

45/2021/0516



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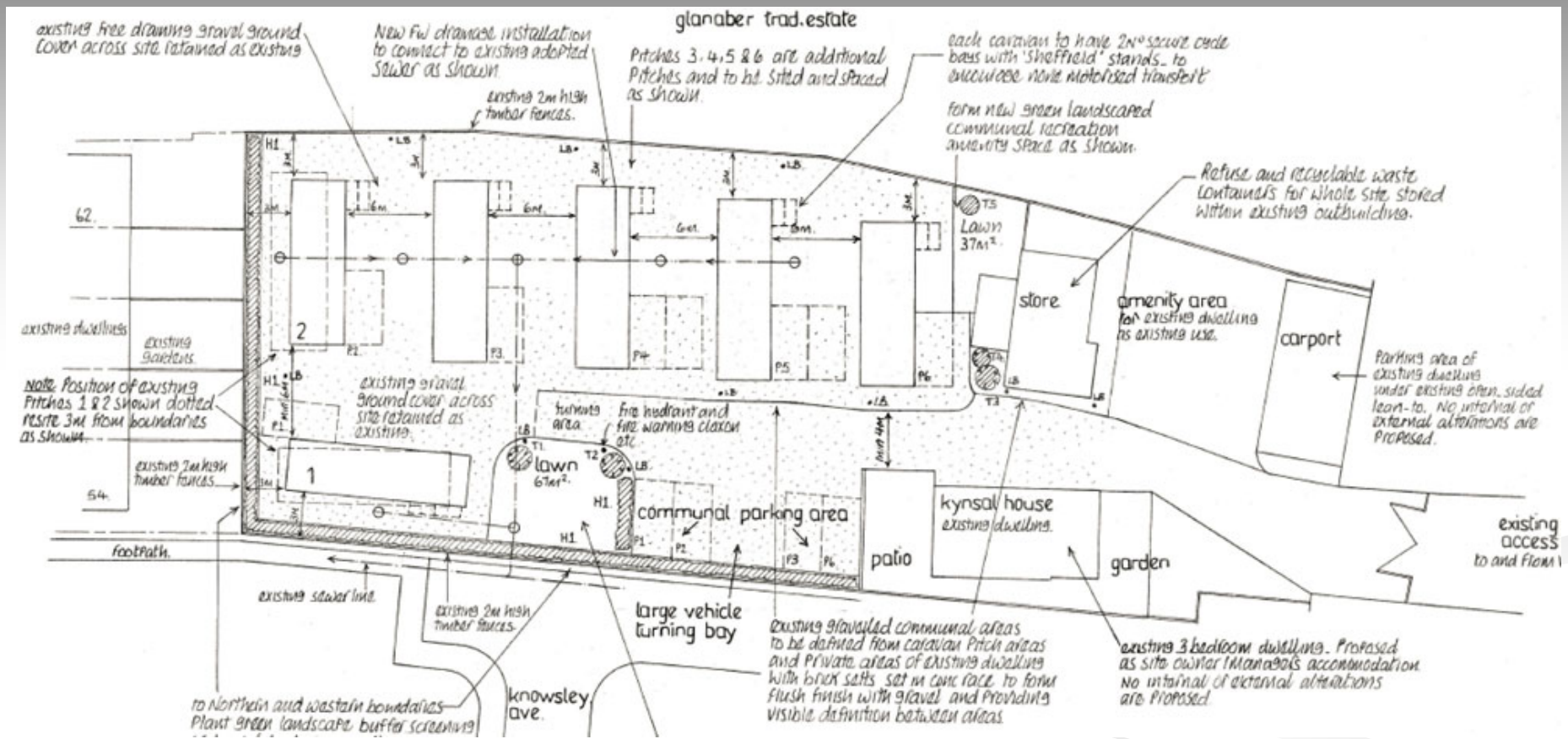
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Site location plan





Proposed Site Plan



Site entrance



Existing arrangements within the site



Existing arrangements within the site



Existing arrangements within the site



Entrance to site from Vale Road



Western boundary



Western boundary



Eastern boundary



Eastern boundary

WARD : Rhyl South West

WARD MEMBER(S): Cllr Peter Prendergast (c)
Cllr Pat Jones

APPLICATION NO: 45/2021/0516/ PF

PROPOSAL: Change of use of land and ancillary buildings to form residential Traveller site for 6 caravans, with the existing dwelling Kynsal House retained for owners / managers accommodation; including formation of internal pathways and parking, landscaping and associated works

LOCATION: Kynsal House Vale Road Rhyl LL18 2PG

APPLICANT: Mr Phillip Purcell

CONSTRAINTS: C1 Flood Zone
Public Right Of Way
Article 4 Direction

PUBLICITY UNDERTAKEN: Site Notice - Yes
Press Notice - No
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Recommendation to grant / approve – 4 or more objections received
- Recommendation to grant / approve – Town / Community Council objection
- Member request for referral to Committee

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL

Objection

“It is emphasised that this response is about the site and not the site users and these concerns raised would be the same for any change of use that had a similar impact.

The reasons for the objection are as follows –

- This application, in part is retrospective, in that there has been, since 2019, two static caravans have been sited on this land without any permission being sought at that time, so this application reflects this in addition to adding a further four static caravans, if you add in the point that Kynsal House is also occupied then this is clearly over intensification of the site.

- There is also the point that in 2019, all hedges and shrubbery that was in existence was removed by the owner, without any permission, along with the installation of a dropped kerb to gain entrance from Knowsley Avenue, this in part has been rectified by the installation of a fence from Knowsley Avenue, however the dropped kerb remains which would suggest there is an option for the owner to reinstate access via Knowsley Avenue at some point in the future.

- The justification statement for the site states that this application is to create a permanent site for the owners family, however the application and the statement both use the terminology of owner/manager, the latter of which would suggest the nature of some users to be more ‘transient’ than what is stated in the statement, It accept that this is a perception of wording but the Council feel that clarity is required, - does a site for family and extended family require a site manager?

- It is clear from the plan that the spacing between caravans is not sufficient, a point that has been confirmed by the Fire and Rescue Service, who state in their response that they have noted

that the proposed layout does not conform with the model 2008 standards (2008) for caravan sites in Wales or the Welsh Governments document (Designing Gypsy and Traveller Sites).

