

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

3rd October 2007

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

S/0673/07/F - HARSTON

Retention of and use of land for siting of one static caravan, one touring caravan and one mobile day room; Carefield, Button End, for Mr and Mrs Hedges

Recommendation: Temporary Approval

Date for Determination: 30th May 2007

This Application has been reported to the Planning Committee for determination because approval of the proposal would represent a departure from the development plan.

Departure Application

Site and Proposal

1. Button End is an area of sporadic residential development in the rural area and Green Belt to the north of Harston. The application site, which has an area of 0.19ha, is located in a spacious gap between dwellings known as Serotina and Apple Cottage on the north eastern side of Button End. The site contains a chalet home and mobile day room. In addition, brick walling and tall gate piers have been placed at the entrance, low-level brick retaining walling has been erected to form a garden area, timber stables and a raised patio have been developed at the rear of the mobile home, and the land beyond this to the north east of the site has been brought into use for the grazing of ponies. A stallion box has been erected on one paddock.
2. The full application, dated 2 April 2007, seeks permanent permission for the stationing of two caravans (one static, one touring) and a mobile day room, for one Gypsy family. The site area is given as 0.19 hectare.

Personal Circumstances

3. Since the granting on appeal in April 2004 of a temporary planning permission, the personal circumstances of the applicants have changed. The family now has five sons (compared with three in April 2004), the youngest being two years of age. Mrs Hedges health continues to require attention, sometimes at hospital. Her third eldest (13 years old) has started at Melbourn Village College, whilst her fourth child (3 years old) is about to start nursery school in Harston. The agent for the applicants has pointed out that the educational needs of this family will continue for a considerable number of years, and that this factor should continue to carry substantial weight.

Planning History

4. The applicants first occupied the site on 2nd July 1999. In the absence of any planning permission, an enforcement notice was issued on 23rd July 1999. An appeal against

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the enforcement notice was dismissed by letter dated 10th January 2000. The applicants were required to cease using the land for the siting of caravans or mobile homes and to remove these along with ancillary structures and area of hardstanding. The Council extended the period for compliance to allow for Mrs Hedges to have a hip operation. Shortly after the operation had been carried out, the applicants applied for planning permission to remain on the site (**S/0040/03/F**). This was refused. An enforcement notice was issued on 19th December 2003 that required the removal of hardcore, hardstandings and a lamppost.

5. Planning permission was granted at appeal S/0040/03/F, in a decision dated 7 April 2004. The Inspector limited the permission for the siting of two touring caravans and one mobile utility unit, with associated hardstanding (30m x 30m) for a period of three years, for occupation by Mr and Mrs Hedges and their children. The occupation was limited to Gypsies as defined in the Caravan Sites and Control of Development Act 1960. No commercial activity, including the storage of any materials or other items unrelated to the residential occupation of the land, was permitted. In coming to this decision, the Inspector commented;
6. "It is a fundamental objective of the Green Belt to maintain openness. However, the site is flanked on both sides by dwellings with associated boundary screen planting to Button End; the appeal site frontage also has a tall mature hedge and trees, except where the site is located. As a consequence, the development, which would be perceived only by those having occasion to go to this end of Button End, is seen only at close quarters when actually passing the site frontage, and even then in filtered views through gaps in the boundary vegetation for much of this length. I fully recognise the importance of maintaining the openness of the Green Belt, and I acknowledge that repeated incremental small-scale erosion of openness can cumulatively, over time, have significant consequences. Nonetheless I regard the extent of harm by reason of loss of openness in this case to be relatively minor, given the unobtrusive location of the site and the extent to which it is surrounded by existing development." (Paragraph 20)
7. "Permission for a temporary period would ensure a settled base from which to provide a continuity of the current secure educational environment through the completion of primary education transition to secondary education for Mrs Hedges' third child. It would enable continuity of Mrs Hedges' existing GP and specialist healthcare arrangements during the forthcoming review of any need for further hip replacement surgery. It would also provide a period of time, against the background of current levels of gypsy site provision and the policies in place in the District, to make a concerted effort in consultation with the Council to find a suitable site outside the Green Belt to use as a future settled base after Mrs Hedges' third child has moved through to secondary education. In my opinion permission for a period of up to three years would be an appropriate response to these particular circumstances." (Paragraph 50)

