

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

4 July 2012

AUTHOR/S: Planning and New Communities Director

S/0380/12/VC - GAMLINGAY

Removal of Condition 2 of S/1747/09 to allow for permanent consent for Mr Danny Collins at Woodland View, Meadow Bank, Gamlingay

Recommendation: Approval

Date for Determination: 7 April 2012

Notes:

This Application has been reported to the Planning Committee for determination because the site is part of that for application S/1733/11 which is reported elsewhere on the Committee agenda and for which in that case the officer's recommendation of approval differs from that of the Parish Council.

To be presented to the Committee by Saffron Garner

Site and Proposal

1. This full planning application seeks the consent of the Local Planning Authority to remove condition 2 of consent S/1747/09/F that reads as follows:

The use, hereby permitted, shall be discontinued and the two caravans and garage, hereby permitted, shall be removed and the land restored to its former condition on or before 5th February 2013 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 Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites, the Council is preparing a Gypsy and Traveller Development Plan Document, and on 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 Gamlingay.

2. The application site is located to the southwest of Gamlingay and located outside the designated Village Framework and Conservation Area. It is not located close to any Listed Buildings or heritage assets. The site comprises 0.29 hectares and is accessed via a shared access point to the north of the site that links up with Potton Road. The site is bound by mature hedging along the eastern boundaries and predominately laid to lawn and/or gravel. To the north is a commercial Builders yard, to the north east a permanent residential unit, to the south open countryside and to the west other mobile units. The other boundaries within the site comprise a mixture of timber fencing and mature hedge screening. The existing units on site comprise two single storey mobile units and a brick built garage. The density is approximately 7 dwellings per hectare.

Planning History

3. There is a vast planning history for this site, predominately based around the renewal and siting of caravans on the site over the course of over 40 years. **S/1747/09/F** was for the approval of an application for the 'Replacement of Two Mobile Homes and the Erection of a Garage. This application allowed for the temporary consent of the two mobile units until 5th February 2013 and is solely for the benefit of the applicant who is defined as traveller for the purposes of planning policy. A full assessment, appropriate at the time of the application, was carried out to assess the circumstances of the applicant. This showed the applicant had a clear residential need for the site.
4. **S/1733/11/FL** for the permanent siting of an additional mobile home - To be determined alongside this application at the July 2012 Planning Committee.

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 lpa's to have due regard to the protection of local amenity and the local environment. Paragraph 22 states that lpa'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 (LDF) Core Strategy, adopted January 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
10. **South Cambridgeshire Local Plan 2004 (Saved Policies)**
CNF6 Chesterton Fen
11. **Gypsy and Traveller DPD (GTDPD)**
The site was not identified either as a potential or a rejected site in the "Issues and Options 2 Consultation July 2009". 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 later this year 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.

12. 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.

Consultation by South Cambridgeshire District Council as Local Planning Authority

13. **Gamlingay Parish Council** – recommend approval. Comments read as follows: Further delay in Gypsy and Traveller development Plan adoption merits further delay unacceptable.
14. **Environmental Health Officer** – An amended site licence would be required should permanent permission be granted.

Representations by members of the public

15. None received

Material Planning Considerations

16. Having regard to information provided as part of this and the previous application in 2009, 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. 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

17. 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 lpa's to make their own assessment of need rather than relying on a regional target.
18. 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.

19. 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.
20. The application proposes permanent residential development in the countryside. The existing site is an authorised site that has undergone assessment in earlier applications with regard to suitability. The proposal is for permanent consent of the two mobile units and garage building. They will house the existing family residents. The site is not located in the Green Belt and considered to be located in a sustainable location; the distance from the main centre of Gamlingay is 750m and the site easily accessible via foot or by bicycle.
21. The existing plot comprises two existing units, gravel driveways, lawn and mature boundary hedging. It is relatively open and rural in character. From outside of the site the plot sits higher than the adjacent road and visibility into the site from the road and surrounding footpaths is difficult. Other residential units are located to the east and west. A commercial yard is the most prominent sight visually in the area and this is located to the north of the existing access that the units currently use. The existing mobile units on this plot are not considered to adversely impact on the surrounding countryside or do they affect others enjoyment or recreational use of rights of way in the vicinity. The plot is a good size and the mobile units have sufficient space for amenity land and parking provision.
22. The closest neighbours are to the east and west. They are of a suitable distance away from the existing mobile units and there has been no suggestion through the assessment of this application that there are existing neighbour amenity problems. The proposed unit under planning application S/1733/11 is also for a family member. The occupier to the northeast of the application site has not raised any objection. Noise should not exceed that that is normally associated with residential uses and therefore the proposal does not suggest a significant increase in potential noise. The existing units on site are sited far enough away from neighbouring properties not to cause overlooking and the two units are also sited some distance from each other for the same purpose.
23. 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.

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

24. In South Cambridgeshire, the number of caravans on authorised or tolerated private sites increased marginally 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 previous RSS target to provide new sites has not been met and should this application be refused there is no known vacant and deliverable site in the district that the family could occupy.

25. On 13 June 2012 the Housing Portfolio Holder approved an updated Gypsy and Traveller Accommodation Needs Assessment (GTAA) as part of the evidence base to inform the Council's planning framework. The GTAA confirms a total current need (backlog) of 69 pitches which translates to a shortfall of 65 pitches over the period 2011 to 2016.
26. There therefore 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.
27. Whilst a temporary planning permission was previously granted, the reason for the previous consent is no longer valid. Any further search for new sites will now come forward as part of the Local Plan review. It is also significant that in this case the parish council supports the application on the basis that any further delay in adopting a new plan is unacceptable

The applicant's personal needs and circumstances

28. The two caravans are occupied by Mr Collins and his immediate family. The children are in school locally and the family are registered with a doctor in Potton. 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

29. Officers consider that the applicant's continued use of this site does not give rise to any identified harm or material conflict with the development plan. It is recommended that the Planning Committee grant permanent planning permission and applies the same conditions as before. These will help to ensure the level of development is controlled to ensure its future impact on the surrounding area is no more than exists at present.

The case for a further temporary permission

30. The case for a further temporary permission only becomes relevant if members consider a permanent permission is inappropriate. 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.
31. Given there is no identified harm, it is recommended that a further temporary planning permission would be inappropriate.

Human Rights Issues

32. 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). If there is no lesser or alternative action that could be taken to secure the public interest and the harm is considered to be significant, refusal of

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

Recommendation

33. It is recommended that the Planning Committee approves the application as previously approved with all the same conditions except Condition 2 but with an extra condition re the payment of contributions.

Conditions

- (a) Restricted to travellers as defined
- (b) Plans
- (c) Restriction on number of caravans
- (d) Restriction on vehicle size
- (e) No commercial activity
- (f) Restriction on external lighting
- (g) Personal consent to applicant.
- (h) Infrastructure Contributions

Informative

- (a) Infrastructure informative

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

- South Cambridgeshire Local Development Framework Core Strategy (adopted January 2007)
- Planning File Reference: S/1747/09/F, S/1733/11/F and S/0380/12/VC

Case Officer: Saffron Garner – Senior Planning Officer
Telephone: (01954) 713256