- Furthermore 3.26 of the document references that 'if a site has a cul-de-sac layout there should be adequate turning space to accommodate large vehicles such as fire engines, ambulances, refuse lorries and large vehicles, whilst the plan reflects a turning area, this does not appear to be suitable.

- Given the location of the site and the over intensification as mentioned earlier, this site is not suitable for the number of caravans being proposed, access in and out of the site (from Vale Road) is, in the view of the Council, dangerous for the increase in usage.

- Since this development was created in 2019, there has been no attempt to engage with the immediate community next to the site, any attempts by residents to address concerns around removal of tree/shrubs, changes to the boundary and creating access from Knowsley Avenue has been ignored or challenged.

- Section 1.9 of the Designing Gypsy and Traveller Sites Guidance states 'Local Authorities having regard to the Sites Guides will help to ensure that Gypsy and Traveller sites in Wales:
1) are sustainable, well managed and maintenance is planned and not always reactive;
2) are equivalent to the relevant parts of standards which would be expected on other types of mobile home sites and social housing; and,
3) create the necessary conditions to encourage and develop good relations between Gypsies and Travellers and the settled community, and between site residents and owners / managers.

- Residents have experienced anti-social behaviour and have been impacted by noise and light pollution that arises from the 'ill placed' siting of security lighting, the removal of hedges etc which has increased the impact of this.

- Given the size (and location) of the site, the size of caravans proposed and including car parking and other buildings and the numbers of residents proposed then all of this could have an adverse impact on the health and wellbeing of the occupants, this would be the same considerations that would be expected to be considered should an applicant wish to develop housing on the plot."

NATURAL RESOURCES WALES

No objection

Recommend inclusion of a condition requiring occupancy restriction to Applicant and family, and condition to ensure the mitigation measures proposed (including preparation of a flood plan) are implemented.

DWR CYMRU / WELSH WATER

No objection

Recommend inclusion of condition relating to drainage details if the Planning Authority are minded to grant (no surface water is permitted to connect to mains sewerage).

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

- Highways Officer

No objection

Recommend inclusion of condition relating to use of access being restricted to Vale Road only and no access to be gained from Knowsley Avenue.

- Footpaths Officer

No observations

The proposal does not impact on any public path.

Public Protection Officer

No objection

Recommends inclusion of conditions relating to restricting any commercial use on the site.

County Ecologist

No objection

Recommends inclusion of conditions relating to Hedgehog access, landscaping/biodiversity enhancement and lighting if the Planning Authority are minded to grant.

Flood Risk Engineer

No objection

Proposal will be subject to SAB approval.

Strategic Housing & Policy Officer

No objection

The site is considered suitable and acceptable when assessed against adopted LDP Policy BSC 10 and other relevant LDP policies.

Other responses

NORTH WALES POLICE DESIGNING OUT CRIME OFFICER

No objection

NORTH WALES POLICY DIVERSITY UNIT

"From the perspective of North Wales Police, we confirm we have not received any significant concerns or tensions which would be relevant to any Planning Application decision. We will remain impartial to this process as with other planning applications."

NORTH WALES FIRE SERVICE

Initial recommendations made in relation to access for fire appliances, water supply and site layout. *see "Re-Consultation Response" as updated plans provided to address Fire Officers concerns.

RE-CONSULTATION RESPONSES (IF RELEVANT)

RHYL TOWN COUNCIL

To be reported on Addendum Report /Late Sheets

NORTH WALES FIRE SERVICE

The developers have addressed all previous concerns.

The Fire Authority does not have any observations in regard to access for appliances and water supplies.

RESPONSE TO PUBLICITY:

In objection

Representations received from:

Chris Rich, 1 The Crescent, Rhyl

Neil Griffiths, 11 Beech Avenue, Rhyl

Phillip Roberts, 24 Knowsley Avenue, Rhyl

Carmel Roberts, 24 Knowsley Avenue, Rhyl

Scott Drummond, 14 Knowsley Avenue, Rhyl

Stephen Williams, 21 Knowsley Avenue, Rhyl

Tracey Lynn Jenkins, 22 Knowsley Avenue, Rhyl

Patricia Treacy, 16 Knowsley Avenue, Rhyl

Summary of planning based representations in objection:

Proposal is contrary to Planning Policy- there is no identified need for the development.

Access/Highway Safety- proposal will increase the use of the access which would be unsafe.

Visual Amenity/ Landscape Impact - proposal would be out of keeping with the local area, existing trees/landscaping has been removed without permission.

Residential Amenity - impacts of the development on residential amenity by virtue of increased activity on the site and the noise/disturbance associated with this.

Fear of Crime / Antisocial behaviour - proposal may impact on crime and disorder/ ASB in the area.

Local Amenities - proposal would impact on local services.

EXPIRY DATE OF APPLICATION: 03/02/2022

EXTENSION OF TIME AGREED: 09/03/2022

REASONS FOR DELAY IN DECISION (where applicable):

- awaiting consideration by Committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

