

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **23rd NOVEMBER 2022**

REPORT BY: **CHIEF OFFICER (PLANNING, ENVIRONMENT AND ECONOMY)**

SUBJECT: **FULL APPLICATION- CHANGE OF USE OF LAND FOR STATIONING OF CARAVANS FOR RESIDENTIAL PURPOSES, TOGETHER WITH THE FORMATION OF HARDSTANDING AND UTILITY/DAY ROOM ANCILLARY TO THAT USE**

APPLICATION NUMBER: **062368**

APPLICANT: **MRS MARY GALLAGHER**

SITE: **LAND AT GLADSTONE WAY, HAWARDEN**

APPLICATION VALID DATE: **13TH JANUARY 2021**

LOCAL MEMBERS: **CLLR H BROWN**
CLLR G BROCKLEY

TOWN/COMMUNITY COUNCIL: **HAWARDEN COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **MEMBER REQUEST**

SITE VISIT: **YES- CONCERNS REGARDING THE ACCESS**

1.00 SUMMARY

1.01 This is a full application for the Change of Use of land for stationing of caravans for residential purposes, together with the formation of hardstanding and utility/day room ancillary to that use at Land At Gladstone Way, Hawarden, Flintshire, CH5 2BT

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

- 2.01
1. Time Limit
 2. In accordance with approved plans
 3. The siting, layout and design of the means of site access shall be in accordance with details to be submitted to and approved by the County Council prior to the commencement of any site works.
 4. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 2 of Welsh Government Circular 005/2018.
 5. Submission of full foulwater drainage scheme

3.00 **CONSULTATIONS**

- 3.01 **Local Member(s):** Councillor H Brown: Requested that the application be referred to Planning Committee on the grounds that the site is in Green Barrier & outside of the settlement boundary and there is no unmet need. Also requested a Committee Site Visit due to concerns regarding the access.

Cllr G Brockley - No response at time of writing

Hawarden Community Council: Raise an objection on the grounds that the land sits in a Green Barrier area/outside settlement boundary. No requirement for further residential land for caravans. Request to go to Planning Committee

Community and Business Protection: no adverse comments regarding this proposal.

Highways (DC): The road from which access to the site is derived is adopted highway. The existing gated access to the site does not appear to be of sufficient width to allow for a vehicle towing a caravan to easily enter exit the site. Any planning permission should include a condition requiring access details.

Natural Resources Wales: Recommend that permission should only be granted if a suitable drainage scheme can be secured otherwise, object to this planning application.

Dwr Cymru/Welsh Water: As the applicant intends utilising a private treatment works, the applicant should contact Natural Resources Wales who may have an input in the regulation of this method of drainage disposal. However, should circumstances change and a connection to the public sewerage system/public seweragetreatment works is preferred we must be re-consulted on this application.

4.00 PUBLICITY

4.01 25 Neighbour Notifications were sent to nearby properties and a Site Notice was displayed. One letter of support has been received which is summarised as follows:

1. Represents needed provision for G&T sites

15 letters of objection have been received and those objections are summarised as follows:

1. Too many sites in Flintshire
2. Existing Anti-Social Behaviour locally
3. Land drainage issues
4. Impact upon public footpath
5. Impact upon local services
6. Impact upon local ecology
7. Traffic generation
8. Issues arising from further development of site in future

5.00 SITE HISTORY

5.01 No relevant history

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

- STR1 New Development
- GEN1 General Requirement for Development
- GEN4 Green Barrier
- D2 Design
- HSG14 Gypsy Sites
- AC 13 Access and Development
- EWP16 Water Resources

National Planning Policies:

- Welsh Government Circular 005/2018 'Planning for Gypsy, Traveller and Show people Sites'
- Planning Policy Wales Edition 11 (February 2021)
- Future Wales 2020 - 2040

6.02 It is noted and acknowledged that the national planning framework as set out within Planning Policy Wales Edition 11 and Future Wales: The National Plan 2040 sets out the most up to date planning principles against which to consider development proposals. The

Development Plan and associated supplementary planning guidance remain broadly consistent with these changes to legislation

7.00 PLANNING APPRAISAL

7.01 Site Description

The application site is located on the western side of Gladstone way, close to the A494 Queensferry interchange, with the site being accessed by a lane off Gladstone Way. A pair of cottages are located at the end of the access lane and neighbours the site. Further housing is located to the eastern side of Gladstone Way. The A494 dual carriageway sits at the northern boundary of the site and the Queensferry Interchange located just beyond the North-Eastern boundary of the site. Remains of a former cottage and well sit within the site and these would be undisturbed by the proposal. The site is well screened by existing vegetation. The site is close to, but outside of the settlement boundary of Queensferry and is located within the Green Barrier.

