

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **15<sup>th</sup> DECEMBER 2021**

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

**SUBJECT:** **FULL APPLICATION- CHANGE OF USE OF LAND FOR EXTENSION OF EXISTING SITE TO PROVIDE UP TO 6 GYPSY TRAVELLER PITCHES AT WHITE ACRES CARAVAN SITE, GWERN LANE, HOPE, FLINTSHIRE LL12 9RU.**

**APPLICATION NUMBER:** **061271**

**APPLICANT:** **MR P, J, T AND K PURCELL**

**SITE:** **WHITE ACRES CARAVAN SITE, GWERN LANE, HOPE, FLINTSHIRE LL12 9RU.**

**APPLICATION VALID DATE:** **29<sup>TH</sup> APRIL 2020**

**LOCAL MEMBERS:** **COUNCILLOR MS G HEALEY**

**TOWN/COMMUNITY COUNCIL:** **HOPE COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **LOCAL MEMBER HAS REQUESTED PLANNING COMMITTEE DETERMINATION DUE TO A HIGH LEVEL OF PUBLIC INTEREST**

**SITE VISIT:** **YES**

**1.00 SUMMARY**

1.01 A Full application for the Change of use of land for extension of existing site to provide up to 6 Gypsy Traveller Pitches at White Acres Caravan Site, Gwern Lane, Hope, Flintshire LL12 9RU.

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

- 2.01
1. Time Limit
  2. In accordance with approved plans

3. The site shall not be occupied by any persons other than gypsies and travellers as defined in the Housing (Wales) Act 2104
4. No commercial activities shall take place on the land, including the storage of materials.
5. Landscape Implementation
6. Drainage Scheme submitted demonstrating that the foul drainage is to be connected to the mains sewerage system

### **3.00 CONSULTATIONS**

#### **3.01 Local Member: Councillor G Healey**

Requests that the application be considered by Committee because of the high level of local interest. The Councillor also feels that a site meeting is desirable so that committee members can fully appraise the situation before making a decision.

#### Hope Community Council

It was proposed and agreed that that the application for change of usage of land to further expand White Acres Caravan Site be rejected because of the outnumbering of local residents of Caer Estyn; the continued anti-social behaviour, instances of sewage seepage, evidence of business activity, and the increased traffic on a country lane.

#### Community and Business Protection

No adverse comments to make regarding this proposal

#### Highways Development Control

Gwern Lane is a 3m wide lane generally suitable for single lane operation however the road widens to a width of 4.5m in the vicinity of the junction with the B5373, sufficient to allow two vehicles to pass. The site access is within 90m of this passing opportunity; with a lightly trafficked road there is only a remote chance of opposing vehicles meeting. The available visibility at the junction of Gwern Lane and the B5373 Gresford Road exceeds the minimum recommended 120m for a road subject to a 40mph speed restriction.

On that basis there is no objection to the proposed extension of the residential site. It should be noted that due to the limited width of the lane and the limited opportunity for opposing vehicles to pass, the site is considered to be an unsuitable location to accommodate a significant increase in the number of traffic movements associated with a commercial use, or a use generating the passage of larger vehicles.

#### Natural Resources Wales

NRW recommend FCC should only grant planning permission if the following requirements are met. Otherwise, they would object to this planning application.

Requirement – Foul drainage – site to be connected to the mains sewerage system

Dwr Cymru/Welsh Water

Having reviewed the proposal, we note it is proposed to dispose of foul flows via the public sewerage system. Domestic foul flows from the proposed development of 6 traveller pitches can be accommodated within the public sewerage system. As such DCWW do not object to this proposal. Full drainage details requested as a condition.