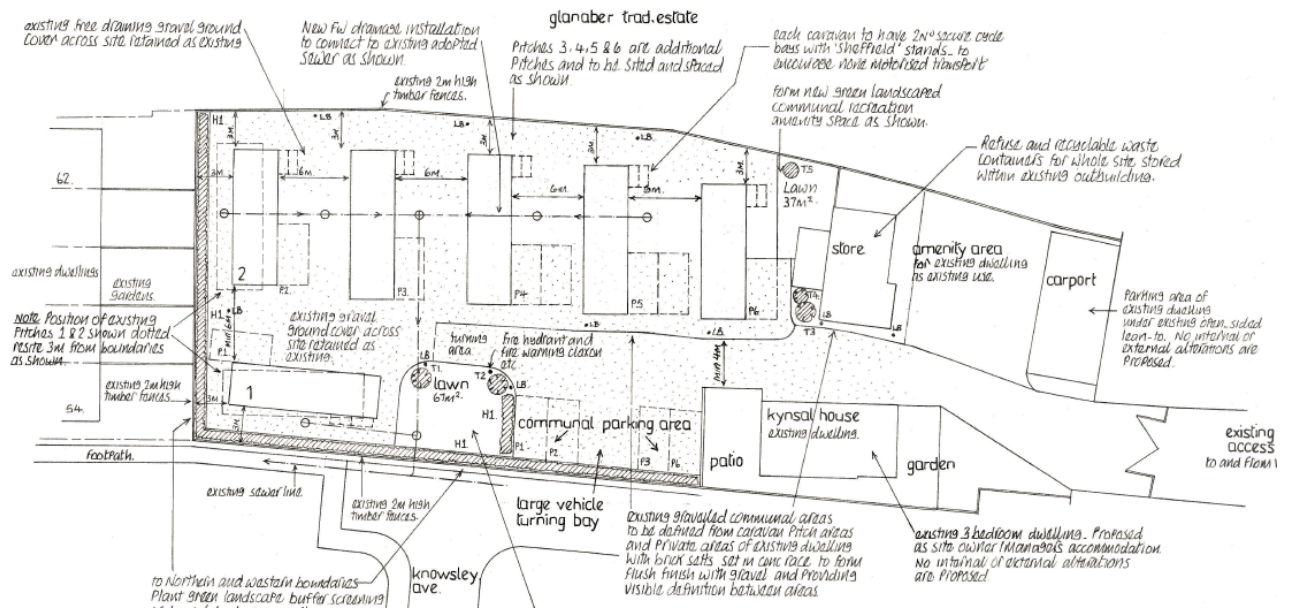
1.1 Summary of proposals

- 1.1.1 The application description is the "Change of use of land and ancillary buildings to form residential Traveller site for 6 caravans, with the existing dwelling Kynsal House retained for owners / managers accommodation; including formation of internal pathways and parking, landscaping and associated works".
- 1.1.2 The application is described as partly retrospective as the site has been cleared and is currently occupied. The Applicant and his family reside in the dwelling, two static caravans, a touring caravan and motorhomes on the site.
- 1.1.3 Factually, in relation to the individual elements of the application, the scheme involves the following:-
- The application site comprises of the dwelling Kynsal House, its curtilage and a parcel of land to the north/rear of the house with a combined area of 0.21 hectares.
 - The 3 bedroom dwelling Kynsal House would be retained as existing, with a patio area to the rear of the dwelling and a small garden area to the front. Opposite the dwelling a parking area and car-port would also be retained for the dwelling (used as existing).
 - To the north/rear of the dwelling a six plot static caravan development arranged in a 'L' shape is proposed. Each plot would comprise of gravel hard standing on which there would be one static caravan pitch, along with parking for one vehicle and two bicycles. There would be no formal demarcation between the pitches. The access/amenity space would be demarked by paving brick setts flush with the gravel finish, to provide visible definition between the site pitches, the access, and communal spaces.
 - An existing brick building is proposed to be retained as a store for refuse and recycling facilities for the site.
 - Two lawn / communal amenity space areas are proposed adjacent to the Store and communal parking area (measuring 67m² and 37m² respectively). Landscaping has been annotated on plan with trees specified in a landscaping schedule (Laurel on the north and west boundaries, other tree planting to include Oak and Holly).
 - Communal parking for 4 additional vehicles is shown on the western side of the site.
 - Low wattage solar lighting bollards are proposed around the site, with a capped top for side lighting only.
 - Boundaries to the site would be defined by the existing 2 metre high fencing to the north, east and west. An additional landscape buffer screen is shown to the

north and west boundaries, comprising of Laurels set behind the existing 2 metre timber fence.

- Drainage arrangements show foul connections from each pitch with a link to the mains sewer to the west of the site.
- Surface water is referred to as soakaway (Surface Water drainage details would be subject to SAB approval).
- The access to the site would be as existing, joining Vale Road between no. 97 and no. 99.

See Site Layout Plan *not to scale



1.2 Other relevant information/supporting documents in the application

1.2.1 The application has been submitted by a Planning Agent on behalf of the Applicant who identifies as a Traveller. The Applicant is the site owner and has resided at Kynsal House since October 2019. His intention is to continue to reside in the dwelling with his family occupying the pitches on a permanent residential basis.

1.2.3 The following documents have been submitted as part of the application:

- Planning Statement
- Limited FCA Richard Broughton
- Flood Consequences Assessment Waterco
- Landscaping Schedule
- Additional Statement in Response to Planning Consultation Responses

1.3 Description of site and surroundings

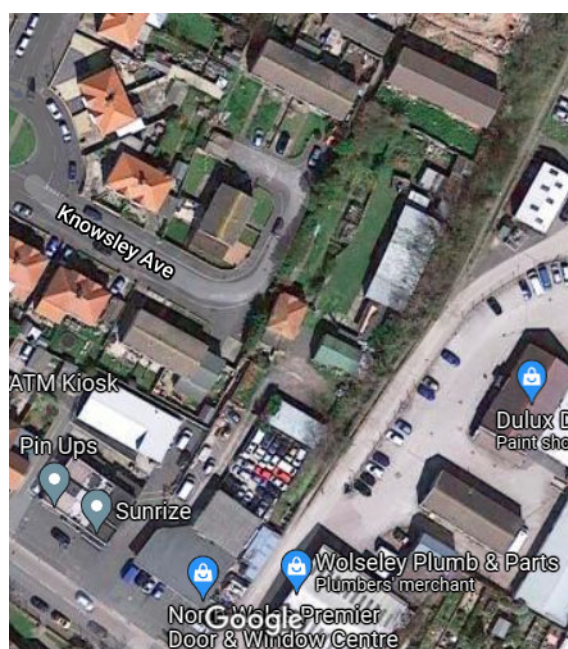
1.3.1 The site is located off Vale Road on the approach to Rhyll town centre. The access lies between no. 97 and no. 99 Vale Road.

1.3.2 The parcel of land is a relatively flat gravelled area on which the existing dwelling, carport and store are sited. As mentioned above, plans show there are two static caravans, a touring caravan and two motorhomes currently on site.

1.3.3 Site boundaries are demarked by 2 metre panel fencing to the north, east and west, with metal fencing and a gate to the east (front).