7.02 Proposed Development

This application is for the use of land for the stationing of caravans for residential purposes, together with the formation of hardstanding and utility/day room ancillary to that use. The proposal is for a single pitch consisting of one static caravan, one touring caravan and a day/utility room.

7.03 Principle of Development

The Housing (Wales) Act 2014 places a legal duty upon local authorities to ensure that the accommodation needs of Gypsies and Travellers are properly assessed and that the identified need for pitches is met. More recently Welsh Government have published a Circular 005/2018 Planning for Gypsy, Traveller and Show people Sites which reflects provisions contained in the Housing (Wales) Act 2014, to ensure local authorities meet the accommodation needs and provide sites for Gypsies and Travellers through the planning system.

7.04 UDP policy HSG14 also acknowledges the requirement for development plans to make adequate provision for the accommodation needs of gypsy families, but this policy predates the 2014 Act as well as Circular 005/2018, both of which place a different emphasis on assessing applications for Gypsy and traveler sites. Whilst the LDP has a similar criteria-based policy to the UDP, it is still subject to the findings of the LDP Examination which has resulted in its two criteria a. and b. being deleted as they do not comply with the guidance in the above circular.

7.05 As these criteria relate to the need to demonstrate a proven need for a Gypsy and Traveler site, as well as there being no suitable alternatives elsewhere, as these are also the first two criteria in UDP policy HSG14 they are no longer valid considerations and cannot be

taken into account. Welsh Government raised this matter in their representations to the LDP Examination Inspector, highlighting that the Circular notes that policy requirements to 'demonstrate unmet need' would act against freedom of movement for gypsies and travelers who may wish to develop their own sites. Such restrictions should not be placed on Gypsies and Travellers. The Circular clearly states that criteria-based policies must be fair, reasonable, realistic and effective in delivering sites and must not rule out or place undue constraints on the development of Gypsy and Traveller sites.

- 7.06 The Council has an approved Gypsy and Traveller Accommodation Assessment (2016) that is still extant for the purposes of the LDP Examination evidence base and for Development Management purposes. This shows a plan period identified need for 19 additional pitches. In addition, the LDP has made suitable site-specific provision to meet this need, made via site allocations as extensions to three existing Gypsy and Traveller sites, 1 of which is Council owned and the others in private ownership. Given that the Council is very close to adopting its LDP two of these allocated extensions have already been granted planning permission or there is a resolution to grant subject to issuing the decision. A further application is being prepared for submission on the Council owned site.
- 7.07 Suitable provision to meet the level of identified need has therefore been identified in the LDP, however circular 005/2018 also states that criteria based policies are required in development plans, to cater for what is in effect new or windfall demand for pitches given that the 2016 GTAA represents a point in time assessment, , and the UDP and LDP have similar criteria based policies. This allows for flexibility which national policy requires in order to meet unidentified need that may arise within the life of the plan, and which this proposal represents.
- 7.08 Paragraph 7 of the Circular advises that the Well-being of Future Generations (Wales) Act 2015 sets a framework for local authorities to ensure the sustainable development principle is met. In terms of wellbeing goals, the guidance reference a 'Wales of cohesive communities'. Paragraph 8 goes on to advise that '*Housing is a fundamental issue that affects the lives of people across Wales, including our Gypsy and Traveller communities*'. In particular the guidance requires that '*...Gypsies and Travellers should have equal access to culturally appropriate accommodation as all other members of the community*'.
- 7.09 Paragraph 12 recognises that '*Some Gypsies and Travellers may wish to find and buy their own sites to develop and manage*'. Paragraph 14 explains that the Housing (Wales) Act 2014 places a legal duty upon local authorities to ensure 'that accommodation

needs of Gypsies and Travellers are properly assessed and that the identified need for pitches is met’.

