

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **21ST JULY 2021**

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

SUBJECT: **FULL APPLICATION – CHANGE OF USE OF LAND FOR 4 NO GYPSY/TRAVELLER PITCHES AND 1 NO COMMUNAL AMENITY BLOCK /DAYROOM**

APPLICATION NUMBER: **060591**

APPLICANT: **MR S LOCKE**

SITE: **LAND ADJACENT TO TY DWR BUNGALOW TAN LAN FFYNONGROYW HOLYWELL CH8 9UU**

APPLICATION VALID DATE: **16TH OCTOBER 2019.**

LOCAL MEMBERS: **COUNCILLOR MR G BANKS**

TOWN/COMMUNITY COUNCIL: **LLANASA COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **MEMBER REQUEST IN ORDER TO ASSESS THE PRINCIPLE OF DEVELOPMENT**

SITE VISIT: **YES**

1.00 SUMMARY

- 1.01 This full application proposes the change of use of approximately 0.14 hectares of land adjacent to Ty Dwr Bungalow, Tan Lan, Ffynongroyw, Holywell, for the siting of 4 No Gypsy / Traveller pitches and 1 No communal Amenity Block, Dayroom.
- 1.02 Progression of the application has been delayed pending :- i)the submission of a Flood Consequences Assessment (FCA) given the

sites location within a C1 Flood Zone ii) re-consultation on amended plans informed by the FCA, and iii) clarification on the personal circumstances of the applicant and wider family. The FCA has been considered by Natural Resources Wales (NRW), the conclusions of which are referenced in this report.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION SUBJECT TO THE FOLLOWING CONDITIONS

- 2.01
- 1 Time Limit on commencement
 - 2 In accordance with approved plans
 - 3 Occupation restricted to Gypsies and Travellers as defined by para 2 of Circular 005/2018
 - 4 No more than 4 static pitches to be on site
 - 5 Details of static units to be submitted and approved
 - 6 Materials to be used in construction of day room to be submitted and approved
 - 7 No caravan to be brought on site until hard /soft landscaping scheme has been submitted and approved
 - 8 Timescale for implementation of landscaping scheme
 - 9 No caravans / materials to be stored within 3m of site boundaries
 - 10 No windows to be introduced into eastern elevations of static caravans relative to site boundary with Ty Dwr Bungalow
 - 11 Details of external lighting to be submitted and approved
 - 12 Details of formation of site access to be submitted and approved
 - 13 No other works associated with development of the site to commence until access has been completed in accordance with approved plans.
 - 14 Positive means to prevent surface water run off onto highway to be submitted and approved.
 - 15 Parking / turning facilities to be provided /retained
 16. Site and Finished Floor Levels of static units to be submitted and approved.
 17. No commercial activities shall take place on the site.

3.00 CONSULTATIONS

- 3.01 Local Member
Councillor G Banks
Request site visit and Planning Committee determination in order to consider the principle of development, the impact on existing properties and potential flooding of the site

Llanasa Community Council

Object on the following grounds

- Site is at risk from flooding
- Question whether the site has ever been used for storage purposes
- Proposal would represent overdevelopment of the site

- Proposal would be out of character with existing development

Highway Development Control

No objection subject to the imposition of conditions in respect of access, surface water run - off and provision or retention of parking and turning facilities

Community and Business Protection

No objection in principle. Attention drawn to Model Standards 2008 for the creation of caravan sites in Wales

Welsh Water/Dwr Cymru

Confirm that capacity exists within the public sewerage network for the receipt of domestic foul flows from the development only.

