

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

DATE: **WEDNESDAY, 15 MAY 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **050463 - FULL APPLICATION - USE OF LAND FOR THE STATIONING OF CARAVANS FOR THE RESIDENTIAL PURPOSE FOR 5 NO. GYPSY PITCHES TOGETHER WITH THE FORMATION OF ADDITIONAL HARD STANDING AND UTILITY/DAYROOMS ANCILLARY TO THAT USE LAND ADJACENT TO EWLOE BARN WOOD, MAGAZINE LANE, EWLOE**

APPLICATION NUMBER: 050463

APPLICANT: MR M ROONEY

SITE: LAND ADJACENT TO EWLOE BARN WOOD, MAGAZINE LANE, EWLOE

APPLICATION VALID DATE: 01.02.13

LOCAL MEMBERS: COUNCILLOR A HALFORD
COUNCILLOR D MACKIE

TOWN/COMMUNITY COUNCIL: HAWARDEN COMMUNITY COUNCIL

REASON FOR COMMITTEE: REQUEST OF LOCAL MEMBERS DUE TO CONCERNS REGARDING ACCESS, WILDLIFE, IMPACT ON GREEN BARRIER, PRINCIPLE OF DEVELOPMENT IN THE OPEN COUNTRYSIDE.

SITE VISIT: YES

1.00 SUMMARY

- 1.01 Planning permission is sought for the change of use of the land for 5 residential gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use and retention of existing stables. This is a resubmission of application (049152) which was dismissed on appeal following a public inquiry.

1.02 The main issues to consider are therefore whether this application addresses all of the issues raised by the Inspector in his report. Although the Inspector considered that the development would constitute inappropriate development in the green barrier and would harm the openness, he considered that the need for gypsy and traveller sites outweighed that harm and therefore exceptional circumstances had been demonstrated. However the Inspector was concerned that due to the site's location adjacent to the A55 that this would give rise to unacceptable living conditions for the site occupants with regard to the effects of noise and air pollution and had no evidence before him to conclude otherwise.

1.03 Although there is still an unmet need for gypsy and traveller sites in Flintshire, it is considered that the evidence put forward to address the noise and air pollution does not demonstrate that the living conditions on the site would be acceptable and it is considered that this could not be appropriately addressed by conditions. Furthermore the noise mitigation proposed introduces a bund and fence underneath the overhead lines on the site which is not acceptable to the Statutory undertaker Scottish Power as this would comprise the safety of residents on site during the construction and during the site's use and would be contrary to the Statutory legislation that they are required to meet. It is also considered that the introduction of the bund and fence has further urbanising effects, which add to the harm to the green barrier.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

- 2.01
1. There is insufficient evidence to demonstrate that the levels of noise generated from the A55 would not lead to unacceptable living conditions for residents on the proposed gypsy/traveller site which would be contrary to Policy EWP13 of the Flintshire Unitary Development Plan and TAN 11 Noise.
 2. Road traffic is a source of pollution and the proposed location of the development adjacent to the A55 poses a risk to the health of the site residents. There is insufficient evidence to demonstrate that this would not lead to unacceptable living conditions which could adversely affect the health of the site occupants which would be contrary to Policy EWP12 of the Flintshire Unitary Development Plan.
 3. The proposed development is directly underneath an overhead electricity line. The location of the bund and fence would reduce the clearance distance and adversely affect the safe operation of overhead line by the statutory undertaker contrary to Policy STR1 C) of the Flintshire Unitary Development Plan and The Electricity Safety, Quality and Continuity Regulations 2002 and Health and Safety Executive Avoiding Danger from Overhead Power Lines Guidance Note GS6. The

construction of the development, in particular the bund and fence would endanger the lives of the construction workers contrary to the Health and Safety at Work Act.

4. The proposed development of a gypsy/traveller site would harm the openness of the green barrier and have an adverse impact on the landscape in this green barrier location contrary to Policy GEN4, L1 and HSG14 c).

3.00 CONSULTATIONS

3.01 Local Members

Councillor Alison Halford

Requests committee determination and a Committee site visit as there are new members on the Committee since the previous consideration of the application by Committee. Has concerns regarding development in a countryside area, impact on green barrier, pylon owner has objected, noise, fumes can damage lungs. Huge public interest.

3.02 Councillor David Mackie

Objects to the application on the grounds of;

- development in the green barrier which is a departure from the UDP and does not conform with policies for residential development or affordable housing in the countryside
- no unmet need for gypsy sites in Flintshire, there is a planned 20 extra pitches which will exceed Flintshire's portion of the need, other Counties required to meet need in LDP's
- adverse impact on the open countryside the additional bund and fence increase this impact
- noise reduction provisions are inadequate, noise assessment does not allow for seasonal and overnight increases in noise
- pollution and health impacts
- the applicant has not demonstrated that there is a need for this development in this location in the green barrier or that other locations have been examined
- will infringe safety margins for Scottish Power in relation to the overhead electricity cables which cross the site
- access to the site is poor via a narrow lane
- satisfactory provision for the disposal of sewage has not been demonstrated. Site becomes waterlogged. Potential for livestock to be exposed to contaminated water
- site is designated for widening of A55
- lack of local facilities close to the site
- concern that local wildlife habitats will suffer

3.03 Hawarden Community Council

The Council objects to this application on the following grounds;

- the land is green barrier
- the site is outside the village settlement barrier
- the land may be required of the future widening of the A55

- there are adequate and sufficient traveller sites in Flintshire, particularly in north east Flintshire
- the unsuitability of the highway for the vehicular traffic which would be created
- the land is liable to flooding
- unsatisfactory proposal for the treatment of sewerage
- impact of highway noise to potential residents.

3.04 Northop Hall Community Council

Object to the development. The site is considered unsuitable for development and access to the site is considered inadequate. The site is in the open countryside, outside the settlement boundary. The site does not accord with good practice for gypsy and traveller sites such as long term sustainability, as it is poorly located in terms of employment, education and access to health services and social contact with the settled community. Concern about site access and issues at the junction with Green Lane opposite Ewloe Green School, as well as the lack of passing places on the approach road to the site approaching from either Northop Hall or Ewloe. The ground is boggy, there are no utilities and power lines cross the site. The area is a valued amenity area, popular with cyclists, ramblers and joggers. Proposals to widen the A55 will be looked at again in the future in the light of worsening traffic problems. Widening of this stretch of road parallel with Magazine Lane would lead to the need to clear the site and re-locate the residents. This site is not suitable for ordinary residential dwellings and there are no exceptional circumstances to allow a site for gypsy travellers in accordance with relevant guidance.

3.05 Head of Assets & Transportation

No objection subject to conditions covering;

- Approval of detailed design of the access prior to construction.
- The access shall be kerbed and completed to base course prior to any other site works.
- The proposed access shall have a visibility splay of 2.4m x 40m in both directions and there shall be no obstruction to visibility in excess of 0.6m above the nearside channel level of the adjoining highways.
- Details of positive means to prevent the run-off of surface water from any part of the site onto the highway.

3.06 Head of Public Protection

Noise

It is considered that the limited amount of noise data submitted with the application contained in the applicant's noise report does not take into consideration all the necessary factors associated with the traffic density or traffic noise likely to be experienced at this location over an extended period.

The Welsh Assembly Government (WG) has recently published noise maps for this area, and others throughout Wales, under The

Environmental Noise (Wales) Regulations 2006 and Environmental Noise Action Planning (Wales) Roads Action Plan for Wales. The specific noise map covering this site clearly shows that the application site will be affected by much higher noise levels than has been measured by the applicant.

