

FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JANUARY 2016**

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

SUBJECT: **CONTINUATION OF USE OF LAND AS RESIDENTIAL GYPSY SITE ACCOMMODATING 9 FAMILIES ON 7 PITCHES, WITH A TOTAL OF 13 CARAVANS (NO MORE THAN 7 STATIC CARAVANS) AND RETENTION OF HARDSTANDING, (INCLUDING BLOCK PAVING), GATES, WALLS, LIGHTING COLUMNS AND FENCES AND 3 NO. AMENITY BLOCKS AND ERECTION OF 1 NO. ADDITIONAL AMENITY BLOCK AT DOLLAR PARK, BAGILLT ROAD, HOLYWELL**

APPLICATION NUMBER: **053163**

APPLICANT: **MR. L. HAMILTON**

SITE: **DOLLAR PARK, BAGILLT ROAD, HOLYWELL**

APPLICATION VALID DATE: **02.11.15**

LOCAL MEMBERS: **COUNCILLOR J JOHNSON**

TOWN/COMMUNITY COUNCIL: **HOLYWELL**

REASON FOR COMMITTEE: **DEPARTURE FROM THE DEVELOPMENT PLAN**

SITE VISIT: **YES AT CHAIRMAN'S REQUEST TO SEE THE CURRENT SITE AND ISSUES RASIED BY THIRD PARTIES**

1.00 SUMMARY

- 1.01 This is an application to continue the use of the site as a residential gypsy site accommodating 9 families on 7 pitches with a total of 13 caravans (no more than 7 static caravans) and retention of hardstanding, (including block paving), gates, walls, lighting columns and fences and 3 no amenity clocks and erection of 1 no additional amenity block at Dollar Park, Bagillt Road, Holywell.
- 1.02 It is considered that the harm to the character of the area and the Listed Building are still factors which weigh against granting planning permission on a permanent basis having weighed that harm against all the other material planning considerations set out above in the planning balance. However there is still a need for sites and to refuse to grant permission on a temporary basis would make the families and their children homeless and put them on the roadside with no base to access health care and education.
- 1.03 It is therefore considered that it would be appropriate to grant a further temporary permission for 5 years. This would allow the LDP to progress to adoption and would also give sufficient time for planning permission to be submitted and granted on alternative sites as allocated in the plan or found independently.

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

- 2.01
1. Temporary permission 5 years at the end of this period, or when the land ceases to be occupied (whichever is sooner) the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use shall be removed from the site within 28 days of that date. Within 3 months of that date all hardcore, tarmac, block pavings, scalplings, shingle and other hard surfacing brought onto the site for the purposes of the caravan site shall be broken up and completely removed and the area they occupied shall be levelled, top soiled and seeded with grass or turfed.
 2. In accordance with plans
 3. No more than 7 pitches and a maximum of 13 caravans, up to 7 of which can be statics with only 1 static on each pitch
 4. Siting of any statics to be agree prior to them being brought onto the site
 5. The site shall be occupied by the following and their resident dependants ;
 - Plot 1 - Leonard and Kathleen Hamilton
 - Plot 2 - Tony, Joe and John Gaskin
 - Plot 3 - John and Jane Hamilton
 - Plot 4 - Edward and Tracy Hamilton
 - Plot 4a – Lavinia Hamilton
 - Plot 5 – Acer and Leanne Hamilton
 - Plot 6 - Henry and Debbie Price, Henry and Tina Price and Luke and Mary Price
 6. Materials for amenity buildings
 7. Landscaping along site frontage to be planted and maintained
 8. No commercial activities including the storage of materials
 9. No commercial vehicles shall be kept on the land other than those for use by

the occupiers of the caravans hereby permitted. No commercial vehicle kept on the land shall exceed 3.5 tonnes net weight.

10. Flood proof measures to be installed as appropriate

11. Parking facilities to be provided on the site and retained.

3.00 CONSULTATIONS

3.01

Local Member

Councillor J Johnson

No response received at time of writing.

Holywell Town Council

The Town Council, whilst acknowledging the current planning status of the site following the outcome of an earlier appeal, expresses its concerns regarding the adverse impact of the proposal:

- on highway safety arising from increased site occupancy;
- on the nearby Listed Building, Glyn Abbot;
- on the area originally proposed for children's play which should, if the application is approved, be retained and developed accordingly.

Highways Development Control Manager

No objection subject to a condition relating to the provision and retention of parking facilities on the site clear of the highway.

Public Protection Manager

No adverse comments to make.

