

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Planning Committee

3 October 2012

**AUTHOR/S:** Planning and New Communities Director

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### **S/0097/12/FL - WILLINGHAM**

**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: Approval**

**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.**

**To be presented to the Committee by John Koch**

#### **Site and Proposal**

1. This application was originally presented to the May 2012 Committee when it was recommended that a further temporary permission be granted. In the event, the application was deferred pending receipt of an outstanding appeal decision for a site off Schole Road, Willingham (the Bibby site"). That decision was eventually received on 26 June and reported to the July Planning Committee for information. This amended report takes on board the material considerations arising from that decision. The applicant seeks a permanent consent.
2. 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).
3. 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. Access to the whole site is via an existing roadway that runs along the length of the site.

#### **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.

5. There are numerous other sites in Willingham with the benefit of either temporary or permanent planning permission. To assist Members these are shown on the plan at **Appendix 1** to this report. This is supported by a list of the existing temporary planning permissions and their current status. This is set out as **Appendix 2**.

### **Planning Policy**

6. **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. Paragraphs 20 -26 provide criteria against which to judge planning applications. These criteria have been taken into account in this report.
7. 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.
8. 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.
9. **East of England Plan 2008 (RSS)**  
**H3** Provision for Gypsies and Travellers
10. **South Cambridgeshire Local Development Framework Core Strategy 2007**  
**ST/5** Minor Rural Centres
11. **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**

12. **South Cambridgeshire Local Plan 2004 (Saved Policies)**  
**CNF6** Chesterton Fen
13. **Gypsy and Traveller DPD (GTDPD)**  
The "Issues and Options 2 Consultation July 2009" identified the site as 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. An Issues and Options Report Public Consultation runs from 12 July to 28 September 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 at least the end of 2015.
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. It also states that a second temporary permission should not normally be granted. A trial period should be set that is sufficiently long for it to be clear by the end of the first permission whether permanent permission or a refusal is the right answer. Usually a second temporary permission will only be justified where highway or redevelopment proposals have been postponed, or in cases of hardship where temporary instead of personal permission has been granted for a change of use.

## **Consultation by South Cambridgeshire District Council as Local Planning Authority**

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 Site Team Leader**.

## **Representations by Members of the Public**

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 lpa's to make their own assessment of need rather than relying on a regional target (see below).
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 and no highway safety issues have been raised. 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 applicant's site are existing and as she 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 7 authorised pitches, 13 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. However, a site allocations policy has not been delivered and given the lack of demonstrable evidence that undue pressure is being placed on village services, this argument is difficult to sustain. The existing advice in Circular 11/95 regarding repeat temporary consents is also pertinent.

32. In the event that permanent planning permission is granted, the Committee will need to confirm that 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. This is in accordance with policies DP/4 and SF/10, The applicant has agreed to this in the event that the permanent permission is granted.
33. Ultimately, officers the location of the site is considered to be suitable on landscape and wider sustainability grounds. This now warrants the grant of a permanent permission subject to suitable safeguarding conditions.

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

34. The Cambridge sub-Regional Gypsy and Traveller Accommodation Needs Assessment (GTANA) 2011 was published in October 2011. The GTANA has assessed a need for 67 additional pitches between 2011 and 2016, and a need for five extra pitches from 2016 - 2021. Further projected need has been calculated up until 2031. These findings were largely accepted by the Council's Housing Portfolio Holder on 13 June 2012 as part of the evidence base to support the Council's planning framework. The shortfall in pitches between 2011 and 2016 has been reduced by two and agreed as 65.
35. Since 2011, a total of nine pitches with planning permission have been developed. A further private site of 26 pitches has been permitted but not yet completed. This leaves a total of 30 pitches (65 – (9 + 26)) for which permanent sites need to be identified. There are currently 68 pitches with temporary planning permission and while there can be no certainty that these will (all) be turned into permanent permissions, there is a reasonable expectation that some of these will be approved, thus further reducing the overall shortfall in pitches.
36. There are no other sites in the district where pitches are known to be vacant, available and suitable for the applicant. (While there are vacant sites at Smithy Fen, Cottenham this is an area now frequented solely by Irish Travellers). The two public sites at Milton and Whaddon have remained full with waiting lists of at least a year. However, the Council is actively involved with the aid of government funding in planning a new site for Gypsies and Travellers. Similarly, negotiations are taking place for the delivery of a further site that could be available within the next 18 months. The delivery of one or other of these sites would clearly help meet some of the outstanding unmet need.
37. The results of the GTANA and the decision of the Council's Housing Portfolio Holder were not available to the inspector in the recent appeal. The now up-to-date needs assessment suggests that the unmet need is not "substantial" as the inspector concluded. Nonetheless, 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**

38. Mrs Smith has stated that she has worked locally for the last 6 years and her daughter helps out at Over Primary School. Her son has recently 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**

39. 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. The lack of suitable alternative sites and the family's general needs carries some weight in favour of the proposal, albeit their need for this particular site is not compelling. The potential delivery of at least one new site within the next 18 months also diminishes the weight to be given to unmet needs.
40. While no substantive harm has been identified, the potential availability of an alternative site and its capacity to relieve the overall pressures on Willingham, has led to the conclusion that a further temporary planning permission would be appropriate. This would be for a period of 18 months.\

### **Human Rights Issues**

41. 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). Officers consider that refusal of permanent planning permission would not be proportionate and justified within Article 8 (2).

### **Recommendation:**

42. 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, caravan and amenity block, hereby permitted, shall be removed and the land restored to its former condition on or before 31 March 2014 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 “Planning policy for traveller sites”, the Council is actively seeking to identify new sites for travellers and on a without prejudice basis to a permanent consent on this site, a further time limited consent will enable the Local Planning Authority to bring forward sites to help meet the existing unmet need.)

3. 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.)
4. No vehicles over 3.5 tonnes shall be stationed, parked or stored on then site.  
(Reason - In order to limit the impact of the development on the area's rural character and the residential amenities of neighbours.)
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.)

**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**
- **Gypsy and Traveller Needs Assessment Internal Review. Report to Housing Portfolio Holder 13 June 2012**

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