

## **ITEM 7(1)**

### **21/00522/FUL – LAND NORTH OF NATIONAL GRID, LONDON ROAD, RAWRETH**

#### **1. Neighbour Response**

An additional response has been received from the following address; Goymers Lodge, Old London Road.

Which makes the following summarised comments:

- Noise and disturbance
- Over development
- Parking
- Policy objection
- Traffic generation/access
- Myself and many residents did not have knowledge of this planning application until 25 September. A site notice was, however, displayed on 25 May 2021 which informed nearby residents that did not adjoin the site of the development.

#### **2. Officer Comment**

The Council's records show that neighbours were sent a letter on 24 May 2021 and that a site notice was posted at the site on 25 May 2021 in accordance with publicity requirements.

## **ITEM 8**

### **20/01196/FUL – MICHELIN FARM, ARTERIAL ROAD, RAYLEIGH**

#### **1. Applicant's Supporting Letter Dated 21 September 2021 and Officer Comments**

Following publication of the Committee report the applicant's agent submitted a letter which raises a number of points that are summarised below. Below each of the issues raised by the applicant an officer comment is provided in italics. The submitted letter can be read in full on the Council's website on the public access for planning page under the 'Plans and Comments' section relating to this application – the document is entitled 'Supporting Document' and dated 22 October 2021.

The applicant expresses their view that the suggestion in the Committee report that an alternative development which would retain the gypsy and traveller site would be possible is wrong. The applicant highlights that implementation of the alternative development of this site which does retain the gypsy and traveller site (as approved under 18/01022/OUT) is extremely unattractive in commercial terms. The applicant goes on to express their view that gypsy and traveller use of the land at the site allocated for this purpose would sterilise the remaining NERL1 employment allocation beyond Phase 1 which is nearing practical completion. The applicant considers that the potential loss of the employment benefits associated with the current proposal must be weighed in the determination of the current application and that far greater weight should be given to the employment benefits of the current proposal in the determination.

*Officer Comment*

*It is accepted that the gypsy and traveller site allocation may make immediately adjoining commercial development a less attractive proposition and it is noted that the current landowner would not look to implement the alternative development which is subject to outline planning consent under 18/01022/OUT and which retains the gypsy and traveller site allocation. However, it is also noted that the current landowner has partly implemented the 18/01022/OUT consent with commercial units nearing practical completion on Phase 1 of the site. It is noted that whilst not immediately adjoining the gypsy and traveller site allocation, Phase 1 is still in fairly close proximity. Evidence has not been provided which demonstrates that no alternative commercial development, where the gypsy and traveller site would be retained, would be possible.*

The applicant highlights the current and previous landowner's intention to pursue de-allocation of the gypsy and traveller site allocation through the New Local Plan representation and refers to the representations that have been made to the Council making the case for de-allocation dating back to 2018. The applicant considers that with an unwilling landowner, an Inspector (in relation to consideration of a draft New Local Plan seeking to retain the gypsy and traveller site here) would not deem a gypsy and traveller site here deliverable.

*Officer Comment*

*The Council's Spatial Options Consultation document which sets out strategies for delivering gypsy and traveller accommodation in the district*

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*acknowledges that if the Michelin Farm site allocation were to be retained as the preferred option (or one of the preferred options) to meet need in the New Local Plan it would need to be demonstrated to an Inspector at Examination In Public of the Council's draft New Local Plan that it was deliverable. Having an unwilling landowner would be a factor in this consideration. Given the unwillingness of the current landowner to demonstrate deliverability, the Council would have to demonstrate that delivery could result from the Council's compulsory purchase to acquire the land.*

The applicant refers to advice that they have sought from Simon Bird QC regarding whether it could be concluded that there exists a 'reasonable prospect' of an application coming forward for the allocated gypsy and traveller use. [The submitted view from Simon Bird QC can be read in full on the Council's website on the public access for planning page under the 'Plans and Comments' section relating to this application – the document is entitled 'Supporting Document' and dated 22 October 2021.]

The applicant states their view that the officer's conclusion in the Committee report that there remains a reasonable prospect because the possibility of compulsory purchase exists is wrong. It is the applicant's view, shared by their QC advice, that a 'possibility' cannot be a 'reasonable prospect'. The applicant highlights that at present there is only an instruction to do some initial work on the possibility of the Council pursuing compulsory purchase.

*Officer Comment*

*Officers have identified that one of the key issues in the determination of this application is whether there is a reasonable prospect of an application coming forward for gypsy and traveller accommodation on the site allocated for such. Officers accept that at present there is an instruction by the Leader of the Council and Executive that the possibility of compulsory purchase be investigated.*

*If a formal decision had been taken by Full Council to pursue compulsory purchase following consideration of a detailed report including consideration of factors relating to cost and legal advice relating to the likelihood of success of such an application, then this would amount to greater evidence to support the view that a reasonable prospect exists. Costs would need to consider both those relating to legal and other advice associated with pursuing compulsory purchase process and costs associated with delivery of the gypsy and traveller accommodation, including consideration of constraints at the site. Unfortunately, work on the consideration of the compulsory purchase process*

