

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

9 January 2013

AUTHOR/S: Planning and New Communities Director

S/0218/11 - HARSTON

Retention on a permanent and personal occupancy basis of one static caravan, one touring caravan and one mobile dayroom (variation of Conditions 1 and 2 of S/0673/07/F) - Carefield, Button End for Mr & Mrs Joe & Patricia Hedges

Recommendation: Approve Conditionally

Date for Determination: 01 April 2011

This Application has been reported to the Planning Committee for determination because approval of the proposal would represent a departure from the development plan and because the recommendation of the officers differs from that of the Parish Council.

Departure Application

To be presented to the Committee by Ray McMurray.

Site and Proposal

1. Button End is an area of sporadic residential development in the rural area and Green Belt to the north of Harston. The application site, which has an area of 0.19ha, is located in a spacious gap between dwellings known as Serotina and Apple Cottage on the north eastern side of Button End. The site contains a chalet home and mobile day room. In addition, brick walling and tall gate piers have been placed at the entrance, low-level brick retaining walling has been erected to form a garden area, timber stables and a raised patio have been developed at the rear of the mobile home, and the land beyond this to the north east of the site has been brought into use for the grazing of ponies.
2. The full application, dated 31 January 2011, seeks permanent permission for the stationing of two caravans (one static, one touring) and a mobile day room, on a personal basis as a variation of Conditions 1 and 2 of planning permission S/0673/07/F.

Personal Circumstances

3. The agent has submitted a statement that includes a summary of the applicants' personal circumstances. Mr and Mrs Hedges are Gypsies and have been living on this land for 13 years. The family has five sons, four of whom still live at home. Two attend Harston and Newton Primary School. Two work with their father carrying out landscaping/ gardening work. Mrs Hedges had a hip replacement which is still causing health problems and is being monitored. The agent for the applicants has pointed out that the educational needs of this family will continue for a considerable number of years, and that this factor should continue to carry substantial weight.

Planning History

4. Planning permission was given for one year on a personal basis to Mr and Mrs P. Osborne in 1978 for 2 residential caravans- **S/1230/78/F**. An application to retain the 2 caravans was refused in 1981 – **S/0302/81/F**.
5. The applicants first occupied the site on 2nd July 1999. In the absence of any planning permission, an enforcement notice was issued on 23rd July 1999. An appeal against the enforcement notice was dismissed by letter dated 10th January 2000. The applicants were required to cease using the land for the siting of caravans or mobile homes and to remove these along with ancillary structures and area of hardstanding. The Council extended the period for compliance to allow for Mrs Hedges to have a hip operation. Shortly after the operation had been carried out, the applicants applied for planning permission to remain on the site (**S/0040/03/F**). This was refused. An enforcement notice was issued on 19th December 2003 that required the removal of hardcore, hardstandings and a lamppost.
6. Planning permission was granted at **appeal** of S/0040/03/F, in a decision dated 7 April 2004. The Inspector limited the permission for the siting of two touring caravans and one mobile utility unit, with associated hardstanding (30m x 30m) for a period of three years, for occupation by Mr and Mrs Hedges and their children. The occupation was limited to Gypsies as defined in the Caravan Sites and Control of Development Act 1960. No commercial activity, including the storage of any materials or other items unrelated to the residential occupation of the land, was permitted. In coming to this decision, the Inspector commented;
7. “It is a fundamental objective of the Green Belt to maintain openness. However, the site is flanked on both sides by dwellings with associated boundary screen planting to Button End; the appeal site frontage also has a tall mature hedge and trees, except where the site is located. As a consequence, the development, which would be perceived only by those having occasion to go to this end of Button End, is seen only at close quarters when actually passing the site frontage, and even then in filtered views through gaps in the boundary vegetation for much of this length. I fully recognise the importance of maintaining the openness of the Green Belt, and I acknowledge that repeated incremental small-scale erosion of openness can cumulatively, over time, have significant consequences. Nonetheless I regard the extent of harm by reason of loss of openness in this case to be relatively minor, given the unobtrusive location of the site and the extent to which it is surrounded by existing development.” (Paragraph 20)
8. “ Permission for a temporary period would ensure a settled base from which to provide a continuity of the current secure educational environment through the completion of primary education transition to secondary education for Mrs Hedges’ third child. It would enable continuity of Mrs Hedges’ existing GP and specialist healthcare arrangements during the forthcoming review of any need for further hip replacement surgery. It would also provide a period of time, against the background of current levels of gypsy site provision and the policies in place in the District, to make a concerted effort in consultation with the Council to find a suitable site outside the Green Belt to use as a future settled base after Mrs Hedges’ third child has moved through to secondary education. In my opinion permission for a period of up to three years would be an appropriate response to these particular circumstances.”(Paragraph 50)
9. Members considered an application to renew the temporary planning permission **S/0673/07/F**. Members took into account the recommendation of refusal of Harston Parish Council, the Parish Council’s concern to safeguard the Green Belt and for fair

