

1.0 PROPOSAL

The proposal seeks planning permission for the change of use of land, to accommodate 4 no. gypsy/traveller pitches.

Each pitch would have 1 no. static caravan, 1 no. touring caravan and 1 no. day room which would centre around an access road.

The application is a re-submission of P/2018/0153, which was refused on highway grounds. That previous application sought permission for 7 no. pitches.

This application has sought to overcome the highway reasons for refusal on the previous application by reducing the number of pitches and submitting additional highway information.

2.0 HISTORY

P/2018/0153 – Change of use of disused agricultural land to residential accommodation for gypsy and traveller site (7 no. pitches). Refused 06/04/2018.

3.0 DEVELOPMENT PLAN

Site is located within designated special landscape area and open countryside.

UDP Policies PS1, PS2, EC4, EC5, EC6, GDP1, H9, T8 apply.

4.0 NATIONAL PLANNING POLICY

Planning Policy Wales (PPW) Edition 10 2018

Technical Advice Note (TAN) 18

Circular 005/2018 – Planning for Gypsy, Traveller and Showpeople Sites

5.0 CONSULTATIONS

Highway Authority: Object to the application. Reasons for refusal set out in the main body of the report.

NRW: Object to the application. Recommend that the application is not determined until it can be demonstrated that no harm would arise to protected species. Insufficient information has been submitted to assess the impact in regards to the suitability of means of drainage proposed.

The agent has submitted additional information direct to NRW. No response has been received from NRW to date.

Ecology: The submitted Ecology Report fails to recognise that the reason this site is now classed as disturbed land with limited ecological value is through unauthorised tipping. The application should be providing mitigation for the loss of this marshy grassland involving long term habitat enhancements.

Trees: No comments received.

Welsh Water: No comments to make.

Public Protection: Conditions recommended having regard to contaminated land issues.

Ramblers Ass'n: The site is near footpath Brymbo 74 which should not be diverted or blocked as part of the application.

PROW: No comments received.

Brymbo Community Council: Comments made in regards to planning/site history. The site is unsustainable, highway safety concerns, adverse impact on character and appearance of countryside, detrimental impacts to the visual amenity and Special Landscape Area, adverse impacts on residential amenities, adverse impacts on the environment and biodiversity/ecology, the PROW 74 has been undermined, adverse impacts on drainage, contamination issues, work has already been undertaken, land levels have been raised.

It should be noted that the above representation given by the representative for Brymbo Community Council also states in her response that she is the representative for the residents of Bwlchgwyn. However, her comments have not been added to the neighbour representations section below, they remain in the Brymbo Community Council comments.

Local Member: Notified 26.07.2018

Site Notice: Expired 20.08.2018

Press Noticed: Expired 25.08.2018

Neighbours: Approx. 181 no. representations objecting to the proposal. Concerns raised include:-

Access is narrow and limited, restricted visibility, increase in traffic congestion, unsustainable site, the site is within Special Landscape Area and is unsuitable for the development proposed, the use of this site as a gypsy/traveller site is unnecessary, highway safety implications, increase in noise and nuisance, increase in contamination, the site suffers from surface water flooding, conflicts with local plan policies, adverse impacts have resulted to ecology and trees, increased pressure on drainage system, school capacity is full, loss of the PROW, unacceptable in principle, adverse visual impact, emergency vehicles unable to access the site, the site lies within a flood zone, impacts on health and safety of residents, highway safety implications in relation to the local school, no street lighting, loss of agricultural land, there is already land identified by the Council as being suitable for traveller sites, tipping of rubble has already been undertaken at the site, impact on dog walkers and horse riders in the locality, the access track is not owned by the applicant, adverse impact on grazing animals, too high a density on site, overdevelopment of the site, could lead to unplanned expansion of Bwlchgwyn, potential loss of tourism and walkers to the area, potential spread of contamination, overlooking into habitable windows if using the PROW, work has already been undertaken on and near to the site, access to Brymbo Road and Glascoed Road have not changed since the previous application which was refused, adverse impacts on services and facilities in the area, the land is highly visible and the screening proposed would be inadequate, grass verges along the access track have been dug up already, the site does not comply with the provisions set out in the Council's forthcoming LDP, the development would result in more than 6 dwellings on an unadopted road, the proposal does not accord with national policy, increase in noise, a precedent will be set for further development in open countryside, removal of rubbish from the site will become an issue as Council's lorries will not be able to gain access, trees and hedges have been removed, potential increase in fly tipping, anomalies within the planning application documents.

