

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **19<sup>TH</sup> JUNE 2024**

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

**SUBJECT:** **FULL APPLICATION- CHANGE OF USE OF LAND TO FORM MIXED USE COMPRISING A 2 PITCH FAMILY TRAVELLER SITE, 2 DAY ROOMS, GENERAL STORAGE OF PERSONAL BUSINESS EQUIPMENT. ERECTION OF A 2.4M HIGH WOODEN BOUNDARY FENCE, ENTRANCE GATES WITH IMPROVED ACCESS ONTO STATION ROAD (RETROSPECTIVE)**

**APPLICATION NUMBER:** **063509**

**APPLICANT:** **MR ADAM YOUNG**

**SITE:** **LAND TO THE SOUTH EAST OF "WILLOWBROOK (PARK HOMES)", STATION ROAD, SANDYCROFT, FLINTSHIRE**

**APPLICATION VALID DATE:** **5<sup>TH</sup> NOVEMBER 2021**

**LOCAL MEMBERS:** **COUNCILLOR CHRISTINE JONES**  
**COUNCILLOR DALE SELVESTER**

**TOWN/COMMUNITY COUNCIL:** **QUEENSFERRY COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **COUNCILLOR REQUEST**

**SITE VISIT:** **NO- SITE VISIT PREVIOUSLY UNDERTAKEN ON THE 27<sup>TH</sup> FEBRUARY 2023**

**1.00 SUMMARY**

- 1.01 Full application for the Change of Use of Land to form mixed use comprising a 2 pitch family traveller site, 2 day rooms, general storage of personal business equipment. Erection of a 2.4m high wooden boundary fence, entrance gates with improved access onto Station

Road at land to the South East of "Willowbrook (Park Homes)", Station Road, Sandycroft, Flintshire.

1.02 Members are asked to note that having considered this application at the Committee meeting held on 1<sup>st</sup> March 2023, the Committee deferred this item on the basis of the sole issue of requiring a more thorough assessment of the potential for land contamination.

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

- 2.01
1. Time limit on commencement
  2. In accordance with approved details:
    - Location plan drawing no 01
    - Proposed Site Plan, Day Room and Fencing Details drawing no. 02
    - Hydraulic Assessment October 2021 Betts Hydro
    - Flood Consequence Assessment November 2021 Betts Hydro
    - Planning Statement
    - Aerial photographs
    - Phase II Geoenvironmental Report CC Geotechnical Limited May 2023
  3. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 2 of Welsh Government Circular 005/2018.
  4. Notwithstanding the details hereby approved, no surface water is to be allowed to enter public system
  5. Within three months of planning approval being granted, or within a time scale to be agreed with the Local Planning Authority, the recommendations of the approved Phase II ground investigation report, including but not limited to the remediation strategy and verification of the approved mitigation scheme shall be carried out.
  6. Notwithstanding the details hereby approved no infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority

**3.00 CONSULTATIONS**

3.01 **Councillor C Jones (Local Member):** Requests committee determination

**Councillor D Selvester (Local Member):** Requests committee determination

**Queensferry Community Council:** No response at time of writing

**Highways Development Control:** The Highway Authority confirm that they have no objection to the proposal and that do not wish to make a recommendation on highway grounds.

**Community and Business Protection:** No objection in principle. The assessment is completed for Phase 1 and for Phase 3 as far as remediation. The site needs remediation works in the areas as set out in the report. The remediation strategy, and verification reports will need to be submitted for approval.

**Welsh Water/Dwr Cymru:** Welsh Water advise that the public sewers in the vicinity of the site are foul only and that it is not permissible to discharge surface water runoff into a foul sewer.

**Natural Resources Wales:** Request that any planning permission granted shall include the following document in the approved plans and documents condition on the decision notice:

- Approved document: Land Off Station Road Sandycroft Flood Consequence Assessment. Betts Hydro. Ref HYD655\_05.11.2021.

