

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

6th May 2009

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

S/1968/08/F - HISTON

Utility Building (Retrospective Application) at 4 Moor Drove for Mrs Lynne Price

Recommendation: Delegated Approval

Date for Determination: 9th April 2009

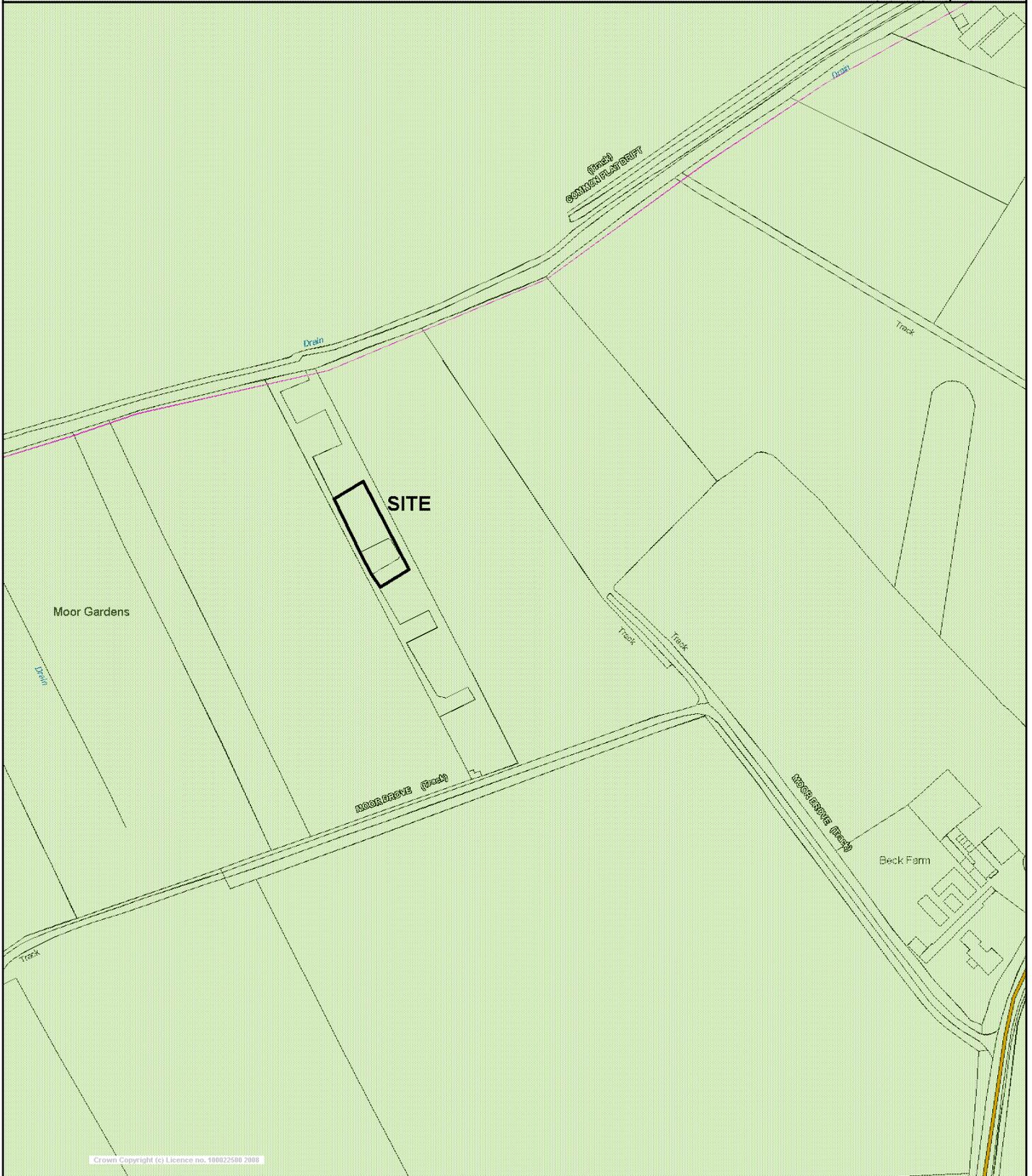
Notes:

This Application has been reported to the Planning Committee for determination because the officer's recommendation of approval is contrary to the provisions of the development plan and has attracted an objection on material planning grounds.

