

**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

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**REPORT TO:** Planning Committee

5 December 2012

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

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**S/1621/12/VC - WILLINGHAM**

**Removal of Condition 1 of planning permission reference S/1692/11 to allow the permanent siting of two gypsy mobile homes – The Oaks, Meadow Road, Willingham, Cambridge, Cambridgeshire, CB24 5JL for Mr T Buckley**

**Recommendation: Minded to approve**

**Date for Determination: 18 October 2012**

**This application has been reported to the Planning Committee following an appeal against non-determination. The Planning Committee is required to advise what its decision would have been had it been in a position to determine it. This decision will inform the Council's position at the appeal hearing.**

**To be presented to the Committee by John Koch**

**Site and Proposal**

1. The Oaks is a rectangular parcel of land, measuring approximately 0.5 ha, located on the north side of Meadow Road. It lies outside the defined village framework and sits within a generally flat and open fen-edge landscape. The site is surrounded by mature hedgerows except at the point of access where a driveway runs in a northerly direction for around 200 metres along the full length of the site. The site lies in flood zone 1 (low risk).
2. The northern side of Meadow Road is generally undeveloped consisting of arable fields. In contrast, the land immediately to the south of the site is occupied as lawful gypsy pitches. Some 750 m to the east is the former local authority site that was closed in the mid-90s and has now largely fallen into disrepair.
3. Permanent planning permission is sought for two mobile homes, notwithstanding that since February 2009 a third has been stationed at the front of the site. The site is occupied by Tom Buckley and his extended family and comprises Mr Buckley's log cabin and utility unit sited immediately behind the hedge fronting Meadow Road; a touring caravan sited some 50m back into the site and occupied by his niece Rose Buckley; and a mobile home occupied by his daughter sited close to a group of stables around a courtyard at the rear of the site. There is also an additional barn close to the stables. The applicant's agent has confirmed that the two mobile homes that are the subject of the application are for Mr Buckley's daughter and niece.
4. Two additional plots (Plots 2 and 3) in the middle of the site have recently been sold to and occupied by two separate families. These have since been vacated and the caravans and associated buildings removed.

## Planning History

5. In 1989, planning permission was first granted for use of the land as an equestrian centre and in 1994, planning permission was granted for stables and ancillary building works..
6. The applicant purchased the site in 2001 and it became apparent in 2002 that he was living in a mobile home and caravan on the site. A subsequent planning application for a mobile home was refused and an enforcement notice requiring residential use to cease and for the mobile home and caravan to be removed was issued in March 2003. An appeal against the notice was dismissed on 4 November 2003. The notice was subsequently found to have been complied with, but the site was subsequently reoccupied.
7. The site, in common with several other parcels of land in the surrounding area, was subject to a pre-emptive injunction granted in December 2007. This prevented the stationing of caravans and mobile homes. Nonetheless, a further planning application for residential use (ref: **S/1243/08/F**) was submitted in 2008. The Council's Planning Committee approved temporary planning permission for the siting of two gypsy mobile homes (then positioned to the rear of the site) on 11 September 2008. This permission was extended under application ref: **S/1692/11** for a further period which expired on 30 October 2012. The reason given for a further temporary permission was to enable the Council to bring forward a site allocations policy and assess the impact of this and other sites on the village of Willingham. The permission was for the siting of two gypsy mobile homes, although the positions of these were not fixed by the terms of the consent. The permission also restricted occupation to Tom Buckley and his wife and their resident dependents.
8. Permanent planning permission (ref: **S/2065/10**) to station four caravans on the land was refused in March 2011. A further application to authorise Plots 2 and 3 as a long-stay caravan site was refused and dismissed at appeal on 30 October 2012. That decision clearly has a bearing on the outcome of this latest application and has been summarised as part of the information Items elsewhere on the Committee agenda.
9. An application for a lawful development certificate (ref; **S/0724/09/LDC**) to ascertain that the existing mobile unit at the front of the site constitutes a mobile home is undetermined, but is unlikely to be refused.
10. There are numerous other sites in Willingham with the benefit of either temporary or permanent planning permission. Members will recall determining several applications at both the October and November meetings, which had the benefit of temporary consents and for which permanent permission was now sought. In the event, three permanent and six temporary (for a period of 18 months) pitches were granted. Three of the six temporary permissions have now been appealed on the basis that permanent permission should have been granted. Decisions on these appeals are unlikely before March 2013.

