

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **26th OCTOBER 2022**

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

SUBJECT: **FULL APPLICATION- THE USE OF LAND FOR
THE STATIONING OF CARAVANS FOR
RESIDENTIAL PURPOSES, AND THE
FORMATION OF HARDSTANDING AND
DETACHED AND SEMI- DETACHED DAYROOMS
AT "SISTERS YARD", STATION ROAD,
SANDYCROFT, DEESIDE, FLINTSHIRE
062760**

**APPLICATION
NUMBER:**

APPLICANT: **MR JAMES YOUNG**

SITE: **SISTERS YARD, STATION ROAD, SANDYCROFT**

**APPLICATION
VALID DATE:** **26TH MARCH 2021**

LOCAL MEMBERS: **COUNCILLOR C JONES
COUNCILLOR D SELVESTER**

**TOWN/COMMUNITY
COUNCIL:** **QUEENSFERRY COMMUNITY COUNCIL**

**REASON FOR
COMMITTEE:** **MEMBER REQUEST**

SITE VISIT: **YES- FOR MEMBERS TO ASSESS IMPACT OF
PROPOSAL ON LOCALITY**

1.00 SUMMARY

- 1.01 This is a full application for the use of land for the stationing of caravans for residential purposes, and the formation of hardstanding and detached and semi- detached dayrooms at "Sisters Yard", Station Road, Sandycroft, Deeside, Flintshire

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

- 2.01
1. Time limit on commencement
 2. In accordance with approved details
 3. 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.
 4. Submission of full foulwater drainage scheme
 5. No surface water to be allowed to enter public system
 6. Full details of boundary wall to be submitted and approved

3.00 CONSULTATIONS

3.01 Local Member(s)

Councillor Christine Jones: Requests Committee determination and a committee site visit

Councillor Dale Selvester: No written response

Queensferry Community Council: No response

Welsh Water/Dwr Cymru: Requests that suggested conditions and advisory notes are included with any permission

Natural Resources Wales: We continue to have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome if the document identified below is included in the approved plans and documents condition on the decision notice:

Approved Document: Flood Consequence Assessment, Land at Sisters Yard, Sandycroft, Betts Hydro, Ref: HYD568_SISTER.YARD_FCA, July 2022

Please note, without the inclusion of this document we would object to this planning application.

4.00 PUBLICITY

4.01 Neighbour Notifications

1 letter of objection received which is summarised as follows:

- Houses more appropriate for site
- Highways safety
- Anti-social behaviour issues

5.00 SITE HISTORY

- 5.01 054442- The use of land for the stationing of caravans for residential purposes, and the formation of hardstanding and detached and semi-detached dayrooms- Refused on Flood Risk Grounds 17/11/2020

6.00 PLANNING POLICIES

- 6.01 **Flintshire Unitary Development Plan**
STR1 New Development
GEN1 General Requirement for Development
D2 Design
HSG14 Gypsy Sites
AC 13 Access and Development
EWP17 Flood Risk

National Policy and Guidance

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

7.00 PLANNING APPRAISAL

7.01 Site

- 7.02 The site subject of this planning application is located on Station Road, Sandycroft between two residential properties with commercial properties behind. Access to and from the site is taken via an existing vehicular access onto Station Road. The site is located within the settlement boundary for Sandycroft in the Flintshire Unitary Development Plan.

7.03 Proposal

The proposed development would involve the change of use of previously developed land for use as a family traveller site of 3 pitches. Each pitch would consist of 1 static home, 1 trailer caravan and 1 utility/day room. The site is currently being used as a travellers site although the development as proposed has not been implemented and this application is not being applied for in retrospect.

- 7.04 The definition of 'Gypsies and Travellers' is contained within section 108 of the Housing (Wales) Act 2014. Gypsies and Travellers means:
(a) Persons of a nomadic habit of life, whatever their race or origin, including –

(i) Persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently, and

(ii) Members of an organised group of travelling show people or circus people (whether or not travelling together as such); and

(b) All other persons with a cultural tradition of nomadism or of living in a mobile home.

7.05 I can confirm that it is considered that the applicant and their family meet this definition and this will furthermore be controlled by condition.

7.06 A previous proposal for a similar development, reference 054442, was refused in November 2020 as it had not been proved that the site would accord with the advice in TAN15- Flood Risk and Development.

7.07 Principle

The site lies within the settlement boundary of Sandycroft which is a category B settlement in the Flintshire Unitary Development plan. The plan provides guidance on this form of development in Policy HSG14 and this is the primary development plan policy to consider in regard to the principle of this development. This policy acknowledges the requirement for the development plan to make adequate provision for the accommodation needs of Gypsy and Traveller families.

