

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

7th March 2007

AUTHOR/S: Executive Director / Corporate Manager - Planning and Sustainable Communities

S/2364/06/F - MILTON

Retention of Gypsy Caravan Site of 29 Plots & Access Road (retrospective application) at Sandy Park for R.Moss & Others

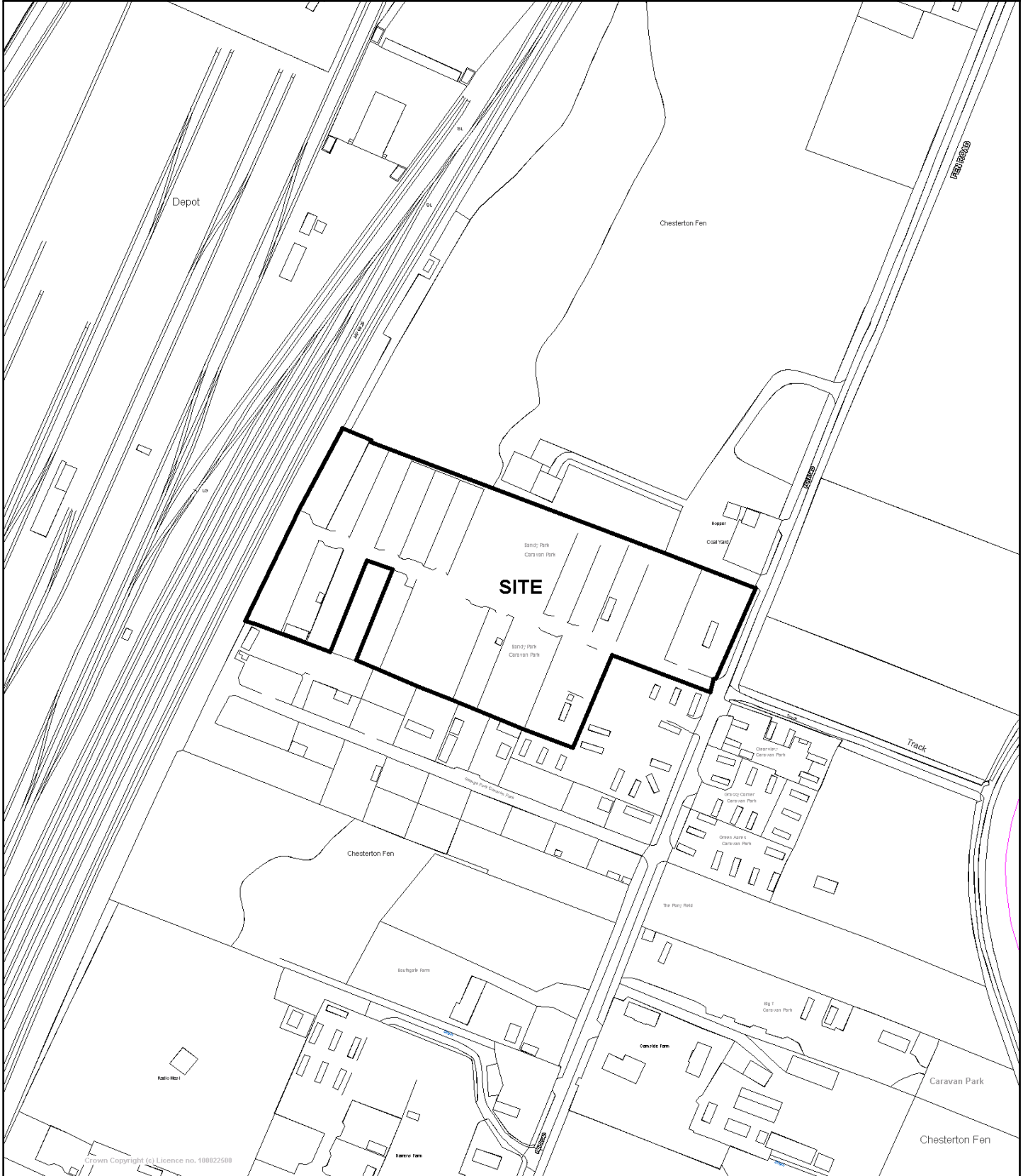
**Recommendation: Delegated Approval for temporary permission of 3 years
Date for Determination: 8th March (Major Application)**

