

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

5 August 2015

AUTHOR/S: Planning and New Communities Director

Application Number: S/0975/15/FL

Parish: Gamlingay

Proposal: Retention and residential use of mobile home on a permanent basis for a gypsy pitch including existing dayroom and garden shed

Site address: 8a Little Heath, Gamlingay

Applicant(s): Miss Sara Swain

Recommendation: Approval

Key material considerations: Principle
The general need for gypsy sites
Access
Infrastructure
Visual Amenity
Residential Amenity
The applicant's personal circumstances

Committee Site Visit: Yes

Departure Application: No

Presenting Officer: Andrew Winter

Application brought to Committee because: The recommendation of officers conflicts with that of the Parish Council. The application has also been requested to be determined at Committee by Cllr Bridget Smith

Date by which decision due: 8 July 2015

Planning History

1. **S/1396/08/F** – Temporary mobile home for occupation solely by persons responsible for the care of Mrs Catherine Titmus (approved)
2. **S/0656/13/FL** – Provision of temporary mobile home for residential use (approved for a temporary period of two years for Ms Sara Swain and immediate family/dependents)

Neighbouring site to west:

3. **S/2047/13/FL** - Retention of mobile home and timber porch for temporary period (approved for a temporary period of two years for occupation solely by Mr James Izzard and immediate family/dependents)

Neighbouring site to east:

4. **S/1997/12/FL** – To retain a mobile home and shed and their use as a residence (approved for a temporary period of three years by Mr Alan Titmus)

Neighbouring site to south (in front of) existing bungalow:

5. **S/2530/14/FL** – Temporary siting of mobile home (approved for a temporary period of 2 years for occupation solely by Mr James Titmuss and Kimberley Morean only)

Planning Policies

6. **National Policy**

National Planning Policy Framework 2012
Planning Policy for Traveller Sites (PPTS) 2012
DCLG "Designing Gypsy and Traveller Sites: Good Practice Guide", May 2008

7. **South Cambridgeshire Local Development Framework Core Strategy 2007**

ST/5 - Minor Rural Centres

8. **South Cambridgeshire LDF Development Control Policies DPD, 2007:**

DP/1 Sustainable Development
DP/2 Design of New Development
DP/3 Development Criteria
DP/4 Infrastructure in New Developments
DP/7 Development Frameworks
SF/10 Outdoor Playspace, Informal Open Space, and New Developments
SF/11 Open Space Standards
NE/4 Landscape Character
NE/10 Foul Drainage

9. **South Cambridgeshire LDF Supplementary Planning Documents (SPD):**

District Design Guide SPD – Adopted March 2010
Landscape in New Developments SPD – Adopted March 2010

10. **Proposed Submission Local Plan (July 2013)**

H/19 Provision for Gypsies and Travellers and Travelling Showpeople
H/21 Proposals for Gypsies and Travellers and Travelling Showpeople in unallocated sites outside the development frameworks
H/22 Design of Gypsy and traveller Sites and travelling Showpeople Sites
S/7 Development Frameworks
S/10 Group Villages
SC/7 Outdoor Playspace, Informal Open Space, and New Developments
SC/8 Open Space Standards
S/9 Minor Rural Centres

Consultations

11. **Gamlingay Parish Council** – recommends refusal: “The Parish Council had previously *resolved* to approve temporary consent for a mobile home on the grounds that the applicant said she was not a traveller herself and did not seek use of the land as a temporary traveller’s site but needed time to find a permanent home. The Parish Council would consider a revised application for a further 5 year temporary permission for the siting of a mobile home in this location for the applicant and her family. It acknowledges that the mobile home on this site does not appear to cause any significant visual impact and the family is well integrated into the community. It would support a further temporary consent to enable some stability whilst the children are still young, but would still expect the applicant to seek permanent suitable housing in the future.”
12. **Local Highway Authority** – no objections

