

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Development and Conservation
Control Committee

6th July 2005

AUTHOR/S: Strategic Officers Group

PINE VIEW, SMITHY FEN, COTTENHAM

Purpose

1. To decide on appropriate planning enforcement the next steps of enforcement at Pine View, Smithy Fen, Cottenham.

Effect on Corporate Objectives

2.	Quality, Accessible Services	Traveller Issues have implications for all four objectives. The Council's commitment to firm, fair and consistent planning enforcement is central to maintaining Quality Village Life and treating all sections of the community equitably. This is reflected in the Council's Policy on Traveller Issues, agreed in July 2004. The Performance Plan cites the challenge of unauthorised plots and future site provision as a major issue facing the Council.
	Village Life	
	Sustainability	
	Partnership	

Background

3. Since last month's meeting of this Committee (D&3C), the 11 June deadline for the unauthorised occupants at Pine View, Smithy Fen – to meet the Deputy Prime Minister's decision for them to leave – has expired. At that meeting, Members agreed that the full Committee should take planning enforcement decisions relating to unauthorised Traveller sites.
4. The new Advisory Committee, established by D&3C last month, met on 14 June to consider the situation, following the expiry of the deadline. It asked the Chairman of D&3C to instigate provisional preparations for injunctive action against unauthorised occupants at plots 1-6 and 7 – 17 Pine View (map of land at appendix C) ahead of the Committee's consideration of the issues at the 6 July meeting, in order to expedite matters as soon as possible after non-compliance with the ODPM's decision had been confirmed. This was authorised by the Committee Chairman on 20 June.

Considerations

5. Planning enforcement officers visited Pine View, Smithy Fen on Monday 13 June 2005, the first working day after the official deadline. They found that, whilst Plot 6 was still empty, plots 1 to 5 Pine View were occupied. There was no evidence of the Travellers packing their belongings and moving.
6. No regulatory decision could be made until after this deadline, although the Council's Cabinet, on 28 April, gave its support, in principle, to taking injunctive action against those who persistently breach planning legislation.

7. In discussing the next steps at Pine View, Smithy Fen, the Advisory Committee on 14 June took stock of a consultation letter (see Appendix A) that had been sent to partner organisations serving Smithy Fen and Cottenham, plus local community groups. D&3C Members are also asked to consider the views of respondents in order to inform further decisions about action to be taken on Travellers at Pine View.
- 140 letters were sent out to a range of organisations including schools, social services, and the PCT; local Members; Parish Council and local community groups.
 - The Advisory Committee considered a summary of responses that had been received at that time (see Appendix B).
 - As promised, copies of 18 detailed replies (including those received since 14 June) have been e-mailed to all Members of the D&3C Committee, plus the local Members for Cottenham. All replies have been acknowledged in writing.
8. Members of the former D&3C Sub-Committee, at its meeting on 10 May, considered that injunctive action could proceed in conjunction with prosecutions for breaches of enforcement notices, which are a criminal offence.

Financial Implications

9. The Council on 24 June 2005 authorised funding of up to £450,000 for any form of appropriate planning enforcement action (including injunctive action) at Pine View or any other unauthorised Traveller site in the district.
10. An estimate of the possible costs of injunctive action at one site has been provided by specialist external legal advice. Based on their experience of a similar case carried out for another local authority, the total costs (from preparatory work, through to issue of proceedings to trial, and including legal work on dealing with homelessness applications) are estimated at around £212,000 (though not necessarily all to be incurred in one financial year). It is possible, of course, that the Council may need to consider taking appropriate planning enforcement action on more than one site, given the need to take a consistent approach towards all cases of unauthorised traveller encampments.
11. Our in-house legal team has, in the past conducted criminal court prosecutions for breaches of enforcement notices. Provided there is capacity within the team there is no reason why this cannot be continued, with minimal cost and within existing budgets. If the proceedings were carried out by external legal teams the costs would be in the region of £6,000 - £13,000 per prosecution (of a single defendant or group i.e. family).

Legal and Equal Opportunity Implications

12. The Council, as the Local Planning Authority, is duty bound to uphold planning decisions made by the Deputy Prime Minister and other aspects of planning law as appropriate.
13. The Commission for Racial Equality states "Gypsies and Irish Travellers are recognised ethnic groups for the purposes of the Race Relations Act (1976), identified as having a shared culture, language and beliefs".

14. Members will have to consider an updated needs assessment for all those that would be subject to injunctive action and against a breach of the enforcement notices. In addition officers will advise members on the council's responsibilities under the Race Relations Act.
15. Whilst the recent passing of the 11 June deadline means that the current focus is on Pine View, Smithy Fen (occupied by Irish Travellers). It is important that the Council is consistent in responding to all the unlawful Traveller sites in the district and can demonstrate an equitable approach to dealing with both English Romany Travellers and Irish Travellers.

