

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

2 March 2011

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APPEALS AGAINST PLANNING DECISIONS AND ENFORCEMENT ACTION

Purpose

1. To inform Members about summaries of important decisions.
 - **Summaries of important decisions**
2. **Cottenham – Mr Patrick McCarthy, Plot 12 Victoria View, Smithy Fen**

Issues discussed in appeal decision:

The effect upon the character and appearance of the open countryside

- The flat open landscape means that the authorised pitches are not satisfactorily assimilated given the numbers of pitches and extent of land coverage
- Even if a plot doesn't materially adds to the harm caused by the existing pitches in longer distance views, a series of small additions would be cumulatively harmful
- The erosion of the gap would result in the coalescence of the sites and intensify the harm to the appearance of this part of the open countryside
- Even a relatively small plot that is more conspicuous in near distance views does erode the gap and was concluded to be harmful to the character and appearance of the countryside

Precedent

- The Council's concern relating to the creation of an unwelcome precedent is a realistic and specific concern based on the area's past history
- The Smithy Fen site is large enough and any future provision of gypsy and traveler sites should be provided elsewhere. The granting of planning permission for even one site in the gap could be interpreted as signaling that further applications would be entertained
- The Council's concerns regarding the issue of precedent are well-founded

The current need and provision for gypsy and traveller sites in the district

- There is a high level of outstanding general need for pitches within the District
- Significant weight should be attributed to need when considering the grant of a temporary planning permission

The personal needs and accommodation options of the appellant and other personal circumstances

- There are currently no alternative and suitable sites available to Mr. and Mrs. McCarthy
- The personal accommodation needs of the couple weigh in favour of the development
- To lose their present home and this would represent a significant interference with their human rights

- The couple rely on the support of other close family members permanently and lawfully resident on the Smithy Fen site
- Their health has materially worsened since the last appeal

Flood Risk

- The site lies in flood zone 3 where Planning Policy Statement 25: *Development and Flood Risk* notes that caravans and mobile homes intended for permanent residential use are classified as highly vulnerable and should not be allocated
- The Environment Agency chose not to object to this particular application since it regularises the use of an existing plot

Ownership

- Irrespective of whomever owns the plot the appeal had to be determined on the planning merits
- Mr. McCarthy was the appellant and he and his wife have lived on the plot for over 7 years

Overall Conclusions

- That the proposed use would cause some harm to the character and appearance of the countryside carries weight
- In addition that there is the risk of creating a precedent encouraging other developments carries weight
- The substantial unmet general need for additional pitches in the district carries significant weight
- The personal accommodation needs of this couple, their health problems have materially worsened since the last appeal and the lack of any suitable, available and affordable alternative accommodation for them carries significant weight
- The factors in support of the grant of a temporary planning consent outweigh the harm
- It is the particular personal circumstances of the appellant and his wife, which have swung the balance in favour of a temporary permission.
- Consequently any temporary permission would have to be restricted to occupancy by the appellant, his wife and one carer
- The decision does not indicate that a permanent permission is appropriate or that any further grant of planning permission would be appropriate in the Smithy Fen location
- In considering the length of a temporary permission she noted that the new GTAA is expected in the spring of 2011.
- After that the Council will go on to develop its site allocations DPD which will involve public consultation.
- Following public consultation and the adoption of the DPD there will also have to be planning applications in relation to the allocated sites and they will take a little time to develop.
- In these circumstances she considered that circumstances are unlikely to have changed sufficiently in the three year period so a 5 years is a far more realistic timeframe to enable sufficient progress of the above matters and sites to come forward

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

- Appeal decision ref: APP/W0530/A/10/2135632

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