

Heine Planning Consultancy

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Mr Koch
Planning Dept.
Sth Cambs District Council
Cambourne Business Park
Cambourne
Cambridge CB23 6EA

Dear Mr Koch

Planning application: STATIONING OF CARAVANS FOR RESIDENTIAL OCCUPATION WITH ASSOCIATED DEVELOPMENT

Land at : SCOTLAND DROVE PARK, ROSE AND CROWN ROAD, SWAVESEY

**Applicants: MR W FULLER AND OTHERS
S/1631/10F**

Thank you for your letter of 6 June 2011 with regard to the decision taken by Committee on 11 May 2011. You seek my views on the resolution that the site occupants should make a financial contribution towards the provision of open space and community infrastructure in the village of Swavesey. You say that this is on the basis that the demands would be no different if permission had been granted for residential accommodation for the settled community. You do not say how or why this matter was raised at the Committee but Mr J Calladine who spoke on behalf of the applicants was of the view this was an issue raised by officers not Members.

You rely on Policy DP/4 of the adopted South Cambridgeshire LDF DC Policies DPD and SF/10/ SF11 adopted July 2007. You do not say how long this policy has operated but I note that the LDF was adopted in 2007

Guidance on such payments is set out in C 05/2005. They are to mitigate a development's impact. The Council has set out a framework for securing such payments in their LDF and published SPG. C 05/2005 makes clear that such obligations are to be reasonable in all other respects, making provision in para B10 for 'circumstances where it may not be feasible for the proposed development to meet all the requirements of local, regional and national planning policies and still be economically viable'. It goes on to state that 'in such a case, where the development is needed to meet the aims of the development plan, it is for the local authority (or decision maker) to decide what is to be the balance of contributions made by developers...'

In this case there can be no dispute there is a need for more Gypsy sites and this need has been addressed by my clients at no expense to the public purse. If private provision were not made to meet the current shortfall there would be pressure on local authorities to ensure socially provided sites were made available. The applicants seek to self provide due to the absence of alternative sites. The proposal is not speculative. The development is not carried out

with a view to selling the plots on the open market for profit. Set against the inability of the development to deliver the financial contributions sought is the expectation that it will help deliver other overarching objectives of national policy and the development plan, and the meeting of a pressing local need for more Gypsy sites. This is central to both PPS3 and C 1/2006.

Para B 10 of C 05/2005 allows the decision maker discretion to consider the propriety of financial contributions where the viability of a scheme is in question. Whilst the waiving of contributions in this instance might be considered a 'cost' to the Council, if it can be shown that it is standard practice to seek such contributions (which I doubt), it is a cost which is outweighed by the considerable benefit provided in terms of meeting housing need of a very specific group and in meeting national and regional policy objectives in this regard. A need to adopt a flexible approach would also be in accordance with the guidance and aims of policy set out in PPS3 and C 05/2005.

I should like to make the following additional comments

1. The contribution of £39 034.17 which equates to approximately £4963 per plot. It is clear from our discussion and your letter that you have had some difficulty calculating this payment for this development. It would appear policy was not drafted with a Gypsy-Traveller site in mind. Whilst this might be considered a reasonable sum for a new four bedroom dwelling with a market value of around £3-400 000, it is more than the value of some of the caravans sited on this land and I do not consider it appropriate to apply policy to a residential development where occupation is restricted to Gypsy-Travellers only. I note that there are exceptions to policy and I consider that the Council could and should treat my clients' site as an exception.
2. The site at Swavesey has been occupied since 2002. Consent was not sought for new development for families that might move into the area and would place additional burden on existing services/ facilities. Consent was sought to authorise an existing site for families long resident in this area whose needs are not additional to the community. Granting consent would not add to pressure on existing services in the area as the families are all long established in this community. As such there is no justification for this payment as the development would have no 'new' impact that needs to be mitigated.
3. As you agree, the applicants were not notified of this requirement in advance and had no way of knowing that such payment would be required. In my experience advance notification is usually issued shortly after an application is validated to give the applicant opportunity to make arrangements to make this payment. There was no mention of this requirement in the committee report. Indeed, the committee report does not even make reference to LDF Policy DP/4 Whilst I appreciate that you were of the opinion consent would only be renewed on a temporary basis, the application did seek permission on a permanent basis and the application should, in the first instance, have been processed on this basis. In the absence of any consideration of Policy DP/4 I fail to see how payment can be justified and now sought.
4. On studying the council website I can find no reference to any other Gypsy site where this payment has been sought and/ or paid. For instance it has not been considered as part of recent applications for sites in the Willingham area. It was not given as a reason for refusal for the site at Westside Farm, Cuckoo Lane Rampton which was subsequently granted on appeal (LPA ref S/0607/09/F). It is normal in my experience for the need to make a commuted sum payment to be listed as a reason for refusal of any planning permission to ensure that payment to be made before an appeal decision is made. However this does not appear to have been relied on as a reason for refusal for

- any other applications for Gypsy sites that I have seen on the Council website. Nor can I find reference to the need for this payment in any officer reports for these sites.
5. On studying my record of appeal decisions for Gypsy sites in the district I can not find a single appeal decision where this was discussed. I note that it was not required when consent was granted in September 2008 on a permanent basis for the site off Moor Drove, Histon (LPA ref S/1895/07/F which was decided after LDF policy was adopted in 2007. I am not aware of any other sites granted on a permanent basis on appeal but would have expected to see consideration of this requirement for sites where permanent consent was sought.

As I am sure you will agree it is important policy is applied fairly and consistently. I am unclear on what basis it was considered appropriate for this payment to be sought and why this request was made at this committee when I can find no record of this policy being applied to any other Gypsy-Traveller site in the district.

Unless it can be shown that it is standard practice for the Council to request this payment for new Gypsy-Traveller sites and unless others have been asked to make this payment I do not believe it is appropriate to require this payment now, especially given

- i) The length of time this site has been occupied
- ii) The fact consent is sought for families who have been resident on the site since 2002 and will not add pressure to existing services and facilities
- iii) The failure to give any advance notification
- iv) The failure to address this matter in the committee report
- v) Having regard to C 05/2005 which allows the decision maker to exercise discretion

And I would ask that you report back to Members on this issue and, if possible, seek agreement that consent be granted on this occasion without the necessity of any s106 agreement for such payment.

However, if you are still of the opinion this payment should be made it would be helpful if you could confirm

- a) How long this policy has been operating for
- b) How many Gypsy –Traveller sites have been granted permission both temporary and permanent since this policy was adopted.
- c) Whether payment has been sought for any other application for Gypsy-Traveller sites and if so could we be provided with details
- d) If not, could we be told why it is now being asked for this site if it has never been sought in connection with any other site.

Yours sincerely

Mrs Alison Heine
Cc clients