Staffing Implications

16. The Council's approach to Traveller Issues continues to take up a considerable amount of staff time from managers across the range of Council services. This is overseen by a Strategic Officer Group and co-ordinated, on a day-to-day basis, by the Corporate Projects Officer.

Risk Management Implications

17. Traveller Issues are highlighted as one of the key corporate risks facing the organisation (currently rated 'very high likelihood' / 'critical impact') on the Council's Risk Register. The management action plan was included in the report to Cabinet on 12 May 2005 on Strategic Risk Management.

Consultations

18. This report has been prepared following recommendations from the D&3CAC on 14th June 2005. It includes consultation responses from the public, partner agencies and local community groups.

Recommendations

19. That the Committee consider the comments made by those consulted on the situation at Pine View, Smithy Fen, Cottenham.
20. Agree to serve injunction proceedings against Travellers at Pine View, Smithy Fen, as recommended by the D&3CAC.
21. Agree to prosecute for breaches of enforcement notices in concurrence with the Injunction proceedings.

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

- Development and Conservation Control Sub Committee Agenda and papers 10th May 2005
- Minutes of the D&3CAC 14th June 2005
- Minutes of Cabinet 28th April 2005

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Chief Executive's Department

Your Ref:

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26 May 2005

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Dear

Pine View Travellers Site, Smithy Fen, Cottenham

You will, no doubt, be aware of the Deputy Prime Minister's decision that illegally camped Travellers at Pine View, Smithy Fen must move by 11 June 2005. The Council is working hard behind-the-scenes to find a way forward, and is keen to liaise closely with its partners. As part of this, I am writing to public bodies serving Smithy Fen and Cottenham, plus a range of local community groups and neighbouring residents, in order to seek your views.

Background

As you may know, the Travellers who own pitches 1-17 Pine View appealed against the District Council's decision to refuse planning consent for the use of this land as a Travellers' site. There was a planning inquiry into the appeal, culminating in a report by a Government planning inspector. Taking account of the report, the Deputy Prime Minister considered the Travellers' appeal and announced his decision on 11 March 2005.

The Deputy Prime Minister's decision was to dismiss the Travellers appeal. His letter concluded:

"The Secretary of State considers that the enforcement notice as amended should be upheld, and that the period for compliance with the enforcement notice should be 3 months."

The 3-month period expires on 11 June 2005, and by this time the Travellers living at Pine View should have complied and left.

The Council's approach

In this interim period between the decision and the deadline, the Council is taking a two-track approach to the situation at Pine View. We are in negotiations with the Travellers, to help them comply with the decision, but we are also making plans in case they do not move.

The Council's Cabinet has already reaffirmed its commitment to taking legal injunctive action against named individuals who are persistently in breach of planning enforcement notices. That said, it is also clear that legal processes inevitably take time. The Council cannot and will not be marching onto Pine View or any other unauthorised site immediately after official deadlines expire. The option of eviction and land clearance is a last resort, and the Council hopes that it will be possible to find alternative, acceptable solutions.

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The Council is considering what action it should take if Pine View is not vacated in compliance with the enforcement notice and the ODPM decision. Certainly, some of the Travellers at Pine View have indicated that they do not wish to leave, largely due to a lack of other sites to which they can go. They say that they want to remain in or near Cottenham, as they have become settled with children attending Cottenham schools etc. In contrast, the ODPM indicated that "there is limited evidence that the [alternative] site or sites must be in the Cambridge area".

The Council wants to take account of the needs and wishes of all sections of the community in and around Cottenham (both residents and Travellers).

To help us to take all relevant matters into consideration, we are writing to you and others to seek your views.

We would like to hear from you on three points, in particular.

1. Are there any factors, concerning the needs of the Travellers or the needs of settled residents, which you think we should consider in our decision on action at this site? If so, please outline them.
2. Are you aware of any issues, which would indicate a need for the Travellers to remain in or around Cottenham? Or any issues, which you feel, would indicate that their remaining in Cottenham is inappropriate?
3. Are there any other points, relevant to the situation at Pine View, which you would wish us to take into account.

I would be grateful if you could respond by Friday 10 June 2005, ideally in writing. Alternatively, you may prefer to telephone Simon McIntosh (Head of Community Services) on (01954) 713350. In replying, please indicate whether your views could be made public or if you wish them to be confidential, and whether these views are on behalf of an organisation or your own personal opinion. All replies received will be shared with members of the Council's Cabinet and the local district councillors for Cottenham.

