

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

2 July 2014

AUTHOR/S: Planning and New Communities Director

Application Number: S/0638/14/FL

Parish(es): Cottenham

Proposal: Change of use to a Gypsy and Traveller residential site involving the development of four day rooms, and the siting of up to 10 caravans, of which no more than five would be mobile homes.

Site address: 1-5 Pine Lane, Smithy Fen, Cottenham

Applicant(s): Mr Thomas Wall

Recommendation: Approve

Key material considerations: Effect on the character and appearance of the countryside; Impact on the nearest settled community; Flood Risk; Contamination; Foul drainage; General need for gypsy and traveller pitches in the district; Circumstances of the applicants; S106 Obligations

Committee Site Visit: No

Departure Application: No

Presenting Officer: Andrew Fillmore

Application brought to Committee because: The officer recommendation is contrary to the views of the Parish Council

Date by which decision due: 16 May 2014

Planning History

1. S/0958/03/F. Retention of Existing Caravan Site. Refused.
2. A99/W0530/C/03/1113679. Appeal against Enforcement Notice issued requiring the cessation of the use of the land as a caravan site and for the land to be restored to its condition before the breach of planning control took place. Appeal allowed.

3. S/0010/11 Siting of 2 static caravans, 2 touring caravans, 2 utility blocks, one temporary portaloos and parking for 4 vehicles. Refused. Allowed on appeal.

Planning Policies

4. *National*
5. National Planning Policy Framework
6. Planning policy for traveller sites (PPTS) (March 2012)
7. DCLG "Designing Gypsy and Traveller Sites: Good Practice Guide", May 2008
8. *South Cambridgeshire LDF Core Strategy DPD, 2007*

ST/5 Minor Rural centres
9. *Adopted Local Development Framework, Development Control Policies*

DP/1 Sustainable Development
DP/2 Design of New Development
DP/3 Development Criteria
DP/7 Development Frameworks
NE/4 Landscape Character Areas
NE/10 Foul Drainage
NE/11 Flood Risk
10. *Draft Local Plan*

H/19 Provision for Gypsies and Travellers and Travelling Showpeople
H/21 Proposals for Gypsies and Travellers and Travelling Showpeople in unallocated sites outside the development frameworks
H/22 Design of Gypsy and traveller Sites and travelling Showpeople Sites
11. *Supplementary Planning Document(s)*
12. District Design Guide SPD – adopted 2010

Consultations

13. **Cottenham Parish Council** – Recommends refusal of the application on the following grounds: The development forms an unwelcome and unsafe use of the open countryside and it causes safety issues (recently proven by a fire engine being impeded when trying to access another area of the site whereby the road was blocked). The site was designed originally to have an area of open space in the middle and this development would be contrary to that. The application appears to 'stretch' the site and crowd the open countryside. Additionally the access road to the site is extremely poor and unable to sustain an increase in traffic. The site is unsustainable.
14. **Environmental Health (Contamination)** – The site has previously been used as a traveller site, with a range of uses. Recommend an informative be attached to any consent requiring a remediation strategy to be submitted should not previously identified contamination be identified.

15. **Cottenham Village Design Group** - The history of the plots here is complex and there has been a long history with the Design Group having previously objected to similar development of the site – our views here are unchanged. The Design Group is concerned by the continuing applications of this type in Smithy Fen. Despite some development, this area, which is outside the village framework, is still of essentially rural character with local distinctive open views of fen edge landscape. We consider that the cumulative effect of additions to the planning consents already granted would seriously threaten the character of this landscape. We also note that developments in this area do not conform to the essentially nuclear settlement pattern established within the parish and are likely to integrate poorly with the village and its facilities.
16. **Local Highway Authority** – No significant adverse effect on the public highway should result from this proposal should it gain the benefit of planning permission.
17. **Environmental Health (Licensing)** – No objection. All individual plots should comply with appropriate caravan sites associated legislation.
18. **Environment Agency** – No objection in principle to the development. The site is identified as being within floodzone 3 (high risk) and a strategy to assist occupiers in the eventuality of the flood defences breaching would be pertinent. Recommend conditions.