application of planning laws to all notwithstanding 'race, religion, ethnicity', and the Parish Council's recommendation to permit residency for a further five years without enforcement action taking effect. Planning permission was issued on 12 February 2008.

10. Condition 1 of S/0673/07/F states:

The use, hereby permitted, shall be carried on only by the applicants, Mr J H and Mrs P Hedges and their children and shall be for a limited period being on or before 1 March 2011, or the period during which the premises are occupied by them, whichever is shorter.

(Reason- In accordance with the advice in Circular 01/2006 'Planning for Gypsy and Traveller Caravan Sites', the Council is preparing a Gypsy and Traveller Development Plan document, and on a without-prejudice basis to a permanent consent on this site, a time-limited consent will enable the Local Planning Authority to properly assess the impact of Traveller development on Harston. The permitted use would not normally be granted in the absence of the personal circumstances of this case.)

11. Condition 2 of S/0673/07/F states:

When the premises cease to be occupied by Mr J H Hedges and Mrs P Hedges, and their children, or by 1 March 2011, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought on to the premises in connection with the use shall be removed, and the land restored to its former condition.

(Reason -In accordance with the advice in Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites, the Council is preparing a Gypsy and Traveller Development Plan document, and on a without-prejudice basis to a permanent consent on this site, a time-limited consent will enable the Local Planning Authority to properly assess the impact of Traveller development on Harston. The land should be reinstated in the interests of the appearance of the countryside and Cambridge Green Belt).

Planning Policy

National Planning Policy

12. **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 LPAs to have due regard to the protection of local amenity and the local environment. Policy E relates to traveller sites in the Green Belt. It indicates that traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Policy H states that when determining applications, which should be done in accordance with the development plan, LPAs 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. It encourages Local Planning Authorities to attach weight to 'sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness' (paragraph 24 b)).
13. PPTS has superseded the advice contained in Circular 01/2006 'Planning for Gypsy and Traveller Caravan Sites'.

14. 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.
15. **DCLG "Designing Gypsy and Traveller Sites: Good Practice Guide"**(May 2008)
16. Advice on the use of temporary permissions is contained in paragraphs 108 – 113 of **Circular 11/95**, *The Use of Conditions in Planning Permission*. Paragraph 110 advises that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission. Where there is unmet need but no available alternative Gypsy and Traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, Local Planning Authorities should give consideration to granting a temporary permission. Such circumstances may arise, for example, in a case where a Local Planning Authority is preparing its site allocations DPD. In such circumstances, Local Planning Authorities are expected to give substantial weight to the unmet need in considering whether a temporary planning permission is justified.
17. The fact that temporary permission has been granted on this basis should not be regarded as setting a precedent for the determination of any future applications for full permission for use of the land as a caravan site. In some cases, it may not be reasonable to impose certain conditions on a temporary permission such as those that require significant capital outlay.

Regional Planning Policy

18. **Accommodation for Gypsies and Travellers and Travelling Showpeople in the East of England: A Revision to the Regional Spatial Strategy for the East of England, adopted July 2009. Policy H3.**
19. 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.

District Planning Policy

20. **South Cambridgeshire Development Control Policies Development Plan Document (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). Outside urban and village frameworks, only development for agriculture, horticulture, forestry, outdoor recreation and other uses which need to be located in the countryside will be permitted.

Green Belt Objectives: GB/b - To maintain the purposes and openness of the Cambridge Green Belt. **GB/c** - To preserve the unique setting of the city by maintaining the character and appearance of the surrounding villages.

GB/1 (Development in the Green Belt) There is a presumption against inappropriate development in the Cambridge Green Belt as defined on the Proposals Map.