Overall it is considered that the actual site noise levels will generally be much higher than those measured during the one day exercise. There is insufficient data to establish which Noise Exposure Category of TAN 11 the development will fall into. The proposed barrier will not provide sufficient mitigation to the development as the road level is at a similar height to the top of the proposed barrier and bund and the effectiveness is therefore limited to -12dBA. It is considered that the site will fall into a higher Technical Advice Note 11 category than predicted by the noise report and is likely to be in Noise Exposure Category C during both day and night and possibly even Noise Exposure Category D.

3.07 Air Pollution

The submitted air quality report shows that there is a likelihood that the air quality with regard to nitrogen dioxide and particulates PM10 will be within the current standards. However, there is additional evidence in the form of a new report from The World Health Organization "Review of evidence on health aspects of air pollution – REVIHAAP" 2013 which questions the levels permitted within the current standards.

In addition the applicant's Air Quality Assessment does not take account of particulates PM2.5 and smaller or carbon black or indeed other pollutants such as PAH's, ozone etc. These pollutants have been increasingly studied because of serious concerns they may be having on the health of people living close to such sources.

It is not known if these pollutants have been assessed at this location and that the potential risks associated with them have been fully investigated with reference to the proposed residential use.

3.08 Drainage Engineer Foul Sewage

There are a number of options for dealing with foul sewage. The preferred option is a connection to Welsh Water's Public Sewer either by gravity sewer or a pumped connection to the public sewer. If this is not achievable then any other means of disposal should comply with Building Regulations Document H hierarchy. A septic tank is unsuitable in this location due to impermeable ground conditions, however a self contained treatment plant may be feasible. The cesspool is not a sustainable long term option due to associated emptying and disposal costs and the associated vehicle movements. and should only be used if further investigation proves that the other options are not achievable.

3.09 Surface Water

All the surface water generated from the access road, caravans, hard standings and wash rooms needs to be collected and then drained to an attenuation system on the site. A pumping station may be required and an interceptor. This method of dealing with surface water is acceptable in principle subject to a condition on the detailed design.

3.10 Natural Resources Wales

The site is not within the identified flood zone maps or the development advice maps associated with Technical Advice Note 15 (Development and Flood Risk).

Drainage

No objections to the proposed development in principle, however, have the following comments for consideration:

Our comments on the private drainage system (cesspit) are made only on the understanding that no public foul sewer is available to serve the development. Should the sewer be located within 33 metres of this site then connection should be made. All foul drainage from the site shall be contained within a sealed and watertight cesspool, fitted with a level warning device to indicate when the tank needs emptying. The contents of the cesspool shall be taken to an identified sewage treatment works for full biological treatment.

We recommend that surface water drainage is served by a fuel interceptor prior to discharge into a watercourse.

3.11 Welsh Water

As the applicant intends utilising a cesspit facility we would advise that the applicant seeks the appropriate advice from the Building Regulations Authority or an Approved Inspector. However should circumstances change and a connection to the public sewerage system/public sewage treatment works is preferred we must be reconsulted on this application.

A water supply can be made available to serve this proposed development.

3.12 SP Energy Networks

The site is crossed by a 33,000 volt overhead line. Any structure or bund under the line is of concern, as if anyone come into contact with the line or even approaches too close to it, it is likely to result in serious injury or death. It is essential that no construction takes place which has the potential to reduce the statutory clearances between the lines and the ground, particularly a structure which someone can stand on. The Electricity Safety, Quality and Continuity Regulations 2002 sets out the clearances between conductors and the ground. Anyone working on the construction of the bund and fence could be in danger and would fail to meet Health and Safety at Work Act.

The line would need to be diverted to allow for the safe construction of the development. There is a diversion process which may involve the consent of third party landowners.

3.13 Welsh Government Highways

The Welsh Government as Highway Authority for the A55 trunk road does not issue a direction in respect of this application.

3.14 Education

The nearest primary school is Ewloe Green Primary School, where pupil numbers already exceed the number of children on roll by 36. The recent planning application for residential development on the allocated site directly adjacent to the school was required to provide a commuted sum toward the school. The next nearest Primary School is Northop Hall with a surplus of 83 places or Hawarden Penarlag which has a surplus of 26 places. The nearest faith schools are Rector Drew Voluntary Aided school in Hawarden (Junior only) with a surplus of 24 places and St. Ethelwold's (with Infant provision) with a surplus of 40 places, which are both Church of Wales schools and Venerable Edward Morgan School in Shotton which is Roman Catholic with a surplus of 10 spaces.

4.00 PUBLICITY

4.01 Press Notice, Site Notice and Neighbour Notification

205 objections have been received on the following grounds;

- Site is in open countryside, green barrier/Green Belt, outside any settlement boundary, and is a departure from the Flintshire UDP.
- Contrary to policy GEN3 – Open Countryside of the UDP, GEN4 – Green Barriers and HSG14 – Gypsy Sites of the UDP.
- Out of character with the area.
- Could set a precedent for housing on the site in further due to the permanent amenity buildings, if allow five pitches this could lead to more in the future.
- 5 families possibly extended with visitors is a large community of people to introduce into the area.
- Visual impact of the development and the impact of caravans in a rural location.
- Proposed bund and fence would ruin open/rural aspect.
- Proposed bunding contravenes Health and Safety advice in relation to its proximity to overhead cables.
- Noise assessment not accurate given it took place on one day only.
- Fence and bund would not mitigate against noise.
- Green spaces should be protected from development.
- There are 2 existing gypsy sites within 10 minutes of this site, we don't need anymore. There is no proven need for this site.

- The field lies in the path of the proposed changes to the A55/A494 by WG, to allow development here could cause logistical problems in the future if the residents needed to be relocated.
- The site would be inappropriate for ordinary residential development and same should be applied to this.
- Impact on residential amenity e.g. hours of use.
- Impact on the character and appearance of the area.
- The visual impact would be a deterrent to potential guests at the Holiday Inn, particularly wedding customers and users of other businesses at the services across the A55 from the site and would not lead to further investment in the hotel or other businesses.
- Impact on tourism in the area, local hotels.
- No proposed screening adjacent to the lane, the existing trees and hedge are deciduous so the site would be visible at certain times of year.
- Detrimental impact on adjacent woodland.
- Site is between two European Special Areas of Conservation (SAC), this development could affect the integrity of movement of great crested newts between SAC sites.
- Site is adjacent to Ewloe Barn ancient wood which could be damaged by site occupants.
- No ecological survey of the site has been carried out, active bat population.
- Impact on wildlife.
- No infrastructure on the site for sewage or surface water drainage, therefore potential for pollution to the adjacent drainage ditches.
- Potential for noise pollution, from generators if required and also the general noise impacts from people living on the site.
- Capacity of local services, schools and doctors, impact on community services.
- No electricity or water supply to the site.
- The lane has flooded previously and this would only get worse, potential flooding of drainage ditches which are currently stagnant.
- The land is always water logged therefore any building would be unstable.
- High voltage overhead cables cross the site, which could be a fire hazard and harmful to children.
- The site was previously an industrial site and is likely to be contaminated.
- No mention of business use on the site and the visual impact of potential commercial uses on the site and associated contaminated.
- Dogs and other animals and children may stray onto the A55 and cause a hazard.
- There are no local shops or amenities in the area, therefore site

residents would have to use their cars to access any services, the site is not sustainable.

