

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

4 July 2012

AUTHOR/S: Planning and New Communities Director

APPEALS AGAINST PLANNING DECISIONS AND ENFORCEMENT ACTION

5. Summaries of recent decisions

Further Information received after publication of the agenda report.

The summary provided below is of an appeal decision received on 26 June 2012. While notification of the decision to the Planning Committee is not urgent, officers consider that members of the Committee should be aware and be given an opportunity to consider its implications before potentially similar applications are presented to the August meeting.

Mr D Bibby – Continued use of land as one gypsy pitch – Land r/o the Stables, Schole Road, Willingham – Appeal allowed. Application for costs against the Council dismissed

1. This appeal was in response to condition 2 of a planning permission granted on 10 October 2011. The condition limited the period of consent to a period of 1 year from the date of the decision. The reason given for the condition was: "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 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 needs of gypsies and travellers within the district" The appellant sought a permanent permission.
2. The appeal was determined by way of a hearing. This was attended by Councillors Manning and Wright and the vice-chairman of the parish council, all of whom gave evidence. After the close of the hearing, new national planning policies were published, in the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). The inspector has taken these policies into account.
3. The site as a whole comprises a hard-surfaced yard, partly enclosed by fencing and hedging. The front part has planning permission for two mobile homes and is occupied by the appellant and members of his extended family. The rear part, which includes the appeal site, contains a further mobile home, occupied by one of the appellant's sons, Billy. There are also various other structures, including a former stable. In 2004, permission was refused for four additional mobile homes, on the land to the rear, including the present appeal site. An appeal against this refusal was dismissed in 2005, the Inspector finding that the development would detract from the area's rural character.
4. The current inspector recognised that the landscape of this area, on the edge of the Fens, is flat and low-lying, with large arable fields, few hedgerows, and extensive views. Although the landscape is not of any special quality, it is nonetheless pleasant and attractive. In this setting, the existing mobile home and

its associated domestic paraphernalia appear as alien features, detracting from the surrounding countryside. The development therefore causes visual harm. While there are other gypsy and traveller developments nearby, these have all had an effect on the character of the surroundings, and the development now proposed would add to the existing concentration of similar developments. This would thus add to the cumulative harm. If some additional or replacement planting were provided, it would be possible to soften the impact of the appeal site somewhat, but such landscaping, on its own, would not be likely to mitigate the impact to such an extent as to fully overcome the harm. For these reasons, the inspector concluded that the continued use of the appeal site, beyond the period already permitted, would cause visual harm to the surrounding area. He further concluded that “considerable weight” should be given to this harm.

5. At the hearing, the Parish impressed upon the inspector that the village has a very large number of gypsy and traveller sites. There is added pressure on local services and infrastructure, such as Willingham Primary School and the local doctors’ surgery, due to the overall numbers. While the inspector did not doubt the genuineness of local people’s concerns, these did not justify taking a different approach to developments by gypsies and travellers compared to other new housing. The Core Strategy designates Willingham as a minor rural centre, and as such, the village is expected to accommodate some housing growth, including schemes of up to 30 dwellings, and to provide services for the rural hinterland. The present proposal relates to a single unit. To dismiss this appeal on grounds relating to service capacity would be tantamount to putting an embargo on any further housing development at or around Willingham, and as such would directly contradict the planning strategy for the area. If there are capacity problems with the existing health, education or other local facilities this should be addressed when the Core Strategy is next reviewed. The relevant service providers had not objected and there was no evidence that making the existing permission at the appeal site permanent would have any significant adverse effects on local services.
6. Local representatives were also concerned about the condition of Schole Road. The road is unadopted, and its surface is in a very poor state of repair. The inspector saw its condition for himself and that vehicles using the road need to weave continuously to avoid the potholes. However, he concluded that the road is lightly trafficked, and speeds are necessarily low. The width is more than adequate for two vehicles and the risk of collisions is therefore slight. There was no reason to believe that an emergency vehicle would be unable to get through when necessary. Neither the highway authority nor any of the emergency service operators had objected to the development. Thus while Schole Road does not provide a good standard of access, its deficiencies do not give rise to any identifiable harm.
7. Based on the evidence available, the inspector found (as other inspectors have done) that the number of gypsy and traveller sites delivered through the planning process since 2006 has failed to provide for the identified need. In the absence of any more recent assessment of gypsy and traveller needs, the figures set out in the East of England Plan remained the best available. The Council did not dispute that the district’s needs have not been fully met. The inspector found this level of unmet need to be “significant”. PPTS states that the Government’s aims in respect of traveller sites include meeting needs, addressing under-provision, maintaining an appropriate level of supply, and promoting the provision of more privately owned sites. To that end, authorities are urged to prepare plans, identify deliverable sites, and develop criteria-based policies. Until the Council can bring

