

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee
AUTHOR/S: Planning and New Communities Director

3 October 2012

S/0198/12/VC - WILLINGHAM
Removal of Condition 2 of Planning Permission S/2183/06 to allow a permanent consent - 7, Belsars Field Schole Road for Mr Arthur & Mrs Joan Lee

Recommendation: Approval

Date for Determination: 27 March 2012

This Application has been reported to the Planning Committee for determination because the recommendation of the Parish Council differs to that of the case officer.

To be presented to the Committee by Paul Derry

Site and Proposal

1. The application site relates to a plot of land 23m by 25m on the north side of Schole Road, set back approximately 40m from the road frontage. At the time of the officer site visit, there were two touring caravans on the site, with a utility block in the southeast corner and a wooden clad dayroom along the eastern boundary. The site is all laid to gravel, and is surrounded by a 1.8m fence except by the vehicle access along the western boundary.
2. To the west of the site on the opposite side of the shared access is a permanent traveller site. The land to the south is bare, and to the east of this is a further site that has a personal consent for the current occupants only. The land to the north and east appears agricultural. There are rows of leylandii to the east boundary and beyond the northern boundary.
3. The application, validated on 31 January 2012, seeks to vary condition 2 of approved consent S/2183/06/F, which restricted the use of the site up to 31 January 2012, to allow a permanent permission. The other conditions of the original consent would remain in situ.

Site History

4. Planning application **S/2183/06/F** granted planning permission for the siting of 1 gypsy mobile home, 2 touring caravans and 1 portable utility building at the site. Condition 1 restricted the use to be by defined gypsies and traveller only, condition 2 allows only a temporary consent until 31 January 2012, condition 3 restricts the use to the stationing of no more than 3 caravans at any time, and condition 11 restricts occupation to Mr Lee and his immediate family and any dependents living with them.

5. The site has a long history of applications for mobile homes in the last 1980's and during 1990. However, these are not considered relevant to the determination of this application.
6. Members should be aware of the recent planning appeal at the site to the west (**S/1561/09/F**). In allowing the appeal, the Inspector stated the site did cause harm to the landscape character of the area. However, the unmet need for pitches within the District outweighed this and a permanent consent was granted. This site was rejected in the Issues and Options 2 Consultation July 2009.
7. 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

8. **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.
9. 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.
10. 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.
11. **East of England Plan 2008 (RSS)**
H3 Provision for Gypsies and Travellers
12. **South Cambridgeshire Local Development Framework Core Strategy 2007**
ST/5 Minor Rural Centres
13. **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 play space, Informal Open Space and New Developments

NE/4 Landscape Character
NE/10 Foul Drainage

South Cambridgeshire Local Plan 2004 (Saved Policies)

CNF6 Chesterton Fen

14. Gypsy and Traveller DPD (GTDPD)

The site was rejected 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.

15. 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.

16. 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.

17. The Willingham Parish Plan (October 2008) does not raise issues that relate specifically to traveller sites.

Consultation by South Cambridgeshire District Council as Local Planning Authority

18. Willingham Parish Council recommends refusal of the application. They have reason to believe that the applicant may have an alternative residence which may contravene condition 11 of the application. Furthermore, the Parish council feel it inappropriate to grant permission whilst the traveller review is still on-going.

19. The Police Neighbourhood Sergeant notes Schole Road is in bad condition but this does not impede response times significantly. The time taken to navigate this short stretch is minimal in comparison to the significant distance travelled in a rural Policing environment when trying to reach the location.

Representations 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 2006, 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 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 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 housing along Schole Road comes to an end. It is viewed in the context of the adjoining sites and cumulatively adds to an urbanisation of this part of the countryside. The land is not designated or protected and is considered a brownfield site. PPTS advises that the development of brownfield sites be considered more favourably. The site is largely hidden in long-distant views from Priest Lane to the north, Haven Drove to the east and further along Schole Road to the southeast. It site is enclosed by a 1.8m high fence, and the dayroom and caravans are barely visible over the top..

27. The site was rejected in the Issues and Options 2 Consultation July 2009 due to its landscape impact. This was also the case for the site to the west allowed at appeal. In allowing that appeal, a landscape condition was added by the Inspector to seek some screening from the long-range views of the site. There is no evidence to suggest such detail was agreed, although the applicant has planted two trees along the southern boundary inside the site. The site to the west is much more prominent in the long range views than the site currently being considered and despite the earlier rejection on landscape grounds, the set back of the site from Schole Road and the surrounding development means the landscape impact is now only negligible.
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. Although Schole Road is a rough track, it is lightly trafficked, safe for pedestrians and there are no highway safety concerns. Such concerns have been raised previously, but discounted by an Inspector at appeal. The family's needs are currently being met by the medical practice in the village. There is no known mains connection to the site and the use of a septic tank is acceptable in principle.
29. The desire to ensure that the scale of sites should not dominate Willingham remains an issue of significant concern to the Parish Council. 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 that 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. The applicant has agreed to this in the event that the permanent permission is granted, albeit there is a suggestion that he would wish the actual amount to be negotiated. There is no set formula to calculate contributions where caravans are the accommodation, and the applicant has expressed concern regarding the viability of the scheme given the payment quoted. Some financial details have been provided that would appear to support this view.

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 to the west. 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

35. Currently living on the site is Mr Lee and his wife. Both are retired, and both are registered at the Willingham Medical Centre. Both have some health issues. Mr Lee suffers from high blood pressure and arthritis and is diabetic. Mrs Lee also suffers from arthritis. Officers have no evidence that Mr Lee has another residence elsewhere.

Conclusion

36. The site is considered to cause only very limited harm to the surrounding countryside and this is not considered as bad as the land to the west recently granted permanent consent at appeal. That decision has also allowed development in depth, similar to the current application. No other conflict with the development plan has been identified. 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 diminishes the weight to be given to unmet need.
37. 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

38. 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

39. Approval, subject to the following conditions retained from application S/2183/06/F.

- 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 residential use, hereby permitted, shall be restricted to the stationing of no more than 3 caravans at any time (of which no more than 1 shall be a static caravan or a mobile home).**

(Reason - To minimise visual intrusion on the countryside in accordance with Policy DP/3 of the adopted Local Development Framework 2007.

- 3. The use, hereby permitted, shall be discontinued and the caravans, 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.)

- 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 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 DPDs
- National Planning Policy Framework
- Planning Policy for Traveller Sites
- Planning file reference S/0198/12/VC, S/2183/06/F and S/1561/09/F.
- Gypsy and Traveller Needs Assessment Internal Review. Report to Housing Portfolio Holder 13 June 2012

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