MINUTES OF A MEETING OF TARVIN PARISH COUNCIL HELD IN THE EDNA ROSE ROOM, TARVIN COMMUNITY CENTRE ON MONDAY 25TH OCTOBER 2021.

PRESENT:
Councillor R Ford (Chairman)
Councillor E Lush (Vice Chairman)
Councillor D H Cotgreave
Councillor B Dean
Councillor S Dutton
Councillor H Flynn
Councillor M Pochin
Councillor P Ryan
Councillor P Twigg

IN ATTENDANCE:
9 Members of the Public
Cheshire West and Chester Council – Councillor H Tonge
Parish Council Clerk – Mr M Hassall

APOLOGIES AND REASONS FOR ABSENCE:
Cheshire West and Chester Council – Councillor J Leather

21/105 DECLARATIONS OF INTEREST, DISCLOSABLE PECUNIARY INTERESTS, AND DISPENSATIONS
21/105.1 New Written Requests for Dispensations
There were no new requests.
21/105.2 Declarations of Interest
Members were invited to declare any Disclosable Pecuniary or other Interest in any item of business on the agenda and, if necessary, leave the meeting prior to discussion of that item. Councillor Dutton declared a Family, Friend, and Close Associate in Planning Application 21/03901/FUL. No other declarations were made.

21/106 OPEN FORUM
RESOLVED: that the Council meeting be adjourned for the Open Forum.

21/107 PARISH COUNCIL MEETING
RESOLVED: that the Council meeting be reconvened.

21/108 REPORT ON OPEN FORUM (This minute was not reported to Council in the formal meeting. It is a record of the items raised in the Open Forum)
21/108.1 A resident had spoken in support of proposals put forward in a letter circulated to Oscroft residents by Robert Harrison regarding speeding.
21/108.2 Concerns had been raised about vehicles exceeding the 20mph speed limit along Hockenhull Lane particularly in the area close to the junction with Heath Drive.
21/108.3 A concern had been raised regarding the increased number of vehicles parked on the road along Hockenhull Lane between Field Lane and Crossfields making it difficult/ dangerous particularly when turning into or out of Crossfields. A request had been made for Council to ask Cheshire West and Chester Council to remove the grassed area in front of properties 41 to 51 Hockenhull Lane to enable the area to be used for parking.

21/108.4 A resident had raised concerns about the drainage covering Hockenhull Avenue and part of Gowy Crescent
21/108.5 An update on the parking issues along Bye-Pass Road had been requested.
21/108.6 Cheshire West and Chester Councillor H Tonge had reported that:
21/108.6.1 he was working with Highways and United Utilities to address the drainage issues. United Utilities had confirmed that they had funding to examine the Hockenhull Avenue issues but it was generally thought that would not resolve all the problems.
21/108.6.2 highways had acknowledged that the signage along Bye-Pass Road needed to be improved. Further investigation had shown that in 2008 it had been agreed that Cheshire West and Chester Council would be responsible for parking enforcement from Chester to the Golf Club along the A54 road and that the Police would be responsible for the area from that point along the road all the way through Tarvin Parish. The six tickets issued by Parking Enforcement covering Bye-Pass Road would therefore be waived. Councillor Tonge had asked that those who had received tickets contact him and provide him with the necessary details in order that he could liaise with Parking Enforcement. He had also reminded the meeting that parking on a shared cycleway footpath was a breach of the Highway Code and that the Police could prosecute anyone parking on it. Clarification was needed regarding the approach from the road to residents properties (between grassed areas) as it was not clear whether that was part of the shared cycleway footpath. Councillor Ford had indicated that Council would circulate letters to Bye-Pass Road residents later in the week informing them of the position.

21/109 MINUTES OF THE MEETING HELD ON 27TH SEPTEMBER 2021.
RESOLVED: that the minutes of the meeting held on 27th September 2021 be signed by the Chairman of the meeting as a correct record.

21/110 REPORTS ON MATTERS ARISING FROM THE MINUTES OF THE MEETING HELD ON 27TH SEPTEMBER 2021 NOT COVERED BY THE AGENDA
There were no items under this heading.

21/111 RESIGNATION OF COUNCILLOR
The meeting noted that:
21/111.1 Robert Harrison had resigned as a Councillor on 15th October 2021.
21/111.2 The Clerk had informed Cheshire West and Chester Council and published a notice stating that any 10 residents could call an election by requesting one in writing within 14 working days (deadline Friday 5th November 2021).
21/111.3 Should an election not be called the Clerk would publish a notice asking for volunteers with a closing date of 20th November in order that co-option could take place at the next Council meeting.

21/112 CO-OPTION OF COUNCILLOR
Two applications had been received.
RESOLVED: that Stephen Parker be appointed to serve until the next election.
The voting was six for Mr Parker and three for the other candidate.
The Clerk was asked to inform the unsuccessful candidate of the discussion and decision and to encourage the person to allow their name to be put forward to the next meeting provided that Council were able to co-opt.

21/113 PLANNING MATTERS
21/113.1 Planning Applications

RESOLVED: that the following comments be made on the planning applications submitted:

21/03690/FUL - Change of Use of land for use as traveller site consisting of 1 static caravan, 3 trailer caravans, day room, septic tank and landscaping - amendment to application 20/03392/FUL – Land at Tarporley Road, Tarvin

Comment: We object to the application. Full comment is attached to the minutes under Appendix 1.

21/03901/FUL – Single storey and first floor side extension – 41 Deansway, Tarvin

Comment: No Objections

21/113.2 Notices
20/04544/FUL - Demolition of garage/shed and erection of single storey side and rear extension and covered veranda. - Holly House, 59 Hockenhull Lane, Tarvin - **PERMISSION**
20/04885/PAA - First floor extension to existing dwelling – Greystones, Barrow Lane, Tarvin - **PRIOR APPROVAL NOT REQUIRED**

21/113.3 Appeal
220/00440/FUL - Extension and alteration of existing outbuilding to form residential annexe (Partly in Retrospect) - Smithy Farm, Ryecroft Lane, Bruen Stapleford – **APPEAL DISMISSED** by the Planning Inspectorate.

21/113.4 Other
21/03206/FUL - Remove existing 1.2m high fencing to the front and rear of the school to new 2m high fencing - Tarvin Primary School Heath Drive Tarvin

Councillor Ford reported that comments published by Council on its facebook page regarding the above application had been criticised by two of the School Governors as well as a number of other people. Council had responded online to the comments and made it clear that Council do not and will not ever prioritise the aesthetics of the village environment over the safety of children or adults. Since then Councillors Ford and Twigg had met with the Headteacher to discuss the matter in more detail.

