



Appeal Decision

Hearing Held on 5 December 2019

Site visit made on 5 December 2019

by Elaine Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 December 2019

Appeal Ref: APP/R0660/W/19/3232925

Land off Dragons Lane, Moston, Sandbach, Cheshire, CW11 3QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Simon Quinn against the decision of Cheshire East Council.
 - The application Ref 16/2247C, dated 26 April 2016, was refused by notice dated 10 January 2019.
 - The development proposed is the change of use of land to use as a residential caravan site for one gypsy family with two caravans, including construction of access road, laying of hardstanding and erection of amenity building.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to use as a residential caravan site for one gypsy family with two caravans, including construction of access road, laying of hardstanding and erection of amenity building at Land off Dragons Lane, Moston, Sandbach, Cheshire, CW11 3QB in accordance with the terms of the application, Ref 16/2247C, dated 26 April 2016, subject to the conditions in Annex A.

Procedural Matters and Background

2. The appeal site is part of a larger field and is a grassed area located within the open countryside. There are a number of other gypsy sites within the wider field. These include four pitches at Meadow View fronting Dragons Lane which was allowed on appeal¹ on 17 June 2019, two pitches at Thimswarra Farm also fronting Dragons Lane which was allowed on appeal² on 27 June 2019 and one pitch at land South of Dragons Lane set further into to the site which was also allowed on appeal³ on 17 June 2019. There are also two unauthorised gypsy and traveller sites to the north east corner of the wider site close to the Dragons Lane frontage which are the subject of planning applications⁴.
3. The appeal proposal concerns a broadly rectangular plot of land set well back into the site away from the Dragon's Lane frontage. It seeks the use of the land as a residential caravan site for one gypsy family with two caravans. It also includes the construction of a new access track, laying of hardstanding and the erection of an amenity building. It would utilise an existing access from Dragons Lane which serves the adjacent gypsy sites.

¹ APP/R0660/W/18/3208887

² APP/R0660/W/18/3210371

³ APP/R0660/W/18/3203736

⁴ 18/2413C (refused 3 June 2019 and now subject to an appeal) and 19/3706C (undetermined)

4. The Council accepts that the appellant meets the definition of gypsies and travellers set out in the Glossary to the Planning Policy for Traveller sites (PPTS) and it was confirmed at the hearing that he is an Irish Traveller. I see no reason to come to a different view on this matter.
5. Correspondence between the appellant's agent and National Grid following the refusal of the planning application was discussed at the hearing but copies were not provided. These were submitted after the hearing and written comments sought from interested parties. On this basis, and since we discussed the content of the correspondence at the hearing, I am satisfied that to take that correspondence (and the subsequent comments received) into account in my decision would not prejudice the interests of any interested parties.

Main Issues

6. The main issues are:

- The effect of the proposal on the character and appearance of the area; and
- Whether the proposal would be a suitable site for development having regard to access to services and facilities and sustainable patterns of development; and
- Whether the proposal would be a suitable site for development having regard to the high pressure gas pipelines which cross it.

Reasons

Character and appearance

7. The appeal site is within the open countryside as identified in the Congleton Borough Local Plan First Review (Local Plan Review). Policy PG6 of the Cheshire East Local Plan Strategy (Local Plan Strategy) seeks to restrict new development in the countryside to a number of specific exceptions which do not include gypsy and traveller sites. Local Plan Strategy Policy SC7 concerns gypsies and travellers and travelling showpeople. It sets out a number of criteria in section 2 which will be taken into account. These include the impact on the character and appearance of the area (viii).
8. Policy H of the PPTS states that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements. The appeal site is close to the dispersed settlement of Moston Green which includes sporadic development and is also not particularly remote from Elworth (part of Sandbach). This being so, I am not persuaded that the appeal site is away from existing settlements under the terms of the PPTS.
9. The proposal would introduce caravans, a hardstanding, a utility room, an access track and associated vehicles and domestic paraphernalia to the site which is in the countryside. This would be restricted to the north west corner of the site as indicated on the site layout plan and the rest of the land within the red line boundary would remain as a paddock for grazing horses. A planning condition requiring development in accordance with the approved plans would ensure that this was the case and guard against development straying onto the wider site.

