

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

---

**REPORT TO:** Planning Committee

3 October 2012

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

---

### **S/1476/12/VC - WILLINGHAM**

**Variation of condition 1 of application S/1719/09/F to allow a permanent consent - 2 Greenacres, Meadow Road, Willingham for Mrs Eileen, Webb**

**Recommendation: Approval**

**Date for Determination: 13 September 2012**

**This application has been reported to the Planning Committee for determination at the request of the Development Control Manager**

**To be presented to the Committee by Paul Derry**

### **Site and Proposal**

1. The site lies to the east side of the village of Willingham, and is outside the defined village framework, as identified in the South Cambridgeshire Local Development Framework 2007. The site measures approximately 28m by 30m, and is set back from Meadow Road. Access is achieved from the west side of the site, where an access track serves this and adjacent units.
2. The north boundary of the site is a 1.5m high fence, which backs onto a barn on the land to the north. There are a range of seemingly historic outbuildings along the east boundary, with a 1.8m fence behind that continues along the southern boundary. The west boundary is a 1m high wall with an open portion to allow vehicle access. Across the access, there is a post and wire fence and a hedge along the boundary of the adjacent agricultural land. The site itself is divided into two plots by a small fence, where differing members of the family are located.
3. The application, validated on 19 July 2012, seeks to vary condition 1 of application S/1719/09/F to allow a permanent consent on the site.

### **Site History**

4. Application **S/0375/06/F** was granted consent dated 20<sup>th</sup> November 2006 for the siting of two gypsy mobile homes and utility block on the plot. Condition 2 off this consent restricted the use until 1<sup>st</sup> November 2009, and gave a further 3 months for the land to be cleared. A further application **S/1719/09/F** approved dated 9<sup>th</sup> February 2010 granted an extension to this time, condition 1 of which expires on 18<sup>th</sup> August 2012. There have been other planning applications made on the site, although these are not considered relevant to the determination of this consent.

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** and the list at **Appendix 2**, both of which are appended to the report under reference **S/0097/12/F**.

### **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 Local Planning Authority'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 site was agreed through the "Issues and Options 2 Consultation July 2009" 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.
16. The **Willingham Parish Plan (October 2008)** does not raise issues that relate specifically to traveller sites.

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

17. **Willingham Parish Council** makes no recommendation. However, they note they are concerned about the number of traveller sites in the village and feel they should be spread across the District. Following a recent appeal decision, the Council has to accept that some temporary consents will have to be made permanent. Although there are concerns regarding this course of action, a permanent consent on this site should not open the floodgates for others. The original conditions should also be complied with.
18. The Council's **Traveller Liaison Officer** supports the scheme and notes it is set within an established site of authorised pitches
19. The **Old West Internal Drainage Board** originally objected to the scheme given the lack of information regarding surface water drainage. This information was supplied directly by the applicant, and the objection has been withdrawn given the cess-pit on site

#### **Representation by Members of the Public**

20. None were received.

#### **Material Planning Considerations**

21. Having regard to information provided as part of this and the previous application in 2009, the applicant meets 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
  - Human Rights Issue

*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 Local Planning Authority'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. The principal concerns in this case are the impact on the character and appearance of the area and the status of the local plan.
26. The site lies at the junction of the Cambridgeshire Claylands and the Fens Landscape Character Areas and is well divorced from the eastern edge of the village to the west, where the nearest built form is the properties along Spong Drive. It forms the middle plot of a group of three pitches to the southern side of Meadow Road. In its wider context, it forms almost two rows of pitches, each accessed from a separate track. The pitch directly north has permanent consent, whilst that to the south has temporary permission. Of the land to the east, the northernmost two pitches have permanent consent, whilst two further south (including current application S/1475/12/VC) have temporary permission. There is a small plot of land between these latter two without a specific designation.
27. Given its location to the west side of the grouping of pitches, the site is visible from Meadow Road. Longer views along this road are screened by the hedge that forms the western boundary of the adjacent field. A brick wall with railings above forms the western boundary, and there is no space for landscaping beyond this as the access track runs against this wall. This boundary treatment does provide an urban feature for the site. However, views from Meadow Road are more acute given the hedge to the west. There is some

planting to the southern section of the east boundary of the site, which continues across part of the southern boundary. This does provide some greenery on the site. The existing buildings along the eastern boundary are also agricultural in nature, and what could be expected in this agrarian setting. The site was supported in the Issues and Options 2 Consultation July 2009 due to its lack of landscape impact, and the summary states "views of the site from the wider landscape are already limited". The proposal is not considered to cause any significant landscape harm.

28. The sustainability of the site has also already been assessed as part of the background work for the then emerging site allocations policy. That 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 is within 500m of a bus stop. All occupiers of the site are registered at the local doctor's surgery in the village. The three children attend Willingham Primary School or Swavesey Village College.
29. The desire to ensure that the scale of sites should not dominate Willingham remains an issue of significant concern to the Parish Council, although they have not recommended refusal in this instance. While recent permissions in the village have mostly been on a temporary basis in recognition of a pending site allocations policy, this 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.
30. In the event permanent 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. There is no set formula to calculate contributions where caravans are the accommodation. The applicant is aware of the requirements, but no agreement has been made at this stage with regard amounts of contributions.

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

31. 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.
32. 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.

33. 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 and where the applicant was previously living). 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 become 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.
34. 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 on land at Schole Road (S/1561/09/F). 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, particularly given the lack of landscape harm described above.
35. The comments from the Old West Internal Drainage Board are noted. The site has an existing cess pit on site, and the original objection was withdrawn on provision of this information.

#### *The Applicant's Personal Needs and Circumstances*

36. The applicant lives on site with her partner and three children. The applicant's father and his wife also live on the site. All occupiers of the site are registered at the local doctor's surgery in the village. The three children attend Willingham Primary School or Swavesey Village College. The family has a local connection and this is a consideration that carries some weight.

#### *Conclusion*

37. The site is not considered to cause harm to the surrounding countryside. 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.
38. 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*

39. 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**

40. 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 caravans and utility 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. No vehicle 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 in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

**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 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 - In order to limit the site's impact on the area's rural character in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

If Members decide infrastructure provisions are required, a further condition would be needed to ensure this provision.

**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 DPDs
- National Planning Policy Framework
- Planning Policy for Traveller Sites
- Planning file reference S/1476/12/VC, S/1719/09/F, S/0375/06/F and S/1561/09/F.
- Gypsy and Traveller Needs Assessment Internal Review. Report to Housing Portfolio Holder 13 June 2012

**Contact Officer:** Paul Derry - Senior Planning Officer  
01954 713159