

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

3 October 2012

AUTHOR/S: Planning and New Communities Director

S/1188/12/FL – WILLINGHAM

Continued Use of site as gypsy traveller pitch (permanent) including erection of replacement day room at 2 Cadwin Field, Schole Road for Mrs L Homes

Recommendation: Delegated Approval

Date for Determination: 7 August 2012

Notes:

This Application has been reported to the Planning Committee for determination because as the Parish Council's recommendation of refusal conflicts with Officers' recommendation

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 approximately measures 0.07 hectares. To the north and south of the site are existing caravan pitches. To the west of the site is an agricultural field and to the east is the lane of Cadwin Field. Beyond Cadwin Field is an agricultural field. The site is on Grade 1 Agricultural Land (Excellent Quality Agricultural Land). Existing mature trees are located between the site and the fields to the west and the lane of Cadwin Field and the field to the east.
2. The history of the site indicates that the site was used as a scrapyards before the granting of consent for mobile homes.
3. The existing site has one static caravan, one mobile caravan, one dayroom, toilet/bathroom block and associated garden structures. The applicant and her eight children live on site. The school aged children are between 7 – 15.
4. The proposal seeks to make permanent a gypsy/traveller plot with the erection of a dayroom following the demolition of the existing toilet/bathroom and dayroom. While this application is a standalone consent, the agent has commented on the proposal in relation to the temporary consent of S/1134/09/F.

Planning History

On site

5. **S/2229/90/F** – Proposal for two caravans was refused on grounds of harm to countryside and was not to the benefit of agriculture.
6. **S/1645/05/F** – Siting of one mobile home and one touring caravan was granted temporary consent until 4 October 2009.

7. **S/1134/09/F** – 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.

Nearby relevant planning applications

8. **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.
9. **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.
10. **S/1590/12/FL – (6 Cadwin Field)** Full Planning Permission for one mobile unit, two touring caravans, one day room/utility room and stables/hay shed is on the October Planning Committee with an officer recommendation of approval.
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** – Willingham Parish Council recommends refusal for permanent consent on the grounds that this (and similar) applications should form part of the current gypsy and traveller site consultation being carried out by South Cambridgeshire District Council.
26. **Environment Agency** – The Environment Agency states that the site is adjacent to an Awarded Drain under the jurisdiction of South Cambridgeshire Council.
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, on the basis that the site is established and the application is for continued use, the Agency has no objection in principle. 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 applicant should be made aware that any pollution to the water environment may lead to prosecution.
28. **Drainage Manager** – Confirms that there are no surface water issues that are of concern regarding this development.
29. **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. Whilst the site is covered in hardstanding this is unlikely to pose a risk to site users. However, should the hardstanding be removed for any reason it would be beneficial to undertake analysis of soils samples to check for contamination.
30. **Local Highways Authority** – Confirms that Schole Road is not a public highway.
31. **South Cambridgeshire Neighbourhood Sergeant** – The Police Officer states that although the road is in a bad condition generally, this will not impede their response times significantly. In the case of responding to emergency incidents, 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.
32. **Traveller Site Team Leader** – The Traveller Site Team Leader states that the family have been resident on this site for some years now with children at school and are established within the community. They wish to improve their pitch if given permanent permission and this can only be good thing. The Traveller Site Team Leader states that they have no reason to object to permission being granted.
33. **Landscape** - The Landscape Design Officer states that the current landscaping is mainly established Leylandii hedgerows, off site to the east and west of plot 2. However, these Leylandii hedges are degrading over time and gaps are starting to appear as they become more difficult to maintain. Some further landscaping is likely to be needed to replace the Leylandii as they gradually fail, to maintain a setting for the development and provide some shelter from wind.
34. Plot 2 is currently covered by a compacted stone and gravel surface. Beneath this layer the ground and soils at Plot 2 may suffer from contamination due to its previous use as a scrap yard. If any area of the site is intended to be used as a garden area, or if areas of the site are excavated exposing and disturbing the ground,

the exposed soils will require testing for contaminants, and removed to an appropriate disposal site if shown to be contaminated..