Welsh Water/Dwr Cymru

No connections to the mains proposed. No comments to make.

Natural Resources Wales

No objection.

Flood Risk

The application site lies partially within zone C2 as defined by the development advice map referred to under TAN 15 Development and Flood Risk (July 2004). Given the scale of the proposed development, and in the absence of a flood consequence assessment, we consider the risk could be acceptable subject to the developer being made aware of the potential flood risks, and advised to install flood-proofing measures as part of the development.

Protected Species

Bats and their roosts are protected under the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended). We advise that you should consult your internal ecologist with regards to the potential impact of the proposed development on the favourable conservation status of populations of bats.

4.00 PUBLICITY

4.01 Press Notice, Site Notice & Neighbour Notification

The application was advertised as a departure from the development plan and affects the setting of a Listed Building.

1 objection on behalf of 2 local residents on the grounds of;

- no evidence has been provided to demonstrate that the applicants have made attempts to find an alternative site
- no information on whether local children attend schools or the health reasons to remain on site or the benefits of living as an extended family together on one site
- no reference to retention of hardstanding
- some of the named families on the 2011 permission no longer reside on the site so must have found alternative accommodation
- the request for up to 7 static caravans represents a scheme greater in scale than that previously considered at the time of the previous appeal
- The use of the application site continues to have a significant visual impact on the rural landscape and setting for the Grade II Listed Glyn Abbot contrary to policies GEN1, L1, HE2, HSG14.
- The site continues to present a highway safety risk due to the regular number of vehicles which access the site daily, the size of the vehicles which access the site regularly and the form and configuration of Bagillt Road
- Evidence is provided to show that the average vehicle movements in and out of the access per day are 61 which is significantly greater than the 40 movements which the appellants advanced at the 2009 appeal.
- The access is also used as a layby by vehicles using the road when answering mobile phones, sometimes blocking the access
- No justification for issuing a temporary permission

5.00 SITE HISTORY

5.01 050346 - Application for removal or variation of a condition following grant of planning permission ref: 046832 in relation to the named site occupants. Undetermined.

046832 - Change of use to residential caravan site for 6no. Gypsy families, each with 2no. Caravans and erection of 6no. amenity buildings, laying of hardstanding and construction of improved access (partly in retrospect) Refused 19.03.10. Allowed on appeal 5 year temporary permission 04.02.11.

043412 - Change of use (partly in retrospect) to caravan site (10 pitches) for residential occupation (not transit) by Gypsy-Travellers families, with alterations to site access, additional hardstanding, septic tank, utility buildings, erection of fencing to site boundary and between pitches and communal building. Refused 11.02.08. Dismissed on appeal 23.02.09

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

HSG14 – Gypsy Sites

GEN1 – General Requirements of all Development

GEN3 – Development in the open countryside

D1 – Design Quality, Location and Layout

D4 – Landscaping

TWH1 – Development Affecting Trees and Woodland

TWH2 – Protecting Trees and Woodland

WB1 – Species Protection

WB4 – Local Wildlife Sites and Sites of Geological Importance

WB5 – Undesignated Wildlife Habitats

L1 – Landscape character

AC13 – Access and Traffic Impact

HE2 – Development Affecting Listed Buildings and their Settings

National Policy

Circular 30/2007 'Planning for Gypsy and Traveller Sites'

Welsh Assembly Government Circular 61/96 Planning and the Historic Environment – Historic Buildings and Conservation

Planning Policy Wales Edition 8 January 2016.

Housing Act 2014

7.00 PLANNING APPRAISAL

7.01 Introduction

This is an application to continue the use of the site as a residential gypsy site accommodating 9 families on 7 pitches with a total of 13 caravans (no more than 7 static caravans) and retention of hardstanding, (including block paving), gates, walls, lighting columns and fences and 3 no amenity clocks and erection of 1 no additional amenity block at Dollar Park, Bagillt Road, Holywell.

7.02 Site Description

The application site lies to the east of Holywell on the south side of the A5026 Bagillt Road which runs between Holywell and Greenfield. The total site area is approximately 0.5 hectares.

7.03 The site was a former coal yard, following this use there was some limited use of the site for forestry purposes in association with the management of the surrounding woodland. The previous owner of the woodland obtained a Felling Licence and Woodland Grant Scheme from the Forestry Commission to carry out selective felling in the woodland. Prior to the site's occupation by gypsies and travellers it had regenerated naturally as grassland and scrub with a plateau of land inside the entrance gate. From its former use there was an existing access to the site which was gated with an area of hardstanding.