Site and Proposal

1. The site is on the north-eastern outskirts of the City in an area known as Chesterton Fen. The surrounding area is generally flat and much of the land is still open in character. The Cambridge to Ely railway line runs to the west, the river Cam and a towpath lie to the east and the A14 to the north. Chesterton Fen Road is a long cul-de-sac, which runs roughly northwards from the level crossing over the railway line to a point ending close to the A14 road. As this is the only access into the area, the Fen is relatively isolated.
2. The site is on the western side of the road and was until recently unkempt pasture. It is currently divided into a number of plots, most of which are occupied by caravans. There are two accesses into the site – one to the south providing access to the proposed transit plots, and the other more or less as shown on the submitted plans. Part of the land to the north was formerly a coal yard, but caravans now also occupy this and other land. Beyond this lie extensive areas of pasture land. Immediately to the south of the site is a 16-pitch site known as Grange Park, which was granted approval in August 2002 (see paragraph 6.8). Opposite the site are three longstanding Gypsy sites. There are other Gypsy sites to the south, interspersed with areas of open land.
3. The site includes most but not all of the land that has been the subject of enforcement action detailed below.

Planning History

4. An enforcement notice (reference E237) alleging the unauthorised laying of hardcore and construction of hardstandings/roadways was issued on 23rd May 1996. This was in respect of the appeal site and the site of Grange Park. A further notice (reference E237A) was issued on 5th November 1997 alleging the unauthorised change of use of agricultural land for the siting of residential caravans and their accompanying vehicles. Appeals against the second enforcement notice and a separate planning application (to site caravans on the Grange Park land) were dismissed on 29th April 1998. The notice came into effect on 29th April 1999.
5. The site remained free of caravans until July 2002, when the Council became aware that hardcore was being laid and caravans were being parked. Travellers on the site were advised that occupation was in breach of the enforcement notice. An application for a 34 pitch Travellers' site was received on 17th July and refused by the Council's Development and Conservation Control Committee on 2nd October 2002. A second



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round of applications were submitted on an individual basis and supported by statutory declarations in most (but not all) instances on 23rd April 2003. This confirmed that most of the appellants had purchased a plot in June 2002. The applications were refused on 13th June 2003.

Planning Policy

6. The relevant Development Plan comprises the approved Cambridgeshire & Peterborough Structure Plan 2003 and the adopted South Cambridgeshire Local Plan 2004.
7. **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.
8. **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.
10. **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.
11. **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.
12. **Policy EN1** relates to Landscape Character Areas, and it is concerned with respecting, retaining and wherever possible, enhancing landscape character.
13. **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 are as follows:-
 - (1) The site is reasonably located for schools, shops and other local services.
 - (2) The site would have minimal impact on the amenities of existing local residents and adjoining land uses; concentration of sites will be avoided.
 - (3) The site would not, either on its own, or cumulatively, have a significant adverse effect on the rural character and appearance, or the amenities of the surrounding area.
 - (4) The site can be satisfactorily assimilated into its surroundings by existing or proposed landscaping; an approved landscaping scheme will be required.
 - (5) The use of the site would not give rise to unacceptable parking, highway access or service provision problems.
 - (6) The use would not detract from convenient, safe and enjoyable use of a public right of way.
14. **Policy CNF6** of the Local Plan says that the expansion of existing residential caravan sites or the sporadic siting of individual caravans will not be permitted, with the

exception of an area on the west side of Chesterton Fen Road up to and including the Grange Park site where permission may be granted for private Gypsy sites to meet local need so long as they are properly landscaped and drained.

1. Also relevant are Circular 1/2006 Planning for Gypsy and Traveller Caravan Sites and PPG3 Housing. Circular 1/2006 confirms that the Government is committed to ensuring that members of the Gypsy and Traveller communities should have the same rights and responsibilities as every other citizen and provides updated guidance on the planning aspects of finding sites for Gypsies and Travellers and how local authorities and Gypsies and Travellers can work together to achieve that aim. The policies in this Circular apply throughout England.
 2. Advice on the use of temporary permissions is contained in paragraphs 108 – 113 of Circular 11/95, The Use of Conditions in Planning Permission. Paragraph 110 advises that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission. Where there is unmet need but no available alternative Gypsy and Traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, local planning authorities should give consideration to granting a temporary permission. Such circumstances may arise, for example, in a case where a local planning authority is preparing its site allocations DPD. In such circumstances, Local Planning Authorities are expected to give substantial weight to the unmet need in considering whether a temporary planning permission is justified.
15. The fact that temporary permission has been granted on this basis should not be regarded as setting a precedent for the determination of any future applications for full permission for use of the land as a caravan site. In some cases, it may not be reasonable to impose certain conditions on a temporary permission such as those that require significant capital outlay.