- It would not be safe for children and women to walk along the lane.
- The health impacts to site residents of living under pylons.
- Impact on highway safety.
- Insufficient night time lighting along access.
- Magazine Lane is a narrow country lane with no footpath, too narrow for additional large vehicles and caravans or for two vehicles to pass, it is a single track road with passing places and already has agricultural traffic using it, such as milk and oil tankers and tractors.
- Would cause disruption with farm traffic which need to access the fields for stock and harvesting.
- Any increase in traffic would conflict with the use of the lane by pedestrians and other recreational uses such as horse riding, cycling, dog walking, jogging etc, which is well used by local people and the school for nature walks.
- Visibility from the access onto Magazine Lane is poor.
- Access from Magazine Lane/Green Lane on to Main Road is opposite a school and would lead to an increase in additional traffic onto a busy road with poor visibility at the junction, also there is a housing development proposed next to the school which would increase traffic.
- Poor visibility at junction with Magazine Lane onto Pinfold Lane at the Northop Hall end of the road.
- Inadequate access for refuse vehicles and emergency vehicles.
- The site is close to the A55 expressway, concern about impact of air borne pollutants on site residents, particularly young children and the impact of noise pollution from the traffic.
- The space needed for 5 plots, with caravans and cars could lead to parking on the lane.
- Increased surface erosion/damage to Magazine Lane/Green Lane, which has been repaired recently due to damage by heavy vehicle use.
- Other people have been refused planning permission for developments and changes of use on Green Lane on highway grounds.
- The lane is impassable during heavy snow and ice, concern over emptying of cesspool during the winter months if this occurs.
- The farmer needs access along the lane at all times to move stock and machinery.
- Site residents may try to cross the A55 to get to the services which could lead to loss of life.
- Environmental impact of pumping potentially contaminated run off water into surrounding insufficient ditches

There are records of badger setts in the local area therefore the site would be part of the foraging area. A short stretch of green belt will also be damaged. Without continuity wildlife corridors and their inhabitants cannot survive.

4.03 Campaign for the Protection of Rural Wales

No need for this development, the site has no services, visual impact, health and safety issues in relation to noise and electricity pylons, traffic generation and lack of information on the natural environment.

4.04 Deeside Ramblers

Concerned about the impact the development would have on walkers which is regularly used for organised walks, concern about road safety and conflict with walkers on rural lanes. Magazine Lane is promoted through 'Walkabout Flintshire' for pedestrians and an increase in traffic will endanger walkers.

5.00 SITE HISTORY

5.01 047725 Change of use of land for the stationing of caravans for the residential purpose for 5no. gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use and retention of existing stables. Withdrawn 02.09.10.

047896 Change of use of land for the stationing of caravans for the residential purpose for 5no. gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use and retention of existing stables. Refused 12.01.12

049152 Change of use of land for the stationing of caravans for the residential purpose for 5no. gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use and retention of existing stables. Refused 12.01.12 Dismissed on appeal 08.10.12

6.00 PLANNING POLICIES

6.01 **National Policy - Planning Policy Wales**

Local Authorities are required to assess the accommodation needs of Gypsy families in accordance with the Housing Act 2004. Sections 225 and 226 of the Housing Act 2004 came into force on 13th December 2007. This requirement is reiterated in Planning Policy Wales Edition 5, November 2012 (9.2.21).

6.02 **Welsh Assembly Government 'Accommodation needs of Gypsy-Travellers in Wales' (2006)**

This independent study was commissioned by the Assembly Government in December 2004 to establish current and future requirements for the accommodation needs of Gypsies and Travellers in Wales. It provided information on the number, location and

condition of Gypsy and Traveller sites in Wales and also provided an indication of the need for new site provision. The study contained a number of conclusions and 28 recommendations for the Welsh Assembly Government and Local Authorities to take forward in terms of policy formulation; the existing site network; the need for additional residential site provision; the need for transit site provision; site management; and social housing.

6.03 Welsh Assembly Government Circular: WAGC 30/2007. Planning for Gypsy and Traveller Caravan Sites in Wales.

This circular replaced Welsh Office Circular 2/94 "Gypsy Sites and Planning". It provides updated guidance on the planning aspects of finding sustainable sites for Gypsies and Travellers. Local housing market assessments provide the key source of information enabling local authorities to assess the level of additional Gypsy and Traveller accommodation provision that is required when preparing Local Development Plans.

6.04 Where there is an assessment of unmet need for Gypsy and Traveller accommodation in the area, local planning authorities should allocate sufficient sites in LDP's to ensure that the identified pitch requirement for residential and transit use can be met. It also states that in order to encourage private site provision, local planning authorities should offer advice and practical help with procedures to Gypsies and Travellers who wish to acquire their own land for development.

6.05 The Circular states that in deciding where to provide gypsy and traveller sites, local planning authorities should first consider locations in or near existing settlements with access to local services. Sites on the outskirts of built-up areas may be appropriate along with sites in rural or semi-rural settings. Rural settings, where not subject to specific planning or other constraints, are acceptable in principle.

6.06 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 effectively block proposals for any Gypsy and Traveller site in a rural location. Sites should respect the scale of and not be so large as to dominate the nearest settled community serving them and should avoid placing an undue burden on the local infrastructure. Sites, whether public or private should be identified having regard to highways considerations with regard to the potential for noise and other disturbance from the movement of vehicles to and from the site, the stationing of vehicles on the site and on-site business activities. Proposals should not be rejected if they would give rise to only modest additional daily vehicle movements and/or the impact on minor roads would not be significant.

6.07 With regard to the Human Rights Act, the Circular states that the

provision of the European Convention on Human Rights should be considered as an integral part of local authorities decision making, including its approach to the question of what are material considerations in planning cases. Local planning authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of individuals concerned, both Gypsies and Travellers and local residents, and whether it is necessary and proportionate in the circumstances. The obligation on public authorities to act compatibly with Convention rights does not give Gypsies and Travellers a right to establish sites in contravention of planning control.

6.08 Application of the Circular in respect of this application

For the purposes of this Circular and therefore in the context of determining planning applications the definition of "Gypsies and Travellers" means, *"persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such."*

6.09 The requirements of the Circular need to be considered in the context of Flintshire's development plan position. The Council has adopted its UDP prior to beginning work on the preparation of the new LDP for the County, when the requirements of the Circular can be progressed. The Council is satisfied that the existing criteria based policy approach towards the consideration of proposals for gypsy site provision provides an adequate context, until the whole issue is revisited as part of the preparation of the new LDP for the County. This approach was supported by the UDP Inspector subject to alterations to the accompanying text to reflect the current position in relation to the accommodation needs assessment for gypsies and travellers.

6.10 Flintshire Unitary Development Plan

STR1 – New Development

GEN1 – General Requirements for Development

GEN3 – Development in the Open Countryside

GEN4 – Green Barriers

D1 – Design Quality, Location and Layout

D2 – Design

D3 – Landscaping

D4 – Outdoor Lighting

TWH1 – Development Affecting Trees and Woodlands

TWH2 – Protection of Hedgerows

L1 – Landscape Character

WB1 – Species Protection

EWP12 – Pollution

EWP13 – Nuisance

AC13 – Access and Traffic Impact

7.00 PLANNING APPRAISAL

7.01 Introduction

Planning permission is sought for the change of use of the land for 5 residential gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use and retention of existing stables. This is a resubmission of application (049152) which was dismissed at appeal. The main additions to this application are the submission of a Noise Assessment and an Air Quality Assessment. The results of the Noise Assessment have led to the extension of the landscaping bund and fence into the site along its southern and northern boundaries. The other aspects of the application remain the same as those considered as part of application (049152) and considered by the Inspector at appeal.

7.02 Site Description

The 0.6ha site lies in the open countryside between the settlements of Ewloe and Northop Hall. The site is bounded by the A55 expressway to the south west and Magazine Lane to the north east. To the north west is a small area of woodland and to the south east is agricultural land. There are power lines running across the application site from north west to south east. The site has existing hedgerows and trees around the boundaries of the site. The site is relatively flat and is currently used for the grazing of horses. There are the remains of an open fronted barn on the site.