They also request Contaminated land and Ground water conditions and these have been covered by the suggested conditions 5 and 6 in para 2.01

#### **4.00 PUBLICITY**

4.01 18 Neighbour Notifications were sent to adjoining/nearby properties and a Site Notice was also displayed adjacent to the site. 5 letters of objection received which refer to the following matters

1. Trees removed
2. Unstable land
3. Road safety- Fence interfering with vehicular sightlines
4. Queries over traveller status of applicant

#### **5.00 SITE HISTORY**

5.01 No relevant site history

#### **6.00 PLANNING POLICIES**

6.01 Flintshire Local Development Plan  
STR2- Location of Development  
STR12- Provision for Gypsies and Travellers  
PC1- Relationship of Development and Settlements

PC2- General Requirements for Development  
PC5- Transport and Accessibility  
PE2- Principle Employment Area  
HN9- Gypsy and Traveller Accommodation  
EN14- Flood Risk  
EN16- Development on or near Landfill Sites or Derelict and Contaminated Land

### National Policy and Guidance

- Welsh Government Circular 005/2018 'Planning for Gypsy, Traveller and Showpeople Sites'
- Welsh Government Circular C 008/2018 'Planning requirement in respect of the use of private sewerage in new development, incorporating septic tanks and small sewage treatment plants
- Planning Policy Wales Edition 11 (February 2021)
- Future Wales 2020 - 2040

## **7.00 PLANNING APPRAISAL**

### 7.01 Site

The site subject to this planning application is an irregular shaped parcel of previously developed land, which covers approximately 1600m<sup>2</sup> and is located in Sandycroft. In terms of the setting of the site within the locality, the Wildcrest Willow Brook Caravan Park is located directly to the east, industrial land is located to the north and west, whilst Station Road (unadopted at the point of access) forms the sites boundary to the south. Access to and from the site is taken via a vehicular access onto Station Road. The site is located within the settlement boundary for Sandycroft in the Flintshire Local Development Plan.

### 7.02 Main issue

Land Contamination – Following consideration of this proposal at the Planning Committee meeting held on 1<sup>st</sup> March 2023, the sole issue that caused Members to defer the consideration of the application, was the requirement for further assessment in relation to land contamination. Further information has been submitted and that is assessed below. The other matters previously considered are also re-presented to provide the full context for Members.

### 7.03 Proposal

The proposed development is for the change of use of previously developed land for use as a family traveller site accommodation comprising 2 static homes, 2 trailer caravans, 2 day room, along with the erection of a 2.2m high wooden boundary fence, gate pillars and metal gates. Each pitch would consist of 1 static home, 1 trailer

caravan, 1 day room and 2 car parking spaces. This application is being applied for in retrospect.

- 7.04 The definition of 'Gypsies and Travellers' is contained within section 108 of the Housing (Wales) Act 2014. Gypsies and Travellers means:
- (a) Persons of a nomadic habit of life, whatever their race or origin, including –
    - (i) Persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently, and
    - (ii) Members of an organised group of travelling show people or circus people (whether or not travelling together as such); and
  - (b) All other persons with a cultural tradition of nomadism or of living in a mobile home.
- The applicant and their family meet the above definition.

- 7.05 This application was previously considered at the Planning Committee meeting of the 1<sup>st</sup> March 2023. The Committee deferred the matter to allow further consideration of the land contamination issue.

- 7.06 Further information, in the form of a Phase II intrusive investigation report, has been submitted and it has been demonstrated that risk from potential contaminates can be remediated.

- 7.07 Land Contamination  
The development lies within the vicinity of the former Station Road landfill site; and therefore has the potential for contamination. Whilst the general principle of developing this land from a land contamination point of view was accepted, both the Contaminated Land Officer and NRW had suggested land contamination conditions to be applied to any consent to require further investigation, verification and, if required, remediation measures to account for any potential land contaminates and in order to ensure that these are dealt with appropriately, and to ensure that no residual risk remains on site for future receptors.

Following the application being deferred by Planning Committee on the 1<sup>st</sup> March 2023 Phase II intrusive site investigation has been carried out and a report submitted to the Council.

- 7.08 The Contaminated Land Officer has confirmed the findings of the report and has raised no objection to the proposal subject to the further work as identified by the Phase II report being carried out. These are:

- Complete the ongoing gas – groundwater monitoring programme
- Update gas risk assessment
- Prepare Phase III Remediation Strategy Report
- Prepare Phase IV Validation Report

A condition has been suggested requiring the carrying out of the identified further work, and in particular the submission of the remediation and verification details, which will conclude the site investigation process.

