

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

3 August 2011

AUTHOR/S: Executive Director (Operational Services)
Corporate Manager (Planning and New Communities)

S/0010/11 – COTTENHAM

Siting of 2 static caravans, 2 touring caravans, 2 utility blocks, one temporary portaloo and parking for 4 vehicles at Plots 4&5 Pine Lane, Smithy Fen for Mr Thomas Walls

Recommendation: Approve conditionally

Date for Determination: 10 August 2011

Notes: This Application has been reported to the Planning Committee for determination because the recommendation of approval is contrary to that of the Parish Council.

Site and Proposal

1. Plots 4 and 5 are the northernmost plots in Pine Lane, which runs along the south western side boundary of the overall Smithy Fen travellers site area. To the north of the site, the row of plots continues as Park Lane but can only be accessed from Setchell Drove to the north of that lane. To the rear of the site are the rearmost part of plots in Setchell Drove which runs at right angles to Park Lane and Pine Lane, and the single plot (12 Victoria View) that falls within the L-shape created by these developments. Further to the rear are former plots which were unauthorised and now vacant as a result of clearance and bunding following an injunction. Further south, beyond this part of Pine Lane, is an area of separation between the northern and southern parts of the Smithy Fen travellers site area (Pine View and the Orchard), beyond which are the approved plots at Water Lane and Orchard Drive.
2. Smithy Fen lies within the countryside to the north of Cottenham and gains access from Twentypence Road. Outside the general travellers' site area, the land is generally flat, open agricultural land with occasional field hedges and ditches, including Cottenham Lode to the south. It is also within Flood Zone 3b (high risk).
3. The site is currently laid to unbound hardcore, and fenced to the sides and rear to mark the boundary of the site from its neighbours. It is occupied by the applicant and his family in touring caravans only, with associated towing vehicles. The family have moved here from the road, having previously had no permanent site elsewhere. They are related to the McCarthy family who already reside at Smithy Fen on other plots nearby.
4. The full planning application, validated on 13 June 2011, effectively seeks planning permission for two traveller pitches. The overall site would comprise 2 utility blocks each providing a kitchen/diner and a bathroom, which would be

joined into one L-shaped building roughly in the centre of the site. Also proposed is the siting of 2 static and 2 touring caravans, arranged so that the static caravans would relate to the entrances to their utility block and so that the touring caravans would be able to exit the site, and a temporary portaloos pending the construction of the utility blocks.

5. The application includes a layout plan, the design of the utility blocks, a design and access statement, and a letter from the Vice-Chair of the Gypsy Council outlining the family's personal circumstances. No flood risk assessment has been submitted.
6. The Design and Access Statement notes that: "the applicant's family owns and lives on the site, and that the site is in a section of Smithy Fen which is classed as "approved plots with planning permission", with the plots on either side of the application site having planning permission. The GTAA indicated that there was an unmet need for more pitches in the area, and local authority sites in the East of England and Cambridgeshire all have waiting lists. The proposed site is situated on the edge of Cottenham and close to the pitches which have been established on Setchell Drove for more than 11 years. The site has been used since April 2003 although not continuously. The Walls family have a local connection to the area going back years, and relatives of the family and many friends live on the Smithy Fen site. The Walls family are part of the Irish Traveller Gypsy community, are well known as members of the Traveller community, who maintain a travelling lifestyle by following their cultural moirés, visiting horse fairs and cultural events, and travelling for the purposes of earning a living.

"The land consists of approximately 920sq.m. on Pine Lane, an established access, outside the flood zone – there appears to be no history of flooding. It is proposed to install a small treatment plant to deal with sewage, although if access to the mains sewers is available it will be undertaken as a better alternative. There is existing electricity and water near the site that will be connected to. The height of the static caravans would be 3.9m or less, and there is sufficient parking for residents and touring caravans. The surface of the site would be shingle or planings as appropriate.

The District has an unmet need for new pitches to be provided for the Gypsy and Traveller community. Permanent permission would reduce the unmet need figure by 2 pitches, but if temporary permission is granted, then the unmet need total cannot be adjusted. Naturally, should the planning committee decide that a temporary permission is in order then the family will more than likely accept a temporary permission. The additional traffic flow would be minimal as expected from a small family site. There will be no commercial activity or commercial storage, and the site would be screened with new planting.

