

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

5 December 2012

AUTHOR/S: Planning and New Communities Director

APPEALS AGAINST PLANNING DECISIONS AND ENFORCEMENT ACTION

1. To inform Members about appeals against planning decisions and enforcement action, and proposed hearing and inquiry dates, as 23 November 2012. Summaries of recent decisions of importance are also reported, for information.
2. **Decisions Notified By The Secretary of State**

| Ref.no | Details | Decision | Decision Date |
|--------------|---|-----------|---------------|
| S/2309/11/ | Mr A Thomas 13a Taylors Lane Swavesey Loft conversion and dormer | Dismissed | 07/11/12 |
| S/1004/12/FL | Mr J Crowe 10 Chalky Road Abington Extensions | Dismissed | 12/11/12 |
| S/0220/12/FL | Lightwood Property Surrey Ltd 10 Burton End West Wickham House, Access Road, Driveway and Parking | Allowed | 20/11/12 |
| S/1725/11 | Heddon Management Ltd Land West 20 Church Street Ickleton Dwelling and Associated works | Dismissed | 22/11/12 |

3. **Appeals received**

| Ref. no. | Details | Decision | Decision Date |
|--------------|---|----------|---------------|
| S/0518/12/FL | Mrs L Brown 3 Beaumont Place Meadow Road Willingham Siting of 4 Static Caravans, 6 touring craravans (part retrospective) | Granted | 02/11/12 |
| S/1569/12/FL | Mr S Vazhappilly 29 Lucerne Close | Refused | 02/11/12 |

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| | Fulbourn 2 Storey Side Extension | | |
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4. **Local Inquiry and Informal Hearing dates scheduled before the next meeting on 9 January 2013**

| Ref. no. | Name | Address | Hearing |
|--------------|-------------------------------|-------------------------------------|---------------------------------|
| S/0440/12/F | Weston Homes (Housing) Ltd | Adjacent 7 Station Road Over | 15-17 January 2013 Confirmed |
| S/0041/12/FL | Mrs K O'Brien | Water Lane Smithy Fen, Cottenham | 12- February 2013 Offered |

5 **Summaries of recent decisions**

Mr Jess Frostick – Long-stay caravan site for two Gypsy families – plots 2 and 3, The Oaks, Meadow Road, Willingham – Appeal dismissed. Appellant's claim for costs dismissed

1. The main issue in this appeal was the effect the proposal would have on the character and appearance of the surrounding countryside. Other material considerations included the general need for and supply of gypsy and traveller sites in the district, the personal circumstances of the prospective occupants and Human Rights implications. Cllrs Manning and Corney attended and spoke at the hearing.
2. The two adjoining plots comprising the appeal site are located roughly mid-way along the field, alongside an access road. The plots were occupied by the applicants from about mid-2011 to July 2012 when they vacated the site following High Court action relating to the breach of a pre-emptive injunction taken out by the Council in 2007. This prevents the stationing of caravans and mobile homes on the land and on other land in the area.
3. Public views of the proposed development are restricted by mature hedgerows along the roadside and by field hedgerows in what is a relatively flat landscape. There is scope for landscaping, which would help to mitigate the visual impact of the site when seen from the field access or from within the field itself. However, the inspector agreed with the Council that the development would introduce relatively urban features such as mobile homes and touring caravans, along with vehicles and other operational development and domestic paraphernalia, and small enclosure sizes, within a generally open rural landscape. This would be at odds with the character of the surrounding countryside.
4. The impact of the proposal would be to significantly increase the extent of development in the field, regardless of whether the current temporary residential uses elsewhere on the site continue. While the harm due to encroachment on the countryside would be relatively small in physical terms,

the combination of the extent of development in the field and its proximity to the other existing gypsy/traveller sites directly opposite on the south side of Meadow Road would create an overall impression of the significant expansion of urban development into the countryside. Hence, the proposal would not accord with the development plan in this respect.

