

## **SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

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**REPORT TO:** Planning Committee

3 April 2013

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

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### **S/2150/11 - MILTON**

**Change of use to 7 caravan plots for Travellers – The Old Coal Yard, Chesterton Fen Road, for Mr Joseph Upton**

**Recommendation: Delegated refusal**

**Date for Determination: 13 February 2012**

#### **Departure application**

**This Application has been reported to the Planning Committee for determination because the application relates to the provision of Traveller accommodation.**

**To be presented to the Committee by Ray McMurray.**

#### **Site and Proposal**

1. The site is on the north-eastern outskirts of the City in an area known as Chesterton Fen. The surrounding area is generally flat and much of the land is still open in character. The Cambridge to Ely railway line runs to the west, the river Cam and a towpath lie to the east and the A14 to the north. Chesterton Fen Road is a long cul-de-sac, which runs roughly northwards from the level crossing over the railway line to a point ending close to the A14 road. As this is the only access into the area, the Fen is relatively isolated.
2. The site, area 0.54 hectare, is located on the western side of the road. The applicant resides in the authorised pitch at the entrance to the site. The site itself was formerly in use for skip hire but structures associated with that use have been removed, except for some runs of partition fencing on the southern part of the site. The northern part of the site retains trees and shrubbery, and a hedge on the western boundary with the railway line. Beyond this lie extensive areas of pasture land. There are Gypsy sites to the south and south east, interspersed with areas of open land.
3. The site lies within the Cambridge Green Belt and is partly within and partly adjacent to flood zones 2 and 3.
4. The full change of use application, dated 25 September 2011, seeks permanent permission for the principle of forming 7 Traveller pitches. The application is supported by a flood risk assessment, noise assessment, contamination report and a planning statement. A layout plan has been provided showing typical plots having a static van, a touring van, a day room parking area and provision for the storage of bins and cycles. Post and rail fencing with hedge and tree planting are proposed for the exposed northern boundary. On the western boundary with the railway lines an acoustic bund is proposed. This is shown to be a temporary fence with tree planting surmounted on an earth bund 2.5 metres high and 5.0 metres wide, extending full

width of the site (26.3 metres) along that boundary. All caravans are to be connected to sealed cesspools and to have soakaway surface water drainage.

5. A revised site plan was received 23 July 2012 showing an area for children's play and the western end of the access drive, measuring 16.0 metres by 26.3 metres. The drawing also shows a turning head within the driveway and Plot 7 with a depth of 11.0 metres.
6. A revised flood risk assessment and a revised noise assessment have been submitted following comments received from the Environment Agency and the Environmental Health Manager.

### **Planning History**

7. The front part of the site was formerly a coal yard. This use subsisted for some 40 years prior to 2001 when the current owners, Mr and Mrs J Upton purchased the site.
8. **S/0980/01** Change of use to storage of skips. Approved 2001. This consent related to the front part of the current site only.
9. **Planning Enforcement by Cambridgeshire County Council:** Part of the application area was granted planning permission on Appeal (Appeal Reference APP/E0535/C/06/201387), following the service of an Enforcement Notice by Cambridgeshire County Council as Waste Planning Authority, for a change of use of the land from agriculture (on part) and skip storage (on part) to a use for the importation, storage, sorting and processing and export of waste subject to conditions, in January 2007.
10. **S/0863/10/F** Change of use to 15 traveller pitches: application withdrawn December 2010.
11. The site is subject to a **High Court Injunction** preventing unlawful occupation of the land.

### **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.
13. Policy B indicates that Local Planning Authorities should ensure that their policies:
  - a) Provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any Travellers that may locate there or on others as a result of new development; and
  - b) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.
14. 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.

15. The PPTS states that, with effect from 27 March 2013, if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites; this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.
16. PPTS has superseded the advice contained in Circular 01/2006 'Planning for Gypsy and Traveller Caravan Sites'.
17. 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 attached 'great importance' to Green Belts. 'Substantial weight' should be given to any harm to the Green Belt. Very special circumstances to justify approval will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
18. Local Planning Authorities should plan for a mix of housing based on the needs of different groups in the community.
19. The NPPF 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.
20. 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.