Gypsy and Traveller Development Plan Document

16. Consultants CDN Planning began working on this project in April 2006. The Member Reference Group on the 15th February considered responses to the consultation on the first Issues and Options Report and was asked to agree the approach to the next phase (site options). The Member Reference Group recommended to council that:
- (a) The responses to representations on the GTDPD Issues and Options 1 Report and the Sustainability Appraisal at Appendix 3 be agreed.
 - (b) The list of Preferred Options at Appendix 2 be approved in order for stage 2, the site options search to begin.
 - (c) The actions put forward in Appendix 1 and summarised in Appendix 2 be addressed and taken forward into stage 2 of the Issues and Options process (Site options selection).
 - (d) The three-tier scoring matrix at Appendix 4 be used in the next stage of the GTDPD Issues and Options process.
 - (e) Authority be delegated to the Corporate Manager for Planning and Sustainable Communities, to make any minor editing changes necessary to the responses

as set out in Appendices 1 and 3 with any which involve a material change being delegated to the Planning and Economic Development Portfolio Holder.

17. Arising out of the meeting, the following changes were recommended to Council and accepted at their meeting on the 22nd February:

Page/Policy	Action
APPENDIX 3	
Page 140 rep 19095	Remove the word “authorised” as any site should be considered regardless of planning status.
Page 125 Rep 19572	Amend in the Council assessment column “county” to “region”.
Pages 98 and 99 Repts 18695, 18591 and 19529	Typo - need to add “no” in between 'be' and 'more' in the Council assessment column to correct typing error and be consistent with the approach proposed.
APPENDIX 2	
GT2	Amend proposed policy wording to: “New Gypsy and Traveller pitches will be proportionately distributed throughout the district to promote integration and assist equal access to services.
GT17A	Amend proposed policy wording from “half hourly” to “hourly” to better reflect the approach selected.
GT33	Final policy wording needs to reflect the different needs of Travelling Show People.
GT44A	Amend policy wording from “county” to “region”. The DPD should include a clear definition of what constitutes a transit site.
GT48	Amend policy wording to: “SCDC will support and encourage programmes and initiatives to regenerate SCDC managed Gypsy and Traveller sites at Whaddon and Blackwell if they remain in use following this GTDPD.
GT49	Option should not be pursued through a policy in the DPD, but instead should be explored through the new Community Strategy.
APPENDIX 4	
	Remove reference to 'Gypsy Preference Areas' from scoring matrix.

Consultation

Advertised 20th December 2005

Parish Council

18. Although we acknowledge that this site is contrary to the SCDC Policy for Travellers' sites in Chesterton Fen, we approve the allocation of this land for a Travellers' site provided that the land owned by the City and allocated for Travellers is withdrawn as an option for Travellers.

Local Councillor

19. Councillor Hazel Smith has raised the possibility of using S.101A of the Water Industry Act to provide mains sewerage. This amendment means that if the owners of two or more properties require the provision of mains sewerage to their properties, and there are environmental problems with the existing systems all they have to do is to make an application to the Water Company, that serves their area. This application does not need to be in detail and only has to state that there are environmental problems that can only be solved by new public sewers. The Water Company will undertake all consultations necessary, plus a technical and economic appraisal of a scheme to sewer your area, and report back to you on their findings. The duty to provide a public sewer arises if some or all of the various technical criteria are met, and a sewer is the most cost effective solution. The technical criteria are very briefly as follows:-
- a) There is a risk to water sources;
 - b) There is evidence of a risk to public health from the existing systems (but not neglect);
 - c) Polluting matter is reaching, or can reach a watercourse;
 - d) Sewage pollution is damaging the local amenity value;
 - e) Statutes or other requirements are being breached resulting in environmental problems;
 - f) There are other practical / technical criteria as well, which may form part of the assessment.
20. Finally there is an economic assessment, which will be undertaken as part of the proposals.