5. The inspector was referred to the most recent formal assessment of the need for gypsy and traveller sites in the district; the Cambridge sub-Regional Gypsy and Traveller Accommodation Needs Assessment (GTANA), published in October 2011. This leaves a need to identify permanent sites for 30 pitches in the period to 2016. He acknowledged there is an expectation that some of the 69 pitches with temporary permission will be approved as permanent pitches. In addition, the Council, in cooperation with Cambridge City Council, are in the process of planning for a large new Gypsy/traveller site, with some confidence expressed at the hearing that a site may well come forward in a reasonably short timeframe, with funding already secured from the Department of Communities and Local Government.
6. While he did not doubt that the Council is actively seeking to address under-provision, the inspector concluded there remains an unmet need. The preparation of a Gypsy and Traveller Development Plan Document, which had reached the stage of assessment of site issues and options, is no longer being taken forward, and at present the Council has no plans for traveller site allocation in advance of the adoption of its emerging Local Plan, expected in early 2016. There are no development plan policies specifically relating to Gypsy or traveller sites, so that sites that might come forward will be need to be assessed against the general development plan policies, albeit in the context of PPTS. The Council was unable to identify any available alternative sites and temporary sites that gain permanent planning permission are likely to be occupied already. There is no certainty that the Council's cooperative effort with Cambridge City Council will come to fruition. Sufficient sites may come forward within a realistic timescale to make good the existing shortfall in provision, but this cannot be relied upon. He therefore concluded that the present unmet need and lack of available sites weighed in favour of the appeal.
7. The families' health and educational needs and their need for a settled home also weighed in their favour. However, none of these factors was judged to be overriding, not least because all could be argued equally in respect of many other sites.
8. Against this, was the substantial harm to the character and appearance of the countryside and the consequent conflict with development plan policies. This was a substantial matter in its own right, and relates specifically to the present appeal site. On balance, the inspector considered that in this case the factors in favour of the proposal do not clearly outweigh its adverse impact. It followed that a grant of planning permission, even on a personal basis, was not justified.
9. The inspector also considered whether a temporary planning permission should be granted. There would still be substantial harm to the countryside, but it would not be permanent. However, based on the evidence provided by both sides, there was no clear prospect of any change in the relevant planning circumstances, any such temporary permission would have to allow for a period of several years. In those circumstances, the reduction in harm due to

being temporary would not be sufficient to tip the balance in favour of granting permission. In any event, *Circular 11/95* advises that temporary permission is normally only appropriate either where the applicant proposes temporary development, or when a trial run is needed. Neither of these applied in the present case. In all the circumstances, he considered that a temporary permission would not be appropriate.

10. The inspector considered that the protection of the public interest could not be achieved by means which are less interfering of the appellant's and prospective occupiers' rights. They are proportionate and necessary and hence would not result in a violation of rights under Article 8 of the First Protocol of the European Convention on Human Rights.
11. A further consideration was whether payments should be made towards open space and indoor community provision. The appellant had refused to agree any such payment. In principle, the inspector accepted there is a policy background and evidence to support the Council's view that financial contributions are necessary to make the proposal acceptable in planning terms. However, he noted that the standards applied are derived solely from residential housing, and the needs or impacts of Gypsy or traveller families, insofar as they may diverge from those of settled families, have not been considered. Moreover, as he understood it, the Council's decision to seek infrastructure contributions in connection with Gypsy or traveller site applications, on the basis that the demands on facilities would be no different than if permission had been granted for permanent housing, post-dates the various supporting documents. There is therefore no indication that factors such as travelling lifestyle etc, which might result in a different impact on local infrastructure from ordinary housing, have been considered in determining the need for, and appropriate level of, contribution. Neither party was in a position to put forward detailed reasoned arguments to enable him to fully consider whether the contributions met the NPPF tests. However, since he was dismissing the appeal for other reasons he did not consider it necessary to come to a firm conclusion on this matter.
12. He therefore concluded that the proposed development's adverse consequences would clearly outweigh the benefits. Accordingly planning permission should be refused and the appeal dismissed.
13. The appellant's claim for costs centred on the withdrawal of one of the reasons for refusal late in the day in order that the Council could bolster its case for seeking compliance with the injunction. The three reasons set out in the Council's decision were all the same as those given in an earlier decision, but much has changed since then, and if the second reason for refusal fell away then the other reasons could not reasonably be relied upon, especially as the Council's Landscape Officer's view was that the proposal would not be harmful, subject to appropriate landscaping. The Council's response was that the Inspector would be unlikely to support it on its second reason for refusal, and hence it did not pursue it so as not to waste time. The reason for refusal, relating to the character and appearance of the local area and the surrounding landscape, was substantiated, by reference to both local and national policy. The Council had therefore met the requirement in the Costs Circular, which requires no more than a respectable basis for its stance. The Landscape Officer's comments that he would not object to the use subject to a landscaping scheme, was made in the context of earlier government advice

which took a less strict view of new traveller development in the countryside than the current national policy on traveller sites.

14. The inspector concluded that the essence of the applicant's case was that the harm to the countryside, of itself, did not justify withholding planning permission. To a large extent this relied on the Landscape Officer's comments on an earlier application, which related to a greater degree of development. The inspector found the Council's analysis of the impact of the appeal proposal to be objective and accurate, and the harm identified, with which he broadly agreed, could not, in his view, have been satisfactorily overcome by the imposition of conditions. He was satisfied that the evidence produced in its written submissions and at the hearing provided a respectable basis for the Council's stance. Regardless of the timing of the withdrawal of the second reason for refusal, it had not been argued that this led to any wasted expense in preparing for the appeal. Overall, he found that unreasonable behaviour resulting in unnecessary expense had not been demonstrated and that an award of costs was not justified.

Background Papers: the following background papers were used in the preparation of this report: None

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