Natural Resources Wales

Following the submission of a Flood Consequences Assessment (FCA) raise no objection to the development subject to control over site and caravan floor levels

4.00 PUBLICITY

4.01 Press Notice, Site Notice, Neighbour Notification

10 letters of objection received, the main points of which can be summarised as follows:-

- Detrimental impact on character of site and surroundings
- Proposal would lead to overdevelopment
- Community use or houses on the site would be more beneficial to residents in the locality
- Increased traffic generation
- Potential flooding

5.00 SITE HISTORY

5.01 None relevant

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR1 – New Development

Policy GEN1 – General Requirements for Development

Policy GEN3 – Development in the Open Countryside

Policy D1 – Design Quality, Location and Layout

Policy D2 – Design

Policy D3 – Landscaping
Policy AC13 – Access and Traffic Impact
Policy AC18 – Parking Provision and New Development
Policy HSG14 – Gypsy Sites
Policy EWP17 – Flood Risk

Additional Guidance

Planning Policy Wales (PPW) – Edition 11
Future Wales Development Plan 2020-2040
Technical Advice Note 6 – Planning for Sustainable Rural Communities
Technical Advice Note 12 – Design
Technical Advice Note 15 – Development and Flood Risk
Technical Advice Note 18 – Transport

Circulars

Designing Gypsy and Traveller Sites May 2015.
Circular 005/2018 – Planning for Gypsy Traveller and Showpeople Sites

7.00 PLANNING APPRAISAL

7.01 Introduction

This full application proposes the change of use of approximately 0.14 hectares of land adjacent to Ty Dwr Bungalow, Tan Lan, Ffynongroyw, Holywell, for the siting of 4 No Gypsy/Traveller pitches and 1 No communal Amenity Block/Dayroom.

7.02 Site Description

The site the subject of this application is located on the southern side of the Coast Road (A548) between an existing property Ty Dwr Bungalow and North Wales Holiday Home Sales Centre. It is located outside of but approximately 0.3km to the west of the settlement boundary of Ffynongroyw. The site is therefore considered to be in the open countryside.

7.03 Proposed Development

The application is for the siting of 4 No pitches. Each pitch would have a space for a static, a touring caravan and hardstanding for 2 No vehicles. It is proposed that the pitches would be occupied as follows:

Pitch 1

The applicant, his wife and 2 daughters

Pitch 2

The applicant's son, his wife and their 3 children

Pitch 3

The applicant's daughter, her partner and their 3 children

Pitch 4

The applicant's nephew, his partner and their child

7.04 In addition it is proposed to erect a separate single storey building measuring approximately 15m x 8m x 4.7m (high) for use as an amenity block /dayroom. Amended plans submitted and informed by the Flood Consequence Assessment (FCA) propose that this building would be sited parallel to the common site boundary with North Wales Holiday Homes Sales Centre and be constructed having facing brickwork external walls and a concrete tile roof.

7.05 Main Planning Considerations

It is considered that the main issues to be taken into account in determination of this application include

- i) Principle of Development
- ii) Best Interests of the Child
- iii) Adequacy of Access
- iv) Character and Appearance
- v) Living Conditions
- vii) Flooding

Principle of Development

7.06 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 local authorities meet the accommodation needs and provide sites for Gypsies and Travellers through the planning system.

7.07 Flintshire Unitary Development Plan Policy HSG14 also acknowledges the requirement for development plans to make adequate provision for the accommodation needs of gypsy families, but this policy predates the 2014 Act as well as Circular 005/2018, both of which place a different emphasis on assessing applications for Gypsy and traveler sites. Whilst the LDP has a similar criteria based policy to the UDP, it is still subject to the findings of the LDP Examination which has resulted in its two criteria a. and b. being deleted as they do not comply with the guidance in the above circular.

7.08 As these criteria relate to the need to demonstrate a proven need for a Gypsy and Traveler site, as well as there being no suitable alternatives elsewhere, as these are also the first two criteria in UDP policy HSG14 they are no longer valid considerations and cannot be taken into account. Welsh Government raised this matter in their representations to the LDP Examination Inspector, highlighting that the Circular notes that policy requirements to 'demonstrate unmet need' would act against freedom of movement for gypsies and

travelers 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.