In closing, it is perhaps worth reflecting on recent media coverage. There is a lot to be said for the adage "Don't believe all you read in the press". The Council is working hard to find a fair, realistic and consistent approach to Traveller sites across South Cambridgeshire. The problems presented by Traveller issues are not limited to Cottenham, and neither are the solutions. Preparations are being made for different possible courses of action post-11 June, but it would be premature and prejudicial for the Council to make firm decisions before the deadline has passed. Given that not all media coverage of Traveller issues is fair and balanced at the moment, you may like to keep an eye on the news releases on the Council's website in order to keep abreast of the Council's approach.

I look forward to hearing from you.

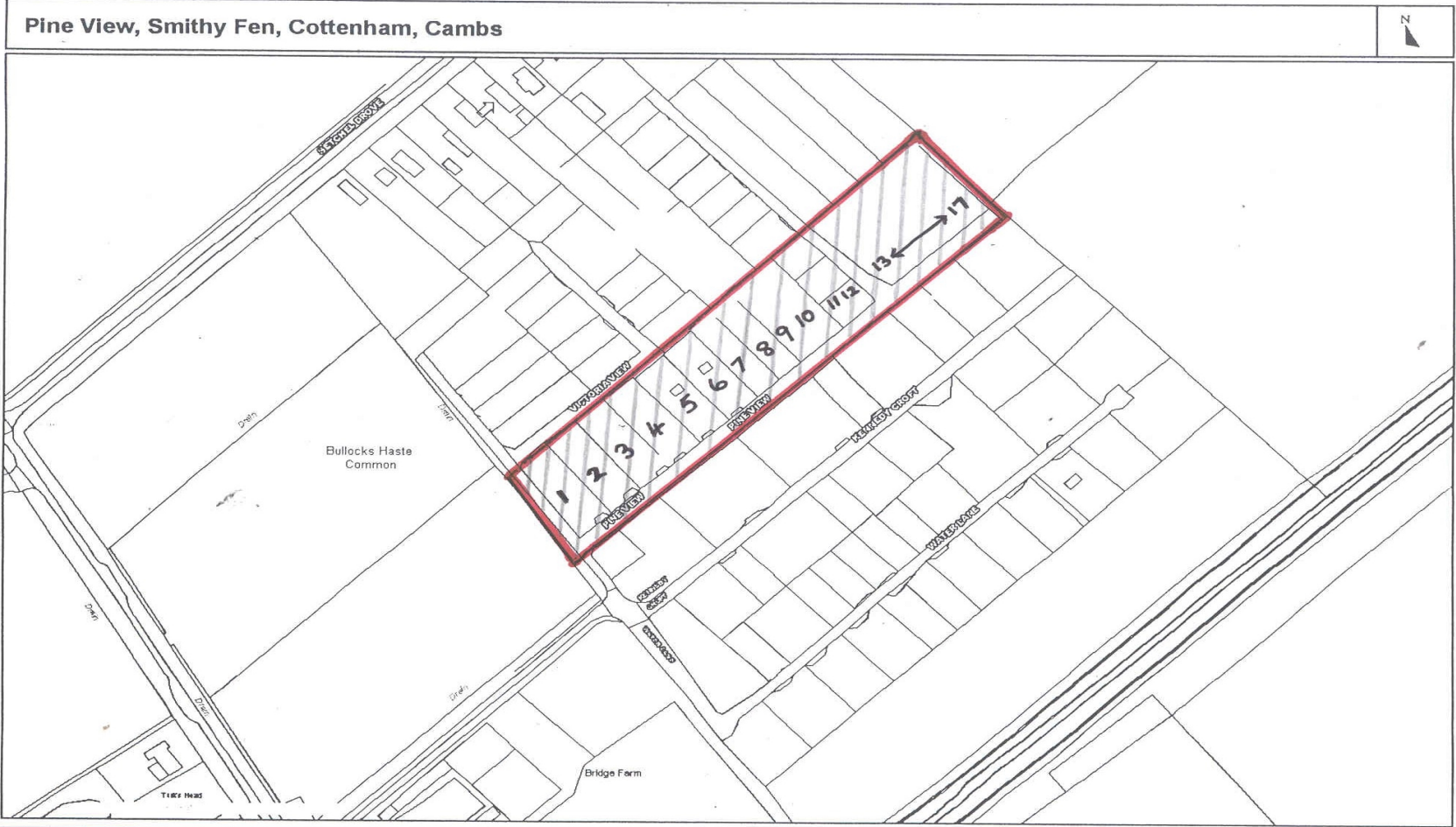
Yours sincerely,

John Ballantyne
Chief Executive

Appendix B

Respondent	Key Points
Cottenham Resident	<ul style="list-style-type: none"> • Travellers should travel and not occupy land illegally. • Schools, doctors and dentists are full in Cottenham. • Should comply with ODPM decision.
<p><i>Cottenham Residents Association</i> Ken Kelso</p>	<ul style="list-style-type: none"> • There can be no justification for SCDC to do other than comply with the ODPM decision. • Any increase over the 37 approved pitches would be totally disproportionate. • There are no issues sufficient to outweigh the best interests of the village. • O'Brien living at 1-6 Pine View would prefer to stay in Cottenham and at least 3 of the families have integrated well. • Suggest SCDC buys vacant pitches at Water Lane (CPO?) and swaps 6 for all the O'Brien pitches, or buys and develop services for new land elsewhere. • Adopt a policy for 'land swap' above only for past developments, so it does not attract other travellers to the district. • CRA feels they represent at least other 20% of Cottenham's 2300 households, and their views should be given appropriate weight.
Cllr Simon Edwards	<ul style="list-style-type: none"> • Injunctive action has not been our policy until recently, and concerned that it may be ineffective. • Feel other courses should be considered: <ul style="list-style-type: none"> - prosecution for breach of enforcement notices - compulsory purchase of Pine and Victoria Views to provide amenity land for those on lawful sites - 'Direct Action', and seek second opinion on timescales - Resist provision of further sites in the district - Resolve quickly
Smithy Fen Resident	<ul style="list-style-type: none"> • Appalled that extra licences granted on Water Lane, no additional licences should have been granted and two recent ones revoked • Agree with CRA letter that SCDC should not modify the ODPM decision, and should CPO vacant sites and 'land swap'.
Smithy Fen Resident	<ul style="list-style-type: none"> • The law must be upheld and due process followed to conclusion. • Needs of settled residents, for unfettered access to our homes, has been acknowledge by 11 March judgement (have not been before), and obstructive behaviour will remain a problem while site exceeds the legal pitches. • Pine View travellers have no longstanding connection to Cottenham. • Site is illegal and should be returned to open aspect with travellers evicted if they haven't complied with legal ruling.