Representations

19. Five letters of representation have been received from neighbouring residents opposing the application for the following reasons;
 - Anti-social behaviour including rubbish continually thrown into the ditch causing blockage, unsightly mess caused by foul water discharged onto neighbours property, infilling of the ditch, demolition of fences, litter, abusive language, fly grazing. Exacerbated by the size of the site.
 - Imbalance between the scale of the traveller site and the nearest settlement with the size of the site too large
 - More building is proposed than allowed under the original permission
 - The applicant continuous to disregard planning law and rewarding the applicant by granting permission would send out the wrong message
 - Landscape harm
 - The original permission was granted for named individuals who no longer occupy the site
 - Lack of adequate sewage system
20. A single anonymous phone call has been received in support of the application.

Planning Comments

Proposal

21. The application proposal seeks full planning consent for change of use of plots 1 – 5 Pine Lane, Smithy Fen for use as a Gypsy and Traveller residential site involving development of four day rooms, and the siting of up to 10 caravans of which no more than five would be mobile homes.

22. The application is predominately retrospective with the plots occupied by caravans and mobile homes, but with ancillary structures (boundary treatment, concrete hard standing, day rooms) either partially complete or un-implemented.
23. The proposed plans do not correspond with the development on site, and differ as follows:
 - Plot 3 - the constructed day room includes an extension to its side, with the internal layout providing a bedroom. These alterations are not shown on the submitted plans.
 - All plots – the layout of the concrete hard standing on site differs to what is proposed in the application.
24. Officers have requested amended plans which reflect the situation on site but at the time of writing the report these have not been provided.

Background

25. The council became aware in February 2003 that four plots (No's 1-3 and 6 Pine Lane) were partly occupied by caravans and proceeded to issue a Planning Contravention Notice, followed by an Enforcement Notice and Stop Notice requiring the use of the land to cease as a caravan site with the land restored to its condition before the breach of planning control. An application was made in April 2003 for the retention of the caravan site (Ref S/0958/03/F), and refused in June of that year. This application identified plots 4 and 5 as 'parking/amenity' area.
26. The Enforcement Notice was subject to appeal (A99/W0530/C/03/1113679), and at the time of the inquiry plots 1-3 and 6 were occupied by a total of 11 adults and 10 children.
27. The inspector considered the main issue to be the balance struck between any planning obligations (harm) and the needs of the applicants. In reaching the decision the inspector considered the development resulted in 'some harm to the character and appearance of Smithy Fen, but this is not great', and that flood risk concerns could be addressed by condition. Furthermore the appeal decision identified a general need for pitches in the area but considered this need would not outweigh the identified harm arising from a concentration of sites and landscape impact.
28. However, in granting permission the inspector gave significant weight to the individual needs and circumstances of the then occupiers stating 'it is probable, if almost certain, that if they are required to leave their own land the families concerned will be forced back to an insecure, uncertain and primitive life on the roadside or in a series of illegal encampments from which they might face eviction or prosecution at any time, with a loss of support of close family, disruption to the children's education and health and welfare of individuals.'
29. Consent was therefore granted due to the particular individual circumstances of the occupiers of the site, with the permission restricted to named occupants. These named persons no longer occupy the site.
30. Additionally condition 5 of the appeal decision required the use to cease on failure to provide a scheme of the site layout/foul and surface water drainage

details/means of reducing flood risk/boundary treatment and landscaping along with implementation plan. This condition was never complied with.

31. Plots 4 and 5 were subsequently occupied by caravans, contrary to the appeal decision, and the council issued an Enforcement Notice (PLAENF.4728) requiring the cessation of the use of plots 4 and 5.
32. Planning permission (S/0010/11) was sought and refused on 10 August 2011 for the 'Siting of 2 static caravans, 2 touring caravans, 2 utility blocks, one temporary portaloos and parking for 4 vehicles' on plots 4 and 5. This application was subject to a successful appeal (APP/W0530/A/12/217121) which allowed the development to be retained subject to a number of conditions including a requirement (condition 3) that within 3 months of the date of decision the applicant provide a scheme of the internal layout of the site including positions of caravans and hardstanding, with the failure to supply such a scheme resulting in the permission lapsing. This condition was never complied with.

Current position

33. In summary, all of the plots (1-5 Pine Lane) subject to this application have previously been approved by the planning inspector. However a failure of the applicants to discharge the relevant conditions has resulted in none of these plots benefitting from an authorised consent.
34. Plots 1-3 and 6 (which is not subject to this application) were granted on appeal largely due to the individual needs of the then occupiers who no longer live on site.