Planning Policy

South Cambridgeshire Development Control Policies Development Plan Document (2007)

8. **DP/7** (Development Frameworks). Outside urban and village frameworks, only development for agriculture, horticulture, forestry, outdoor recreation and other uses which need to be located in the countryside will be permitted.

9. **Green Belt Objectives: GB/b** - To maintain the purposes and openness of the Cambridge Green Belt. **GB/c** - To preserve the unique setting of the city by maintaining the character and appearance of the surrounding villages.
10. **GB/1** (Development in the Green Belt) There is a presumption against inappropriate development in the Cambridge Green Belt as defined on the Proposals Map.
11. **GB/2** (Mitigating the Impact of Development in the Green Belt)
 1. Any development considered appropriate within the Green Belt must be located and designed so that it does not have an adverse effect on the rural character and openness of the Green Belt.
 2. Where development is permitted, landscaping conditions, together with a requirement that any planting is adequately maintained, will be attached to any planning permission in order to ensure that the impact on the Green Belt is mitigated.
12. **Housing Objective: HG/a** - To ensure the provision of a range of housing types and sizes, including affordable housing, to meet the identified needs of all sectors of the community, including Key Workers.
13. **NE/4** (Landscape Character Areas) Development will only be permitted where it respects and retains or enhances the local character and distinctiveness of the individual Landscape Character Area in which it is located.

South Cambridgeshire Local Plan 2004

14. Policy **HG23** (Gypsies and Travelling Show people) does not apply to sites within the Cambridge Green Belt. The supporting text, at paragraph 4.55, states that 'Gypsy sites within the Green Belt are not an appropriate form of development.'

Gypsy and Traveller Development Plan Document

15. Consultants CDN Planning began working on this project in April 2006. The Issues and Options Report was considered by the Member Reference Group in February 2007. The Member Reference Group recommended to Council that:
 - (a) The responses to representations on the GTDPD Issues and Options Report and the Sustainability Appraisal at Appendix 3 are agreed.
 - (b) The list of Preferred Options at Appendix 2 is 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 is 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.
16. A second Issues and Options report will be prepared, and this will specifically identify potential sites within South Cambs for Gypsy/Traveller sites using the criteria already

agreed. At this stage we expect the second Issues and Options report to be consulted on in Summer 2007. Under our policies, Harston is a group village (Policy ST/6 of the Local Development Framework Core Strategy 2007). The site is within 2000 metres of key local amenities, and hence is likely to be considered under the site options report.

Cambridgeshire and Peterborough Structure Plan 2003

P1/2 (Environmental Restrictions on Development)- development will be restricted in the countryside unless the proposals can be demonstrated to be essential in a particular rural location.

P5/4 (Meeting Locally Identified Housing Needs) - Local Plans should make provision to meet the locally assessed need for housing specific groups including Gypsies and Travellers.

P7/4 (Landscape) – Development must relate sensitively to the local environment and contribute to the sense of place, identity and diversity of the distinct landscape areas.

P9/2a (Green Belt) – within the Green Belt, new development, including change of use, will be limited to that required for agriculture and forestry, outdoor sport, cemeteries, or other uses appropriate to a rural area

17. Also relevant is Circular 01/2006 (Planning for Gypsy and Traveller Caravan Sites) and PPS3 (Housing). Circular 01/2006 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.
18. 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.
19. 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.