**4.00 PUBLICITY**

4.01 Site Notice, Neighbour notification

16 Letters of objection received

- Site will be too large- more caravans than residential dwellings in locality
- Increased traffic- highways safety issues
- Noise
- Affects public right of way
- Safety in village
- Unsightly
- Anti social behaviour
- Dogs
- Lack of local public transport
- Current planning breaches on site

**5.00 SITE HISTORY**

5.01 047828- Change of use of land for stationing of caravans for residential occupation, associated hard standing, day room and septic tank- Refused 15/0/2010 Allowed on Appeal 11/5/2011

048942- Application to discharge condition nos. 3 and 7 attached to planning permission ref: 047828 Fully discharged 3/11/2011

**6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan  
STR1 New Development

GEN1 General Requirement for Development  
GEN3 Development in the Open Countryside  
D2 Design  
D3 Landscaping  
L1 Landscape Character  
HSG14 Gypsy Sites  
AC 13 Access and Development

#### 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 Proposal**

The proposal is for the extension of an existing traveller site onto adjacent land by the provision of 4 additional plots to create a total of 6 pitches across the entire site. Each pitch would provide an amenity block as well as space for two caravans, one of which would be a touring caravan.

#### **7.02 Site**

The site is located in an area of open countryside between the settlements of Hope and Caergwrle, and close to the administrative border with Wrexham County Borough Council.

7.03 The land adjacent to the application site was approved as a traveller site of two pitches in 2010, on appeal. A yard to the side of the approved site was created, without the benefit of planning permission, for the storage of vehicles to the north east of the approved site and this is the land, albeit further extended, that forms the current application site.

7.04 The prevailing landscape is that of undulating countryside. The immediate locality of the site is sparsely populated, with the nearest residential properties being a collection of houses on the Gresford road/Gwern Lane junction approximately 60 metres away at the nearest point, but the site is near to the settlements of Hope and Caergwrle.

#### **7.05 Principle of Development**

Policy HSG14 of the Flintshire Unitary Development plan 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 families.

- 7.06 Advice contained within Circular 005/2018 'Planning for Gypsy, Traveller and Showpeople Sites', invalidates criterion a. and b. of policy HSG14, 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 comply 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. 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'. This is also compliant with policy GEN3 of the UDP, which allows for appropriate development outside settlement boundaries, and also aligns with the fact that there is an existing permitted site in this location, that the LDP seeks to allow a small extension to via policy HN8.
- 7.07 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.
- 7.08 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.
- 7.09 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 comply with the guidance in the above circular.
- 7.10 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 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. 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.

- 7.11 The Council has an approved Gypsy and Traveller Accommodation Assessment (2016) (GTAA) that is still extant for the purposes of the LDP Examination evidence base and for Development Management purposes. This shows need for 19 additional pitches over the Plan Period. In addition the LDP has made suitable site specific provision under policy HN8 to meet this need, made via site allocations as extensions to three existing Gypsy and Traveller sites, one of which is Council owned and the others in private ownership. This application site is one of those allocated extension sites, providing an additional 4 pitches, as set out in part of the Councils evidence to the LDP Examination in Public.
- 7.12 Notwithstanding the issue of compliance with circular 005/2018 for policy HN9 of the LDP as set out above, suitable provision to meet the level of need in the GTAA has therefore been identified in the LDP via policy HN8 and the allocations it proposes that include the application site.
- 7.13 In terms of the weight that Members should attach to the LDP, firstly the Council approved the Plan as sound and capable of being adopted when it agreed in September 2020 for it to be submitted for Examination in Public, with this site proposed as an allocation. That decision and the various governance processes that led up to that point meant that on a number of occasions Members and various formal committees have had the opportunity to scrutinise the Plan and specific proposals including the allocation of the application site. This also includes considering the responses received to formal public consultation on the Deposit Plan which were duly considered, but which did not change the Council's view that the allocation was appropriate, albeit on a reduced scale.
- 7.14 Secondly, as part of the Examination itself a specific hearing session was held by the Inspector to discuss the provision for Gypsy and Travellers development in the LDP. No evidence was submitted to that session relating to objections to this site from the local community, and no community based objectors appeared at the hearing session to raise any points of concern to the Inspector. The Council specifically noted in its evidence to the Inspector the fact that an application had been submitted in relation to the extension of this site, and also stated that this was positive evidence that the site was

available, viable and deliverable. This is a clear requirement of PPW11 and the Development Plans Manual, which confirm that sites allocated in development plans should be viable and capable of being delivered. The Inspector raised no issues or concerns at the session in relation to this site and has not sought any further information following the hearing session.