In conclusion, the fall back use of the land has to be a consideration. The scale of the development is small and will have little impact on the surrounding area. The site would be visually unobtrusive between existing pitches. Immediate neighbours in Pine Lane have been consulted and do not object."

7. The vice Chair of the **Gypsy Council** has provided information about the family: Tommy Walls is an Irish Traveller who has been on site at Smithy Fen since last November. He has found it impossible to travel and keep his large extended family together without a permanent base.

No works have been started, even through the severe winter we had last year. Tommy fulfils all the criteria of being a Traveller and needing a base for his grandchildren to attend school and for his sons to work from. Tommy's wife is a McCarthy so is related to that clan on the site.

They have 1 daughter, 4 sons and 9 grandchildren. 6 of these grandchildren are of school age and attend the local school and are all doing well, another will start playgroup in September. By settling they can attend school, get a local doctor who will get to know the family, receive better pre-natal care for the future babies....and be a large extended family supporting and caring for each other.

Their application will accommodate all the extended family and ensure that the grandchildren receive the education that the parents and grandparents did not. The family can live together and support each other, as culturally this is what we value the most. They have been in the Cambridgeshire area for some time and attend all the fairs and shows. Tommy and his 4 sons continue to travel for work and the family attends the fairs.

Relevant Planning History

8. S/0958/03 - retention of Plots at 1-3 and 6 Pine Lane refused on the grounds that filling in the gap between approved plots would be detrimental to the open character of the countryside and that flood risk had not been assessed. Planning permission was subsequently granted on appeal against an enforcement notice. At that time plots 1-3 and 6 were occupied by caravans and the Inspector understood plots 4 and 5 to be intended to be laid out as an amenity and play area. The Inspector concluded that the contribution of the gap between existing authorised sites (including those plots) to the character and appearance of the wider landscape was "minor". He also considered that planning conditions could deal with flood risk. Planning permission was granted subject to conditions which included the submission and implementation of a "Scheme of Works" to incorporate a site layout, parking and turning areas, drainage, reduction of flood risk, boundary treatment and landscaping. Condition 6 required the parking and turning areas within the Scheme of Works to be retained for that purpose. The planning permission was permanent but restricted to personal occupation by named parties.

Planning Policy

9. Paragraph 71 of **PPS3 Housing** states that where local planning authorities cannot demonstrate an up-to-date five year supply of deliverable sites they should consider favourably applications for housing having regard to policies in the PPS.
10. **PPS25 Development and Flood Risk** states that caravans and mobile homes intended for permanent residential use are classified as highly vulnerable and should not be allocated in Flood Zone 3.
11. **ODPM Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites** aims to increase the number of Gypsy and Traveller sites in appropriate locations. This will be achieved by a thorough assessment of needs and the identification of sites by local authorities in Development Plan Documents. Each local authority should have a realistic criteria-based policy to assess other sites that come forward as planning applications. Paragraph 44 of the Circular advises that local planning authorities should take account of a number of factors before refusing a planning application for a Gypsy and

Traveller site. This includes an assessment of need, the number of unauthorised encampments, the numbers and outcomes of planning applications and appeals, occupancy of public sites, the status of authorised sites and the bi-annual Caravan Count.