- 1.3.4 The north of the site is bounded by the rear gardens of dwellings fronting Brookdale Road (a cul de sac to the north). The west of the site is bounded by Knowsley Avenue (a cul de sac to the west) and a footpath which cuts through from Knowsley Avenue to Brookdale Road. The east of the site is bounded by Rhyl Cut (Watercourse), with the access to Glan Aber Trading Estate beyond. To the south of the site abutting the entrance there are commercial buildings along the access and fronting Vale Road.
- 1.3.5 It is understood that the site was historically used for some form of commercial use alongside the residential use of Kynsal House. There is no planning history for the site, but historic aerial photographs show a large corrugated structure and other smaller outbuildings/sheds abutting the eastern boundary and grass and some form of external storage on the west side.

See Site Location Plan and Historic google maps site image *not to scale



Site Photos:

Entrance to site showing Kynsal House, Carport and Store



Photos within site showing existing arrangements





Photos of Site Entrance/ Access between No. 97 and 99 Vale Road



Photos of Western Boundary to Knowsley Avenue



Photo of Western Boundary to Knowsley Avenue & path to Brookdale Rd



Photos from the Eastern Boundary across the Cut



1.4 Relevant planning constraints/considerations

- 1.4.1 The site is located within the development boundary of Rhyl for the purposes of planning policy considerations. It has no other specific allocation/designation in the Denbighshire Local Development Plan.
- 1.4.2 The site is located within a C1 Floodzone as defined by the Development Advice Maps of TAN 15 Development and Floodrisk.

1.5 Relevant planning history

- 1.5.1 There is no planning history on the site.
- 1.5.2 An application was made in 2000 to create an access onto Knowsley Avenue from the site, however this was subsequently withdrawn and the access closed off.

1.6 Developments/changes since the original submission

- 1.6.1 On review of the initial consultation responses the Agent updated the Site Layout plan to address initial concerns raised by the Fire Officer regarding spacing/access to the site.
- 1.6.2 A Statement was also submitted to address some queries raised in the consultation responses. The Statement also referred to the Applicants willingness to accept conditions (as specified by NRW) and their preference to enter into a Unilateral Undertaking to cover Planning Obligations (mentioned by the Policy Officer).

1.7 Other relevant background information

- 1.6.3 In the interests of clarity, what is proposed is a private residential Travellers site with the dwelling Kynsal House encompassed into the use. The Applicant and his family

identify as members of the Travelling community. The application is made on the basis of policy BSC 10 – Gypsy and Traveller Sites. The Agent states that the proposal will therefore contribute to meeting an identified need in Denbighshire for Gypsy and Traveller Sites.

- 1.6.4 The Agent advised in the initial justification statement and subsequent statement that the existing residential dwelling will be the permanent residence of the Applicant, enabling him to; implement the permission as planned, control the use, and manage and maintain it accordingly, albeit for his own family members only. The Agent clearly states that “the dwelling together with the 6 pitches will form the same entity with the applicants 6 children and their respective families residing in the proposed static caravans.”
- 1.6.5 The definition of 'Gypsies and Travellers' is contained within section 108 of the Housing (Wales) Act 2014. The same definition is used in Welsh Government Circular 005/2018 Planning for Gypsy, Traveller and Showpeople Sites and is applicable here.

For reference this definition is as follows;

- (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 intention of the above definition is to ensure that ethnic Romani Gypsies and Irish Travellers are included, as well as those from any ethnic group who follow a nomadic habit of life. Members of these communities do not necessarily need to demonstrate a continued nomadic habit of life to be considered to be Gypsies or Travellers.

2. DETAILS OF PLANNING HISTORY:

- 2.1 45/2020/0007 Construction of a new vehicular access and erection of wall to boundary of site.
Application withdrawn 27/04/2020

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD1 – Sustainable development and good standard design

Policy RD5 – The Welsh language and the social and cultural fabric of communities

Policy BSC1 – Growth Strategy for Denbighshire

Policy BSC3 – Securing infrastructure contributions from Development

Policy BSC10 – Gypsy and traveller sites

Policy BSC11 – Recreation and open space

Policy VOE5 – Conservation of natural resources

Policy VOE6 – Water management

Policy ASA3 – Parking standards

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Access For All

Supplementary Planning Guidance Note: Planning Obligations

Supplementary Planning Guidance Note: Residential Development

Supplementary Planning Guidance Note: Residential Development Design Guide

Supplementary Planning Guidance Note: Residential Space Standards

Supplementary Planning Guidance Note: Trees & Landscaping

Government Policy / Guidance

Planning Policy Wales (Edition 11) February 2021

Development Control Manual November 2016

Future Wales – The National Plan 2040

Welsh Government Circular 005/2018 Planning for Gypsy, Traveller and Showpeople Sites

Technical Advice Notes

TAN 15 Development and Flood Risk (2004)

Other

The Housing (Wales) Act 2014

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned. The DMM further states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales, Edition 11 (February 2021) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy 2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 11) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

The following paragraphs in Section 4 of the report therefore refer to all statutory requirements, policies and material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

4.1.1 Principle

4.1.2 Visual amenity

- 4.1.3 Residential amenity
- 4.1.4 Ecology
- 4.1.5 Drainage (including flooding)
- 4.1.6 Highways (including access and parking)
- 4.1.7 Open Space
- 4.1.8 Density of development
- 4.1.9 Fear of crime
- 4.1.10 Impact on local services

4.2 In relation to the main planning considerations:

4.2.1 Principle

The site is located within the development boundary of Rhyl. Within the BSC 1 development boundary allocation, new development will, in principle be supported provided that it meets with the criteria of other policies in the Local plan and material planning considerations. This assists in working towards a sustainable pattern of development by directing most development to existing settlements thereby making the most effective use of existing infrastructure, facilities and services by reducing the need to travel.

In terms of the specific justification put forward for the case, i.e. the provision of a Traveller site. By way of background the Housing (Wales) Act 2014 requires that an assessment of accommodation needs of Gypsies and Travellers must be undertaken and submitted to Welsh Government every 5 years. An assessment report was submitted to and approved by Welsh Government in 2017 and a new assessment (2021) has recently been approved by Denbighshire County Council and submitted to Welsh Government for approval. The 2017 and 2021 assessment reports both found a need for residential pitches for Gypsy and Traveller families in Denbighshire.

The Housing Act 2014 requires that where a need is identified that the Council must take positive steps to meet this need. This could be through the provision of local authority sites or through the granting of planning permission on private land.

