

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

9 May 2012

AUTHOR/S: Planning and New Communities Director

S/0097/12/FL - VILLAGE

Continued use of land as gypsy site for the stationing of two mobile homes, touring caravan and amenity block. - Willow, Greenacres, Meadow Road, Willingham, Cambridge, Cambridgeshire, CB24 5JL for Mrs Caroline Sylvia Smith

Recommendation: Approve for a temporary period

Date for Determination: 13 March 2012

This application has been reported to the planning Committee for determination as the Parish Council's recommendation differs from the officer recommendation.

Site and Proposal

1. The Willows is a rectangular parcel of land located on the south side of Meadow Road and behind two other sites occupied by travellers. It lies outside the defined village framework and sits within a generally flat and open fen-edge landscape. The site is surrounded by farmland to the west and south with hedges along both boundaries. To the north and east there are a total of six other traveller sites. The relevant side boundaries are fenced. Access to the site is via a long, narrow access off meadow Road. The site lies in flood zone 1 (low risk).
2. The site is currently occupied by two mobile homes, a touring caravan and an amenity block. These are occupied by the applicant, her son and her daughter with her three children. The site is not particularly tidy, but is largely invisible from public view.
3. Access to the whole site is via an existing access that runs along the length of the site.

Relevant Planning History

4. The applicant has owned the site for about 20 years. She moved here from a Council-run site at Earith and lived here for about seven years without planning permission. She moved off the site and moved to Mildenhall but returned in 2006 after discovering that others had occupied the land in her absence. A planning application was submitted under reference **S/2048/06/F** to regularise the use although a three-year temporary planning permission was not granted until January 2009. The reason for granting a temporary permission was so as not to prejudice the outcome of the then pending Gypsy and Traveller DPD. The permission expired on 31 January 2012 and the application seeks to renew this albeit that permanent planning permission is now requested.

Planning Policy

National Planning Policy

5. **Planning policy for traveller sites (PPTS)** (March 2012) requires local planning authorities to make their own assessment of need for traveller sites based on fair and effective strategies. Local Plans should include fair, realistic and inclusive policies such that travellers should have suitable accommodation in which to access education, health, welfare and employment infrastructure but for Ipa's to have due regard to the protection of local amenity and the local environment. Paragraph 22 states that Ipa's should strictly limit new traveller site development in open countryside away from existing settlements or areas allocated in the development plan. Sites should not place an undue pressure on local infrastructure.
6. The former presumption in Circular 01/2006 in respect of temporary permission where there is a shortage of deliverable sites no longer applies at the present time.
7. The **National Planning Policy Framework** promotes a presumption in favour of sustainable development having regard to the soundness of the development plan and the policies therein. It confirms that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; they directly relate to the development; and are fairly and reasonably related in scale and kind to the development.
8. **East of England Plan 2008 (RSS)**
H3 Provision for Gypsies and Travellers
9. **South Cambridgeshire Local Development Framework Core Strategy 2007**
ST/5 Minor Rural Centres
10. **South Cambridgeshire Local Development Framework Development Control Policies 2007**
DP/1 Sustainable Development
DP/2 Design of New Development
DP/3 Development Criteria
DP/4 Infrastructure and New Developments
DP/7 Development Frameworks
SF/10 Outdoor playspace, Informal Open Space and New Developments
NE/4 Landscape Character
NE/10 Foul Drainage
11. **South Cambridgeshire Local Plan 2004 (Saved Policies)**
CNF6 Chesterton Fen
12. **Gypsy and Traveller DPD (GTD PD)**
The "Issues and Options 2 Consultation July 2009" identified The Oaks as a potential site for a single pitch, concluding "The site is already meeting Gypsy and Traveller needs. It has good access to the village and is considered an appropriate site option for consultation". The Council has recently determined through revisions to the Local Development Scheme that Gypsy and Traveller issues will now be addressed in the emerging single Local Plan review rather

than a stand alone DPD. Issues and Options consultation is planned for Summer 2012 and will take forward the work that has already been done in assessing potential sites. It is anticipated that the new Plan will not be adopted until 2015.