12. The Government is carrying out consultation on a **Planning Policy Statement** which would replace the current planning circulars regarding Gypsy and Traveller Sites (01/2006) and Travelling Showpeople sites (04/2007). It will become a material planning consideration. It will be incorporated into the new National Planning Policy Statement in due course. Alongside the PPS, other measures to be introduced are the inclusion of Gypsy and Traveller sites in the New Homes Bonus scheme, and the resumption of the Gypsy and Traveller site grant funding from April 2011. The Government also intends to limit the opportunities for retrospective planning applications, in relation to any form of development, and provide stronger enforcement powers for local planning authorities to tackle breaches of planning control. The draft PPS states that, 'Preparation of Development Plans should not be delayed to take the policies in this statement into account'. Following consultation the Government intends to adopt the final PPS in Summer 2011, although the exact date is unknown.
13. The proposed policy changes in the draft PPS have significant implications for planning for Gypsy and Traveller site provision in the District, and preparation of the Gypsy and Traveller Development Plan Document. At the New Communities Portfolio Holder Meeting in December, it was decided to review the way forward on the Gypsy and Traveller DPD in light of changing Government policy. Whilst the current document is only a consultation draft, the final PPS is likely to be published prior to the publication of the draft Gypsy and Traveller DPD and submission to the Secretary of State, and will therefore be a consideration when assessing the soundness of the plan.
14. The key message of the draft PPS is to make planning for travellers more consistent with planning for housing. The consistency theme includes clarifying traveller sites as inappropriate development in the green belt, and stating that windfall sites away from settlements should be strictly limited whilst acknowledging that some rural areas may be suitable for some forms of travellers' sites reflecting local considerations. The draft PPS would require the Council to maintain a five year land supply of pitches, in a similar way to how bricks and mortar housing is planned. If a local planning authority cannot demonstrate a five-year supply of traveller pitches/plots, the draft policy asks them to consider favorably applications for the grant of a temporary permission, after a period of transition when the new guidance comes in.

DCLG "Designing Gypsy and Traveller Sites: Good Practice Guide", May 2008

15. **Accommodation for Gypsies and Travellers and Travelling Showpeople in the East of England-A Revision to the Regional Spatial Strategy for the East of England. July 2009 (RSS)**
H3 Provision for Gypsies and Travellers

Cambridge Sub-Region Traveller Needs Assessment, May 2006

16. **South Cambridgeshire Local Development Framework Core Strategy 2007**

ST/5 Minor Rural centres

17. **South Cambridgeshire Local Development Framework Development Control Policies 2007**
 - DP/1 Sustainable Development
 - DP/2 Design of New Development
 - DP/3 Development Criteria
 - DP/7 Development Frameworks
 - NE/4 Landscape Character Areas
 - NE/10 Foul Drainage
 - NE/11 Flood Risk
18. **District Design Guide SPD - Adopted March 2010**
19. **Draft Gypsy and Traveller DPD (GTDPD)**

The "GTDPD Issues and Options 2 Consultation July 2009". In view of the pending revocation of the RSS, the Council is now awaiting the outcome of an updated Gypsy and Traveller Accommodation Needs Assessment (GTAA) that is currently in preparation by the County Council and revised government guidance (new PPS as noted above). This assessment will assist in identifying what level of local provision should be planned for in South Cambridgeshire. This will then form the basis for further consultation. The possibility of allocating up to 30 more plots at Smithy Fen was tested as an option through the Issues and Options 2 Report. It was considered to fail the testing process, and was subject to consultation as a rejected option for additional pitches. The reasons for rejecting the allocation were that there are already 48 plots on authorised sites, the allocation of the whole Smithy Fen site has been previously demonstrated as inappropriate through the appeals process, as it would reduce the important gap between the two permanent areas. The site has poor access to services and facilities, public transport, and is in flood zone 3.
20. The Council's **Race Equality Scheme 2008-2011** recognises Gypsies and Travellers as the largest ethnic minority in the district (around 1% of the population). The Scheme gives priority to actions relating to travellers.
21. **Circular 11/95 (The use of Conditions in Planning Permissions)**

Advises that planning conditions should be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
22. **Circular 05/2005**

Advises that planning obligations must be relevant to planning, necessary, directly related to the proposed development to be permitted, fairly and reasonably related in scale and kind and reasonable in all other respects.

Consultations

23. **Cottenham Parish Council** recommends Refusal of the above application on the following grounds.
 1. The above application is sited within a turning circle and this was defined as such when the Appeal decision (Ref: APP/W0530/C/03/1113679) dated the 14th October 2003, allowed planning permission for pitches at 1-3 and 6 Pine Lane. Item 38.6 within the Appeal decision states "the parking and turning area as defined in the Scheme of Works as approval in pursuance of

Condition 5 above shall be retained and kept available for such purposes...”, therefore the retention of this land is required for the use of the legal adjacent pitches to maintain ease of access.