7.03 Proposed Development

Planning permission is sought for the change of use of 0.6 hectares for 5 residential gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use. The proposed site would be laid out into 5 pitches, with internal boundary treatment of 1.8m high close boarded fence between each pitch and a post and rail fence marking the boundary to the site. The pitches are proposed on the north eastern side of the site adjacent to Magazine Lane with the proposed internal access road adjacent to the A55. The proposed site layout utilises the existing agricultural access from Magazine Lane. There is an internal access road leading to each pitch with a turning head between pitches 4 and 5 to allow for refuse vehicles.

7.04 Each pitch would have a static caravan, a touring caravan and an amenity building, providing cooking and washing facilities. The proposed amenity buildings are 8 metres by 5 metres, with pitched roofs measuring 4.5 metres in height to the ridge. They are proposed to be single storey brick buildings with reconstituted slate tiled roofs and timber windows. Each building is proposed to have a solar hot water panel and rain water butt. Provision for the parking of at least 2 vehicles will be provided per plot.

7.05 It is proposed to retain the existing stable which is on the site. At the appeal this was removed from the description of development, however it is part of the current development proposal. It is assumed the stable would remain in its current condition as no details in relation to it have been submitted as part of the application.

7.06 A continuous 1.8m high earth bund parallel to the A55 is proposed along the foot of the existing embankment, topped with a 2m high close boarded fence. This was proposed as part of the previous application, but as a result of the Noise Assessment the bund and fence now continue into the site at the north western boundary by 14 metres and south eastern boundary by 22 metres into the site.

7.07 While the details of the site occupants were put forward at the appeal, no details of the proposed occupants have been put forward as part of this application. The personal circumstances of the occupants are therefore not taken into account.

7.08 Issues

The principle consideration when assessing the suitability of a site as a gypsy and traveller site is after weighing up the site and policy constraints, if any identified harm still outweighs other material considerations in favour of granting permission such as the need for gypsy and traveller sites, the provision of alternative sites and the personal circumstances of the site occupants.

7.09 This application differs in that it has been to appeal in a similar form and has therefore all of the issues have been examined by an Inspector through the Public Inquiry process. It is relevant therefore to focus on the conclusions of the Inspector in relation to the key issues and consider whether this application addresses all of the issues raised in his report.

7.10 To summarise the Inspector considered that;

Green Barrier

- The proposal was inappropriate development in the green barrier contrary to Policy GEN4.
- The open character and appearance of the green barrier would be adversely affected but to a limited extent
- It would make a marginal contribution to the coalescence of settlements as well as encroaching in to the countryside.
- Very exceptional circumstances need to be shown which would outweigh these impacts.

7.11 Other issues

- Gypsy sites are acceptable in principle in rural settings and will inevitable have some impact on their surroundings. In this case that impact would not be unacceptable.
- The type and level of traffic likely to be generated by the

proposal can be accommodated on the highway network without unacceptable risk to highway safety or loss of amenity for other users.

- The proposal satisfies the specific UDP gypsy criteria set out in Policy HSG14
- Serious concerns that living conditions on the site would not be acceptable particularly through the impact of noise from the A55 and possibly because of air quality
- neither concerns over highways safety and amenity nor drainage or ecological matters add to the case against granting planning permission.

7.12 Need

- The regional, local and personal need for additional pitches is a significant factor in support of the proposal, as is the lack of suitable and available alternatives to that proposed.
- The potential expansion of the Riverside site is not sufficiently advanced.
- Failure of the policy thus far to make adequate provision to meet need over a long period.

7.13 Exceptional Circumstances

- Very exceptional circumstances are therefore in place sufficient to outweigh the green barrier impacts

7.14 Temporary Permission

- Circumstances to suggest a temporary or time limited permission as set out in Circular 30/2007 are not in place.
- The Council's LDP is at an unacceptably early stage to generate a reasonable expectation that it will result in available sites by the end of the temporary period.
- The expansion of Riverside as an alternative is not reliable.

7.15 Overall the Inspector concluded that planning permission should not yet be granted due to the unsatisfactory living conditions which the site might provide because of traffic noise and pollution. He referred to advice in Planning Policy Wales in relation to noise levels, in that a careful assessment should be made before determining planning applications, possibly with a technical noise assessment provided by the applicant. He also made reference to Technical Advisory Note 11 Noise which points out that the weight to be given to such matters may be affected by other considerations, such as the need for the proposed development. The Inspector concluded that whether that is so or not in this case cannot be properly assessed until the implications of traffic noise and pollution from the A55 are known. The Inspector felt that this matter could not be dealt with by condition as having regard to the Noise Exposure Categories in TAN11, the possibility remains that the site may not be acceptable for noise sensitive development such as that proposed or could not be made

acceptable.

7.16 The relevant issues and site constraints are discussed in detail below in light of the above Inspectors conclusions, with an assessment of need at the end of the appraisal and an assessment of where it is considered the balance now lies.

7.17 Green barrier and landscape impacts

In relation to policy GEN4 (g) 'other appropriate rural uses/development for which a rural location is essential', the Inspector considered that the proposal is for an appropriate rural use but it is not essential that it has a rural location. He considered that it would reduce the openness of the green barrier and have an adverse impact on its character and appearance, furthermore it would conflict with important purposes for the green barrier designation. He suggested that with care, however, the scheme would be reasonably well screened by existing and proposed hedgerows and planting, which would safeguard the otherwise undeveloped appearance of the site and surrounding countryside. He also considered that since gypsy sites are, in principle acceptable in rural settings, some impact is to be expected and is not itself good case for rejecting such proposals. With respect to the other aspect of green barrier policy he considered that the scheme would contribute to coalescence between settlements but the scale of the threat created would be marginal. He concluded that these factors temper but do not overcome the green barrier objection.

7.18 The current application has one physical addition from the previous application, namely the extension of the bund and fence on top of it, into the site along the north western boundary by 14 metres and south eastern boundary by 22 metres as noise mitigation. The other aspects of the scheme remain the same as that considered by the Inspector at appeal.

7.19 In light of the Inspectors conclusions on the green barrier and the addition of the bund and fence extension the Council commissioned the advice of an independent landscape architect to assess the impact of the proposal on the green barrier, the landscape and the open countryside. This assessment considered the landscape impacts of the site from Magazine Lane, as well as other key viewpoints including the A55 and the services on the other side of the A55.

7.20 In terms of the impact of the development on wider landscape character in relation to policy L1, it is relevant to refer to LANDMAP which is the baseline data for assessing landscape impact in Wales. The application site lies within the area of the Flintshire LANDMAP area that is described topographically as 'rolling / undulating fields of hedgerows with trees'. Overall the aspect area is considered visually of moderate value as an area of local landscape importance.