Representations

13. **Cllr Bridget Smith** – “I think there are issues that need to be aired especially regarding whether it will be possible to limit a future increase in numbers of caravans on the site.”
14. **Owners/Occupiers of Homefield; Meadow View; Springfields; Brook Farm; Rose Villa; Belle Vue House; No.16; and No.8 Little Heath** – raise the following comments:
 - a) the principle of a gypsy and traveller site in this location (Policies DP/7 and HG/7)
 - b) lack of legal access to the proposed site
 - c) the site is not suitable as it is located within a residential area
 - d) the applicant is not a gypsy – misleading information
 - e) proliferation of caravans on the site and setting a precedent
 - f) lack of justification/exceptional circumstances put forward
 - g) there is no objection in principle to Miss Swain staying at this address on a temporary/permanent basis
 - h) inappropriate use of a dirt track and resulting dust, dirt, fumes and noise
 - i) harm to visual amenity/character of local area
 - j) concern surrounding sewerage, general waste and other residential paraphernalia
 - k) harm to residential amenity of neighbours

Planning Comments

15. The main issues in this application are:
 - Gypsy/Traveller status

- Current Gypsy & Traveller provision
- The extent to which the application accords with the provisions of the development plan taking into account: access, visual amenity, residential amenity; and infrastructure
- Prematurity
- The applicants' personal needs and circumstances;
- Human Rights Issues

Gypsy/Traveller status

16. 'Planning Policy for Travellers Sites' 2012 (Annexe 1) defines "gypsies and travellers" as:

"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."

17. The applicant has advised officers that both her, her partner (Mr Barry Lamb) and two children are from an English travelling background. The family previously resided on the Whaddon traveller site and this has been confirmed by the Council's former gypsy and traveller liaison officer.
18. The representations received in the application, and the submitted information in the previous application S/0656/13/FL, appear to contradict Miss Swain's status as a gypsy or traveller. Notwithstanding this, her partner's status as a traveller has not been called into question and the family did previously reside at a traveller site in Whaddon. This raises the possibility that even if Miss Swain did not originally come from a travelling or gypsy background she may have chosen to adopt such a way of life for her family and children.
19. The information in the application raises little doubt that the applicant and her family do not travel at present. However, their reason for doing so is explained by a current lack of employment, their children's educational needs and the health needs of the applicant's mother and step father who reside in the bungalow at No.8a. As previously mentioned, Planning Policy for Travellers Sites 2012 recognises that travellers can cease to travel temporarily or permanently for educational or health needs.
20. Consequently, whilst doubt has been raised regarding the travelling background of the applicant, the same cannot be said of her partner and their wish as a family to live as travellers given their previous residence at the Whaddon traveller site. At present the family have ceased to travel for reasons already mentioned and, on balance, there is considered to be sufficient reason to consider this as a traveller application.

Current Gypsy & Traveller Provision

21. Local planning authorities are required to set targets for the provision of Gypsy and Traveller pitches which address the likely site accommodation needs of the travellers in their area. The council, along with neighbouring authorities, undertook a Gypsy and Traveller Accommodation Needs Assessment (GTANA), which identified a need to provide 85 pitches in South Cambridgeshire by 2031. On the basis of this assessment no further allocations are proposed in the emerging Local Plan.

22. Notwithstanding the above, several appeal decisions (the most recent being in respect of land at Cambridge Road, Wimpole in February 2015) have concluded that there are misgivings about the robustness of the Gypsy and Traveller Accommodation Needs Assessment (GTANA) and its assumptions. This has led to a serious underestimate of the need for additional pitches. In the Wimpole appeal, the inspector concluded “the time likely to pass before sites are delivered, in tandem with existing demand, carries substantial weight in favour of a temporary planning permission for a site for general gypsy and traveller occupation”
23. Following these appeal decisions the Council still considers the GTANA an effective means of establishing the need for traveller sites in the district. However further work addressing some of the queries raised by inspectors is being undertaken and will assist the Local Plan examination where this issue will be scrutinized.