- 7.10 Paragraph 36 explains that *‘when identifying sites the planning authority should work with the Gypsy and Traveller Community’*. Paragraph 37 explains that *‘issues of site sustainability are important for the health and well-being of Gypsy and Travellers not only in respect of environmental issues but also for the maintenance and support of family and social networks’*.
- 7.11 Whilst the Circular advice supersedes criterion a. and b. of policy HSG14 of the UDP, on the basis that this would be unduly restrictive to applications such as this, the other UDP policy criteria are still relevant. These are in line with the Circular and essentially seek to assess the suitability of the location of the proposed gypsy and traveller site by ensuring that in a sequential sense, sustainable locations within or adjacent to existing settlements with access to local services are considered first. That said, the Circular goes on to state that *‘Sites in the countryside, away from existing settlements, can be considered for Gypsy and Traveller sites if there is a lack of suitable sustainable locations within or adjacent to existing settlement boundaries’*
- 7.12 The circular itself provides expanded guidance at paragraph 37 in respect of the sustainability of sites and the site should be assessed in this context. Whilst not an exhaustive list, the items to consider when assessing whether or not a site is suitable includes:
- *opportunities for growth within family units;*
 - *the promotion of peaceful and integrated co-existence between the site and the local community;*
 - *access to health and education services;*
 - *access to utilities including water, waste water disposal and waste collection services;*
 - *access by walking and cycling, public transport and private motor vehicles (including emergency vehicles);*
 - *suitable nearby or on-site safe play areas;*
 - *contribution to a network of transit sites which reduce the need for long-distance travelling or unauthorised encampments;*
 - *not locating sites in zone C2 risk of flooding and only considering sites for location within zone C1 risk of flooding in line with guidance contained in TAN 15, given the particular vulnerability of caravans; and*
 - *regard for areas designated as being of international, national and local importance for biodiversity and landscape*
- 7.13 The site is located within a designated Green Barrier in the Flintshire Unitary Development Plan. Policy GEN4 provides guidance in respect of development within green barriers but since the adoption of the

UDP, national guidance has been updated in the form of PPW11. The purposes of a green barrier are to:

- prevent the coalescence of large towns and cities with other settlements;
- manage urban form through controlled expansion of urban areas;
- assist in safeguarding the countryside from encroachment;
- protect the setting of an urban area; and
- assist in urban regeneration by encouraging the recycling of derelict and other urban land.

7.14 PPW11 advises that the construction of new buildings in a green barrier is inappropriate unless it is for one of a number of specified purposes, none of which specifically include Gypsy / Traveller development. However, PPW11 also goes on to state 'Other forms of development would be inappropriate development unless they maintain the openness of the Green Belt or green wedge and do not conflict with the purposes of the designation'. In this context it is necessary to look at this particular proposal which sits on the very edge of the green barrier and set immediately against an urban backdrop, well defined and well screened by trees and vegetation. I do not consider, by its scale or nature, that the proposal would unacceptably harm the character and openness of the Green Barrier, or lead to a coalescence of settlements. As discussed above open countryside locations can be considered to be appropriate for this form of development.

7.15 The advice and guidance within this circular provides the framework when determining this types of planning applications. In my view the principle of this development as a windfall site is acceptable. The site is a sustainable location for new development given the availability of services and facilities and also proximity to other settlements in Flintshire, and Deeside specifically, appropriate for the level of development proposed and in addressing a specific housing need.

7.16 Best Interests of Children

As the residents of the site include children the proposal has been assessed with due regard to their best interests. The Best Interests of the Children is a primary consideration for this application. Across the entire site, there are 3 school age children in total, who currently live on the site or are proposed to live on the site.

7.17 The site is proposed for a single extended family, which consists of the mother and father as well as their children, three of which are school aged and one is a baby. There are also two grandchildren of pre-school age as part of the extended family. The intention is for the

school aged children to attend local schools. They attend schools in the vicinity of their current site.