## **Cambridgeshire County Planning Policy**

### **Cambridgeshire and Peterborough Minerals and Waste Plan (2011-2012)**

21. **CS23 :Sustainable Transport of Minerals and Waste:**  
Sustainable transport of minerals and waste by rail, water, conveyor, and pipelines will be encouraged. A new Transport Zone will be located north of Chesterton Sidings, Cambridge which will be identified in the Site Specific Proposals Plan and defined on the Proposals Map. Transport Safeguarding Areas will be identified in the Site Specific Proposals Plan and defined on the Proposals Map. Within these Areas there will be a presumption against any development that could prejudice the existing or potential use of the protected transport zone for the transport of minerals and / or waste.

22. **CS30 Waste Consultation Areas**  
Waste Consultation Areas will be identified in the Core Strategy and Site Specific Proposals Plan and defined on the Proposals Map at locations:
- a) within and around existing waste management facilities that make a significant contribution in managing waste in Cambridgeshire and Peterborough
  - b) within and around unimplemented permitted waste management sites, allocations and designated Areas of Search.

Development will only be permitted where it is demonstrated that this will not prejudice existing or future planned waste management operations.

23. **CS31: Waste Water Treatment Work Safeguarding Areas**  
Within the Safeguarding Areas there is a presumption against allowing development, which would be occupied by people. Where new development is proposed within the Safeguarding Areas involving buildings which would normally be occupied, the application must be accompanied by an odour assessment report. Planning permission will only be granted when it has been demonstrated that the proposed development would not be adversely affected by the continued operation of the existing waste water treatment works.

### **District Planning Policy**

24. **LDF Adopted Core Strategy Development Plan Document (2007)**  
**ST/1 (Green Belt)** A Green Belt will be maintained around Cambridge which will define the extent of the urban area.
25. **ST/2 (Housing Provision)** The District Council will make provision for 20,000 new homes in South Cambridgeshire during the period 1999 to 2016 in locations in the following order of preference:
1. On the edge of Cambridge;
  2. Northstowe new town;
  3. Rural Centres and other villages

26. **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.

**NE/11** Flood Risk

### **South Cambridgeshire Local Development Framework Supplementary Planning Documents**

District Design Guide SPD (2010)

Open Space in New Developments SPD (2009)

Landscape in New Developments SPD (2010)

### **Gypsy and Traveller DPD (GTDPD)**

27. The Council has determined through revisions to the Local Development Scheme that Gypsy and Traveller issues will be addressed in the emerging single Local Plan review rather than a stand-alone DPD. Issues and Options Report Public Consultations have been undertaken 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.
28. Within the GTDPD, the application site has been evaluated under reference 'Site R14'. The site was rejected at tier 1 examination due to the combination of factors of being in the Green Belt and that it forms part of wider views of the countryside from the north and east. Development of the site would cause harm to the openness of the Green Belt, and would extend the built up area. There were already sites options identified in the GTDPD to the south of this site that would have less impact.
29. 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.
30. 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.
31. 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.

32. **LDF Site Specific Policies DPD 2010**

**Policy SP/17** Rail Infrastructure: Land at Chesterton Sidings is safeguarded for the development of a railway station and interchange facility.

33. Cambridge Science Park Railway Station: Cambridgeshire County Council is actively pursuing the development of a new railway station and public transport interchange at the existing Chesterton Sidings. The site is approximately 12 hectares in size and includes land lying within the administrative boundaries of both Cambridge City Council and South Cambridgeshire District Council. The scheme will be delivered by the County Council together with Network Rail and then operated by Network Rail and the train operators.

34. **South Cambridgeshire Local Plan 2004**

**Saved Policy CNF6:** The expansion of existing residential caravan sites or the sporadic siting of individual caravans will not be permitted with the exception of an area on the west side of Chesterton Fen Road up to and including the Grange Park site, where permission may be granted for private gypsy sites to meet local need so long as they are properly landscaped and drained.