- 7.21 The assessment included an appraisal of the impact of the proposal from the Services and Holiday Inn on the western side of the A55. The existing woodland planting along the length of the proposed site adjacent to the A55 would provide a screen to the proposal. Commonly caravans are white and would therefore have an enhanced adverse visual impact. In this case the angle of the view of the site will be interrupted by both the existing vegetation and the fence so that the proposed caravans and mobile homes would only be partially visible. The impacts of the proposal from this location would be considered adverse to a medium degree. The visual impacts to motorists travelling along the A55 would be minor as views of the site would be fleeting and at a lower angle, although it would be clear there was a development in this location.
- 7.22 Consideration of the landscape impacts from users of Magazine Lane as raised by objectors was also considered. The wooded boundary to Magazine Lane comprises a variety of vegetation where the substantial forms are mature trees in poor condition that provide a relatively poor visual screen. Users of the lane would therefore obtain views into the site of fencing, caravans and an entrance gate clearly indicating the existence of the development. There would be consequent adverse impacts to the landscape both in terms of landscape character and visually.
- 7.23 Although the Inspector previously considered that the site is, and could be well screened with further planting, the current proposal has the addition of the bund and fence wrapping into the site on the north western and the south eastern boundary, which would be almost 4 metres in height in total. The Inspector also considered that as gypsy sites are acceptable in rural areas, some impact is expected. However the physical additions to this scheme would add to the developed appearance of the site and would make any screen planting less effective. It is therefore considered that in light of the landscape comments that the proposal would have an adverse impact on the landscape, contrary to Policy GEN4, L1 and HSG14 c) as in landscape terms the development would contribute to the coalescence of settlements and would harm the open character and appearance of the green barrier.
- 7.24 Overhead Electricity Lines
The site is crossed by a 33,000 volt overhead line. While the previous site layout had no implications for this infrastructure, the revised application proposes a 2 metre high landscaping bund and additional 2 metre high fence which pass underneath the overhead lines. Scottish Power own this equipment and have a duty under The Electricity Safety, Quality and Continuity Regulations 2002 set out the minimum clearances between overhead lines and the ground. For 33,000 volt lines this distance is 5.8 metres for roads 5.2 metres for other locations. Scottish Power are concerned about any structure or bund under the line which would reduce this clearance and

increase the potential for anyone to come into contact with, or close to the line as this is likely to result in serious injury or death. They are also concerned about the introduction of a residential use of this nature underneath the power line as it increases the risk of danger to site occupants and has potential implications for the public in general. Scottish Power advise that it is essential that no construction takes place which has the potential to reduce the statutory clearances between from the lines and the ground, particularly a structure which someone can stand on, such as a bund and fence. Also anyone involved in the construction of the bund would fail to comply with the Health and Safety at Work Act and Health and Safety Executive Guidance Note: GS6 Avoidance of Danger from Electricity Overhead Lines and the Electricity at Work Regulations.

7.25 The line would need to be diverted to allow for the safe construction of the development. There is a diversion process which may involve the consent of third party landowners, along with a developer contribution, although the feasibility of this would need to be assessed.

7.26 Road Safeguarding

The application site is affected by the TR11 Protected Route, but within the National Transport Plan 2010 – 2015 there are no schemes identified at present. WG state at this time it is not certain in the future whether any scheme affecting this road would be progressed or whether other options as an alternative to a road scheme would be pursued instead. Furthermore even if any physical scheme is put forward, for post 2015, it would be 5 to 10 years before any scheme is progressed to construction stage.

7.27 Since the consideration of the last application Welsh government have commissioned AECOM to undertake a transport study (A55/A494 WeITAG Study) on the A55/A494 Corridor in North East Wales to identify a strategy for improving transport provision in the area considering all modes of transport. The Stage 1 Appraisal was published in July 2012. The study area for the A55/A494 Study includes the application site.

7.28 The aim of this study was to identify a small number of preferred packages for further assessment as the next part of the appraisal. These packages are categorised into; Managing Demand, Making Best Use and Capacity Enhancements. Within the latter category two of the packages considered were highway capacity improvements along the A55/A494 corridor. Both of which would involve physical improvements to the existing road corridor which would have direct impacts on the application site. The packages were discussed at a stakeholder event and then assessed using a set of qualitative environmental, economic and social criteria. Following this initial assessment two packages have been identified for assessment at Stage 2. One which includes a set of multimodal improvements utilising the existing A55/A494 alignment and one making use of the

A458 alignment to provide an alternative route for strategic traffic. The precise details of these packages will be refined ahead of the Stage 2 Assessment to allow the detailed appraisal to be undertaken. The exact nature and detail of these proposals, timescales involved and exactly how it may affect the application site are not yet known. As there is no definite scheme in place the WG would not issue a direction in relation to this application at this time.

7.29 Highways

The roads leading to the application site are rural roads of varying widths. Concerns have been raised about the increase in traffic generated by the proposed development, due to the nature of these rural roads and the potential for conflict with other road users, pedestrians, horse riders etc who use this area for recreation.

7.30 Magazine Lane is narrow without pedestrian footways but already serves a mix of residential and farm properties and serves as an alternative route from Mold Road to Northop Hall. The Inspector accepted that the network is less than ideal and includes sections with awkward horizontal and vertical alignments, is relatively narrow, often single carriageway, with unevenly distributed passing places and a long section alongside the appeal site which is relatively straight and could encourage higher vehicle speeds than elsewhere.

7.31 It is considered that the development would generate a low level of traffic that could be accommodated on Magazine Lane and that a safe access can be created from the site onto Magazine Lane utilising the existing access point. In terms of the access roads and the junctions leading to the site, the visibility for traffic at the Green Lane junction exiting onto the B5127 Mold Road, is acceptable with a 2.4m x 40m splay available in both directions. There is no evidence of congestion at this junction and the small increase in traffic is very unlikely to affect the safe operation of this junction. Similarly the small increase in traffic is very unlikely to affect the safe operation of the junction with Robin Hood Lane/Chester Road. In terms of the potential conflict with school traffic, Ewloe Green School is located some 100 - 120 metres west of the Green Lane junction and although the area surrounding the school is busy for short periods of time each day, this very small increase in traffic will not increase the safety risks.

7.32 Prior to the appeal the applicant commissioned an analysis of the characteristics of the highway network and gathered empirical traffic survey data and applied current design guidance. This confirmed the highway authority's estimate of the anticipated traffic generation from the site and its other conclusions set out above. There was no evidence put to the Inspector that a slight increase in traffic on Magazine Lane would be detrimental to highway safety.

7.33 Magazine Lane is already used by heavy vehicles often associated

with the agricultural uses in the area. There is also no record of any accidents on this road in relation to the current situation and little to substantiate it put forward at the Inquiry. The Inspector in his report commented that for the most part the proposal would generate domestic and light commercial vehicle movements. He acknowledged that there would be occasions when touring caravans would be towed along the lanes with the possibility of added congestion and interruption of traffic movement, however the indications are that this would not be a frequent or unacceptable occurrence. He also considered that this would be the case with tankers which would need to attend to the cesspool.

- 7.34 There is lawful use of land to the rear of Brookwood, Green Lane for the parking and storage of touring caravans, which has been in use since permission was granted in 1984. There are no restrictions on the number of caravans that can be stored on the site. There have been no known highway accidents as a result of this and the site is still in operation.
- 7.35 The Inspector concluded that large vehicles use the lanes now and while that may on occasion be inconvenient for other road users, there is no evidence that the small increase of larger vehicles could not be safely and reasonable accommodated.
- 7.36 The Inspector also referred to the use of the lanes by walkers and joggers and school children. He acknowledged that the lanes are unlit and do not have footways which increase the potential associated risks for pedestrians, however he states that shared uses of highways are not unacceptable and the traffic flows and speeds currently experienced on Magazine Lane are substantially below the thresholds for which the concept of Quiet Lanes, involving such shared uses is considered appropriate.
- 7.37 With regard to the potential for site residents or animals to stray onto the A55, it is considered that the potential for this would be very low and if required would be dealt with by police enforcement. In any event there are numerous examples of animals grazing adjacent to this stretch of the A55 and the nature of the proposed development would not increase the potential for incidents of animals straying on the A55.
- 7.38 The Inspector concluded that whether or not the increase in vehicle movements is statistically significant, in real terms it would be low level and modest. The Inspector then made reference to WG Circular 30/2007 which states "proposals should not be rejected if they would give rise to only modest additional daily vehicle movements and/or the impact on minor roads would not be significant."
- 7.39 Ecology
The need for an ecological survey and wildlife concerns have been

raised by a number of objectors, along with the potential for the development of this site to affect the movement of European Protected amphibians between the component parts of the Special Area of Conservation (SAC and could affect the site's integrity.