- 7.04 Opposite the site is the access serving three residential properties, 2 of which (the lodge and the coach house) are situated directly adjacent to Bagillt Road. Glyn Abbot a Grade II Listed Building, is set back approximately 70 metres from the road in an elevated position. There is a watercourse which runs south of the application site within the wooded area included in the applicant's ownership.
- 7.05 Since 2007 the site has been occupied by a number of gypsy families and has developed into a residential site with associated hardstandings, including block paving, fencing, walls, gates and lighting, along with brick built amenity buildings and wooden sheds. Foul drainage is dealt with by a septic tank which was installed on site by the current residents.
- 7.06 A temporary permission for 5 years was granted on 4th February 2011 (046832) (Appeal Decision APP/A6835/A/10/2132061) for "Change of use to residential caravan site for 6no. Gypsy families, each with 2no. Caravans and erection of 6no. amenity buildings, laying of hardstanding and construction of improved access (partly in retrospect)". This application included the provision of a new access point following highway safety concerns over the original site access which was a reason for the dismissed appeal on application 043412.
- 7.07 The current temporary permission 046832 allows for the stationing of a static caravan and a touring caravan each pitch and the erection of respective amenity buildings. Some plots have brick built amenity buildings housing washing and toilet facilities whilst plot 6 has two wooden sheds. The temporary permission expires on 4th February 2016.
- 7.08 The former access has been closed with a close boarded fence and the hedge was continued along the site boundary and planted with native species as part of the implementation of this permission. However the landscaping that was planted has not thrived.
- 7.09 Site history
The land was first occupied by gypsies in March 2007. A planning application made in May 2007 for use of the land as a residential caravan site by 10 gypsy families, including various elements of ancillary operational development, was refused by the Council in February 2008. In May 2008 the Council issued an enforcement notice in respect of the unauthorised use and operational development.
- 7.10 An appeal was lodged against the refusal of planning permission and the breach of planning control notice. These appeals were heard at a joint Inquiry which sat for 4 days on 20 – 23 January 2009. The appeal under Section 78 of the Town and Country Planning Act against the refusal of planning permission was dismissed on the grounds that;
- the harm to highway safety
 - the impact on the rural character and appearance of the area
 - the impact on the setting of the listed building
- were so substantial as to outweigh the deficiencies in respect of suitable alternative accommodation and the harm to the site occupants of being unable to live permanently on the site.

- 7.11 The enforcement notice was upheld and varied only in relation to the areas of land to be reinstated and the time within which it is required to comply with the requirements of the notice. The occupants of the site therefore had 12 months to comply with the requirements of the notice and vacate the site. This notice expired on 26th February 2010.
- 7.12 In May 2009 the Council sought an injunction in the courts to stop work in the woodland in the area where the occupants proposed an alternative access point. This included unauthorised felling of TPO trees in the woodland. This injunction was successful and was in force until planning permission was granted on appeal in February 2011 (46832) Appeal Decision APP/A6835/A/10/2132061.
- 7.13 The occupants remained on the site and subsequently submitted planning application 046832 for "Change of use to residential caravan site for 6 gypsy families each with 2 no caravans and erection of 6 no amenity buildings, laying of hardstanding and construction of improved access (partly in retrospect) on 1st December 2009.
- 7.14 This was refused by Planning Committee on 7th April 2010 on the grounds of;
1. Notwithstanding the lack of information to adequately assess the proposed access, it is considered the principle of an access in this location is unacceptable on the grounds of highway safety. The Council considers the proposal would lead to a material increase in the volume of traffic entering the publicly maintained highway through an access which would not provide adequate visibility from and of emerging vehicles to the detriment of highway safety.
 2. Notwithstanding the lack of information, the proposed access and any improvement to the visibility sightlines for the creation of an access in this location would lead to a unacceptable loss of hedgerow, TPO trees and boundary treatment and would have an adverse effect on any remaining woodland which in turn would have a detrimental impact on the wooded landscape and character and appearance of the area. The continued use of the site has the potential to adversely affect the character and amenity of the surrounding area.
 3. The location of the application site, the proposed siting of caravans and associated infrastructure within the site would have an adverse effect on the setting of a Listed Building.
 4. The proposed access has the potential to impact upon trees which may support species of bird or mammal protected under the provisions of the Wildlife and Countryside Act 1981 (as amended) and the EC Habitat and Species Directive (as implemented by the Conservation (Natural Habitats & c) Regulations 1994. No information has been put forward to assess this potential.
- 7.15 An appeal against the refusal of planning permission was heard by a Public Inquiry on 23rd and 24th November 2010 and 17th January 2011.