21/114 KING GEORGE V PLAYING FIELD
21/114.1 Legal Agreement
The meeting noted that this matter had not been progressed as the Scout Association Board had yet to respond despite their early October board meeting.
21/114.2 Dogs on the Field
A complaint had been received from Tarvin Athletic FC regarding dogs running loose around the field rather than being kept on their leads. Councillor Twigg reported that she and the Clerk had agreed what would go on the new signage. One contractor had been asked to quote but was being slow to respond so a second contractor would be contacted.
RESOLVED (21/114.2.1): that if the quotes come in at less than £300.00 the order be placed without having to come back to Council.

RESOLVED (21/114.2.2): that where details of those not keeping dogs on leads are known the Clerk should ask Cheshire West and Chester Council to take any action necessary to prevent it happening in future.
It was also thought that an increased Police presence might help.

21/115 RIDGEWAY PROJECT
The Highways Officer was returning to work and Councillor Ryan was expecting to receive approval for the work to begin before the next meeting. Most of the quotes had been received but Council had yet to view them.
RESOLVED: that the quotes be presented to the next meeting but provided that in total they were under the figure of £8,000 work could start beforehand.

21/116 REMEMBRANCE SUNDAY
21/116.1 The road closure had been approved by Cheshire West and Chester Council and the cost would be £450 plus VAT.
RESOLVED: that Council meet the full cost of the road closure
21/116.2 The meeting noted that the wreath had arrived and that Councillor Lush would read the 'In Flanders field' poem on behalf of Council in the acts of remembrance as Councillor Ford would not be available.

21/117 CHESHIRE ASSOCIATION OF LOCAL COUNCILS – SPEEDING ISSUES CONSULTATION – FURTHER UPDATE AND OFFER
21/117.1 This item was a follow on from the January 2021 Council meeting when Council completed a questionnaire on speeding. At that meeting Council concluded that speeding was not in the top three issues for the Parish but in the top five. Cheshire Association of Local Councils were now seeking local councils that wished to participate in a pilot scheme involving Average Speed Cameras. To do so, a local council would need to:

- feel that speeding was one if the top issues that its community faces;
- be prepared to contribute financially to the cost of average speed cameras, and
- to work with the partnership (the Police, Principal Authorities and ChALC) on the details of siting, electricity supply, signage, etc. as the knowledge of the local council on these matters is vital.

The Clerk had learnt from those that will manage the scheme that Tarvin would be unsuccessful with any application to join the pilot scheme as there were already more than sufficient applications from Councils where speeding was the top issue.
21/117.2. Whilst acting as a Councillor Robert Harrison had written letters to all properties in Oscroft about "the continuous speeding and reckless driving along our Country lanes" asking for their support. In his resignation letter to the Clerk he had provided the names of nine people who he said had responded supporting his campaign. He had included details of comments made by four of the nine and they were shared with the meeting.
RESOLVED: that the Clerk obtain updated quotes for the December meeting for flashing speed limit signs for Cross Lanes, Willington Road, and Shay Lane in Oscroft and Tarporley Road in Tarvin.

21/118 WARD WALK FRIDAY 8TH OCTOBER 2021
The report from Councillor Tonge received in the Open Forum was noted.

21/119 NEWSLETTER

Suggested items were shopping locally, dogs on the field, speeding issues, Christmas Activities including the Christmas Market, and Ridgeway update. Those writing the articles were asked to pass them to the Clerk by the end of October.

21/120 CLERK'S REPORT/CORRESPONDENCE

21/120.1 The following e-mail correspondence had been forwarded to Councillors who were provided with an opportunity to comment on them.

a. Cheshire Association of Local Councils E Bulletins

b. Cheshire West and Chester Council - Master-planning & Community Regeneration Workshop

c. Cheshire Community Action – Invitation to Annual General Meeting – 3rd November 2021 – Pryors Hayes Golf Club

The meeting noted that Councillor Lush would represent Council at the meeting

d. CPRE – Campaign Update – October 2021

e. Cheshire Association of Local Councils – The Queen's Platinum Jubilee Beacons 2nd June 2022.

f. Chester Cathedral and Chester Sustainability Forum. Sustainability Event with CPRE presentation on, "Tackling Climate Change in the Countryside." – Saturday 6th November 2021

21/120.2 Cheshire Association of Local Council AGM

The meeting noted that Councillor Ford had represented Council at the Annual General Meeting held on 20th October. Councillor Ford highlighted some of the motions that had been approved by the meeting.

21/121 FINANCIAL MATTERS

21/121.1 RESOLVED: that the following payments made since the September meeting be confirmed:

Payee	**Detail**	**Amount to be Paid**
VAT	**Net Amount to Charge against budget**	**Budget available before payment**
Came and Co	Insurance Year to 30th September 2022	**1,774.49**
0.00	1,774.49	2,100.00
Groundforce Landscape Ltd	Grass Cutting King George V Playing Field, Millennium Garden, Oscroft Green September 2021	**578.93**
96.49	482.44	1,249.90

21/121.2 RESOLVED: that the following payments be authorised, and that payments be made by internet banking:

Payee	Detail	**Amount to be Paid**
VAT	Net Amount to Charge against budget	Budget available before payment
2nd Tarvin Guides	Grant approved at July 2021 Council Meeting. Accounts now received.	**925.00**
0.00	925.00	925.00
Mr M Hassall	Re-imbursement of Annual Donation to British Legion for Wreath £150.00	**150.00**
0.00	150.00	150.00
Ashton Hayes Theatre Club	Grant as approved at September 2021 Council Meeting	**1,090.35**

0.00	1,090.35	17,500.00
Tarvin Athletic FC	Grant as approved at September 2021 Council Meeting	**2,105.00**
0.00	2,105.00	16,409.65
Tarvin Pre-School and Day Nursery	Grant as approved at September 2021 Council Meeting	**800.00**
0.00	800.00	15,609.65
Tarvin Methodist Church	Grant as approved at September 2021 Council Meeting	**2,300.00**
0.00	2,300.00	14,809.65
Scottish Power	Electricity Qtr. to September 2021	**273.92**
13.04	260.88	986.76
Water Plus Ltd	Qtr. to October 2021	**78.64**
0.00	78.64	159.03
St Andrews Church	Annual Donation Re Maintenance of the War Memorial	**100.00**
0.00	100.00	100.00
Payroll	October 2021	**1,550.46**
0.00	1,550.46	9,555.62

21/121.3 Direct Debit
The meeting noted the following direct debit payment.
British Telecom Plc
29th September 2021 – Telephone and Internet September 2021 – two venues - £152.40

21/121.4 Management Accounts
The Managements Accounts for the 6 months to 30th September 2021 were presented and accepted.