2. Cottenham Parish Council are aware that each and every planning application must be considered on its own merits but as stated by Inspector Baldock in the Appeal decision on Pine View “consideration should be given to the precedent effect” and “consistency is a prerequisite of planning” (Page 67 of the Appeal decision paragraphs 14.12 – 14.14). Since 2003 Appeals for planning permission for pitches at Smithy Fen at 1-6 Water Lane, land off Water Lane, 6A and 7 Orchard Drive, 7, 8, 9, 10, 11, 12, 14, 15 and 16 Pine View, 5, 5A, 6, 10, 11 Orchard Drive and Victoria View have been dismissed, thus showing that successive Inspectors have held the view that further development at Smithy Fen is inappropriate.
 3. Within current recommendations South Cambridgeshire District Council’s proposed policy on Gypsy and Traveller DPD proposes a limit of around 10 pitches per 3000 or so new houses on any new developments. Currently Smithy Fen has 48 legal plots against 2,300 houses within the village, any increase of numbers is therefore totally unacceptable as the village has more than fulfilled this criteria.
 4. In addition the application would, if allowed, seriously affect the current openness of the fen, something that was subsequently secured by the clearance at Victoria View.
 5. The proposed site is within a high risk flood area, zone 3, therefore under the new proposed PPS, which whilst it is still to be enacted, does state that there will be no new sites in high risk flood areas (Policy B11e)
 6. In conclusion South Cambridgeshire District Council has been working on its own Gypsy and Traveller Development Plan Document, and whilst it has not been officially adopted it does state that Smithy Fen should be excluded from all further development therefore Cottenham Parish Council would presume that this will be taken into serious consideration when considering this application.
24. **Local Highway Authority. No comments received.**
25. The **Environment Agency** states: Although no FRA was submitted we have history of adjacent sites that is sufficient (in this instance). Comments relate solely to flood risk from the Cottenham Lode. (The Old West Internal Drainage Board should be consulted regarding flood risk from their system and surface water drainage arrangements). The applicant should be aware that the site is identified as being within flood zone 3, high risk. The site is protected from flooding, to a degree, by a flood bank that the Environment Agency has permissive powers to maintain. As the site is assumed to be below the 1 in 100 year flood level (in the absence of a contemporary topographic survey), the applicant should be aware of the risk of flooding due to a failure or overtopping of the defence by a more severe event than designed for, or maintained against. It should also be ensured that the eventual occupiers of the caravans are sufficiently aware of the risk of flooding to the site and that they are fully aware of the recommended Emergency Evacuation Plan. Recommends conditions that the underside of the proposed caravans and the floor levels of the utility blocks should be a minimum of 300mm above surrounding ground levels, and a scheme for the provision and implementation of foul water drainage.
26. **The Old West Drainage Board** - no comments received.

27. The **Drainage Manager** - no comments received.
28. The **Landscape Design Officer** - no comments received.
29. The **Environmental Health Manager** - no comments received.
30. **Traveller's Liaison Officer** - no comments received.

Representations

31. The Smithy Fen Residents Association (letter signed by the occupiers of 11 nearby properties) asks that the application be rejected. Since 2003 there have been numerous planning applications and appeals for additional pitches, both for permanent and temporary residency, at Smithy fen. These have been rejected by yourselves, Planning Inspectors and the Secretary of State. At the Pine View, Victoria View, Orchard Drive and Water Lane appeals, the Inspectors have concluded that:
 - A precedent would be established should planning permission be granted;
 - Further development at Smithy fen would cause very significant harm to the rural appearance and character of the area;
 - That landscaping cannot satisfactorily assimilate the site into the surroundings;
 - That even temporary permission cannot be justified given the serious harm to the rural area.

We refer to the design and access statement where it is stated that the family have a local connection to the area dating back years, with family members living on the site. This we vigorously contest, the Walls' are relative newcomers to the Fen. SCDC's own records will show that Enforcement Officers first challenged their presence in 2010, and the statement made by the Gypsy Council confirms that Mr Walls has only been at Smithy Fen since November 2010.

The Design Statement goes on to say that the site lies outside the flood zone. This could not be further from the truth – it is very much in the flood zone. The Government's proposed new planning Policy Statement for Gypsies and Travellers states that no permission for new sites/pitches should be granted in flood risk areas.

