

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

3 October 2012

AUTHOR/S: Planning and New Communities Director

S/1590/12/FL – WILLINGHAM

One Mobile Unit, Two touring caravans, Day Room & Utility Room, Stables & Hay Store at 6 Cadwin Field, Schole Road for Mrs L Homes

Recommendation: Delegated Approval

Date for Determination: 31 October 2012

Notes:

This Application has been reported to the Planning Committee for determination for consistency as 2 Cadwin Field (S/1188/12/FL) is also on Planning Committee

To be presented to the Committee by Andrew Phillips

Site and Proposal

1. The site is located approximately 230 metres outside of the village framework and is within the Bedfordshire and Cambridgeshire Claylands also described in the District Design Guide as The Fen Edge. The site measures approximately 0.17 hectares. To the north and south of the site are existing caravan pitches. To the west and east of the site is an agricultural fields.. The site is on Grade 1 Agricultural Land (Excellent Quality Agricultural Land). Existing mature trees are located on the east and west boundary.
2. The history of the site indicates that the site was used as a scrapyard before the granting of consent for mobile homes.
3. The existing site has two static mobile homes, a caravan and a couple of outbuildings.
4. The previous planning permission on site S/1803/09/F was a temporary permission for a gypsy/traveller plot that expired on the 18th August 2012. The proposal seeks to make permanent the gypsy/traveller plot.

Planning History

On site

5. **S/0788/06/F** – 2 Gypsy Caravans and Utility room given temporary consent until the 4 October 2009.
6. **S/1803/09/F** – Change of use of land for siting of 1 mobile caravan and two touring caravans & day room/utility room (part retrospective) was given temporary consent that expired on the 18th August 2012.

Nearby relevant planning applications

7. **S/1134/09/F – (2 Cadwin Field)** Use of land as gypsy pitch for temporary siting of 1 mobile home, 1 touring caravan and 1 toilet and bathroom block was granted temporary consent until the 18 August 2012.
8. **S/1188/12/FL – (2 Cadwin Field)** Continued Use of site as Gypsy Traveller Pitch (permanent) including erection of replacement day room. Recommend for approval by Officers.
9. **S/1919/08/F – (3 Cadwin Field)** Change of use of land to site mobile home and amenity portacabin was refused by the Local Planning Authority on the grounds of the development being outside of the village framework and the lack of spaces within the local School. The Planning Inspectorate overturned this decision and granted a temporary consent until the 18 August 2012.
10. **S/0234/10/F – (1 Cadwin Field)** Use of land for the temporary siting of 1 Gypsy Mobile Home, Day room, 1 Caravan and lean-to Horse Shelter (retrospective) was granted a temporary consent until the 18 August 2012.
11. **S/1561/09/F – (Land at Rear of The Stables, Schole Road)** Continued use of land for one gypsy pitch (Comprising of two caravans) was approved with a temporary consent until the 10 October 2012. The temporary consent was appealed and the Planning Inspectorate determined that despite visual harm to the character and appearance of this party of the countryside, the harm was outweighed by South Cambridgeshire having a significant level of unmet needed gypsy and traveller accommodation.
12. **S/0198/12/VC – (7 Belsars Field, Schole Road)** Removal of Condition 2 of Planning Permission S/2183/06 to allow a permanent consent is still being considered by the Local Planning Authority.

Planning Policy

13. **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 assess education, health, welfare and employment infrastructure by for local planning authorities to have due regard to the protection of local amenity and the local environment. Paragraph 23 states that the Local Planning Authorities 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.
14. The former presumption in Circular 01/2006 in respect of temporary permission where this a shortage of deliverable sites no longer applies at the present time.
15. **National Planning Policy Framework (NPPF)** (March 2012) 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.

16. **East of England Plan 2008 (RSS)**
H3 Provision for Gypsies and Travellers
17. **South Cambridgeshire Local Plan 2004 (Saved Policies)**
CNF6 Chesterton Fen
18. **South Cambridgeshire Local Development Framework (LDF) Core Strategy, adopted January 2007**

ST/5 Minor Rural Centres
19. **South Cambridgeshire Local Development Framework (LDF) Development Control Policies, adopted July 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
NE/4 – Landscape Character Areas
NE/10 – Foul Drainage – Alternative Drainage Systems
SF/10 - Outdoor Playspace, Informal Open Space and New Developments
SF/11 - Open Space Standards
20. **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.
21. 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.
22. **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.
23. **District Design Guide (SPD), adopted March 2012**
24. 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