The extent to which the application accords with the provisions of the development plan

24. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- a) Land Use
25. Policy DP/7 of the adopted Local Development Framework 2007 restricts development outside of village frameworks to that for agricultural, horticulture, forestry, outdoor recreation and other uses which need to be located in the countryside. Given the limited scope of Policy DP/7, there is reliance in the determination of this application upon the 'General Principles' Policies DP/1 - DP/3 and the advice of national policy - 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.
26. The site is accessed via a poorly maintained private road (Little Heath). The road has a rough surface in places but it is capable of accommodating the development and already serves several residences. The poor condition of the road would discourage cycling and walking and the site is not served by public transport. Consequently, occupiers would more likely travel by motor car. The site is, however, not far from the edge of the village framework of Gamlingay (approximately 420m) and a short drive away from its services and facilities. The development would also not be isolated in the countryside and would accord with one of the aims of Policy DP/1, which 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. Conversely, the development is for a single traveller pitch and would not put undue pressure on existing services and facilities.
- b) Visual Impact
27. In terms of visual impact, the proposal would be relatively inconspicuous being small in size and scale and located behind (to the south of) a large shed on the site. The site is already residential in use and the proposal is not found to have any significant visual impact upon the local area or the surrounding rural character.

c) Access

28. Current access to the site is via a private, unmade track running to the rear of No.8a and to the side of Meadow View. Upon site inspection, the track is sufficient to gain access by car to the site. The applicant does not own this access or the site itself, but has benefited from use of this access over the last two years and has stated that future access over this land will be possible. Were it not, then they would be able to gain access via the front of No.8a Little Heath. Consequently, the site would benefit from sufficient access.

d) Residential Amenity

29. The impact of the proposal on the residential amenity of neighbours is also considered to be minimal. The concerns raised with regard to noise, dust, dirt and fumes is related to the use of the access. The proposal in this instance represents a single pitch for a single family and as such does not represent a significant number of traffic movements. The access may also serve the other two caravans either side of the site but these have temporary permissions that expire in the near future and cumulatively do not represent a significant amount of traffic compared to that already experienced along Little Heath.
30. The proposal is not considered to result in any adverse overbearing, overshadowing or overlooking issues for neighbours. As the site is owned by No.8a Little Heath and is included within its rear garden area there is a close relationship between the development and the amenities of the occupier of No.8a. Access to the site is not owned and in future could be dependent on the existing access to the front of No.8a. Given this close relationship and dependence between the two properties a personal use condition is recommended in the event the application is approved.

e) Infrastructure

31. Local Development Framework policies state that planning permission will only be granted for proposals that have made suitable arrangements towards the provision of infrastructure necessary to make the scheme acceptable in planning terms. Contributions towards open space, sport and recreation facilities, indoor community facilities and waste receptacles had been identified. With the exception of waste receptacles, such provision cannot be made on site and can therefore only be provided by way of financial contributions.
32. National Planning Practice Guidance seeks to remove the disproportionate burden of developer contributions on small scale developers. It advises that tariff style contributions should not be sought for sites of 10 units or less, and which have a maximum combined gross floor space of 1000 square metres. The development falls within this threshold.
33. As stated in the application forms, foul sewerage is already disposed of by means of a cess pit. Refuse is currently stored at No.8a Little Heath and collected via the council's refuse vehicles.

Prematurity

34. Should permanent consent be granted in this instance it would not result in an unduly large addition to the accommodation stock that would in turn predetermine decisions about the allocation of gypsy sites in the emerging Local Plan. Consequently, there is not considered to be a strong reason why the development would prejudice the draft Local Plan.

Proliferation of Caravans

35. Concern has been raised in relation to the number of caravans in the local area and the precedent this application might set. The proposal is for a single static mobile home and a condition is recommended to control the use of the site to this effect. There are three temporary permissions for single caravans surrounding the application site and each of these, if presented as permanent caravans, would need to be assessed on their individual merits. Approval, if given in this instance, would be based on the exceptional circumstances presented by the applicant, which are considered to accord with the advice set out in PPTS, and therefore it does not set a precedent for future applications given these applications will need to present their own justification.

The applicant's personal needs and circumstances

36. As previously mentioned, the applicant and her family have lived on the Whaddon traveller site and, as detailed in the submitted correspondence, they found this difficult. In the previous application S/0656/13/FL the applicant argued that the need to move specifically to the site was justified mostly on educational and medical grounds with written support to this effect from representatives of Bassingbourn Community Primary School and Royston Health Centre Practice. The benefits of living near to family is not in itself strong reason to support exceptional circumstances to general countryside policy; however, the main justification put forward in this application relates to the:
- lack of alternative gypsy and traveler sites
 - educational needs of the applicant's children
 - need to provide care for the progressed ill-health of the applicant's mother and step-father since application S/0656/13/FL
 - ability of the applicant to continue her employment, which is based in Gamlingay
37. The applicant has specifically requested a permanent permission. On the basis of the above there is considered to be exceptional circumstances to justify the applicant's proposal relative to both traveller and general countryside policy.