forward new policies, the only means by which the under-provision can be remedied is through ad-hoc decisions on individual planning applications. In the circumstances, substantial weight should be given to the scale of the district's unmet needs.

8. The inspector did not doubt the strength of the Council's intention to bring forward the new local plan, and to do its best to adopt this by 2015-2016. But he doubted if this would bring forward new sites without a planned new GTAA. At the hearing, officers had been unable to confirm when this would be delivered. Taking account of this, together with the various statutory requirements that have to be met, the inspector felt it would be wrong for him to place any great reliance on the Council's projected timetable which he felt was likely to prove over-optimistic rather than the reverse. Furthermore, there is no guarantee that the plan when it eventually emerges will actually produce any site-specific allocations for new gypsy and traveller sites.
9. He was also informed at the hearing that the Council, together with a neighbouring authority, is in the process of negotiating for a site, which could be made available for use by gypsies and travellers well ahead of the formal plan-making process, and possibly even during this year. Further details could not be disclosed because of the need for confidentiality while matters were still progressing. While he did not doubt for a moment that this information was presented in good faith, from all that was said, there was no certainty when this would be provided. In the circumstances, he could give little weight to the possibility of this unidentified site becoming available.
10. He therefore concluded that at present there is no clear prospect of any alternative sites becoming available within a reasonable timescale, either through the local plan process or in any other way, to meet the district's need for gypsy and traveller accommodation.
11. In considering the occupant's personal circumstances, the inspector concluded that refusal of the application effectively make him homeless. These circumstances added some weight in favour of extending the permission. It was also argued that he needs to remain in the area in order to retain contact with his two young daughters, who live with their mother, and to be able to take a full part in their upbringing, especially as one has a serious disability. Due to the lack of alternatives available to him, the likely impact on his family was a further factor in favour of the appeal.
12. In weighing the various considerations, the inspector found that if condition 2 were to remain as it stands, the permission would expire in October 2012. That would enable the Council to secure the restoration of the site and to prevent continuing visual harm. But now that the Council has abandoned its plans for a Gypsy and Traveller DPD, it is clearly no longer possible for any new site allocations or other new policies to be adopted through the development plan process before that date. The existing situation of unmet need and lack of alternative sites will therefore almost certainly remain. It therefore follows that Condition 2 should now either be varied or deleted. As there is no clear prospect that the situation relating to gypsy and traveller needs in the district will change significantly, or that these might be resolved at some unspecified time in the future, limiting the permission to a temporary period is no longer justified. A permanent permission is therefore appropriate.

13. The appellant's case for an award of costs was on the basis that: (a) in imposing Condition 2, the Council paid insufficient regard to relevant national policies with regard to the circumstances in which temporary permissions are appropriate; (b) the 1-year period provided in Condition 2 was clearly insufficient to allow for new gypsy and traveller sites to be brought forward; (c) the Planning Committee had no proper planning grounds for failing to accept the Officers' recommendation of a 3-year period; (d) the Council failed to consider whether the need for Condition 2 could have been avoided by imposing a landscaping condition instead; and (e) the Council's evidence failed to substantiate its contention that significant harm would be caused by reason of visual impact on the landscape.
14. Despite finding that the Council had demonstrated unreasonable behaviour in respect of grounds (a), (b) and (c), the inspector still concluded that no unnecessary or wasted expense has resulted in bringing forward the appeal. The conditions for an award of costs have not been demonstrated and no award should be made.

Additional Background Papers: the following background papers (were used in the preparation of this update: None

Contact Officer: John Koch – Team Leader
Telephone: (01954) 713268