- 7.15 The application is in line with the proposals in the LDP for this site and the proposed development is not of a scale that goes to the heart of the Plan. As such there cannot be an issue of prematurity as there is complete alignment in terms of the principle of development between the application before Members, and the proposal to extend this existing Gypsy and Traveller site in the LDP.
- 7.16 To summarise in terms of LDP context therefore, no local objections were raised at the Examination in relation to the site's allocation in the Plan, and the Council promoted the present application as evidence of the intention to develop and contribute towards the identified need for pitches. The Inspector raised no issues or concerns with this site or the Council's submitted evidence. The scale and location of the LDP extension to the existing site has also already been considered by the Council in approving its LDP for submission, and also at the Examination where no issues were raised.
- 7.17 Paragraph 7 of Circular 005/2018 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'.
- 7.18 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'.
- 7.19 This is the position that the Council is now in having followed the guidance above in identifying suitable and sustainable provision for Gypsy and Travellers in the LDP. Given the position that the LDP has reached and where there is no conflict between it and this application (or the adopted UDP), it is the firm advice of officers that the allocation of this site to accommodate 4 additional pitches in the LDP can be

given significant weight in the positive determination of this application.

7.20 It is considered that the application is compliant with the relevant policies in the Flintshire Unitary Development Plan and both meets the specified criteria set out in the circular in relation to sustainable development for Gypsy and Travellers and also clearly aligns with the Council's intentions to allow the extension of the existing site in this location via the allocation in the LDP. The proposed extension is in fact of a lesser scale than considered appropriate in the Deposit LDP allocation, and in line with the revised allocation documented as part of the LDP Examination. The proposal offers the opportunity for growth within the family units on site by promoting an appropriate location for a permanent home, whilst also providing good connectivity to the local communities and the facilities they offer. The site is close to the edge of the four villages which together makes up Hope, Caergwrle, Abermorddu and Cefyn y Bedd (HCAC) 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 both Flintshire and Wrexham.

7.21 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 13 children in total with one baby expected early 2022, who currently live on the site or are proposed to live on the site. Six children currently live on the site permanently. Four other children spend their time between parents who are now separated so live both on this site and elsewhere with their other parent. The family members who intend to live on the two new plots have 3 children. They are currently living in houses in Ellesmere Port and Wrexham respectively but desire to live with their family and not in a brick and mortar environment.

7.22 Of the six children who live permanently on the site 2 are older than 16 and no longer in full time education. The 14 year old boy attends secondary school in Buckley, the 10 year old and 8 year old attend primary school in Wrexham and the 3 year old attends a Nursery in Rossett. Four of the children split their time between a parent who lives on site and their other parent who lives off site. Three of these children attend school in Holywell, as they spend half of their time living with their father in Rhyl. The other child, a 5 year old, attends primary school in Wrexham.

7.23 In addition to educational needs one of the children has a disability that requires regular therapy and appointments at Oswestry hospital.



7.24 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.

7.25 It is acknowledged that children live, and would continue to 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.

7.26 There is also a national and international obligation under 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."*

7.27 These considerations are therefore a primary material consideration in the determination of this application. If the application is approved then the applicant, their family and the families of those living on site will all have a settled base allowing them to meet the educational/health needs of the children. I therefore consider that the best interests of the children would be best served by occupation of the site.

7.28 **Access and Highways**

The proposal utilises the existing site entrance, which has hitherto been used by the existing residents as well as by vehicles being stored on the unauthorised land that is subject to this planning application.

7.29 Gwern Lane is a 3m wide lane generally suitable for single lane operation however the road widens to a width of 4.5m in the vicinity of the junction with the B5373, sufficient to allow two vehicles to pass. The site access is within 90m of this passing opportunity; with a lightly trafficked road there is only a remote chance of opposing vehicles meeting.

7.30 Available visibility at the junction of Gwern Lane and the B5373 Gresford Road exceeds the minimum recommended 120m for a road subject to a 40mph speed restriction.

7.31 Highways Development Control have raised no objection to the proposed extension of the residential site. It should be noted that due to the limited width of the lane and the limited opportunity for opposing

vehicles to pass, the site is considered to be an unsuitable location to accommodate a significant increase in the number of traffic movements associated with a commercial use or a use generating the passage of larger vehicles. On this basis it would be necessary to restrict the use of the site to residential only.