21/122 LIST OF OUTSTANDING ITEMS
The report was noted.

21/123 SOCIAL MEDIA
The meeting reviewed the use of social media during which Councillor Dutton indicated that she would forward the handout that had been circulated following the Social Media training session that she attended in September.

21/124 TOPICS FOR TARVINONLINE AND FACEBOOK
Items raised in the open forum, dogs on leads, resignation of Councillor, appointment of Councillor, Ridgeway update, planning application 21/03690/FUL.

21/125 DATE OF NEXT MEETING – Monday 22nd November 2021 – 7.15pm – Edna Rose Room, Tarvin Community Centre

APPENDIX 1

Tarvin Parish Council

Clerk: Mike Hassall
Tel: 01829 741075

E-mail Clerk@tarvinparishcouncil.org.uk

Roy Cottage
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Chester
CH3 8EG

Mrs Gail Nickson
Senior Planning officer
Planning Department
Cheshire West and Chester Council
4 Civic Way
Ellesmere Port
Cheshire
CH65 0BE

25th October 2021

21/03690/FUL | Change of Use of land for use as traveller site consisting of 1 static caravan, 3 trailer caravans, day room, septic tank and landscaping amendment to application 20/03392/FUL - Land at Tarporley Road, Tarvin, Chester

Dear Mrs Nickson

Introduction and Summary

Tarvin Parish Council (TPC) write to OBJECT to the above Cheshire West and Chester Council (CWaC) planning application. In summary, the proposed development is unacceptable in planning terms and should be refused. It fails to accord with the relevant and dominant policies in the Development Plan including the made Tarvin Neighbourhood Development Plan (NDP) and there are a range of material considerations that also indicate a refusal is justified, including failure to comply with relevant national planning policies in the National Planning Policy Framework (NPPF) and Planning Policy for Travellers (PPTS).

One of the key principles of the planning system is fairness. TPC believes in fairness too, it operates in an open and honest way, to a set of clearly defined rules underpinned by legislation. TPC knows, when it comes to planning matters, the majority of applicants adhere to their planning permission, even though the applicant's original plans may have been modified as a consequence of the process. In these circumstances when it comes to considering the actions of the small minority who ignore their permissions, the fairness to all those who follow the rules should be given particular weight when a retrospective approval is being sought. Additionally, the magnitude of the divergence from the original permission must also be taken into account because the greater the divergence the

greater the unfairness not just to those who adhered to their permission but also the whole community.

Procedural Aspects

On procedural aspects, firstly, whilst not indicated as such on the standard application form or other application supporting documents, this application is *retrospective* in the sense that some of the intended operational development and material change of use to residential on the site has already commenced with no permitted development rights or other Development Order (eg Local Development Order or Neighbourhood Development Order) to do so. Approximately 1/3 of the field has been levelled with hardcore and there are two large piles of gravel. The entrance of the field and field gate have been covered with wooden feather boards obscuring the view into the field from the road. There are a number of caravans and vehicles on site plus a static home.

The second procedural point is that the retrospective application is, we gather, subject to a CWaC Enforcement Notice (Ref 20/00301/EOPDEN). The Localism Act 2011 section 123 amended Town and Country Planning Act 1990 by adding a new Section 70C which reads as follows:

> *"Power to decline to determine retrospective application*
>
> *(1) A local planning authority in England may decline to determine an application for planning permission for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.*
>
> *(2) For the purposes of the operation of this section in relation to any particular application for planning permission, a 'pre-existing enforcement notice' is in an enforcement notice issued before the application was received by the local planning authority".*

NPPG Section 13 Paragraph 13 reiterates this power (Reference ID: 17b-013-20140306; revision date: 06 03 2014). As such, it appears that CWaC should decline to determine the application under s70C powers.

The third procedural issue relates to an apparent breach of conditions. The site received full planning permission (Ref 15/03711/FUL) on 5th November 2015 for the "*retention of existing field shelter, construction of new stable block and improvement to existing access and provision of hard-standing/turning area (private recreational use only*)". However, a subsequent discharge of conditions application (Ref 17/00527/DIS) was refused on 26th February 2019 for the approval of details reserved by condition 3,4 and 5 of the 2015 planning permission.

A repeat full application (Ref 19/01028/FUL) was approved on 14 October 2019 for the same development description as 15/03711/FUL. A pre-commencement condition, Condition 6, of 19/01028/FUL states that

"prior to the installation of any external lighting, full details should be submitted to and approved in writing by the Local Planning Authority. The details shall include the hours of operation, location, size, design of luminaries and fittings, type/output of light sources with lux levels. No external lighting equipment may then be used within the development other than as approved by the Local Planning Authority".

Should external lighting have been introduced to the site then this condition has not have been discharged to date. Thus, works to implement 19/01028/FUL may be unlawful, quite apart from further operational development and material change of use described in the proposed development.

In summary, TPC is aware that the site has been subject to development that is not compliant with an approved planning permission. The PC has raised the issue with CWaC Planning Enforcement and local Borough Councillors. TPC has always strongly objected when planning permissions have been ignored because it believes it is very unfair on the majority of applicants who adhere to their permissions which may have been amended as part of the planning process. It also believes that unless permissions are followed it could lead to a 'free-for-all' which would not benefit the community.

Accordance with the Development Plan

The planning system in England is plan-led. By law, decisions on planning applications must be taken in accordance with the development plan unless material planning considerations indicate otherwise. It is implicit within the NPPF that if a development proposal does not comply with key or dominant policies in the development plan, then it will be contrary to the development plan, and may therefore be refused.

The current CWaC Development Plan comprises:

- Cheshire West and Chester Local Plan (Part One) Strategic Policies- adopted by the Council on 29 January 2015; and
- Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies - adopted by the Council on 18 July 2019
- A number of made NDPs, of which the Tarvin NDP 2018 – 2030 ('made' ie adopted on September 2019) is relevant since the proposed development lies within its boundary.

Associated adopted CWaC Supplementary Planning Documents (SPDs) and Supplementary Planning Guidance (SPG) documents of relevance comprises

- Parking Standards SPD - adopted on 11 May 2017

A) Cheshire West and Chester Local Plan (Part One) Strategic Policies

The *relevant policies* in Part 1 of the Local Plan comprise STRAT1, STRAT8, STRAT9, STRAT10, SOC2, SOC3, SOC4, SOC5, ENV2 and ENV6. The *dominant policies* are STRAT8, STRAT9 and SOC4.