10. Although I acknowledge the Parish Council's concerns about the enforceability of such a condition, I am content that it would meet the tests in the National Planning Policy Framework (the Framework) and the National Planning Policy Guidance (the Guidance).
11. As set out above, there are a number of other gypsy and traveller sites within the wider field, some of which have planning permission, and some of which do not. The appeal site is set well back from Dragons Lane beyond the three authorised sites and is set apart from them by open land to the north and west (with further open land adjoining the site to the south). It is in a somewhat peripheral location at the edge of the wider field. Thus, whilst the proposal would be seen in the context of the authorised pitches on the wider site and their associated boundary enclosures and planting, it would also be appreciated in the context of the surrounding open land.
12. Although views of the site from Plant Lane to the west are curtailed by the existing roadside vegetation and high fencing there, the proposal would be clearly seen from Dragon's Lane down the existing access beyond the authorised site at Meadow View and at depth in the field. It would also be evident from the adjacent public footpath running to the east of the site, where views of the proposal would be possible through the sparse and in places intermittent hedgerow (particularly during the winter months when some of the vegetation is not in leaf). This would be so despite the proposed planting around the north west corner of the site where the pitch itself would be.
13. As such, despite the low level nature of the structures indicated, the proposal would lead to a distinct new pocket of development in the countryside and the urbanisation of what is currently an open grassed area. Its visual impact would be exacerbated by the tight siting of the pitch itself in the relatively small and confined north west corner of the site. Its partial enclosure by new hedgerows there would not appear as a regular field/paddock boundary or particularly natural feature. Overall, the proposal would see a further unwelcome incursion of urbanising development into the wider site over and above what is authorised there.
14. That said, I accept that the sporadic pattern of development nearby (including the surrounding approved gypsy and traveller development in the wider field), along with the small scale of the proposal for a single pitch, and the retention of a good deal of the site as open land, are factors that would limit the effect of the proposal. Consequently, whilst it would detract from the generally rural character of the area, the harm that would arise in this regard would not be substantial.
15. I therefore conclude on this main issue that the proposal would cause some limited harm to the character and appearance of the surrounding area. This would be contrary to Local Plan Strategy Policies PG6 and SC7 (as described above) and with Local Plan Strategy Policy SE1 which sets out general design principles and requires proposals to make a positive contribution to their surroundings. It would also fail to support paragraph 26 of the PPTS (criterion b) which requires sites to be well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness.

Access to services and facilities

16. Policy C of the PPTS recognises that gypsy sites may be located in rural or semi-rural areas, provided they are of a scale appropriate to their specific location. Policy H advises that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.
17. Local Plan Strategy Policy SG7 Part 2 criterion (i) states that proximity to local services and facilities will be taken into account (in considering gypsy and traveller sites). Additionally, criterion (ii) advises that access to public transport will be taken into account.
18. The parties are agreed that the nearest facilities and services are in Elworth, around 2.3 km away. Dragons Lane has no footpaths, verges or street lighting and as such, along with the other rural roads nearby, does not provide a suitable walking route to Elworth. Whilst some opportunities for cycling exist, I consider that the future occupiers of the site would be for the most part reliant on the private motor car to meet their day to day needs.
19. That said, the services and facilities in Elworth are not very far from the site. Car journeys to reach them, and the train station at Sandbach (which is around 1.6 km from the site with services to Crewe and Manchester), would only be relatively short. Paragraph 103 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision making. In this context, I find the site to be in reasonable proximity to services and facilities. I am also mindful that the provision of a settled base for the appellant would be likely to lead to a reduction in his need to travel or to move from site to site.
20. The Council refers to Table 9.1 in the supporting text of Local Plan Strategy Policy SD2 which provides a guide to the appropriate walking distances for access to various services and amenities. I understand that these are applicable to all residential development and have seen nothing to suggest that they do not apply to gypsy and traveller sites. However, whilst I accept that the proposal would not meet the majority of the distances listed, these are not policy requirements, and do not change my conclusions on this matter in the context of a rural gypsy and traveller site.
21. Thus, I agree with the findings of the previous Inspectors who, in considering the appeals at adjacent Meadow View and Thimswarra Farm, found that on balance, there would be no overall/significant harm in terms of sustainable travel and the accessibility of these adjacent sites to local services and facilities.
22. I therefore conclude on this main issue that the proposal would be a suitable site for development having regard to access to services and facilities and sustainable patterns of development. Thus, I see no conflict with Local Plan Strategy Policy SG7, The Framework or the PPTS. Whilst not cited on the decision notice the Parish Council refers to Policy HOU1 of the Moston Neighbourhood Plan (NP). However, I also find no conflict with that policy which relates to local housing needs and supports small scale residential exception developments which, amongst other things, have access to services.