## Planning Policy

11. **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 Ipa'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.

12. 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.
13. 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.
14. **East of England Plan 2008 (RSS)**  
H3 Provision for Gypsies and Travellers
15. **South Cambridgeshire Local Development Framework Core Strategy 2007**  
ST/5 Minor Rural Centres
16. **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
17. **South Cambridgeshire Local Plan 2004 (Saved Policies)**  
CNF6 Chesterton Fen
18. **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 was undertaken from 12 July to 28 September 2012 and is intended to 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.
19. 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.

20. 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.

### **Consultation by South Cambridgeshire District Council as Local Planning Authority**

21. **Willingham Parish Council** originally responded on 14 August 2012 stating it made no recommendation as it did not have all the information it needed and felt it would be best to defer to the expertise of the officers at SCDC.
22. Further comments submitted by email on 24 August state:  
“During a very extended public forum the 4 representatives for the application pleaded quite vocally that a rejection of their plan would leave them homeless and were also extremely robust in their claim that they had totally complied with all requirements. On top of these claims new factors were then introduced such as the equestrian centre and wanting to totally move the business to the site.
23. As a result of the extended public forum the meeting was overrunning significantly and the Council, aware that the case file documentation was extensive and relatively complex with past legal involvement, took the view that without an up to date case summary they should not make an immediate recommendation but should instead seek the input from the professional advisers at SCDC. It was made clear to the representatives at the time that the decision the Parish Council had made neither indicated approval or rejection.
24. The **Environment Agency** has no objection in principle.
25. The **Old West Internal Drainage Board** objects until a suitable scheme for surface water disposal is received.
26. **Travellers Liaison Officer.** Mr and Mrs Buckley have resided on this land for some years and within the Willingham community for many more and I would support their application for their permission to be made permanent. There is still a need for Gypsy and Traveller pitches in South Cambs and it seems sensible to make permanent a site that exists within an area of other pitches and sites.
27. No response has been received from either the **Local Highway Authority** or the **Landscape Officer**

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

28. None received.

## **Planning Comments**

29. Having regard to information provided as part of this and previous applications, 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.
30. 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; and
  - Human Rights Issues

## **The Development Plan**

31. 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 lpa's to make their own assessment of need rather than relying on a regional target (see below).
32. 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.
33. 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.
34. The principal concerns in this case are the impact on the character and appearance of the area and the capacity of the village to accommodate further permanent traveller sites.
35. The site lies at the junction of the Cambridgeshire Claylands and the Fens Landscape Character Areas and is well divorced from Rockmill End and the harsh eastern edge of the village to the west. The land is not designated or protected, although it is not brownfield land. Meadow Road is well hedged on both sides as are the majority of the mixture of small to medium-sized fields that surround the site. There are a number of long-distant views across the landscape, although views in to the site from Meadow Road are restricted, even in winter, to that only at the point of access. Views from Rockmill End

and Spong Drove to the west are very limited. The log cabin at the front of the site is largely invisible from Meadow Road, save for part of its roof. The caravan positioned close to the front of the site is clearly visible, however, and blocks views into and across the site. The mobile home towards the rear of the site can only be seen when on the site.