- 7.16 The appeal was allowed and a temporary permission was granted for a period of 5 years for the change of use to a residential caravan site for 6 Gypsy families, each with 2 caravans, erection of 6 amenity buildings, laying of hardstanding and construction of improved access. This 5 year temporary permission expires on 4th February 2016. This was a personal permission to named site occupants.
- 7.17 The temporary permission granted in 2009 (46832) Appeal Decision APP/A6835/A/10/2132061 was personal to the families living on the site at the time of the appeal and their 'resident dependants'. These were
- Leonard and Kathleen Hamilton
 - Edward and Tracy Hamilton
 - William and Kelly Hamilton
 - Henry and Debbie Price
 - Roman and Lydia Gaskin
 - Tony Gaskin
- 7.18 While the monitoring of the movements of families on and off the site is problematic, (as they can on occasion be families visiting for short periods), in general the site residents have remained the same since the temporary permission was granted. An application was submitted in 2012 to allow for flexibility in the site occupants but this remained undetermined as circumstances then changed.
- 7.19 Proposed development
This is an application to continue the use of the site as a gypsy and traveller site for use by 9 gypsy family units Hamiltons, Gaskin and Price on 7 pitches in 13 caravans. The initial temporary permission was for 6 pitches with a total of 12 caravans, however during the summer of 2015 an additional family member and his household have moved onto the site creating an extra pitch in the formerly proposed 'play area'. The proposed development is therefore retrospective in this respect.
- 7.20 No enforcement action has been taken by the authority in light of the building operations to create this pitch as an application to continue the use of the site was due to be submitted and therefore the occupants were advised to submit a new application accounting for the amended pitch numbers. The pitch was also unoccupied during the Council's investigations.
- 7.21 Also since the occupation of the site in 2007 Mr. Price's children (plot 6) have matured and have married residing separately in their own caravans but sharing the same pitch and amenity building. There has therefore been 3 caravans on plot 6 for some time, however as there has been no more than 12 caravans on the site for any prolonged period of time it was not deemed expedient to take any formal enforcement action. The current/proposed occupants are;
- Plot 1 - Leonard and Kathleen Hamilton
 - Plot 2 - Tony, Joe and John Gaskin
 - Plot 3 - John and Jane Hamilton
 - Plot 4 - Edward and Tracy Hamilton

- Plot 4a – Lavinia Hamilton
- Plot 5 – Acer and Leanne Hamilton
- Plot 6 - Henry and Debbie Price, Henry and Tina Price and Luke and Mary Price

- 7.22 Plots 1, 2, 4 and 6 are occupied as at the time of the 2011 appeal but with the addition of named children who have become adults on plots 2 and 6. Plot 4A is now occupied by Edward Hamilton's sister, Lavinia Hamilton Hamilton. Plot 3 is occupied by one of Leonard Hamilton's sons John Hamilton and Plot 5 is occupied by Leonard Hamilton's grandson Acer Hamilton. The site is therefore still occupied by the same extended families.
- 7.23 It is proposed that the site will accommodate a total of 13 caravans with no more than 7 statics on the site. (one on each pitch) At present there are 3 static caravans on site on plots 1, 4 and 5. The area previously shown to be a play area has been made into a plot during the summer of 2015 recently occupied by Mr. Len Hamilton's grandson Acer Hamilton. The play area was not developed in this way and remained a vacant piece of land. The loss of the play area is justified in the context that the pitches are all large enough for the children to play within their own plots and the play area was never utilised as such as families prefer to supervise children within the plots.
- 7.24 There are brick built amenity buildings on plot 1, plot 3 and plot 4a. These are proposed to be retained as built. The other plots have wooden sheds as amenity building housing the washing facilities. It is the intention to build a brick amenity building on plot 6 to replace these in the future if permission is granted. Details of such have been submitted.
- 7.25 Inspectors previous conclusions
The decision of the Inspector and the conclusions he made in respect of the relevant issues in consideration of (046832 appeal ref: APP/A6835/A/10/2132061) is key in determining this application.
- 7.26 The Inspector concluded that *“the harm that would be caused to the character and appearance of the area and to the setting of the listed building Glyn Abbot are matters which weigh decisively against a grant of permission for the development proposed on a permanent basis. In my judgement the need in the public interest to safeguard the environment, including its heritage assets, from long term damage, which is part of the wider aim of pursuing the economic wellbeing of the country, is such that the resulting interference with human rights would be necessary and proportionate. In arriving at this view the weight I give to the prospect of their having to return to reliance on roadside or similar unauthorised sites, and the interference with their human rights that this would represent, is tempered by the occupants' lack of active response to the dismissal of the appeals almost two years ago and the upholding of the enforcement notice at that time.”*
- 7.27 He went on to state that
“However, I am also required, if permission on a permanent basis is not justified, to consider the possibility of a grant of permission for a temporary period. Paragraph 110 of Circular WO 35/95 “The Use of Conditions in Planning Permissions” advises