- 7.09 The Council has an approved Gypsy and Traveller Accommodation Assessment (2016) that is still extant for the purposes of the LDP Examination evidence base and for Development Management purposes. This shows a plan period need for 19 additional pitches. In addition the LDP has made suitable site specific provision to meet this need, made via site allocations as extensions to three existing Gypsy and Traveller sites, 1 of which is Council owned and the others in private ownership. None of these allocations have yet been confirmed by the LDP Examination Inspector and neither do they have planning permission, although applications are under consideration for the two privately owned sites, and a further application is being prepared for submission on the Council owned site.
- 7.10 Suitable provision to meet this level of need has therefore been identified in the LDP, however the plan has yet to be adopted and this is a material factor in the consideration of the need and provision presented by this application. In any event, circular 005/2018 states that criteria based policies are required in development plans, to cater for what is in effect new or windfall demand for pitches, and the UDP and LDP have similar criteria based policies.
- 7.11 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*'. Paragraph 12 recognises that '*Some Gypsies and Travellers may wish to find and buy their own sites to develop and manage*'.
- 7.12 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'.
- 7.13 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’.

- 7.14 Whilst the Circular advice supersedes criterion a. and b. of policy HSG14 of the UDP, on the basis that this would be unduly restrictive to applications such as this, the other UDP policy criteria are still relevant. These are in line with the Circular and essentially seek 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. That said, the Circular goes on the state that ‘Sites in the countryside, away from existing settlements, can be considered for Gypsy and Traveller sites if there is a lack of suitable sustainable locations within or adjacent to existing settlement boundaries’
- 7.15 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*
- 7.16 I consider that the site meets the specified criteria listed as the proposal represents development on a site in an appropriate sustainable location, in close proximity to a range of facilities and with access to bus and rail transport links on a key distributor route within Flintshire.
- 7.17 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. There is no issue of prematurity given the position with provision in the LDP which is yet to be adopted, as applications for Gypsy and Traveller Sites do not go to the heart of the plan or raise issues of more than local significance in terms of the LDP Strategy. In any event, the advice in the Circular is clear that each proposal should be considered on its individual merits.

Best Interests of the Child

- 7.18 As the residents of the site will include children the proposal has been assessed with due regard to their best interests.
- 7.19 The agent has advised that there are a total of 8 No children between the ages of 1 -17 who require access to regular schooling and are in need of constant medical care. Whilst the 17 year old has been able to access state education over a period of time, it is understood that the children aged 4 & 5 have received private home schooling on an infrequent basis due to the transient nature of the family.
- 7.20 Although the other 5 No children are of pre-school age, they will soon be in need of pre-school education and shortly will be in need of more regular education. The agent has also advised that the lack of a permanent base has meant that family members have had to live apart for a significant period of time for work/family reasons which has impacted on gaining access to educational facilities.
- 7.21 It is considered that the proposal would offer the consistent access to education and health care which would be in the best interests of the children. The benefits of enabling the provision of a stable and secure environment is a material consideration of significance in the planning balance. It has been accepted by planning inspectors with rights to respect for family and private life as identified in Article 8 and Article 1 of Protocol 1 of the European Convention on Human Rights.
- 7.22 It is acknowledged that children would 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. .
- 7.23 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"

7.24 These considerations are material in the assessment process the implications of the applicant /family of having a settled base for educational /health needs of the children needing to be considered and weighed in the balance as a primary consideration. In these circumstances the best interests of the children would be best served by occupation of the site.

Adequacy of Access and Parking

7.25 Consultation on the application has been undertaken with the Highway Development Control Manager who in progression of the application, has sought confirmation on the need to ensure that there is no impact on the adopted highway /position of a highway manhole drain located adjacent to the site frontage.

7. 26 As a result it has been confirmed that the details submitted are acceptable from a highway perspective, and it is recommended that any permission includes conditions in respect of access, surface water run-off and the provision and retention of parking and turning facilities within the site.