Gas Pipelines

23. Two high pressure gas pipelines cross the appeal site from north to south running from the gas governor in the north east corner of the wider field and continuing further southwards. These form part of Feeder 21 Warburton to Audley and Elworth to Mickle Trafford. Any damage to a high pressure gas pipeline can affect its integrity and result in a failure with potentially serious hazardous consequences for those located in the vicinity.
24. The Council indicates that National Grid requires at least a 12.2 metre buffer from the proposed development to the pipeline and this was also the appellant's initial understanding. Accordingly, the submitted site layout plan shows the caravans and amenity block confined to the north west corner of the site. The appellant confirms that a 12.2 metre buffer from them to the nearest pipeline would be provided. Whilst the buffer distance is not annotated on the submitted site layout plan, the Council concedes that it can be measured on a plan at around 12 metres. As set out above, the layout of the site could be controlled via a condition to ensure that development is carried out in accordance with the approved site layout plan.
25. Despite this, the Council was concerned that an accurate plan had not been provided and refused the application on the basis of insufficient information. There is a holding objection from National Grid, and Cadent Gas Ltd has also requested that work is not commenced. Nevertheless, at the hearing we discussed subsequent dialogue between the appellant and National Grid which clarified that the 12.2 metre buffer was to be applied across the pipeline rather than to either side of it. Consequently, only a 6.1 metre buffer between the proposed development and the nearest pipeline is required. A plan has been provided by the appellant which has been annotated to show this distance and National Grid has confirmed that it now raises no objections to the proposal on this basis. Taking all these factors into account, I am satisfied that the proposal would maintain the necessary buffer to the pipeline as required by National Grid.
26. As set out above, the correspondence between National Grid and the appellant has been subject to written comment from interested parties. I have taken the responses into account and acknowledge that this matter would have been better addressed at a much earlier stage. Even so, I have seen nothing that would alter my view on this particular issue.
27. The appeal site lies within the Health and Safety Executive (HSE) consultation distance of the pipelines which are classed as Major Accident Hazard Pipelines. Whilst the HSE did not object to the planning application, it has raised concerns about the accumulation of approvals on the wider site in recent years, and in particular the number of residential properties permitted around the Major Accident Hazard Pipelines.
28. The HSE's concerns relate to risk to the population of pipeline failure and the anticipated consequences. Major accidents at sites storing hazardous substances are rare, but when they do happen the effects on people living nearby can be devastating. The nature of the gas, its pressure and the design of the pipeline, if subject to a failure could lead to a catastrophic release of gas which if ignited would burn as a massive fire ball and subsequent jet fire. The HSE's advice is intended to prevent the population adjacent to a Major Hazard Pipeline from being subject to greater risk than would otherwise normally be

anticipated day to day. The HSE confirms that in this instance the risks to people are low, but are sufficient not to allow a substantial increase in the number of persons living close to the pipeline and subject to the residual risks.

29. The Guidance provides advice on Hazardous Substances. It states that when considering public safety in planning decisions local planning authorities should take account of the total number of people that are present in the consultation zones around these sites, and the implications of any increase as a result of a planning decision or policy. In the case of encroachment (development getting closer to the major hazard) the risks can increase as well as the number of people.
30. The appeal site is wholly within the HSE's Inner Consultation Zone where the HSE would not advise against developments of one or two dwelling units. There are currently no authorised dwelling units on the wider site within the Inner Zone. Whilst part of the adjacent permitted site at South of Dragons Lane is within the Inner Zone, the residential buildings are in the Middle/Outer Zone. As such, the HSE clarifies that it would not have advised against that development. This being so, if it were to be allowed, the appeal proposal, would be the first authorised dwelling unit within the Inner Zone.
31. I appreciate that both the unauthorised sites to the north of the appeal site are within the Inner Zone and that as a consequence two dwelling units currently exist on the ground there. However, these do not have permission and are subject to planning applications/appeals. I also understand that there are other unauthorised sites in the wider field that are being investigated by the Council. Nevertheless, the location of these unauthorised sites in relation to the pipelines is yet to be considered or assessed. The merits of those developments will be determined in the relevant context and particular circumstances at that time and in light of any subsequent advice from the HSE in relation to cumulative effects.
32. The Parish Council and local residents are concerned about the serious risks of pipeline rupture. Reference is made to technical papers and in particular a recent gas pipeline explosion in Kentucky which resulted in a fireball, mobile homes catching fire, the death of one person and injuries to others. They also refer to the standard construction of the pipelines crossing the appeal site and the implications that an accident there would have on the wider area. I accept that whilst the likelihood of such events is low, when they do occur the impact is large. Nevertheless, the HSE's stance is not an idealised position and, whilst recognising that people will be at greater risk there, allows some small scale development in the Inner Zone. It seems to me that despite the unauthorised pitches nearby, as what would be the first authorised dwelling unit in the Inner Zone, the appeal proposal would not go against the HSE's advice. On this basis, I am also content that the risks associated with the proposal would be acceptable.
33. Bringing matters together, the pipelines do not pass through the residential part of the site where the majority of the residential and human activity is likely to take place. The remainder of the site will be used as paddocks for the grazing of horses. Conditions limiting the layout of the site to that indicated on the site layout plan, and precluding the erection of any fences, gates or walls on the wider site can be imposed. National Grid is satisfied that an appropriate buffer would be provide and now raises no objections to the proposal.