7.08 Advice contained within Circular 005/2018 'Planning for Gypsy, Traveller and Showpeople Sites', in light of which criterion a. and b. of policy HSG14 are outdated, on the basis that these criteria would be unduly restrictive to the choices available to Gypsies and Travellers. However the other criteria of Policy HSG14 are still relevant. These criteria accord with the Circular in that they 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.

7.09 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 Showpeople Sites which reflects provisions contained in the Housing (Wales) Act 2014, to ensure that local authorities meet the accommodation needs and provide sites for Gypsies and Travellers through the planning system.

7.10 It is worth noting that UDP policy HSG14 predates the 2014 Act as well as Circular 005/2018, both of which place a different emphasis

on assessing applications for Gypsy and Traveller sites, and the UDP did not identify specific sites to contribute towards the identified need.

- 7.11 Whilst the LDP has a similar criteria based policy to the UDP (HN9), it has now been through the LDP Examination which has resulted in its two criteria a. and b. being deleted as they do not accord with the guidance in the above circular.
- 7.12 The above criteria required a proven need for a Gypsy and Traveller site to be demonstrated, as well as there being no suitable alternatives elsewhere. 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 travellers 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. As these are also the first two criteria in UDP policy HSG14 they are no longer valid considerations, as previously discussed, and cannot be taken into account.
- 7.13 Suitable provision to meet this level of identified need has therefore been identified in the LDP, however the plan has yet to be adopted and this is a material factor in the consideration of the need and provision presented by this application. In any event, circular 005/2018 states that criteria based policies are required in development plans, to cater for what is in effect new or windfall unidentified demand for pitches, and the UDP and LDP have similar criteria based policies.
- 7.14 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'.
- 7.15 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'.

- 7.16 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’.
- 7.17 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, as is the case with the application site.
- 7.18 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
- 7.19 I consider that the site meets the specified criteria, and specifically it provides good connectivity to the local communities and the facilities they offer. The site is within the settlement boundary for Sandycroft, which is a category B settlement in the adopted UDP. It 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.
- 7.20 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 is acceptable with due regard to all relevant National and Local policies and advice.

7.21 Interests of children

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. Furthermore 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.

7.22 There is also a national and international obligation continued in article 3(1) of the United Nations Covention 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 b a primary consideration."

7.23 These considerations are therefore usually a primary material consideration in the site assessment. In this instance, however, the applicant has not advanced this information as they do it consider it necessary to divulge personal information given that the principle of the proposal is acceptable in policy terms. As such the application should be determined solely on its planning merits.

7.24 Flooding

In relation to Welsh Government guidance relating to development and flood risk within Technical Advice Note 15 (TAN15), the proposed use is classed as highly vulnerable development. The NRW's Flood Risk Map confirms the site to be within Zone C1 of the Development Advice Map (DAM) contained in TAN15 which indicates it is in a defended floodzone. Whilst this does not preclude development, TAN15 does require a flood consequences assessment to be carried out and also that the justification tests set out in the TAN are met.

7.25 The development proposal is for a three pitch traveller site. Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Further to the discussion regarding the principle of development earlier in this report it is considered that the development in this location is justified as it accords with the strategic and policy aims of the development plan in reference to meeting the needs of Gypsy and Travellers for sites.