25. **Willingham Parish Council** – No comments currently received.
26. **Environment Agency** – The Environment Agency states that in principle it has no objection to the proposed development.
27. The Environment Agency continues to state that the preferred method of foul water drainage would be a connection to the public foul water sewer. However, the Environment Agency provides advice on septic tank and soakaway system and states that the applicant must ensure that there is no discharge of effluent from the site to any watercourse or surface water drain or sewer. The Environment Agency also provides advice on manure being created by the proposed stables. The applicant should be made aware that any pollution to the water environment may lead to prosecution.
28. **Drainage Manager** – No comments currently received.
29. **Old West Internal Drainage Board** – The Board states that the site is situated outside the Old West Internal Drainage District. The application states that surface water will be disposed of via soakaways. Providing that soakaways form an effective means of surface water disposal in this area, the Board will not object to this application.
30. **Environmental Health (Contaminated Land Officer)** – The Contaminated Land Officer states that aerial photographs (1998 and 2003) indicate a previous use as a scrap yard/storage of old vehicles. The Contaminated Land Officer states a condition regarding investigation and remediation would be required.
31. **Local Highways Authority** – Confirms that Schole Road is not a public highway.
32. **Traveller Liaison Officer** – The Liaison Officer states that the applicant and her family have lived on the site since 2006. This family is settled within the community, children are attending the local schools. The Liaison Officer supports the application for permanent consent and for the applicants to continue to carry on improving their pitch.
33. **Landscape** - No comments currently received.

Representations by members of the public

34. No representation received

Material Planning Considerations

35. The key issues to consider in this instance are:
- The Development Plan
 - Principle of Development
 - Visual Impact
 - Residential Amenity
 - Contaminated Land
 - Water Pollution
 - The general need for, and availability of, additional gypsy sites

- The applicants' personal needs and circumstances
- Human Rights

The Development Plan

36. 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 Authorities to make their own assessment of need rather than relying on a regional target (see below).
37. 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.
38. 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.

Principle of Development

39. 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. 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.
40. The Gypsy and Traveller DPD Issues and Option 2 (consultation July 2009) concluded that this plot has good access to the village and is considered an appropriate site option for consultation. It also mentioned that due to extensive planting on the site boundaries wider landscape impacts are limited.
41. 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.

42. The Police Force has stated on the application for 2 Cadwin Field (S/1188/12/FL) that the condition of the road on will not cause any significant delay in reaching an emergency on site. It is considered that while no comments have been received at the current time by the Fire Service and Ambulance Service that the site should be accessible to emergency vehicles within a reasonable timeframe.
43. It is considered that the proposed development does not raise fundamental concerns in regards to sustainability issues.

Visual Impact

44. The area is described in the District Design Guide as the Fen Edge. The District Design Guide goes on to state that the Fen Edge is defined as having a mostly flat, low lying landscape with open views. However, trees and hedgerows are not uncommon; with hedges forming important boundaries along roads outside of the village core. Policy NE/4 states that development will only be permitted where it respects and retains or enhances local landscape character.
45. The current landscaping that benefits the site is on land owned by the applicant. The current landscaping on the west boundary is mature leylandii trees, while the east boundary has a leylandii hedge. There are some gaps within the planting but these are not noticeable from public land. It is also noted that the surrounding landscape has significant amounts of hedgerows that further limit potential views of the development.
46. The development is all of single storey height but will (excluding the surrounding temporary consents) still be out of keeping with the rural character of the area. However, with the existing mature planting that could be controlled and added to by way of condition the only place that the development could be viewable by members of the public is directly down Cadwin Field lane. The proposed stable block and hay store is an appropriate design form found within the countryside. The harm to the character of the area is, therefore, considered to be minimal.
47. While each planning application must be taken on its own individual merits the cumulative development of all the Cadwin Lane plots being approved also needs to be considered. The cumulative development would lead to a relatively alien form of development in the local area, as it creates a line of caravans in that goes against the form of the east – west line of dwellings along Schole Road. However, the development approved under planning permission S/1561/09/F on the other side of Schole Road creates a similar form of north-south (backland) branch of development. In addition the development (as with the other Cadwin Field plots) is set back from Schole Road and this reduces the impact of the development upon the public domain. The amount of reduction in impact is based on the level of vegetation but this could vary on a yearly basis. It is noted that sometime between 1998 and 2003 the site became used as a junkyard. This makes the site brownfield land, though it must also be noted that with no planning history authorising this use, the weight added to this is minimal. On balance there is considered to be some limited harm to the visual appearance of the local area were all the plots at Cadwin Field to be granted planning permission.

Residential Amenity

48. The proposal by virtue of its size and location is not considered to cause any detrimental harm in principle to the residential amenity of adjacent properties. Conditions as previously added to control external lighting and to prevent commercial activities will be added in order to limit potential noise and light pollution to adjacent residents.

Contaminated Land

49. The current ground surface is mixed and with there being potential contamination under the surface it is considered that a contamination survey/mitigation will need to be duly added in the event the application is approved.

Water Pollution

50. The Environment Agency provides advice on how to ensure the prevention of water pollution. A condition will be added to seek satisfactory information on the proposed septic tank and an informative will be added pointing out that it is a criminal offence to pollute the water environment.
51. The requested informatives from the Environment Agency regarding stable waste can be duly added.
52. The condition relating to oil storage tank is not considered reasonable, as the proposal is not referring to an oil tank. In addition the proposal will not lead to any significant addition of surface water drainage over the existing situation.