Planning obligations

35. In reaching a decision there is a need to balance the planning obligations resulting from the development against the general need for Gypsy and Traveller Pitches within the district, along with the individual circumstances of the applicants. In this case the planning obligations relate to: effect on the character and appearance of the countryside, impact on the nearest settled community, flood risk, contamination and turning circle.

Effect on the character and appearance of the countryside

36. In the 2003 appeal decision (Plots 1-3 and 6) the inspector took the stance that views of the site are limited, with the gap between the existing authorised sites only making a minor contribution to the character and appearance of the wider landscape. The 2006 appeal related to plots 4 and 5 where the inspector noted the site is difficult to see from the open flat landscape to the east and north, with the close boarded fence running the length of Pine Lane and Park Lane screening views from the south-west. The inspector went on to conclude only the tops of the caravans or mobile homes would be visible outside of Smithy Fen traveller site and these would be seen in the context of the authorised development, with their visual impact not materially harmful.
37. Whilst retaining this development would erode the gap between the two sets of authorised pitches along Setchel Drove and Water Lane, both previous appeal decisions considered the landscape harm arising from the development of these plots not to be significant.

38. The most recent (May 2014) appeal (APP/W0530/A/12/2181439) at Smithy Fen related to 5 - 11 Orchard Drive and 14 - 18 Water Lane where the inspector considered the impact on the landscape to result in 'modest harm to the countryside'. These appeal sites are not well related to plots 1-5 Pine Lane and therefore the inspectors comments, as relates to landscape impact, cannot be given significant weight.

Contamination

39. The councils Environmental Health (contamination) officer does not raise any specific concerns recommending an informative note be appended to any permission granted.

Foul Drainage

40. Limited details of the method of foul drainage accompany the application and it is necessary to control this through condition.

Impact on the nearest settled community

41. In the 2014 appeal (5-11 Orchard Drive and 14-18 Water Lane) the inspector in addressing the issue of tensions with the local settled community of Smithy Fen notes the site dominates this community with the activities spilling out and impacting on the living conditions of other residents, and considers it a reasonable concern that any significant increase in the size of Smithy Fen traveller site would exacerbate these tensions, conflicting with the objectives of Planning policy for traveller sites.
42. The inspector goes on to conclude the additional three pitches would be unlikely to materially add to any existing adverse off site impact on local infrastructure or living conditions and attaches little weight to this concern.
43. At the time of this decision the inspector would have considered the development at plots 1-6 Pine Lane as benefitting from a lawful use. With the overall size of Smithy Fen traveller site remaining unchanged, since the 2014 permission, no material increased harm is identified.

Flood Risk

44. The site is located in flood risk zone 3 (high risk), with the Environment Agency not objecting to the principle of development and recommending conditions including setting floor levels a minimum of 300mm above the surrounding ground level and provision of a scheme relating to foul water drainage. Subject to these conditions the development is considered 'safe'.
45. In addition to being considered safe developments are required to be 'sequentially' tested, with alternative 'reasonably available' sites at a lower risk of flooding discounted before sites at a higher risk are considered suitable. Given the lack of alternative provision within the district it is not considered there are alternative 'reasonably available' sites at lower risk of flooding and as such the application is considered compliant with flood risk requirements.

Turning circle

46. At the time of the 2003 appeal decision Pine Lane was a cul-de-sac with plots 4 and 5 designated as a turning area for large vehicles such as emergency vehicles. The inspector in the 2012 appeal did not consider this a necessary requirement as by then as Pine Lane and Park Lane were linked. Pine Lane has since reverted back to a cul-de-sac.
47. Building regulation requirements for housing estates require a minimum turning circle between kerbs of 16.8m to allow access for fire and rescue service vehicles. The site layout does not include a dedicated turning area, however sufficient land is available to achieve this provided amendments are made to the plots. This can be controlled through condition.

