

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

2nd September 2009

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

S/1970/08/F – HISTON

Variation of Condition 5 of Planning Permission S/1895/07/F to Allow One Commercial Vehicle Over 3.5 Tonnes to be Stationed/Parked or Stored on Plot 4, Moor Drove, for Mr D Pryce

Recommendation: Refusal

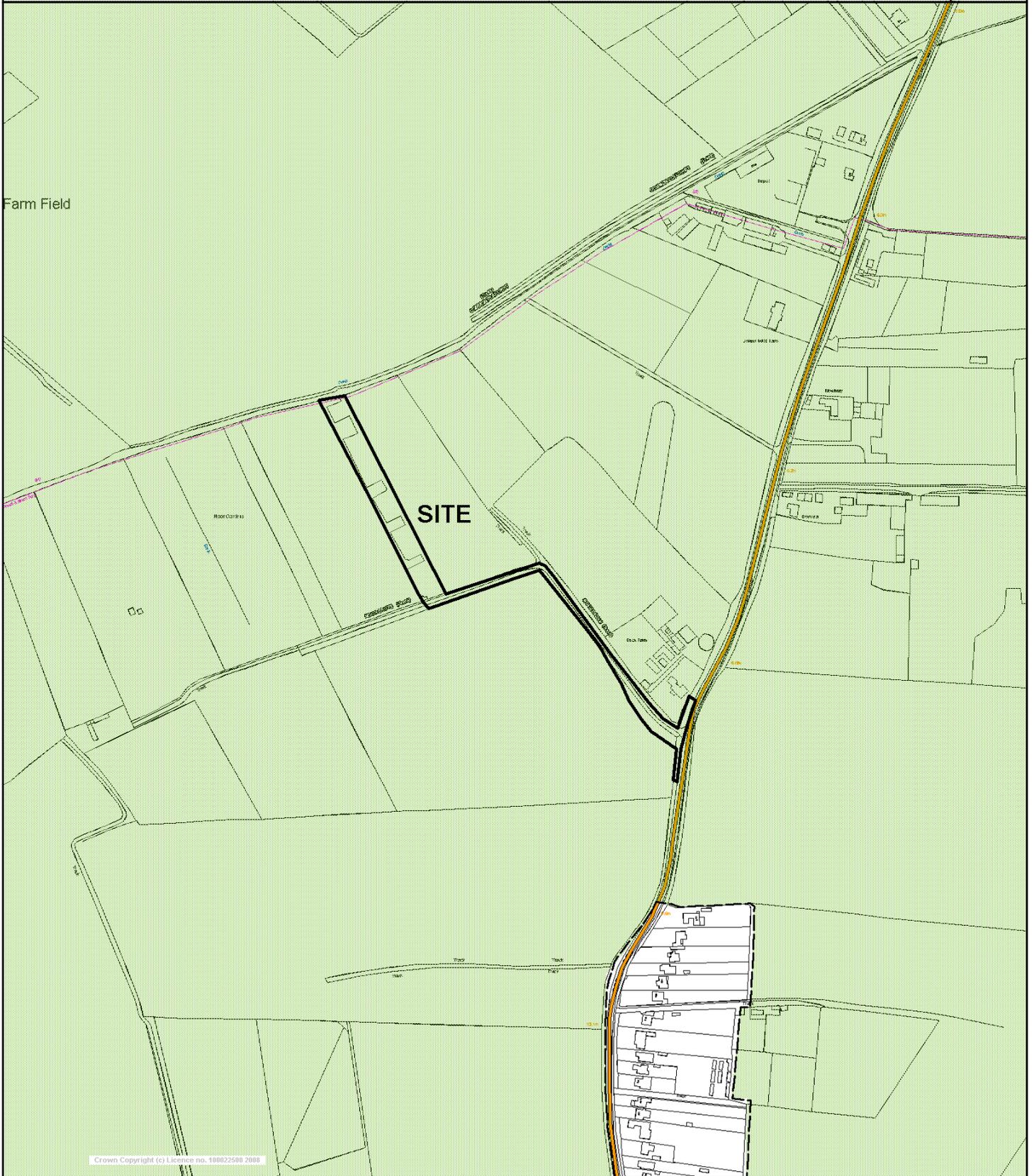
Date for Determination: 9th September 2009

Notes:

This Application has been reported to the Planning Committee on the request of the local member Cllr Mike Mason.