Departure Application

Site and Proposal

1. The application site is part of a larger site used as a gypsy caravan site with permission for up to twelve caravans serving six families (see planning history below). The application site serves five related families. It is sited north of Moor Drove, a private farm road accessed via Cottenham Road (B1049); it is outside of Histon's village framework and lies within land designated as Cambridge's Green Belt.
2. The site is relatively flat and featureless, although the south-western boundary is marked by a 1.8 metre high, panel and trellis timber fence and the north-eastern by a low post and rail fence. The site is divided into 6 plots sited on the south-western side of the site, with an access road running the full depth of the site, along its north-eastern boundary. On the northern part of plot 4 there is currently an unauthorised shed that has previously been used as a day room. It is intended that this be removed.
3. To the southwest and northeast of the site are open fields used for grazing horses. To the northwest is a treed hedgeline and drainage ditch, beyond which is open countryside. To the southeast is the frontage to Moor Drove and plot 1, in separate ownership. The site is screened from public vantage points by vegetation to Moor Drove and Cottenham Road.
4. The site area is to be amended to encompass the five plots that the proposed utility building is to serve and notice will be served on the four other owners.
5. This full planning application, validated on 4th February 2009, seeks permission for a day room to serve five families occupying this authorised gypsy site. The building is single storey and measures 11.8 metres wide by 5.9 metres deep, with an eaves height of 2.5m and ridge of 3.9 metres. The footprint measures 70 metres square. The application has been made retrospectively and accommodates an open plan, living, dining, and kitchen area off which a toilet is accessed. This has not been



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Map Planning Committee

equipped with a bath and contains only a sink and toilet. A Design and Access Statement and a Flood Risk Assessment accompany the application.

Planning History

6. Planning applications relating to this site at Moor Drove include:
 - (a) **S/1895/07/F**Siting of 12 Caravans, refused on 29/11/07. An appeal was allowed on 3rd September 2008, the Inspector having concluded that 'very special circumstances' had been demonstrated that outweighed the harm to the Green Belt by way of inappropriateness and other harm identified. The permission was granted subject to a number of planning conditions, which are in the process of being discharged. It was made personal to the appellant and other site residents. At the time of writing no breach of planning condition had resulted.
 - (b) **S/0647/06/F**Siting of 12 Caravans, withdrawn 25th May 2006.
 - (c) **S/2230/03/F**Siting of 6 Caravans, 6 Mobiles & 6 Day Rooms and Improvement to Access, refused on 14th January 2004.
7. An enforcement notice, dated 8th December 2008, took effect on 12th January 2009. It required the demolition of the brick-built single storey building within one month of the date the notice took effect. No appeal was submitted within the timescale.

Planning Policy

8. **Planning Policy Guidance 2: Green Belts - identifies a general presumption against inappropriate development in the Green Belt. Paragraphs 1.4 and 1.5 in regard to openness and purpose of including land in the Green Belt are relevant.**
9. **Department for Communities and Local Government 'Designing Gypsy and Traveller Sites Good Practice Guide' (2008).**
10. **East of England Plan 2008:**
 - (a) **ENV7:** Quality in the Built Environment
 - (b) **CSR3:** Green Belt
11. **South Cambridgeshire Local Development Framework (LDF) (a) Core Strategy and (b) Development Control Policies DPDs (2007):**
 - (a) Policy **ST/1** Green Belt
 - (b) Policy **DP/1** Sustainable Development
 - (c) Policy **DP/3** Design of New Development
 - (d) Policy **DP/3** Development Criteria
 - (e) Policy **DP/7** Development Frameworks
 - (f) Policy **GB/1** Development in the Green Belt
 - (g) Policy **GB/2** Mitigating the Impact of Development in the Green Belt
 - (h) Policy **NE/6** Biodiversity
 - (i) Policy **NE/9** Water and Drainage Infrastructure
 - (j) Policy **NE/10** Foul Drainage – Alternative Drainage Systems
 - (k) Policy **NE/11** Flood Risk

Consultation

12. **Histon Parish Council** – Recommends refusal, commenting:
'With regard to this application (S/1968/08/F 4 Moor Drove) we would recommend, indeed expect, refusal. It is development in the Green Belt and is totally inappropriate

in this location. The building has been erected in direct contravention of the planning permission granted on appeal, about the use of the land dated 3rd September 2008. That appeal specifically just allowed – and only just in conditions 43 and 44 – planning permission for the retention of (a) gypsy caravan site for 6 families with 12 caravans with hardstanding etc. The applicant for this application was one of the appellants in that appeal, should be well aware that this building was not allowed under that appeal decision and that to build it was in blatant disregard of the planning law that we expect all the population to adhere to. We are surprised in these circumstances that this application has been accepted as an application. We are confident that SCDC planning will accept our recommendation to refuse and will enforce that refusal’.