that 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 temporary period. WAGC 30/2007 advises that in cases where there is unmet need; no available alternative 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, then consideration should be given to granting a temporary permission where there are no overriding objections on other grounds. WAGC 30/2007 cites a situation where a local planning authority is preparing its site allocations as part of the LDP as an example of where such circumstances might apply.”

- 7.28 The Inspector considered that *“The above circumstances apply in this case. The Council proposes to meet the present acknowledged unmet need by making Gypsy and Traveller site allocations in its LDP. The Council does not expect its LDP to be adopted until 2015; and, following adoption, there will be a period needed for new allocated sites to be made available. In the circumstances I consider that to be of practical effect any temporary permission would need to be granted for a period of 5 years. Balancing the harm that would arise from the proposal against the consequences of the unmet need for sites in this case, I attribute reduced weight to the harm that would be caused in the terms I have identified above, because the harm would endure for a 5 year period only. The Appellant confirmed at the inquiry that he considers that all of the conditions discussed concerning measures to mitigate the effects of the development would be reasonable in the context of a temporary permission of this duration. I am conscious that for those living in the immediate vicinity of the site and most directly affected by the harm, who have already tolerated the effects of the site’s use since 2007, this will be unwelcome.”*
- 7.29 The Inspector justified this approach on the basis that *“the consequences of the current unmet need for Gypsy and Traveller sites is that refusing permission and requiring cessation of the current, albeit unauthorised, use would be to return the present occupants to a transient roadside or similar existence, with all of the dislocation to their present family, healthcare and educational arrangements that would come with this. In my judgement these adverse consequences are such as to outweigh the harm arising from permitting the proposed development for a temporary 5 year period. I conclude that there are no overriding objections to the grant of a temporary permission in this case. However, my decision should not be regarded as setting a precedent in any way for the determination of any future applications for full permission for use of the land as a caravan site.”*
- 7.30 The main issues to consider in respect of this application are; the impact on the rural character and appearance of the area and the impact on the setting of the listed building and whether these site specific issues still outweigh other material considerations such as the best interests of the children on the site, the need for gypsy and traveller sites, the provision of alternative sites and the personal circumstances of the site occupants.

- 7.31 Impact on the landscape and the open countryside
The site is situated within the open countryside. Prior to the occupation of the site, there were no buildings on the site, and the natural regeneration of the site meant it had a greenfield appearance and blended in with the open countryside location.
- 7.32 The character of the landscape has been altered significantly since the site has been occupied by the nature of the earthworks and the scale of the development. Each pitch is demarcated with domestic fencing and the majority of the pitches are block paved. Each pitch has a static and or touring caravan and an amenity building in the form of a brick building or wooden shed. It is considered that this has significantly impacts on the rural landscape due to the presence of the caravans, boundary treatments and other domestic paraphernalia. The current application adds an additional plot on the southern side of the site and increases the number of caravans by 1. This therefore adds to the urbanising impact of the site.
- 7.33 The Inspector in consideration of the previous application stated in paragraph 15 of his report (Appeal Decision APP/A6835/A/10/2132061) that “Despite the wooded environs, its presence would be clearly apparent, particularly during the periods when the surrounding trees and hedgerows are not in full leaf...the development would remain a comparatively large-scale visual and physical intrusion that would be starkly at odds with its verdant woodland setting. He also noted in paragraph 16 of his decision that lighting would “*further detract from the rural character of the locality.*”
- 7.34 He concluded in paragraph 17 “*that the proposal would cause clear and significant harm to the character and appearance of the area. The adverse visual impact of the proposal would be apparent not only to passers-by along Bagillt Road but also to occupants of The Coach House and Glyn Abbot, both of which have main aspects looking directly down onto the site from the other side of Bagillt Road.*”
- 7.35 The Inspector concluded on this issue by stating (paragraph 22) that “*I have had regard to the guidance in WAGC 30/2007 concerning the consideration of Gypsy and Traveller sites in rural locations. This emphasises that sites on the outskirts of built-up areas may be appropriate; that sites may also be found in rural or semi-rural settings; and that rural settings, where not subject to specific planning or other constraints, are acceptable in principle. From this it is clear that the mere fact of a site’s location in a rural area or setting is not a reason to reject it as a suitable location for a Gypsy and Traveller site. Moreover, I fully recognise the underlying implication of this guidance that it would be unreasonable to expect that Gypsy and Traveller sites in rural locations and settings should not have some visual impact upon their surroundings. Equally, however, WAGC 30/2007 does not state that proposed sites in rural locations and settings should be permitted in all cases.*”
- 7.36 He goes on to state “*In this case I have concluded that the proposed development, because of its physical scale and resulting visual impact, would have a significantly harmful effect upon the rural character of the locality, as experienced both by passers-by on Bagillt Road and by residents who look down on the site at close quarters. As such, the proposal is contrary to emerging UDP policies GEN1, HSG14 and L1. In my judgement this weighs significantly against the appropriateness of the site for the development proposed, notwithstanding the*