35. The Landscape Design Officer goes on to state that any planting should aim to reduce disturbance of the site and soils. Planting should aim to provide a replacement for the existing planting as it fails. Slit planting will be preferable as this will minimise disruption to the soil – Remove 500mm strip of gravel and stone sub base to expose soil – plant whips in slit trenches and firm – pull back gravel (not the sub-based stone) around planting to cover soil and act as a mulch. Some extra fine gravel may be needed.
36. The Landscape Design Officer also suggests some planting species.

Representations by members of the public

37. No representation received

Material Planning Considerations

38. The key issues to consider in this instance are:
- The Development Plan
 - Principle of Development
 - Visual Impact
 - Residential Amenity
 - Water Pollution
 - The general need for, and availability of, additional gypsy sites
 - The applicants' personal needs and circumstances
 - Human Rights

The Development Plan

39. 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).
40. 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.
41. 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

42. 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.
43. The Gypsy and Traveller DPD Issues and Option 2 (consultation July 2009) commented that this plot was sufficiently close to enable walking to access services and facilities within the village.
44. In the event that 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. The applicant has agreed to this in the event that the permanent permission is granted and the Council's Legal Department are currently working on drafting the S106 Agreement.
45. The Police Force has stated that the condition of the road 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.
46. It is considered that the proposed development does not raise fundamental concerns in regards to sustainability issues.

Visual Impact

47. 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.
48. The current landscaping that benefits the site is on land outside of the applicant's ownership. The mature Leylandii tree rows that are located to the east of the Cadwin Field lane and to the west of the site are slowly dying. This in the future will leave the site open and it also has to be noted that the landowner of these trees could remove them at any given time without requiring consent from the Council. The Local Planning Authority, therefore, needs to take these factors into account. The developer

has commented that landscaping to the north and south only needs to be minimal with more significant planting on the eastern side of the site.

49. 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. A significant landscaping scheme will be difficult to achieve on this site due to the Leylandii trees on the western boundary taking most of the nutrients out of the soil and that any work on site could lead to people coming into contact with contaminated soil by virtue of the removal of the hardstanding. However, the Landscape Officer, taking into account the potential for contaminated land has suggested a reasonable way to provide landscaping on site. In the event of the application being given permanent approval, a landscaping condition could be added.
50. 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

51. 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. It is noted that condition 3 and 4 of planning permission S/1134/09/F seek to prevent potential disturbance to adjacent properties, with no objection from the developer to these conditions it is considered that these can be carried forward on to any new consent.
52. It is noted that without nearby landscaping, during high winds there would be little shelter for the occupants of the site. However, the landscaping condition mentioned above will help to minimise any disturbance.

Water Pollution

53. 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.
54. 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

55. 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.
56. 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.
57. 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.
58. 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

59. The developer has submitted confidential information that includes supporting documentation from The Cottenham Academy and Willingham Medical Practice that both advocate that if the applicant had to move there would be detrimental harm to the education and health of a child. The County Council Senior Education Welfare Officer states that the present stable situation is to the benefit of the children's education and that if the family was forced to move it would be detrimental to the children's continued education.
60. It is, therefore, considered that the applicant has at least proven the case for an additional temporary consent in order to allow for the children to continue benefiting from education and health facilities. With a permanent consent, untied to an individual, there is no guarantee how long the applicant will be living on site. However, refusing the application would significantly harm the education and health to a child and it is for this reason that weight should be given to this consideration.

Conclusion

61. The proposal by virtue of its location and form, excluding the adjacent mature trees, will cause some limited harm to the rural character of the local area, this harm in itself is not sufficient to warrant refusal. No other conflict with the development plan has been identified. 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 needs.
62. 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

63. 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

64. It is recommended that the Planning Committee should grant permanent consent 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 and SC-04.
(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, one touring caravan and one dayroom.
(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, caravan and dayroom, 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, 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.

5. 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

6. 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.)

7. 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.)

8. 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.)

Informatives

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

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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