**Consultations**

35. **Milton Parish Council** – Recommendation of refusal, commenting: ‘Is beyond the agreed boundaries for travellers’ sites and therefore does not adhere to SCDC policies. We are concerned about encroachment on the Green Belt’.
36. **Planning Policy Manager-** A larger area including this site was considered in the Issues and Options 2 process for the Gypsy and Traveller DPD, and identified as a rejected option. The site lies in the countryside, in the Green Belt, and is outside the area identified in Saved policy CNF6 for Gypsy and Traveller pitches. The assessment noted that, ‘this area of the Green Belt is very open, more so than the land to the south, with wider views from the north and east. Development would have a significant impact on the openness of the Green Belt, and extend the built up area.’
37. Issues regarding noise in relation to the railway sidings (and new station), as well as flood risk, would need to be investigated.
38. **Environmental Health Manager-** Recommended refusal of the scheme as originally submitted due to:
- a) Inadequate Design and Layout. Inadequate or no provision of Communal Recreation / Play Space
  - b) Noise Issues- Inadequate noise and vibration impact assessment of existing and future noise impacts on proposals and in particular noise / vibration associated with existing operational railway and any future new railway infrastructure development of Chesterton Sidings.
39. If members were minded to grant approval it is recommended that planning conditions be imposed to control site layout, structure separation distances and secure effective surface and foul drainage, lighting, and construction noise/ dust.
40. The Scientific Officer has recommended a condition to ensure proper investigation and remediation of any contamination present on the site.
41. The comments of the EHM on the revised noise assessment are awaited.

42. **Local Highway Authority** - No objection, commenting that the proposed change of use will result in a different pattern of traffic generation. There will inevitably be a significant reduction in the number of skip vehicles (which in essence are HCV's) and a rise in the number of domestic trips. Overall, there is likely to be a reduction in motor traffic generated by the site and this is something that the Highway Authority would welcome (*brought forward from S/0863/10/F*).
43. **Development Strategy Team, Cambridgeshire County Council** – The DST has drawn attention to the appeal decision on the site and to the various designations under the Cambridgeshire and Peterborough Minerals and Waste Plan that affect the site. The designations are Waste Water Treatment Safeguarding Area, Waste Consultation Area, and Transport Safeguarding Area arising from the existing aggregates railhead and its proposed expansion.
44. The County Council has recommended that additional information be provided by the applicant to address the concerns raised, particularly with regard to the Waste Water Treatment Safeguarding Area. This information is needed to demonstrate that the development will not prejudice the existing and proposed waste management / transport uses which are the subject of designations in the Cambridgeshire and Peterborough Waste and Minerals Plan.
45. **Environment Agency** – As originally submitted the EA had concern at the vulnerability of the site to flood risk, although groundwater protection issues have been investigated to the extent that conditions could be recommended to safeguard the water environment. A revised flood risk assessment has been submitted and the comments of the EA are awaited.
46. **Anglian Water** – Anglian Water has advised that as the proposed development lies within the 400 metre encroachment zone of Cambridge Sewage Treatment Works (STW), Anglian Water considers it may pose an unacceptably high risk of nuisance to the proposed units from the normal operation of the STW. Nuisance may be caused by noise, lighting, flies or traffic movements but its most prevalent source will be odours that are unavoidably generated by the treatment of waste water. As such Anglian Water would regard any proposed development within this encroachment zone as unwise.
47. Anglian Water has indicated that it intends to produce a model to assess the odour around Cambridge STW as a whole and does not expect the applicant to provide a separate assessment.

### **Representations**

48. None received.

### **Planning Comments**

#### *Character and appearance*

49. The site, which lies beyond the designated development framework, is mostly open in character except for some sections of 2 metre high fencing. There is relatively little landscape screening. There are views from Fen Road over the site, which provides a setting for the existing caravan parks to the south of the site. The proposal would extend the area of caravans and day rooms into this open area which is considered to be contrary to Policies DP/2/ DP/3 and NE/4.

### *Cambridge Green Belt*

50. The PPTS, at Policy E, is unambiguous in its advice that traveller's sites in the Green Belt are inappropriate development, and in the NPPF that this concern should carry substantial weight. The development of the site would contribute to the erosion of the gap between Cambridge and Milton, and would reduce openness, which are two of the purposes of the Green Belt designation.

### *Sustainability*

51. The adjacent site at Sandy Park has performed acceptably 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 within an acceptable walking distance of schools, shops and other local services in Cambridge. While not ideally located in relation to the built framework of Cambridge it is reasonably sustainable in terms of its location.