Additionally, the HSE does not specifically advise against the proposal on safety grounds. I place significant weight on the views of statutory consultees in relation to these important matters. Furthermore, in practical terms I am conscious that the appellant is aware of the pipelines and their location which is marked out on site. Thus, although there is no question that damage to an underground pipeline risks potentially catastrophic results, taking account of all the above factors, I am not persuaded that the appeal proposal is likely to lead to any such damage.

34. I therefore conclude on this main issue that the proposal would be a suitable site for development having regard to the high pressure gas pipelines which cross it. Thus, I see no conflict with Policy GR7 of the Local Plan Review which states that development will not be permitted which would be likely to expose more members of the public to unacceptable risk either in areas subject to significant hazards or where it is probable that such hazards may increase.

Other Considerations

The need for and supply of gypsy sites

35. The PPTS aims to promote more private traveller site provision and to increase the number of traveller sites in appropriate locations with planning permission to address under provision and maintain an appropriate level of supply. It also requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets.
36. Local Plan Strategy Policy SC7 identifies the need for 69 additional permanent residential pitches for gypsies and travellers from 2013 to 2028. This figure is based on the 2014 Gypsy and Traveller Accommodation Assessment (GTAA) and forms the basis of the relatively recently adopted development plan policy (the Local Plan Strategy was adopted in 2017).
37. Whilst some pitches have been approved since that time, the appellant and the Council are not agreed as to how many. The Council refers to 10 pitches having been permitted since May 2017 and at the hearing ran through a number of additional sites which had been approved before that date. The appellant thinks that as of 1 April 2018, 37 pitches had been approved, but advises that that figure includes 24 pitches approved at Booth Lane/Three Oakes where the planning permission has now lapsed. The Parish Council thinks that more pitches than indicated by the Council have been permitted in recent years and that these are not reflected in the Council figures or the GTAA.
38. Notwithstanding the disagreement that exists as to its quantum, the parties are agreed that there is unmet need at the moment. It is also common ground that the Council cannot demonstrate 5 years' worth of sites against its locally set target.
39. An updated GTAA was produced in 2018 to support the emerging Site Allocations and Development Policies Document (SADPD) and identifies the need for 32 gypsy and traveller pitches up to 2030. This lowered figure reflects the revisions to the PPTS in August 2015 and in particular the definition of gypsy and travellers included in that document.