Site and Proposal

1. The application site lies outside of the village framework of Histon within the open countryside and Green Belt. The surrounding landscape is generally flat and mostly in agricultural use. The site comprises a long narrow piece of land divided into six plots used as a travellers site approved upon appeal. Access to each plot is by a driveway along the eastern boundary of the site. Access to the site is off Cottenham Road (B1049) via a long winding narrow track. This has been widened around its entrance with the public highway and hard surfaced for a short section. Moor Drove is not a public right of way but is occasionally used by walkers and horse riders as well as other landowners with land accessed of Moor Drove.
2. Plot 4 is the last but one plot to the northwest boundary of the site. It is here that the vehicle in question is currently parked. The vehicle would appear to be in excess of 7 tonnes and is stored on the site for reasons of security. There is no evidence that the site is currently used for commercial activity such as scrap metal processing. Beck Farm is the nearest residential dwelling to the application site. This property lies adjacent to, and is accessed from, Moor Drove.
3. This application proposes to vary condition 5 of Planning Permission S/1895/07/F to allow only one vehicle above 3.5 tonnes to be parked, stored or stationed upon Plot 4 Moor Drove. The applicant states that he is the only occupier of Moor Drove who requires the use of a vehicle above the weight limit of 3.5 tonnes and for reasons of security wishes to store his vehicle upon the site. The applicant has a scrap metal business and has nowhere to store the vehicle over night other than plot 4. It would not be required to load or unload the vehicle within the site or indeed within the surroundings of the site.



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Scale 1/5000 Date 18/8/2009

Centre = 543998 E 265354 N

September Planning Committee 2009

Planning History

4. Planning Application **S/1895/07/F** was refused for the siting of 12 caravans. This application was subsequently allowed upon appeal dated 3rd September 2008. Condition 5 of this decision is worded as follows: No commercial vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.
5. Planning Application **S/1968/08/F** was approved for a utility dayroom for Plot 4, Moor Drove.
6. Planning Application **S/2035/08/F** was refused for the use of land north of Moor Drove for the use of land for the siting of a residential touring caravan.

Planning Policy

7. **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. The key aim of Green Belt Policy is stated as being 'to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness....'
8. *South Cambridgeshire Local Development Framework (LDF) Development Control Policies, DPD, adopted July 2007:*
 - DP/1** Sustainable Development
 - DP/2** Design of New development
 - DP/3** Development Criteria
 - DP/7** Development Frameworks
 - GB/1** Green Belt
 - GB/2** Mitigating the Impact of Development in the Green Belt
 - NE/15** Noise Pollution
9. **Circular 11/95** – 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.

Consultations

10. **Histon Parish Council** – Recommends refusal asking that the District Council take cognizance of the conditions imposed by the Inspector and the circumstances in which these conditions were agreed. Furthermore the continued impact upon the human rights of those living adjacent should be taken into consideration.
11. **Environmental Health Officer** – No comments have been received.
12. **Local Highways Authority** – No comments have been received.
13. **Traveller Liaison Officer** – No objections.

Representations

14. Cllr Mike Mason has made the request in writing that this application be determined by the Planning Committee, the reasons for this request are summarised below:
- (a) The removal of this condition would exacerbate the acknowledged ongoing harm to nearby residents at Beck Farm.
 - (b) The continued use of the site for business purposes is contrary to Condition 4 of the appeal decision,
 - (c) The use of the site for the transporting of a commercial vehicle in excess of 3.5 tonnes has been drawn to the attention of enforcement officers. Whilst the applicant may have a licence to transport scrap metal, the site itself has no licence for waste transfer or scrap metal processing.
 - (d) I am led to believe that scrap metal has been processed on site contrary to the planning approval and Green Belt Policy.
 - (e) The vehicular access has always been unsafe and a number of minor accidents have occurred. In the Parish of Cottenham further along the B1049 a motorcyclist was recently killed when in collision with a HGV turning out of the premises on the same side of the road.
 - (f) Site ownership is a material consideration in the determination of this planning application as the recent application for a day room at plot 4 (S/1968/08/F) was under the name Lynne Pryce, whereas this application for the same plot is under the name Drewy Pryce.
 - (g) Various applications for this site have been subject to investigation by the Local Government Ombudsman. A further complaint is pending Members should be aware of all issues raised which have now become material in planning terms.
15. One letter of objection has been received from the occupier of Beck Farm, the contents of which are summarised below:
- (a) A commercial vehicle over 3.5 tonnes in weight has been used at this site since 2004. The current vehicle is in excess of 7.5 tonnes and no information about the vehicle has been submitted as part of this planning application.
 - (b) The entrance to Moor Drove has been altered in order to obtain residential planning permission. However, Moor Drove is a narrow rural roadway used by other people with a right of access.
 - (c) The height of the lorry adds to the existing loss of privacy for the domestic garden to Beck Farm. The lorry causes distress to animals grazing within the hedge running 200m along the side of the access road due to noise from the lorry and its scrap metal contents.
 - (d) The residential planning permission was given for named personnel and resident dependants. The applicants name is unknown.

