

LAND TO THE WEST OF NEWCASTLE ROAD (A53), BLACKBROOK
CARE OF AGENT **18/00491/FUL**

The application seeks planning permission for the change of use of the land for the siting of caravans for residential purposes for 4 no. gypsy pitches.

The site in question measures approximately 0.24 hectares, and has been associated with Blackbrook nurseries and contains a glasshouse.

The application site is located off Newcastle Road (A53) and is accessed via an existing field gate. The site is located in an area of Open Countryside and an Area of Landscape Enhancement as defined within the Local Plan Proposals Map.

The application has been called in to Committee by two Councillors for the following reasons:

- The proposed site is close to a road junction that local residents and regular road users have complained is hazardous, particularly in relation to the heavy volume of HGVs passing through it. A large amount of photographic evidence exists to demonstrate this fact;
- This site is totally unsuitable, as it would not be at all safe for children to walk past the gate let alone to the bus stop. There is no footpath;
- This is not a socially sustainable development as there is a lack of local amenities nearby either in Loggerheads or Baldwin's Gate, both of which are served by only a very limited bus (one per hour) and none in the evenings or on Sundays;
- There are no details of any services to any of the site, no mention of sewerage or waste removal.
- The planning application is effectively a housing development and as such needs to be fully considered by the Borough Planning Committee and not delegated to a Case Officer;
- This is not a simple change of use but a fundamental planning application submission that does not fit with the rural characteristics of this locality.

The statutory 8 week determination period for the application has been extended to the 6th December

RECOMMENDATION

REFUSE for the following reasons;

- 1. The proposed development is in an unsuitable location within the open countryside away from services and facilities and without safe and convenient access to public transport. Whilst the Local Planning Authority recognises that there is an identified and unmet need for a further gypsy and traveller pitch in the period between 2014 and 2018, the benefits arising from the proposed development do not outweigh identified harm. The proposed development would therefore be contrary to Policy CSP7 of the Core Strategy and national policy within the Planning Policy for Traveller Sites.**
- 2. The applicant has failed to demonstrate that the existing access is suitable for the proposed development and that the existing visibility splays are appropriate for the speed of traffic and that the development will not, therefore, result in an adverse impact on highway safety. As such the proposal is contrary to the guidance of the National Planning Policy Framework.**
- 3. The applicant has failed to demonstrate that the residents of the site will not be adversely affected by the impact of noise from the A53 and the nearby pumping station and as such the proposal is contrary to the guidance of the National Planning Policy Framework.**

Reason for recommendation

The application site is not located in a sustainable location. The applicant has failed to demonstrate the proposed access would have sufficient access and the potential noise impact upon the future occupiers has not been fully considered.

Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with this application

It is considered that the proposals are unsustainable and do not conform to the core planning principles of the National Planning Policy Framework and it is considered that the applicant is unable to overcome the principal concerns in respect of the location of this development.

KEY ISSUES

The application is for full planning permission for the change of use of the land for the siting of 4no. gypsy pitches on the site located on Newcastle Road.

The application site measures approximately 0.24 hectares and until recently has been used to support a small scale nursery business.

The application site is located in the open countryside, and an Area of Landscape Enhancement as indicated on the Local Development Framework Proposals Map.

Protected species surveys were submitted as part of the application, and offer mitigation with regard to protected species evident on site. Subject to the identified mitigation measures being implemented, which could be secured by condition, it is considered that the proposal would not have an unacceptable impact on protected species.

This report will address the following matters: -

- Relevant policy
- Need and supply
- Impact on Character and Appearance
- Residential Amenity
- Highway Safety
- Sustainability
- Human rights and safeguarding of children
- Planning balance

Relevant policy

National planning policy regarding traveller site is set out in Planning Policy for Traveller Sites (PPTS) which should be read in conjunction with the National Planning Policy Framework.

Paragraph 10(a) of Policy B of the PPTS (Planning for traveller sites) says that local planning authorities (LPAs), in producing their Local Plan, should identify and update annually, a supply of deliverable sites sufficient to provide five years' worth of sites for gypsies, travellers and travelling showpeople against their locally set targets, and identify a supply of specific, developable sites or broad locations for growth for years six to ten and, where possible, for years 11-15.

Paragraph 11 of the Planning Policy for Traveller Sites (PPTS) states local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally, and that planning policies should:

- a) Promote peaceful and integrated co-existence between the site and the local community;
- b) Promote, in collaboration with commissioners of health services, access to appropriate health services;

- c) Ensure that children can attend school on a regular basis;
- d) Provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment
- e) Provide proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development;
- f) Avoid placing undue pressure on local infrastructure and services;
- g) Do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans;
- h) Reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.

