strategy sets out the overall need for Gypsies and Travellers and Travelling Showperson provision between 2013 - 2028 in line with the Cheshire Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) (March 2014).

In August 2015, revisions to the PPTS changed the definition of Travellers for planning purposes. The key change was the removal of *'those who have ceased to travel permanently'* meaning that they will now no longer fall under the planning definition of a 'Traveller' for the purposes of assessing accommodation need in the GTAA. This change in definition came after the completion of the 2014 GTAA.

The Council, in support of the preparation of the First Draft Site Allocations and Development Policies document ("FDSADPD") has updated its evidence base on a sub-regional basis, on the need for additional Gypsy and Traveller and Travelling Showperson accommodation. The updated GTAA reflects the change in definition set out in the revised PPTS and has a base date of May 2017.

The 2018 GTAA now provides updated evidence on need which reflects current national planning policy. The 2018 GTAA also covers the full Local Plan period compared to the 2014 GTAA which only covered the period up to 2028. The accommodation needs in the 2018 GTAA study, for Cheshire East, up to 2030, are shown below:

	Total
Gypsy and Traveller residential pitches	32
Transit site pitch provision	5-10
Travelling Showperson plots	5

Applying an annualised assumption for site delivery, from the base date of the GTAA, for the five year period of 2017/18 – 2021/22 there is a requirement for 12 Gypsy and Traveller Pitches and 2 Travelling Showperson Plots.

The Planning Policy for Traveller Sites states that,

‘If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission’. (para 27)

Therefore the need for traveller provision in the area should be given significant weight.

The First Draft Site Allocation and Development Policies Document (FDSADPD)

The Council consulted on the FDSADPD from the 11 September until the 22 October 2018. The FDSADPD proposes further policy guidance on Gypsy, Traveller and Travelling Showperson provision (draft policy HOU 5). Three site allocations are also proposed in the Draft Plan which would address part of the accommodation needs identified in the GTAA. An exhaustive search for potential sites has been carried out. The Gypsy, Traveller and Travelling Showpeople Site Selection Report [FD 14] published in the FDSADPD document library sets out the steps that have been taken towards looking for and establishing a list of sites that can be then assessed in terms of their suitability and availability.

The three proposed site allocations, included in the FDSADPD for consultation that ended on the 22 October 2018 were:

- Site G&T 1 Land east of Railway Cottages, Nantwich for six permanent residential Gypsy and Traveller pitches;
- Site G&T 2 Land at Coppenhall Moss, Crewe for seven permanent residential Gypsy and Traveller pitches;
- Site TS1 Lorry park, off Mobberley Road, Knutsford for three Travelling Showperson plots.

The sites proposed for allocation in the draft SADPD would provide for a total of 13 permanent pitches and 3 travelling showperson plots. This is sufficient for 5 years site provision from the base date of the GTAA which is May 2017.

The list of sites considered through the draft Gypsy, Traveller and Travelling Showpeople Site Selection Report included sites with temporary planning permission, such as the site at New Start Park, Wettenhall.

The site selection report concludes, taking into account and balancing the range of factors considered that the site at New Start Park (reference GTTS 17) is **not a preferred site** and is not proposed as an allocation within the FDSADPD.

In general terms, the list of sites that have been collated do not perform particularly well in terms of their planning suitability. Most are located in the open countryside and services and facilities are not readily accessible to them by foot, cycle or public transport. This is also true of the site at New Start Park, Wettenhall.

As such the Council, alongside the consultation on the FDSADPD, has made a further call for sites for Gypsy and Traveller and Travelling Showperson sites. This will assist in ensuring that every reasonable effort has been made to identify other sites that may prove to be more suitable.

Following the consultation on the FDSADPD and call for sites, further work will be undertaken to assess the suitability of sites for allocation before the Council consults on the publication version of the SADPD.

The publication version of the SADPD will be a full, final draft of the document the Council intends to submit for examination. This will be consulted on for six weeks before being submitted for public examination. The LDS anticipates the submission of the SADPD for independent examination in the 3rd Quarter of 2019 with adoption in the 1st Quarter of 2020.

Therefore given the very early stage of the FDSADPD very limited weight can be given to the allocations proposed at this stage. Therefore although the draft SADPD shows a clear indication of the LPA's intention in relation to allocating site provision in the next 5 year years, there is still currently an outstanding need of for Gypsy and Traveller provision.

It is therefore considered that although the removal of the condition would be unacceptable i.e., making the site permanent; as there is an outstanding need in the Borough, it would be reasonable to extend the temporary permission until June 2021, to allow the draft SADPD to be examined and adopted.