Finally the applicant states that there are sufficient parking bays but fails to take into account the requirements laid down for this area on the Pine Lane site covered by appeal dated 14 October 2003 which refers to a layout for the site including parking and turning areas, and requires that "the parking and turning areas as defined shall be retained and kept available for such purposes". Mr Walls' plot location is the "turning area" and has long been referred to by SCDC as exactly this.

32. The occupiers of Derwent Cottage, Smithy Fen object: The site has already doubled in size in the last 9 years. Which we know from experience, causes it to be far more volatile for the residents and the authorities. From a planning point of view this application meets NONE of the planning laws. IN PLANNING, DEMAND IS NOT NEED. Owning land and having relatives has no bearing on planning permission. We have people on the Fen that have been born and bred here, who own their land and work it, yet still cannot get planning permission. The applicants have no ties with the Fen or Cottenham. The pitch in question was only ever allowed or tolerated as a turning circle,

please check your records.{BOSWELL'S}. We must insist that this planning application be refused.

33. The occupiers of Turks Head Farm, Smithy Fen suggest refusal for the following reasons:
1. The Design and Access Statement is flawed: the plot is in a flood zone, where the Government's intended new planning policy (a material consideration to be read alongside other relevant statement of policy) states: "do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans)". The policy refers to new sites, but it would be bizarre to suggest that precluding the development of new sites in areas of high flood risk does not apply to new pitches.
 2. The plot is a turning circle as required by the Inspector at appeal in 2003. Condition 5 insists that the parking and turning areas be retained for such purposes. Any accepted change of use would undermine the Inspector's rationale for approving the pitches at 1-3 and 6 Pine Lane.
 3. In the Pine View appeal (to the south of the site) and at successive appeals in Victoria View, Orchard Drive and Water Lane, one theme common to all Inspectors was damage to the open countryside. Any coalescence of the Setchell Drove and Water Lane sites was considered, and remains our view, totally inappropriate. To permit a change of use here would be to permit an inappropriate development in the open countryside, and impair the openness of the countryside recently restored by the clearing of Victoria View.
 4. Mention is made in the application of the Walls family resorting to the area. They may have been visitors from time to time, but the name of Walls has never appeared at the various appeals since 2003, and there has been no stay of substance prior to November 2010. There is thus no history of the Walls family in the immediate area, and they would probably not have been a constituent part of the allocation of regional pitch targets. the Government's new PPS calls for a "robust evidence based assessment of need... with reference to historical evidence" not a quantitative needs assessment. Thus there can be no robust evidence to substantiate their being here, there are no special needs, and therefore no reason to give any further consideration to the planning application.
- Finally, the Government's new PPS appears to discourage a policy of perpetuation of existing sites, it expects fairness and requires full consideration of environmental and social impact of sites. The development of this plot would therefore be wrong and inappropriate. Additionally, the Council's own GTDPD states that further development at Smithy Fen is not an option. he community engaged with travellers is not the community of Cottenham but of Smithy Fen, which is already in a minority of 3 families to 1.
34. The occupiers of Causeway House, Smithy Fen object to temporary or permanent permission. The application is made by a relatively new family appearing at Smithy Fen, which falls short of the Government's recent planning policy statement that a family should provide "a robust evidence based assessment of need, with reference to historical evidence". By ignoring Government guidance, it is our belief that SCDC will encourage further settlement by outsiders seeking to occupy the site illegally in the first instance and thereby risk the continuation of numerous problems on a historically troubled site.
- The previous appeal on this site required parking and turning circles to be retained for such purposes, contravention of which would pose a safety risk to

nearby residents who may be denied emergency service vehicles in the event of accidents, fires etc.

The site falls in flood zone 3 and the Government's intended planning policy states: "do not locate sites in areas at high risk of flooding". This may well apply to the location of new sites but in view of the implicit safety reasons it would be irresponsible to grant planning permission to settle on a site that poses a risk.

The recent clearance of Victoria View was a step towards restoring the openness of the countryside that had previously been considered as blighted as a result of cumulative development. Appeals were dismissed at Pine View, Victoria View, Orchard Drive and water lane on grounds of potential damage to the open countryside. A rejection of this application for no less than 7 accommodation units and 4 vehicles should be made on the same grounds.