A number of paragraphs of policy H of the PPTS (Determining planning applications for traveller sites) are relevant to the determination of this application. Paragraph 22 indicates that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. At paragraph 23 it says that applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the NPPF as well as policy H of the PPTS.

Paragraph 24 says that local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) the existing level of provision and need for sites.
- b) the availability (or lack) of alternative accommodation for the applicants
- c) other personal circumstances of the applicant
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- e) that they should determine applications sites from any travellers and not just those with local connections.

Paragraph 25 says that LPAs should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. LPAs should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

Paragraph 26 requires LPAs to attach weight to the following matters:

- a) Effective use of previously developed (brownfield), untidy or derelict land;
- b) Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;
- d) Not enclosing with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

Policy CSP7 of the Core Strategy states that pitches will be provided on sites that provide good access to shops, education, healthcare facilities and other essential services. Safe and convenient access should also be provided to public transport and the highway network.

Saved Local Plan.

Policy N20 seeks to ensure that development within areas of Landscape Enhancement will enhance the quality of the local landscape and would not act to erode its quality or appearance.

Need and Supply

As indicated above, the PPTS requires local authorities to identify and update annually, a five years' supply of sites for gypsies, travellers and travelling showpersons.

Newcastle-under-Lyme Borough Council and Stoke-on-Trent City Council, together with Stafford Borough Council and Staffordshire Moorlands District Council, commissioned a Joint Gypsy and Traveller and Travelling Showperson Accommodation Assessment in 2015 (GTAA). The Assessment provides updated evidence to identify the future accommodation needs of gypsies and travellers and travelling showpersons across the four local authority areas. For Newcastle-under-Lyme, the study identifies a shortfall of one pitch between 2014 and 2019. A further six pitches are required between 2019 and 2034, bringing the total requirement to seven permanent pitches. In addition to the provision of permanent pitches, the study identifies the requirement for five transit pitches across Newcastle-under-Lyme between 2015/16 and 2018/19.

The applicant contends that their research identifies a greater need than what has been established in the GTAA. It is noted, however, that Stafford Borough Council has implemented their local plan after examination which would suggest, notwithstanding the applicant's contention, that the evidence base is sound.

As no sites have, as yet, been identified or allocated to meet the identified need it has to be concluded that the Council does not have a five year supply. The shortfall is, however, minimal.

Character and appearance

As referred to above, there is a very strict limitation on new traveller site development in the open countryside that is away from existing settlements as set out in Policy H of the PPTS (para 25). In addition, also referred to above, Policy CSP7 seeks to ensure that the development would not adversely affect local landscapes and environments.

The site was granted consent in the 1990s for use as a wholesale nursery, however from visiting the site it is apparent that the built form in relation to this use was minimal. Part of the site that includes the greenhouse and 'porta cabin' type structure could be argued to be previously developed land (PDL). However, the majority of the site remains open with not structures or hardsurfacing. It is noted that the proposed development would largely be located where the existing structures are located.

The clearance of the dilapidated building and glasshouse will offer some visual improvement to the site; however the introduction of mobile homes and touring caravans on four pitches that are proposed with the associated development including hardstanding for pitches and the access track will result in some visual harm to this open rural area over and above that which presently exists on site. The proposed pitches would be surrounded by native hedging and post and rail fence which would have an acceptable appearance within the rural location, however.

The proposal is therefore considered to conflict with policies CSP7, N20 and national policy in the PPTS and NPPF.

Residential Amenity

Having regard to the scale of the development and distance from neighbouring properties no significant amenity concerns are raised with regard to the existing residents.

Environmental Health have commented on the proposal and noted that insufficient information has been submitted with the application relating to the impact to occupiers of the site arising from noise from the A53 and pumping station in close proximity of the site.

As such, the proposal cannot be considered to be compliant with guidance within the NPPF as insufficient information has been submitted to date to enable such a conclusion to be reached.

Highways

The Highway Authority was consulted as part of the application process. They recommend that the application is refused on the basis that insufficient information has been submitted in order to demonstrate the existing access can provide sufficient visibility splays commensurate with the speed of traffic on the A53. They also note that the use of private vehicles is likely to be the preferred method of transport for the future occupiers of the site.

Sustainability

The PPTS makes it clear that sustainability is important and should not only be considered in terms of transport mode and distance from services. Other factors such as economic and social considerations are also important material considerations. It is considered that authorised sites assist in the promotion of peaceful and integrated co-existence between the site and the local community. A settled base ensures easier access to a GP and other health services and that any children are able to attend school on a regular basis. In addition, a settled base can result in a reduction in the need for long distance travelling and the possible environmental damage caused by unauthorised encampments. Furthermore, the application site is not located in an area at high risk of flooding. These are all benefits to be considered in the round when considering issues of sustainability.

