

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

5th August 2009

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

S/0564/09/F - MILTON

**Retention of day room not built within accordance of condition 1ii (drawing no.08-180-002) of Appeal Decision APP/W0530/C/08/2079175 dated 18th February 2009
at 6 Sunningdale Park, Chesterton Fen Road
for Mrs S Lee**

Recommendation: Approval

Date for Determination: 17th July 2009

Notes:

This Application has been reported to the Planning Committee for determination because the recommendation of approval is contrary to the provisions of the approved Development Plan.

Members will visit this site on 5th August 2009

Departure Application

Site and Proposal

1. The site is on the north-eastern outskirts of the City in an area known as Chesterton Fen. The site comprises a plot of roughly 20m by 24m deep on the northern side of Chesterton Fen Road and is located towards the eastern end of Sunningdale. A caravan, a substantial single-storey dayroom building (which is the subject of this application), a further smaller brick building and a garden shed, currently occupy the site. The remainder of Sunningdale is occupied by mobile homes, touring caravans and single storey buildings.
2. The dayroom building has a floor area of about 131 sq m. It provides an entrance hall separately leading to a dayroom, granny dayroom with en-suite, children's playroom, kitchen, bathroom and store. It is not intended for sleeping purposes. It is constructed in cavity brickwork on foundations under a concrete tiled roof.
3. The surrounding area is generally flat with the Cambridge to Ely railway line to the west, the river Cam 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.
4. The site is part of an area frequented and allocated for gypsies in the Local Plan. To the north are sites known as Lomas Farm and Darren's Farm and a further authorised gypsy caravan site at Grange Park beyond. To the south lies an industrial estate. Opposite the site is another large gypsy caravan site known as Newfields with an extensive area of open pasture to the north. To the north is Camside Farm with two



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unauthorised gypsy mobile homes, open pasture, a small gypsy caravan site known as Big T, further open pasture, and then three small gypsy caravan sites with more extensive pasture land beyond.

5. The site lies outside any defined settlement framework within the Cambridge Green Belt.
6. This full planning application, received on 22 May 2009, seeks to retain the day room. Paragraph 14 of the planning history, below, provides a more detailed summary of the background for the relevant permission. This application proposes a day room with an internal floorspace of approximately 91 square metres. The reduced scheme, as envisaged by the planning permission the Inspector granted would be increased by approximately 13 square metres and as such is not in accordance with approved drawing. The internal layout has also been altered slightly. It is proposed to now accommodate two dayrooms (one smaller room is to provide space for the applicant's grandmother away from the children), kitchen, bathroom and storeroom. As the building will not be in accordance with the approved dwg. no. 08_180_002 referred to in the planning condition permission is sought to build in accordance with this revised scheme.

Planning History

7. 6 Sunningdale is one of 21 plots on a site granted planning permission on 15 February 1996 under reference **S/1706/92/F**. Condition 5 of this permission states that the site shall not be used other than as a caravan site for persons of a nomadic way of life. Planning permission was granted as an exception to Green Belt policies.
8. The Council first became aware that the day room building was being erected in February 2006. In response to a letter from the Council's enforcement officer, the appellant set out her reasons for erecting the building. This explains that the building had replaced a mobile home that was previously stationed on the site and that the building was a cheaper option than a mobile home. The letter also explains the family's circumstances at that time.
9. As a precursor to possible enforcement action, a planning contravention notice was served on the appellant. A retrospective planning application (ref. **S/1241/06/F**) was submitted on 30 April 2006, but due to a lack of information, it wasn't registered until 26 June 2006. It was supported by a 1/500 scale site layout, drawing no. 305 showing the elevations and floor plans for the building and a supporting statement regarding the needs of the occupants. The building that has been erected is essentially that shown on drawing no. 305 submitted with that application except for some minor changes internally. The layout of rooms is the same.
10. The application was refused on 31 August 2006 and an appeal allowed on 5 April 2007. That decision was subsequently quashed on appeal to the High Court. The appeal was re-determined and dismissed on 18 February 2008.
11. As part of that appeal, the appellant did not suggest there had been any material change in either her, or her family's circumstances. The appeal decision therefore remained a relevant consideration carrying significant weight.
12. The appeal was dismissed on grounds that "...neither the presence of other buildings in the area nor the personal and family circumstances advanced by the Appellant clearly outweigh the harm to the Green Belt by reason of inappropriateness and loss of openness and the harm to the character of the area. There are no very special

circumstances that would override the conflict with PPG2 and the development plan or would justify the grant of planning permission” (paragraph 25).