40. The emerging SADPD includes a number of gypsy and traveller sites. The first draft of the document included 3 proposed allocations for 13 pitches sufficient for 5 years site provision (from the base date of the GTAA in May 2017). However, following the consideration of responses to that document and a further call for sites, the publication draft of the SADPD was consulted on in August and September 2019. That version of the plan includes allocations for 24 pitches at Booth Lane/Three Oakes (already included in the 2018 GTAA assessment and figures) and 29 additional permanent pitches (including the sites at Thimswarra Farm and Meadow View). The Council confirmed at the hearing that these are intended to meet the full need identified in the 2018 GTAA over the whole plan period (and not just the first five years as previously). It also confirmed that the appeal site has not been put forward as a potential allocation as part of any call for sites and so has not been considered as part of the SADPD site selection process.
41. The appellant raises a number of concerns about the 2018 GTAA's methodology, assumptions and conclusions as well as the inclusion of sites for which permissions have now lapsed. Whilst the Council indicates that the appellant has not lodged any such objections as part of the on-going development plan process, I agree with the previous Inspectors that this is matter for the Local Plan Examination. It is not for me to pre-judge the evidence produced to underpin the SADPD as part of this appeal.
42. The Council is currently considering the representations to the emerging SADPD with a view to reporting it to full Council in the new year and submitting it after that. No firm dates for this are available and I understand that the SADPD timetable has already seen some significant slippage. In this context, the parties are agreed that only limited weight can be attributed to the emerging SADPD.
43. In any event, notwithstanding the Council's efforts to progress the SADPD, it remains that the Council is currently unable to demonstrate an adequate supply of gypsy and traveller sites, and the appeal proposal's contribution to meeting this need counts in its favour.

Personal circumstances and alternative sites

44. The appellant and his wife and their three children (ages 15, 19 and 20) have been moving from one roadside site to another. Their youngest child has medical conditions discussed at the hearing and attends a special school near Stoke on Trent. He also regularly attends Royal Stoke University Hospital. Although they previously lived at Lakes View Caravan Site they left that site some time ago due to issues arising from their youngest child living in close proximity to other occupiers. The appeal site would provide a secure self-contained site for the appellant and his family close to other family members and a settled base from which to reach school and medical care. Paragraph 4 (j) of the PPTS seeks to enable the provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure.
45. Evidence of the appellant's personal circumstances was not provided prior to the hearing. However, aside from noting that the school and hospital that the appellant's son attend are outside of Cheshire East (such that the benefits of the proposal in this regard could arise from a site elsewhere), the Council does not dispute the appellant's situation. Whilst the Parish Council questions the

appellant's son's ability to continue attending the school near Stoke on Trent if he were to move to the appeal site (and a different local education authority), I have seen no substantiated evidence to suggest that this would be the case. Besides, the appeal site would allow access to an alternative school or hospital in time and to consistent and continued education and healthcare. It would also provide a settled base that would reduce the need for long distance travel (as required by paragraph 13 of the PPTS). This is a benefit of the proposal which counts in its favour.

46. Whilst I have seen no evidence as to where the appellant has searched for a site or over what period of time, the appellant's brother lives at one of the adjacent pitches and the appellant has bought the appeal site. The nearby public gypsy and traveller site at Astbury is full, with a waiting list in operation. Other private sites known to the appellant and raised by the Parish Council are family owned and occupied primarily by English Travellers. The sites forwarded for allocation the SADPD are some way off being available on the ground. On this basis, there is no evidence before me of any reasonable alternative accommodation to meet the appellant's needs. This factor adds further weight in favour of the appeal proposal.

Other matters

47. The proposal would add a further pitch to the wider site where a number of pitches have already been permitted and further unauthorised sites exist. I appreciate that the wider site was once an open field which has been (and continues to be) parcelled up and sold off and there are longstanding and serious concerns from local residents as to the development of the wider site. However, the unauthorised sites within the wider field are yet to be considered by the Council and their future remains undetermined and uncertain. I must consider the appeal proposal on its own planning merits and in the context of the approved pitches within the wider site.
48. I accept that these have already altered the appearance of what was previously an open field. Local residents are concerned about the cumulative effect of the appeal proposal alongside the development on the wider site which they consider already has a dominating effect. They also refer to high fences, signage and CCTV which they consider to be at odds with the previously friendly open community nearby. Paragraph 14 of the PPTS states that local authorities should ensure that the scale of sites in rural settings does not dominate the nearest settled community. However, the appeal proposal is for a single pitch only. Even taking into account the seven existing authorised pitches on the wider site, I cannot see that it would be out of scale with the surrounding community. The matters raised in relation to the boundary enclosures and signage concern the existing pitches on the wider site rather than the appeal proposal which would be set back from the road frontage towards the middle of the wider site.
49. Local residents also refer to noise and disturbance arising from music, vehicles and barking dogs along with increased traffic and speeding. Again, these are issues relating to the existing use of the wider site rather than to the appeal proposal. They are also matters for the Council's environmental protection team or the police. I am not persuaded that the appeal proposal for single pitch would add unduly to noise and disturbance or traffic levels in the area. The Council makes no objections on these grounds. Whilst concerns are also

raised about external lighting and light pollution in the area, I am content that lighting at the appeal site can be adequately controlled by a planning condition.