GB/2 (Mitigating the Impact of Development in the Green Belt)

1. Any development considered appropriate within the Green Belt must be located and designed so that it does not have an adverse effect on the rural character and openness of the Green Belt.
2. Where development is permitted, landscaping conditions, together with a requirement that any planting is adequately maintained, will be attached to any planning permission in order to ensure that the impact on the Green Belt is mitigated.

Housing Objective: HG/a - To ensure the provision of a range of housing types and sizes, including affordable housing, to meet the identified needs of all sectors of the community.

SF/10 (Outdoor Playspace, Informal Open Space, and New Developments)

SF/11 (Open Space Standards)

NE/4 (Landscape Character Areas) Development will only be permitted where it respects and retains or enhances the local character and distinctiveness of the individual Landscape Character Area in which it is located.

21. **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.

22. As part of the above consultation stage an assessment of the site against criteria was undertaken for comparison with other sites as to the suitability for allocation for further Gypsy and Traveller sites. The site was shown to be acceptable in terms of its proximity to primary school, doctor's surgery and food shops, but not suitable for further allocations due to its location within the Green Belt.

23. An updated **Gypsy and Traveller Accommodation Needs Assessment** was considered by the Housing Portfolio Holder on 13th June 2012 and accepted. This acknowledged an unmet need for pitches in the District. The assessment shows there to be a projected future need for 20 pitches to 2031, in addition to a backlog of 65 pitches between 2011 and 2016.

24. The current position is that, when unimplemented/ completed pitches with planning consent are taken into account, a net shortfall of 24 permanent pitches to 2016 remains. Temporary consents apply on 63 existing pitches and there is a reasonable expectation that some of these will be granted permanent planning permission in the

future, so reducing the overall identified shortfall. The two public sites at Whaddon and Milton have remained full with waiting lists.

25. 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.

Consultations

26. **Harston Parish Council** – Recommendation of refusal. The Parish Council has made the following comment: 'It should remain on a three-year basis renewal and the conditions laid down in your previous permission strictly adhered.'
27. **Planning Enforcement Officer**- Comments that there have been no issues or complaints raised about the use.
28. **Environmental Health Manager**- No objection to grant of planning permission, and noting that a site licence application under the Caravan Sites and Development Control Act 1960 would be required in the event of a permanent planning permission being granted.
29. **Traveller Liaison Officer** – Supports the application, stating:

'The family have lived at the address for 13 years. They are well known in the village, Mr Hedges runs his own business paving and gardening as well as keeping horses at the property.

'The two youngest boys, aged 7 and 8, attend Harston/Newton School and the older boys both went through their schooling locally.

'When the family moved onto the property 13 years ago, all utilities were connected as it had previously had permission as a residential site.

'The family are obviously very well settled and have gone to great efforts to keep their property immaculate. It is set down a quiet lane, sitting in amongst other houses and bungalows and does not look out of place against other properties in Button End.

'Mrs Hedges has had one or two health problems and worries about the uncertainty of their temporary consent. Permanent permission to stay on the land would ensure that they could continue to provide for themselves in a location that has been their home for a long period of time.'

Representations

30. None received.

Planning Comments

31. The comments of the Inspector in 2004 are still of relevance to consideration of the application. The Inspector acknowledged that this caravan site constituted inappropriate development in the Green Belt, however he assessed the loss of openness to the Green Belt to be relatively minor, and that it involved some countryside encroachment. He found no other harm.

32. The site performs reasonably well against the locational criteria within the Gypsy and Traveller Development Plan Document preparation, which, although superseded, will inform the Local Plan Options consultation and eventual policy. The site is reasonably close to schools, shops and other local services. Indeed children from the site attend local school. There is no service provision issue. The site is well screened and landscaped on its boundaries and, except for the vehicular entrance, is not conspicuous to passers by.
33. The Parish Council previously has raised legitimate concerns about the previous history of unauthorised use of the site, but has accepted that a further grant of planning permission for a temporary period is warranted.