Need for Gypsy and Traveller pitches and the circumstances of the occupiers of the site

48. General need for Gypsy and Traveller sites in the district

49. Local planning authorities are required to set targets for the provision of Gypsy and Traveller pitches which address the likely site accommodation needs of the travellers in their area. The council, along with neighbouring authorities, undertook a Gypsy and Traveller Accommodation Needs Assessment (GTANA), which identified a need to provide 85 pitches in South Cambridgeshire by 2031. On the basis of this assessment no further allocations are proposed in the emerging Local Plan.
50. The inspector in the 2014 appeal decision at Smithy Fen expressed 'considerable reservations' of the approach adopted by the council in determining the need for Gypsy and Traveller pitches, and concluded there is a current shortage of traveller sites with a lack of prospect of future provision. This decision is a material consideration.
51. Notwithstanding the appeal decision the council considers the GTANA an effective means of establishing the need for traveller sites in the district. However further work addressing some the queries raised by the inspector is being undertaken and will assist the Local Plan examination where this issue will be scrutinized.
52. Importantly the 'target' figure set out in the GTANA is the minimum number of pitches identified to be met and there is no maximum requirement. Planning policy for traveller sites acknowledges this and advises criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. The councils proposed approach for dealing with such applications is set out in policy H/21 of the emerging Local Plan.

53. Specific need for the occupiers of the site

54. The applicant advises the plots will be occupied as follows;

- Plots 1 and 2 – Tommy and Roseanne Wall and their two children aged 3 and 6, and Kevin Wall and his partner
- Plot 3 – Gerry and Kathleen Wall and their three children aged 4, 3 and a unspecified number of months
- Plots 4 and 5 – Tommy and Kathleen Wall, their daughter and her two children aged 12 and 10.

55. This supporting statement goes on to advise the applicants are Irish Travellers with a cultural tradition of nomadism and caravan dwelling, travelling to work principally in gardening and property maintenance, but require a stable home in order:

- for the children to attend school (4 in school and 2 in nursery) on a regular basis which will provide them with a better education and more opportunities than their parents
- to provide safe stable conditions which are appropriate for children to live in
- offer mutual support of living as an extended family which has been useful in coping with the recent death of Tommy and Roseanne's baby
- the health needs of Mrs Wall and her daughter (Mrs Wall is in poor health and Kathleen suffers from depression)
- to have the stability to travel to seek work – to be able to travel to find work they need the confidence that their families have somewhere secure to live.

56. The benefits arising from the children being settled and attending school is a personal circumstance that adds considerable support to the application. As does the lack of alternative accommodation should the applicants be forced to leave the site. Limited details are provided of the health needs of the applicants and the extent of this need is unknown, and as such limited weight can be attributed to this.

Balancing planning obligations against the general need for Gypsy and Traveller pitches and the circumstances of the occupiers of the site

57. The proposed development is relatively small scale with both previous inspectors considering the development would not significantly harm the landscape character or materially increase harm on the residents of the settled community of Smithy Fen. In respect of flood risk, contamination and foul water drainage the development is acceptable subject to conditions and as such there is limited harm arising from the development.

58. In terms of the need the council does not consider there to be an unmet need for traveller pitches in the district, although the most recent appeal decision at Smithy Fen contradicts this assertion. The development would however provide accommodation for travellers who do not have alternative accommodation options, providing stability for the children attending school. For these reasons it is considered, on balance, the personal needs of the applicants outweigh the landscape harm.

Other considerations

59. *S106 Obligations*

60. The councils adopted policy requires contributions for new residential developments to be paid towards community facilities and public open space along with associated legal fees to meet the identified shortfalls in both community services and recreation infrastructure in Cottenham. The applicant is not

proposing to pay the stipulated contributions and members will need to consider whether it is necessary to seek these contributions.

Recommendation

61. – Approve, subject to the following conditions:
62. Submission of details of the layout/boundary treatment/day rooms
63. Submission of details of turning area
64. Restriction of sites to named persons
65. Provision of details of foul drainage
66. No commercial activity
67. Requirement for accommodation to be set 300mm above ground floor

Background Papers

Where [the Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#) require documents to be open to inspection by members of the public, they must be available for inspection: -

- (a) at all reasonable hours at the offices of South Cambridgeshire District Council;
- (b) on the Council's website; and
- (c) in the case of documents to be available for inspection pursuant to regulation 15, on payment of a reasonable fee required by the Council by the person seeking to inspect the documents at the offices of South Cambridgeshire District Council.

The following list contains links to the documents on the Council's website or elsewhere at which copies can be inspected.

- Nation Planning Policy Framework
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>
- Local Development Framework, Development Control Policies, Adopted July 2007
<http://www.scambs.gov.uk/content/local-development-framework>
- South Cambridgeshire Local Plan, Proposed Submission July 2013
<http://www.scambs.gov.uk/localplan>

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