

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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

7 November 2012

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**S/1963/12/VC - WILLINGHAM**  
**Variation of Condition 1 of application S/1073/09/F to allow permanent occupation of land - 3, Longacre, Meadow Road for Mr Arthur Brown**

**Recommendation: Approval**

**Date for Determination: 13 November 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 is a rectangle parcel of land measuring approximately 27m by 19m, located to the southern side of Meadow Road. The site is outside of the designated Willingham village framework, and therefore in the countryside in policy terms. Access is achieved from Meadow Road to the western part of the site.
2. The site sits behind two pitches (known as 1 Longacre and Longacre), both of which have permanent consents, although the frontage plot has a personal consent. The shared boundary with Longacre is a 1m high post and mesh fence with a hedgerow growing above. To the south is a plot of land currently unoccupied and without any planning permission. The boundary is a 1.8m fence. To the east is a larger plot known as Beaumont Place recently granted temporary consent until 31 March 2014, the shared boundary being a 1.8m fence with good planting within the adjacent plot. Land to the west has a permanent personal consent. There is a hedgerow that makes up the remaining part of the west boundary south of the access. At the time of the officer site visit, there was one mobile home and two touring caravans on the site, along with a summerhouse and two small outhouses.
3. The application, validated on 18 September 2012, seeks to vary condition 1 of application S/1073/09/F, which restricted occupation of the site until 31 October 2012. The applicant has specifically requested a permanent consent.

### **Site History**

4. Application **S/1073/09/F** granted a temporary consent on the site, which expires on 31 October 2012. Prior to that time, the site has a long history of traveller applications, the last being in 1995. Applications have been approved and refused on the site.

## **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** recommends refusal given the requirement for clarity on proportionality. If supported due to the applicants health problems, a temporary consent only should be granted.

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

16. None have been received at the time of writing. Members should be aware the site notice does not expire until 2 November 2012, and Members will be updated on any representations received.

#### **Planning Comments**

17. 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.

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*

18. 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).
19. 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.

20. 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.
21. The site lies at the junction of the Cambridgeshire Claylands and the Fens Landscape Character Areas and is well divorced from the eastern edge of the village to the west, where the nearest built form is the properties along Spong Drove. It is the centre plot of the middle "row" of development in the vicinity. It is surrounded by permanent and temporary pitches, with the land directly south currently undesignated, although it is now the subject of a new application.
22. Given its location to the west side of the grouping of pitches, the site is visible from Meadow Road. Longer views along this road are screened by the hedge that forms the western boundary of the adjacent field. A brick wall with railings above forms the western boundary, and there is no space for landscaping beyond this as the access track runs against this wall. This boundary treatment does provide an urban feature for the site. However, views from Meadow Road are more acute given the hedge to the west. There is some planting to the southern section of the east boundary of the site, which continues across part of the southern boundary. This does provide some greenery on the site. The existing buildings along the eastern boundary are also agricultural in nature, and what could be expected in this agrarian setting. The site was supported in the Issues and Options 2 Consultation July 2009 due to its lack of landscape impact, and the summary states "views of the site from the wider landscape are already limited". The proposal is not considered to cause any significant landscape harm.
23. 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.
24. Policy SF/10 seeks all residential developments to contribute to infrastructure in the village to meet the demand for public open space, sport and recreation facilities and other community facilities such as community centres and youth facilities. Given the recommendation of a permanent consent with a personal condition, it is considered the circumstances of the applicant (see below) are such that no such contributions are required in this instance.

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

25. 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.

26. 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.
27. 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.
28. 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*

29. The applicant has been living on the site for over ten years, and resides on his own. He is suffering from serious health issues. Following a stroke in 2006, he is unable to walk and is paralysed along his left side. He requires constant care and support, and is fully reliant upon this. The mobile home has been adapted accordingly, with a full ramp and wheelchair lift in place. A carer visits twice a day, and the applicant is also reliant upon family, including his ex-wife, who lives on the adjacent site. Carers have used the touring caravans for accommodation while on the site.
30. If Members were to refuse the application, the applicant would have nowhere to live. He is unable to access a standard caravan and therefore cannot move to another plot. Following his stroke, he did reside within a nursing home but struggled to live in that environment.

### *Conclusion*

31. The site is not considered to cause harm to the surrounding countryside. The lack of suitable alternative sites and the applicant's general needs with regard to local facilities and reliance upon local family carries significant weight in favour of the proposal. As a result, a permanent consent is recommended with a personal consent for the applicant. A temporary consent is not considered appropriate in this particular case.

### *Human Rights Issues*

32. 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**

33. 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 occupation of the site, hereby permitted, shall be carried on only by Arthur Brown and his residential dependants.**

(Reason – To ensure the pitch meets the continued need of local people for whom an established need has been recognised.)

- 3. The residential use, hereby permitted, shall be restricted to the stationing of no more than one mobile home, two touring caravans and the existing utility building.**

(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/1963/12/VC and S/1073/09/F**
- **Gypsy and Traveller Needs Assessment Internal Review. Report to Housing Portfolio Holder 13 June 2012**

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