13. **Cottenham Parish Council** – Recommends approval.

14. **Traveller Site Team Leader (Affordable Homes)** – Comments:

“The utility block that has been built to service the needs of around 14 people who have no services directly to their caravans and who make up Mrs Price’s extended family living permanently in Moor Drove.

It comprises a kitchen/living area and bathroom facilities. In my opinion, it is an essential for this large family and meets their needs”.

Representations

15. A letter of objection has been received from the occupier of Beck Farm, Cottenham Road. Beck Farm, fronting Cottenham Road, is the closest neighbour to the site and shares the access road. The letter raises the following issues:

- (a) The unauthorised development is in the Green Belt and represents inappropriate development with no justifying very special circumstances.
- (b) Permission was given on appeal for 12 caravans, 2 per plot, one of these could be a mobile with no limit on its size. No permission was granted for a brick building.
- (c) Permission was given on grounds of ethnicity and an aversion to bricks and mortar.
- (d) Planning permission conditions stated that once occupation by the named person finished all structures should be removed. When Mrs Price vacates the site, removing a brick structure will be more complex.
- (e) The brick building is visible from the public highway to the north and has caused much comment from people not so aware of the original caravan site.
- (f) The plans do not include the chimney structure and no details of a structural report.
- (g) The size and height of the building assimilates badly in comparison with the caravans in the open site. No further landscaping has been undertaken and would take many years to mitigate the obtrusive nature of the building.

Planning Comments – Key Issues

16. The key issues in determining this planning application are firstly, whether it constitutes ‘appropriate’ development in the Green Belt, whether harm is caused to the Green Belt, visual amenity of the countryside and flood risk. If ‘inappropriate development’, are there very special circumstances which, on balance, outweigh the harm by reason of inappropriateness and any other harm?

Green Belt – inappropriate development

17. The development of a utility building to serve a gypsy or travellers' site does not fall within the definition of development that is 'appropriate' in the Green Belts, set out in paragraph 3.4 of Planning Policy Guidance 2: Green Belts. As such, it is by definition harmful to the Green Belt, by way of inappropriateness. Paragraph 3.1 of PPG2 states that such development should not be approved except in very special circumstances.

Green Belt – character and appearance, and openness

18. The building does detract from the openness of the area in so far as it introduces permanent development into a gypsy site. This should carry weight in reaching a decision. The Moor Drove gypsy site does however benefit from a personal planning permission and so it is necessary to consider the actual visual impact of the building upon the character and appearance of the countryside.
19. In granting planning permission, the appeal Inspector referred a number of times to the fact that the site is not visible from the public vantage points due to the surrounding landscape, which provides a green screen. I have not been able to identify any public views of the building. Nonetheless that factor does not outweigh the impact on openness.
20. Plot 4 has planning permission to site two caravans on the plot. A mobile home, typically will be just under 4 metres in height. The building proposed is just 3.9 metres high to its ridge, although a small chimney does protrude above this roofline. The roofing material is a grey concrete tile with red ridge tiles. At a distance of approximately 200m to the nearest public viewpoints I consider it unlikely that the building will be unduly noticeable given the ridge height, choice of materials and screening.
21. In terms of the appearance of the building itself, which is of brick and tile construction, it looks like a small bungalow. The external materials are characteristic in colour and finish of those found elsewhere in the area. Ideally the building might have been finished to appear like a rural building, perhaps with timber boarding, however as it is not noticeably visible from public viewpoints it would be necessary to consider if it were reasonable to impose such a requirement if approved. The requirement at paragraph 7.20 of the Good Practice Guide (see para. 9 above) must be noted, in that 'its construction should be sympathetic to local architecture, attractive and of a domestic nature and meet the requirements of PPS3'. As such the design and appearance of the building is considered acceptable in this location.