As members of the settled community of Smithy Fen, we do not wish to see further development of the Travellers' Site for fear that it will upset the equilibrium and degree of tolerance displayed by all members of the community regardless of their ethnicity. Despite continued tension, relative harmony is finely balanced and liable to fracture if SCDC permits further development and expansion, contrary to SCDC's own opinion that further development on Smithy Fen is not an option, on a historically troubled site, particularly by outsiders. It is our opinion that there is some evidence that this view is also held by certain members of the Smithy Fen traveller community.

35. A Smithy Fen Farmer states: numerous planning applications and appeals for additional pitches, both for permanent and temporary residency, at Smithy Fen. These have been rejected by yourselves, Planning Inspectors and The Secretary of State on the grounds that a precedent would be established should planning permission be granted, that further development at Smithy Fen would cause very significant harm to the area, that landscaping cannot satisfactorily assimilate the site into the surroundings and that even temporary permission cannot be justified given the serious harm to the rural area. Nothing has changed so I would like to register my objection to the application.

Planning Comments

36. The authorised use of the site is as a turning area. That is why planning permission is required for the use of the site for Traveller Pitches.
37. Having regard to the definition of Gypsies and Travellers as set out in paragraph 15 of ODPM Circular 01/2006, the applicant and the other site occupants are considered to be Gypsies for the purposes of planning policy. The application therefore falls to be considered against planning policies regarding Gypsy and Traveller sites.
38. The main issues in this case are therefore:
- A. The extent to which the application accords with the provisions of the development plan, including the general need for, and availability of, additional Gypsy sites;
 - B. The site occupants' personal needs and circumstances;
 - C. Whether a permanent, temporary or personal permission should be considered; and
 - D. Human Rights Issues

39. Issue A. Because of the changing nature of Government policy at present, the relevant policies to consider the proposal against are:
- ODPM Circular 01/2006 (Planning for Gypsy and Traveller Caravan Sites). This remains the national policy until such time as it is superseded, and must therefore be afforded full weight.
 - However, the Government's "Planning for Traveller Sites" consultation should be acknowledged as a material consideration because it indicates the Government's intentions for a Planning Policy Statement to supersede Circular 01/2006.
 - The Council's adopted LDF policies listed in paragraph ** above should be given full weight because of their adopted status but there are no specific policies for Gypsy and Traveller development proposals. The Council therefore primarily relies upon the general principles policies DP/1 - DP/3, although these need to be utilised in accordance with the advice in Circular 01/2006 and numerous appeal decisions that gypsy sites are often located in the countryside and that issues of sustainability should be seen in the round given Gypsies' normal lifestyle.
 - The Council's draft Gypsy and Traveller Development Plan Document Issues an Options 2 can be afforded limited weight. It will be influenced by the eventual new Planning Policy Statement, and by the results of the County-wide needs assessment. There will be further issues and options consultation before a draft plan is prepared.
 - The requirement of RSS Policy H3 to significantly meet demand and provide at least 69 additional (permanent) pitches in the district by 2011 will not be met. However, while RSS Policy H3 remains part of the development plan, the Secretary of State's intention to revoke this and Circular 01/2006, which underpins it, is a relevant consideration.
40. Councils are required to identify sufficient land for Gypsy and Traveller sites. Since January 2006 planning permission has been granted for 49 pitches (including 10 pitches conditioned as personal to the applicants). This includes sites at Chesterton Fen Road (Southgate Farm 26 pitches), and Blackwell (1 pitch) which are under construction, and the site of 8 pitches at Rose and Crown Road Swavesey where the Council has resolved to grant permanent permission subject to conditions. Nevertheless, permanent provision falls short of the minimum requirements of the East of England Plan.
41. For some considerable time now, the two public sites at Milton and Whaddon have remained full with waiting lists of at least a year for Milton and considerably longer at Whaddon.
42. The results of the current GTAA are awaited before an accurate up-to-date assessment of current needs can be made. Nonetheless, should this application be refused and the Council decides to enforce against the existing touring caravans using the site, the family would have nowhere to go as there are no other vacant sites in the district.
43. In the most recent appeal decision earlier this year (involving a Traveller family at Victoria View), the inspector found there remains a "substantial unmet general need for additional pitches in the district" and that this "attracts significant weight" in the decision-making process. While there may be some dispute as to whether the demand is "substantial", it is the fact that unmet need is a material consideration that weighs in favour of this proposal. In

coming to a decision the Inspector gave considerable weight to the personal circumstances of the applicants and weighed them against the harm from the proposal before coming to the conclusion to permit the proposal. The key issues were the applicants' poor health and the lack of any alternative accommodation.