6.0 SPECIAL CONSIDERATIONS

6.1 Principle:

Unitary Development Plan

The application site lies within designated special landscape area and open countryside as identified on Policy Map 3 Inset 5.

Policy EC5 states that within Special Landscape Areas, development other than for agriculture, small-scale farm-based and other rural enterprises, and essential operational development by utility service providers, will be strictly controlled. Development will be required to conform to high standards of design and landscaping and minimising visual impacts.

Policy H9 states that in exceptional circumstances, where sites for caravans for individual gypsy families cannot be accommodated within settlement limits, consideration will be given to other proposals. The amplification to the policy states that proposals will not be supported where the new caravan site conflicts with other general environmental and locational policies.

The proposal seeks planning permission to change the use of the land, outlined in red on the submitted Site Location Plan, to create a new gypsy/traveller residential caravan site. This would involve provision of 4 no. pitches (which would each include a static caravan, touring caravan and day room).

Policy EC5 does not specifically state that development other than that mentioned, is not permitted, only that it will be controlled. Provided the proposal would have a minimal visual impact to the SLA, the principle of development in accordance with UDP Policy EC5 could be acceptable.

Having regard to Policy H9, it therefore needs to be established whether there are any exceptional circumstances associated with this scheme, to consider whether in principle, use of this site for gypsy/traveller residential accommodation would be acceptable.

Exceptional Circumstances

Identified need for gypsy/traveller sites

The Housing (Wales) Act 2014 (and Welsh Office Circular 005/2018 'Planning for Gypsy & Traveller Caravan Sites') requires all local authorities in Wales to identify the housing needs of Gypsies and Travellers in their areas and make provision for any needs identified. The Housing Act places a statutory duty on local authorities to provide sites where a need has been identified. All local authorities are required to complete a Gypsy Traveller Accommodation Assessment (GTAA) every 5 years, which identifies pitch requirements.

The latest GTAA for Wrexham covers the period 2015-2020 and was approved by the Welsh Government on 28th March 2017. The approved GTAA identifies a need for the following:

- 15 residential G&T pitches over a 5 year period (ie by 2020)
- 28 residential G&T pitches over the 15 year LDP period.

Since the GTAA was produced, 13 no. residential (private) pitches have been granted planning permission, which reduces the identified need to 2 pitches over the 5 year period and 15 pitches over the LDP period to 2028.

However the GTAA also recommends that the number of pitches located at Ruthin Road residential site is reduced during the LDP period from 15 to 9. The 6 pitches lost at Ruthin Road would therefore need to be replaced elsewhere, which increases the requirement for social rented pitches over the plan period back up to 21.

Attached at Appendix 2 is the Schedule of Proposed Focussed Changes and Minor Editing Changes to the Wrexham Deposit LDP (November 2018). FC17 (page 20) outlines the Council's most up to date position on Gypsy & Traveller need in the borough.

Whilst the Deposit Wrexham LDP will include Gypsy & Traveller site allocations to meet this need, the LDP is unlikely to be formally adopted until late 2019. At the current time therefore, there is an existing unmet need for Gypsy & Traveller pitches in the County Borough.

From a needs perspective, this proposal for 4 no. pitches, if approved, would mean that the Authority has met the 5 year need identified in the GTAA and no further pitches would be required within this period. Substantial weight is awarded to this element of the scheme and would comprise an exceptional circumstance.

National Planning Policy and Guidance

Wrexham UDP expired in 2011. In the absence of an up to date development plan, weight can be awarded to national planning policy and guidance in the decision making process.