- 7.09 In accordance with policy EN16 the site has now been appropriately investigated, and the development both takes appropriate measures to deal with any identified contamination, and ensures that there is no residual risk remaining for future receptors.
- 7.10 It should be noted that as the site has been largely laid with hardstanding this provides a cover system that in itself mitigates against the dangers of possible land contamination.
- 7.11 In addition NRW have requested that a condition be applied that states no infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The Phase II report has demonstrated that the development would have an insignificant impact upon groundwater quality.
- 7.12 The submitted information demonstrates that the proposal is compliant with LDP policy EN16- Contaminated Land and that the development does not result in any risk to receptors, including residents of the site. A condition is suggested to require the submission of the remediation strategy and verification report within an appropriate time scale.
- 7.13 Principle  
The site is located within the settlement boundary for Sandycroft, which is a Tier 3 sustainable settlement in the Flintshire Local Development Plan.

Policy HN9 of the Flintshire Local Development plan is the primary development plan policy to consider in regard to the principle of this development. This policy acknowledges that despite provision being made in the Plan through allocations, there will be windfall development proposals for Gypsy and Traveller sites submitted during the Plan period in order to meet a specific need.

- 7.14 The Housing (Wales) Act 2014 places a legal duty upon local authorities to ensure that the accommodation needs of Gypsies and Travellers are properly assessed and that the identified need for pitches is met. More recently, Welsh Government have published a Circular 005/2018 Planning for Gypsy, Traveller and Showpeople Sites which reflects provisions contained in the Housing (Wales) Act 2014, to ensure that local authorities meet the accommodation needs and provide sites for Gypsies and Travellers through the planning

system. The Circular notes that policy requirements to ‘demonstrate unmet need’ would act against freedom of movement for gypsies and travellers who may wish to develop their own sites. Such restrictions should not be placed on Gypsies and Travellers. The Circular clearly states that criteria based policies must be fair, reasonable, realistic and effective in delivering sites and must not rule out or place undue constraints on the development of Gypsy and Traveller sites.

7.15 Paragraph 7 of the Circular advises that the Well-being of Future Generations (Wales) Act 2015 sets a framework for local authorities to ensure the sustainable development principle is met. In terms of wellbeing goals the guidance reference a ‘Wales of cohesive communities’. Paragraph 8 goes on to advise that ‘Housing is a fundamental issue that affects the lives of people across Wales, including our Gypsy and Traveller communities’. In particular the guidance requires that ‘...Gypsies and Travellers should have equal access to culturally appropriate accommodation as all other members of the community’.

7.16 Paragraph 12 recognises that ‘Some Gypsies and Travellers may wish to find and buy their own sites to develop and manage’. Paragraph 14 explains that the Housing (Wales) Act 2014 places a legal duty upon local authorities to ensure ‘that accommodation needs of Gypsies and Travellers are properly assessed and that the identified need for pitches is met’.

Paragraph 36 explains that ‘when identifying sites the planning authority should work with the Gypsy and Traveller Community’. Paragraph 37 explains that ‘issues of site sustainability are important for the health and well-being of Gypsy and Travellers not only in respect of environmental issues but also for the maintenance and support of family and social networks’.

7.17 Policy HN9 seeks to assess the suitability of the location of the proposed gypsy and traveller site by ensuring that in a sequential sense, sustainable locations within or adjacent to existing settlements with access to local services are considered first. The proposal would meet this criteria.

7.18 The circular itself provides expanded guidance at paragraph 37 in respect of the sustainability of sites and the site should be assessed in this context. Whilst not an exhaustive list, the items to consider when assessing whether or not a site is suitable includes:

- opportunities for growth within family units;
- the promotion of peaceful and integrated co-existence between the site and the local community;
- access to health and education services;
- access to utilities including water, waste water disposal and waste collection services;

- access by walking and cycling, public transport and private motor vehicles (including emergency vehicles);
- suitable nearby or on-site safe play areas;
- contribution to a network of transit sites which reduce the need for long-distance travelling or unauthorised encampments;
- not locating sites in zone C2 risk of flooding and only considering sites for location within zone C1 risk of flooding in line with guidance contained in TAN 15, given the particular vulnerability of caravans; and
- regard for areas designated as being of international, national and local importance for biodiversity and landscape

7.19 It is considered that the site meets the specified criteria, specifically as it both offers the opportunity for growth within the family units on site by promoting an appropriate location for a permanent home, but that it also provides good connectivity to the local communities and the facilities they offer. The site is in a sustainable location for new development given the availability of services and facilities and also proximity to other settlements in Flintshire, and Deeside specifically.