7.40 The site is a horse grazed pasture of poor quality grassland and therefore has low ecological value. The key features on the site in terms of ecology are the trees and hedgerows which are not affected by the proposed development. Conditions could ensure that these are retained. The layout plan proposes to enhance the existing hedge adjacent to the A55 with new hedge planting of native species, which would improve these existing corridors for nesting birds and foraging bats.

7.41 The Inspector considered that although there may be badgers in the adjoining woodland and bats frequent the locality, nothing specific was provided to establish that the scheme would have an adverse impact on them. He concluded that to the extent that the woodland could be disturbed by, for instance, the occupants dogs – which would not be lawful – it was agreed at the Inquiry that a dog proof fence could be erected along that boundary, imposed by a planning condition.

7.42 Road Noise

The Inspector was concerned that the level of traffic noise at the site might provide unacceptable living conditions for the site occupants and suggested that a technical noise survey should be undertaken. He saw no justification for the view previously taken by the Council that residential caravans should not be treated as noise sensitive development in the same way as permanent dwellings or that their occupants should be allowed to be exposed to higher levels of noise than considered acceptable for other sectors of the community. The Inspector stated that caravans are a form of housing and are more vulnerable since usual noise mitigation measures cannot be built into them. It is considered that the site should be assessed against the Noise Exposure Categories for residential development as set out in Technical Advice Note 11. (TAN 11)

7.43 Noise Exposure Categories have been derived to assist local planning authorities in their consideration of planning applications for residential development near transport related noise sources. TAN 11 states that local planning authorities should consider whether proposals for new noise sensitive development would be incompatible with existing activities, taking into account the likely level of noise exposure at the time of the application and any increase that may reasonable be expected in the foreseeable future. Such development should not normally be permitted in areas which are, or expected to become, subject to unacceptable high levels of noise and should not normally be permitted where high levels of noise will continue throughout the night.

7.44 Tan 11 Noise Exposure Category Tables

Noise Levels ⁽¹⁾ corresponding to the Noise Exposure Categories for New Dwellings L _{Aeq,T} dB					
Noise Source		Noise Exposure Category			
		A	B	C	D
road traffic	0700-2300	<55	55-63	63-72	>72
	2300-0700 ⁽²⁾	<45	45-57	57-66	>66

TABLE 1: NOISE EXPOSURE CATEGORIES	
A	Noise need not be considered as a determining factor in granting planning permission, although the noise level at the high end of the category should not be regarded as desirable.
B	Noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection.
C	Planning permission should not normally be granted. Where it is considered that permission should be given, for example, because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise.
D	Planning permission should normally be refused.

7.45 The revised application was accompanied by a Noise Assessment undertaken by Tim Green Sound dated 16th October 2012. A day and night time noise survey was undertaken at the site on the 9th and 10th October 2012. The data is then assessed against the Noise Exposure Categories (NEC) for residential development as set out in TAN 11. The measured data from the assessment puts the site into NEC C for day time noise and NEC C for night time noise. Due to the results of the noise survey the proposed bund and fence which was proposed only parallel with the A55 is extended into the site along the north western boundary by 14 metres and south eastern boundary by 22 metres of the site. The Noise Assessment considers that this would provide effective mitigation of the noise generated by the A55 and brings the daytime figures into NEC A and the night time into NEC B. These levels would apply to outside noise levels. The maximum night time measured levels for night time noise fall on the highest limit of NEC C. This would be mitigated to a lower level within NEC C with the noise barrier.

7.46 The assessment makes an assumption that the accommodation on the site would be a Park Home built to BS 3662: 2005 which provides a level of insulation suitable for all year round living and full residential use as opposed to other static caravans which are intended for summer use and therefore built to lower insulation levels (BS 1647).

acceptable for living rooms at 40db which is achievable for a Park Home built to BS 3662: 2005. The noise levels within a Park Home built to BS 3662: 2005, would be reduced further to within NEC A, although this excludes doors, windows and ventilation apertures. The noise levels deemed reasonable for gardens by World Health Organisation (WHO) are within the range of 50 – 55dB. The mitigated external daytime figure for the proposal is 54dB. The noise assessment states in its conclusion that “the environment of road traffic activity is common to the lifestyle and methods of livelihood of the Traveller Community. The noise associated with environments is not at odds with their way of life and the levels would offer no physical harm to the intended occupants hearing.”

- 7.47 The Council considers that the limited amount of noise data submitted with the application contained in the applicant’s noise report does not take into consideration all the necessary factors associated with the traffic density or traffic noise likely to be experienced at this location over an extended period.
- 7.48 The Welsh Assembly Government (WG) has recently published noise maps for this area, and others throughout Wales, under The Environmental Noise (Wales) Regulations 2006 and Environmental Noise Action Planning (Wales) Roads Action Plan for Wales. The specific noise map covering this site clearly shows that the application site will be affected by much higher noise levels than has been so far measured by the applicant and could fall within NEC D. Whilst the noise maps rely on calculations rather than direct measurements they are based on sound scientific principles and road traffic data including types of vehicles etc, over a significant period.
- 7.49 It is well known that weather and meteorological conditions have a significant effect on noise. With particular reference to road traffic at this location due to the speed limit of 70mph the predominant noise source is the wheel road interactions. This noise increases considerably under wet conditions which is not an uncommon situation in this country.
- 7.50 In respect of the A55 there are other important factors to take into account which will affect noise levels. While rush hours are a daily occurrence during the working week Monday to Friday, summer traffic flows are much higher along this stretch of road, than during the measured time period. This can produce prolonged heavy traffic flows similar to “rush hours” often these will continue until late at night on busy weekends and bank holidays.
- 7.51 There is also a period during the early hours on most nights of the year when traffic flow is suddenly higher on the east bound carriageway immediately adjacent to the application site, when convoy’s of HGV’s pass following disembarkation from the Holyhead Ferry terminal. Times can vary but is typically between 1 and 3am. This is seen in a graph in the submitted Noise Assessment but is not

referred to.

- 7.52 Overall it is considered that the actual site noise levels will generally be much higher measured during the one day exercise. There is insufficient data to establish which category the development will fall into given a full range of noise level data. The proposed barrier will not provide sufficient mitigation to the development as the road level is at a similar height to the top of the proposed barrier and bund and the effectiveness is limited to -12dBA. The site will fall into a higher TAN 11 category than predicted by the noise report. It is likely to be in NEC C during both day and night and possibly even NEC D. If the site does fall within NEC C as set out above, "planning permission should not normally be granted". It states "where it is considered planning permission should be given, for example, because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise". It is not considered in this case than any conditions could be imposed to mitigate the noise levels.
- 7.53 The Noise Assessment submitted with the application states that the mitigated noise levels fall just within the design criteria for gardens at 54dB. The mitigated levels are at the "top end" of what can be considered reasonable under BS 8233 which is based on the World Health Guidelines for Community Noise. The WHO guidelines identify adverse health effects arising from community noise which people might be subjected to in specific environments and at specific times. These levels are only to be used as a guide and are not definitive. It is not correct to use them as such. Along with hearing impairment, they also identify both direct risks - including annoyance, sleep disturbance and impaired performance - and indirect risks, cardiovascular and stress effects. Whilst it is unclear as to the precise level of noise at which health is affected it is understood that groups including children, the elderly and infirm persons are more vulnerable. It is a concern that while some of the site occupants may go travelling, it is likely that it is the members of the family who fall within the more vulnerable groups that may be left behind to reside on the site. Also this could be during the summer months when traffic noise is at its peak.
- 7.54 The nature of the lifestyle of occupants on residential gypsy sites such as the one proposed is that the outside areas are utilised more frequently by the families and especially children playing together, therefore it is considered that for this proposed use the noise levels outside are more significant than when considering general garden use for a residential property.
- 7.55 The Noise Assessment assumes the accommodation on site to be Park Homes designed to BS 3632:2005. This standard of mobile home could be conditioned, however, as this standard of insulation would not apply to the windows and doors it would also require an additional condition for a scheme of enhanced double glazing. The

