

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Planning Committee

7 November 2012

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

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### **S/1465/12/FL - WILLINGHAM**

**Change of Use of land for two gypsy pitches (Pitch 1 - 3 mobile homes and 2 utility/toilet blocks. Pitch 2 - 6 mobile homes, 2 touring caravans and 1 utility/toilet block) at Foxes Meadow, Priest Lane for Mr Bill Coates**

**Recommendation: Temporary Approval**

**Date for Determination: 20 September 2012**

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

### **Site and Proposal**

1. The application site is located to the east of the village of Willingham, beyond the designated village framework. It forms an area of land measuring 53m by 40m, accessed from the north boundary from Priest Lane. The plot is physically divided into two, each with a separate access, although it is possible to walk between the two. At the time of the site visit, there were three mobiles on the site, with six touring caravans and three utility/toilet blocks.
2. The north boundary of the site is a 0.8m high fence, with a hedgerow approximately 1.6m in height running its full length. The west boundary is a continuation of this hedgerow, separating the site from the adjacent paddock land. There is a small bosky area further west. To the south of the site are stable buildings, and there is a vehicular access through the site to these buildings. The southern boundary consists of a hedgerow and 1.8m high fence. The eastern access continues to a hay store outside of the application site, with a row of conifers 2m in height running along the east side of this access.
3. The full application, validated on 26 July 2012, seeks the permanent change of use of the site into two pitches. Pitch 1 would consist of three mobile homes and two utility/toilet blocks, and pitch 2 would consist of six mobile homes, two touring caravans and one utility/toilet block. The applicant has confirmed that should planning permission be granted, existing touring caravans will be replaced by mobile homes.

### **Planning History**

4. Application **S/1844/09/F** was granted consent on the site for the change of use of the land for the siting of five mobile homes, four touring caravans and three toilet blocks at Planning Committee on 7 April 2010. This was granted a temporary consent expiring on 18 August 2012, and there is a personal consent for Mr Coates and his immediate family and dependants. This follows

previous applications granted temporary permission (**S/1857/06/F** and **S/2416/02/F**).

### **Planning Policy**

5. **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.
6. 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.
7. 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.
8. **East of England Plan 2008 (RSS)**  
**H3** Provision for Gypsies and Travellers
9. **South Cambridgeshire Local Development Framework Core Strategy 2007**  
**ST/5** Minor Rural Centres
10. **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
11. **South Cambridgeshire Local Plan 2004 (Saved Policies)**  
**CNF6** Chesterton Fen
12. **Gypsy and Traveller DPD (GTDPD)**  
The site was supported 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 ran 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.

13. 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.
14. 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**

15. **Willingham Parish Council** makes no recommendation.
16. The **Local Highways Authority** recommends conditions regarding access width, pedestrian visibility splays, drainage onto the public highway, materials for the access, and the location of gates. An informative regarding works to the public highway is also recommended.

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

17. Comments have been received from the occupiers of **25 Wilford Furlong**. The site is raised from the adjacent land, increasing flood risk. There is no objection to a continuation of a temporary permission for the existing residents only.

#### **Material Planning Considerations**

18. 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.
19. 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*

20. 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).

21. 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.
22. 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.
23. 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 Priest Lane comes to an end. It is viewed in isolation from any other Traveller sites, and sits adjacent to a number of agricultural buildings. 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. There are limited long range views of the site given planting in the area and around surrounding fen roads. The site is set on slightly higher ground than the road, so it is visible above the surrounding hedgerow, but this does provide a pleasant green screen to the site.
24. The site was supported in the Issues and Options 2 Consultation July 2009 due to its landscape impact. This concluded that the "urban frontage" of the site does give the potential for adverse effects on the landscape character, but this can be mitigated through appropriate planting. The hedgerow around the site has increased in height since that time, and therefore the potential impacts have been significantly reduced. Given the layout of the site, there is little opportunity for effective further planting to screen views. However, the existing hedgerow is considered to be an appropriate form of screening.
25. 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. Priest Lane is a narrow road with passing places to allow vehicles to pass safely. The comments from the Local Highways Authority are noted. The access has been in position for a number of years, with the gates set back an adequate distance. Visibility is good given the grass verge in the area. The recommended conditions are not considered necessary in this instance.
26. 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.

27. 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 not confirmed his stance with regard to these payments at this stage, and they are not considered justifiable for a temporary permission.

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

28. 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.
29. Since 2011, a total of ten 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 29 pitches (65 – (10 + 26)) for which permanent sites need to be identified. There are currently 67 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.
30. 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.
31. 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.

*The applicant's personal needs and circumstances*

32. The applicant, Mr Coates has lived on the site for ten years with his wife. He has also lived in Cambridgeshire for 66 years. Also on the site relatives Mr

and Mrs Brown, live with their two sons, both of whom are married and have three and four children respectively. Four children are at primary school, whilst the remaining three are too young at this time. All residents at the site are registered at the Willingham Surgery.

#### *Conclusion*

33. The site is not considered to cause harm to the surrounding countryside. The lack of suitable alternative sites and the family's general needs with regard to local facilities 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.
34. 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 in line with a number of other planning permissions recently granted by the Planning Committee.

#### *Human Rights Issues*

35. 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).

#### *Other Matters*

36. There is local concern regarding flood risk. The site is within flood zone 1 and therefore no flood risk assessment is required as part of the application. The site does sit on raised ground, and there may be some displacement of water onto lower ground. However, given the permeable nature of the site, such displacement should be minimal.

#### **Recommendation**

37. Approve, subject to the following conditions.
  1. **This permission does not authorise use of the land as a caravan site by any persons other than gypsies and travellers as defined in Annex 1: Glossary of 'Planning policy for traveller sites (March 2012)'**  
(Reason - The site is in a rural area where residential development will be resisted by Policy DP/7 of the adopted Local Development Framework 2007 unless it falls within certain limited forms of development that Government guidance allows for. Therefore use of the site needs to be limited to qualifying persons.)
  2. **The use, hereby permitted, shall be discontinued and the mobile homes, caravans and amenity buildings, hereby permitted, shall be**

**removed and the land restored to its former condition on or before 31 March 2014 in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.**

(Reason – In accordance with the advice in “Planning policy for traveller sites”, the Council is actively seeking to identify new sites for travellers and on a without prejudice basis to a permanent consent on this site, a further time limited consent will enable the Local Planning Authority to bring forward sites to help meet the existing unmet need.)

**3. The residential use, hereby permitted, shall be restricted to the stationing of no more than three mobile homes and three utility/toilet blocks on pitch 1, and six mobile homes, two touring caravans and one utility block on pitch 2.**

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

**4. 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.)

**5. 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.)

**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 - 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.)

**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/1465/12/FL, S/1844/09/F, S/1857/06/F and S/2416/02/F.
- Gypsy and Traveller Needs Assessment Internal Review. Report to Housing Portfolio Holder 13 June 2012

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