7.20 The advice and guidance within this circular provides the framework when determining this types of planning applications. In my view the principle of this development is acceptable with due regard to all relevant National and Local policies and advice. The site represents a sustainable location, appropriate for the level of development proposed and in addressing a specific housing need.

7.21 The site is located within a Principle Employment Area in the Local Development Plan. Policy PE2 is supportive of appropriate employment development in these areas. It does not necessarily preclude other forms of development where it may be appropriate to allow them and in accordance with other development plan policies. The land subject to this application is relatively small and would possibly not be appropriate for an employment use because of its size constraints. The land has been unoccupied and unused apart from what appears, from submitted aerial photos, to be for some overspill parking at various points in the past. It is not considered that the proposal would unacceptably harm the strategic aims of the Principle Employment Area designation and do not consider there to be a conflict of policy in this regard.

7.22 Interests of children

The application identifies that there are nine Children of school and pre-school age that currently live on the site.

7.23 The benefits of enabling the provision of a stable and secure environment is a material consideration in the planning balance. This has been accepted by planning inspectors with due regard to the rights to respect for family and private life as identified in Article 1 and Article 8 of Protocol 1 of the European Convention on Human Rights.



7.24 It is acknowledged that children live, and would continue to live, on the site were permission to be granted and the Local Planning Authority has a statutory duty under the Children's Act 2004, to safeguard and promote the welfare and well-being of the children.

7.25 There is also a national and international obligation continued in article 3(1) of the United Nations Convention of the Rights of the Child (UNCRC)

*"In all actions concerning children, whether undertaken by public or private or social welfare institutions, courts or law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."*

7.26 These considerations are therefore a primary material consideration in the site assessment. The implications of the applicant, their family and the families of those living on site having a settled base for the educational/health needs of the children needing to be considered and weighed in the balance as a primary consideration. In these circumstances I consider that the best interests of the children would be best served by occupation of the site.

7.27 **Flooding**

The planning application proposes highly vulnerable development (traveller site). The NRW's Flood Risk Map confirms the site to be within Zone C1 of the Development Advice Map (DAM) contained in TAN15.

7.28 The development proposal is for a two pitch traveller site, on a currently undeveloped parcel of land. Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Further to the discussion regarding the principle of development earlier in this report it is considered that the development in this location is justified as it accords with the strategic and policy aims of the development plan in reference to Gypsy and Traveller sites.

7.29 The FCA assesses the flood risk from two primary sources, namely fluvial flood risk from Broughton Brook, which borders the site, and tidal flood risk from the River Dee. In respect to fluvial flood risk, a range of events have been considered, including blockages of two structures (one upstream and one downstream of the site) for the 25% and 80% blockage scenarios. In the 1% Annual Exceedance Probability (AEP) event with an allowance for climate change and an 80% blockage, a flood level of 4.14m AOD has been derived adjacent to the site for the upstream blockage scenario (the level is 4.62m AOD upstream of the structure), and a flood level of 4.38m AOD has been derived for the downstream blockage scenario. The FCA states that based on LiDAR data, site levels are approximately 5.81m AOD or

higher, meaning the site is well elevated above predicted flood levels for this event. This is supported by the model outputs provided in Appendix D which indicate no flooding of the site is expected in this event. NRW note that no assessment has been made of the potential impact that failure of the tidal door downstream of the site could have on flood risk, in terms of tidal floodwaters propagating up the channel. However, as the site is elevated above the flood level for the 1% Annual Exceedance Probability (AEP) event with an allowance for climate change and an 80% blockage, and there are lower areas of land further upstream which are subject to flood risk from Broughton Brook, it is expected that the risk of flooding to the site in the event of failure of the tidal door is low.