Other Issues

38. Local residents have raised concern in relation to waste and tipping near to the site. This is not a material planning consideration and is subject to separate legalisation governing fly tipping. The Council's environmental health team have been alerted to the issue.
39. Concerns regarding security and theft are also separate issues to this application.

Human Rights Issues

40. Refusal of permanent planning permission would effectively leave the applicant and her family homeless and 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 would not be proportionate and justified within Article 8 (2).

Conclusion

41. Paragraph 14 of the NPPF explains that the presumption in favour of sustainable development means granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits, or policies in the NPPF indicate that development should be resisted.
42. The site is generally well screened and situated in a reasonably sustainable location. In that sense, it scores well when judged against other sites in the surrounding area. It would continue to assist the family with its employment and educational needs. The general need for gypsy and traveller accommodation, the lack of suitable alternative sites and the family's general needs are considered to weigh in favour of the proposal.

Recommendation

42. Approval subject to the following:

43 Conditions

- a) **The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan (Scale 1:1250, date stamped 26 June 2015), Block Plan (Scale 1:500; date stamped 20 June 2015) and Plan & Elevations of Mobile Home (Scale 1:100, date stamped 15 April 2015).**
(Reason - To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.)
- b) **The site shall not be occupied by any persons other than Gypsies and Travellers as defined in paragraph 15 of the ODPM Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites.**
(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 the use of the site needs to be limited to qualifying persons.)
- c) **The use of the site and the mobile home and day room, hereby permitted, shall not be occupied other than by Miss Sara Swain, Mr Barry Lamb and their immediate family and any dependant living with them.**
(Reason – The applicant has presented unique and personal circumstances which have facilitated her residential use of and access to the application site, which forms the rear garden of No. 8a. The use of the site by other persons would therefore present potential conflict in terms of amenity and access contrary to Policy DP/3 of the adopted Local Development Framework.)
- d) **The residential use, hereby permitted, shall be restricted to the stationing of no more than one mobile home and one day room.**
(Reason – In the interests of residential amenity and to ensure there is no adverse pressure on local infrastructure such as local schools created by further people living on the site.)

- e) **The site shall not be used for any trade or business purpose other than as a home base for light vehicles used by the occupants of the site for the purpose of making their livelihood off-site. In particular, no materials associated with such activities shall be stored in the open on the site.**
(Reason - In order to limit the impact of the development on the area's rural character and the residential amenities of the neighbours in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
- f) **No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.**
(Reason - In order to limit the impact of the development on the area's rural character and the residential amenities of neighbours in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
- g) **No commercial activities shall take place on the land, including the storage of materials.**
(Reason - In order to limit the impact of the development on the area's rural character and the residential amenities of neighbours in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)
- h) **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 - In order to limit the site's impact on the area's rural character in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

Background Papers

Where [the Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#) require documents to be open to inspection by members of the public, they must be available for inspection: -

- (a) at all reasonable hours at the offices of South Cambridgeshire District Council;
- (b) on the Council's website; and
- (c) in the case of documents to be available for inspection pursuant to regulation 15, on payment of a reasonable fee required by the Council by the person seeking to inspect the documents at the offices of South Cambridgeshire District Council.

The following list contains links to the documents on the Council's website and / or an indication as to where hard copies can be inspected.

- South Cambridgeshire Local Development Framework Core Strategy DPD 2007
- South Cambridgeshire Local Development Framework Development Control Policies DPD 2007
- South Cambridgeshire Local Development Framework Supplementary Planning Documents
- Proposed Local Plan
- National Planning Policy Framework 2012
- Planning file reference S/0975/15/FL

Report Author: Andrew Winter – Senior Planning Officer
Telephone: (01954) 713082