The current need is assessed as being for 8 pitches. If permitted the proposal would assist in meeting this need and in the Council meeting its duty under the Housing Act (2014) Wales.

Planning Policy Wales 2021 paragraph 4.2.35 reiterates the need to carry out an assessment of housing needs for Gypsy and Traveller families and to meet any identified unmet need.

The detailed LDP policy to consider this application against is policy BSC 10 Gypsy and Traveller Sites. The policy is reproduced below, however the justification text has not been included as this has been superseded by more recent legislation and guidance including the Housing Act (2014) Wales and WG Circular 005/2018 Planning for Gypsy, Traveller and Showpeople Sites (2018) referred to above.

Policy BSC 10 Gypsy and Traveller Sites states;

Proposals for gypsy and traveller caravan sites (including mixed residential and business sites) will be permitted provided the following criteria are met:

- i. the site is situated outside the Area of Outstanding Natural Beauty, Green Barriers and the Pontcysyllte Canal and Aqueduct World Heritage site (including the buffer zone); and*
- ii. the site is located within or on the outskirts of an established settlement boundary with access to a range of facilities/services (including schools), public transport and main transport routes; and,*
- iii. the proposal makes suitable provision for on-site play space, storage and parking; and,*
- iv. the proposal would not be detrimental to the amenity of occupiers of adjacent properties.*

In relation to the detailed policy BSC 10 criteria as set out above, Officers views are as follows;

- i. the site is not situated within any of the designated areas;*
- ii. the site is located within the development/settlement boundary of Rhyl, a principle town in the County. The site has access, within 10 to 15 minutes walking distance, to the range of services and facilities specified in the policy. These facilities include Primary and Secondary schools, GP Surgery's and Pharmacy's, Rhyl town centre retail offer and local shops on Vale Road, Bus Stop on Vale Road and Rhyl train station, and Vale Road itself which is an A road.*
- iii. the proposal makes suitable provision for on-site play space, 100 metres² amenity space is proposed, storage would be accommodated in the existing brick outbuilding and parking is shown for each pitch and visitor spaces. The site is also a 255 metres walk from the gates of Coronation Gardens which has a full range of play and sporting opportunities in addition to informal recreation.*
- iv. the proposal is not considered to be detrimental to the amenity of occupiers of adjacent properties; as discussed further below the impacts on adjacent occupiers are not consider to be so significant to warrant refusal of the application*

As set out above there are planning policies at local and national level specific to the consideration of Gypsy and Traveller site proposals whether submitted by the Local Authority or private individuals. Officer's opinion is that in the context of Planning Policy Wales and the LDP, the principle of the development in this location is not precluded by policy and guidance and would be acceptable subject to assessment of relevant and more detailed planning considerations.

The assessment of the detailed considerations are set out in the following sections of the report.

4.2.2 Visual amenity

Criteria i) of Policy RD 1 requires that development respects the site and surroundings in terms of siting, layout, scale, form, character, design, materials, aspect, micro-climate and intensity of use of land/buildings and spaces around and between buildings.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment.

The visual amenity and landscape impacts of development should therefore be regarded as a potential material consideration.

There are objections to the proposal based on potential visual impact of the development from neighbours and the Town Council. There are no substantive objections from other specialist consultees on these grounds.

The site is visible from Knowsley Avenue, Brookdale Road and across the Cut from Glan Aber Trading Estate. As the site is located to the rear of commercial premises fronting Vale Road, with Kynsal House itself located at the front of the site, there are limited views of the site from Vale Road. There is screening around the site boundaries in the form of a 2 metre high panel fence with supplementary laurel hedging proposed. The static caravans are set some .5 metres off ground level, with a total overall height of 3.5 metres, therefore they are visible from the adjacent residential and commercial areas.

The site or wider area has no specific allocation or landscape designation in the Denbighshire Local Development Plan. It is located in an area where there is a mix of

development as described above. The residential development surrounding the site is varied and of no particular architectural significance. The design and character of housing ranges from 1970's semi-detached dwellings and terraces on Knowsley Avenue to more the modern 2000's terrace off Brookdale Road. There is commercial development to the south/front of the site which is of no particular merit and there is a range of industrial units on Glan Aber to the east.

The loss of the screening/trees has been mentioned in representations, as the site was historically bounded by a mix of planting including substantial Leylandii hedging. This was removed when the site was cleared, however as the trees/landscaping was not protected, no permission would have been required for the site clearance.

The fact the site is visible from surrounding roads is not in itself a reason to resist development, the question is whether the visual impact would be harmful. Officers consider that there is a sufficient mix of development in the locality to permit the continued use of the site without detriment to the visual amenity of the area.

Subject to suitable control over the detailing and implementation of the proposed additional landscaping/planting, in time the visual impact of the site would be further improved. The mix of development the locality, combined with the scale of the proposal and potential for additional landscaping to supplement the screening, would not give rise to a level of harm sufficient to merit refusal. In Officers opinion, it is not considered that the proposal would result in an unacceptable impact on the visual amenity of the site, or surrounding area.

4.2.3 Residential amenity

Criteria vi) of Policy RD 1 requires that proposals do not unacceptably affect the amenity of local residents and land users and provide satisfactory amenity standards itself.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration.

The impact of the proposals on visual amenity is therefore a basic test in the policies of the development plan.

There are local concerns expressed at the potential for increased noise and disturbance from the development, and light pollution from the site. The Town Council raise similar issues as well as concerns over the potential amenity impacts on the proposed occupiers.

The proposal has been considered by the Public Protection Officer, who has taken into account the concerns raised in relation to the potential impacts on residential amenity by way of noise, disturbance and light pollution. The Public Protection Officer does not consider that such concerns could be substantiated or defended at a planning appeal, and therefore raises no objection to the proposal.

The application proposes a 6 pitch Traveller site with owner's accommodation at Kynsal House. The Justification statement refers to the occupiers of the dwelling as the Applicant with his wife and elderly mother, 6 adult children, their partners and children.

In relation to impacts on residential amenity, it is to be noted that there are residential dwellings in the vicinity of the site, the closest being the terrace on Brookdale Road which bounds the rear of the site. The pitches would be set 3 metres off the boundaries and as mentioned earlier there would be 2 metre screening around the site, supplemented by hedging. The specific detailing of each of the statics has not been

included but a typical elevation is provided which shows the main outlook from living space would be to the south and into the site rather than to the north into adjacent gardens. In terms of overall height the 3.5 metre height and low profile roof of the statics would be lower than that of an average bungalow.