sound insulation qualities of the caravans are greatly reduced if windows and doors are open, which would be difficult to enforce. In addition to the proposed static caravans each plot has provision for an additional touring caravan to be positioned in each plot. Touring caravans are designed to a lower insulated standard than Park Homes as they are not intended for permanent living. While these are used for travelling particularly during the summer months, it would be difficult to prevent the families from using these as living accommodation when they are on the site. With regard to the day rooms, as these do not contain bedrooms or living rooms it would not be appropriate to impose the BS 8233 requirements, however due to the intended use of the rooms for washing etc, it is likely that occupants could spend a significant time in these areas and be subjected to higher noise levels.

7.56 TAN 11 states that measures to control the source of, or limit exposure to, noise should be proportionate and reasonable. In order to increase the effectiveness of the barrier and bund they would have to be significantly larger than the proposed design which is unlikely to be achievable in the limited space of this site and would have landscape and green barrier implications.

7.57 If the site does fall within NEC C as set out above, “planning permission should not normally be granted”. It states “where it is considered planning permission should be given, for example, because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise”. It is not considered in this case that any conditions could be imposed to mitigate the noise levels to adequately protect the amenity of the proposed residents. In any event the site could fall within NEC D, which states that permission should be refused. Overall there is insufficient evidence to demonstrate that the levels of noise generated from the A55 would not lead to unacceptable living conditions for residents contrary to TAN 11 and Policy EWP13 of the Flintshire Unitary Development Plan.

7.58 Air Pollution

An Air Quality Assessment has been submitted with the application prepared by Ricardo-AEA in January 2013 to assess air quality in vicinity of the site. This was undertaken using the Atmospheric Dispersion Modelling System which is a PC based model of dispersion in the atmosphere of pollutants released from industrial and road traffic sources.

7.59 The applicant’s air quality report shows that there is a likelihood that the air quality with regard to nitrogen dioxide and particulates PM¹⁰ will be within the current standards. However, there is additional evidence in the form of a new report from The World Health Organization “Review of evidence on health aspects of air pollution – REVIHAAP”

2013 which questions this.

- 7.60 The REVIHAAP demonstrates that there is strong evidence to suggest that the standards could be tightened in the future because many recent studies are showing correlations between health effects at lower concentrations of nitrogen dioxide both in acute and chronic illnesses. Road traffic is a principle source of several known pollutants including nitrogen dioxide and particulates of varying sizes.
- 7.61 In addition the applicant's Air Quality Assessment does not take account of particulates PM2.5 and smaller or carbon black or indeed other pollutants such as PAH's, ozone etc. These pollutants have been increasingly studied because of serious concerns they may be having on the health of people living close to such sources.
- 7.62 It is not known if these pollutants have been assessed at this location and that the potential risks associated with them have been fully investigated with reference to the proposed residential use.
- 7.63 There is insufficient evidence to demonstrate that this would not lead to unacceptable living conditions which could adversely affect the health of the site occupants which would be contrary to Policy EWP12 of the Flintshire Unitary Development Plan.
- 7.64 Drainage
Building Regulations would be required for the amenity buildings and the drainage connecting to them. The requirements for foul water drainage as set out in the Building Regulations Requirements Approved Document H propose a hierarchy in terms of potential drainage solutions. These are;
- a) a public sewer; or where that is not reasonably practicable,
 - b) a private sewer communicating with a public sewer, or, where that is not reasonable practicable,
 - c) either a septic tank which has an appropriate form of secondary treatment or another waste water treatment system; or, where that is not reasonable practicable,
 - d) a cesspool.
- 7.65 The possibility of establishing a connection to the public foul sewerage system has been fully investigated by the applicant. Welsh Water's map indicates that the public foul sewer is approximately 200 metres away to the east of the site. However, Welsh Water have stated that there is no entitlement in law for the proposed flows from a caravan site to communicate with the public sewer as these are classed as temporary structures. As a consequence Welsh Water would refuse any application to connect/communicate the flows from the development with a public sewer and advise that alternative means of drainage is considered. The Council's Drainage Engineer considers that this is the best long term option and that this should be pursued further if permission is granted as the application is for a permanent

residential use.

7.66 Initially the proposed means of treating and disposing of foul water was via an onsite packaged treatment plant and either soakaways or drainage to the local drainage ditches in accordance with option c) above. The Environment Agency and the Council's Drainage Engineer initially highlighted that discharge into the nearby drainage ditches as suggested was not possible, as the ditches were dry. Effluent should discharge into a ditch/watercourse with flowing water all year round. The other nearest watercourse 40 metres away on third party land, was also observed to be dry. Furthermore the Environment Agency and the Council's Drainage Engineer considered that soakaways may not be effective in this area due to a knowledge of local site conditions and initial ground investigations confirmed this. However recent discussions between the Council's drainage engineer and the Environment Agency on a different application with a similar drainage issue, have concluded that a self contained treatment plant can discharge to a dry ditch, if incorporated with an additional sand filter. The Council's drainage department and the Environment Agency therefore accept the principle of this. There is a ditch along the frontage of the site within the adopted highway which the applicant could discharge to, therefore this is a feasible option.

7.67 The final option available is option d) above, a cess pool. This option is acceptable to the Environment Agency as it would prevent pollution to groundwater and water courses. The proposed population on the site is 6 persons per plot, which equates to 30 people, however this would fluctuate if residents were away travelling. On a worse case scenario it is estimated that a population of this size could generate 5,000 litres of foul sewage a day. The size of the cesspool proposed is 79,000 litres which based on these volumes would need to be emptied every 15 days. This tank measures 5.8metres x 2.7 metres in diameter. The installation of the tank and the associated necessary emptying has associated costs. The size of the tankers which would empty such a tank has a capacity of 20,000 litres, therefore to would require 4 vehicles to empty the tank when full. This would lead to additional vehicles movements associated with the site in respect of this. However from a highway point of view this additional traffic and the nature of it, would not be different in nature from agricultural vehicles and it is not considered would be a highway safety issue. There is a turning head within the site designed for large vehicles to manoeuvre. There are a number of options in relation to the size of tanks which could be used and this would therefore have implications for the required frequency of emptying the tanks, for example a larger tank would lead to less frequent emptying, but more vehicle movements if emptied when full. In terms of the siting of a tank, a distance of 7 metres is required from a habitable building. There is sufficient space within the site to locate a cesspool. The Council's Drainage Engineer considers that this is not a long term sustainable solution, however it is therefore considered that there are several

feasible options for dealing with foul sewage which could be dealt with by condition. The Inspector had no issues with the foul sewage options put before him.