- (e) At the August 2006 public inquiry, the Planning Inspector stated “I consider it material that the human rights of the occupants of Beck Farm have been adversely affected” due to noise and general disturbance the second inquiry, the condition was imposed “to protect the visual amenities of the area and the living conditions of the occupants of Beck Farm”.
- (f) Since 2004 the continuing and prolonged use of a lorry in excess of 3.5 tonnes for the collection of scrap metal for a business is in contravention of the occupiers’ human rights.

Planning Comments – Key Issues

- 16. It is the opinion of officers that the present and lawful use of Plot 4 is residential and that no commercial activity or business use is currently taking place. The material considerations in the determination of this application are the impact that the variation of Condition 5 to allow a vehicle above 3.5 tonnes to be parked within the site would have upon highway safety and the amenities of local residents.

Highway Safety

- 17. It is unfortunate not to be in receipt of comments from the Local Highway Authority. Nevertheless given the appeal decision over riding the objections of the Local Highway Authority upon the use of land for twelve traveller pitches, the evidence assessed within the appeal statement has been used to determine whether this proposal would have an adverse impact upon highway safety.
- 18. Paragraph 20 of appeal decision letter 3rd September 2008 states that on the evidence provided there is sufficient visibility to the north of the junction to justify the use of the site for twelve traveller pitches and their associated traffic. In terms of acceptable visibility to the south paragraph 21 states that improvement works to the bell mouth of the junction with Cottenham Road would improve the use and safety of the access. Such works have since been carried out and within paragraph 24 the Inspector considered the junction under any of the four options for proposed improvements to be demonstrably safe.
- 19. Within paragraph 25 of the same decision the Inspector noted that the accident record upon Cottenham Road within the vicinity of Moor Drove did not involve vehicles using the Moor Drove Cottenham Road Junction. In light of this the Inspector came to the conclusion that such instances did not indicate that the junction was unsafe. Nevertheless, it is acknowledged that since this decision (3rd September 2008) accidents may have taken place involving vehicles from Moor Drove.
- 20. Based on the above I am of the opinion that the current access to Moor Drove (a right angled junction to Cottenham Road) is acceptable to accommodate the trips of a single vehicle over 3.5 tonnes.

Neighbour Amenity

- 21. It is stated within Paragraph 31 of appeal decision that the use of the land for twelve traveller pitches would impact upon the amenities of the occupiers of Beck Farm. This is by virtue of the associated vehicle movements to and from the site which would result in noise and disturbance upon this property. Nevertheless, the Inspector noted

the good condition of the surface of the road and the background noise of Cottenham Road. He did not consider the degree of harm to warrant a refusal of planning permission. In addition it was concluded that any permission could be suitably conditioned prohibiting the commercial use of the site or indeed the stationing/parking of large commercial vehicles.

22. Conditions 4 and 5 were imposed in order to protect the visual amenities of the area as well as the living conditions of the occupiers of Beck Farm. The vehicle in question is significantly in excess of the 3.5 tonne limit restricted by Condition 5. Furthermore the vehicles contents (scrap metal) will add further detriment to the resultant noise of the traffic movements. The only information submitted to justify the variation of Condition 5 is that the vehicle requires close surveillance due to the security of its contents. Notwithstanding this, insufficient justification has been provided to outweigh the identified harm upon the amenity of the occupiers of Beck Farm by reason of noise and disturbance.

Recommendation

Refuse

1. The variation of Condition 5 of appeal decision (APP/W0530/A/08/2067087) to allow a vehicle over 3.5 tonnes to be stationed or parked upon Plot 4 of Moor Drove would result in adverse noise and disturbance upon the amenities of the occupier of Beck Farm. The associated vehicle movements of a vehicle in excess of 3.5 tonnes containing a scrap metal load back and forth within close proximity to the boundary of Beck Farm would be contrary to Policy DP/3 2j) and NE/15 of the South Cambridgeshire Local Development Framework, Development Control Policies DPD, adopted 2007, which state that Planning permission will not be granted where the proposed development would have an unacceptable adverse impact on residential amenity or countryside areas.

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

- South Cambridgeshire Local Development Framework Development Control Policies DPD (adopted July 2007)
- Appeal Decision APP/W0530/A/08/2067087
- Planning Policy Guidance 2: Green Belts
- Circular 11/95: The use of conditions in Planning Permission
- Planning Application File References: S/1970/08/F, S/1895/07/F, S/1968/08/F and S/2035/08/F

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