*has not yet progressed that far. Planning officers have requested that a timeframe setting out intended progression on the compulsory purchase process be provided and this is awaited. At this stage, successful compulsory purchase cannot be ruled out although it is accepted that the process is by no means uncomplicated and the potential does exist that the Council will not, having considered a detailed report, decide to pursue this option or that having decided to pursue the process it would not succeed. If the Council had at the present time made a decision not to pursue compulsory purchase officers would consider that no reasonable prospect of an application coming forward for gypsy and traveller accommodation at the site exists and would be recommending, subject to conditions, that the proposed development be approved.*

The applicant considers that the Policy GT1 allocation, in terms of meeting the identified need for additional pitches, does not accord with the Government policy set out in 'Planning policy for traveller sites' and they consider that this is a factor that is very material to the prospects of the Council being able to acquire the site using compulsory purchase powers. The applicant refers to two inspectors who have criticised the allocation in not making provision for private provision or offering choice. The applicant also refers to the updated evidence base that supports the current Spatial Options Consultation which identified a requirement for 19 pitches by 2033 (those meeting the policy definition of a gypsy or traveller) and 11 pitches for those who no longer travel. The applicant considers that there is no apparent consideration of how this need would be met in full.

#### *Officer Comments*

*Officers have identified in the Committee report that other sites alongside the Michelin gypsy and traveller site allocation would likely be required to meet the identified need. Gypsy and traveller provision at the Michelin Farm site would, however, make a significant contribution to meeting need on a site specifically allocated for such use.*

*Officers accept that the role gypsy and traveller accommodation at the Michelin site allocation would play in terms of meeting need and how provision here would comply with relevant policy would be a consideration in the compulsory purchase process and factor into such a process succeeding. In addition, whether provision to meet need could be met in a different way would also be a factor for consideration in a formal compulsory purchase process. At present there are no other allocated sites for gypsy and traveller provision in the district although the Spatial Options Consultation paper in relation to the new Local Plan does set out possible alternative strategies.*

*Little weight can, however, be attached to these alternative possibilities at present given the early stage in the plan-making process that the Council is currently at.*

The applicant again highlights some of the key constraints they consider exist and which would be significant impediments to the likely success of compulsory purchase, including the need for the Council to be able to demonstrate all necessary resources to deliver the project are likely to be available within a reasonable timescale.

*Officer Comment*

*There would be costs associated with both pursuing compulsory purchase in terms of likely requirement for specialist legal advice and delivering gypsy and traveller accommodation. At this particular site there are constraints including those associated with access, services and contamination which would likely mean that costs associated with delivery would be very significant. The applicant has provided their estimation of costs they consider would likely be involved in service provision to the gypsy and traveller site which are stated to be in excess of £1.3 million. [The information submitted by the applicant in relation to costs and service provision can be found in full on the Council's website on the public access for planning page under the 'Plans and Comments' section relating to this application – the document is entitled 'Supporting Document' and dated 22 October 2021.] This is referred to in the Committee report. Although at present officers do not have evidence to demonstrate that all necessary resources to deliver the project are likely to be available within a reasonable timescale nor do officers have evidence to demonstrate that they would not.*

## **2. Unilateral Undertakings**

The applicant has now submitted a signed legal agreement in the form of a unilateral undertaking which seeks to provide a financial contribution of £470,000 to the Council for alternative gypsy and traveller accommodation in the district. This is instead of the £100,000 contribution originally proposed by the applicant and which is referenced in the Committee report.

A second signed legal agreement has been submitted which seeks to provide a financial contribution to cover the County Council's travel plan monitoring fees.

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*Officer Comment*

*In this case, given the Leader's instruction to officers to explore the possibility of the Council acquiring the land subject to the gypsy and traveller site allocation, it has not been concluded that there is no reasonable prospect of an application coming forward for gypsy and traveller accommodation on the site allocation that forms part of the application site. It is considered that the proposed contribution, albeit increased from the original figure of £100,000, would not make the development - which would amount to a departure from the adopted development plan as a result of prohibiting the delivery of gypsy and traveller accommodation on the site allocated specifically for this - acceptable in planning terms. In short, officers remain of the view that the contribution of £470,000 would not overcome the objection to the proposed development relating to the loss of the gypsy and traveller site allocation.*

*Whilst mitigation by way of a financial contribution could be considered necessary to make the development acceptable as in this circumstance it would be the proposed development that would, by developing an alternative commercial use on the gypsy and traveller site allocation, prevent such provision from being realised at the site, this site allocation has been scrutinised through the plan-making process, considered suitable and there is currently no alternative site(s) in the district allocated for this purpose where alternative provision to meet need could be met utilising this contribution. It is considered that the offered contribution would not make the development acceptable in planning terms.*

*Officers can confirm that the unilateral agreement relating to the travel plan monitoring fee would meet all the necessary tests (as referred to in the Committee report at paragraph 4.41).*

### **3. Conclusion**

It is considered that the conflict of the proposed development with the adopted Development Plan by way of the loss of the gypsy and traveller site allocation would not be outweighed by the benefits arising from the proposed scheme including in terms of significant employment opportunities being created or by other material considerations. The recommendation remains as per that stated in the Committee report. The recommendation does include reliance on the possibility still existing that the Council would successfully pursue compulsory purchase of the gypsy and traveller site allocation. There would therefore be an expectation that efforts to pursue this course of action were taken should this application be refused.