44. The principle concerns in terms of this site are the impact on the character and appearance of the area, highway safety and the ability to provide an adequate means of foul water drainage.
45. The site lies in the Fens Landscape Character Area as defined in Policy NE/4, although the District Design Guide SPD classifies the area as 'Fen Edge'. The area is characterised by a generally low-lying, open landscape with large agricultural fields and long-distance views. The land is not otherwise designated or protected. The flat open landscape means that the authorised pitches are not satisfactorily assimilated given their overall number and the extent of land coverage, so that small additions would be cumulatively harmful, especially if they erode the gap between the 2 main parts of the site. The overall effect is that in the main, the overall Smithy Fen site appears as an 'island' in an otherwise open landscape. The application site, however, is effectively an infill plot within a row of pitches. Its development as a traveller pitch would not erode the important gap between the 2 main parts of Smithy Fen. Whilst it would be visually harmful in itself it would have the appearance of a logical infilling rather than an extension to the development.
46. Whilst the allocation of numbers of plots at Smithy Fen is inappropriate due to overdevelopment of the site, impact on the landscape and poor access to services, the lack of alternative sites weighs against this. On balance of these issues, the development of this double pitch would not be so visually detrimental as to warrant refusal.
47. Precedent. Officers are satisfied that the development of this infill plot would not set a precedent for further development at Smithy Fen. This is an unusual situation within the Smithy fen site. There are no other infill-style parcels of land that could be utilised in this way, so any future application for development at Smithy Fen could not rely on an approval of this application as setting any precedent..
48. Drainage. There is a septic tank on the pitch, according to the Council's survey. The Environment Agency has requested a condition to agree foul drainage, since connection to the mains is preferable. A condition to this effect would be appropriate.
49. Flood risk. No FRA was submitted with the application. however, the Environment Agency has taken the pragmatic view in the knowledge of the Smithy Fen site, that ensuring the floor level of the building and the underside of the static caravans are 300mm above ground level will suffice. A condition can be added to this effect.
50. Contributions to support local community facilities and public open space are sought with planning permission for new residential uses under policy SF/10. This has been requested of the applicants and their response will be reported at the meeting.

51. Access. The site is served by a hard-surfaced access track. The local highways Authority has not commented on the application, but the safety of access has not previously been found to be of concern during applications at Smithy Fen. The fact that the site is allocated as a turning area is only through the provision of that use as part of the overall Scheme of Works for the Pine Lane site. It is not common to provide separate turning areas on traveller sites, since the pitches are large enough for the occupiers to manoeuvre vehicles and trailers. It is not considered necessary to retain the site for a turning facility. Building Control officers have confirmed that the layout of the site would be adequate for fire appliance and refuse collection access so the turning head is not required to be retained for that purpose.
52. There are 68 pitches with temporary planning permission, which accommodated 101 caravans at the January 2011 count. There were 11 caravans on unauthorised sites in the latest caravan count (January 2011). This has decreased from the 29 caravans in January 2009.

Issue B: The site occupants' personal needs and circumstances

53. The family has decided to settle so that the grandchildren can receive schooling and so that the family can have a base from which to travel for work and cultural events. It also means they can register with a doctors' surgery. The provision of a site/base is therefore important. In terms of this particular site, (which is owned by the applicant), the applicant's wife is a McCarthy and the family is related to the other McCarthy families at Smithy Fen. The family moved to Smithy Fen from the roadside and would have nowhere else to go if permission was refused. They could not be easily accommodated at other family pitches at Smithy Fen, and would therefore be homeless and without the care and support of their extended family group. Whilst the personal circumstances are not overly compelling, for example there is no strong medical need, the lack of alternative provision means that the general needs of this family need to be met.