Details have been submitted of a proposed lighting scheme with low level solar power bollard lighting.

Amenity space would be provided centrally on the site, with a circulation area and at least 6 metre spacing between the pitches.

Officers consider that the assessment of relevant impacts of this proposal should be no different to a corresponding residential scheme. This means that relevant factors are distances to neighbouring properties, and potential for planning conditions to be imposed to mitigate impacts.

In respecting the basis of concerns from residents, Officers consider that it would be difficult to justify a refusal based on the potential increased level of noise and disturbance associated with a 6 pitch residential Traveller site, and on the level of activity/traffic associated with such a residential use. There is a mix of uses in the wider area, including commercial and industrial uses to the south and east of the site. Furthermore the site is located off one of the main approach roads to Rhyl town centre. Given the relatively modest scale and nature of the proposed development, (which it is accepted could be comparable to a similar scale residential development on the site), the separation distances between the site and existing residential properties and the imposition of conditions to mitigate impacts it is not considered there would be unacceptable impacts from noise, disturbance, overlooking or privacy in relation to local residents from the operation of the site.

Details of low level lighting bollards have been submitted which downlight the site which are preferable to the temporary lighting which has resulted in concerns being raised by neighbours.

Circulation space, amenity space and utility facilities have all been shown on the site for the occupiers which Officers consider would be adequate to cater for their amenity.

Subject to controls over the residential use and occupancy, Officers the proposal acceptable in relation to the policies and guidance listed above.

4.2.4 Ecology

Local Development Plan Policy RD 1 test (iii) requires development to protect and where possible to enhance the local natural and historic environment.

Policy VOE 5 requires due assessment of potential impacts on protected species or designated sites of nature conservation, including mitigation proposals, and suggests that permission should not be granted where proposals are likely to cause significant harm to such interests.

This reflects policy and guidance in Planning Policy Wales (PPW 11) Section 6.4 'Biodiversity and Ecological Networks', current legislation and the Conservation and Enhancement of Biodiversity SPG, which stress the importance of the planning system in meeting biodiversity objectives through promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable.

Planning Policy Wales (PPW 11) sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity" (Section 6.4.5). PPW

also draws attention to the contents of Section 6 of the Environment (Wales) Act 2016, which sets a duty on Local Planning Authorities to demonstrate they have taken all reasonable steps to maintain and enhance biodiversity in the exercise of their functions. It is important that biodiversity and resilience considerations are taken into account at an early stage when considering development proposals (Section 6.4.4).

The Council's Biodiversity Officer has raised no objection. He suggests inclusion of conditions relation to landscaping, native hedge planting as a biodiversity enhancement and the installation of Bat and Bird boxes. NRW have raised no objection to the proposed development in relation to the ecological issues.

On the basis of the relevant technical advice, Officers conclusion is that there would be no unacceptable ecological impacts and that suitable conditions can be attached to ensure proper measures to mitigate / protect and enhance ecological interests if permission is granted.

4.2.5 Drainage (including flooding)

Local Development Plan Policy RD 1 test (xi) requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding.

Planning Policy Wales confirms that factors to be taken into account in making planning decisions (material considerations) must be planning matters; that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability. The drainage / flooding impacts of a development proposal are a material consideration.

Planning Policy Wales (PPW 11) Section 6.6.22 to 6.6.29 identifies flood risk as a material consideration in planning and along with TAN 15 – Development and Flood Risk, which provides a detailed framework within which risks arising from different sources of flooding should be assessed.

TAN 15 advises that in areas which are defined as being of high flood hazard, development proposals should only be considered where:

- new development can be justified in that location, even though it is likely to be at risk from flooding; and
- the development proposal would not result in the intensification of existing development which may itself be at risk; and
- new development would not increase the potential adverse impacts of a flood event

In terms of the Development Categories in TAN 15, the existing site falls within the 'highly vulnerable development' category.

Section 6.2 of TAN 15 states that development will only be justified if it can be demonstrated that:

i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or,

ii Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;

and,

iii It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1), and

iv The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

Having regard to the justification criteria in paragraph 6.2 of TAN15, Officers' view is that:-

- The proposal complies with test i). The site is located within the development boundary of Rhyl. In accordance with the PPW, the GTAA acknowledges a need for the provision of 8 Residential Traveller pitches countywide. If permitted the proposal would assist in meeting this need and in the Council meeting its duty under the Housing Act (2014) Wales. The preference is for Traveller sites to be located within development boundaries.
- The site is located within the development boundary of Rhyl on an established part residential site.
- Development in existing settlements concurs with the aims of Planning Policy Wales, the new site would be located on a part brownfield site which meets the definition of 'previously developed land' in PPW 11, hence the proposal complies with test iii)
- The potential consequences of a flooding event for the particular type of development have been considered, and are reviewed below.

Officers' conclusion is that the proposals meet the main justification criteria in section 6 of TAN 15.

A Flood Consequences Assessment (FCA) has been prepared in support of the application by Waterco. The FCA has assessed the risk of flooding from tidal and fluvial sources. NRW confirms that the primary source of flooding is tidal flood risk from the River Clwyd. NRW have assessed the FCA and concur with Waterco, that the proposal fails to comply with the requirements of TAN15. However they go on to state that they appreciate the nature of the application and it could be argued that the caravans are linked to the existing family use of the main dwelling. Based on the specific details of the application, NRW advise that appropriate controls should be imposed to ensure that the site is only used for the benefit of the applicant and their family who currently occupy the site, which would limit use of the site to the owner and their family only and prevent the static caravans from being sold on to other users (and potential future redevelopment).

Subject to an appropriately worded planning condition limiting the use of the site to the applicants and their family only, and implementation of the mitigation measures proposed (including preparation of a flood plan) they consider that the consequences of flooding can be managed to a level acceptable for the type of development.

Dwr Cymru Welsh Water have no objections to the proposal subject to the imposition of planning condition controlling drainage as details have not been provided of the specific surface water disposal.

Having regard to the advice of NRW and Dwr Cymru, who are the relevant experts in relation to floodrisk and development, it is considered that the proposal is acceptable in relation to flood risk and drainage and are therefore considered to be compliant with the policies and guidance.