Environment Agency

21. No objections, the Flood Risk Assessment is acceptable in principle to the E.A. Conditions relating to a flood warning evacuation plan and foul water drainage are recommended.

County Highways

22. The carriageway of Chesterton Fen Road to the north of the rail crossing is relatively narrow, although the various accesses along the northern route provide informal passing places. Footway provision along the northern section is sporadic.
23. The approach highway network to the site is not really considered suitable to cater for the vehicular and pedestrian traffic likely to be generated by residential development, consequently such proposal would normally result in a highway objection. However notwithstanding the obvious verge overrunning that occurs in places, the traffic generated by the residential and commercial uses within Chesterton Fen Road appears to cope with the restricted infrastructure.
24. In the circumstance, I would not wish to raise an objection to the proposal from a highway point of view.

Chief Environmental Health Officer

25. Considered the proposal and has commented that any consent will be subject to a Caravan Site Licence and comply with the condition of the licence. This relates to the

need for an investigation of the site to establish the nature and degree of contamination and any remedial works to deal with any contamination that may be identified.

Cambridge City

26. Has no objection in principle to the proposed development. They confirm the need for Gypsy and Traveller sites in Cambridgeshire and that the loss of an existing site would add to this need. In respect of this application, we have general concerns about the impact of traffic on residential streets in Chesterton and with regard to the suitability of making such provision near to the River Cam on or near to the floodplain.

Travellers Officer

27. Comments that the site is kept clean and tidy. He confirms that many site residents have relations on the adjacent and nearby authorised sites. There are a number of children and elderly people present on the site. It is his belief that the site meets a local genuine need.

Representations

28. Advertised in Cambridge Evening News 28th October 2004.
29. Two Letters of objection in which the following comments were made:
- (a) Private traffic studies carried out by residents as well as the County Council in relation to the waste transfer business have shown conclusively there is a serious traffic problem in this area and this would be exacerbated by the proposal. This would be the case even if Traveller sites were not as they invariably are congregations of individual businesses, each with their own vehicle. This means that a Traveller site can be expected to have the same impact as an industrial development;
 - (b) This area is already overcrowded;
 - (c) Fen Road is too narrow to take the amount of traffic that uses it;
 - (d) The site has been there for some time in breach of planning laws;
 - (e) The amount of fly tipping in the area of by Sandy Park has increased since it being there;
 - (f) The area is in the flood plain and is likely to cause flooding in other areas that currently do not have a problem.
30. One letter from an agent acting on behalf of a local landowner who comments that the application indicates the considerable need for Gypsy sites within the District, and more particularly the attraction of the Chesterton Fen area to Gypsy families who are established in the area and now require additional pitches for their extended families.
31. Comments made by the applicants' agent are set out in the attached letters of the 6th November and 4th December. The first letter evaluates the alternative sites in the area, including the land owned by the City Council and identified as being suitable for use as a Traveller site, and concludes that there is no alternative available in Chesterton Fen Road that will meet all their clients needs.

32. The second letter revisits this issue and also comments on the Flood Risk Assessment and access.
33. The applicant has, in accordance with the guidance in Circular 1/2006, been requested to provide the following:
- (a) Evidence of Gypsy status?
 - (b) Who is/will be living on the site? Names and family relationships?
 - (c) Are occupants to be treated as a single group for the purposes of the application, or as individual families?
 - (d) Particular educational or health needs?
 - (e) Number and type of caravans and any other ancillary accommodation?
 - (f) Any proposed business use?
 - (g) Need for the site - How long have they been here? Where were occupants living previously?
 - (h) Attempts to find an alternative site? Any written evidence of this?
 - (i) Is temporary or permanent permission sought? If temporary, how long for and why?
 - (j) If permission is refused, what alternative accommodation is realistically available?

Personal Circumstances

34. The relevant personal circumstances of the occupants of Sandy Park have been requested. However from feedback from Council Officers, it is understood that they wish to live together in extended family groups for care and support in accordance with Traveller tradition, and gain access to healthcare and education. These personal circumstances are material considerations and the grant of personal planning permissions for the occupants to remain at Sandy Park would bring clear and substantial benefits to the persons concerned.