36. The site assessment undertaken for the Issues and Options 2 Consultation exercise in 2009 concluded that "If the site was maintained as a small single pitch set back from the road, with a small number of caravans integrated with the existing development on the area identified, the wider impacts would be limited. The development around the existing stable block is well screened by hedges and scattered mature trees. The paddocks down to the south of Meadow Road are more open and development would have a greater impact on the open landscape in this area, with potential impacts in combination with the pitches on the opposite side of Meadow Road. The option has therefore been identified as the area around the existing (stable) buildings only".
37. That assessment has not changed. While the applicant has confirmed which mobile homes are the subject of this permission, their relative positions are not fixed. The mobile home at the front of the site in particular has the potential to significantly reduce the existing level of openness. This is a distinctive feature of land to the north of Meadow Road and worthy of protection. The presence of mobile homes and associated paraphernalia also urbanises the appearance of the site, contrary to the otherwise extremely rural setting of the northern side of Meadow Road. This is in stark contrast to the south side of Meadow Road where the presence of caravans and mobile homes has fundamentally altered its former mainly rural character. Approval of mobile homes other than at the rear of the site serves to extend that urbanisation further into the countryside.
38. In dismissing the appeal in 2003, the inspector concurred with the Council that the then siting of a mobile home and a portable unit midway along the driveway and close to the western boundary would be visually intrusive and out of place. However, the existing locations are materially different and since that time the boundary hedges have grown and now present a more significant screen. As such, the appeal decision carries little weight in the present case.
39. The recent appeal decision for Plots 2 and 3 involved development in the centre of the site where the impact on openness was more apparent. That decision does not automatically mean that any development on the site is unacceptable. However, the inspector confirmed the Council's concerns that development would be at odds with the prevailing character of the countryside.
40. Approval of the existing mobile homes would therefore unduly prejudice the distinctive fen-edge character and the openness that prevails on this side of Meadow Road. In the circumstances, the continued use of the site is considered to conflict with Policies NE/4, DP/2 and DP/3 that seek to preserve or enhance the character and appearance of the local area and countryside and to protect landscape character.
41. The sustainability of the site has already been assessed as part of the background work for the emerging DPD. That has concluded the site is relatively close to the edge of Willingham and is sufficiently close to enable

pedestrian access to the wide range of services and facilities in the village and the nearest bus stop. Although Meadow Road has no footway, it is lightly trafficked. The access into the site has been widened and hard surfaced in accordance with the condition attached to a previous temporary planning permission. Concerns re surface water drainage on the site have been raised in earlier applications and no objections raised.

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 11 authorised pitches and 10 pitches with temporary or lapsed temporary planning permission. An emergency stopping place on the former local authority site is understood to have been vacated. The relevant pitches are located in relatively close proximity to one another and PPTS states that the scale of sites should not dominate the nearest settled community. This has been an issue of significant concern to the parish council (although it is noted that it has not raised this as an issue in this particular case). The grant of a permanent consent will only add to the frustration caused by additional demands on the village's services and facilities, although in this case the applicant has been living in the village for some time and those demands, such as they are, already exist. As such, the Parish Council's concern is not supported by evidence sufficient to warrant refusal on these grounds.
43. However, in the event that permanent 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. This is in accordance with policies DP/4 and SF/10. The applicant's agent has responded that based on income, it would be very difficult for either Rose or Phoebe to afford any financial contribution towards infrastructure. Similarly, Mr and Mrs Buckley receive working tax credit and their annual joint income is under the threshold for tax payments. It is unlikely that they could afford any financial contribution.

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

44. 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.
45. Since 2011, a total of 13 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 26 pitches (65 – (13 + 26)) for which permanent sites need to be identified for the period up to 2016. There are, however, currently 65 pitches across the district with temporary planning permission and while there can be no certainty which of these will be turned into permanent permissions, there is a reasonable expectation that some of

these will be approved, thus further reducing the overall identified shortfall in pitches.

46. 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). The two public sites at Milton and Whaddon have remained full with waiting lists of at least a year. However, The Council has secured HCA funding to refurbish the site at Whaddon which also provides for the addition of two new pitches. Government funding has also been secured for the purchase and refurbishment of an 8-10 pitch site at Meldreth. If this is approved, the site may be available within the next 18 months. The delivery of this site would clearly help meet some of the outstanding unmet need.

### **The applicant's personal needs and circumstances**

47. Tom and Susan Buckley are in their late 50's and occupy the frontage log cabin, while their daughter Phoebe occupies the mobile home close to the stables, which she uses as part of her career as a successful equestrienne. They state they have lived on the site for 12 years and in Meadow Road for 26 years. They were born in the area and previously lived on the opposite side of Meadow Road. They purchased their present site to provide space and stabling for their daughter's horses. They have also brought up Rose Buckley who lives in the other mobile home with her two children aged 2 and 4. The oldest attends Willingham primary school and has a speech problem which one of the teachers is said to be trained to help him. The other child is in nursery school. Rose Buckley is a single parent and is said to earn a little money breeding dogs (twice a year). Her other income comprises working tax credit.
48. They also state that living with a temporary planning permission is stressful, not knowing if they will be evicted at some point. Mrs Buckley works as a part-time cleaner and as a support worker for social services. Tom Buckley works locally as a landscape gardener. Their daughter relies on the land to keep her horses and needs a settled base to continue her career. The family say they could not live in a house.
49. 3 letters of support have been received. These support the good work Mrs Buckley has done in her role with Social Services and disadvantaged children; the horse-riding talents of Phoebe Buckley; and Mrs Buckley's services as a cleaner. Copies of these letters are available on the case file.
50. While no health considerations have been made, the family's personal circumstances and longstanding local connection still carry some weight. Members need to consider how much weight should be given to Mr and Mrs Buckley's personal circumstances given that their own occupation of the site is not part of this application.