Smithy Fen Resident	<ul style="list-style-type: none"> • Totally against the illegal travellers remaining in Smithy Fen. • Appeal decided they do not need to be in Cambridge and they should move on. • Inspectors report indicates low attendance of traveller children in school. • Don't let us down again – <p>[long list of continuing incidents submitted.]</p>
Cottenham Resident	<ul style="list-style-type: none"> • Do not think there are any needs of travellers to be taken into account.

Respondent	Key Points
	<ul style="list-style-type: none"> • There are no needs for travellers to be in or near Cottenham. • The law has told them to go and we should enforce it.
<p>Traveller Education Unit <i>Cambridgeshire County Council</i> Ms M Wood</p>	<ul style="list-style-type: none"> • Children from Pine View are enrolled in school, settled and making progress, and their education would be disrupted if they moved out of the area. • Great commitment shown by schools, Traveller families, Traveller Education team and others to improve educational achievement of Irish Traveller families, with public service targets to increase numeracy and literacy. Achievement of them will benefit all in South Cambs.
<p><i>Cambridge City & South Cambs PCT</i> Ms Sally Standley</p>	<ul style="list-style-type: none"> • PCT will continue to meet its duty to provide and commission health services whatever decisions made. • PCT signed up to the Local Public Service Agreement targets, including improving the educational achievement of Irish Travellers children. • Traveller population generally suffers from poor health, and lack of continuity of care can hamper efforts to improve this.
<p>Smithy Fen Resident</p>	<ul style="list-style-type: none"> • The travellers have no planning permission. • The appeal decision was based on settled residents human rights. • Those on Pine View have no need to be in Cottenham or even in Cambridgeshire. • Why are we not evicting? Do what is right.
<p>Ormiston Trust Ms Sherry Peck</p>	<ul style="list-style-type: none"> • Ormiston considers the situation for children as being of paramount importance, and the Council should consider the impact on children when deciding its response. <p>[Reseach document enclosed on needs of travellers in the Eastern Region.]</p>
<p>Smithy Fen Resident</p>	<ul style="list-style-type: none"> • Site must be reduced to its original legal size. • Need the travellers to leave now. • Travellers need to be dealt with fairly but firmly, without violence unless this is provoked. • Smithy Fen and Cottenham must not have them any longer.
<p>Cottenham Parish Council Mrs JM Groves (Clerk)</p>	<ul style="list-style-type: none"> • Parish Council has consistently asked the District Council to take a pro-active role. • Dismayed that SCDC has waited until the end of the compliance period before consulting on possible actions to ensure travellers leave. • Parish's view stated on 12 April '05: hope that a negotiated withdrawal can be achieved to land to be identified over the next 3 months, but support eviction as the final sanction.
<p>Cottenham Village College Mr Tony Cooper</p>	<ul style="list-style-type: none"> • There are no education issues to indicate a need for travellers to remain in or around Cottenham • 7 Travellers are on role and their attendance rate is well below that of most students at the College.



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