4.2.6 Highways (including access and parking)

Local Development Plan Policy RD 1 supports development proposals subject to meeting tests (vii) and (viii) which oblige provision of safe and convenient access for a range of users, together with adequate parking, services and manoeuvring space; and require consideration of the impact of development on the local highway network.

Policy ASA 3 requires adequate parking spaces for cars and bicycles in connection with development proposals, and outlines considerations to be given to factors relevant to the application of standards. The Parking Standards in New Developments SPG sets out the maximum parking standards for new developments

These policies reflect general principles set out in Planning Policy Wales (PPW 11) and TAN 18 – Transport, in support of sustainable development.

There are objections to the application based on the potential highway impacts. These relate to the access to the site; potential for increased traffic movements owing to the nature of the site users and potential for access to Knowsley Avenue to be re-opened.

The Highway Officer has assessed the proposal offered no objections to the application.

The application proposes use of an existing access to Kynsal House to serve a 6 pitch Traveller site. The access serve the dwelling, its historic commercial use and the commercial used to the rear/fronting Vale Road.

Once in situ, given a residential Traveller site is proposed there would be limited comings and goings of actual static caravans. The use of the site would be for the proposed occupiers of the Traveller site and the dwelling Kynsal House which would be comparable to a similar residential development on the site.

The plans clearly show the access to Knowsley Avenue blocked up and the Highways Officers suggests a condition to ensure this remains the case.

Having regard to the relevant factors in relation to the likely highways impact of the development, in the absence of clear evidence that the proposal would give rise to unacceptable road safety issues or would adversely affect the free movement of traffic on the adjacent highways, it is respectfully suggested there is no sound basis for resisting the grant of permission on highway grounds.

4.2.7 Open Space

Policy BSC 3 of the local development plan sets the basic requirement for development to contribute, where relevant, to the provision of infrastructure, including recreation and open space, in accordance with Policy BSC 11.

Policy BSC 11 specifies that all new housing developments should make adequate provision for recreation and open space. All such schemes put increased demand on existing open spaces and facilities and therefore the policy applies to all developments including single dwellings.

Table 4 in the Open Space SPG (adopted March 2017) sets out thresholds for on-site provision and financial contributions. It specifies that for schemes of 1 – 30 dwellings, open space obligations should be met through financial contributions rather than onsite provision, however 5.4.9 of the SPG does state that the thresholds are indicative, and onsite provision for sites of less than 30 will be considered on their merits.

An Open Space Assessment and Audit Report has been completed by the Council and provides the evidence base for Policy BSC 11. The report assesses the quantity, quality and accessibility of existing open spaces in the County on a community area basis with some additional information on an electoral ward basis.

On the basis of the evidence within the Open Space Assessment and Audit Report, it is considered that the proposal, which would introduce 6 permanent residential pitches, should make a financial contribution to mitigate the increased usage on the existing open space and equipment within the area. The proposal is considered acceptable in relation to open space policy subject to the requisite contribution being secured through an appropriate agreement.

4.2.8 Density of development

Policy RD1 test ii) states that a minimum density of 35 dwellings per hectare (d/ha) should be achieved in order to ensure the most efficient use of land, and that these minimum standards should be achieved unless there are local circumstances that dictate a lower density.

Concerns have been raised locally and by the Town Council that the proposal would represent an over intensification of use of the site.

The site area is 0.2 hectares and the existing house plus the 6 static caravans would give a site density of 35/hectare. This is considered an appropriate density for the site which reflects both the density of housing in the surrounding area and the requirements of adopted planning policy.

Having regard to the nature of the development, its location and proximity to services and public transport, Officers consider this density can be accommodated without unacceptable impacts, and would not be out of character with the nature of existing development and the locality.

4.2.9 Fear of crime

Local Development Plan Policy RD 1 test (xii) requires account to be taken of personal and community safety and security in the design and layout of development and public and private spaces, and to have regard to implications for crime and disorder.

This reflects general advice in the Crime and Disorder Act 1998 and subsequent good practice guide that the effects of a development on crime is a potential material consideration a planning authority should address when exercising its functions.

There are objections to the application based on the fear of crime and anti-social behaviour as a result of the development. The Town Council reiterated these concerns in their consultation response.

Both North Wales Police Design Team and Diversity Unit have been consulted on the application. The Design Team raise no objection to the detail of the proposal. The Diversity Unit have advised they are not aware of any significant concerns or tensions which would be relevant to any planning application decision, adding that they remain impartial to this process as with other planning applications.

In acknowledging the effects of development on public safety and crime is a material consideration, clear evidence needs to be provided to establish that a particular development / use would give rise to negative effects on an area sufficient to justify a refusal of permission. Consequently, whilst Officers note the representations received in relation to the fear of crime, having regard to the consultation response of North Wales Police, it is respectfully concluded that the evidence base for a refusal on grounds of fear of crime is limited, and is not a matter which should be accorded significant weight.

4.2.10 Issues of potential impacts on local services

Objective 12 in Chapter 4 of the Local Development Plan indicates that the Plan will ensure that an adequate level of community infrastructure (including schools) will, where relevant and required, be provided to mitigate the impact of certain new developments.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include service availability and the effects of a development on, for example, health, public safety and crime. Therefore it would not be unreasonable to have regard to the adequacy of existing public facilities and services when considering the application.

There are objections to the application based on concerns over the capacity of local services to deal with demands arising from the users of the site.

The Agent has advised that the site is currently occupied by the Applicants family who attend local schools and utilise local services. The application seeks to regularise the use and establish a permanent base for the four generations of the family.

North Wales Police raise no objections or concerns relating to the impacts of the development on the capacity within their respective service. The Councils Education Section states there is capacity in local schools for prospective students.

To justify a refusal of permission of the application it would be necessary to establish that the development proposed would give rise to demands which would prejudice the delivery of public services to an unacceptable degree. On the basis of the scale and nature of development actually involved and the specialist consultation responses there are limited grounds to suggest this is the case.