13. In view of the pending revocation of the RSS, the Council is 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 on planning for the needs of Gypsies and Travellers. This Needs Assessment will assist in identifying what level of local provision should be planned for in South Cambridgeshire and will provide a basis for future consultation.
14. The Council's **Gypsy and Traveller Community Strategy 2010-2013** recognises Gypsies and Travellers as the largest ethnic minority in the district (around 1% of the population). It sets out the Council's responsibilities to eliminate discrimination and promote good community relations.
15. 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.

Consultations

16. **Willingham Parish Council** recommends refusal because of the high proportion of traveller sites already present in the village and the overwhelming opposition to any renewals or new sites until the problems relating to the illegal sites and proportionality have been addressed.
17. Willingham already accommodates four times the District ratio of settled to gypsy/traveller parishioners. Willingham Primary School population includes 12% of gypsy/traveller children (33% of the entire District figure). The above figures are reflected in the number of high demand gypsy/traveller patients treated by Willingham Medical Practice (see letter dated 31 August 2011). 408 caravans are currently sited to the north of the A14; only 58 to the south despite the obvious benefits to gypsy/travellers. Proposals to make permanent temporary and illegal sites and create new ones simply exacerbates Willingham's already intolerable situation.
18. The **Environment Agency** has no objection in principle. In the absence of a public foul water sewer, foul drainage may be discharged to a septic tank and soakaway system which meets the relevant British Standard. There should be no discharge of effluent to any watercourse or surface water drain or sewer.
19. No comments have been received from the **Travellers Liaison Officer**.

Representations

20. None received

Planning Comments

21. Having regard to information provided as part of this and the previous application in 2006, the applicants meet the definition of Gypsies and Travellers as set out in the Glossary at appendix 1 of the PPTS. The application therefore falls to be considered against planning policies regarding Gypsy and Traveller sites.
22. The main issues in this case are:
 - The extent to which the application accords with the provisions of the development plan;
 - The general need for, and availability of, additional gypsy sites;
 - The applicants' personal needs and circumstances;
 - The case for a temporary permission should permanent permission not be granted; and
 - Human Rights Issues

The Development Plan

23. The requirement of RSS Policy H3 to significantly meet demand and provide at least 69 additional (permanent) pitches in the district between 2006 and 2011 was not met and fell short by about 15 pitches. However, while RSS Policy H3 remains part of the development plan, the Secretary of State's intention to revoke this is clearly a material consideration to be taken into account. Thus only very limited weight should be given to Policy H3. In addition PPTS now requires Ipa's to make their own assessment of need rather than relying on a regional target.
24. Since the loss of Policy HG23 from the previous 2004 Local Plan, the current development plan does not contain any specific criteria-based policies against which to assess the impact of proposals for gypsy sites. While saved policy CNF6 allocates land for use as gypsy sites at Chesterton Fen, a number of previous appeal decisions have ruled out the possibility that there is still land that is suitable, available and affordable.
25. The Council therefore relies upon the 'General Principles' policies DP/1 - DP/3, albeit these need to be utilised in accordance with the advice in PPTS. This and numerous appeal decisions confirm that gypsy sites are often located in the countryside and that issues of sustainability should be seen in the round with a more relaxed approach taken to gypsies' normal lifestyle.
26. The principal concerns in this case are the impact on the character and appearance of the area and (reflecting the Parish Council's concerns) the capacity of the village to accommodate further gypsy sites.
27. The site lies at the junction of the Cambridgeshire Claylands and the Fens Landscape Character Areas and is well divorced from Rockmill End and the harsh eastern edge of the village to the west. The land is not designated or protected. Meadow Road is well hedged on both sides as are the open boundaries around the site. There are long-distant views from the west although the existing hedging provides some screening and the site is also seen in the context of the two sites between it and Meadow Road. The larger

frontage site has the benefit of a permanent planning permission while the other has a temporary planning consent that expires in August this year. The site assessment undertaken for the Issues and Options 2 Consultation exercise in 2009 commented that the impact from this and the surrounding pitches is low as they form a tight group and are fairly well screened with limited views. This situation has not changed.

