

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

3 April 2013

AUTHOR/S: Planning and New Communities Director

S/2589/11 - MILTON

Continued use of land as a residential Gypsy/Traveller caravan site of 30 plots, including hardstandings and access road – Sandy Park, Chesterton Fen Road, for Mr John O'Connor and Others

Recommendation: Delegated Approval

Date for Determination: 31 May 2013

Major development Departure application

This Application has been reported to the Planning Committee for determination because the application relates to the provision of Gypsy/ 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 is on the western side of the road. It is divided into a number of plots, most of which are occupied by mobile homes and caravans. 14 plots have permanent unauthorised amenity blocks, sheds and stables erected upon them. The access road has been provided centrally within the site.
3. To the north the land was formerly in use for skip hire but is currently disused. Beyond this lie extensive areas of pasture land. Opposite the site are three longstanding Gypsy sites. There are other Gypsy sites to the south, interspersed with areas of open land.
4. The site lies within the Cambridge Green Belt and is adjacent to flood zones 2 and 3. Land at the northern corner of the site is filled with unknown material and is potentially contaminated.
5. The full change of use application, dated 20 December 2011, seeks permanent permission for the principal of forming thirty gypsy/ traveller pitches, The application is supported by a flood risk assessment, noise assessment and a planning statement. A survey layout plan has been provided.

Personal Circumstances

6. The agent has submitted a statement that includes a summary of the applicants' personal circumstances. The site accommodates a mixture of older couples and young families. Plot 16 for example accommodates 4 generations of the West family. Several families have children who attend local schools and one child who receives regular treatment for deafness at Addenbrookes Hospital.

Planning History

7. **S/2364/06/F**: Retention of Gypsy Caravan Site of 29 Plots and Access Road (Retrospective Application). This application was dated 4 December 2006, and was granted temporary consent on 18th April 2008, subject to conditions. Condition 2 states:
*'The use, hereby permitted, shall cease and all transit caravans, mobile homes, structures, materials and equipment brought on to the land in connection with the use shall be removed on or before 30th April 2011. Within 6 months of that time the land shall be restored in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority.
(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 Chesterton Fen Road and the Green Belt.)'*
8. Prior to the grant of temporary planning permission there has been an extensive planning history. An enforcement notice (reference E237) alleging the unauthorised laying of hardcore and construction of hardstandings/roadways was issued on 23 May 1996. This was in respect of the appeal site and the site of Grange Park. A further notice (reference E237A) was issued on 5 November 1997 alleging the unauthorised change of use of agricultural land for the siting of residential caravans and their accompanying vehicles. Appeals against the second enforcement notice and a separate planning application (to site caravans on the Grange Park land) were dismissed on 29 April 1998. The notice came into effect on 29 April 1999.
9. The site remained free of caravans until July 2002, when the Council became aware that hardcore was being laid and caravans were being parked. Travellers on the site were advised that occupation was in breach of the enforcement notice. An application for a 34 pitch Travellers' site was received on 17 July and refused by the Council's Development and Conservation Control Committee on 2 October 2002.
10. A second round of applications were submitted on an individual basis and supported by statutory declarations in most instances on 23 April 2003. This confirmed that most of the appellants had purchased a plot in June 2002. The applications were refused on 13 June 2003. Appeals against the refusals of planning permission were dismissed by the Secretary of State on 1 July 2004 following a public inquiry.

Planning Policy

National 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 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.

12. The PPTS has given notice of a policy for temporary planning permission for traveller sites. 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.
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 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.
15. Local Planning Authorities should plan for a mix of housing based on the needs of different groups in the community.
16. 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.
17. 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.
18. 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.

Cambridgeshire County Planning Policy

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

19. **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.
20. **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

21. **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.
22. **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
23. **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 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)

Health Impact Assessment SPD (2011)

Gypsy and Traveller DPD (GTDPD)

24. 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.
25. Within the GTDPD, the application site has been evaluated under reference 'Site 1'. The site is located on the edge of Cambridge and so has access to a wide range of services, which complies with policy ST/2. It is just beyond 2km walking distance of some key facilities, but overall is considered to be a relatively sustainable location. The site suffers from issues of noise from the adjoining railway, possible land contamination and lack of children's play space. The siting within the Green Belt is a disadvantage, but the impact on the openness of the countryside is considered to be low due to the location of development on its northern boundary. The site adjoins the allocation area made under policy saved policy CNF6. The GTDPD concludes that there may be exceptional circumstances to justify an allocation.
26. 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.
27. 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.

28. 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.
29. **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.
30. 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.
31. **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**
32. **Milton Parish Council** – No recommendation, commenting that there is no mains drainage for the site which causes problems for residents.
33. **Environmental Health Manager**- Awaited.
34. **Gypsy & Traveller Site Team Leader** – Awaited.
35. **Local Highway Authority** - Awaited.
36. **Police Architectural Liaison Officer**- No objection. The local policing team advises that calls to the site are no higher than normal and so are not an issue.
37. **Environment Agency** – Notes that the site is predominantly in flood zone 1, low risk, adjacent to flood zone 3, high risk. The accompanying FRA is considered appropriate to the scale and nature of development. The EA recommends that conditions be attached to any consent issued to require the provision of a flood evacuation plan and a scheme for foul drainage. It goes on to recommend informatives relating to surface water disposal and septic tanks.
38. **Anglian Water** – Does not wish to comment on the application.
39. Consultation responses are awaited as indicated above and from SCDC Landscape Officer, Planning Enforcement, Cambridgeshire County Council Planning, Cambridge City Planning, and Network Rail.

Representations

40. None received.

Planning Comments

Character and appearance

41. The site consists of single-storey structures which are screened by 2m high fencing. There is relatively little landscape screening. The development has caused harm to the landscaped setting of this part of Cambridge, but this was acknowledged when temporary planning permission was granted in 2008. Although the proposal is considered to be contrary to Policies DP/2/ DP/3 and NE/4, no significant additional harm has been caused to the landscaped setting of the settlement over the period since 2008.

Cambridge Green Belt

42. 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 has contributed to the erosion of the gap between Cambridge and Milton, and has reduced openness, which are two of the purposes of the Green Belt designation.

Sustainability

43. The site performs 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. While not ideally located in relation to the built framework of Cambridge it is reasonably sustainable in terms of its location.

Personal circumstances

44. The family circumstances are documented above. Children are attending local primary school. The site has been established for over ten years.

Grant of permanent planning permission

45. 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:
46. 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).
47. 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.
48. The application relates only to the change of use of the site and access road. Further applications would be required to regularise the retention of fixed structures on each site.

49. Outstanding consultation responses are awaited from several consultees. 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

50. 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).

Conclusion

51. Members will wish to balance 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.
52. The contribution to the Gypsy/Traveller needs of the district is a very special circumstance as the site has been included for public consultation in the Gypsy and Traveller Development Plan Document. On balance, it is considered that this very special circumstance is sufficient to set aside the presumption against inappropriate development in the Green Belt and harm to the countryside.

Recommendation

53. Delegated approval subject to addressing any additional consultee comments and to conditions, to include:
1. Approved drawings
 2. Limitation of occupation to Gypsies/ Travellers and their dependants.
 3. Limitation to 30 pitches, with the number of mobile homes and caravans to be specified.
 4. No business uses or storage.
 5. Details of ancillary buildings within 3 months.

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/2589/11 S/2364/06/F appeals APP/W0530/A/03/1122881-1122896.

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