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

53. 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.
54. 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 69 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.
55. 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.

56. 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 applicants' personal needs and circumstances

57. The applicant has submitted supporting letters from Willingham Primary School and Cambridgeshire County Council (Team for Traveller Education) that both strongly support the application being approved, as well as pointing out the harm to the education of the children if permission was refused.
58. The applicant has submitted additional details that highlight the problems they had on other sites, it continues by stating how at 6 Cadwin Field they have been able to settle. It also points out that failure to grant planning permission would have a detrimental impact upon the education of her children, as well as leaving her unemployed and her family homeless. These considerations carry some weight in favour of the application.

Conclusion

59. The site by virtue of its location and the mature landscaping within the site will have very little impact upon the visual appearance of the local area. The unmet need for gypsy and traveller sites within the district and the applicant's personal circumstances carry weight in favour of the application. The potential delivery of at least one new site within the next 18 months diminishes the weight to be given to unmet need
60. 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

61. 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

62. Approve subject to the following conditions:
1. The development hereby permitted shall be carried out in accordance with the following approved plans: SC-01, SC-02, SC-03, SC-04, SC-05, SC-06, SC-07 and SC-08.

(Reason - To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.)

2. The residential use, hereby permitted, shall be restricted to the stationing of no more than one mobile home, two touring caravans and one day/utility room.

(Reason – To ensure that there is no adverse pressure on local infrastructure created by further people living on site.)

3. The use, hereby permitted, shall be discontinued and the mobile home, caravans and day/utility room, 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 and the mobile home and caravans, hereby permitted, shall not be occupied other than by the applicant and her immediate family and any dependant living with them.

(Reason - The applicant and her family are local travellers and the permitted use would not normally be granted on this site because it would be contrary to Policy DP/7 of the adopted Local Development Framework 2007. Occupation by other persons would not amount to special circumstances for permitted development in this location.)

5. The site and the mobile home, touring caravan and day room, hereby permitted, shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of 'Planning policy for traveller sites (March 2012)' there immediate family and any dependant living with them.

(Reason – To ensure the pitch meets the continued need of the gypsy and traveller community within South Cambridgeshire District Council.

6. 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

7. No commercial activities shall take place on the land, including the storage of materials.

(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.)

8. 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.)

9. The site shall cease to be occupied and the land returned to its former condition within 28 days in the event of failure to meet the requirements set out in (i) to (iv) below:

- (i) Within 1 (one) month of the date of this decision, full details of the proposed septic tank shall have been submitted for the written approval of the local planning authority.
- (ii) Within 9 months of the date of this decision the septic tank details shall have been approved by the local planning authority or, if the local planning authority refuse to approve the schemes, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development schemes shall have been approved by the Secretary of State.
- (iv) The septic tank shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority.

(Reason - To ensure the causes minimal harm to the character of the local area in accordance with Policy NE/10 of the adopted Local Development Framework 2007.)

10. The site shall cease to be occupied and the land returned to its former condition within 28 days in the event of failure to meet the requirements set out in (i) to (v) below:

- (i) Within 2 months of the date of this decision a detailed scheme, including a timetable for its provision, for the investigation and recording of contamination and remediation objectives for the site determined through risk assessment and proposals for the removal, containment or otherwise rendering harmless any contamination (the remediation method statement) shall have been submitted for the written approval of the local planning authority.
- (ii) Within 10 months of the date of this decision the scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development schemes shall have been approved by the Secretary of State.
- (iv) The works specified in the remediation method statement shall be completed, and a validation report submitted to and approved in writing by the Local Planning Authority, in accordance with the approved scheme.
- (v) If, during remediation works, any contamination is identified that has not been considered in the remediation method statement, then remediation proposals for this material should be agreed in writing by the Local Planning Authority.

(Reason - To ensure that risks from land contamination to the users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other

offsite receptors in accordance with Policy DP/1 of the adopted Local Development Framework 2007).

Informatives

The application should be aware that any pollution to the water environment may lead to prosecution.

Manure heaps must not be located within 10m of any ditch or watercourse or within 50m of a well, borehole or spring. Any resulting pollution may lead to prosecution. Liquid and solid animal/vegetable wastes and associated contaminated waters shall be stored and disposed of in a manner that will not lead to pollution of surface or underground waters.

Any stable waste retained on site prior to disposal should be stored on a sealed concrete pad, not discharging to surface or ground water.

Any slurry, washdown water and contaminated surface water should be designed in accordance with Defra "Code of Good Agricultural Practice for the Protection of Water" for subsequent site disposal. Details can be found on the Defra website.

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/1188/12FL**
- **Gypsy and Traveller Needs Assessment Internal Review. Report to Housing Portfolio Holder 13 June 2012**

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