### *Environmental impact and flood protection*

52. The Environmental Health Manager has raised a number of concerns. Many of these could be adequately addressed by the imposition of conditions in the event of planning permission being granted. The provision of children's play space has been made in the amended layout plan and also the typical plot layout is shown to include 22m x 6m amenity space. The provision for children's play is considered to be adequate.
53. The concerns over safeguarding from noise are noted, and the further comments of the EHM on the revised noise assessment are awaited.
54. The comments of the Environment Agency on the revised flood risk assessment are awaited.
55. The concerns of Cambridgeshire County Council relate to the various designations introduced by the Cambridgeshire and Peterborough Minerals and Waste Plan. Anglian Water has withdrawn its requirement for an odour assessment of Cambridge Sewage Treatment Works and in the case of the remaining designations it is considered that the requirements for further information could be submitted as part of conditions to be attached to any planning permission, if issued.

### *Grant of planning permission*

56. Members will wish to consider the appropriateness of granting planning permission on a permanent basis. In considering this option the following matters should be taken into account:
57. The delivery of this site would help to meet the outstanding need for permanent pitches identified in the current Gypsy and Traveller Accommodation Needs Assessment. This is a material consideration, and from 27 March 2013 this has become a *significant* material consideration (as introduced by the PPTS).
58. In the event that permanent planning permission is granted on this site a condition should be attached to limit occupation to those from the Gypsy/ Traveller community.



59. Outstanding consultation responses are awaited from Environment Agency and Environmental Health. If Members are minded to grant permanent planning permission, delegated authority is requested in order to take into account the responses from consultees.

#### *Human Rights Issues*

60. 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 be proportionate and justified within Article 8 (2).

#### *Conclusion*

61. Officers have balanced the factors in favour of the application against the material harm that the development represents. The merits of the application include the benefit to the existing accommodation needs of the families, and the contribution to the provision of Gypsy/ Traveller sites in the district, where there is an identified shortfall. The harms are to the openness of the Green Belt and appearance of the countryside. The protection of the Green Belt carries great importance, as indicated in the NPPF, and there are other sites options identified to the south of this site that would have less impact on the countryside and Green Belt.
62. The contribution to the Gypsy/Traveller needs of the district is not considered to amount to a very special circumstance as the site has not been included for public consultation in the Gypsy and Traveller Development Plan Document.
63. On balance, it is considered that there is insufficient justification to set aside the presumption against inappropriate development in the Green Belt and harm to the countryside that would be caused by the development.

#### **Recommendation**

64. Delegated refusal:
1. The use of land as a Traveller caravan site is by definition inappropriate in the Green Belt. The use would result in harm to the openness of the Green Belt and, by doing so, prejudice the purposes of the Green Belt by reason of its encroachment and coalescence of settlements by diminishing the gap between Milton and Cambridge. The proposal is contrary to Core Strategy Policy ST/1 and Policy GB/1 of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007.
  2. The use of the site as a Traveller caravan site would harm the rural character and appearance of this part of the countryside that could not be adequately compensated for by landscape planting. The proposal is therefore contrary to Policies DP/2, DP/3 and NE/4 of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007.
  3. The Local Planning Authority has balanced the harm identified in Reasons 1 and 2 against the shortfall in Gypsy/ Traveller provision in South Cambridgeshire District, and considers that this factor, although a significant material consideration, does not outweigh the presumption against

inappropriate development in the Green Belt, and harm to the countryside setting of Cambridge.

4. Reasons relating to flood risk and/ or noise disturbance, if justified by additional consultee responses.

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

- National planning guidance as indicated in the report.
- LDF Adopted Core Strategy Development Plan Document (2007)
- South Cambridgeshire Development Control Policies Development Plan Document (2007)
- Gypsy and Traveller DPD (cancelled)
- Gypsy and Traveller Needs Assessment. Report to Housing Portfolio Holder 13 June 2012
- Gypsy and Traveller Community Strategy 2010-2013
- Planning File refs S/2150/11, S/0863/10/F, planning appeal reference APP/E0535/C/06/201387.

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