- 7.18 Whilst there are no overriding serious medical issues and the children are of good health two of the children are required to visit Wrexham Maelor for regular check ups as a result of ongoing health issues. And it would be to their benefit to have a stable base in which to live.
- 7.19 The benefits of enabling the provision of a stable and secure environment is a material consideration in the planning balance. This has been accepted by planning inspectors with due regard to the rights to respect for family and private life as identified in Article 1 and Article 8 of Protocol 1 of the European Convention on Human Rights.
- 7.20 It is acknowledged that children would live on the site, were permission to be granted, and the Local Planning Authority has a statutory duty under the Children's Act 2004, to safeguard and promote the welfare and well-being of the children.
- 7.21 There is also a national and international obligation continued in article 3(1) of the United Nations Convention of the Rights of the Child (UNCRC)

"In all actions concerning children, whether undertaken by public or private or social welfare institutions, courts or law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

- 7.22 These considerations are therefore a primary material consideration in the site assessment. The implications of the applicant, their family and the families of those living on site having a settled base for the educational/health needs of the children needing to be considered and weighed in the balance as a primary consideration. In these circumstances I consider that the best interests of the children would be best served by occupation of the site.
- 7.23 Design and impact upon local living conditions
Design guidance is published in the Welsh Government document 'Designing gypsy and traveller sites' (May 2015.) The application is of a relatively small scale and proposes the installation of an individual pitch which includes a day/amenity building. This building will provide for bathroom and kitchen facilities . The amenity buildings are to be single storey approximately 3.9m high, 2.6m to the eaves, approx. 3.4m in width and 4.8m in length. The buildings are proposed to be constructed of an interlocking tile roof with brick wall construction. A permeable hard core area is proposed on the eastern portion of the site as a base for the caravans and to provide independent parking provision clear of the highway and provides for turning facilities within the site. I consider the proposed layout and facilities offered is in accordance with the aforementioned guidance.

7.24 The site is well screened by the existing hedgerow on all boundaries. Given the sites location away from other residential properties, other than its two neighbours, as well as the limited scale of the proposal it will not have an unacceptable impact upon the living conditions of existing residents of the area by adverse impact upon privacy, traffic or parking problems.

7.25 Drainage

Foul drainage for the development is to be discharged to a private sewerage system. In these circumstances Welsh Government Circular 008/2018 advises that a full and detailed consideration should be given to listed environmental criteria in order to justify the use of private sewerage. In this instance, no information has been submitted. The application does not, therefore, provide a sufficient basis for an assessment to be made of the risks of pollution to the water environment arising from the proposed development. In particular, the submitted application fails to show that disposal of foul effluent from the proposed package treatment plant would be effective at this location as the developer has not submitted any porosity/percolation testing results which would normally be required to demonstrate this. Nor are there calculations for the specific size of the proposed soakaway.

7.26 However the Circular advises that, a planning authority should consider whether it is possible, in a practicable and sustainable manner, to overcome by means of a condition potential issue the lack of a formal drainage solution might present and which would otherwise justify the refusal of permission.

7.27 The applicant has indicated that they would be willing to accept a condition requiring sufficient information to demonstrate that the proposed foul drainage solution is appropriate for the location. I consider that this gives sufficient satisfaction for the Local Planning Authority that appropriate drainage will be provided for the development and will not put the applicant to needless expense if planning permission is not granted. I consider that subject to the imposition of this condition the proposal accords with policies GEN1 and EWP16.

7.28 Access

The site is served by adopted highway, albeit a narrow access road serving the two cottages at the end of the lane. There is adequate land within the site to ensure that sufficient parking exists to serve the development. Highways Development Control have noted that presently the gated access to the site offers insufficient width to allow for a vehicle towing a caravan to easily enter exit the site. As such they have requested a condition be imposed requiring details of a

revised access point. Sufficient land appears to be available to accommodate this and as such I consider this condition to be a valid suggestion and recommend that it is included on any permission.

7.29 There is a public footpath close to the site further down Gladstone Way but it is unaffected by the development. The route to the pedestrian walkway that allows access over the trunk road runs past the site but it again unaffected, this route is not part of the public footpath.

8.00 CONCLUSION

The use of the site for a single pitch Gypsy and Traveller site is acceptable in principle and will meet a newly arising need for traveller sites across the County not captured by the 2016 GTAA. The site layout is acceptable and will not give rise to any adverse impacts upon local amenity or living conditions. There are no objections with regards to drainage, access or other technical matters. The proposal is acceptable and I recommend accordingly.

8.01 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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