Other harm

22. The site is within the countryside. Policy DP/7 limits development to that which needs to be located in the countryside. In granting planning permission for the gypsy site, the Inspector at appeal noted that "...the fact that development is not visible from public vantage points does not make it acceptable in the countryside. It could be repeated too often with resultant harm to the character of the countryside" (para. 13). He acknowledged that changes to the access and vehicular movements from it would be noticeable and such harm to the countryside was caused. He went on add however that the impact on the character and appearance of the countryside must be considered in the context of advice in PPG2 and PPS7 and that there was limited harm to the countryside. The same remains true of the application proposal.
23. The site lies within an area of medium and high flood risk. The application is accompanied by a flood risk assessment that was prepared to support the application for the site's use as a gypsy caravan site. This confirms that plot 4 is outside of the high flood risk area and lies within Floodzone 2. Confirmation is awaited from the

agent that appropriate flood resilient measures are included. However as the building is not used for sleeping accommodation it is considered to be otherwise acceptable.

Very special circumstances

24. The application identifies as ‘very special circumstances’ as the health and hygiene benefits of an ancillary amenities building and that the same reasons that justified the establishment of a caravan site in the Green Belt also apply i.e. in granting the permission for Moor Drove the Inspector attached significant weight to:

“...the need for additional gypsy sites in the area; the fact that this need will not be addressed on the ground for at least 3 to 4 years; the immediate needs of the appellant and the other site residents for a site; the fact that no suitable alternative, affordable site have been identified to which they could move if evicted from the site; the need to access medical care; the need for the children to continue their education; the need for Mr Smith to live near the rented land where he keeps his horses; and the substantial hardship and costs the site residents would face if forced to leave the site with nowhere to go” (para. 41, Appeal Decision APP/W0530/A/08/2067087).

In reaching a decision it is necessary to decide whether these considerations cumulatively are sufficient that they clearly outweigh the harm to the Green Belt and countryside.

25. The Inspector’s decision was made after the Good Practice Guide was published in May 2008. It carries the same weight as Planning Policy Guidance in reaching a decision.

26. The building is intended to serve six related families who all live on the caravan site. The guidance states in relation to amenity buildings:

‘It is essential for an amenity building to be provided on each pitch, although this can be provided across two pitches as two separate and entirely self-contained semi-detached units’ (para. 7.17) and;

‘The inclusion of a day/living room in the amenity building for family meals is recommended. The day/living room could be combined with the kitchen area to provide a kitchen/dining/lounge area...Many existing amenity buildings do not of course contain this facility but inclusion in new sites would replicate the provision of a typical living room as enjoyed by other sectors of the community’ (para. 7.19).

27. This application proposes a single building to serve fourteen people living on five plots owned by the applicant and extended family. The building itself is larger than would normally be expected, however this accommodation is smaller than is recommended if each plot were to have sought planning permission for their own individual structures. As the planning permission is personal to the applicant’s family it is not unreasonable that a single, larger building serve this function. I consider therefore that the size of building is justified by the personal circumstances of the needs for this extended family.

28. The Inspector, in his decision letter of the September 2008, concluded the very special circumstances (see para. 24 above) outweighed harm of the traveller site by reason of inappropriateness, “small amount of harm at a local level, to the openness of the Green Belt” and conflict with two of the purposes (safeguarding the countryside from encroachment and preventing neighbouring towns from merging into one another) of including land within the Green Belt.

29. The Gypsy site is already lawfully established in the Green Belt and the health and hygiene benefits of ancillary amenity buildings are the same in the Green Belt as elsewhere. Government guidance supports the provision of amenity buildings on all new Gypsy sites and that support should logically extend to established sites. In this case the building will replace a shed, albeit smaller in footprint, and will serve the residents' needs of the majority of the plots on this site.
30. I conclude that in combination these are the very special circumstances required by the Development Plan and PPG2 which justify inappropriate development in the Green Belt and which outweigh limited harm to openness of Green Belt and to the countryside.

Other matters

31. The Parish Council has objected to the application on grounds that it is made retrospectively. This is not a material planning matter, and the application must be considered on its merits.
32. No permission was granted on appeal for a brick building because it was not part of the application and was not before the Inspector to determine.
33. There is an extant enforcement notice on the site requiring the building now applied for to be demolished and the land returned to its former condition. This has not been complied with and no action has been taken in order to consider this application. If planning permission is granted it will be withdrawn. The Enforcement Notice was served before the full information of the use of and the very special circumstances for the retention of the building was known in the submitted Design and Access Statement.
34. The planning permission, granted at appeal, for the gypsy site is subject to a number of planning conditions. In particular, condition 6 requires:

'The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

- (i) Within 3 (three) months of the date of this decision schemes for:
- Improvements to the junction of Moor Drove/Cottenham Road in accordance with details shown on Drawing No R1653/3;
 - The provision of traffic signs in Cottenham Road to the north and south of Moor Drove in accordance with Diagram 6506.1 of Chapter 4 of the Traffic Signs Manual;
 - The provision of foul and surface water drainage to the site;
 - The proposed and existing external lighting on the boundary of and within the site;
 - A flood evacuation plan, which is to be held on the site and available for use at all time; and
 - Tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities; shall have been submitted for the written approval of the local planning authority and the said schemes shall include timetables for their implementation.
- (ii) Within 11 months of the date of this decision the site development schemes shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a

- decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - (iv) The approved schemes shall have been carried out and completed in accordance with the approved timetables'.
35. The above schemes were submitted, with timeframes for completing them within the three-month period. All details have been responded to, however officers have sought further information in relation to drainage, lighting and landscaping. The applicants can appeal non-determination of this submission or provide the further information requested in order to gain approval. The time frames provided with the schemes indicate that all schemes will be completed within the 11-month deadline. Officers are confident that the condition will be complied with and the use of the site will become legal.
36. A planning condition is recommended to ensure that, if the use does not become lawful, the building be removed, along with the site's clearance, as required by condition 6 (see paragraph 34, above). This is considered to be necessary and reasonable, as the building would not be permitted if it were not required to meet the families' needs. This is in accordance with guidance in Circular 11/95: The use of conditions in planning permissions, (paragraph 113), which advises that if requiring the cessation of a use of land it is necessary to also require the removal of structures at the expiry of permission.
37. Similarly, a condition ensuring the building's use is made personal to the lawful residents of the site, through not to be used for overnight accommodation is recommended. Although this approach is not normally recommended Circular 11/95 advises (paragraph 92) that conditions restricting occupancy should only be used when 'special planning grounds can be demonstrated, and where the alternative would be refusal of permission'. It is considered reasonable and necessary therefore to also ensure that this building, which is larger than would otherwise normally have been permitted, is available for use by all residents and not just those on plot 4, as the facility is considered to be essential; a view supported by housing and government guidance.
38. The application is considered against the requirement of the Green Belt (Direction) 2005 procedure. The development proposed does not have a floorspace of more than 1000m² and, although it is by definition 'inappropriate' development, it will not by reason of its scale, nature or location, have a significant impact on the openness of the Green Belt. In such cases it is not necessary under the Green Belt Direction (2005) to notify the Secretary of State prior to the grant of planning permission.

Recommendation

39. It is recommended that, subject to: no new material planning considerations being raised during the statutory departure notification period (expiring 11th May 2009), adequately addressing flood risk, receipt of a revised location plan showing all of the plots to be served by the building within the red line area, service of appropriate notices on the other land owners affected and receipt of revised plans including the chimney, delegated approval be granted.

Conditions

1. The dayroom building hereby permitted shall not be occupied other than by Sharon Price (Plot 2), Georgina Price (Plot 3), Lynne Price (Plot 4), Danny Price (Plot 5) and Harry Price (Plot 6) and any dependant living with them. The building shall not be used for overnight accommodation. When the building is no longer occupied by any of these persons, or the site ceases to be used as a gypsy caravan site to accommodate any of these persons, the use hereby permitted shall cease and within six months thereof the building shall be demolished and the resultant materials removed from the site.
(Reason - To ensure that the essential facilities provided within this building are made available to all residents for which it is intended to serve, as the size of the building has been justified on the basis of personal circumstances in this particular case in order to comply with Policy GB/1 of the adopted Local Development Framework 2007.)
2. The use of the existing dayroom building shall cease and the building shall be demolished within 1 month of the date of failure to meet the following requirement set out below:
Within 3 months of the date of this decision the single-storey timber shed building to the rear (north west) of the dayroom building shall be demolished and the resultant materials removed from the site.
(Reason - To minimise the impact of the development upon the openness of the Green Belt in accordance with Policy GB/1 of the adopted Local Development Framework 2007.)

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

- South Cambridgeshire Local Development Framework Development Control Policies (adopted July 2007)
- East of England Plan (adopted May 2008)
- Planning Policy Guidance 2: Green Belts
- Planning Policy Statement 7: Sustainable Development in Rural Areas
- CLG 'Designing Gypsy and Traveller Sites Good Practice Guide' (May 2008)
- Circular 11/95: Use of conditions in planning permissions.
- Planning Files Ref: S/1968/08/F, S/1895/07/F, S/0647/06/F and S/2230/03/F

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