28. In the circumstances, the continued use of the site is considered to accord with Policies NE/4, DP/2 and DP/3 that seek to preserve or enhance the character and appearance of the local area and countryside and to protect landscape character.
29. The sustainability of the site has also already been assessed as part of the background work for a site allocations policy. That has concluded the site is relatively close to the edge of Willingham and is sufficiently close to enable pedestrian access to the services and facilities in the village and the nearest bus stop. Although Meadow Road has no footway, it is lightly trafficked. The family's needs are already being met by the local GP and the children are in school at Over. There is no known mains connection along Meadow Drove and the use of a septic tank is acceptable in principle.
30. The August 2011 letter from the Willingham Medical Practice referred to by the Parish Council was written with specific reference to a particular site located on the edge of the village. The practice has stated that it is continually growing and that they are finding the demands on their services are increasing greatly. They have provided extra surgery sessions and employed an extra doctor but any further increase in capacity is limited by the available resources. However, any demands placed by the existing site are existing and as the applicant has not put forward any health reasons for requiring this particular site, the general demands placed on the Medical Practice do not warrant a refusal in this case.
31. Policy DP/1 requires development to contribute to the creation of mixed and socially inclusive communities and provide for health, education and other social needs of all sections of the community. Willingham has witnessed the greatest increase in demand for sites in the district in a relatively short period. At present, there are 6 authorised pitches, 14 pitches with temporary or lapsed temporary planning permission, one emergency stopping place on the former local authority site and two unauthorised pitches on land at the Oaks on the opposite side of Meadow Road. These pitches are located in relatively close proximity to one another. PPTS states that the scale of sites should not dominate the nearest settled community. This remains an issue of significant concern to the parish council. Recent permissions in the village have all been on a temporary basis in recognition of a pending site allocations policy and the demands that would be placed on the village should a large number of sites be allowed, particularly in a relatively small geographical area. The grant of a permanent consent will only add to the frustration caused by additional demands on the village's services and facilities, although in this case the families have been living in the village and those demands, such as they are, already exist.
32. In accordance with policies DP/4 and SF/11, contributions would be required to meet the demand for public open space, sport and recreation facilities and other community facilities such as community centres and youth facilities. The

applicant has agreed to this in the event that the permanent permission is granted.

33. Ultimately, the location of the site is considered to be suitable on landscape and sustainability grounds. However, because of the large number of temporary consents, doubts remain over the capacity of the village to permanently accommodate all of the gypsy sites that are currently occupied (and the growth in population that will come with them) in terms of their social impact. While the grant of further temporary consents perpetuates this uncertainty, the grant of a permanent permission proposal and the others that might follow has the potential cause material conflict with Policy DP/1.

The general need for, and availability of, additional gypsy sites

34. In South Cambridgeshire, the number of caravans on authorised or tolerated private sites rose from 290 to 394 between July 2009 and July 2011. Similarly, the number of caravans without any form of planning permission totalled just 4. For some considerable time now, the two public sites at Milton and Whaddon have remained full and recently there are 25 active applications for pitches. The results of the latest January 2012 bi-annual count are still awaited, but there remains a shortage of gypsy sites in the district. The previous RSS target to provide new sites has not been met and the results of the current GTAA will provide an accurate up-to-date assessment of current needs. Nonetheless, should this application be refused there is no known vacant and deliverable site in the district that the family could occupy.
35. There remains an unmet general need for additional pitches in the district. This unmet need is a material consideration that weighs in favour of this proposal.

The applicant's personal needs and circumstances

36. Mrs Smith has worked locally for the last 6 years and her daughter helps out at Over Primary School. Her son has just finished College. Her daughter's children are aged 3, 6 and 9 and attend Over Primary School and a local playgroup. Mrs Smith's grandfather is buried locally. The family has a local connection and this is a consideration that carries some weight, together with the educational needs of the respective children.

Conclusion

37. The site is generally well screened and in a reasonably sustainable location. In that sense, it scores well when judged against other sites in the surrounding area. It would continue to assist the family with its employment and educational needs. However, when considered alongside the need at some stage to reassess the remaining temporary planning permissions against the existing level of gypsy sites, it is considered that a permanent permission would be inappropriate contrary to the overall thrust of Policy DP/1. While the lack of suitable alternative sites and the family's general needs carries some weight in favour of the proposal, their need for this particular site is not compelling. On balance, the conflict with the development plan and the need to ensure that the village can accommodate the existing overall number of pitches in the long-term is sufficient to clearly outweigh any presumption in favour of permanent planning permission at the present time.