13. The Council had refrained from taking enforcement action pending the outcome of that appeal. An enforcement notice was therefore issued after the appeal decision, on 16 May 2008.
14. An appeal was lodged on against the enforcement notice (appeal ref. **APP/W0530/C/08/2079175**). This was allowed subject to planning conditions, the applicant having negotiated down to approximately 80-90 square metres. A plan detailing the reduced size dayroom was tabled (dwg. no. 08_180_002). The Inspector concluded that the proposal was inappropriate development. He acknowledged the reduced dayroom would still be around double that envisaged in the Good Practice Guide, Designing Gypsy and Traveller Sites, however he noted that the building would be used on a regular basis by four generations of the same family. He concluded that the size was justified on the basis of the appellant and her family's personal circumstances. He added that a planning condition making the use of the building personal was appropriate.
15. There is no other planning history in respect of the appeal site, including the existing outbuildings on the site. The single-storey brick building in the north-west corner of the site appears to be lawful. Photographs taken in 2003 and 2008 show that the building has been on the site for more than four years, making it immune from enforcement action. The Council cannot, therefore, require it to be removed. The Inspector however has required it be partially demolished and rebuilt in accordance with dwg. no. 08_180_002 by way of a planning condition.
16. The planning history relating to other buildings at Sunningdale, is restricted to a dayroom on Plot 14. Retrospective planning permission was granted on appeal in September 2002 for the erection of a building for domestic purposes.

Planning Policy

17. **Planning Policy Guidance 2: Green Belts:** identifies as the fundamental aims of Green Belt policy at paragraph 1.4 as: ‘to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. Green Belts can shape patterns of urban development at sub-regional and regional scale, and help to ensure that development occurs in locations allocated in development plans. They help to protect the countryside, be it in agricultural, forestry or other use. They can assist in moving towards more sustainable patterns of urban development’.
18. It establishes a presumption against new development in Green Belts at paragraphs 3.1-3.3 and sets out appropriate uses of land and forms of development within Green Belts at paragraphs 3.4 – 3.5. Paragraph 3.2 states:

‘Inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations’.
19. At paragraph 3.15 it is establishes that: ‘the visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green

Belt which, although they would not prejudice the purposes of including land in Green Belts, might be visually detrimental by reason of their siting, materials or design’.

20. **Department for Communities and Local Government ‘Designing Gypsy and Traveller Sites Good Practice Guide’ (2008):**
21. The requirement at paragraph 7.20 of the Good Practice Guide 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’.
22. The guidance states in relation to amenity buildings serving individual plots:

‘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).
23. **Circular 11/1995 - The Use of Conditions in Planning Permissions:** Advises that conditions should be necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.
24. **East of England Plan 2008:**
 - (a) ENV7: Quality in the Built Environment
 - (b) H3: Provision for Gypsies and Travellers
 - (c) CSR3: Green Belt
25. **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 GB/1 Development in the Green Belt
 - (f) Policy GB/2 Mitigating the Impact of Development in the Green Belt
 - (g) Policy NE/9 Water and Drainage Infrastructure
 - (h) Policy NE/10 Foul Drainage – Alternative Drainage Systems
 - (i) Policy NE/11 Flood Risk

Consultation

26. **Milton Parish Council** – Recommends refusal commenting that “Milton Parish Council supports the Inspector’s decision ref. APP/W0530/C/2079175. Our original concerns still apply: Inappropriate and loss of openness in the Green Belt and harm to the character of the area”.

27. **Environmental Health Officer** – Comments that there will be no significant impacts in relation to noise and environmental pollution. It is noted that the structure must meet site licence requirements.
28. **Environment Agency** – comments are awaited. A verbal update will be given at the meeting.
29. **Local Highways Authority (Cambridgeshire County Council)** – Commented that: “As the Highway Authority would not wish to see any increase in vehicle movements through the existing access, please add a condition to any permission that the Planning Authority is minded to issue in regard to this proposal requiring that the proposed day room is used solely for this purpose and not as a separate dwelling”.

