

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Development and Conservation Control Committee

5th July 2006

AUTHOR/S: Director of Development Services

S/0416/06/F - Cottenham

Variation of Condition 2 of Planning Permission S/1816/98/F to Permit Increased Size of Day Room 10 Setchell Drive, for Mr & Mrs. J Sheridan

Recommendation: Refusal
Date for Determination: 27th April 2006

Site and Proposal

1. Smithy Fen is an area of generally flat agricultural Fen land with few hedges. Setchell Drive joins Lockspit Hall Drive to the west and this road meets Twenty Pence Road, the B1049, to the southwest. Smithy Fen Bridge takes Lockspit Hall Drive over a watercourse, Cottenham Lode, which is edged by public footpaths on embankments. Lockspit Hall Drive provides access to several homes and farmsteads. The application site itself is a rectangular plot with a 13 meter frontage and a depth of 60 meters.

Planning History

2. The site is in an area where there are a number of existing sites some of which have the benefit of planning permission while others are unauthorised. Smithy Fen is part of the countryside to the north-east of Cottenham. The application relates to a plot that was given planning permission under **S/1816/98/F** together with the adjacent 11 plots. This consent also effectively included a day room (i.e. to provide washing facilities etc) having a floor area of 4 by 5 square meters (i.e. in accordance with our long established environmental Health site licence conditions). However the building on this site exceeded the permitted floor-space, being 38 square meters (6.6 by 5.8 meters).

Enforcement:

3. The identified breach resulted in an enforcement notice (E353J) being issued in June 1999 in respect of plot no 10 relating to the construction of a brick building (5.8 metres by 6.67 metres) without planning permission, laying of hardcore/hard-standing other than requisite for agriculture and constructing shed type building(s) not requisite for agriculture. The then owner Mr David Loveridge was required to a) demolish the said building and remove the material from the plot or demolish so much of the building as not to exceed an external floor area of 20.25 sq metres and reduce the roof height to a maximum of 4 metres if ridged or 3 metres in respect of a lean-to or flat roof, b) demolish the other sheds and buildings and remove the material from the plot, c) take up the said hardcore/ hard-standing and remove the material from the plot and d) restore the land to a suitable condition for agricultural use and use it only for agriculture.
4. A planning application (**S/1740/99/F**) was subsequently made in September 1999 following the enforcement appeal notice deadline being missed. The application was later refused by notice dated 20th December 1999. The owner, Mr Loveridge,

appealed the decision but the Planning Inspectorate however dismissed the appeal in July 2000

5. In June 2003 a Planning Contravention Notice was issued following, which a prosecution file was raised. In September 2004 at the Cambridge Magistrates Court the case was opened and adjourned. The case was later heard in October 2005 where the new owner of plot 10 Mr James Sheridan pleaded guilty and was given a conditional discharge for 3 years and ordered to pay £640 in costs.

Planning Policy

The relevant Development Plan comprises the approved Cambridgeshire & Peterborough Structure Plan 2003 and the adopted South Cambridgeshire Local Plan 2004.

6. **Policy P5/4** of the Structure Plan says that local plans should make provision to meet the locally assessed need for housing specific groups including travellers and gypsies.
7. **Policy P1/2** says, inter alia, that development will be restricted in the countryside unless the proposals can be demonstrated to be essential in a particular rural location.
8. **Policy 7/4** says that development must relate sensitively to the local environment and contribute to the sense of place, identity and diversity of the distinct landscape character areas.
9. **Policy SE8** of the Local Plan says that there will be a general presumption in favour of residential development within village frameworks and that residential development outside these frameworks will not be permitted.
10. **Policy EN1** relates to Landscape Character Areas, and in respect of this site, it is concerned with respecting, retaining and wherever possible, enhancing the Fens Landscape Character & Natural Area.
11. **Policy HG23** is a specific policy concerned with caravan sites for gypsies and travelling show-people. It indicates that proposals for caravans for gypsies will only be considered when the need for a site is shown to be essential to enable the applicants to exercise a travelling lifestyle for the purpose of making and seeking their livelihood. Where the need is proven 9 criteria have to be met if planning permission is to be granted for such sites. The criteria relevant to this application is as follows:-