The case for a temporary permission

38. Circular 11/95 advises against a temporary condition unless the applicant proposes temporary development, or where a trial run is needed to assess the effect of the development on the area (paragraph 109). The imposition of conditions, including a temporary use, would not make the use any more acceptable. The degree of harm would be the same as if permanent permission had been granted. Nonetheless, there is no presumption that a temporary planning permission should become permanent.
39. Where there is unmet need but no available, alternative gypsy and traveller site provision in the area, and there is a reasonable expectation that new sites are likely to become available which will meet that need, local planning authorities should give consideration to granting a temporary permission. However, the PPTS suggests this approach will only be a "significant" material consideration in dealing with applications for sites made 12 months after the policy has been in force. That is not the case at present.
40. The sites that have previously been considered as possible sites are, for the main, already in use as such and many benefit from temporary consents. The steps to make these sites suitable as permanent sites would be largely insubstantial. As these sites have already been selected as options for consultation, there is no evidence based on the existing number of unauthorised caravans in the district to suggest that the consultation process cannot build on what has already been achieved. Nonetheless, the allocation and delivery of available, suitable and affordable new sites is unlikely until after the adoption of the emerging Local Plan in 2015. This may then involve the need for further planning permissions. The previous temporary planning permission for this site and the family's continuing needs clearly carry weight in favour of a further temporary permission.
41. Taking all the relevant factors into account, it is recommended that a further temporary planning permission should be granted. Officers recently recommended a three-year consent for a site off Schole Road. The Planning Committee disagreed and permission was granted for just one year. The applicant has since appealed that decision and the inspector's decision is still awaited. Members will be updated on the outcome as necessary, but in the meanwhile officers still consider that a further three-year consent is justified having regard to the continuing paucity in establishing an up-to-date needs assessment and the delivery of additional sites through the Local Plan process.

Human Rights Issues

42. 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). There is no lesser or alternative action that could be taken to secure the public interest, especially as the harm is considered to be significant. Refusal of permanent

planning permission would therefore be proportionate and justified within Article 8 (2).

43. Recommendation:

Approve subject to the following conditions:

1. This permission does not authorise use of the land as a caravan site by any persons other than gypsies and travellers as defined in Annex 1: Glossary of 'Planning policy for traveller sites (March 2012)'
(Reason - The site is in a rural area where residential development will be resisted by Policy DP/7 of the adopted Local Development Framework 2007 unless it falls within certain limited forms of development that Government guidance allows for. Therefore use of the site needs to be limited to qualifying persons.)
2. The use, hereby permitted, shall be discontinued and the mobile homes, touring caravan and amenity block, hereby permitted, shall be removed and the land restored to its former condition on or before 31 May 2015 in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.
(Reason - In accordance with the advice in the Government's 'Planning policy for traveller sites', the Council is currently in the process of identifying a supply of specific deliverable sites to meet anticipated local needs and on a without prejudice basis to a permanent consent on this site, a time limited consent will enable the Local Planning Authority to properly assess the impact of Traveller development on issues in Policies DP/2, DP/3 and DP/7 of the adopted Local Development Framework 2007.)
3. The site and the mobile homes and caravan, hereby permitted, shall not be occupied other than by the applicant and her immediate family and any dependant living with them.
(Reason - The applicant and her family are local travellers and the permitted use would not normally be granted on this site because it would be contrary to Policy DP/7 of the adopted Local Development Framework 2007. Occupation by other persons would not amount to special circumstances for permitted development in this location.)
4. The site shall not be used for any trade or business purpose other than as a home base for light vehicles used by the occupants of the site for the purpose of making their livelihood off-site. In particular, no materials associated with such activities shall be stored in the open on the site.
(Reason - In order to limit the impact of the development on the area's rural character and the residential amenities of the neighbours in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
5. No vehicles over 3.5 tonnes shall be stationed, parked or stored on the site.
(Reason - In order to limit the impact of the development on the area's rural character and the residential amenities of neighbours.)
6. 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.)

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

- **Regional Spatial Strategy for the East of England**
- **Local Development Framework Core Strategy and Development Control Policies DPD**
- **National Planning Policy Framework**
- **Planning policy for traveller sites**
- **Planning file reference S/0097/12FL**

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