Personal circumstances

34. However, the applicant family has lived on this site for several years on the basis of temporary planning permissions. The decision to incorporate the Council's planning policy relating to Gypsy and Traveller sites into the formulation of the Draft Local Plan has introduced more delay. The site has become well established in the landscape setting of the village, in a context where there are other adjacent dwellings. The harm to the openness of the Green Belt is considered to be limited. The personal circumstances of the applicant, including two children at school, and the length of occupation of the site, are considered to amount to very special circumstances that outweigh the harm due to inappropriateness and other harm to the Green Belt and countryside in this instance.
35. It is not considered reasonable in this instance to seek financial contributions under Policy DP/4 towards open space provision and community facilities, in the event of permanent planning permission being granted, given the passage of time since the family commenced occupation of the site in 1999.
36. The delivery of this site would help to meet some of the outstanding need for permanent pitches identified in the current Gypsy and Traveller Accommodation Needs Assessment.
37. The evaluation as part of the GTDPD Issues and Options 2 Consultation concluded that no additional allocation of Gypsy and Traveller accommodation in the vicinity of the site would be appropriate. In the event that permanent planning permission is granted on this site it would be limited to the applicants and family and to the specific amount of accommodation applied for. In the future there may be demand from existing members of the family for additional accommodation as they become older and their requirements increase. In the event of this demand arising in the future any application would be dealt with in accordance with the provisions of the development plan at that time and other relevant factors that would apply.
38. For the reasons indicated it is considered reasonable and proportionate to grant permanent planning permission on a personal basis for the retention of the occupation of the site as a single Gypsy pitch.

Human Rights Issues

39. 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

40. Approval subject to conditions:

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 (2012)'
(Reason - The site is in the Cambridge Green Belt and rural area where residential development will be resisted by Policies GB/1 and 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 site together with the mobile homes and structures, hereby permitted, shall not be occupied or used other than by the applicants Mr J H and/or Mrs P Hedges and/or their immediate family (and any dependant living with them).
(Reason- By virtue of Policies GB/1 and DP/7 of the adopted Local Development Framework 2007, the harm caused to the Green Belt and rural area by the residential occupation and use of the site would not necessarily be outweighed in the absence of the personal circumstances of this case.)
3. Within 3 months of the site ceasing to be occupied in accordance with condition 2 above, the use hereby permitted shall cease, all materials and equipment brought on to the site in connection with the use shall be removed, and the land thereafter restored in accordance with a scheme and timetable which shall also have been submitted to the Local Planning Authority for written approval within the aforementioned 3 months.
(Reason –To ensure that the permitted use ceases when the personal circumstances in this particular case no longer apply to comply with Policies GB/1 and DP/7 of the adopted Local Development Framework 2007 and to secure the reinstatement of the land in the interests of the appearance of the countryside and Cambridge Green Belt).
4. No more than one mobile home and one touring caravan, 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 commercial activity shall take place on the site, including the storage of any materials or other items unrelated to the residential occupation of the land.
(Reason – To protect the amenity of adjoining residents and to limit the visual impact of the development on the countryside and Cambridge Green Belt)

Informatives

The planning permission hereby granted relates solely to change of use of the land for occupation by named persons, and not to any operational development which may require planning permission in its own right.

Reasons for Approval

1. The site is located in the countryside and Cambridge Green Belt where there is a presumption in the development plan (Cambridgeshire and Peterborough Structure Plan, and South Cambridgeshire Development Control Policies Development Plan Document 2007) against development unless it can be shown to be appropriate in the Green Belt and essential in a particular rural location. However, the applicants have had the benefit of a limited-period planning permission granted on appeal reference APP/W0530/A/03/1121732 dated 7 April 2004, and a further temporary planning permission granted subsequently on 12 February 2008 and the Council is preparing a Local Plan to consider the provision of Gypsy and Traveller sites in the District. The applicants' need for permanent occupation is considered to justify the grant of permanent planning permission.
2. The proposal conditionally approved is not considered to be significantly detrimental to the following material considerations, which have been raised during the consultation exercise: openness of the Green Belt.

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

- National planning guidance as indicated in the report.
- South Cambridgeshire Development Control Policies Development Plan Document (2007)
- Regional Spatial Strategy for the East of England
- Gypsy and Traveller Needs Assessment. Report to Housing Portfolio Holder 13 June 2012
- Planning File refs S/0218/11, S/0673/07/F, S/0040/03/F, planning appeal reference APP/W0530/A/03/1121732.

Contact Officer: Ray McMurray – Principal Planning Officer
Telephone: (01954) 713259