Consultations

20. **Harston Parish Council** – Recommendation of refusal. The Parish Council has made the following comments:

- “1 The application site is within the Greenbelt, and therefore does not comply with the laws relating to Green Belt.
- 2 The present settlement and occupation on the site were established without authority or permission and were a direct infringement of South Cambridgeshire District Council's Planning regulations and ruling; although on compassionate grounds (Mrs Hedges illness, and her young children), the Hedges were given a temporary stay for 3 years.
- 3 Building development of a permanent nature has been carried out by the Hedges on the Green Belt land (Application Site).
- 4 The rule of law however must be upheld, without which the situation here, as elsewhere, could be subject to inconsistency and injustice. It is not acceptable for laws to be applied differently on ground of race, religion, ethnicity, etc. To do so implies discrimination of one group against another. (In this case, that the Hedges (Gypsy) could be permitted to develop within the Green Belt, whereas a similar application by a settled applicant (non-Gypsy) would be refused.)

The Harston Parish Council are very much aware of the issues which this Planning Application raises, and of the effects and consequences which any decision could have on the neighbourhood as a whole, and the Hedges family in particular.

In the interim years, since Mr and Mrs Hedges moved onto and occupied the land in contravention of planning law relating to Green Belt, some observations can be made however, which deserve comment:

There has been a measure of stability in the area, and a stable family unit created, living in Carefield. Any change at this time (happening without safeguards already in place) could be disruptive to the lives of the Hedges family. We are singularly mindful of the situation as it concerns the Hedges' children, their needs and welfare, and their education in our local schools.

We therefore recommend a Stay of Enforcement for a period of 5 years, provided that two provisos are made as legally binding Conditions, and become part of a signed, legally binding agreement made with Mr and Mrs Hedges:

- 1 First, that at the end of the 'granted period' of continued residence, (or at the end of such time as the Hedges family voluntarily move away from Harston, whichever is the sooner) the land's status as Green Belt is reassessed.
- 2 Secondly, the binding agreement states that, during the 'granted period' at no time may the ownership, use or occupation of the land, or any part of it, pass into other hands, or be occupied by any person or persons other than the present members of the Hedges family.

We recommend that this agreement remain permanently in force, and may not be changed without local consultation and a formal lifting of the embargo by South Cambridgeshire District Council on the recommendation of the Planning Department.

These measures will protect the well being of the environment and Green Belt; the welfare of the Hedges family, and the welfare of the residents of Harston.”

21. **Housing Support Team Leader (Affordable Homes)** – No objection to grant of planning permission for a further temporary period.

22. **Local Highway Authority** – No objection.

Representations

23. None received.

Equal Opportunities Implications

24. Under the Race Relations Act 1976 and the Race Relations (Amendment) Act 2000, the Council has a statutory duty to eliminate unlawful discrimination and to promote race equality and good race relations. The Race Equality Scheme, updated by the Council in July 2006 with an update of the 2005 - 2008 action plan, gives priority to actions relating to Travellers, as the biggest single ethnic minority in the District (around 1.0% of the District's population). The Council is committed to treating everyone fairly and justly, whatever their race or background and the scheme gives priority to actions relating to Travellers. It also incorporates recommendations from the Commission for Racial Equality's "Common Ground" report.

Planning Comments

25. The comments of the Inspector in 2004 are still of relevance to consideration of the application. The Inspector acknowledged that this caravan site constituted inappropriate development in the Green Belt, however he assessed the loss of openness to the Green Belt to be relatively minor, and that it involved some countryside encroachment. He found no other harm.
26. Since that time, the applicants have added to the original development by replacing the two touring caravans with a chalet home. They have constructed a raised patio, brick entrance piers and walls, low walling and steps adjacent to the chalet home, a stable block (currently in domestic storage use) and, in the paddock, a stallion box. This development may be unauthorised, but I recommend that it be considered separately from the assessment of the residential occupation of the site by Mr and Mrs Hedges and their family.
27. In assessing this application, Members will wish to take into account advice in Circular 1/2006 concerning temporary consent while councils such as South Cambs are preparing a Development Plan Document.
28. In terms of the relevant criteria it is reasonably well located for schools, shops and other local services. Indeed children from the site attend local school. It performs well against the site criteria within the emerging Gypsy and Traveller Development Plan Document. I am not aware of any service provision issue. The site is well landscaped on its boundaries and, except for the vehicular entrance, is not conspicuous to passers by.
29. The Parish Council has raised legitimate concerns about the previous history of unauthorised use of the site, but has accepted that a further grant of planning permission for a temporary period is warranted. The consultation on the options for Traveller site provision within the District is 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 of course be in accordance with the Government's advice in Circular 1/2006. Such consent would enable the reasonable concerns of the Parish Council to be properly considered against the locational criteria, since this is one of the issues that the Council will be consulting on in preparing it's G&TDPD.