Welsh Government Circular 005/2018: Planning for Gypsy and Traveller Caravan Sites

The guidance states that in deciding where to provide for Gypsy and Traveller sites, sustainable locations should first be considered within or adjacent to existing settlement boundaries, with access to local services.

Despite the guidance stating the preference for sites to be located in areas in or near settlements, paragraph 39 also states that *'sites in the countryside, away from existing settlements, can be considered...if there is a lack of suitable sustainable locations within or adjacent to existing settlement boundaries.'*

Paragraph 39 continues to state that *'In assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Over rigid application of national or LDP policies that seek a reduction in car borne travel would not be appropriate as they could be used to effectively block proposals for any Gypsy and Traveller Site in a rural location. Sites should be considered in context and in relation to the local infrastructure, population size and density to ensure they are in proportion to local settled communities.'*

Paragraph 61 states that *'permission to develop Gypsy and Travellers sites outside of settlement boundaries could be granted subject to sustainability criteria set out in national planning policy if there are no realistic, suitable sites available within or adjacent to settlement boundaries to accommodate Gypsies and Travellers (as defined under section 108 of the Housing (Wales) Act 2014).'*

Although it has been established that the site is not considered to represent sustainable development, the guidance in the Circular makes it clear that applying national or local plan policies rigidly, having regard to a reduction in travel by the private car, would also not be appropriate. Significant weight is attached to this element of the scheme.

Emerging Local Development Plan (LDP) 2013 – 2028 Deposit Plan

Following a decision at a meeting of the Council on 22nd November 2018, Wrexham County Borough Council has submitted its Local Development Plan (LDP) to the Welsh Government for Examination under Section 64 (1) of the Planning and Compulsory Purchase Act 2004.

Before the Examination in Public takes place, the Council has consulted the public on Focussed Changes (January – February 2019) proposed to the LDP, following consultation responses received last year.

Although the LDP makes provision for the allocation of gypsy and traveller sites, it can be afforded limited weight in the planning balance as it has not yet been deemed sound by the Planning Inspectorate.

Impact on Special Landscape Area and Open Countryside

The site is relatively open along its northern, eastern and western boundaries whilst a wooded area sits to the south of the site.

The site is considered would be fairly visible, particularly during winter months when tree cover and planting is naturally lower, when viewed from more elevated points, given the sites location on generally lower ground than the surrounding area.

The site is located to the south of a large agricultural building and small holding, which is understood to be a pig farm. There is hard surfacing on the holding which accommodates space for typical agricultural equipment. There is therefore already development present in the immediate vicinity of the site.

Furthermore, conditions can be attached to any decision notice to secure landscaping and planting where necessary, to further mitigate against visual and landscape impacts.

It is acknowledged that the proposal would result in visual impacts to the Special Landscape Area, over and above the existing situation. However, the visual impact is considered to be localised, particularly in relation to its siting on generally lower ground in comparison to the surrounding area, not appearing as an overly prominent or dominant addition in the landscape.

In this regard, the proposal is not considered would result in such significant harm to the wider context of the Special Landscape Area, or indeed the character and beauty of the open countryside, as to warrant refusal of the application.

Summary

The identified need for pitches, in particular within the 5 year period (up to 2020) is a material consideration in the determination of the planning application, which in policy terms, would justify an exceptional circumstance under policy H9.

There is an established need for pitches within the County Borough as identified in the GTAA.

The Local Authority has a statutory duty under the housing act to meet the identified need, either through the allocation of sites in the development plan (which can be given limited weight at this point in time) or through the determination of applications for accommodation outside of the development plan process.

In this respect the need for pitches should be given significant weight in the context of the evidence (GTAA) which, in my opinion, justifies an exceptional circumstance as set out in UDP Policy H9.

In addition, guidance in circular 005/2018 also states that sites outside of settlements could be granted and whilst it is acknowledged that the proposal

would not represent sustainable development in the round, as set out in PPW, the guidance in the circular also states that over rigid application of national or LDP policies that seek a reduction in car borne travel would not be appropriate.