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

5. SUMMARY AND CONCLUSIONS:

- 5.1 The application proposes the development of a private residential Traveller site with owner's accommodation at Kynsal House. The site layout with 6 permanent pitches would accommodate four generations of a Traveller family who are currently resident in the dwelling and other accommodation on site.
- 5.2 Officer's assessment of local and national planning policy and guidance suggests there are no fundamental planning policy grounds to oppose the principle of the development of a residential Gypsy and Traveller site in this location.
- 5.3 This report sets out what Officers believe to be the main issues of relevance to the consideration of the application. Having regard to the responses from key consultees and other representations, the planning policies and material considerations, Officers conclude there are limited land use planning grounds to justify a refusal of planning permission. Hence the recommendation is to grant planning permission.

RECOMMENDATION:

It is recommended to GRANT permission subject to the following conditions and:

- Completion of an Unilateral Agreement or Agreement under Section 106 of the planning act to secure an open space contribution of £7423.30 (as per the 'Open Space Calculator')
- In the event of failure to complete the Agreement within 12 months of the date of the resolution of the grant of permission, the application would be reported back to Committee for determination against the relevant policies and guidance at that time.

The Certificate of Decision would not be released until the completion of the Agreement.

1. The development to which this permission relates shall be begun no later than 9th March 2027
2. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to this permission:
 - (i) Location Plan - Received 29 October 2021
 - (ii) Existing Site Plan (Drawing No. DG1) - Received 10 December 2021
 - (iii) Proposed Site Plan (Drawing No. DG2 Rev B) - Received 9 February 2022
 - (iv) Existing and Proposed Outbuilding Floor Plan (Drawing No. DG3) - Received 29 October 2021
 - (v) Justification Statement - Received 10 December 2021
 - (vi) Limited Flood Consequences Assessment - Received 10 December 2021
 - (vii) Landscaping Schedule - Received 17 May 2021
 - (viii) Lighting Bollard Specification - Received 17 May 2021
 - (ix) Waterco Flood Consequences Assessment (Dated 26/10/21) - Received 27 October 2021
 - (x) Statement in Response to Consultation Responses - Received 9 February 2022
3. The occupation of the site shall only be by Gypsies and Travellers as defined by paragraph 2 of Circular 005/2018: 'Planning for Gypsy & Traveller Caravan Sites'.
4. There shall be no more than 6 permanent static caravan pitches on the site any time as defined in the Caravan Sites and Control of Development Act 1990 and the Caravan Sites Act 1968.
5. The occupation of the main dwelling and 6 residential pitches shall be for a single G&T family only.
6. No commercial or livery activities shall take place on the land, including the storage of materials. There shall be no loading or unloading of vans, open backed vehicles or lorries on the site at any time other than for domestic purposes. No more than one commercial vehicle per plot shall be kept on the land for use by the occupiers of the caravans hereby permitted, and commercial vehicles shall not exceed 3.5 tonnes in weight
7. There shall be no burning on site except to provide a residential heat source so as not to cause a smoke nuisance.
8. Access for hedgehogs (at least one 13cm x 13cm opening per boundary) should be made at ground level through any existing and proposed fencing used around the site boundary, to allow for the movement of hedgehogs.
9. Notwithstanding the approved plans, an external lighting/internal light spillage scheme, designed to avoid negative impacts on bats, must be submitted and approved in writing by the LPA. This should follow the guidance set out in Guidance Note 08/18 Bats and artificial lighting in the UK (2018) Bat conservation Trust & The Institute for Lighting Professionals. A warm white spectrum (ideally <2700Kelvin) should be adopted to reduce blue light component. Luminaires should feature peak wavelengths higher than 550nm to avoid the component of light most disturbing to bats. The approved measures shall be implemented in full.
10. Notwithstanding the approved plans, within 6 months of the date of this permission a scheme of hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall include full planting plans, with additional planting along the eastern boundary of the site (hedgerow using native species) and an implementation programme with appropriate future maintenance regime. The landscaping scheme should be designed to deliver a net benefit for biodiversity, must be submitted to, and approved in writing by, the Local Planning Authority. This must include a species list for the new planting, and only feature species of known benefit to wildlife. No species listed on schedule 9 of the Wildlife and Countryside Act (1981), as amended, or species listed on the Invasive Alien Species of Union concern (EU Regulation 1143/2014 on invasive alien species) should be included in the planting list. The landscaping shall be carried out in accordance with the approved details within 6 months of their

approval.

11. The development must contain provision for roosting bats and nesting birds. The number, location and specification of these features should be determined by a suitably qualified ecologist, and shown on appropriate plans and drawings. The updated plans should be submitted to the LPA for approval and the approved measures shall be implemented in full.
12. Within 6 months of the date of this permission details of a scheme for the disposal surface water shall be submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the full residential use of the development and retained in perpetuity.
13. The development shall be carried out in accordance with the recommendations contained in the Waterco Flood Consequences Assessment (Dated 26/10/21) - Received 27 October 2021 and Richard Broughton Limited Flood Consequences Assessment - Received 10 December 2021.
14. The access shall be as shown on the approved plan, Proposed Site Plan (Drawing No. DG2 Rev B - Received 9 February 2022) onto Vale Road only, and access to Knowsley Avenue shall remain permanently closed.

The reasons for the conditions are:-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure a satisfactory standard of Development.
3. The residential use of this site has been allowed on the basis of the need for Gypsies and Travellers pitches and therefore the future occupation of the site accommodation must be controlled.
4. In the interests of clarity to define the extent of the planning permission and prevent over-development of the site.
5. In order to address flood risk concerns arising from the creation of multiple unrelated households on the site.
6. To ensure no commercial activities adversely affect the residential amenity of residents of nearby properties.
7. To ensure no activities on the site adversely affect the residential amenity of residents of nearby properties.
8. In the interest of maintaining the favourable conservation status of the species.
9. To ensure that the development hereby permitted does not have a detrimental impact on the character and appearance of the area and nature conservation.
10. To ensure that the development hereby permitted does not have a detrimental impact on the character and appearance of the area and nature conservation.
11. To ensure that the development hereby permitted does not have a detrimental impact on the character and appearance of the area and nature conservation.
12. To prevent pollution of the environment by ensuring the provision of adequate surface water drainage.
13. To ensure relevant measures are undertaken to limit any risks arising from flooding.
14. In the interests of clarity, as it is the opinion of Highways Officers that proposed access is adequate for the purpose of the proposed development.