Character and Appearance

7.27 Policy HSG14 (c) sets out that a gypsy and traveller site can only be permitted where there is natural screening or the site can be screened. The more recently published advice in the Circular sets out that sites should not be deliberately heavily screened as this gives rise to a sense of separation. The site is not particular naturally screened other than on the rear site boundary, and to help reduce the visual impact of development and provide some privacy to existing occupiers of the adjacent property and occupiers of the site, there would be a requirement to introduce additional a mix of hard and soft boundary screening on the boundaries which can be secured by condition if Members are mindful to grant permission.

Living Conditions

7.28 Designing Gypsy and Traveller Sites 2015, establishes the framework for the design /layout of sites, although it does reference that this guidance is aimed at Local Authority owned or leased traveller sites.

7.29 As previously indicated the site the subject of this application is promoted in a private capacity but the site layout proposed does use the basis of this guidance in designing the layout and provision of associated facilities.

7.30 The amended plans submitted propose the siting of 3 of the 4 caravans in proximity to the boundary relative to Ty Dwr Bungalow with an associated raising of site levels as informed by the FCA. (See paragraphs 7.32 -7.34) Whilst there is no direct interface relationship between the dwelling and proposed static units the

propose in accordance with the above guidance a stand-off of 3m from the associated curtilage boundaries and a 6 m separation between units to safeguard living condition / meet fire regulation standards.

- 7.31 The proposed caravans are orientated so there are no habitable windows relative to the boundary with Ty Dwr Bungalow and there is enhanced boundary treatment introduced along this common site boundary with this property that this would help to safeguard the living conditions of both existing residents and proposed occupants at this location. These can be secured by the imposition of conditions if Members are mindful to grant permission for the development. This ensures that the criterion E of Policy HSG14 is met.

Flooding

- 7.32 The site lies partly with a Zone C1 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note (TAN) 15 – Development and Flood Risk. This is defined as an area of the floodplain which are developed and served by significant infrastructure including flood defences.
- 7.33 The development proposal would increase the land use vulnerability of the site to “highly vulnerable” in accordance with Figure 2 of TAN15. Given the nature of the proposals and sites Zone C1 designation, a Flood Consequences Assessment (FCA) has been submitted to seek to show that the risks associated with the potential flooding of the site and impacts elsewhere can be acceptably managed.
- 7.34 The submitted FCA concludes that given the sloping topography of the site, that the frontage site levels would need to be increased above those at Ty Dwr Bungalow by approximately 300mm to 6.4m AOD with the floor levels of the caravan set to approximately 6.8 AOD. Whilst this is acceptable to Natural Resources Wales (NRW) this has resulted in the layout being amended from that initially submitted. Given the proposed gradients this requires the re-positioning of the proposed amenity block to adjacent to the site boundary with the Wales Holiday Home Sales Centre and the re-siting of 2 of the static caravans to the sites western boundary relative to Ty Dwr Bungalow. The impact of this change to the layout has been addressed in further detail in paragraphs 7.25. – 7.31 of this report.

8.00 **CONCLUSION**

This report seeks to address a range of issues of relevance to both statutory consultees and third parties subsequent to the consultation exercise undertaken.

The application has been considered having regard to the relevant Central and Local government planning policy framework and advice, it being my view that there are significant material considerations weighing in favour of the proposal and no planning policy grounds on which to oppose the principle of development at this location.

Whilst there is no objection from the Highway Development Control Manager, or Natural Resources Wales, I consider the specific development management consideration to be taken into account focuses on the potential impact of development on the living conditions of occupiers of nearby properties and specifically Ty Dwr Bungalow which shares a common site boundary with the application site. Subject to controls over the siting of pitches, site levels and boundary treatment associated with the proposal which can be secured by conditions, I consider the proposal is acceptable and therefore recommend accordingly.

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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