Policy STRAT1 would NOT be supported because the proposed development a) does NOT meet the economic, social and environmental objectives of the borough (ie traveller accommodation in an unsustainable location); b) does NOT promote healthy and inclusive communities whilst reducing the need to travel (SDP2, bullet 2); c) does NOT locate new

housing, with good accessibility to existing or proposed local shops, community facilities and primary schools and with good connections to public transport (SDP3, bullet 3); d) does NOT encourage the use and redevelopment of previously developed land and buildings in sustainable locations that are not of high environmental value (SDP5, bullet 5); e) does NOT minimise the loss of greenfield land and high grade agricultural land (SDP6, bullet 6); and f) is NOT in accordance with relevant policies in the Plan and does NOT support ANY of the eight stated LP sustainable development principles.

STRAT8 ("Rural area") would NOT be supported because the proposed development is within the rural area but would NOT support development that serves local needs in the most accessible and sustainable locations to sustain vibrant rural communities. The application site is not a sustainable location.

Policy STRAT9 ("Green Belt and countryside") would NOT be supported because the proposed development would NOT a) protect the intrinsic character and beauty of the Cheshire countryside; and b) does NOT require a countryside location and CAN be accommodated within identified settlements.

Policy STRAT10 ("Transport and accessibility") would NOT be supported because the proposed development would NOT a) help improve quality of life or enhance the local environment; b) would NOT incorporate measures to improve physical accessibility and remove barriers to mobility, especially for disabled and older people; and c) has NOT taken into account the safety of all road users in the design and layout of the new developments.

Policy SOC2 ("Rural exception sites") would NOT be supported because the proposed development is NOT a) necessary to meet local affordable housing needs; b) is NOT adjacent to key service centres and local service centres including those in the Green Belt; c) has NOT demonstrated that the properties will remain affordable in perpetuity; d) is NOT in keeping with the form and character of the settlement and local landscape setting; e) is NOT supported by an up to date housing needs survey; and f) has NOT come forward through the neighbourhood planning process.

Policy SOC3 ("Housing mix and type") would be NEUTRALLY affected as it does not deal with traveller accommodation.

Policy SOC4 ("Gypsy and Traveller and Travelling Showpersons accommodation") would NOT be supported because the proposed development does not meet 8 of the 9 stated policy criteria ie a) it WOULD be affected by pollution, contamination, flooding or other environmental factors that would result in unacceptable living conditions; b) it WOULD have unacceptable environmental effects; c) it would NOT be well located in relation to the highway network with adequate and safe vehicular and pedestrian access, and have provision for parking and circulation; d) would NOT be accessible to local services and facilities by walking and/or public transport be supplied with essential services such as water, sewerage, electricity, drainage and waste disposal; e) would NOT be well related to existing settlements, or have regard to residential amenity; and f) would NOT include appropriate provision for the safe storage and maintenance of equipment.

Policy SOC5 ("Health and well-being") would be NEUTRALLY affected because although the proposed development a) DOES consider the specific requirements of different groups

in the community (e.g. traveller families) (bullet5); and b) DOES comprise works to reduce poverty and deprivation across the borough, particularly in areas of identified need (bullet 6); it c) WOULD give rise to significant adverse impacts on health and quality of life including residential amenity of everybody, which SOC5 says will not be allowed.

Policy ENV2 (“Landscape”) would NOT be supported because the proposed development does NOT a) protect and, wherever possible, enhance landscape character and local distinctiveness; b) take full account of the characteristics of the development site, its relationship with its surroundings and where appropriate views into, over and out of the site; or c) recognise, retain and incorporate features of landscape quality into the design.

Policy ENV6 (“High quality design and sustainable construction”) would NOT be supported because the proposed development a) would NOT promote sustainable, high quality design and construction; b) would NOT respect local character and achieve a sense of place through appropriate layout and design (Bullet 1); c) would NOT be sympathetic to heritage, environmental and landscape assets (Bullet 3); d) would NOT promote safe, secure environments and access routes (Bullet 5); d) would NOT make the best use of high quality materials (Bullet 6); e) would NOT provide for the sustainable management of waste (Bullet 7); f) would NOT incorporate energy efficiency measures and provide for renewable energy generation either on site or through carbon offsetting measures (Bullet 9); and g) would NOT meet applicable nationally described standards for design and construction (Bullet 11).

Policy ENV9 (“Minerals supply and safeguarding”) would NOT be supported because some of the site (approximately 30%) is located on a sand and gravel Mineral Safeguarded Area and thus the proposed development a) would NOT help to make provision for the adequate, steady and sustainable supply of sand, gravel, salt and brine; and b) would NOT safeguard Cheshire West and Chester's extent of finite natural resources and associated infrastructure (Bullet 2).

B) Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies

Turning to the Part 2 of the Local Plan, the *relevant policies* comprise R1, T5, M2, DM2, DM3, DM4, DM10, DM19, DM20, DM22, DM23, DM24, DM29, DM30 and DM31. The *dominant policies* are M2, DM3, DM19 and DM30.

Policy R1 (“Development in the rural area”) would be NEUTRALLY affected since the proposed development is located in the countryside and R1 merely refers to Local Plan (Part One) policy STRAT9 and relevant development plan policies. The proposed development could not be considered to be “outside but adjacent” to the key or local service centre boundary of Tarvin so this part of the Policy R1 is not relevant.

Policy T5 (“Parking and access”) would NOT be supported because the proposed development a) would NOT provide appropriate provision for access and parking; b) the development would NOT meet the requirements of Local Plan (Part One) policy STRAT 10; c) would NOT allow for safe movement within the site, having regard to the requirements of the emergency services and service providers, including sufficient manoeuvring and standing space for the appropriate number and size of vehicles likely to

serve the development at any one time (Bullet 2); and d) would NOT provide sufficient parking facilities to serve the needs of the development and have regard to the Council's latest adopted parking standards for cars and other vehicles as necessary, including cycles (Bullet 5).