Representations

30. In response to a request from Officers for confirmation of the material planning considerations to be taken into account, the **applicant** has written confirming that circumstances have not changed. Since the appeal decision. She still has her mother, daughter, grand-daughter on site. Her daughter is expecting another baby. She still look after her two other granddaughters and her youngest son still lives with her. The circumstances are, therefore, as considered by the appeal Inspector:
 - (a) Need for a day room.
 - (b) Government Good Practice.
 - (c) The number of caravans on site is not limited and therefore the site is large enough to accommodate two families and as such the dayroom is approximately the right size for a double plot (80 sq metres externally).
 - (d) The personal circumstances of the applicant and extended family – having three generation of the same family on site, with children needing to do homework and the oldest generation with failing health.
 - (e) The permission allowed for a dayroom at plot 14 sets precedence for what is acceptable as non-residential caravan living space.
 - (f) Human Rights – loss of facilities that could be considered part of a home; loss of property if refused; legal obligation to facilitate the Gypsy way of life.
 - (g) Emphasis is placed on considering the needs of appellant and families involved.
 - (h) Common Humanity.

Planning Comments – Key Issues

31. The key consideration in determining this application is Green Belt. Other matters to be addressed include flood risk, traffic and departure procedures.

Inappropriate development

32. It is accepted that the day room is inappropriate development in the Green Belt.

Other harm – Green Belt

33. It is necessary to consider whether the proposal will harm the Green Belt’s openness and character in this area.
34. It is useful to compare the two appeal decisions. The first appeal against the refusal of planning permission for the day room as built, measuring 131 square metres. The Inspector at that appeal considered the building resulted in a loss of openness and was out of character with the countryside setting, having an appearance like that of a

bungalow. The Inspector opined that the building is more harmful than the fallback positions of siting further caravan/s or mobile home/s.

35. The second appeal against the subsequent enforcement was allowed on the basis of scheme submitted reducing the building to approximately 90 square metres. In considering the day room built on site the appeal Inspector accepted the previous decision, which dismissed the appeal for the day room as built. It was accepted that if part of the building to the rear and the existing building were demolished to provide smaller buildings, other consideration put forward would clearly outweigh the harm caused to the Green Belt by way of inappropriateness and any other harm.
36. The circumstances have not altered in the intervening months.
37. The building now proposed is marginally larger in floorspace by approximately 13 square metres than that considered by the Inspector when granting permission. This modest increase will not noticeably increase the impact of the building in terms of loss of openness or visually and as such is not considered significantly harmful to the Green Belt.

Other harm?

38. The Local Highway Authority's comments are noted. Condition 2 of the permission limits occupancy to a day room personal to the applicant and her dependents. This condition is considered sufficient to prevent the building's use as a dwelling without a further planning permission.
39. The application is accompanied by a Flood Risk Assessment (FRA) as the site falls with a medium and high flood risk zone, according to the Environment Agency's flood maps. Flooding was not previously raised as an issue, however the FRA states that finished floor levels are approximately 600-700mm above predicted flood levels of the 1:100 year event. A verbal update will be provided if comments from the Environment Agency are received, however, based on this assessment it is likely that the risk from flooding is acceptable.

Very special circumstances?

40. The applicant has put forward material planning considerations, which have not altered since the previous appeal was decided. In relation to the specific considerations put forward, the following comments are made:
 - (a) *Need for a day room* – it has been established that there is a need for day room on site to accommodate the family, including dependents, this has not altered.
 - (b) *Government Good Practice* – the building proposed accords with guidance set out by the Government in relation to day rooms in terms of its size and accommodation. It does not provide sleeping accommodation.
 - (c) *The number of caravans on site is not limited and therefore the site is large enough to accommodate two families and as such the dayroom is approximately the right size for a double plot (80 sq metres externally - see (b), above.*
 - (d) *The personal circumstances of the applicant and extended family – having three generation of the same family on site, with children needing to do homework and the oldest generation with failing health. - The slight increase in size facilitates an improved layout, incorporating a separate room for an elderly relative of the applicant – this has been accepted, and remains unchanged.*