- 7.26 The application has been supported by an updated FCA and Hydraulic Assessment (HA) (Flood Consequence Assessment, Land at Sisters Yard, Sandycroft, Betts Hydro, July 2022). Natural Resources Wales (NRW) have been consulted on this document in order to give the LPA technical advice on the acceptability of the consequences in the event of flooding in accordance with Appendix 1 of TAN15.
- 7.27 The FCA shows that the risks and consequences can be managed to an acceptable level. The FCA has been updated to refer to the worst-case breach location for the site, which is a breach at Pentre. In the 0.5% Annual Exceedance Probability (AEP) breach event with an allowance for climate change, the flood level expected at the site is 5.66m AOD, resulting in flood depths of up to 0.76m at the site. The FCA proposes to mitigate this flood risk by raising the entire site to a level of 5.70m AOD, which would be 40mm above the design flood level. We are satisfied that this mitigation measure would ensure that the development proposal complies with the requirements of Section A1.14 of Technical Advice Note (TAN) 15.
- 7.28 The FCA has also clarified the situation in respect to fluvial flood risk posed by Broughton Brook. Sections 5.1.5 and 5.1.6 of the FCA state that no flooding of the site is expected from Broughton Brook, including in the 1% AEP and 0.1% AEP blockage events with an allowance for climate change. This is supported by the proposed scenario modelling outputs provided in the HA (Appendix F) which show no flooding of the site in these scenarios.
- 7.29 The FCA contains some additional depth difference maps which demonstrate the impact of the proposals on flood risk elsewhere, in the 0.1% AEP breach event with an allowance for climate change. The model outputs (Figure 4 in the FCA) indicate that generally, the proposal is not expected to increase flood risk elsewhere beyond the tolerable limit of 5mm. The FCA states that there are some small areas of higher increases of up to 20mm to some existing industrial areas that already flood to a depth of between 0.5 to 1.0 metres. Whilst the proposal does not strictly comply with the requirements of A1.12 of TAN15 due to the small area of increased flood depth beyond tolerable limit, given the isolated scale and nature of this increase, this is considered to be acceptable and NRW raise no objection on this point.
- 7.30 In respect to Section A1.15 of TAN15, the FCA identifies a flood level of 5.78m AOD for the 0.1% AEP breach event with an allowance for climate change. Considering the proposed land raising to a level of 5.70m AOD, flooding of the site would be limited to a depth of 80mm in this event, which is within the tolerable conditions for flood depth as outlined in table A1.15. To conclude, NRW are satisfied that the FCA has adequately addressed their previous concerns and that potential flood risk can be successfully managed. As such the

proposal complies with Flintshire Unitary Development Plan Policy EWP17.

7.31 Drainage

The proposed drainage solution for the site is to dispose of foul flows via the public sewerage system and surface water through a sustainable drainage system. Welsh Water have raised no objections to this drainage solution in principle.

7.32 The surface water drainage is subject to SAB approval and must be sought separately to any planning consent.

7.33 As a foul water public sewerage connection is available and Welsh Water have raised no objection to such a connection, I consider that the principle of drainage for this development is acceptable. For the sake of clarity, I consider that it would be necessary to request that details of a full drainage scheme are required as a condition to any approval, as set out in Welsh Waters consultation response.

7.34 Local Amenity

The site layout has been undertaken with due consideration to the advice and standards contained within 'Planning for Travellers Sites March 2012'. This is DCLG guidance for England however it is largely consistent with advice contained within the Welsh Government Circular 005/2018 'Planning for Gypsy, Traveller and Showpeople Sites' as well as the guidance document 'Designing Gypsy and Traveller Sites Guidance, May 2015.'

7.35 The site is of a sufficient size to comfortably accommodate the caravans and utility blocks in a circular arrangement around the central access. This circular arrangement is noted within the guidance as helping to facilitate a feeling of community and is considered to be appropriate to small site such as this. It is noted in the guidance that it is important that empty areas are not left on the site, and I consider that the proposal makes good use of the available space whilst allowing for adequate separation of the caravans and buildings on site for both privacy and safety. A 1.5-metre-high brick wall is proposed for the site frontage. This will provide a measure of privacy for the site residents. A condition is suggested requiring the submission of full details of this wall to ensure that its design is appropriate for the streetscene.

7.36 There are residential properties to either side of the application site, approximately 10 and 8 metres from caravans at the nearest points. Caravans are located off the boundary, and it is considered that due to the appropriate level of occupation proposed on the application site, as well as the siting of the caravans on the site and proposed boundary treatments there would be no particular adverse impacts

upon the amenity of the neighbouring residents. Adherence to the FCA would require a raising of the ground level by approximately 400mm. This is considered to be acceptable and unlikely to have an impact upon neighbouring amenity.

7.37 Whilst there are industrial uses within the locality of the site, which will generate noise, no concerns have been raised by Public Protection with regard to potential noise impact upon residents of the site. There is an appropriate distance of separation between the caravans on the application site and neighbouring industrial sites. I consider that the amenity of residents of the proposal site is acceptable, and the proposal will not result in a loss of amenity to neighbouring residents.

7.38 Other Matters

A third party has raised concerns on the grounds of the safety of the site access, as well as existing issues of anti-social behaviour.

7.39 No objection has been received from the Highways Authority, and it is noted that the proposal utilises an existing site access.

7.40 The objection does not make clear whether the anti-social behaviour listed is attributable to the site or whether this is wider local issues, however this matter is not a material planning consideration.

8.00 CONCLUSION

The use of the site as a Gypsy and traveller site is acceptable in principle and will help to meet a currently outstanding need for traveller sites across the County. The applicant has demonstrated that the site is now flood risk compliant. 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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