(7) Where planning permission is allowed, built forms of development will not be permitted except for utility outhouses. Small stables will be considered on their merits depending upon need and the nature of the site.
Further the accompanying text in para. 4.57 states that "The impact upon the countryside should be limited. The number of structures on the site will therefore be limited..."
12. Also relevant are **Circular 1/2006 Planning for Gypsy and Traveller Caravan Sites, PPG3 Housing**

Consultations

Parish Council

13. **Cottenham Parish Council** strongly oppose this application on the following grounds:

1. This day room is actually the bungalow S/0066/05/F which was subject to a retrospective planning application made in January 2005. This application was opposed by Cottenham Parrish Council and refused planning permission by South Cambridgeshire District Council.
2. It is a permanent residential building outside of the village framework.
3. This building is on a site, which has a history of non-compliance to enforcement notices.
4. Permission historically given for occupation by a gypsy family, under the statutory definition, includes the dimensions allowed for a dayroom. This structure exceeds these dimensions.

Cottenham Parish Council believe a change of status to a permanent residential dwelling would contravene Government Planning Policy PPG7 and P1/2 and SCDC's Local Plan Policy HG16

Whilst Cottenham Parish Council have every sympathy for the circumstances in which Mrs Sheridan finds herself they are concerned that acceptance of such an application could lead to a residential housing development across the entire site. Such development would have severe repercussion with regard to local services and from an environmental and amenity point of view.

Taking the above into account Cottenham Parish Council is unable to support this application and would strongly urge you to dismiss it.

14. **Cottenham Village Design Group**

The Design Group considers that this important planning condition must be maintained. The site is in open countryside outside the village framework. We believe that this building is damaging the to the character of the locally distinctive open landscape and that this damage would be reduced if the building was compliant with the planning permission.

Any variation would also set an unfortunate precedent for similarly inappropriate development of neighbouring pitches currently subject to the same condition. We therefore object to this proposed variation of condition.

15. **CEHO**

It is recommended that if the application is successful, the applicant should be able to comply with the attached site licence conditions relating to permanent residential caravan sites.

16. **Traveller's Liaison Officer**

Mrs E. Sheridan is confined to a wheelchair and receives a twice-daily care package commissioned by Social Services; care should be received three times a day but at present Social Services are unable to provide an evening call. Mrs Sheridan has been assessed by Occupational Therapy and their recommendations are that the

door to her bathroom is widened and a level access shower installed, these works are on hold and a decision will be made when the outcome of their planning application is decided. Mrs Sheridan would only be able to live in a static caravan if it had an access lift capable of carrying a wheelchair and had undergone extensive adaptation to make it possible for wheelchair use throughout.

17. **Old West Internal Drainage Board**

The Board have no comment from a drainage point of view.

Representations

18. Advertised in CEN 14/03/05

1 Letter of objection in which, while expressing sympathy with Mrs Sheridan and the problems she must have as an invalid, the following objections were made:

1. Set a precedent for every day-room/pitch in Cottenham and ultimately the District
2. Condone an inconsistency in Gypsy and Traveller representative argument which suggest that Gypsies and Travellers cannot live in brick-built structures
3. Undermine SCDC's position under the SC Local Plan which allows no brick-built development on sites other than utility outhouses (to a max. of 4.5 meters square)
4. Reflect open opposition to the view recently stated by Sir Trevor Phillips (Chairman of the Commission for Racial Equality) that intergration must be based upon equality under the law. Mrs Sheridan's pitch is lawful and the buildings must be bound by planning regulations.

19. Cottenham Residents Association have raised the following points:

1. There is an extant enforcement notice requiring the brick built building to be demolished following n inquiry in 2000. To contest that the Inspector in 2006 failed to address certain issues is therefore irrelevant
2. Under S/1816/98/F planning permission was granted for one mobile home, one touring caravan and one utility/day room which should not exceed 4.5m². A utility or day room which has a permanent resident is no longer a utility or day room but a dwelling. We have been constantly told that Gypsies and Travellers cannot live in brick accommodation but the request for Mrs Sheridan to reside at 10 Setchell clearly indicates that this is not the case here and I therefore suggest that more suitable accommodation could be found in the village and perhaps within Cottenham's warden controlled area of Coolidge or Franklin Gardens.
3. That the conveyance for 10 Setchell did not highlight the oversized structure or the extant enforcement notice is an issue that the Sheridan's' should address with the Solicitor who handled their purchase. An improperly effected search is not a planning issue nor is it a duty of SCDC to offer reparation. Similarly the finances of the Sheridan's are not a planning consideration.
4. In relation to Mrs Sheridan's mobility were they to site a mobile home on the plot a wheelchair ramp could be installed together with wider doors, special bathroom facilities and other modifications to accommodate her needs.
5. The Sheridan's' have an authorised plot which gives permission for a mobile home, one touring caravan and one utility/day room of 4.5²m, any reference, then to Circular 1/2006 is spurious as the circular exists to give guidance on finding accommodation **not** to over-turn planning regulations pertaining to existing, lawfully licensed pitches and plots