Policy M2 ("Minerals safeguarding areas - prior extraction of minerals") would NOT be supported because part of the site is located on a sand and gravel 'Mineral Safeguarded Area' (MSA) and a) the proposed development would NOT safeguard Cheshire West and Chester's extent of finite natural resources from incompatible development; b) it WOULD cause mineral sterilisation to occur (Bullet 1); c) quantity or quality of the mineral in the MSA is STILL of existing or potential value (Bullet 2); d) the mineral in the MSA CANNOT be extracted satisfactorily prior to the incompatible development taking place (Bullet 3); e) the incompatible development is NOT of a temporary nature and CANNOT be completed and the site restored to a condition that does not inhibit extraction within the timescale that the mineral is likely to be needed and does permanently sterilise the mineral (Bullet 4); f) there is NO overriding need for the incompatible development and the material planning benefits of the non-mineral or hydrocarbon development would NOT outweigh the material planning benefits of the underlying or adjacent material (Bullet 5); and, lastly, g) the development does NOT comprise one of the exempt types of development listed in the explanation (Bullet 6).

Policy DM2 ("Impact on residential amenity") would NOT be supported because the proposed development would comprise largely of caravans with poor insulated, thin metal skins that means that the scheme 1) would NOT safeguard the quality of life for residents within the development and those living nearby; 2) WOULD result in a significant adverse impact upon the residential amenity of the occupiers of existing properties or future occupiers of the proposed development, including outlook, privacy, light, noise and odour, due to (inter alia) traffic noise from the A51; and 3) would NOT include an appropriate quantity and quality of outdoor private amenity space due (inter alia) to traffic noise from the A51, having regard to the type and size of the proposed development.

Policy DM3 ("Design, character and visual amenity") would NOT be supported because the proposed development a) would NOT be in line with Local Plan (Part One) policy ENV6; and b) would NOT achieve a high standard of design that respects the character and protects the visual amenity of the local area. The minimal design mitigation for the proposed development have NOT been designed to

- contribute positively to the character of the area, since traveller accommodation is not appropriate for a countryside site (Bullet 1);
- respect and where appropriate enhance the prevailing layout, urban grain, landscape, density and mix of uses, scale and height, massing, appearance and materials, since traveller accommodation is not appropriate for a countryside, largely agricultural locality (Bullet 2);
- be sympathetic to the characteristics of the development site, its relationship with its surroundings and where appropriate views into, over and out of the site (Bullet 4);
- provide adequate external storage and amenity space (Bullet 6);
- create safe environments (Bullet 7); and
- not prejudice the long-term planning of the area (Bullet 8).

Policy DM4 ("Sustainable construction") would NOT be supported because the proposed development a) would NOT achieve the highest levels of energy and water efficiency or maximise opportunities to incorporate sustainable design features; b) would NOT meet the

optional higher National Housing Standard for water consumption of 110 litres per person per day; and c) would NOT use any sustainable construction techniques that promote the reuse and recycling of building materials, maximise opportunities for the recycling and composting of waste, or reduce CO2 emissions.

Policy DM10 ("Caravan and camping sites) would be NEUTRALLY affected since the proposed development is NOT for tourism use.

Policy DM19 ("Proposals for residential development") would NOT be supported because the proposed development is located in the countryside and a) would NOT be necessary to meet the minimum levels of development for new housing and is NOT a replacement of an existing dwelling in line with policy Local Plan (Part Two) policy DM21 (Bullet 1), nor a change of use or conversion of a building in line with Local Plan (Part Two) policy DM22 (Bullet 2), nor affordable housing in line with Local Plan (Part One) policy SOC2 and Local Plan (Part Two) policy DM24 (Bullet 3), nor an essential rural workers dwelling in line with Local Plan (Part Two) policy DM25(Bullet 4), nor new housing supported in a neighbourhood plan for the area (Bullet 5), nor redevelopment of previously developed land identified on the Council's Brownfield Land Register (Bullet 6), nor replacement of buildings on previously developed land.

Policy DM20 ("Mix and type of new housing development") WOULD be supported by the proposed development since, in line with some aspects of Local Plan (Part One) policy SOC3, it takes account of the housing needs of the local area to ensure a range of house types, tenures and sizes are provided across the borough.

Policy DM22 ("Change of use to dwellinghouses and residential conversions") would be NEUTRALLY affected since the proposed development is in the countryside, outside of identified settlements, but is NOT for the change of use of buildings to dwellinghouses.

Policy DM23 ("Delivering affordable housing") would be NEUTRALLY affected since the proposed development is NOT affordable housing.

Policy DM24 ("Rural exception sites") would NOT be supported because the proposed development is NOT adjacent to the key or local service centre of Tarvin. The additional requirements set out in DM24 are therefore not relevant.

Policy DM25 ("Essential rural workers dwellings") would NOT be supported since a) the proposed development is NOT for new permanent, essential rural workers dwellings to support agricultural, forestry and rural land-based enterprises; and b) the worker is NOT required to live on site. None of the key tests for functional feed for permanent, essential rural workers dwellings are met in this case, with the current extant (but potentially unlawful, see above) permission (Ref 19/01028/FUL) being for the "*retention of existing field shelter, construction of new stable block and improvement to existing access and provision of hard-standing/turning area (private recreational use only)*". The emphasis of 'recreational use' in the development description demonstrates that the use is NOT, therefore, an agricultural, forestry or rural land-based enterprise. Such minor uses at the site do not constitute 'rural work' as they are described as 'recreational', and the nature of use does not require a 24-hour presence of site for any reason.

Policy DM29 ("Health impacts of new development") would NOT be supported by the proposed development because it would NOT promote and positively contribute to the health of the borough in line with Local Plan (Part One) policy SOC5. The applicant has failed to submit a statement considering the health implications of new build commercial and residential development with mitigation of negative impacts made proportionate to the scheme and it has NOT been demonstrated how health and well-being has been taken into account through an assessment. The proposed development WOULD give rise to significant adverse effects on health and well-being due to (inter alia) traffic noise from the A51.

Policy DM30 ("Noise") would NOT be supported by the proposed development because it would comprise largely of caravans with poor insulated, thin metal skins that means that the scheme, in line with Local Plan (Part One) policy SOC5; WOULD give rise to significant adverse impacts on health and quality of life, from traffic noise from the A51; and have an unacceptable adverse impact on human health or quality of life.

Policy DM31 ("Air quality") would NOT be supported by the proposed development because a) it WOULD give rise to significant adverse impacts on health and quality of life, from air pollution; and b) the applicant has NOT demonstrated that appropriate mitigation will be provided to ensure that the new development is appropriate for its location and unacceptable risks are avoided.

C) CWaC Supplementary Planning Guidance / Documents (SPDs/SPGs)

The CWaC "Parking Standards" SPD was adopted in May 2017. The site falls within the "Rest of Borough" Zone of Development and the proposed development is classed as "Other Development". Referring to Table 4.2 ("Parking Standards for Other Development"), the proposed development would NOT meet the recommended parking standards for "Miscellaneous/Sui Generis" uses.