7.32 Whilst there is a public right of way relatively close to the proposal, it is unaffected by the proposed development.

7.33 **Character and Appearance**

The site is largely divorced from any direct neighbours. The nearest dwellings are a collection of residential properties located fronted onto the Gresford Road over 60 metres away at the nearest point. The main interactions from the site would come from vehicular use of Gwern Lane, which as stated above is considered to be acceptable. The site boundaries are well screened by native species hedging and the proposal enhances the existing screening with hawthorn hedging on the north and east boundaries of the application site.

7.34 The Planning Inspector considered at the time of the original appeal that whilst the development did have a harmful impact on the local Streetscene, he was confident that this would be mitigated with further natural screening. The current proposal includes the provision of a new element of native species hedging along the boundary that is currently open. For this reason I come to the same conclusion as the Planning Inspector. A development which replaces open countryside with a form of operational development will always have some visual impact. It should be noted in this instance that the land in question has already been used for the stationing of vehicles, albeit without planning permission.

7.35 Whilst the expansion of the site would increase the numbers of available pitches from 2 to 6, a maximum of twelve caravans, the overall numbers is still considered to be appropriate for the size of the extended site and is not considered to be out of proportion to the nearby settled community.

7.36 Notwithstanding the above, there are residential properties in the vicinity of the site and I consider that it would be advisable to impose a restrictive condition prohibiting commercial activity from being undertaken from the site, which is being promoted as a residential site only.

7.37 **Drainage**

The proposed development is located within an area served by the public sewerage system. In accordance with Section 6.6.21 of Planning Policy Wales, which states that 'Any development discharging domestic sewage should connect to the foul sewer where it is reasonable to do so. Development proposing the use of non-mains drainage schemes will only be considered acceptable where

connection to the main sewer is not feasible...' it is considered that this is the most appropriate form of foul drainage for the site. Whilst it is noted that the original development is served by a septic tank the applicant has agreed that they will seek connection to the public sewer.

- 7.38 The submission of a detailed drainage scheme which connects to the public sewerage system should be submitted and approved in writing, and the drainage system subsequently installed as per the approved details, before the site extension is occupied.
- 7.39 With regards to the drainage scheme under the Habitats Regulations, where a plan or project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, and where it is not directly connected with or necessary to the management of the site previously (designated pursuant to EU retained law) the competent authority, which is the Council, must carry out an appropriate assessment of the implication of the plan or project in view of the site's conservation objectives. Natural Resources Wales has set new phosphate standards for the river SACs in Wales. Any proposed development within the SAC catchments that might increase the amount of phosphate within the catchment could lead to additional damaging effects to the SAC features and therefore such proposals must be screened through a HRA to determine whether they are likely to have a significant effect on the SAC condition.
- 7.40 This application has been screened in accordance with Natural Resources Wales' interim advice for planning applications within the river Special Areas of Conservation (SACs) catchments (issued on 20<sup>th</sup> January 2021). It is considered that this development is unlikely to increase phosphate inputs as it will be serviced by connection to the public sewerage system, which has capacity for this development and which, Welsh Water have confirmed, has a valid Phosphate license at the relevant wastewater treatment plant.
- 7.41 **Other Matters**  
Third parties have raised objections regarding the noise generated from the site however, in consultation with the Council's pollution control team there are no complaints have been submitted regarding noise and evidence has been submitted to substantiate the concerns.
- 7.42 There is no Public Right of Way affected by the proposal and there is no evidence that anti-social behaviour or the safety of residents will be adversely affected by the extension of the existing site.

A further complaint has been raised regarding the ownership and size of dogs on the site but this is not a matter which can reasonably be controlled by the planning process.

7.43 **Conclusion**

The policy context of this site is fully supportive of the development proposed. The need for the pitches represented by this application is shown in the GTAA and for this reason the site has been allocated within the deposit LDP as a residential Gypsy site.

7.44 The proposal represents the modest extension of an established site and is in accordance with the Council's policies regarding this type of development, as well as national planning guidance.

**8.00 CONCLUSION**

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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