50. The Parish Council and local residents question the lack of appropriate enforcement action by the Council (in relation to the unauthorised sites and with regard to the permitted sites which they consider in some cases to have gone beyond what was approved). However, I see no reason why any such unauthorised development or breaches of planning permission (at the adjacent sites or the appeal site in the future) could not be reasonably controlled by the Council. As such, this is not in itself a reason to resist the appeal proposal.
51. Concerns are also raised by the Parish Council about ecology and protected species. Policy ENV1 of the NP requires proposals to be informed by a habitat survey and seeks to protect habitats and wildlife corridors. Whilst no such an assessment has been provided by the appellant, I have seen no substantiated evidence to suggest that the proposal would cause harm to protected species or ecology. Natural England raises no objections to the proposal on these grounds and nor do the Council (the Nature Conservation Officer anticipates no significant ecological issues and considers the proposal to be in line with Policy NR3 of the Local Plan Strategy). In light of this, and given the relatively small scale of the proposal which would retain much of the site as open paddock, I am also satisfied that the proposal would cause no material harm in this regard and that no conflict with NP Policy ENV1 would arise. This finding accords with the conclusions of the previous Inspectors considering the appeals on the wider site.
52. The Parish Council are concerned about the drainage of the site. However, I am content that this matter could be adequately controlled via the imposition of a condition requiring drainage details to be submitted and agreed by the Council.

Planning Balance and Conclusion

53. The proposal would cause some limited harm to the character and appearance of the area and conflict with the development plan and the PPTS in this regard. My findings in relation to the proposal's access to services and facilities is neutral in the balance.
54. On the other hand, the need for gypsy and traveller sites is an important factor which counts in favour of the appeal proposal. The lack of alternative sites and the personal circumstances of the appellant also add some further weight in its favour. Paragraph 27 of the PPTS is clear 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.
55. Additionally, I have considered the Public Sector Equality Duty (PSED) set out in section 139 of the Equality Act 2010 to which I am subject. This identifies the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not. The appellant and his family are Irish Travellers and share a protected characteristic for the purposes of the PSED. Whilst it does not necessarily follow that the appeal should be allowed, the need for sites and lack of a 5 year

supply, may indicate inequality of housing opportunity for gypsies and travellers (in comparison to the situation for the non gypsy and traveller community). These equality implications add some additional weight in favour of the scheme.

56. Taken together, I consider that these other consideration and benefits of the proposal outweigh the limited harm to the character and appearance of the area and the conflict with the development plan and the PPTS that would arise.
57. In the event that the appeal is allowed the Council suggests a temporary permission for two years to allow allocated sites to emerge through the SADPD process. The Guidance states that circumstances where a temporary permission may be appropriate include where it is expected that the planning circumstances will change in a particular way at the end of that period.
58. I appreciate that since the previous appeals on the wider site were considered the Council has made further progress with the SADPD. In particular it now intends to allocate gypsy and travellers sites to meet the need identified over the full plan period (rather than just the first five years as was previously the case). In contrast to its previous position the Council is now committed to addressing identified outstanding need in full. This accords with the aims of paragraph 15 of the Framework which indicates that the planning system should be genuinely plan led.
59. Nevertheless, the progress of the SADPD has been protracted and there is still some way to go with no clear or certain timetable in place for that work. Additionally, I am mindful that the 2018 GTAA is yet to be tested and higher levels of need cannot be ruled out at this stage. As such, I cannot be assured that there is a reasonable expectation of a change in circumstances within a definite and foreseeable period. In any event, the likely prospect of sites becoming available in the future does not automatically point to the grant of a temporary planning permission. I have found that the proposed development is acceptable in the current context and the availability of alternative sites in the future is not a reason to resist it at this time.
60. Whilst the personal circumstances of the appellant and the best interests of the child count in favour of the proposal, they are not determinative in this case. In light of the significance of the immediate need for sites, I am not persuaded that it is necessary to impose a condition that would make the permission personal (that is, tied only to the appellant and his family) as suggested by the Council.
61. For the reasons set out above, and having regard to all the other matters raised, I conclude that the appeal should be allowed.
62. I have had regard to the requirements of Article 8 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998. I have also considered the Article 8 rights of the children in the context of Article 3 of the United Nations Convention on the Rights of the Child which requires that the best interest of the children shall be a primary consideration. No other consideration can be regarded as inherently more important. However, since I am allowing the appeal my decision would not lead to any violation of the rights of the appellant or his family in these regards.