In terms of departures from recommended guidelines para 5.3 states that "*all planning applications will be considered on their own individual merits and the appropriate final number of car parking spaces agreed through consultation between the applicant and the Council. When considering changes of use the Council will take historic/existing parking and traffic arrangements into account".*

Para 5.4 adds that "*while flexibility is not intended to be a licence for providing significantly more or significantly less parking provision than indicated within this document, each scheme will be considered on its merits having regard to NPPF para 39, and viability and design considerations related to the characteristics of individual sites*".

Para 5.5 concludes that "*where the recommended guidelines indicate that insufficient parking is proposed, developers will be expected to demonstrate why the proposal is acceptable. Depending on the scale of the development, this may include Transport Statements (TSs) and Transport Assessments (TAs). Applicants are advised to discuss the scope of such studies with the local planning authority. As a guide, the following information, proportionate to the scale of the development, may be relevant: a) surveys of parking capacity and occupancy levels on surrounding streets and parking areas; b) consideration of likely trip generation and parking accumulations for the proposed*

development evidenced as appropriate; and c) details of how the parking will be managed and how that management will mitigate any under or over-provision".

The proposed development does NOT meet the requirements of the SPD because it have NOT demonstrated why the proposals are acceptable and have NOT provided a TS/TA. The parking provisions are inadequate.

D) Tarvin Neighbourhood Development Plan 2018 – 2030

The proposed development lies to the extreme SE corner of the Tarvin Neighbourhood Plan (TNPD) plan area, about 350m west from the SE boundary. The TNDP is a community-led land use development plan looking forward to 2030 with the following vision statement (post public consultation):

"Retain and enhance the character of Tarvin by ensuring that any further additional housing beyond the minimum specified in the Cheshire West and Chester Local Plan, is appropriate and must not compromise the existing and proposed infrastructure needs of the community".

TNDP is divided into seven chapters (supported by appendices) covering General Policies, Housing Growth, Leisure, Landscape and Environment, Transport, Economic Development and Heath provision. All the policies in the Plan are set out in detail in the relevant chapters including those in the adopted Tarvin Village Design Statement (VDS, July 2007, revised October 2017) provided in full in Appendix 7 of the TNDP.

The *relevant policies* in the TNDP comprise HG2, HG3 and LE5. The *dominant policy* is HG2.

Policy HG2 ("Small Scale Development") would NOT be supported because the proposed development is located OUTSIDE the defined settlement boundary for Tarvin and IS a proposal for small-scale residential redevelopment (ie less than 6 dwellings) but is NOT in a sustainably located, previously developed site and the rural character CANNOT be protected. The proposed development is NOT a replacement building or a conversion of existing structures to residential use. Further, it has NOT been designed to maximise the retention of surface water on the development site and to minimise runoff.

Policy HG3 ("Housing Character") would NOT be supported because the proposed development a) has NOT been designed so as to respect and, where possible, enhance the built environment; b) does NOT help to maintain the character and sense of place of Tarvin; and c) does NOT regard to the (statutory policy requirements of) the Tarvin Village Design Statement (VDS).

Policy LE5 ("landscape and wildlife") would NOT be supported because the proposed development a) would NOT protect and enhance wildlife and ensure that, where mitigation would be appropriate, there is no net loss of biodiversity; b) would NOT safeguard best and most versatile agricultural land to enable it to be kept in productive use.

Other Material Considerations including accordance with National Planning Policy in the NPPF and PPTS.

A) National Planning Policy Framework (NPPF) (Version 3), MHCLG, February 2019

Para 4 explains that the NPPF should be read in conjunction with the separate Government's 'Planning Policy for Traveller Sites (PPTS) and its Planning Policy for Waste (PPW).

NPPF Chapter 5 ("Delivering a sufficient supply of homes") includes paras 77 to 79 which deal with "rural housing". Para 78 states that "t*o promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities…."* (underline emphasis added). This national policy would NOT be supported because the proposed development would NOT enhance or maintain the vitality of the rural community in this part of the Cheshire countryside.

Para 79 states that "*planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply: a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside; b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; c) the development would re-use redundant or disused buildings and enhance its immediate setting; d) the development would involve the subdivision of an existing residential dwelling; or e) the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area*" (underline emphasis added). This national policy would NOT be supported because the proposed development WOULD be a development of isolated homes in the countryside and NONE of the five listed circumstances apply to the scheme. Notably, the proposed development is NOT an essential rural worker's dwelling to support an agricultural, forestry and rural land-based enterprise and the worker is NOT required to live on site. None of the key tests for functional feed for permanent, essential rural workers dwellings are met in this case, and the nature of use does not require a 24-hour presence of site for any reason.

NPPF chapter 8 ("Promoting healthy and safe communities") includes para 91 which states that *"planning policies and decisions should aim to achieve healthy, inclusive and safe places which:*

a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high-quality public space, which encourage the active and continual use of public areas" (underline emphasis added).

The proposed development would NOT accord with para 91 because it would not help to achieve the underlined aspects of objectives A and B as described above.

NPPF chapter 12 ("Achieving well-designed places") includes para 127 which states that "*Planning policies and decisions should ensure that developments (inter alia) c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience"* (underline emphasis added). The proposed development would NOT accord with para 127 because it would create unsafe places whilst not being sympathetic to local character and undermining the quality of life and community cohesion and resilience.

Overall, the proposed development would clearly undermine a large proportion of relevant national planning policy in the NPPF. The extent of discordance with the policy text is such that it is considered to be a material consideration pointing towards refusal of the scheme, quite apart from the highly adverse Development Plan situation described above.

B) National Planning Policy Guidance (NPPG), DCLG, Web-based)

Section 67 of the NPPG deals with "Housing needs of different groups". On 'Rural Housing', para 010 (Reference ID: 67-010-20190722) deals with assessing the need for isolated homes in the countryside for essential rural workers. It states that "*considerations that it may be relevant to take into account when applying paragraph 79a of the NPPF could include:*

- *evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products);*
- *the degree to which there is confidence that the enterprise will remain viable for the foreseeable future;*
- *whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process;*
- *whether the need could be met through improvements to existing accommodation on the site, providing such improvements are appropriate taking into account their scale, appearance and the local context; and*
- *in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period*" (underline emphasis added).

Notably, the proposed development is NOT an essential rural worker's dwelling to support an agricultural, forestry and rural land-based enterprise and the worker is NOT required to live on site. None of the key tests for functional feed for permanent, essential rural workers dwellings are met in this case, and the nature of use does not require a 24-hour presence of site for any reason.