### **Conclusion**

51. The continued use of the site and siting of mobile homes has the potential to be harmful to the existing distinctive and open landscape character. This could be ameliorated by suitable planting, although the end result would be a loss of openness contrary to landscape character. To this end the proposal is contrary to Policies DP/2, DP/3 and NE/4. The site is in a generally



sustainable location and would continue to assist the occupants with employment, educational and general needs. The lack of suitable alternative sites also weighs in favour of the proposal, although the potential delivery of at least one new site within the next 18 months diminishes the weight to be given to unmet needs.

52. A site allocations policy has not been delivered. The existing advice in Circular 11/95 regarding repeat temporary consents is also pertinent. Despite this, the most recent permissions granted by the Planning Committee have once more been on a temporary basis, save for three which have been given permanent consent due to the personal circumstances advanced by the applicants in each case. Significantly, in each of those cases, the Planning Committee concluded that there was no landscape harm or other material conflict with the development plan.
53. The identified harm leads to the conclusion that permanent planning permission would not be appropriate, unless this is outweighed by the general need for sites and/or the occupants' personal needs and circumstances. Those considerations would carry more weight if permission was to be made personal to the occupants. The available options would seem to be either refuse planning permission outright, in which case the original enforcement notice would take immediate effect thus making the family effectively homeless; grant a further temporary planning permission for a period of 18 months consistent with the other recent approvals; or grant a permanent planning permission solely for the benefit of the applicant and his family.
54. While the siting of a mobile home at the far end of the site would not be visually intrusive, the permission seeks consent across the site. On balance, the harm is therefore considered to outweigh other considerations. However, given the course of action adopted by the Planning Committee with the other recent renewal of temporary planning permissions, and because the identified harm would only be for a limited period, a further temporary permission is considered appropriate in this instance.

### **Human Rights Issues**

55. 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 at the present time would not be proportionate and justified within Article 8 (2).

### **Recommendation:**

56. The Planning Committee is asked to confirm that it would be minded to 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 removed and the land restored to its former condition on or before 31 June 2014 in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

(Reason – The continued use of the land for the stationing of mobile homes and related domestic paraphernalia causes harm to the distinctive character and appearance of the surrounding countryside. The Council is actively seeking to identify new sites for travellers and on a without prejudice basis a final time limited consent will enable the Local Planning Authority to bring forward sites to help meet the existing unmet need and provide the applicant with sufficient time to acquire another site.)

3. The site and the mobile homes hereby permitted shall not be occupied other than by Tom and Susan Buckley, their immediate family and any dependent living with them.

(Reason – The continued use of the land for the stationing of mobile homes and related domestic paraphernalia causes harm to the distinctive character and appearance of the surrounding countryside. Occupation by other persons would not necessarily provide sufficient personal circumstances to outweigh that harm, even for a limited period.)

4. No more than two mobile homes, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended) shall be stationed on the site at any one time

(Reason – To minimise the visual impact of the development on the surrounding area in accordance with policies DP/3 and NE/4 of the Local Development Framework 2007.)

5. No external lighting shall be provided or installed within the site other than in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority.

(Reason -To minimise the effects of light pollution on the surrounding area in accordance with Policy NE/14 of the adopted Local Development Framework 2007.)

**Background Papers:** the following background papers were used in the preparation of this report

- **Regional Spatial Strategy for the East of England**
- **Local Development Framework Core Strategy and Development Control Policies DPD**
- **National Planning Policy Framework**
- **Planning policy for traveller sites**
- **Planning file reference S/1621/12VC**
- **Gypsy and Traveller Needs Assessment Internal Review. Report to Housing Portfolio Holder 13 June 2012**

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