Issue C: Whether a permanent, temporary or personal permission should be considered.

54. As stated above, the development of the site for a Traveller pitch is on balance acceptable. Bearing in mind its location between permanent pitches, it would be inappropriate only to grant temporary permission because of the lack of harm to wider landscape. For the same reason, that the application proposal is considered generally acceptable rather than acceptable because of personal circumstances, it would be inappropriate to restrict the use of the site to a personal permission.

Issue D: Human rights.

55. Refusal of permanent planning permission would lead to interference with the applicant's rights under Article 8 of the European Convention on Human Rights. This must, however, be balanced against the protection of the public interest in seeking to ensure needs arising from a development can be properly met, or that they do not prejudice the needs of others. These are part of the rights and freedoms of others within Article 8 (2). Therefore, if the application were to be refused, the applicant's Human Rights would not be violated.

Conclusion

56. It is not necessary to retain the site for turning purposes. Its development would be infilling, and would not affect the important visual separation between the northern and southern areas of the Smithy Fen travellers' site area. The family has a need to be accommodated, owns the site, and is related to other Travellers in the vicinity. There is nowhere else for the family to be accommodated, since there remains an unmet need in the District. The grant of permanent permission for the use of the site as a double traveller pitch is therefore appropriate.

Recommendation:

57. Approve subject to the following conditions:
1. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites. (Reason: The site lies in the countryside where residential development will normally be resisted by Policy DP/7 of the adopted Local Development Framework 2007).
 2. No more than two static and two touring caravans shall be stationed on the site at any one time.. (Reason: To minimise the impact of the development on the surrounding area in accordance with Policies DP/2 and DP/3 of the adopted Local Development Framework 2007.)
 3. No commercial activities shall take place on the land, including the external storage of materials. (Reason: To protect the visual amenity of the area in accordance with Policies DP/2 and DP/3 of the adopted Local Development Framework 2007.)
 4. No vehicle over 3.5 tons shall be stationed, parked or stored on any part of the site. (Reason: To protect the visual amenity of the area in accordance with Policies DP/2 and DP/3 of the adopted Local Development Framework 2007.)
 5. No external lighting shall be provided or installed within the site other than in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. (Reason - To minimise the effects of light pollution on the surrounding area in accordance with Policy NE/14 of the adopted Local Development Framework 2007.)
 6. The temporary portaloo hereby permitted shall be removed from the site within 28 days of the approved utility blocks being first brought into use.
(Reason: To minimise the impact of the development on the surrounding area in accordance with Policies DP/2 and DP/3 of the adopted Local Development Framework 2007)

7. The underside of the caravans and the ground floor of the utility block, hereby permitted, shall be a minimum of 300mm above the surrounding ground level.

(Reason: To protect the development from flooding in extreme circumstances, in accordance with Policy NE/11 of the adopted Local Development Framework 2007).

8. Prior to the commencement of any development, a scheme for the provision and implementation of foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved and thereafter maintained.

(Reason: To prevent the increased risk of pollution to the water environment in accordance with Policy NE/10 of the adopted Local Development Framework 2007).

9. Prior to the commencement of the development hereby permitted a scheme for the provision of community services infrastructure and recreational infrastructure to meet the needs of the development, in accordance with adopted Local Development Framework Policies DP/4 and SF/10 have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for the provision to be made and shall be carried out in accordance with the approved details.

(Reason: To ensure that the development contributes towards community services and recreational infrastructure in accordance with Policies DP/4 and SF/10 of the adopted Local development Framework 2007).

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

- Accommodation for Gypsies and Travellers and Travelling Showpeople in the East of England – A Revision to the Spatial Strategy for the East of England. July 2009
- South Cambridgeshire Local Development Framework 2007
- Planning application file S/0010/11
- CLG Count of Gypsy and Traveller Caravans
- CLG Planning for Traveller Sites Consultation
- PPS3
- PPS25
- ODPM Circular 01/2006
- Appeal decisions APP/W0530/C/03/1113679 and APP/W0530/A/10/2135632.

Contact Officer: Kate Wood – Team Leader (East)
Telephone: (01954) 713264