guidance in WAGC 30/2007 concerning the principle of sites in rural settings.”

- 7.37 The presence of a gypsy and traveller site in the open countryside will always have some harm as noted by the Inspector. It is considered that this harm still exists in terms of the current application and is increased by the intensification of the use.
- 7.38 Impact on the Setting of the Listed Building
To the north of the site is the Grade II Listed Building known as Glyn Abbot which was listed in 1991 as a fine example of a classical small country house. The main residence of Glyn Abbot itself, built in the early nineteenth century, is in an elevated position set back from the road. It has been historically sited and designed to face the south to obtain important views from the principal rooms towards the sloping land within the grounds and the attractive wooded landscape beyond. It therefore overlooks the application site and, being elevated above it, views into it from Glyn Abbott are not broken by the existing boundary hedges on the A5026.
- 7.39 Glyn Abbott had two lodges and driveways. The principal approach to the main house was via the south from the A5026, where a stone lodge of classically derived architecture was located. The drive to the north connecting with Pen-y-Maes Road, although also having a lodge, was apparently a subsidiary access, probably used for servicing the building and tradesmen. It is therefore important to note that the lodge and entrance drive from the A5026 was designed to afford impressive views when approaching the grounds of Glyn Abbott. The approach up the drive to the front terrace of the house was also designed and laid out to impress higher status visitors. The road side lodge is not Listed.
- 7.40 The development is of a relatively large scale and by its very nature presents a cluttered appearance when viewed in the landscape. The development occupies land that is directly in line with the principal vista of Glyn Abbott and its terrace. The site can be seen, even with the trees in full leaf, from the terrace in front of the listed building, and from the windows of the principal ground and first floor rooms of the house. It can also be seen from its approach along the highway, its main lodge and entrance to the grounds. During the late autumn, winter and early spring months, when the trees are not in leaf, the development will be more visually prominent. By its nature and appearance the caravans and associated structures are alien in the wooded valley setting in which they are located.
- 7.41 PPW states that where a development proposal affects a listed building or its setting, a material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest it possesses.
- 7.42 At the last Inquiry there was some debate on what constitutes the ‘setting of a Listed Building’ and its distinction from the curtilage of the building. In his decision (Appeal Decision APP/A6835/A/10/2132061) the Inspector states “*In relation to this I note the recent guidance on setting provided in the English government guidance PPS5 Planning for the Historic Environment: Historic Environment Planning Practice Guide (March 2010). Amongst other things, this confirms that setting is the surroundings in which an asset is experienced; that views of or from an asset will play an important part; and that setting will generally be more extensive than*

curtilage. The guidance further states that the contribution that setting makes to the significance of an asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and circumstance. Nevertheless, proper evaluation of the effect of change within the setting of a heritage asset will usually need to consider the implications, if any, for public appreciation of its significance.”