In taking the above into account, it is considered that there are sufficient exceptional circumstances associated with this scheme, to warrant considering the proposal in this location, as set out in UDP Policy H9.

- 6.2 Design and Layout:** The scale of development is considered to be commensurate to the plot size and would not appear overly cramped in this respect.

The siting and layout is logical, with proposed pitches centred around an access road into the site.

The proposal is considered to be appropriate and would not result in such adverse impacts to warrant refusal of the scheme on design and layout grounds.

- 6.3 Residential Amenity:** No identified impacts would result to existing levels of residential amenities.

- 6.4 Highway Safety:** Highway Authority recommend refusal of the application based on the following reasons.

- There is restricted visibility at the junction of the un-adopted road with Glascoed Road and increased use would increase the likelihood of danger to road users.
- There is restricted visibility at the junction of the un-adopted road with Brymbo Road and increased use would increase the likelihood of danger to road users.
- The proposed development would be likely to result in a material increase in the volume of traffic using Glascoed Road where inadequate forward visibility is available, with consequent risk of additional danger to all road users.
- The proposed development does not make adequate provision for pedestrians.

Having regard to the last point, and as discussed under the principle of development, national and local policies allow development of traveller sites in countryside locations, where relevant. Sites in countryside locations are not considered would be well served by footpaths or street lighting. It is considered therefore that a reason for refusal based on inadequate provision for pedestrians could not be sustained in this instance, given the principle of

development for traveller sites in the countryside is established in national and local plan policy.

- 6.5 Ecology:** NRW recommend that the proposal is not determined until the additional information in regards to impact on protected species is submitted. The agent has sent additional information direct to NRW but a response has not been received to date. Therefore, an additional reason for refusal on ecology grounds would be added to the decision notice.

The updated Ecological Report identifies that great crested newts are present within the environs of the site. NRW consider that the proposal would be likely to harm or disturb the GCN or their breeding sites and resting places and will therefore require a license.

The proposal fails to satisfactorily demonstrate that it is not likely to be detrimental to the maintenance of the favourable conservation status of the local populations of the GCN's.

NRW recommend that the application is not determined until it can be demonstrated that the proposal will either not cause a breach of species protection legislation or all 3 conditions for the eventual grant of a license are likely to be satisfied.

- 6.6 Trees:** No comments received from the Tree Officer.

- 6.7 Drainage:** NRW raise concerns in regards to the fact that the means of foul drainage serving the proposal would be via a package treatment plant.

The installation of a private sewage treatment facility within an area where it may be considered reasonable to connect to the public sewer system is not considered environmentally acceptable. The first option should be is that a connection to the mains is made.

NRW recommend objection to the scheme having regard to the means of foul drainage, unless it can be demonstrated that it is not reasonable to connect to the public system.

This is not considered to be a sufficient reason for refusal in this instance, given further information could be requested if the application was recommended approval and this element of the scheme could also be secured by condition.

NRW's TAN 15 Flood Map demonstrates that the site is within a low risk area of surface water flooding.

- 6.8 PROW:** No comments received from PROW. The proposal does not show work proposed to the PROW. Any work already undertaken which has

affected the PROW should be clarified between the developer and PROW Team.

- 6.9 Contaminated Land:** No objection subject to conditions to secure a phased site investigation report and remediation measures, given the potential presence of heavy metals on the site.

7.0 CONCLUSION

There is restricted visibility at the junction of the un-adopted road with Glascoed Road and Brymbo Road, which would result in unsafe means of vehicular access onto the highway. The proposal would fail to accord with UDP Policy GDP1 (d).

The development would be likely to result in a material increase in the volume of traffic using Glascoed Road where inadequate forward visibility is available, resulting in risk of additional danger to all road users. The proposal would fail to comply with UDP Policy GDP1 (d).

Insufficient information and mitigation measures have been submitted with the application to demonstrate the potential impacts of the development on great crested newts. The proposal would fail to comply with UDP Policy EC6, the provisions set out within TAN 5 and the Conservation of Habitats and Species Regulations 2017.