The application site is located in Blackbrook on Newcastle Road which is 3.7km from Baldwins Gate, the nearest established village with services and facilities service centre.

Newcastle Road (A53) is a national speed limit road, and there are no footpaths from the site to the nearest bus stop thereby making access to public transport safe and convenient. The A53 itself is a fast, busy road, and as such it is considered fair to assume that most movements to and from the site would be by private vehicle, however they are likely to be low in number due to the number of pitches proposed on site. Given the assessment, it is considered that the proposal would be in conflict of the PPTs and Policy CSP7 of the Core Strategy as safe and convenient access public transport and the highway network (as set out below).

Human rights and safeguarding of children

Local Planning Authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned. Article 8 of the Human Rights Act 1998 states that everyone has the right to respect for his private and family life, his home and his correspondence. It adds there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or the protection of the rights and freedoms of others.

Local Planning Authorities also have a duty to safeguard and promote the welfare of children under section 11 of the Children's Act 2004. In addition, the judgment of the Supreme Court in ZH (Tanzania) was that all local authorities are under a duty to consider the best interests of the children.

Section 11 of the Act states that Local Authorities must have regard to the need to safeguard and promote the welfare of children.

Further, Article 14 of the Human Rights Act states that the enjoyment of the rights and freedoms set forth in that Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Based on the information provided, there is no basis upon which to conclude that issues of human rights or the safeguarding of children weigh in the favour of the granting of planning permission.

Planning balance

Having regard to the rural location of the site within the open countryside, the distance from facilities, and the absence of safe and convenient access to public transport the site is not considered to be in a sustainable or suitable location for the proposed development. This would have some adverse implications in terms of use of natural resources and movement towards a low carbon economy.

Insufficient information has been submitted relating to the visibility of the existing access to the site, and potential noise impacts upon future occupiers caused by the A53 and nearby pumping station. There will also be an adverse impact upon the character and appearance of this rural area arising from the visual impact of the proposal.

The provision of gypsy and traveller pitches is a clear benefit of the proposal. However, whilst the requirement for sites and the current lack of alternatives weigh in favour of the proposal, they are not considered to outweigh the identified harm.

Weighing the harm against the matters in favour of the proposal and the potential imposition of conditions would not make the development acceptable even for a temporary period. The proposal is therefore considered to be contrary to Policy CSP7 of the Core Strategy, Policy H of the Planning Policy for Traveller Sites, and the National Planning Policy Framework.

APPENDIX

Policies and Proposals in the approved Development Plan relevant to this decision:-

[Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy \(CSS\) 2006-2026](#)

Policy ASP6: Rural Area Spatial Strategy
Policy CSP1: Design Quality
Policy CSP7: Gypsy and Travellers

[Newcastle-under-Lyme Local Plan 2011 \(NLP\)](#)

Policy H1: Residential development: sustainable location and protection of the countryside
Policy N2: Development and nature conservation - site surveys
Policy N3: Development and nature conservation – protection and enhancement measures.
Policy N20: Areas of Landscape Restoration

Other material considerations include:

[National Planning Policy Framework \(NPPF\) \(2018\)](#)

[Planning Practice Guidance \(PPG\) \(2018\)](#)

[Planning Policy for Traveller Sites \(August 2015\)](#)

[Newcastle-under-Lyme, Stoke-on-Trent, Staffordshire Moorlands and Stafford Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2015](#)

Human Rights Act 1998

[Relevant Planning History](#)

N20697

The erection of a wholesale nursery including the erection of a polythene tunnel and implement shed, plus improving access to A53 and construction of hardstanding.
Approved 1991

[Views of Consultees](#)

Whitmore Parish Council objects to the application on the following grounds;

- Greenfield site in unsustainable location with inadequate service provision.
- Public transport is difficult to access from the site
- Near to the A51/53 junction which is already heavily congested that will only worsen with HS2 traffic.
- Does not accord with policy CSP7 of the Core Spatial Strategy
- No details of how foul sewerage or waste will be disposed of
- Proposed domestic use is an unwarranted change of use

Maer and Aston Parish Council objects to the application on the following grounds;

- Limited access to services such as schools and shops
- Limited access to public transport and lack of pavement resulting in the need to walk on the roadside to access the bus stop
- Traffic exiting the site to turn right on the A53 would be dangerous.
- As such the site is unsustainable as demonstrated in a similar application for up to 8 houses in Hill Chorlton 14/00875/OUT which was dismissed at appeal
- Worsen traffic, particularly when considering the impact of HS2 vehicles.
- Lack of sewerage information

- The submitted information suggesting that there is a lack of wildlife on the site is challenged.
- Site contains greenhouse, however it is a greenfield, not a brownfield, site
- Development is unsustainable and unnecessary

Loggerheads Parish Council objects to the application on the following grounds;

- Not located in a sustainable location, there is no safe access to public transport and the nearest facilities are either in Baldwins Gate or Loggerheads.
- Dangerous access onto the A53
- Does not comply with policy CSP7
- Does not provide information on foul sewerage and waste storage

The **Staffordshire Badger Conservation Group** agrees with recommendations within the ecology report, and request this is made a planning condition. Would like to ensure lighting from the development is directed away from the sett on site.