- 7.43 The Inspector goes on to state (paragraph 26) *“The proposed development, notwithstanding the reduction from the current number of caravans on the site and the lower density of development that would result, would continue to produce a wide swathe of caravans, vehicles, buildings and other structures and hard surfacing in the middle of the rural vista from the principal rooms and front terrace of Glyn Abbot which is a primary feature of the property’s design as a Classical country house. I consider that the adverse visual effect of this on the setting of Glyn Abbot, even taking into account the potential for additional planting within the appeal site and on its boundary, would be serious at those times of the year when trees are not in full leaf, and significant even during summer months when trees are in full leaf. Although in the present circumstances the vista from Glyn Abbot is not publicly accessible, it is in my view fundamental to the heritage value of Glyn Abbot as a fine local example of a Classical small country house. Given the scale of the change to this rural vista that the proposal represents I find that the proposal would cause significant harm to the setting of the listed building in this respect.”*
- 7.44 In paragraph 27 the Inspector goes onto state *“I accept that seen from Bagillt Road the effect of the appeal proposal on the setting of Glyn Abbot is more peripheral, owing to its position on the other side of the road. Nonetheless, I consider that harm would be caused to the setting of the listed building in this respect also. The imposition upon an essentially greenfield site within a rural wooded context of development of the scale and character associated with a 6 pitch residential caravan site immediately across the road from the entrance to Glyn Abbot would plainly have an adverse effect on the setting of the latter, given that the house itself is seen from Bagillt Road at the head of the uphill driveway. From this location the presence of the residential caravan site would intrude upon the setting of Glyn Abbot. I do not consider that additional planting or regulation of the detailed layout of the site would eliminate such harm.”*
- 7.45 The Inspector concludes on this matter in paragraph 29 that *“In the light of the foregoing I conclude that the proposed development would significantly harm the setting of the listed building Glyn Abbot. As such, the proposal is contrary to development plan policies CSP policy G7 and DLP policy CP6, and to emerging UDP policies GEN1 and HE2. I consider that the relationship of the site to Glyn Abbot and the statutory requirement to have special regard to the desirability of preserving its setting represents a planning constraint to be taken into account in applying guidance in WAGC 30/2007 concerning the consideration of sites for Gypsy/Traveller accommodation.”*
- 7.46 It is considered that these matters have not changed since the Inspector’s consideration of the application except that the current application which includes and increased number of caravans will only add to the harm the location of the site causes to the setting of the Listed Building.

7.47 Highways

An objector to the site refers to his estimated average vehicle number using the site and the nature of the vehicles using the access which he considers is more and differs from what the appeal Inspector was led to believe would use the site.

7.48 Highways have no objections to the proposed development in terms of the increase in the number of pitches or the number of site occupants. The existing site access now meets highways standards in terms of the visibility requirements for the classification of the road and therefore any increase in its use is not a cause for concern.

7.49 Need

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 in 2012 and was endorsed by Flintshire County Council in early 2013. However it only covers the period to 2016.

7.50 Flintshire has the largest number of authorised caravan pitches to accommodate gypsies and travellers of any local authority in North Wales. 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 an additional 43 pitches for the study period.

7.51 The table below shows current site provision as of the July 2015 Caravan Count which is submitted bi-annually to Welsh Government.

| Site | Number of pitches | Number of caravans permitted | Number of Caravans in July Caravan Count 2015 |
|---|-------------------|------------------------------|---|
| Riverside, Queensferry (Local Authority site) | 20 | 20 | 37 |
| Corbetts/Lyons Yard, Sandycroft, | 22 | | 11 |
| Mitford Caravan Site, Mounds, Gwespyr, | 20 | | 19 |
| Dollar Park, Bagillt Road, Holywell Temporary to 2016 | 6 | 12 | 10 |
| Gwern Lane, Hope | 2 | 4 | 4 |
| Bridge Yard, Factory Yard, Sandycroft, CH5 2QJ Tolerated on gypsy owner land (Application 051208) | | | 4 |

- 7.52 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.
- 7.53 The Welsh Government 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”*.
- 7.54 To reflect this advice it was considered that it would be appropriate for Flintshire to meet half of the identified need arising from the County, however we have now reached the end of the period this assessment covered.
- 7.55 In terms of meeting the need required the following consents have been granted during the study period of the North Wales Need Assessment.

| Location | Number of pitches proposed/ permitted | Number of proposed/ permitted caravans | Status |
|---------------------------------------|---------------------------------------|--|--|
| Gwern Lane, Caer Estyn, Hope | 4 | 4 | Consent granted 11.05.11 Completed and occupied |
| Ewloe Barn Wood, Magazine Lane, Ewloe | 5 | 10 | Consent granted 10.04.14 Under construction |
| Huntley Yard, Chester Road | 6 | 12 | Consent granted 23.04.14 Occupied |
| Papermill Lane, Oakenholt | 2 | 4 | Granted on appeal October 2015 Occupied |
| 8 Ratcliffe Row, Pentre | 1 | 2 | Granted on appeal December 2015 Occupied |
| Total | 18 | 29 | |