7.68 Surface water

The applicants initially proposed to dispose of surface water via soakaways. Ground investigations and knowledge of the drainage conditions of the site ruled this out. A method of surface water infiltration and attenuation is now proposed which would control the rate of flow into adjacent ditches. Details of a solution have been put forward by the applicant and is acceptable in principle, subject to agreeing details of the volume of attenuation required, discharge rates and which ditch to discharge to. Such matters would need to be agreed with the Environment Agency and the Council. There is a ditch which runs along the frontage of the site within the highway, therefore in the Council's ownership which could be suitable for discharging into subject to the relevant consents. A topographical survey has been submitted which shows that the site is relatively flat with minor undulation. Some minor raising of site levels or a pump may therefore be required to ensure that the surface water drains adequately into the drainage system. This approach has been agreed by both the Council's drainage engineer and the Environment Agency. The Inspector had no issues with the surface water drainage options put before him.

7.69 Need

The Flintshire Housing Strategy 2008 – 2013 refers to the Council's requirement to consider the housing needs of gypsies and travellers. The Housing Strategy sets out the key actions to achieve this aim which includes the need to undertake a full Accommodation Needs Assessment for gypsies and travellers, including for permanent, transit and emergency stop off sites. However travelling patterns of gypsies and travellers and the size of the County leads to the catchment area for sites being wider than the geographic Flintshire boundary.

7.70 The Council engaged with its North Wales neighbours in a collaborative Gypsy & Traveller Accommodation Assessment (GTAA). This is in line with Welsh Government (WG) guidance which urges *“local authorities to work in a regional capacity and share the legal, moral, financial and political responsibility to address the accommodation inequality experienced by the Gypsy and Traveller community in Wales”*. This was published last year and has been endorsed by Flintshire County Council in early 2013. The Steering Group of the study partners representing the neighbouring authorities have agreed to take the report to through its respective governance process.

7.71 Flintshire has the largest number of authorised caravan pitches to accommodate gypsies and travellers of any local authority in North Wales.

- 7.72 There are currently five authorised gypsy traveller sites in Flintshire. There is one local authority owned site 'Riverside' at Queensferry, which has 20 pitches, run by the Gypsy Council. The Riverside site was built in the 1990's and no improvements to the infrastructure had been undertaken since its initial construction. Some updating is required and the electrics to the buildings and the static caravan have recently been updated through a grant under the Welsh Assembly's site refurbishment program. At the time of the Welsh Assembly Government Biannual caravan count (January 2013) there were 26 caravans on site. There are four privately owned sites. There are two large historic sites; Corbett's Yard, Sandycroft has 22 pitches with 20 caravans on site at the time of the January 2013 count and Mitford Caravan Site, Gwespyr which has 20 pitches with 15 caravans at the time of the January 2013 count.
- 7.73 Within Flintshire there are also two smaller private sites which have been the subject of recent planning applications, enforcement action and subsequent appeals. Dollar Park is a private site occupied since March 2007. The site has a temporary planning permission for 5 years which expires on 04.02.16. This was granted on appeal following two retrospective planning applications. The permission is personal to six named families and their resident dependants who own their individual plots. The permission is for 6 plots each with permission for a static caravan, a touring caravan and a brick built amenity building on each plot. At the time of the January 2013 Count there were 8 caravans on the site. The temporary permission was granted on the basis that the site was unsuitable as a permanent site due to the impact on the rural area and the setting of the Listed Building opposite. It was allowed on a temporary basis of 5 years due to the lack of alternative site provision and based on a realistic time period for the Local Planning Authority to have reached an advanced stage of the Local Development Plan following a needs assessment. The Council therefore needs to provide an alternative site to address this need before the expiration of the temporary permission.
- 7.74 The other recent private site is at Gwern Lane, Hope, occupied since June 2010. The site is in the open countryside to the east of Hope village. Planning permission was granted on appeal on 11.05.2011, following the submission of a retrospective planning application. The permission is a permanent consent for 4 caravans, two of which are permitted to be static and a day room. The site is occupied by an extended family who previously resided on the Local Authority site in Wrexham, however the permission is not restricted to them personally although they are the land owners. The site was fully occupied at the time of the January 2013 Count.
- 7.75 At the time of the January 2013 Count there was an unauthorised encampment of 5 caravans at Dock Road, Connah's Quay.

- 7.76 The difficulty with the information provided from the caravan counts is that it records the number of caravans and not the number of pitches occupied and it is usual for there to be more than one caravan on each pitch which distorts the figures and makes it difficult to assess the number of vacant pitches. However on the basis of the evidence we have it appears that these sites are fully occupied. There are also a further two small sites each with two caravans on which are historic sites and not included in the caravan counts.
- 7.77 As the methodology of The North Wales Gypsy & Traveller Accommodation Assessment is based on the level of existing provision within authority areas, the need arising from Flintshire is a need of 43 pitches.
- 7.78 The WG has stated *“The picture of where Gypsies and Travellers live and want to live may have become distorted by different approaches to provision and enforcement adopted by different local authorities over the years. Where this is the case the local authority responsible for the area where the need is currently found will need to work closely with other local authorities in the region to find a shared solution. In some cases, local authorities who currently show a low level of need may need to accept that they will have to play a greater part in meeting regional need”*.
- 7.79 To reflect this advice it is considered that it would be appropriate for Flintshire to meet half of the identified need arising from the County. The Council is aiming to expand its current site at Riverside, Queensferry to meet that need. The Council is progressing towards submitting a planning application for this expansion. Since the public inquiry the Council has undertaken a number of background studies and is hopeful to submit a planning application within the near future. This is a previously developed site and adjacent to an existing site which is popular in the gypsy and traveller community, as it generally fully occupied at the time of the Caravan Counts and the drive to extend it has been supported by the existing site residents. However following the Inspectors conclusions at the appeal the Council acknowledges that this commitment to extend Riverside is not sufficient at this stage to meet the identified unmet need.
- 7.80 Temporary Permission
Welsh Office Circular 35/95 “The use of conditions in Planning Permissions” states a temporary permission may be justified, where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission. Circular 30/2007 states in cases where;
- there is an unmet need
 - no alternative available Gypsy and Traveller site provision in an area and;
 - a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet

that need;
local planning authorities should give consideration to granting a temporary permission where there are no overriding objections on other grounds.

- 7.81 The Inspector considered following evidence put to him at the Inquiry, that the circumstances set out above are not in place. In particular the Council's LDP is at an unacceptably early stage to generate a reasonable expectation that it will result in available sites by the end of the temporary period, nor would the expansion of Riverside as an alternative site be relied upon.
- 7.82 It is considered that these circumstances have not materially changed since the Inspector's decision and in any event the unacceptable living conditions by virtue of noise and air pollution would not favour the grant of even a temporary permission.

8.00 CONCLUSION

- 8.01 The Inspector considered that the proposal was inappropriate development in the green barrier, but that the unmet need constituted exceptional circumstances; however he was concerned that proximity to the road would give rise to unacceptable living conditions in terms of noise and air pollution.
- 8.02 Although there is still an unmet need for gypsy and traveller sites in Flintshire, it is considered that the evidence put forward to address the noise and air pollution does not demonstrate that the living conditions on the site would be acceptable and it is considered that this could not be appropriately addressed by conditions. Furthermore the noise mitigation proposed introduces a bund and fence underneath the overhead lines on the site which is not acceptable to the Statutory undertaker Scottish Power as this would comprise the safety of residents on site during the construction and during the site's use and would be contrary to the Statutory legislation that they are required to meet. It is also considered that the introduction of the bund and fence has further urbanising effects, which add to the harm to the green barrier. It is therefore considered the application should be refused on the above grounds.
- 8.03 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

Contact Officer: Emma Hancock
Telephone: (01352) 703254

Email: emma.hancock@flintshire.gov.uk