Their letter is accompanied by a petition in the name of the Smithy Fen Residents Association supported by 240 signatories

20. **Personal Circumstances**
Attached to the report is a letter from their agent and this sets out the reasons for the application and their case for an exception to be made.

Equal Opportunities Implications

21. The Council has a statutory duty under the Race Relations Act 1976 and the Race Relations (Amendment) Act 2000 to eliminate unlawful discrimination and to promote race equality and good race relations. Romany Gypsies and Irish Travellers are officially recognised as ethnic minorities by the Commission for Racial Equality. Extrapolations from the January 2005 caravan count suggest that Travellers could make up around 1.7% of the district's population.
22. The Council's policy on Traveller Issues "upholds the rights of all local residents and Travellers to live peacefully and safely, with mutual respect for the rights of others." The three-year review of the Council's Race Equality Scheme (being reported to the Cabinet in January 2006) identifies development control amongst the most relevant services through which the Council can fulfil its general statutory duty for race equality.
23. The Council has already made good progress in promoting race equality in relation to Travellers. South Cambridgeshire has more caravans on authorised private plots than anywhere else in the country. It is also in the top 10% of all districts for the number of caravans on council-run sites. The Council continues to call on the Government for a national policy on Traveller Issues, a duty on all councils to make provision for Travellers, and for sites to be kept to a reasonable size.

Planning Comments – Key Issues

24. The key issue is conflict with countryside policies and policy for gypsy caravan sites with regard to the need to limit impact on the landscape and rural character of the area, and having regard to the special circumstances that are argued here.
25. I completely concur with views expressed by the Parish Council in respect of the principle in respect of permanent structures on Gypsy and Travellers sites. Also, the Councils' agreed size of day room has stood the test of time as well as vigorous examination by Government Inspectors. Further, I do not accept many of the arguments put forward by the agent in support of the proposal. Certainly there's nothing, in my view, to support the case that the Inspector' misdirected himself in the 2000 decision, nor was that decision challenged at that time. While the agent takes the view that its size is not material in respect of its impact on the landscape, this is not a view I can support, nor was it one that has previously convinced Inspectors making decisions on this site.
26. The agent also claims that the larger size of Irish Traveller families is reason enough to support a larger structure. However this not our experience where there are many sites accommodating larger families from the Irish Travelling community where the utility/dayroom comply with our standard.
27. However, there is a telling exceptional case here, based on the needs of Mrs Sheridan, and the Council has to give weight to this need. However in coming to a

decision, the Council has to weigh the continued harm that it would cause and the precedent that may result from the potential cumulative harm (these are also concerns raised in the responses to the consultation on the application) against the special need.

28. I cannot accept that permanent retention of the building could be justified given the harm it causes and that the basis for its retention is not finite. Further there would be a precedent that may be difficult to resist elsewhere.
29. However, a temporary permission, with its retention linked to the special circumstances by which it is justified, would not be a harmful precedent, and would limit the visual harm to the period when the essential need exists.
30. Further, given the history of non-compliance on this site and the worries expressed by the local community, any consent needs to be linked to a section 106 agreement requiring the building to comply with the dayroom standard once the special circumstances no longer apply.

Recommendation

31. That the applicant be invited to enter into a section 106 agreement requiring compliance with the Council's standards for utility/dayrooms once the exceptional circumstances relating to Mrs Sheridan no longer apply.

Informative: The applicant be informed compliance with the site licence conditions relating to permanent residential caravan sites is required

Background Papers: the following background papers were used in the preparation of this report:

- South Cambridgeshire Local Plan 2004
- Cambridgeshire and Peterborough Structure Plan 2003
- Circular 1/2006

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