Recommendation

30. Approval subject to conditions:

Conditions

1. The use, hereby permitted, shall be carried on only by the applicants, Mr J H and Mrs P Hedges and their children and shall be for a limited period being on or before 31 October 2010, or the period during which the premises are occupied by them, whichever is shorter. (Reason- In accordance with the advice in Circular 01/2006 'Planning for Gypsy and Traveller Caravan Sites', the Council is preparing a Gypsy and Traveller Development Plan document, and on a without-prejudice basis to a permanent consent on this site, a time-limited consent will enable the Local Planning Authority to properly assess the impact of Traveller development on Harston. The permitted use would not normally be granted in the absence of the personal circumstances of this case.)
2. When the premises cease to be occupied by Mr J H Hedges and Mrs P Hedges, and their children, or by 31 October 2010, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought on to the premises in connection with the use shall be removed, and the land restored to its former condition. (Reason –In accordance with the advice in Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites, the Council is preparing a Gypsy and Traveller Development Plan document, and on a without-prejudice basis to a permanent consent on this site, a time-limited consent will enable the Local Planning Authority to properly assess the impact of Traveller development on Harston. The land should be reinstated in the interests of the appearance of the countryside and Cambridge Green Belt).
3. The occupation of the land shall be restricted to persons defined as Gypsies in paragraph 15 of Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites. (Reason – The site is in a rural area and Cambridge Green Belt where residential development will be resisted unless it falls within certain limited forms of development that is allowed for in Government guidance and the development plan. As such, the occupation of the site should be limited to qualifying persons in the interests of the proper planning of the area)
4. No commercial activity shall take place on the site, including the storage of any materials or other items unrelated to the residential occupation of the land. (Reason- To protect the amenity of adjoining residents and to limit the visual impact of the development on the countryside and Cambridge Green Belt)

Informatives

The planning permission hereby granted relates solely to change of use of the land for occupation by named persons, and not to any operational development which may require planning permission in its own right.

Reasons for Approval

1. The site is located in the countryside and Cambridge Green Belt where there is a presumption in the development plan (Cambridgeshire and Peterborough Structure Plan, and South Cambridgeshire Development Control Policies Development Plan Document 2007) against development unless it can be

shown to be appropriate in the Green Belt and essential in a particular rural location. However, the applicants have had the benefit of a limited-period planning permission granted on appeal reference APP/W0530/A/03/1121732 dated 7 April 2004, and the Council is preparing a Gypsy and Traveller Development Plan document to consider the provision of Gypsy and Traveller sites in the District. The grant of a time-limited consent would accord with Government advice in Circular 01/2006 'Planning for Gypsy and Traveller Sites', and would enable the Local Planning Authority to properly assess the impact of Gypsy and Traveller development on Harston.

2. The proposal is not considered to be significantly detrimental to the following material considerations, which have been raised during the consultation exercise: openness of the Green Belt.

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

- Circular 01/2006, 'Planning for Gypsy and Traveller Sites'
- South Cambridgeshire Development Control Policies Development Plan Document (2007)
- Cambridgeshire and Peterborough Structure Plan 2003
- Planning File refs S/0673/07/F, S/0040/03/F, planning appeal reference APP/W0530/A/03/1121732

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