The **Landscape Development Section** state that the development area shown in the arboricultural report and other plans is different from that shown on the location plan and before they can comment they request that this is clarified and the tree report amended where necessary. The proposal in the tree report to allow excavations for works within the Root Protection Areas (RPAs) is not acceptable. There should be no excavations within these areas and the scheme layout should be revised accordingly. Any surfacing within RPAs should be of 'no dig' construction. All other recommendations of the tree report should be followed. Permission should be subject to submission of a detailed, dimensioned Tree Protection Plan and details for all special engineering within RPAs and other construction details to BS5837:2012. Insufficient landscaping details have been submitted, and a more detailed scheme would be required. This should include tree, shrub and hedge planting to provide screening and to integrate the proposals with the surrounding countryside. Permission should be subject to approval of a detailed landscaping scheme. In addition they advise that there is no public open space sufficiently close to the site to warrant contribution towards off-site public open space.

The **Highway Authority** states it is not possible to assess the suitability of the access to the site from the level of submitted information and indicates that the application should be refused.

The **Environmental Health Division** object to the application as insufficient information has been submitted to assess the application and noise impact from the surrounding road network and pumping station and its effects on amenity and also the impact of any artificial lighting installed on the site.

The Waste Water section of **Severn Trent Water** note the proposal would have a minimal impact on public sewerage. The Clean Water section has, however, raised objections as follows:

- Lack of details relating to waste water management
- No proposed management of the surface water
- Location of Severn Trent Water observation boreholes within the site which would require decommissioning at the developers cost.
- Criticality of Wellings, which is a critical groundwater source used for public water supply and its vulnerability to surface influences

The views of **Housing Strategy** and **Planning Policy** have been sought but have not responded by the due date.

Representations

57 letters of objection were received during the course of the application. A summary of the comments is provided below; however the full documents can be viewed on file.

- Not a brownfield site
- Adversely affect the character of the area and landscape
- Adversely affect the amenities of neighbouring residents and businesses due to the intensity of the use and increase in vehicle movements

- Located in a rural area away from services and therefore not sustainably located
- Conflicts with paragraph 79 of the current NPPF (paragraph 55 of the previous NPPF)
- Poor access to site especially if towing vehicles
- Enhancing the visibility splay would again affect the character of the area
- Hazardous junction – vehicles turning from opposite carriageway would stop traffic
- High levels of traffic in the area already
- Nearest bus stop 200m from the site and no footpath for pedestrians
- No facilities are proposed for the site, such as toilets washrooms etc.
- Concerns regarding the ecological impact of the proposal
- Pollution risk to the river Tern
- Traffic will be worsened with HS2
- Concerns regarding the impact the proposal would have on neighbouring sites livestock
- Visual harm, contrary to N17 of the Local Plan
- Inappropriate residential development outside of the village envelope
- GTAA does not identify the need for the site
- Does not comply with policy CSP7
- Potential for the future expansion of the site
- No details regarding sewerage
- Should be located on the edge of more urban areas
- No evidence for the need for the site in this area
- Baldwins Gate 2 miles away, Loggerheads 3 miles away from the site
- Contravenes DCLG Designing Gypsy & Traveller Sites: Good Practice Guide
- Contravenes DCLG Planning and Policy for Travellers
- No relationship with the local community
- Noise issues from the proposed use
- Inappropriate development within the Green Belt, and no very special circumstances
- Light pollution from the development
- Concerns regarding anti-social behaviour
- Air quality issues from increase in exhaust fumes
- Very little built form on the existing site
- Site has never operated as a commercial nursery
- Not infill development
- No details of the disposal of rubbish waste
- Site floods
- Lack of employment opportunities in the area
- Site was auctioned with equestrian/agricultural use
- Application submitted with consideration for old NPPF which has been superseded
- Site is not allocated in the development plan
- NULBC now have a 5-year Housing Land Supply
- Application is not valid
- Sits over an aquifer

A petition was also received during the course of the application with 396 signatures.

Applicant/agent's submission

The application is supported by a Planning Application, Plans and Protected Species Survey.

All of the application documents can be viewed at the Guildhall or using the following link.

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00491/FUL>

Background Papers

Planning File
Development Plan

Date report prepared

15/11/2018