Equal Opportunities Implications

35. In line with general and specific statutory duties under the Race Relations Act 1976 and Race Relations (Amendment) Act 2000, the Council operates a Race Equality Scheme (RES). This was last revised and agreed by the Council in July 2006, with an update of the 2005 - 2008 action plan.
- (a) The Council is committed to treating everyone fairly and justly, whatever their race or background.
 - (b) The Scheme gives priority to actions relating to Travellers as the biggest ethnic minority in the district (around 1.0% of the district's population).
 - (c) Planning is identified as being amongst the services most relevant to promoting race equality.
 - (d) The lead Cabinet Member for Race Equality, Councillor Edwards, is establishing an RES Member Working Group. This will highlight to the Cabinet and GTDPD

Member Reference Group findings and recommendations from ODPM Circular 1/2006 and the Commission for Race Equality's "Common Ground" report, which may be appropriate to the Council's strategic approach to Traveller issues and the Gypsy and Traveller Development Plan Document.

Planning Comments – Key Issues

36. The key issues are conflict with countryside policies, Green Belt policy, concentration of sites, sustainability and highway safety and policy for Gypsy caravan sites with regard to the need to limit impact on the landscape and rural character of the area, together with the special circumstances that are argued here, together with the advice in circular 1/2006 concerning temporary consent while councils such as South Cambs are preparing a Development Plan Document.
37. The site is basically clean and tidy and it is clear that the applicant has refrained from finishing the site and improving it while there is continued uncertainty as to its future.
38. In terms of the relevant criteria it is reasonably well located for schools shops and other local services. Indeed the children on the site are well established at local schools. The site has limited impact on the amenities of neighbours and the points made by neighbours relate to matters addressed elsewhere in this report (i.e. flooding and highway issues) or cannot be attributed to the occupiers of this site (i.e. fly tipping).
39. It is seen in the context of the adjacent permitted and unauthorised Traveller sites, and to that extent it does add to the concentration of sites. However, I give weight to the comments made by the Parish Council that would link full permission for this site to the removal of the land owned by the City Council and allocated for Traveller site development in the existing local plan. This can only happen through the process of approving the GTDPD, and would argue for a temporary permission while that document proceeds through the relevant planning stages.
40. The highway issues have been carefully assessed by the Highways Officer, and I do not dispute the conclusion that there is no significant highway problem. My view on this is strengthened by coupling the long term future of the site with loss of the local plan site since that in itself would generate traffic and the outcome of the recent County Council appeal that resulted in the approval of a waste transfer site further along the road despite the highway objections raised against it. Nor would it adversely in itself detract from the use of a public right of way.
41. There have been no adverse comments from any of the service providers including flooding and foul drainage. However I do see value in exploring with Anglian Water the possibility of mains drainage provision for the whole of Chesterton Fen Road. However, such provision could not just be limited to this site alone, nor should consent be tied to such provision since septic tank drainage is clearly acceptable.
42. The scale of the development on the site proposed site would have a significant adverse effect on the rural character and the Green Belt. However if the site's development were to be linked to the loss of the existing local plan allocation, this would be a significant factor to take into consideration, as it would in the case of the point related to concentration of sites. The Council has accepted the need for additional Traveller sites in the immediate area in response to the clear need notwithstanding the area's inclusion within the Green Belt.

43. The consultation on the options for Traveller site provision within the district are proceeding and it seems to me that this is an entirely appropriate case to be considered for a temporary consent on a without prejudice basis. Such consent would enable the Parish Council's reasonable concerns about the cumulative impact of the existing local plan allocation in addition to this site to be considered through the GTDPD.

Recommendation

43. That subject to satisfactory evidence being submitted in respect of the applicants' Gypsy status, the proposal be advertised as a departure from Green Belt and Local Plan Policies and referred to Secretary of State, and subject to his agreement I be delegated power to grant a temporary permission for 3 years subject to conditions.
44. Further, that the Council approach Anglian Water to explore the provision of mains drainage for the significant number of sites approved along Chesterton Fen Road.
45. In addition, investigations continue in connection with those plots subject to enforcement action but not included within this application.
- South Cambridgeshire Local Plan 2004
 - Cambridgeshire and Peterborough Structure Plan 2003
 - Circular 1/2006
 - Cambridge Sub-Region Traveller Needs Assessment 2006
 - Gypsy and Traveller Development Plan Document

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