Conditions

63. I have considered the Council's suggested conditions in light of the advice in the Guidance and the discussions at the hearing. The imposition of the pre-commencement conditions has been agreed by the appellant in writing. It is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition limiting the occupancy of the site to gypsies and travellers generally is required having regard to the special accommodation needs of gypsies and travellers.
64. A condition limiting the scale of the development and number of caravans there is necessary in the interests of the character and appearance of the area. Conditions prohibiting commercial activities and the parking of large vehicles are required in order to safeguard the living conditions of nearby occupiers and the future occupiers of the site. A condition limiting the erection of fences, gates and walls is required in light of the gas pipelines which cross the site and to protect the character and appearance of the area.
65. The submission of drainage details are needed to ensure the satisfactory drainage of the site. A condition to secure a risk assessment in relation to land contamination is required because of the potential for the site to have been used for tipping and in line with comments from the Council's Contaminated Land Team. Whilst I appreciate that such a condition was not imposed on the other permissions in the wider field, this is included in order to prevent pollution and to safeguard the living conditions of the future occupiers of the site.
66. Conditions seeking details of the materials of the utility/dayroom and a landscaping scheme (including the replacement of any plants which are lost) are necessary in the interests of the character and appearance of the site and its surroundings. A condition to control external lighting is needed in the interests of the character and appearance of the area and the living conditions of nearby occupiers in line with the provisions of NP Policy LCD2 which seeks to keep the night time skies dark and reduce glare. A condition requiring the provision of an electric charging point for electric vehicles is required in the interests of addressing climate change and carbon reduction as set out in the Framework and in order to be consistent with other residential planning permissions in the local authority area.

Elaine Worthington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Philip Brown
Jim Quinn
Jane Quinn

Philip Brown Associates Ltd
Appellant's brother
Appellant's brother's wife

FOR THE LOCAL PLANNING AUTHORITY:

Gemma Horton
Allan Clarke

Cheshire East Council
Cheshire East Council

INTERESTED PARTIES:

Jonathan Statham
Alan Holder
Andy Roscoe
Dave Nixon
William Goodall

Health and Safety Executive
Moston Parish Council
Moston Parish Council
Moston Parish Council
Local resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Map showing pipelines and location of nearby dwellings and information regarding the rupture of a gas line in Kentucky (submitted by Mr Goodall)
- 2 Letter to the Council from Cadent Gas Limited dated 13 November 2019.

DOCUMENTS SUBMITTED AFTER THE HEARING

- 1 Emails between the appellant's agent and National Grid dated 17 and 18 October and 6 December 2019 (including annotated layout plan).
- 2 The appellant's signed agreement to suggested pre-commencement conditions (email dated 6 December 2019).
- 3 Responses to the National Grid correspondence from; William Goodall email dated 12 December 2019; Dave Nixon, Alan Holder and Andy Roscoe emails dated 13 December 2019; and the Council email also dated 13 December 2019.

Annex A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Site Layout Plan, Floor Plan and Elevations of Proposed Utility/Day Room, and Details of Post and Rail Fencing.
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites.
- 4) There shall be no more than 1 pitch on the site, with no more than 2 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time.
- 5) No commercial activities shall take place on the site, including the storage of materials.
- 6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 7) No fences, gates or walls other than those expressly authorised by this permission shall be constructed.
- 8) No development shall take place until drainage details have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details prior to the occupation of the site.
- 9) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority.
- 10) No development involving the use of any facing or roofing materials shall take place until samples of the materials to be used in the construction of the external surfaces of the utility/dayroom hereby permitted have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved sample details.

- 11) Prior to its installation, details of any external lighting shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 12) The site shall not be occupied until a scheme of both hard and soft landscaping has been provided on the site, in accordance with details that have been submitted to and approved in writing by the local planning authority. The scheme shall include finished ground levels, hard surfacing materials, play equipment, refuse or other storage units, and plant species (including size, siting and planting distances, pre-planting preparation, planting, and post planting maintenance details). All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the completion of the development or in accordance with a programme agreed with the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 13) The site shall not be occupied until an external electronic plug socket suitable for the charging of electronic vehicles has been provided on the site.