Character and appearance

The Planning Policy for traveller sites considers that Local Planning Authorities should very strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. Policy SC 7 states that sites should be sustainable and acceptable in terms of location and design, and amongst other things should have an acceptable impact on the character and appearance of the surrounding area.

The original scheme was permitted by an Inspector on a temporary basis. 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.”*

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

Accessibility

Policy SC7 states that to ensure proposal for gypsy and traveller accommodation is sustainable and acceptable in terms of location and design (inter alia) the following should be taken into account;

- (i) The proximity of the site to location services and facilities;
- (ii) Access to Public Transport
- (iii) Safe pedestrian, cycle and vehicular access on to the site

The CELPS policy SC7 and the PPTS do not provide any 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.”*

When producing the list of preferred sites for the SADPD, Spatial Planning Department considered through the draft Gypsy, Traveller and Travelling Showpeople Site Selection Report sites with temporary permission, such as the site at New Start Park, Wettenhall.

The site selection report considers that, that the site scores a red rating in respect of access to services and facilities and public transport. A foot and cycle access path at Reaseheath College has now been diverted. The delivery of site LPS 46 Kingsley Fields Nantwich, as an allocated site in the Local Plan Strategy, has the potential to provide for a primary school and provide for retailing to meet local needs, however this is some time off yet, and not currently available for use.

Therefore the site is still in conflict with local and national planning policy in relation to its accessibility to services.

Amenity

No significant impact upon the living conditions of neighbours were identified at the time of the previous appeal under 09/4331N, and renewal application 15/4060N 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, and raises no objection to the removal of condition 1 (to make the site permeant). 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.

Conditions

The applicant states that condition 1 (Temporary Permission) should be deleted as it restricts the time period of the use, and in doing so condition 10 (Reinstatement of land) should also be deleted. As noted below the proposal to allow the site to be permanent is not considered to be acceptable and therefore a further temporary permission is proposed for an additional 2 years, until 3rd June 2021, which will allow the SADPD to be adopted and the allocated sites brought forward to meet the need.

Conditions 2 (Occupation), Condition 3 (Number of pitches), Condition 4 (Restriction of vehicles), Condition 5 (No commercial activities) and Condition 11 (approved plans) remain unchanged and will be attached to the permission again.

Condition 6 (Environmental Improvement) and Condition 7 (Environmental Improvement Implementation) have been discharged as part of the original permission. Furthermore, condition 8 required the landscaping to be implemented in accordance with the approved details. Condition 9 (Remediation Measures) is no longer relevant to the permission and therefore can be removed.

Human Rights

The Planning Authority is required, under section 149 of the Public Sector Equality Act 2010, in the exercise of its functions, to have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The protected characteristics include:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

The duty to have regard to the three aims listed above applies not only to general formulation of policy but to decisions made in applying policy in individual cases.

CONCLUSION AND PLANNING BALANCE

This application seeks permission to remove condition 1 of 15/4060N to make the site permanent.

Having regards to the rural location of the site, the distance from facilities, and the absence of public transport the site is considered to be in an unsustainable location.

There would be a limited adverse impact upon the character and appearance of this rural area arising from the visual impact of the proposal, given it has been a permitted use of the land for almost 10 years.

There is a need of 12 Gypsy and Traveller pitch's in the area for the next 5 year, which is a significant material consideration in the decision making of this application.

The Council's has recently consulted on proposed allocations in the draft SADPD which would provide for a total of 13 permanent pitches and 3 travelling showperson plots. This is sufficient for 5 years site provision from the base date of the GTAA which is May 2017.

The list of sites considered through the draft Gypsy, Traveller and Travelling Showpeople Site Selection Report included sites with temporary planning permission, such as the site at New Start Park, Wettenhall. The site selection report concluded, that the site at New Start Park (reference GTTS 17) was not a preferred site and is not proposed as an allocation within the FDSADPD. Although this is a steer of the intentions of the Policy, limited weight can be attributed to the consultation document at this time.

Therefore on balance it is considered that a further temporary permission should be granted to allow the SADPD to be progressed to adoption, and allow the suitability of this site to be considered further and against any alternative sites brought forward which adhere with Local and National Policy.

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 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 unmet need for gypsy and traveller pitch provision in Cheshire East.

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 expires on 3rd June 2019, and it is recommended that an additional two years is given (on top of the remaining 6 months), until the 3rd June 2021.

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) Temporary Time period – 3rd June 2021**
- 2) Occupation of the site**
- 3) Amount of pitches**
- 4) Vehicle tonnage**
- 5) Commercial activities**
- 6) Reinstatement of Land when use ends**

In order to give proper effect to the Committee’s intent and without changing the substance of its decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice.