- (e) *The permission allowed for a dayroom at plot 14 sets precedence for what is acceptable as non-residential caravan living space* – the Inspector in considering the planning appeal did not accept this argument. He noted that the building at no. 14 is smaller, placed at the side of the plot to leave a maximum open area for the single unit mobile home and two touring caravans on site, its occupiers did not have homes elsewhere (unlike several of Mrs Lee's family who use the application site), and that site does not have a second day room. It is not accepted therefore, that this is a material planning consideration that can carry any weight.
- (f) *Human Rights – loss of facilities that could be considered part of a home; loss of property if refused; legal obligation to facilitate the Gypsy way of life* – It was noted by the Inspector that, as the building had not been lawfully erected, the occupants would retain sleeping, living, kitchen and bathing facilities if it were removed, and as family could still visit family life would not be harmed. The applicant's Human Rights would not have been harmed in refusing that planning permission. As the situation remains unaltered other than the applicant has an extant planning permission, which she could still implement, it is concluded that this does not be given weight in determining this case.
- (g) *Emphasis is placed on considering the needs of appellant and families involved* – this has not altered and is accepted as being a material consideration.
- (h) *Common Humanity* – The applicant has an extant planning permission which can be implemented, therefore it will not be necessary to take further enforcement action if the development is carried out in accordance with the details approved under that permission and its various planning conditions.

41. The personal circumstances of the applicant were found by the enforcement appeal's Inspector to clearly outweigh the harm by way of inappropriateness and other harm. It is Officer opinion that this remains the case in determining this application.

Planning conditions

42. It is noted that the appeal granted planning permission subject to a two conditions. These included timeframes requiring demolition and implementation to be carried out within 6 months of the date of that decision. This period will expire on 17th August 2009.
43. The drawing number referred to in condition one included works to the lawful day room and the existing building which were shown on a single drawing.
44. In light of this it is considerable reasonable and necessary to revise the planning conditions. Condition 1 (i) is amended in the recommendation below to allow a further three month period from the date of approval for implementation of the works and makes in condition 1 (i) and (ii) reference is made to both drawings as appropriate. A second condition relating to the use of the building is included without amendment as this is still considered necessary.

Departure

45. The floorspace proposed does not exceed the 1000m² threshold set out in Circular 02/2009, however; it is necessary to determine whether the proposal 'by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt'.
46. It is considered that the scale of the dayroom, when seen in relation to the existing caravan sites, will not have significant impact on the openness of the Green Belt.

47. It is recommended that the application does not require referral to the Secretary of State as it will not have a significant impact on the openness of the Green Belt.

Recommendation

48. Approve, subject to no objections being received from the Environment Agency and the following conditions:

Conditions

1. 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 any one of the requirements set out below:
 - (a) Within 3 months of the date of this decision the single-storey building to the rear of the dayroom building shall be partially demolished and rebuilt as shown on drawing 08_180_002, approved under planning appeal reference APP/W0530/C/08/2079175. The materials used in the construction of the external surfaces of the buildings shall match those of the existing building.
 - (b) Within 3 months of the date of this decision the existing dayroom building shall be partially demolished and rebuilt as shown on drawing no. 1409. The materials used in the construction of the external surfaces on the buildings shall match those of the existing building.
2. The dayroom building shall only be occupied by the appellant Sally Lee, her children and any dependant living with them, and her mother-in-law, Mrs Hope Page. The building shall not be used for overnight accommodation. When the building is no longer occupied by 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.

Informatives

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

- South Cambridgeshire Local Development Framework Core Strategy (adopted January 2007)
- South Cambridgeshire Local Development Framework Development Control Policies (adopted July 2007)
- East of England Plan (adopted May 2008)
- Planning Policy Guidance 2: Green Belts
- CLG 'Designing Gypsy and Traveller Sites Good Practice Guide' (May 2008)
- Circular 11/1995 - The Use of Conditions in Planning Permissions
- Circular 02/2009 - The Town and Country Planning (Consultation) (England) Direction 2009
- Planning File Ref: S/1706/92/F, S/1241/06/F, S/0564/09/F and PLAENF.2952 (appeal ref. APP/W0530/C/08/2079175).

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