C) Planning Policy for Traveller Sites (PPTS), DCLG, August 2015

This document sets out the Government's planning policy for gypsy and traveller (G&T) sites and should be read in conjunction with the NPPF and the January 2016 written ministerial statement on G&T. It replaces the guidance in the withdrawn 2008 DCLG policy document and was much shorter on detail.

The proposed development would frustrate three key parts of the Government's 12 stated aims for G&T sites (ie the overarching aim, aim H and aim K discussed in para 3 of the PPTS, thus:

- The 'overarching aim' includes the need for "respecting the interests of the settled community" (para 3). This would be frustrated because the proposed development would NOT 'respect the interests of the settled community', who have clearly and vocally opposed the proposed use of the site for G&T, utilising sound rational arguments for why the site is not suitable either for the settled community or the G&T community, as described below.

- Aim 'H' under para 3 is to "increase the number of traveller sites in appropriate locations with planning permission". This would be frustrated because the proposed site would NOT be an 'appropriate location' for a G&T site, as described below.

- Aim 'K' is to "for local planning authorities to have due regard to the protection of local amenity and local environment". This would be frustrated because the proposed development would NOT 'protect local amenity and environment' because the site development as proposed would result in a series of significant adverse effects on local amenity and the environment, as described below.

The proposed development would also frustrate a number of other policies and supporting paragraphs in the Government's stated aims for G&T sites:

- Under Policy B, para 13 requires that LPAs should ensure that G&T sites are "sustainable economically, socially and environmentally". This would be frustrated because the proposed development would NOT be 'sustainable economically, socially and environmentally' because site development as proposed would result in a series of significant adverse economic, social and environmental effects that would render it unsustainable. Para 13 also lists 8 criteria for site to meet. However, as discussed below, these matters would not be satisfied by the scheme.

- Under Policy H, para 24 states that "*local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites: a) the existing level of local provision and need for sites; b) the availability (or lack) of alternative accommodation for the applicants; c) other personal circumstances of the applicant; d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites; and e) that they should determine applications for sites from any travellers and not just those with local connections".* This would be frustrated because a) there IS a sufficient existing level of local provision for G&T sites in the CWaC area; b) there IS availability of

alternative accommodation for the applicants elsewhere in the CWaC area; c) there are NO compelling other personal circumstances of the applicant; and d) the 'locally specific criteria used to guide the allocation of sites' in the CWaC Local Plan Part 1 (ie SOC4) indicates that this unallocated site is wholly unsuitable for a G&T site.

- Under Policy H, para 25 states that LPAs should "*very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure"*. This would be frustrated because the proposed development IS a new traveller site development IN open countryside and OUTSIDE areas allocated in the development plan. Its open countryside location means the site is located in exactly a location that para 25 says is unsuitable.

- Under Policy H, para 26 states that "*when considering applications, local planning authorities should attach weight to the following matters: a) effective use of previously developed (brownfield), untidy or derelict land; b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness; c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children; and d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community*". This would be frustrated because the proposed development a) does NOT make use of previously developed (brownfield), untidy or derelict land (in this case the site is greenfield); b) is NOT well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness; c) does NOT promote opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children (and in this case the A51 poses an extreme hazard to occupants of the site); and d) DOES enclose a site with so much hard landscaping, high walls or fences (ie tall 2m hedges in this case), that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

Overall, the proposed development would clearly undermine a large proportion of relevant national planning policy in the PPTS. The extent of discordance with the policy text is such that it is considered to be a material consideration pointing towards refusal of the scheme, quite apart from the highly adverse Development Plan situation described above.

C) Need for, and Supply of, Housing

The applicant suggests in the SPS that "*the GTAA is not sufficiently up to date and the Site Allocations Development Plan is in-complete*" (page 2) and that there is an "*identified need in the District and the Councils failure to demonstrate a 5-year supply of sites. The Council needs to deliver additional pitches to meet the identified need through the development management process as the plan led system (Site Allocations) is unlikely to deliver sites on the ground in accordance with the GTAA*" (page 9).

Neither of these statements are correct. The August 2018 GTAA is up to date and CWaC can demonstrate a 5-year supply of G&T sites as measured against the need figures in the GTAA. The GTAA identifies the following requirements in Cheshire West to meet needs to 2030: 21 pitches for Gypsies and Travellers; 3 plots for Travelling Showpersons and a Transit site of between 5 and 10 pitches. CWaC Full Cabinet met on 5th February 2020 to discuss G&T planning policy and para 7.7 the reports pack recorded in that *"the*

situation in terms of meeting the need for 21 pitches has also changed significantly since preparation of the Traveller DPD commenced. A total of 13 pitches have been granted permanent planning permission which has reduced the requirement to eight pitches. An application is pending on a long-established site for a further 5 pitches which if granted would reduce the requirement to just three pitches".

Para 7.9 adds that "*it is considered that as the majority of the need for Traveller pitches has now been met…. applications for any additional sites will be considered under Local Plan (Part One) Policy SOC4 and other relevant policies of the development plan. Meeting future needs for Travellers can be considered through the Local Plan review process in line with PPTS and the National Planning Policy Framework".*

Since February 2020, TPC understands that the remaining 8 pitches have been provided by CWaC permissions. There is, therefore, no unmet need in the Borough.

D) Scheme location and design

The chosen location for the facility is unsustainable because the site is in open countryside outside the settlement boundary of Tarvin close to the sensitive receptors of Ash House and Okells Garden Centre and next to the hazards posed by the A51.

The site is highly visible from the A51 to the north with the current unlawful white caravans on site contrasting starkly with the green verdant field on the site and its surrounding fields, as shown below.

As such, it is considered that the proposed development would be an intrusive and alien feature in the open countryside and that it could not be satisfactorily assimilated into the surrounding landscape. The site does not benefit from landscaping or sufficient mature screening. The development would be unduly intrusive in this rural location which is visible from the A51 and from the public footpath FP19 some 500m to the northwest of the site, which runs SW from the A51 at Austin Hill Farm to Platts Lane near Mossfield House.

The scheme is located around 1,700m from the services and facilities of Tarvin village centre. Such a distance renders the site as unsustainable, since trips from the site would require the private car rather than walking or cycling, and although adjacent to a public service bus route along the A51, the services' continued existence can never be guaranteed.

Finally, United utilities have expressed concern in their representation on 20/03392/FUL which explains that a large trunk main will be adversely affected by the scheme.