- 7.30 In relation to tidal flood risk, the FCA has assessed the risk of flooding from a tidal breach of the River Dee defences, using the outputs from the Sandycroft breach location from our River Dee modelling study (2020). The outputs indicate that the majority of the site would be expected to be flood free in the 0.5% AEP breach event with an allowance for climate change, with only the eastern boundary of the site identified at flood risk. The flood level at the eastern boundary is calculated as 5.82m AOD, resulting in maximum flood depths of only 0.005m. The FCA states that all caravans and buildings should be set to a level of 6.42m AOD, which would provide a 600mm freeboard above the breach flood level. Based on the assessment submitted and the proposed mitigation measures we are satisfied that the proposal demonstrates compliance with A1.14 of TAN15.
- 7.31 In respect to A1.15 of TAN15, which defines how the assessment of the consequences of flooding should be carried out, the FCA demonstrates that no flooding of the site is expected in the 0.1% AEP blockage event for Broughton Brook. In respect to tidal flood risk, the 0.1% AEP breach event with an allowance for climate change has not been considered. For the 0.5% AEP breach event with an allowance for climate change depths are below 600mm and velocities are generally below 0.3m/s.
- 7.32 NRW have confirmed that the FCA shows that the risks and consequences of flooding are manageable to an acceptable level. Therefore, they have no objection on flood risk grounds to the application as submitted. As such the proposal complies with policy EN14 of the Flintshire LDP. As the development is considered to be in line with guidance contained in TAN 15, the proposal also accords with the element in the Circular which requires sites to not be located within sites prone to flooding.
- 7.33 Drainage  
The proposed drainage solution for the site is to dispose of both foul flows and surface water runoff via the public sewerage system. Welsh Water have advised that the public sewers in the vicinity of the site

are foul only and therefore it is not permissible to discharge surface water runoff into a foul sewer.

- 7.34 The surface water drainage is subject to SAB approval and must be sought separately to any planning consent.
- 7.35 As a foul water public sewerage connection is available and Welsh Water have raised no objection to such a connection I consider that the principle of drainage for this development is acceptable.
- 7.36 Access  
The site uses an existing unadopted access road, which is unchanged by the proposal. This section of unadopted highway also serves the residential caravan park to the north of the site. The proposal provides a standard splay entrance to the site, which allows for safe access and egress.
- 7.37 The Highways Authority have confirmed that they have no objection to the proposal and have not made a recommendation on highway grounds.
- 7.38 Local Amenity  
The site is well screened from the adjacent residential units on Willow Brook caravan park. The boundaries will have a 2.4 metre high close boarded fence. There is intervening vegetation between the application site and the caravan park.
- 7.39 With regards to the close boarded fence. There is an advantage to this type of fencing as it provides privacy to the site and its neighbours. NRW have, however, queried the acceptability of the fence, which is directly on the top of the bank of Broughton Brook, as the current proposed closed board fencing would prevent visual inspection of the channel. I propose a condition requiring a further consideration of the fencing. Provision to allow inspection of the Brook when necessary should be given.
- 7.40 Whilst there are industrial uses within the locality of the site, which will generate noise, no concerns have been raised by Public Protection with regard to potential noise impact upon residents of the site. The distance between the caravans on the application site and neighbouring industrial sites is similar to the Willow Brook caravan park. I consider that the amenity of residents of the proposal site is acceptable, and the proposal will not result in a loss of amenity to neighbouring residents.
- 7.41 Other Matters  
NRW have cautioned that that the application site is located within 82m of the SAC. The proposals may affect the River Dee and Bala Lake SAC if pathways for pollution exist. They note, however, that The above pathways may not result in an adverse effect if the

Developer adheres to pollution prevention guidelines. It is not considered likely that the development would have likely effects on the SAC and therefore it is not considered that a Habitat Regulation Assessment is necessary with regard to this development.

## **8.00 CONCLUSION**

By considering this planning application on its own merits and with due regard to all relevant National and Local policies and advice, It is my view that the proposal represents an appropriate and proportionate Gypsy and Traveller site that will benefit from its close proximity to the local communities that surround it but will not give rise to any undue or detrimental impact to the amenity of these communities. With full consideration to the benefits the establishment of this site will give to its residents and their individual needs, as well as all other material issues, I recommend that the application is approved subject to the Conditions outlines in paragraph 2.01

## **8.01 Other Considerations**

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

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.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

## **LIST OF BACKGROUND DOCUMENTS**

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

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