- 7.56 It can be seen that private sites are coming forward and the Authority has met almost half of its need requirement. All of the above applications were granted permission on appeal apart from Huntley’s Yard. Inspector’s in consideration of

other applications on appeal place considerable weight on the lack of site provision and the need for more sites in assessing the planning balance. The table below shows application currently under consideration.

| Planning Ref | Site | Number of pitches | Status |
|--------------|--|-------------------|---|
| 051208 | Dundas Sidings, Factory Road, Sandycroft, | 6 | Under consideration Site occupied with 6 caravans Tolerated |
| 054442 | Sisters Yard, Station Road Sandycroft | 3 | Under consideration Not occupied |
| 054329 | Bron Eifion", Ffynnongroyw, Tanlan, Holywell | 3 | Under consideration 1 caravan on site |

- 7.57 The Council has commissioned a Gypsy and Traveller Accommodation needs assessment to comply with the requirements of the Housing (Wales) Act 2014 and as part of the evidence base to the LDP. This is due to be completed for submission to Welsh Government on 26th February 2016. An early indication of results should be available to the Council in January 2016. However in light of the fact there is no obvious alternative to direct these families to it is evident that some level of quantitative need still exists.
- 7.58 The best interests of the child, Personal circumstances and Human Rights
No details of the applicants or the site's resident's specific personal circumstances have been put forward other than that they have a need for lawful accommodation in this area where they can continue to live together as an extended family group and where they can obtain adequate health care and regular schooling for children. There are children living on the site, however the exact numbers and ages have not been provided by the applicants.
- 7.59 The Inspector in his consideration of Appeal Decision APP/A6835/A/10/2132061 paragraph 39 states "*The proposal would deliver clear benefits in terms of enabling a stable and secure environment for the site's occupants in a location with accessibility to facilities and services. In particular, it would provide the present occupants with continuing access to established local arrangements for healthcare and education. Such matters are not to be discounted lightly. In addition, refusal of permission, so that the current occupants were required to vacate the site, would plainly be an interference with their rights to respect for family and private life and to the peaceful enjoyment of possessions, as identified in Article 8 and Article 1 of Protocol 1 of the European Convention on Human Rights.*"

- 7.60 It is acknowledged that children would live on the site and the Local Authority has a statutory duty under the Childrens Act 2004 to safeguard and promote the welfare and well-being of the children.
- 7.61 There is also a national and international obligation contained in article 3(1) of the United Nations Convention on the Rights of the Child (“**UNCRC**”):
“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”
- 7.62 These considerations are material considerations in making a decision as to the impact any decision would have on the children residing on the site. If permission is refused then the impact of not having a settled base would need to be considered and weighed in the planning balance as a primary consideration.
- 7.63 Temporary Permission
Welsh Government Circular 016/2014 ‘The Use of Planning Conditions for Development management’ paragraph 5.26 refers to the use of temporary permissions for short terms buildings or uses “because it is expected that the planning circumstances will change in a particular way at the end of that period, then a temporary permission may be justified”.
- 7.64 Refer to WAGC 30/2007: Planning for Gypsy and Traveller Caravan 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.
- 7.65 The Inspector in his consideration of the last appeal into this site considered that although the site was unacceptable due to the harm on the character of the area and the impact on the setting of the Listed Building that a temporary permission should be granted for 5 years as there was no alternative site for the residents to go to. At that time it seemed realistic that the LDP would have advanced sufficiently to secure alternative provision within that 5 year period.
- 7.66 As referred to above, the Council has a commissioned a needs assessment which will provide an updated picture of need which will then be used as part of the LDP evidence base for gypsy and traveller site allocations. The current LDP timetable indicates adoption in 2019, however this will be revised later this year.
- 7.67 It is therefore considered that it would be appropriate to grant a further temporary permission for 5 years. This would allow the LDP to progress to adoption and would allow for any slippage and also give sufficient time for planning permission to be submitted and granted.

8.00 CONCLUSION

- 8.01 It is considered that the harm to the character of the area and the Listed Building are still factors which weigh against granting planning permission on a permanent basis having weighed that harm against all the other material planning considerations set out above in the planning balance. However there is still a need for sites and to refuse to grant permission on a temporary basis would make the families and their children homeless and put them on the roadside with no base to access health care and education. It is therefore considered that it would be appropriate to grant a further temporary permission for 5 years. This would allow the LDP to progress to adoption and would also give sufficient time for planning permission to be submitted and granted on alternative sites as allocated in the plan or found independently.
- 8.02 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, and has had due regard to its public sector equality duty under the Equality Act 2010.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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