E) Parking and Junction Safety

The A51 is a busy, fast stretch of two-way single carriageway that provides an unsuitable and dangerous access to the site. The https://www.crashmap.co.uk website shows that in the 21-year period 1991-2015 (and in the A51 section from its junction with Cross Lanes to its junction with Platts Lane) there was 3 'fatal', 9 'serious' and 21 'slight' incidents. Importantly, all 3 fatal ones occurred less than 50m from the proposed site access off the A51, suggesting the curved carriageway in this section of the A51, with limited visibility in both directions, has resulted in a very dangerous section of road unsuitable for a new access for residential use.

Cars exiting from the site access have a very poor line of sight of oncoming traffic from the left (ie north west) since the road curves in this area. The 60mph speed limit on this stretch of the A51 makes existing the site dangerous given the poor visibility splay to the left on exit, as shown in the three photos directly below.


SLOW

In addition, the entrance to the proposed site is only a few metres away from a lay-by used by HGV vehicles which, when parked and stationary (see two photos below), severely obstruct and restrict the view of vehicles and pedestrians exiting the proposed site, leading to a highway safety issue. For vehicles exiting the site views looking SE are difficult particularly if there is a large HGV parked in the nearby layby. The Council notes that the layby is currently coned off but do not know if this is permanent or temporary. If it requires permanent closure as a result of the proposed development then it represents a loss of amenity to the travelling public.

These conclusions are supported by the LHA representation on 20/03392/FUL in which Mr Paul Parry (CWaC Highways) objects the proposed development for a variety of valid, lawful and material reasons.

F) Personal Circumstances and Protected Characteristics

The Equality Act 2010 defines Romany Gypsies and Irish Travellers as ethnic groups, meaning they are legally protected against race discrimination. The 2010 Act defines discrimination under the law as unfair treatment because of what it calls "protected characteristics".

The applicant's Supporting Planning Statement (SPS) fails to present any determinative special consideration for the proposed development, which is clearly not in accordance with the Development Plan (or the NPPF and PPTS).

The agent makes reference in the SPS to Special Needs (page 2) and the HRA 1998 (page 9) but fails to provide a detailed justification in law why these might be considered to be persuasive and determinative material considerations that override the above Development Plan presumption against development.

Moreover, since the proposed development is for a *permanent* residential planning permission, it is queried whether the proposed occupiers meet the definition of travellers in planning policy (ie PPTS Annex 1), since a nomadic way of life is required and its connection to a livelihood. The revised definition of Gypsies and Travellers in the 2015 PPTS now no longer includes those who have ceased travelling *permanently* for any reason, including old age or disability. This is a departure from the previous definition in the former 2012 PPTS, which did include those who had ceased travelling either temporarily or permanently on the grounds of old age, ill health or educational needs.

Page 8 of the applicant's SPS states that "….*the family have decided that they needed to have a stable base where the children could attend school in an area where the family also has local connections and can be more settled within this sustainable location".* This suggests, it might be argued, that they have ceased to travel permanently, and that a nomadic way of life has been abandoned by the applicant in favour of a *permanent* residential site and therefore they do not (as suggested on page 2 of the applicant's SPS) meet the current definition of a Gypsy and Traveller as defined in Annex 1 of the PPTS.

Conclusion

In summary, the proposed development is unacceptable in planning policy terms and should be refused. It fails to accord with the Development Plan including the made Tarvin NDP, and there are a range of material considerations that also indicate a refusal is warranted, including failure to comply with relevant policies in the NPPF and PPTS.

The planning system in England is plan-led. By law, decisions on planning applications must be taken in accordance with the development plan unless material planning considerations indicate otherwise. It is implicit within the NPPF that if a development proposal does not comply with dominant policies in the development plan then it will be contrary to the development plan overall, and may therefore be refused.

It is important to remember that the question as to whether the application accords with the Development Plan overall is not simply a question of asking whether there are policies with which the application may conflict. That is because there are often occasions, perhaps the great majority, where some policies in the Development Plan speak in favour of the application and some speak against it. In that situation, the decision maker has to take a view of the plan looking at it as a whole; one approach might be to work out which were the dominant policies (see Ouseley J in R. (Cummins) v. Camden LBC [2001] EWHC 1116 Admin and Stratford-on-Avon DC v. SSCLG [2014] JPL 104). In assessing compliance with the Development Plan, one must consider, therefore, if there is a dominant or key polic(ies) to guide consideration of the proposals.

The *relevant policies* in the Development Plan, which are material to the determination of the application, are summarised above and comprise STRAT1, STRAT8, STRAT9, STRAT10, SOC2, SOC3, SOC4, SOC5, ENV2 and ENV6 in Part 1 of the Local Plan and R1, T5, M2, DM2, DM3, DM4, DM10, DM19, DM20, DM22, DM23, DM24, DM29, DM30 and DM31 of Part 2 of the Local Plan. The *dominant policies* are policies STRAT8, STRAT9 and SOC4 of Part 1 of the Local Plan and policies M2, DM3, DM19 and DM30 of Part 2.

The *relevant policies* in the TNDP comprise HG2, HG3 and LE5. The *dominant policy* is HG2.

In the planning policy balance, a total of 21 of the 27 relevant policies in the Development Plan are either not supported or neutrally affected, and only one is supported. Moreover, neither of the 2 relevant policies in the TNDP are supported and as such it fails to accord with the TNDP. As such, the proposed scheme cannot be considered to be in accordance with the Development Plan overall, when the Plan is taken as a whole.

In addition, reference has been made above to relevant national planning policy guidance and other policies that guide the decision-making process and which are material to the determination of the application. The scheme is clearly not in accordance with the Development Plan or the NPPF and PPTS. **It contravenes the vast majority of the most relevant policies in the Adopted Cheshire West and Chester Local Plan Parts 1 and 2, the Tarvin NDP and relevant SPDs, contravenes the dominant policies, and there are no other material considerations that indicate a departure from the Development Plan would be warranted.**

The A51 is a busy, fast stretch of two-way single carriageway that provides an unsuitable and dangerous access to the site as evidenced by the significant number of accidents over the last 21 years. Cars exiting from the site access have a very poor line of sight of oncoming traffic from the left (ie north west) since the road curves in this area. The 60mph speed limit on this stretch of the A51 makes existing the site dangerous given the poor visibility splay to the left on exit, which is worsened by the presence of the lay-by used by parking HGV vehicles. These conclusions are supported CWaC Highways who object to the proposed development.

Yours sincerely,

Mike Hassall

Mike Hassall
Clerk to Tarvin Parish Council